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# House of Representatives

The House met at 9 a.m. and was called to order by the Speaker pro tempore [Mr. LAHOOD].

## DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
*October 19, 1995.*

I hereby designate the Honorable RAY LAHOOD to act as Speaker pro tempore on this day.

NEWT GINGRICH,
*Speaker of the House of Representatives.*

## PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We pray, O God, that peace will reign in our world and we specially pray that peace will reign in our hearts. We are grateful that even in lives that know the tension between the ideals of the mind and the reality of an imperfect world there can be a sense of calm, and even with great responsibilities that seem to overwhelm there can be serenity. Grant to all Your people, O God, the gift of peace and calm and serenity, this day and every day, we pray. Amen.

## THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

## PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. The Pledge of Allegiance will be led by the gentleman from Illinois [Mr. GUTIERREZ].

Mr. GUTIERREZ led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. There will be fifteen 1-minutes on each side.

## IT IS TIME TO UPDATE MEDICARE

(Mr. TIAHRT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TIAHRT. Mr. Speaker, today is a historic day. Today, the House will move to preserve and protect Medicare.

Thirty years ago, on a closed rule, Congress passed a 1960's Blue Cross-Blue Shield health care plan called Medicare. Health care has progressed 30 years. It has improved. Now it is time to bring Medicare up to date.

If we do not, it is going to go broke. The only way to sustain the cumbersome system is to raise payroll taxes $123 billion.

The Republican plan will preserve and protect Medicare and offer some options. If seniors do nothing, they will stay on Medicare. They can also select Medicare Plus to expand their coverage through a health managed care plan. They can select a medical savings plan to reward them for having a healthy lifestyle, or they can select the health care plan they had while working under an employer if he chooses to offer it.

Those who oppose updating Medicare are the same folks who said schoolchildren would be starving this year. It was reported last night they said if we passed this plan, one-fourth of the hospitals in America will close.

Well the schoolchildren are not starving, and the hospitals will not close.

I urge my colleagues to preserve and protect Medicare. Live long and prosper.

## WITH MALICE TOWARD NONE, WITH CHARITY FOR ALL

(Mr. GUTIERREZ asked and was given permission to address the House for 1 minute.)

Mr. GUTIERREZ. Mr. Speaker, today is a historic day. A day that House Republicans, to fulfill their unsatiable desire to give a tax cut to their wealthiest contributors, will try to slash Medicare by $300 billion.

We Democrats remember historic days. We remember when 30 years ago Lyndon Johnson and Harry Truman stood together and said, ''the time has come to guarantee health care for all of our seniors.''

We feel as much pride in that day as Republicans should feel shame on this day. So maybe it is time for them to remember their history too. In 1865, facing a challenge far greater than rising Medicare costs, our greatest President—a Republican President—stated that we would heal our Nation's wounds ''with malice toward none, with charity for all.''

I say to my colleagues in the majority—slashing $300 billion from seniors' health care for a tax giveaway to your rich friends is malice, pure and simple. With malice toward none, with charity for all. How empty and distant those words seem to the party of Abraham Lincoln today.

## REFORMING MEDICARE FOR THE BETTER

(Mr. HAYWORTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.



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Mr. HAYWORTH. Mr. Speaker, I listened with great interest to my good friend from Illinois who preceded me here in the well. He quoted Abraham Lincoln accurately. But he misapplied the quote, for rather being malicious and mean-spirited, the only mantra the guardians of the old order can offer, instead what we are doing today is embodying the spirit of America.

Because we are saying to America's seniors, you deserve to have a choice in health care. You do not need to be cut off magically at age 65 to a one-size-fits-all plan. We believe you have the right to determine the health care you should have, and if you want to keep Medicare as it exists now, then you have the right to keep that as well.

But the senseless mantra that we are making changes in Medicare for tax breaks for the wealthy is patently false and, Mr. Speaker, even malicious.

How sad it is; it is symptomatic of the new minority, folks who have no vision for the future, would only apply a Band-Aid and only came up with a plan in the final nanosecond of the 11th hour, instead of dealing responsibly.

Friends, join us. Let us reform Medicare for the better.

## MEDICARE AND MANAGED CARE

(Mr. KENNEDY of Rhode Island asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KENNEDY of Rhode Island. Mr. Speaker, today is the day, today is the day that the Republican majority will pass historic cuts to the Medicare Program. Today is the day that they will cut $270 billion out of the Medicare Program. Today is the day that they will begin to raise premiums and deductibles for people, like Herb McCulloch, who lives on $240 a month and they are going to ask him to come up with an additional $100 a month in out-of-pocket expenses.

Why are they doing this? Because they want to pass a $245 billion tax cut. Better than 52 percent of that tax cut is going to go to individuals and families earning $100,000 or more.

Mr. Speaker, ladies and gentlemen of the House, their solution is to put elderly into managed care programs, managed care. You know what it means. It means managed to deny care to the very senior citizens they propose to protect.

It is not fair. It is not right. As Democrats, we are going to say ''no.''

Today Republicans should be ashamed of themselves.

## TODAY WE VOTE TO SAVE MEDICARE

(Mr. JONES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JONES. Mr. Speaker, today is the day we vote to save, protect, and preserve Medicare. Today is the day we show the seniors that we care about them and their future.

The Medicare Preservation Act is an honest, realistic, up-front bill, that provides real reform for our current Medicare system. It will ensure that seniors have the right to stay in their present Medicare plan, but will also offer choices to those looking for a change.

The Medicare Preservation Act attacks waste, fraud, and abuse in order to provide real accountability for the taxpayers dollars.

Yes, Mr. Speaker, today is the day we vote to save Medicare for the next generation. I urge all my colleagues to vote ''yes'' on the Medicare Preservation Act.

## TROOPS TO BOSNIA WITHOUT CONGRESSIONAL CONSENT?

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, once again, a President says he can send troops into a war zone without the consent of the Congress.

What is the surprise here? Think about it. The Congress of the United States has time after time allowed the Presidents of the United States to usurp the constitutional power of the people. Turn the other cheek, and now the President is just simply going ahead and servicing all the cheeks he can in Congress.

The bottom line is this: I do not know how you feel about Bosnia, Members, but I say not one American soldier shall be sent to Bosnia without a vote of the Congress. That is not the old-fashioned way. That is the constitutional way.

If we continue to let Presidents take the Constitution and mold it like clay in their hands, we are gong to find ourselves in one hell of a bloody war.

## WE ARE IMPROVING MEDICARE

(Mr. GILCHREST asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GILCHREST. Mr. Speaker, all those who are listening in the House Chamber this morning, and if there are any people over the age of 65 listening on their televisions at home, the vote that we will take today will not take any benefits to Medicare away.

The existing program of Medicare, if it is not reformed, is not sustainable. We are going to take a vote that will reform Medicare in a manner that, if any senior citizen wants to keep the existing program the way it is, they can choose to do so. If any senior citizen wants to choose another form of health care or another health care carrier, the amount of money that they put in and the Federal Government puts into their Medicare Program as an individual can be transferred to that contracting health care carrier.

The point is we are going to make Medicare better for senior citizens.

## A FALSE CHOICE

(Mr. DEUTSCH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEUTSCH. Mr. Speaker, we are here today because my Republican colleagues want to destroy Medicare, and their premise is that Medicare will be bankrupt in 7 years.

What I have here is a chart that points out a fact, which is that in the 30 years of Medicare's existence, the actuarial life of Medicare was less than 7 years. This is not unprecedented. It is a flatout lie that my Republican colleagues have been stating about the unprecedented nature of the 7-year actuarial life.

The $270 billion in cuts, as my Republican colleagues have been talking about, is also a flatout lie. The trustee report calls for a far less number in terms of what would make actuarial sense for the Medicare system.

The choice that my Republican colleagues have been talking about is a false choice. Everyone in this Chamber, everyone in America knows what the agenda is. The agenda is to force people into substandard HMO's because the reimbursement level in a traditional Medicare will be so low.

Just because people are old in this country does not mean they are stupid. The American people will not believe what the Republicans are doing.

## HEALTH CARE CHOICES FOR OUR SENIOR CITIZENS

(Mr. LONGLEY asked and was given permission to address the House for 1 minute.)

Mr. LONGLEY. Mr. Speaker, I am tired of the nonsense we have been listening to.

There are three very simple truths about what the House is going to act on today, and, first, as the minority party appears to forget, this is a program, Medicare is a program that is paid for by taxes on the wages of working people and by seniors through their premiums.

We owe it to them to see that this money is used wisely and effectively, No. 1.

No. 2, any senior who is currently in the Medicare Program is going to be guaranteed the right to stay in the Medicare Program as it is if that is what they choose to do. There will be no increase in copayment, no increase in deductible, and the premium rate will be maintained at the 70 percent paid for by the Government rate, 30 percent paid for by seniors.

Third, we are going to allow those seniors who wish to make choices about their health care. What a radical idea, that we would allow people to choose the health care program that might be best for them.

Shame on the minority for failing to understand these principles.

## MEDICARE AND MEDICAID

(Ms. VELÁZQUEZ asked and was given permission to address the House for 1 minute and to revise and extend her remarks and include extraneous material.)

Ms. VELÁZQUEZ. Mr. Speaker, today I rise to take strong exception to the right wing attack on Medicare. The drastic and mean spirited cuts Republicans propose will devastate the health care system and severely jeopardize access to health care for the elderly in my district and around the Nation.

Lets be clear about what is going on here. Republicans want to cut Medicare not to save the trust fund but to finance back door deals with wealthy doctors, special interest groups and rich corporations.

The issue of whether we should slash Medicare is simply a question of values. Are we going to bankrupt the elderly? Are we going to kick seniors out of nursing homes in order to finance a tax break for the rich?

I believe that to do so would be immoral, unfair, and just plain cruel.

Mr. Speaker, here is a letter that a Republican constituent wrote to me. She said:

> Cuts in Medicare will be devastating and these cuts are unacceptable. We the people, put the Republicans where they are today and we will be sure to take them out if we are not represented.

I include the entire letter for the RECORD.

OCTOBER 17, 1995.

Re Republican Medicare Bill.

DEAR CONGRESSMAN: I cannot even begin to put into words the seriousness of the repercussions of this proposal.

The effect of this bill will be devastating to my local hospital and nursing home.

The projected loss of future revenues for my local facility and nursing home seems incomprehensible to me: $14.2 million over 7 years! In addition, the projected loss of jobs in this area being at 3,500 is not tolerable.

This program will shift enormous funding to me a property owner in Wyoming County because the hospital is county-owned. The tax burden will increase an estimated 28 percent. This is not acceptable.

This legislation threatens the survival of my hospital and the future jobs of my neighbors. I understand the Speaker of the House needs to retain his parties support but we, the people, put the Republicans where they are today and will be sure to take them out if we, the voters, are not represented.

CYNTHIA TINKER,
*Warsaw, NY.*

## PRESERVE AND PROTECT MEDICARE

(Mr. KINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KINGSTON. Mr. Speaker, not since Mother's Day have Democrat mommas across America gotten so much attention.

But what are Democrats' sons and daughters telling them? It is a nostalgic piece of Chicken Little, ''The Sky Is Falling.'' Yes, with creativity of Steven Spielberg, they are story-telling.

They should remember this one: Two mothers, two women were fighting over the same baby. The wise King Solomon pulled out a sword and said, ''Cut the child in half.'' One would-be mother said, ''Fine.'' The other one said, ''No, never.'' Love is stronger. Love of a parent deserves love of a child.

□ 0915

What a different bill we would have today if the Democrats would follow the example of love. The love of a Mother Theresa rather than the terror of a Stephen King. If the Democrats criticism energy were spent coming to the table rather than launching grenades at those who sit at the table, what a better bill we would have. It is time to put love of parents and love of seniors above love of politics and partisanship.

Mr. Speaker, let us do the right think to do: Reform, protect, and preserve Medicare.

## PAY MORE, GET LESS PLAN

(Mr. DOGGETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOGGETT. Mr. Speaker, let me take the gentleman to a little different part of his Bible. There is a part called honor thy father and thy mother, and I do not find anything honorable about this Republican pay more, get less plan. That is what it is.

Of course, not everybody is unhappy with it. You see, while it gives a swift kick to seniors, those who bought into the plan get a mighty big kickback. Even the Republicans' own staffers say yes, taxpayers are going to have to fork over an extra $1 billion because of the repeal and weakening of antikickback provisions in this bill. The pharmaceutical companies settled for only $100 billion by the Republican plan to repeal the discount for pharmaceuticals at public hospitals.

Yes, it is very difficult for the Republicans to talk about being antifraud when there is so much fraud in this plan. We only need to turn to this morning's newspaper to see that they are saying House Republicans today open literally a vote trading bazaar. Speaker NEWT GINGRICH cheerfully described the bargaining as ''a little bit like Christmas shopping.'' Well, there are a lot of mothers and fathers in America who have nothing to be cheered about and much to worry about when it comes Christmas shopping time.

## H.R. 2425 PROTECTS MEDICARE

(Mr. HANCOCK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HANCOCK. Mr. Speaker, I have been hearing a lot of conversations the past several years, but I am 66 years old. Here is my Medicare card. I am voluntarily leaving the Congress at the end of this term, and I frankly have a very vested interest in the preservation of Medicare. I want the choice for my future medical care given to me in this Medicare bill.

This bill is good for senior citizens, it is good for the working people who are paying the payroll taxes to guarantee the Medicare, to pay for Medicare. It preserves, protects, and it saves Medicare. Within a year from now, I guess I will be full-time on the Medicare bill, after I leave the Congress.

## SYMBOLISM SPEAKS LOUDER THAN RHETORIC

(Mr. KLINK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KLINK. Mr. Speaker, as we head down a road as historical as the one that we are encountering today, symbolism becomes very important. It is an important symbol as we note that exactly the same moment that we are debating and voting on a $270 billion cut in Medicare in the other Chamber, the House Committee on Banking and Financial Services is debating and voting out a $245 billion tax giveaway by the Republicans.

Our Republicans say one has nothing to do with the other. But the symbolism of the moment is they take place at exactly the same time in both houses of this great Congress. There is no quid pro quo, no tit for tat. I think the symbolism speaks otherwise.

It is also important to note that another new version of this bill came out of the Committee on Rules last night that no Member of the House has had an opportunity to read the 900-plus pages. By the way, we started a few days ago with a bill that was 421 pages, it grew and grew until finally now 10 days later it is almost 1,000 pages, and not one hearing has been held on any version of this legislation.

Ladies and gentlemen, symbolism speaks louder than the Republican rhetoric.

## FACT OVER FICTION

(Mr. HEFLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HEFLEY. Mr. Speaker, they shall not bear false witness—that is what the Democrats have been doing on this Medicare issue. Republicans have a plan to save Medicare. Republicans have a good plan to save Medicare. We want America to see our plan. We aren't afraid to show the American people what we're trying to do, because what we are doing is saving the single most important entitlement program

in society today. Let's look at the facts.

Premiums are going up. They are going up $7 so that we can increase spending per beneficiary by $1,900.

The tax cuts that Democrats say we're giving to the rich to fund these reforms were passed last spring. They have nothing to do with preserving Medicare.

If you don't want to switch plans or service you do not have to. The Republican plan does not require you to change anything unless you want to.

Finally, for Democrats to decry that some kind of a backroom deal was made by Republicans to satisfy certain interest groups is absolutely absurd. What's happening is people are finally starting to really look at our plan and they're starting to realize that it's a good plan and that scares the heck out of Democrats.

## A DAY OF INFAMY

(Ms. JACKSON-LEE asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE. Days of infamy. October 12, we lock up seniors in America. October 19, today, Republicans have 900 pages to trash Medicare. Premiums for all seniors will rise at least $87 by 2002; hospitals will close; Medicare benefits for beneficiaries will go up $1,700; and, yes, you will get your $270 billion for a tax cut.

What a day of infamy. How sad. And when we want to talk about scriptures, let me tell you about a scripture. The story goes in the New Testament that the Lord asked a question, and the lawyer responded as he asked the question, ''Lord, when did I deny you?'' And he did not realize that he denied him when he ignored seniors in America, the senior from Houston, TX, that says ''I do not believe the drastic cuts in Medicaid and Medicare should take place for the tax breaks for the privileged. I can't hardly write, my finger is so sore, and my husband has 2 ulcers on his leg.''

These are the letters, time and time again, that I have gotten from my seniors who say stop trashing Medicare and let us make something happen for all Americans.

## ONLY IN WASHINGTON IS AN INCREASE A CUT

(Mr. BILBRAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BILBRAY. Mr. Speaker, it is really sad that we have try to reinforce the public's perception of lack of trust in Washington with the MediScare tactics. Only in Washington could a 42- to 45-percent increase be called a cut.

Now, my colleagues on the other side of the aisle may say that may be working with words and may be working with numbers. Per person we are talking about going from $4,800 to $6,700, a $1,900 increase.

Now, any senior knows if their insurance company told them ''We are going to increase your rates by $1,900, and that is a cut, a slashing of your rates,'' the senior would say, ''You are crazy.''

If you want to know a special interest group that is driving this Member, my seniors from AARP, 20 members have been advising me on this item. Their advice is why do we allow more than the rate of inflation? We are proposing twice the rate of inflation, Mr. Speaker. Twice the rate of inflation is what our projections are.

## AN OUTRAGEOUS PIECE OF LEGISLATION

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, this is the most outrageous thing I have seen in my 33 years here in the House. Yes, I am talking to you. Nobody has ever seen the bill that we will be voting on in 3 hours. Nobody has ever seen the bill we will be voting on in 3 hours.

The bill we will be voting on is not the bill that came from the Committee on Ways and Means, not the bill that came out of the Committee on Commerce. It is some bill adopted somewhere in this Congress by a group of people whose faces and names are unknown. Nobody knows what is in that bill.

I know why it is being adopted. It is being adopted for one simple reason: GOP, get old people, and use the money you get from them to pay for a tax cut for your wealthy contributors.

This is an outrage.

## MEDAGOGUERY

(Mr. DREIER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER. Mr. Speaker, I have enjoyed the Biblical quotations throughout the morning, but there have also been a number of quotations from the media. My friend from Texas focused on an article that appeared in today's paper, and, frankly, while we do not on this side regularly champion the Washington Post, I believe that the Washington Post described so much of what we have heard over the past few minutes on the other side of the aisle, because they have observed the debate over the past several months. They said the rhetoric which has come from the Democrats is nothing but medugoguery. That is the Washington Post editorialization of what we have been hearing.

We as Republicans have stepped up to the plate. Another article that appeared, Adam Clymer in yesterday's New York Times acknowledged that in the past the Democrats have tried to avoid tough votes.

We as Republicans have acknowledged that when Robert Reich, Bob Rubin, Donna Shalala, and the other members of the board of trustees from this administration signed that report saying that within 7 years the system will be bankrupt, we had to do something. We Republicans are stepping up to the plate and doing it. Let us address this in a bipartisan way.

## MEDICARE CUTS WILL HURT SENIORS

(Mr. GENE GREEN of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous material.)

Mr. GENE GREEN of Texas. Mr. Speaker, Congress will vote today on the Republican plan to cut the $270 billion in Medicare to pay for that $245 billion, and my colleague from California, they are stepping up to the plate, but they are being greedy. Even though the Medicare trustees, as the gentleman said, said we need to deal with Medicare, they only said we needed to deal with it for $89 billion and not $270 billion.

Speaker GINGRICH's Medicare plan takes three times as much to pay for that tax cut of $245 billion. The simple truth is that they do not need the $270 billion from Medicare to make the program healthy. They are cutting Medicare to pay for the tax breaks.

Do not be fooled. Seniors will be hurt by Speaker GINGRICH's plan. Number one, premiums will double, forcing many seniors to choose between their choice of health care and other living essentials. The choice of doctors will be limited.

Earlier this year my Republican colleagues talked about the Washington Post editorial. Before they vote today, I hope they would read today's editorial, where it talks about what they say, ''Who Pays if Medicare Is Cut?''

I include that editorial for the RECORD.

[From the Washington Post, Oct. 19, 1995]

WHO PAYS IF MEDICARE IS CUT?

The great question—you could say gamble—with regard to the Republican plan to reform Medicare is whether it will it succeed in fostering competition that will drive down the cost of care, or will simply shift some large part of the cost from the government back to recipients, thereby creating a much more limited program—a half-Medicare. No one knows the answer. What the House and Senate are being asked to do in considering their respective versions of the plan in the next two weeks is to choose between risks. One is the risk of not acting to curb the enormous projected cost of the program, which threatens over time to break the bank—and which the Republicans are right to have taken seriously and sought to address. The other is the risk of shifting too much cost to lower-income elderly and disabled people who can't bear it and who may therefore be left without the care that they both need and currently have.

The Republicans have argued that the cuts they propose would fall mainly on hospitals, doctors and other providers, and only to a lesser degree on Medicare recipients themselves. But it isn't certain that this is how it

would work out. The government itself would pay the providers less. But the plan then also makes it possible for the providers to recover if they want by charging the recipients more. The insurers and providers with whom the recipients would deal would not be required to absorb the cuts. Rather, to the extent that competitive pressures permitted, they would be free in various ways to pass them on; the recipients then would have to absorb them.

Our own sense is that, as the bills are written, this risk is too great. That's particularly the case because the Republicans would decimate Medicaid, the backstop program for the needy elderly and disabled. The house the Republicans are building has plenty of roof over cost but not enough floor under care. Much has been made in recent days of the deals that House Speaker Newt Gingrich is said to have struck with the American Medical Association and other provider groups to ensure their support for the plan. The assorted deals are small potatoes compared with this structural defect in the plan. It has to be fixed to make the plan worth passing.

The plan has, while we're at it, one other provision that would cost billions of dollars while serving no good purpose and ought to be killed outright. We have in mind the medical savings accounts the proposal would permit. Instead of paying a recipient's bills or giving the recipient a fixed amount to help buy an insurance policy or enroll in a managed care plan, the government would put that amount in a savings account in the person's name, partly to buy a high-deductible, so-called catastrophic insurance policy, the rest to be used for other purposes. After a certain amount had accumulated, if the recipient didn't need or want to use the money for health care he could use it to take a vacation, buy a boat—you name it.

Healthy and better-off people who could afford the risk would be drawn to this. The government would be putting more in their accounts per year than they currently take from Medicare, thus adding to costs and leaving less to care for the sick and less well-off. It's a skimming operation, and it ought to be dropped without a second thought.

## SOLVE MEDICARE PROBLEMS IN A BIPARTISAN WAY

(Mr. BARTLETT of Maryland asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARTLETT of Maryland. Mr. Speaker, the Medicare trustees have told us that Medicare is going bankrupt. Let me quote from their own words: ''We strongly recommend that the crisis presented by the financial condition of the Medicare trust funds be urgently addressed on a comprehensive basis.''

This is a quote from the Medicare trustees. Six of them, four of them appointed by President Clinton, three of them Cabinet-level positions. We believe that their recommendation should be followed, and we are doing that.

We really need to address the Medicare crisis. Please join us in addressing that crisis. Please stop medagoguery. Please join in the discussion which is now just beginning. The passage of this bill today is just one of a number of steps in which this bill can be modified so that it becomes ever a better and better bill. Please join us in solving this problem for senior citizens.

Mr. Speaker, I think it is morally reprehensible to frighten senior citizens for political agendas.

## VOTE ''NO'' ON MEDICARE BILL

(Mr. BENTSEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BENTSEN. Mr. Speaker, I rise in strong opposition to the Medicare Pilfering Act of 1995 that the Republicans are bringing to the floor today.

The Republicans think they can fool the American people by dressing this bill up in Orwellian language and calling it the Medicare Preservation Act of 1995.

But the American people have caught on that they really are pilfering Medicare to pay for a tax cut for the rich.

Under the Republican plan, you reduce Medicare spending by $270 billion and you only extend the life of the Medicare hospitalization trust fund to the year 2006. Under the Democratic alternative, you reduce Medicare spending by $90 billion and you also extend the trust fund to the year 2006. Even the Republican staff of the Ways and Means Committee admit that the two bills achieve the very same goal.

So what is going on here? If cutting $90 billion and cutting $270 billion achieve the same goal, why do the Republicans insist on cutting Medicare by $270 billion and what happens to the $180 billion difference?

The answer is that it is being used to pay for those $245 billion in tax cuts that we do not need and cannot afford. No matter how the Republicans disguise it, there is no escaping the fact that they are cutting Medicare to pay for tax cuts.

That is irresponsible. That is wrong. That is unfair to America's senior citizens. Vote ''no'' on the Medicare Pilfering Act of 1995.

## JUST THE FACTS ON MEDICARE

(Mrs. VUCANOVICH asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. VUCANOVICH. Mr. Speaker, Sergeant Joe Friday used to say ''Just the facts, ma'am.'' Well, here are just the facts on Medicare.

Fact: According to Clinton trustees, Medicare is going bankrupt in 7 years and Congress should do something this year to avert this disaster.

Fact: The Medicare Preservation Act will save the Medicare system, while giving choice to seniors that they have asked for time and time again.

Fact: No senior will be forced into an HMO. HMO's are simply an option for seniors, as is traditional Medicare, medical savings accounts, and provider sponsored networks.

Fact: The Medicare Preservation Act increases individual benefits for seniors from $4,800 per year today to $6,700 per year in 2002.

Fact: By law, Medicare savings can be used only to save Medicare.

Fact: The Medicare debate has become a game of who are you going to believe: Those across the aisle who knew about the impending bankruptcy for years and did nothing? Or those who have taken the challenge and made the promise to save Medicare from an untimely death. These are just the facts.

□ 0930

## DO NOT TRADE HEALTH CARE FOR TAX CUTS

(Mr. MILLER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MILLER of California. Mr. Speaker, today is the day that the Republicans trade the health care of our seniors for tax cuts for the wealthy. Today is the day that the Republicans take on the best health care system in the world, the least expensive health care system in the world, in terms of overhead, and the most comprehensive health care system in the world for senior citizens, and today they trade that in for tax cuts to the wealthy.

Mr. Speaker, they do so by taking away benefits that seniors have. They do so by making sure that seniors will not be able to pay and to purchase the same health care levels and benefits that they have today 5 years from today. They will not be able to arrange for the same level of health care. And so we leave our seniors stranded so that we can provide tax cuts and capital gains cuts to the wealthiest individuals in this country.

One of my seniors from Pittsburg, CA wrote and said, ''Congress must understand we seniors built this country and we deserve better. You should not do this to us.''

## MANAGED CARE WORKS IN MEDICARE

(Mr. BLUTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BLUTE. Mr. Speaker, perhaps we will have to wait a year or two until our friends on the other side of the aisle come over to our way of thinking. Similarly, we are now hearing that President Clinton is saying that the 1993 tax increase was wrong and not the right thing to do and perhaps too large. Yet we heard from Members on the other side how important that was, and now President Clinton has come over to our way of thinking.

I think our colleagues on the other side will come over to our way of thinking on Medicare because we need to save this important program. Under the Republican plan Medicare will grow by $86 billion over the next 7

years and we will institute reforms that are already working in the private sector.

In my home district of Worcester County, MA, 60 percent of my constituents are already in managed care. It works, it provides quality care for seniors under Medicare right now, and it can be used to reform our health care system and reduce the devastating rate of increase we are now seeing.

Mr. Speaker, pass this bill. It is the right thing to do for America.

## A LITTLE EARLY CHRISTMAS SHOPPING

(Mr. SCHUMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHUMER. Mr. Speaker, it was like a carnival yesterday here in the House. Step right up, step right up, called Barker NEWT GINGRICH as he called in the special interests for their cut of the pie in an effort to save this devastating Medicare program.

In fact, the Speaker said it was ''a little like Christmas shopping'', as the GOP started selling off parts of the Medicare package to special interests.

For everyone else Christmas shopping starts the day after Thanksgiving, but for the AMA, the pharmaceutical companies, the nursing home operators, Christmas shopping started this week. They got their goodies while the average senior paid: No reimbursement for nausea medicine after chemotherapy. Increases in copayments for loved ones in nursing homes.

How is that going to devastate families throughout America?

Well, the GOP should know something. Yes, they can make a lot of deals and do a lot of trading to save a bad package. They will win the vote, but they will lose the war.

## SENIORS WILL HAVE CHOICES

(Mr. HOKE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOKE. Mr. Speaker, the demagoguery that has developed over this issue is truly shameless. Let us get a couple of facts straight first.

No. 1, one of the things that each and every Medicare beneficiary has the right to choose is to stay in the program exactly as it is today, precisely as it is today, with no increases in copayments, my friend, the gentleman from New York [Mr. SCHUMER], with no increases in deductibles, with the same program, 31½ percent, no increase in the percentage of the part B premium. They will have the right to choose that.

They will also have the right to other choices, the same kind of choices that we have in this U.S. Congress, that every Federal employee has, and that people in the private sector have got. But if we want to see the depths, the shameless depths to which the demagoguery and the rhetoric has gone to in this debate, last night I was on the floor and the bill was compared by the gentleman from New York to the attack by the Japanese on Pearl Harbor. Our bringing forward this bill was compared to the Japanese attack on Pearl Harbor. How does the gentleman from Florida feel about that?

## WOLVES IN SHEEP'S CLOTHING

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, we have heard of wolves in sheep's clothing, and today that is what we see. Today we see all sorts of people from the other side of the aisle parade down here and say trust the party that fought tooth and nail not to have Medicare 30 years ago, but trust them now. Trust the party who had seniors arrested last week in this body when they tried to ask questions. Trust the party who has this 961 harmless page bill that none of them could pass a test on and they have had no hearings on, but trust them.

There is nothing harmful in here. Trust the party whose leader, Speaker GINGRICH says the main thing coming out of the session will be the tax cut for the rich. That is the crown jewel of this whole session and the seniors are going to get the gruel that is what we are doing today. The rich get the jewel, they get the gruel, but they keep saying trust their party and listen to the trustees. That is wrong.

## MEDICARE NEEDS INTELLIGENT CHANGE

(Mr. LINDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LINDER. Mr. Speaker, I believe it was G.K. Chesterton who said, ''I still believe in liberalism, but, oh, there was a time when I believed in liberals.''

The liberals today are losing their mind over losing control over the people's health care. It is not so much how much we spend, it is who decides. The Republicans want to give that decision to the people who use the health care. Let them have the same choices that we have in health care. Do you want to opt out of the 1965 style Blue Cross program? Even Blue Cross does not provide that kind of health care delivery system anymore, but we have locked our seniors into a 30-year-old system from which they cannot escape.

Do we want seniors to have the choices that we have? High deductible medical savings accounts, a managed care system, to stay with their current health care system? The old 30-year-old program does not allow any choices and it gives us a health care system that is increasing in cost at three times the rate of inflation. We cannot sustain that, our seniors do not want to try to sustain that, we need to fix it.

## PROPOSED CUTS IN MEDICARE WILL HURT SENIORS

(Mr. SANDERS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SANDERS. Mr. Speaker, there is no excuse for a $270-billion cut in Medicare when the Republican leadership is simultaneously providing huge tax breaks for the rich, is building more B–2 bombers, and is maintaining $125 billion in corporate welfare.

In my State, these cuts will result in over 80,000 elderly and disabled Vermonters paying higher premiums for a weakened Medicare system. As a result of the Republican plan, Medicare part B premiums will rise by $312 in the year 2002.

Mr. Speaker, not only will seniors be paying more for a weakened system, but throughout our country and in rural States like Vermont our rural hospitals will be endangered. Fifty-five percent of the revenue that comes into our hospitals come from Medicare and Medicaid, and many of them will not be able to sustain these cuts.

## PERMISSION FOR SUNDRY COMMITTEES AND THEIR SUBCOMMITTEES TO SIT TODAY DURING THE 5-MINUTE RULE

Mr. LINDER. Mr. Speaker, I ask unanimous consent that the following committees and their subcommittees be permitted to sit today while the House is meeting in the Committee of the Whole House under the 5-minute rule:

Committee on Agriculture, Committee on Commerce, Committee on Government Reform and Oversight, Committee on International Relations, Committee on the Judiciary, Committee on Resources, Committee on Science, Committee on Small Business, and Committee on Transportation and Infrastructure.

It is my understanding that the minority has been consulted and that there is no objection to these requests.

The SPEAKER pro tempore (Mr. LAHOOD). Is there objection to the request of the gentleman from Georgia?

There was no objection.

## PROVIDING FOR CONSIDERATION OF H.R. 2425, MEDICARE PRESERVATION ACT OF 1995

Mr. LINDER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 238 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 238

*Resolved,* That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the

House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 2425) to amend title XVIII of the Social Security Act to preserve and reform the Medicare Program. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and amendments specified in this resolution and shall not exceed three hours equally divided among and controlled by the chairmen and ranking minority members of the Committee on Ways and Means and the Committee on Commerce. After general debate the bill shall be considered for amendment under the five-minute rule. An amendment in the nature of a substitute consisting of the text of H.R. 2485, modified by the amendment printed in the report of the Committee on Rules accompanying this resolution, shall be considered as adopted in the House and in the Committee of the Whole. The bill, as amended, shall be considered as the original bill for the purpose of further amendment under the five-minute rule. The bill, as amended, shall be considered as read. All points of order against provisions in the bill, as amended, are waived. No further amendment shall be in order except the amendment in the nature of a substitute printed in the Congressional Record and number 2 pursuant to clause 6 of rule XXIII, which may be offered only by the minority leader or his designee, shall be considered as read, shall be debatable for one hour equally divided and controlled by the proponent and an opponent, and shall not be subject to amendment. All points of order against that amendment in the nature of a substitute are waived. After a motion that the Committee rise has been rejected on a day, the Chair may entertain another such motion on that day only if offered by the chairman of the Committee on Ways and Means, the chairman of the Committee on Commerce, or the majority leader, or a designee of any of them. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill, as amended, to the House with such further amendment as may have been adopted. The previous question shall be considered as ordered on the bill, as amended, and any amendment thereto to final passage without intervening motion except one motion to recommit with or without instructions. The motion to recommit may include instructions only if offered by the minority leader or his designee. The yeas and nays shall be considered as ordered on the question of passage of the bill and on any conference report thereon. Clause 5(c) of rule XXI shall not apply to the bill, amendments thereto, or conference reports thereon.

The SPEAKER pro tempore. The gentleman from Georgia [Mr. LINDER] is recognized for 1 hour.

Mr. LINDER. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts [Mr. MOAKLEY], pending which I yield myself such time as I may consume.

During consideration of this resolution, all time yielded is for the purpose of debate only.

(Mr. LINDER asked and was given permission to revise and extend his remarks and include extraneous material.)

Mr. LINDER. Mr. Speaker, House Resolution 238 is a modified closed rule that waives all points of order against H.R. 2425, the Medicare Preservation Act of 1995 and provides for consideration of this historic legislation. The rule allows for 3 hours of general debate to be equally divided between the chairmen and ranking minority members of the Committees on Ways and Means and Commerce. Following the 3 hours of general debate, the rule makes in order as an original bill for the purpose of amendment, the amendment in the nature of a substitute consisting of the text of H.R. 2485, as modified by the amendment printed in the Rules Committee report.

The bill, as amended, shall be considered as the original bill for the purpose of further amendment under the 5-minute rule, and the bill shall be considered as read. All points of order against the provisions of the bill, as amended, are waived.

The rule provides for consideration of an amendment in the nature of a substitute numbered 2 printed in the CONGRESSIONAL RECORD, if offered by the minority leader or his designee. All points of order are waived against this amendment. The amendment is considered as read, is not subject to amendment, and is debatable for 1 hour divided between a proponent and an opponent of the amendment.

The rule provides that after a motion to rise has been rejected on any day, another motion to rise may only be offered by the chairman of the Committees on Ways and Means or Commerce, or by the majority leader, or a designee of either one of them. It also provides that the provisions of clause 5(c) of rule XXI shall not apply to votes on this bill, amendments, or the conference report for this bill. I expect that we will witness many eloquent speeches—pro and con—during today's debate, and these two provisions are simply designed to limit some common dilatory motions that may unnecessarily delay the consideration of this bill.

Finally, this resolution provides one motion to recommit, with or without instructions, as is the right of the minority. If the motion to recommit does contain instructions, the rule provides that the motion may only be offered by the minority leader or his designee.

Mr. Speaker, in about an hour, we will all participate in a historic event that will lead us to consider a bill that will almost immediately benefit millions of seniors, and eventually, millions of Americans who will one day look to Medicare for health care service. I am honored to carry to the House floor a rule that presents our monumental proposal to save Medicare.

The fight to save Medicare began in earnest on April 3 of this year when the Medicare Board of Trustees that oversees the Medicare trust fund reported to Congress that the Medicare trust fund would begin to decline next year and would be completely bankrupt by the year 2002. The alarm to take drastic and immediate action to save the program has created an atmosphere that is both exciting and anxious for Medicare beneficiaries.

While many have stood on the sidelines of the debate and pointed fingers of blame, we have accepted the trustee's challenge to rescue Medicare. The resolution crafted by the Rules Committees will bring to the House floor the Medicare Preservation Act—a bill that I believe is bold enough to preserve Medicare for another generation.

As I previously stated, House Resolution 238 is a narrow rule allowing both sides of the aisle an opportunity to present the case that their proposal will protect Medicare for a generation of Americans. Ours is a carefully balanced bill that is the result of thousands of hours of work by Members of this House. This rule will preserve that delicate balance, and it is common practice for most bills coming out of the Ways and Means Committee to be considered under closed or modified closed rules. It is important to note that the original legislation creating the Medicare program for millions of Americans was considered under a closed rule in 1965.

Before I lay out some of the general provisions of the act, I want to discuss two specific provisions included in this rule. First, the rule provides language to ensure that all areas of the country receive equitable funding through amendments to the capitation rate formula. While funding will be distributed based upon historical costs and changing populations, the rule provides that certain minimum funding levels will be maintained. The formula guarantees that historically low-cost areas will not be penalized because of their cost effectiveness.

Second, the rule adds additional language to attack fraud and abuse in Medicare. The current Medicare system is so infected with fraud, abuse, and misuse that it wastes billions of dollars each year. I doubt that any Member of Congress has not had at least one constituent at a town hall meeting or other event to show the Member an example of a fraudulent or erroneous Medicare billing. My own mother has received three such billings in the last couple of years, and I am convinced that she is not the only one who has encountered this problem. Therefore, in addition to the antifraud provisions in the base text of this bill, this rule defines several new Federal health care crimes and defines penalties of up to 20 years in prison for violations of these laws, laws focusing on fraud, bribery, theft, embezzlement, and kickbacks. This provision covering doctors and hospitals engaging in this deceit deserves to be part of the bill, and this rule provides for its inclusion in the reform package.

In addition to fighting fraud, this bill will reduce reimbursement rates for doctors and hospitals and provide seniors with more choices for health care delivery. To achieve these goals, the Medicare Preservation Act adds two new programs to the current Medicare program—MedicarePlus and Medisave. Through MedicarePlus, some citizens

will decide to choose a plan that offers fixed rates, and covers prescription drugs, and even eyeglasses. Increasingly, Americans have stated that they appreciate their managed care program, and would stay in it. This bill affords them the opportunity to choose managed care. Those who opt for medical savings accounts through Medisave would be completely in control of their own health spending. All of these changes will assure that we secure the Medicare promise we made to our seniors.

We have to be clear: No benefit will be cut. You can keep your doctor and you have the option to choose any other doctor. There will be no coercion into any specific program. In fact, if a senior chooses a MedicarePlus program or chooses Medisave and then becomes dissatisfied, the bill states that the senior can always move back to the current Medicare system. We expect a very high degree of satisfaction, however, as the Congressional Budget Office has concluded that about 25 percent of seniors will take advantage of these new programs in the first few years. Over and over again, Americans have shown that they make wise choices, and this plan gives our seniors that opportunity.

Medicare is a 1965 Blue Cross/Blue Shield program in which costs have simply grown out of control. For example, when the program began, the Government subsidized 50 percent of the part B premium. Yet today, the subsidy that our children and grandchildren must pay has grown to 68.5 percent. Only the greediest of the elderly, none of whom I know, would ask their grandchildren to shoulder more of this burden. Therefore, we freeze the subsidy at this level. Despite cries from the other side that we are doubling premiums, the fact is that this proposal will simply raise the part B premium about $7 a month by year 7 of this plan. The $7 is a small price to pay to preserve both the future of Medicare and the future of our grandchildren.

As I have stated before, the most extraordinary development has come in those nations that have put their trust in the power and potential of the marketplace. Market forces have modernized every other segment of our society, and I am certain that they will have the effect of improving quality and decreasing costs when applied to government health care. Without a doubt, H.R. 2425 will provide seniors with more choices and result in tremendous benefits to future generations of American seniors. We fulfill our promise to our citizens with this bill.

The resolution that was favorably reported out of the Rules Committee is a fair rule that will allow for careful consideration of the Republican proposal to save Medicare and a minority substitute bill. I urge my colleagues to support the rule so that we may proceed with consideration of the merits of this extraordinarily important legislation.

☐ 0945

Mr. Speaker, I submit the following for inclusion in the CONGRESSIONAL RECORD.

THE AMENDMENT PROCESS UNDER SPECIAL RULES REPORTED BY THE RULES COMMITTEE,[1] 103D CONGRESS V. 104TH CONGRESS

[As of October 18, 1995]

| Rule type | 103d Congress | | 104th Congress | |
|---|---|---|---|---|
| | Number of rules | Percent of total | Number of rules | Percent of total |
| Open/Modified-open[2] | 46 | 44 | 51 | 72 |
| Modified Closed[3] | 49 | 47 | 17 | 24 |
| Closed[4] | 9 | 9 | 3 | 4 |
| Total | 104 | 100 | 71 | 100 |

[1] This table applies only to rules which provide for the original consideration of bills, joint resolutions or budget resolutions and which provide for an amendment process. It does not apply to special rules which only waive points of order against appropriations bills which are already privileged and are considered under an open amendment process under House rules.

[2] An open rule is one under which any Member may offer a germane amendment under the five-minute rule. A modified open rule is one under which any Member may offer a germane amendment under the five-minute rule subject only to an overall time limit on the amendment process and/or a requirement that the amendment be preprinted in the Congressional Record.

[3] A modified closed rule is one under which the Rules Committee limits the amendments that may be offered only to those amendments designated in the special rule or the Rules Committee report to accompany it, or which preclude amendments to a particular portion of a bill, even though the rest of the bill may be completely open to amendment.

[4] A closed rule is one under which no amendments may be offered (other than amendments recommended by the committee in reporting the bill).

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS

[As of October 18, 1995]

| H. Res. No. (Date rept.) | Rule type | Bill No. | Subject | Disposition of rule |
|---|---|---|---|---|
| H. Res. 38 (1/18/95) | O | H.R. 5 | Unfunded Mandate Reform | A: 350–71 (1/19/95). |
| H. Res. 44 (1/24/95) | MC | H. Con. Res. 17 | Social Security | A: 255–172 (1/25/95). |
| | | H.J. Res. 1 | Balanced Budget Amdt | |
| H. Res. 51 (1/31/95) | O | H.R. 101 | Land Transfer, Taos Pueblo Indians | A: voice vote (2/1/95). |
| H. Res. 52 (1/31/95) | O | H.R. 400 | Land Exchange, Arctic Nat'l. Park and Preserve | A: voice vote (2/1/95). |
| H. Res. 53 (1/31/95) | O | H.R. 440 | Land Conveyance, Butte County, Calif | A: voice vote (2/1/95). |
| H. Res. 55 (2/1/95) | O | H.R. 2 | Line Item Veto | A: voice vote (2/2/95). |
| H. Res. 60 (2/6/95) | O | H.R. 665 | Victim Restitution | A: voice vote (2/7/95). |
| H. Res. 61 (2/6/95) | O | H.R. 666 | Exclusionary Rule Reform | A: voice vote (2/7/95). |
| H. Res. 63 (2/8/95) | MO | H.R. 667 | Violent Criminal Incarceration | A: voice vote (2/9/95). |
| H. Res. 69 (2/9/95) | O | H.R. 668 | Criminal Alien Deportation | A: voice vote (2/10/95). |
| H. Res. 79 (2/10/95) | MO | H.R. 728 | Law Enforcement Block Grants | A: voice vote (2/13/95). |
| H. Res. 83 (2/13/95) | MO | H.R. 7 | National Security Revitalization | PQ: 229–100; A: 227–127 (2/15/95). |
| H. Res. 88 (2/16/95) | MC | H.R. 831 | Health Insurance Deductibility | PQ: 230–191; A: 229–188 (2/21/95). |
| H. Res. 91 (2/21/95) | O | H.R. 830 | Paperwork Reduction Act | A: voice vote (2/22/95). |
| H. Res. 92 (2/21/95) | MC | H.R. 889 | Defense Supplemental | A: 282–144 (2/22/95). |
| H. Res. 93 (2/22/95) | MO | H.R. 450 | Regulatory Transition Act | A: 252–175 (2/23/95). |
| H. Res. 96 (2/24/95) | MO | H.R. 1022 | Risk Assessment | A: 253–165 (2/27/95). |
| H. Res. 100 (2/27/95) | O | H.R. 926 | Regulatory Reform and Relief Act | A: voice vote (2/28/95). |
| H. Res. 101 (2/28/95) | MO | H.R. 925 | Private Property Protection Act | A: 271–151 (3/2/95). |
| H. Res. 103 (3/3/95) | MO | H.R. 1058 | Securities Litigation Reform | |
| H. Res. 104 (3/3/95) | MO | H.R. 988 | Attorney Accountability Act | A: voice vote (3/6/95). |
| H. Res. 105 (3/6/95) | MO | | | A: 257–155 (3/7/95). |
| H. Res. 108 (3/7/95) | Debate | H.R. 956 | Product Liability Reform | A: voice vote (3/8/95). |
| H. Res. 109 (3/8/95) | MC | | | PQ: 234–191 A: 247–181 (3/9/95). |
| H. Res. 115 (3/14/95) | MO | H.R. 1159 | Making Emergency Supp. Approps | A: 242–190 (3/15/95). |
| H. Res. 116 (3/15/95) | MC | H.J. Res. 73 | Term Limits Const. Amdt | A: voice vote (3/28/95). |
| H. Res. 117 (3/16/95) | Debate | H.R. 4 | Personal Responsibility Act of 1995 | A: voice vote (3/21/95). |
| H. Res. 119 (3/21/95) | MC | | | A: 217–211 (3/22/95). |
| H. Res. 125 (4/3/95) | O | H.R. 1271 | Family Privacy Protection Act | A: 423–1 (4/4/95). |
| H. Res. 126 (4/3/95) | O | H.R. 660 | Older Persons Housing Act | A: voice vote (4/6/95). |
| H. Res. 128 (4/4/95) | MC | H.R. 1215 | Contract With America Tax Relief Act of 1995 | A: 228–204 (4/5/95). |
| H. Res. 130 (4/5/95) | MC | H.R. 483 | Medicare Select Expansion | A: 253–172 (4/6/95). |
| H. Res. 136 (5/1/95) | O | H.R. 655 | Hydrogen Future Act of 1995 | A: voice vote (5/2/95). |
| H. Res. 139 (5/3/95) | O | H.R. 1361 | Coast Guard Auth. FY 1996 | A: voice vote (5/9/95). |
| H. Res. 140 (5/9/95) | O | H.R. 961 | Clean Water Amendments | A: 414–4 (5/10/95). |
| H. Res. 144 (5/11/95) | O | H.R. 535 | Fish Hatchery—Arkansas | A: voice vote (5/15/95). |
| H. Res. 145 (5/11/95) | O | H.R. 584 | Fish Hatchery—Iowa | A: voice vote (5/15/95). |
| H. Res. 146 (5/11/95) | O | H.R. 614 | Fish Hatchery—Minnesota | A: voice vote (5/15/95). |
| H. Res. 149 (5/16/95) | MC | H. Con. Res. 67 | Budget Resolution FY 1996 | PQ: 252–170 A: 255–168 (5/17/95). |
| H. Res. 155 (5/22/95) | MO | H.R. 1561 | American Overseas Interests Act | A: 233–176 (5/23/95). |
| H. Res. 164 (6/8/95) | MC | H.R. 1530 | Nat. Defense Auth. FY 1996 | PQ: 225–191 A: 233–183 (6/13/95). |
| H. Res. 167 (6/15/95) | O | H.R. 1817 | MilCon Appropriations FY 1996 | PQ: 223–180 A: 245–155 (6/16/95). |
| H. Res. 169 (6/19/95) | MC | H.R. 1854 | Leg. Branch Approps. FY 1996 | PQ: 232–196 A: 236–191 (6/20/95). |
| H. Res. 170 (6/20/95) | O | H.R. 1868 | For. Ops. Approps. FY 1996 | PQ: 221–178 A: 217–175 (6/22/95). |

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS—Continued

[As of October 18, 1995]

| H. Res. No. (Date rept.) | Rule type | Bill No. | Subject | Disposition of rule |
|---|---|---|---|---|
| H. Res. 171 (6/22/95) | O | H.R. 1905 | Energy & Water Approps. FY 1996 | A: voice vote (7/12/95). |
| H. Res. 173 (6/27/95) | C | H.J. Res. 79 | Flag Constitutional Amendment | PQ: 258–170 A: 271–152 (6/28/95). |
| H. Res. 176 (6/28/95) | MC | H.R. 1944 | Emer. Supp. Approps | PQ: 236–194 A: 234–192 (6/29/95). |
| H. Res. 185 (7/11/95) | O | H.R. 1977 | Interior Approps. FY 1996 | PQ: 235–193 D: 192–238 (7/12/95). |
| H. Res. 187 (7/12/95) | O | H.R. 1977 | Interior Approps. FY 1996 #2 | PQ: 230–194 A: 229–195 (7/13/95). |
| H. Res. 188 (7/12/95) | O | H.R. 1976 | Agriculture Approps. FY 1996 | PQ: 242–185 A: voice vote (7/18/95). |
| H. Res. 190 (7/17/95) | O | H.R. 2020 | Treasury/Postal Approps. FY 1996 | PQ: 232–192 A: voice vote (7/18/95). |
| H. Res. 193 (7/19/95) | C | H.J. Res. 96 | Disapproval of MFN to China | A: voice vote (7/20/95). |
| H. Res. 194 (7/19/95) | O | H.R. 2002 | Transportation Approps. FY 1996 | PQ: 217–202 (7/21/95). |
| H. Res. 197 (7/21/95) | O | H.R. 70 | Exports of Alaskan Crude Oil | A: voice vote (7/24/95). |
| H. Res. 198 (7/21/95) | O | H.R. 2076 | Commerce, State Approps. FY 1996 | A: voice vote (7/25/95). |
| H. Res. 201 (7/25/95) | O | H.R. 2099 | VA/HUD Approps. FY 1996 | A: 230–189 (7/25/95). |
| H. Res. 204 (7/28/95) | MC | S. 21 | Terminating U.S. Arms Embargo on Bosnia | A: voice vote (8/1/95). |
| H. Res. 205 (7/28/95) | O | H.R. 2126 | Defense Approps. FY 1996 | A: 409–1 (7/31/95). |
| H. Res. 207 (8/1/95) | MC | H.R. 1555 | Communications Act of 1995 | A: 255–156 (8/2/95). |
| H. Res. 208 (8/1/95) | O | H.R. 2127 | Labor, HHS Approps. FY 1996 | A: 323–104 (8/2/95). |
| H. Res. 215 (9/7/95) | O | H.R. 1594 | Economically Targeted Investments | A: voice vote (9/12/95). |
| H. Res. 216 (9/7/95) | MO | H.R. 1655 | Intelligence Authorization FY 1996 | A: voice vote (9/12/95). |
| H. Res. 218 (9/12/95) | O | H.R. 1162 | Deficit Reduction Lockbox | A: voice vote (9/13/95). |
| H. Res. 219 (9/12/95) | O | H.R. 1670 | Federal Acquisition Reform Act | A: 414–0 (9/13/95). |
| H. Res. 222 (9/18/95) | O | H.R. 1617 | CAREERS Act | A: 388–2 (9/19/95). |
| H. Res. 224 (9/19/95) | O | H.R. 2274 | Natl. Highway System | PQ: 241–173 A: 375–39–1 (9/20/95). |
| H. Res. 225 (9/19/95) | MC | H.R. 927 | Cuban Liberty & Dem. Solidarity | A: 304–118 (9/20/95). |
| H. Res. 226 (9/21/95) | O | H.R. 743 | Team Act | A: 344–66–1 (9/27/95). |
| H. Res. 227 (9/21/95) | O | H.R. 1170 | 3-Judge Court | A: voice vote (9/28/95). |
| H. Res. 228 (9/21/95) | O | H.R. 1601 | Internatl. Space Station | A: voice vote (9/27/95). |
| H. Res. 230 (9/27/95) | C | H.J. Res. 108 | Continuing Resolution FY 1996 | A: voice vote (9/28/95). |
| H. Res. 234 (9/29/95) | O | H.R. 2405 | Omnibus Science Auth | A: voice vote (10/11/95). |
| H. Res. 237 (10/17/95) | MC | H.R. 2259 | Disapprove Sentencing Guidelines | A: voice vote (10/18/95). |
| H. Res. 238 (10/18/95) | MC | H.R. 2425 | Medicare Preservation Act | |

Codes: O-open rule; MO-modified open rule; MC-modified closed rule; C-closed rule; A-adoption vote; D-defeated; PQ-previous question vote. Source: Notices of Action Taken, Committee on Rules, 104th Congress.

CORRECTION OF VOTES IN COMMITTEE REPORT—OCTOBER 19, 1995

The Rules Committee's report, House Report 104–282 on House Resolution 238, the rule for the consideration of H.R. 2425, the Medicare Preservation Act of 1995, contains four erroneous rollcall votes.

Below is a correct version of those votes. The corrected votes for Rollcall Nos. 178, 189, 202, and 203 are as follows:

COMMITTEE VOTES

Pursuant to clause 2(l)(2)(B) of House rule XI the results of each rollcall vote on an amendment or motion to report, together with the names of those voting for and against, are printed below. For a summary of the amendments moved to be made in order, see section following the rollcall votes.

RULES COMMITTEE ROLLCALL NO. 178

Date: October 18, 1995.

Measure: H.R. 2425, the Medicare Preservation Act of 1995.

Motion By: Mr. Moakley.

Summary of Motion: Make in order amendment by Representative Rangel.

Results: Rejected, 4 to 9.

| Vote by Member | Yea | Nay | Present |
|---|---|---|---|
| QUILLEN | | X | |
| DREIER | | X | |
| GOSS | | X | |
| LINDER | | X | |
| PRYCE | | X | |
| DIAZ-BALART | | X | |
| McINNIS | | X | |
| WALDHOLTZ | | X | |
| MOAKLEY | X | | |
| BEILENSON | X | | |
| FROST | X | | |
| HALL | X | | |
| SOLOMON | | X | |

RULES COMMITTEE ROLLCALL NO. 189

Date: October 18, 1995.

Measure: H.R. 2425, the Medicare Preservation Act of 1995.

Motion By: Mr. Beilenson.

Summary of Motion: Make in order amendment by Representative Ganske.

Results: Rejected, 4 to 9.

| Vote by Member | Yea | Nay | Present |
|---|---|---|---|
| QUILLEN | | X | |
| DREIER | | X | |
| GOSS | | X | |
| LINDER | | X | |
| PRYCE | | X | |
| DIAZ-BALART | | X | |
| McINNIS | | X | |
| WALDHOLTZ | | X | |
| MOAKLEY | X | | |
| BEILENSON | X | | |
| FROST | X | | |
| HALL | X | | |
| SOLOMON | | X | |

RULES COMMITTEE ROLLCALL NO. 202

Date: October 18, 1995.

Measure: H.R. 2425, the Medicare Preservation Act of 1995.

Motion By: Mr. Solomon.

Summary of Motion: Add provision to rule ordering yeas and nays on passage of bill and suspending application of clause 5(c) of rule XXI to votes on passage of bill, amendments thereto, and conference reports thereon.

Results: Adopted, 9 to 3.

| Vote by Member | Yea | Nay | Present |
|---|---|---|---|
| QUILLEN | X | | |
| DREIER | X | | |
| GOSS | X | | |
| LINDER | X | | |
| PRYCE | X | | |
| DIAZ-BALART | X | | |
| McINNIS | X | | |
| WALDHOLTZ | X | | |
| MOAKLEY | | X | |
| BEILENSON | | X | |
| FROST | | | |
| HALL | | X | |
| SOLOMON | X | | |

RULES COMMITTEE ROLLCALL NO. 203

Date: October 18, 1995.

Measure: H.R. 2425, the Medicare Preservation Act of 1995.

Motion By: Mr. Quillen.

Summary of Motion: Order rule reported.

Results: Adopted, 9 to 3.

| Vote by Member | Yea | Nay | Present |
|---|---|---|---|
| QUILLEN | X | | |
| DREIER | X | | |
| GOSS | X | | |
| LINDER | X | | |
| PRYCE | X | | |
| DIAZ-BALART | X | | |
| McINNIS | X | | |
| WALDHOLTZ | X | | |
| MOAKLEY | | X | |
| BEILENSON | | X | |
| FROST | | | |
| HALL | | X | |
| SOLOMON | X | | |

Mr. LINDER. Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore (Mr. LAHOOD). It is the prerogative of the Chair to welcome back the gentleman from Massachusetts [Mr. MOAKLEY], the distinguished ranking member of the Committee on Rules. The gentleman from Massachusetts is recognized for 30 minutes.

Mr. MOAKLEY. Mr. Speaker, I thank the gentleman from Georgia [Mr. LINDER], my dear friend, for yielding me the customary half-hour, and I yield myself such time as I may consume.

Mr. Speaker, I am very honored to be back at the leadership table today doing my part on behalf of every American who does not want their Medicare benefits cut to pay for the tax cuts for the very, very rich.

Mr. Speaker, I heard 7 hours of testimony in the Committee on Rules yesterday and I still cannot understand why anyone on Earth would propose such a horrible, horrible idea.

Mr. Speaker, 40 million elderly Americans rely on Medicare, but my Republican colleagues still insist on using Medicare as a slush fund for tax breaks. I can tell my colleagues that I was not sent to Congress to do that.

Mr. Speaker, I want to make something very clear. This bill will hurt. This bill will hurt and it means that senior citizens' premiums increase about $400, but they will have to give up their own private doctors.

Where I come from, if you pay more, you should get more. But not today, Mr. Speaker. This bill takes health benefits from Grandma, from Grandpa, and hands them over to the richest Americans in the forms of a nice, big, juicy, fat tax break.

Republicans are not cutting Medicare to save it. Republicans are not cutting Medicare to protect senior citizens. Republicans are cutting Medicare to fill that big, big hole left in our Nation's wallet after their tax break for the very rich.

Mr. Speaker, at a time when we should be immunizing more of our children, at a time when we should be

training more of our health workers, at a time when we should be working together to make this country as competitive and caring as it can be, this bill leaves thousands and thousands of senior citizens out in the cold.

Mr. Speaker, this will cripple our fine medical schools, our outstanding teaching hospitals, our research facilities, and the health of the entire country will ultimately suffer.

Mr. Speaker, senior citizens need their health care a lot more than the very, very rich need another tax break. Take it from me, Mr. Speaker, senior citizens need their health care a lot more than the very, very rich need other things.

Mr. Speaker, this bill is wrong. It is wrong. It is wrong. So, I ask my colleague to defeat the previous question and oppose this rule.

Mr. Speaker, I reserve the balance of my time.

Mr. LINDER. Mr. Speaker, for the purpose of debate only, I yield 4 minutes to the gentleman from New York [Mr. SOLOMON], chairman of the Committee on Rules.

Mr. SOLOMON. Mr. Speaker, let me take a moment to welcome back my colleague, the gentleman from Massachusetts [Mr. MOAKLEY]. Mr. Speaker, I would say to the gentleman that he has not changed a bit, and it is a pleasure to have him back here.

Mr. Speaker, let me also take a moment to thank the gentleman from Georgia [Mr. LINDER], who is managing this rule, and the other members of the Committee on Rules, for supporting this rule. Because, by voting for this rule, my colleagues are voting to give greater equity to the rural hospitals in America. That means more money to rural hospitals because they are so pressed right now for financial assistance: This rule will go a long way toward helping them. So, I thank the Committee on Rules for supporting it.

Mr. Speaker, last month I turned 65 years of age and am now a contributing member of the Medicare system. On behalf of myself and my constituents, I want to thank the gentleman from Texas [Mr. ARCHER], the gentleman from Virginia [Mr. BLILEY], and other members of their committees for this bill, which not only saves the existing system from bankruptcy, but guarantees there will be Medicare protection for the elderly for many years to come with no ''Band-Aid fix'' as is usually the case, here in Congress.

Mr. Speaker, I have been hearing from several different groups of people who are legitimately concerned about how this reform affects them. First, there is a group already retired on Medicare. They can stay in the system exactly as they are or they can buy another private health policy and Medicare will give them up to $4,800 to help pay for it. That is important for those people on Medicare today to know.

Second, there is a group ready to retire that has no current insurance. They can retire, join the existing Medicare Program, or they can choose a private health plan and Medicare will give them $4,800 to pay for it.

Then there is a group, and I think this is a group that I represent back home because they are working Americans. They work for firms like GE and IBM, International Paper Co. or the State of New York or local government. They have health coverage through their employer.

Under this new plan, they can retire tomorrow, either join the current Medicare Program or they can continue the policy they have now with their current employer and Medicare will contribute up to $4,800 to help pay for it. That gives great relief to those people.

Last, there is a group of small businessmen, like farmers, and I represent maybe the 20th largest dairy producing district in America, who currently buy a Blue Cross-Blue Shield plan or a private plan, but when they retire tomorrow their income goes down and they no longer can afford the same policy. Mr. Speaker, under this plan they can either:

One, join the existing Medicare Program as it is today or, two, continue to buy the health policy they have today and Medicare will contribute up to $4,800 toward the cost of that policy.

Mr. Speaker, last weekend I sat home and I randomly called over 100 constituents from all of these categories I mentioned above and you know what? After I explained this new program, without using terms like Medisave, Medigap, or MedicarePlus, when I explained it to them in layman's language, almost every one of them said they were relieved and they thanked me for what we are doing to save Medicare today.

So, on behalf of my constituents, I want to thank the two committees for the great job that they have done. They really are saving this system for the elderly for years to come.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. FROST], an outstanding member of the Committee on Rules.

Mr. FROST. Mr. Speaker, at 10 o'clock last night the Committee on Rules was called back into session to rewrite this rule. Now, what was going on? The Republicans are desperate to find votes to promote their $245 billion tax cut for the wealthy.

Look in today's New York Times. ''For Republicans in the House, a Frantic Vote Trading Bazaar,'' and I want to quote from this.

> Today the office of Speaker Newt Gingrich became a kind of bazaar as lawmakers trouped in seeking concessions and Mr. Gingrich tried to please them. The bargaining was a little like Christmas shopping, as Republican lawmakers searched for gifts. To help pay for the sweeteners for the rural lawmakers, this is what they did. They decided not to expand Medicare coverage of chiropractor services and not to pay for drugs needed to combat nausea caused by certain anticancer drugs.

□ 1000

A bazaar, a trading session, simply to be able to find enough votes to put through this plan, to cut Medicare by $270 billion.

PARLIAMENTARY INQUIRY

Mr. MCDERMOTT. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman will state his parliamentary inquiry.

Mr. MCDERMOTT. Since we had no hearings in the Committee on Ways and Means, I want to clarify what document we are dealing with.

Mr. LINDER. Mr. Speaker, that is not that parliamentary inquiry.

Mr. MCDERMOTT. Wait and listen to my parliamentary inquiry.

We had a bill introduced, H.R. 2425, in the committee. Then we had a substitute of 435 pages that was dropped on us the day of the first meeting.

Mr. LINDER. Point of order.

Mr. MCDERMOTT. Then we have a bill identified as Union Calendar 145, H.R. 2425, which is 900 pages——

Mr. LINDER. Point of order.

Mr. MCDERMOTT. Which is 900 pages, which has never had a hearing, and now we have H.R. 2485. Are there any other——

The SPEAKER pro tempore. The gentleman from Washington will suspend.

Mr. MCDERMOTT. Are there any other changes before us——

The SPEAKER pro tempore. The gentleman from Washington will suspend.

The gentleman from Georgia will state his point of order.

POINT OF ORDER

Mr. LINDER. Point of order. Is that a parliamentary inquiry or a speech?

Mr. MCDERMOTT. I think asking the Chair what we are considering is basically a parliamentary inquiry. We are out here as a parliament to deal with law. The question is, What we are dealing with?

The SPEAKER pro tempore. The Chair will read from the rule:

> An amendment in the nature of a substitute consisting of the text of H.R. 2485, modified by the amendment printed in the report of the committee on Rules accompanying this resolution, shall be considered as adopted in the House and in the committee of the whole. The bill, as amended, shall be considered as the original bill for the purpose of further amendment under the 5-minute rule.

Mr. MCDERMOTT. Can the Chair tell us, are there any changes between the H.R. 2425, which came out of the committees, and H.R. 2485, which was used in the Committee on Rules last night?

The SPEAKER pro tempore. The Chair cannot further respond.

PARLIAMENTARY INQUIRY

Mr. DINGELL. Mr. Speaker, I have a further parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. DINGELL. Could the Chair tell us which of the documents that have been coming forth so profusely is to be used today for consideration of the legislation?

The SPEAKER pro tempore. The response from the Chair is that the Chair has just ruled on that.

The gentleman from Georgia is recognized.

Mr. LINDER. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentlewoman from Ohio [Ms. PRYCE], our colleague on the Committee on Rules.

Ms. PRYCE. Mr. Speaker, this is a historic day in the House of Representatives, and I am pleased to rise in strong support of this rule for the Medicare Preservation Act.

Throughout the past year, we have made every effort to alert the American people, and seniors in particular, that we are facing a serious crisis.

Medicare is growing at an unsustainable rate, and retirement of the baby boomers is just around the corner. Unless decisive action is taken now, the Medicare system will collapse. With the health of 34 million senior citizens at stake, we can't delay any longer. The time has come for Congress to act responsibly and courageously, in the face of all the rhetoric and politics as usual.

After months of congressional hearings and meetings with senior citizens, doctors, hospitals, and health care experts, Congress has crafted a plan that will prevent Medicare's bankruptcy and give seniors the peace of mind they deserve as they look forward to their retirement years.

Our committees have developed a serious response to the Medicare crisis, one which not only promises solvency of the program, but offers seniors the right to choose their health care plan, including the right to stay in the traditional Medicare system.

What this plan is about is change, and change long overdue. The current Medicare program is a 1965 Blue Cross/Blue Shield health care plan codified into law. But just like stereos, computers, or cars, health care plans have seen a lot of innovation in the last 30 years.

Here and now in 1995, you can still drive a 1965 Chevy, but there are a lot of new models out there with cruise control, air bags, and automatic locks. For the first time in 30 years, this proposal gives seniors the opportunity to choose a newer model, but we're also saying, if you want to keep your 1965 plan, if you want to keep on driving your favorite 1965 Chevy, that's all right—it's now your decision, not the Government's.

This plan is honest and sincere. There is no hidden agenda. It's all there, up front, in black and white for the American people to see—no fine print, nothing between the lines.

Our plan will simplify and strengthen Medicare, while finally giving seniors the same choices we all have.

Saving Medicare is not just a slogan or a political strategy. Rather, it is a moral obligation to our seniors and to future generations. We are committed to this challenge, and with this rule and the bill it makes in order, we are keeping our promise to the American people to put Medicare on a sound financial footing.

Mr. Speaker, let us save Medicare. I urge my colleagues to support this fair rule and to bring this country Medicare that is guaranteed to survive.

POINT OF ORDER

Mr. GIBBONS. Mr. Speaker, I make a point of order that a quorum is not present.

The SPEAKER pro tempore. The Chair does not need to entertain that at this point.

Mr. GIBBONS. When will the Chair entertain such a motion? There is obviously not a quorum present, Mr. Speaker.

Mr. Speaker, you know, you are the Speaker pro tempore. The Speaker is off selling books somewhere today. There is obviously a quorum not present. Any camera can see a quorum is not present. Why can I not make a point of order if a quorum is not present?

The SPEAKER pro tempore. Under rule XV, clause 6(e) the Chair cannot entertain such a point of order during debate.

The gentleman from Massachusetts [Mr. MOAKLEY] has 26 minutes remaining and is recognized.

Mr. MOAKLEY. Mr. Speaker, I yield 3 minutes to the gentleman from Florida [Mr. GIBBONS], the ranking minority member of the Committee on Ways and Means, who has done an outstanding job trying to keep the priorities of the Congress going in the right direction.

Mr. GIBBONS. Mr. Speaker, I have seen a lot of outrages in my 33 years, but this tops it all. I will not compare it to the attack on Pearl Harbor. I was in the Army in the attack on Pearl Harbor. It was not a joke. I lost a lot of friends and a lot of colleagues. But this is a stealth attack of terrible proportions.

Mr. Speaker, there is only one reason that we are having this gag rule today. Yesterday, the Republicans spent 4 hours on shrimp, 4 hours on shrimp. Today we are spending 3 hours on 40 million people's benefits, $270 billion. Now, that is the Republican priority in this Congress: 4 hours on shrimp, 3 hours on Medicare.

There is obviously not a quorum present. I do not know where the Members are. I wish they were here because what we have to say is important.

I want to try to follow up what was just said here about the razzle dazzle that is going on about these bills. This is the bill that was finally reported by the Committee on Ways and Means after two or three substitutes by the chairman. It is not worth a hoot. It is 900-and-some pages long and had already been discarded. This is the bill that was adopted by the Committee on Rules last night. It was referred to the Committee on Ways and Means. It was referred to the Committee on Commerce. It never saw the light of day in either one of those committees, but yet it was reported by the Committee on Rules. It is 471 pages long. The other one is 900 pages long.

Then we are adopting a rule here today that makes two more changes. Now I am told by staff that there are 17 changes in this bill that have never been considered by any committee in this Congress. Nobody has ever seen them. This is Newt's bargaining package. This is what he bought his Republican votes on.

Then, to add insult to injury, there are two more amendments to this bill, that has never been read by anybody, in this rule that we are adopting today.

I have seen a lot of razzle dazzle, I say to the gentleman from New York [Mr. SOLOMON] in this Congress in 33 years, but you and your Committee on Rules and NEWT GINGRICH top it all.

For what purpose? For one purpose only: To get old people to take $270 billion out of their pockets and give it to your rich contributors.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. GIBBONS. No. You cut us off. You did not give us any time. NEWT GINGRICH did not give us any time to debate here. Why should I yield to you?

Mr. SOLOMON. Well, you are still my friend.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the outstanding gentleman from Michigan [Mr. DINGELL], the ranking minority member of the Committee on Commerce.

(Mr. DINGELL asked and was given permission to revise and extend his remarks.)

Mr. DINGELL. Mr. Speaker, this is a bad rule and a bad bill. I urge my colleagues to defeat the previous question, to defeat the rule and defeat the bill.

The process here has been an abomination. It has been an insult to the American people. There have been no hearings on this bill. There have been constant changes in its language. There have been constant backroom deals cut to benefit special interests.

Committee amendments have been disappearing from the final text, and now a gag rule is before us permitting only one amendment.

Republicans say we need this bill to save Medicare. Do not believe it. There is only one reason that this bill is required, and that is to provide tax cuts for the rich, financed at the expense of senior citizens and Medicare recipients.

The committee never had a minute's hearings on this legislation. No committee did.

The bill has undergone constant changes. We have Democratic substitutes here which will not have an opportunity to be considered. There are proposals in this bill that have been sneaked in in the dark of night, and no Member knows what they might contain.

I urge rejection of this gag rule.

PARLIAMENTARY INQUIRY

Mr. DOGGETT. Mr. Speaker, parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. DOGGETT. Under this rule, as it is proposed, is the new rule of the House requiring a three-fifths' vote on tax increases before any tax increase can go into effect, is that rule being suspended under this rule so that this will be a tax increase that does not comply with the new rules of the House?

I realize it is to provide tax cuts, but does it not have a tax increase?

The SPEAKER pro tempore. The Chair would refer the gentleman from Texas to the last sentence of the rule.

Mr. DOGGETT. Does that permit a suspension of the three-fifths rule to allow a tax increase to go into effect without a three-fifths' vote?

The SPEAKER pro tempore. That is the rule being waived relating to income tax rate increases.

Mr. DOGGETT. I thank the Chair very much.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from Michigan [Mr. CONYERS], who has worked very diligently on this matter.

(Mr. CONYERS asked and was given permission to revise and extent his remarks.)

Mr. CONYERS. Mr. Speaker, we come here on a rule that handles the issues that fall within the jurisdiction of the Committee on the Judiciary that are the most important economic matters in this Congress, massive antitrust exemptions that will allow doctors to fix and inhibit the prices of their competitors, radical medical malpractice and product liability changes for the first time that will intrude on the States' rights to protect their citizens against negligence, wholesale rewrites of the antifraud laws that will make it almost impossible to prosecute Medicare fraud committee by doctors, and yet we have had no debate on any of these matters.

The chairman of the Committee on Ways and Means, the gentleman from Texas [Mr. ARCHER], cut off debate in that committee, saying the Committee on the Judiciary would resolve them. The chairman of the Committee on the Judiciary has never held hearings on this, and Speaker GINGRICH discharged the Committee on the Judiciary from consideration.

Ten days on Waco in Committee on the Judiciary, 8 days on immigration, no days on Medicare fraud.

I rise in strong opposition to this outrageous rule.

Later today this House will be considering one of the most far-reaching and punitive pieces of legislation in the history of this Nation. The bill has been negotiated behind closed doors directly with special interests and only peeks its head above water occasionally, only to be changed and revised through massive and complex substitutes further tailored to suit the needs of powerful special interests.

And today our right to debate the merits of this legislation has been all but eliminated. Why should we expect to have any sort of meaningful public debate—we all know the only place this bill can be debated is behind closed doors with the AMA and other special interests. The Republicans are in such a rush to go home to explain this sellout to their constituents, they didn't have time to allow for a meaningful debate on the actual legislation.

The issues which fall within the jurisdiction of the Judiciary Committee rank among the most important economic matters we will see this Congress: Massive new antitrust exemptions that will allow doctors to fix prices inhibit their competitors; radical medical malpractice and product liability changes that will for the first time ever intrude on the States' rights to protect their citizens against negligence; and wholesale rewrites of our antifraud laws that will make it almost impossible to prosecute Medicare fraud committed by doctors.

Amazingly, we in the Congress will go through this process having had no debate whatsoever on the merits of these broad-ranging proposals. When the antitrust and malpractice issues were raised in the Ways and Means Committee, Chairman ARCHER cut off debate by saying that the Judiciary Committee would resolve them. Yet Chairman HYDE refused to hold a hearing or a markup, Speaker GINGRICH discharged the committee from consideration, and the Rules Committee ruled all of our amendments out of order. We've held 10 days of hearings on Waco, 8 days of markup on immigration, and no hearings or markup on the antitrust, medical malpractice, and antifraud provisions in the Medicare bill.

So we have the absurd situation where the only group which is permitted to write and debate important changes to the antitrust, medical malpractice, and antifraud laws are the special interests—not the Congress. Now I know why the majority keeps putting off gift and lobby reform. Obviously they needed to finish this bill—the largest legislative giveaway of all time—before they can even consider lobbying reform.

I urge the Members to defeat this rule and restore a level of sanity and reasonableness back into the legislative process.

□ 1015

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. RANGEL], a real fine Member who has lived firsthand with this very, very terrible situation that we see in some of the nursing homes in the State of New York.

(Mr. RANGEL asked and was given permission to revise and extend his remarks.)

Mr. RANGEL. Mr. Speaker, there comes a point where shame has to be an issue that has to be discussed. No one knows better than I how important a campaign promise is, and I recognize when you promise $245 billion to those who support the goals and aims of the Republican Party, that you must keep that promise.

The question is, have you no shame in how far you go to raise the money? Student loans, school lunches, housing for the poor. And now we are talking about the crown jewel. The crown jewel is not $245 billion in tax cuts. The crown jewel is aged Americans, those who raised their families and their grandchildren, those that believed in the American dream, those that thought if they took care of their's, that our country would take care of them.

I know, Republicans have fought Medicare from the inception. Every time it comes up, you have always been there, always been there, to vote it down. And here you come again, where hospitals that service the poorest of the poor, in the rural areas, in the inner-cities, where they have no support system, there you are reducing the benefits.

People get up here time and time again saying that is just not so. Well, why do you not go to the hospital people and ask them why they believe you are destroying them? Why do you not go to those in the nursing homes and ask why they are so frightened? And why are we not able to say that there is nothing wrong with that trust fund that $90 billion would not take care of?

If you are so concerned about the Medicare bill, and this will be new to my Republican majority friends, it would be brand new, it would be making history, that you were concerned about the Medicare bill, all you have to do is cut your tax bill by $90 billion, throw it over there and fix the trust fund, and set up a commission to do the rest.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from Ohio [Mr. TRAFICANT] the friend of labor, the friend of the elderly.

Mr. TRAFICANT. Mr. Speaker, I oppose the rule; another choice should have been put in order. I will oppose the bill; it is simply not the best. But I do not agree with the politics being played here today, the spin to win, regardless of the consequences. Depicting NEWT GINGRICH as Darth Vader and Republicans as two-headed monsters may seem to be good democratic politics, but it is bad public policy for America.

Congress spends too much time on motive and not enough time on substance. The important issue today is not whether Republicans win or the Democrats win. Medicare should be fixed. Medicare is in trouble, and I believe that we should address that issue.

I oppose the bill. It is simply not the best we could fashion.

PARLIAMENTARY INQUIRY

Mr. SKAGGS. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman will state it.

Mr. SKAGGS. Mr. Speaker, looking at the last sentence on page 3 of the rule, the waiver of clause 5 of rule XXI, am I correct that this is the provision that requires three-fifths of the Members to approve any tax increase on final passage?

The SPEAKER pro tempore. The gentleman is correct about an income tax rate increase.

Mr. SKAGGS. Mr. Speaker, what is the reason that this provision is in the resume, if the Chair could respond?

The SPEAKER pro tempore. The Chair cannot speculate on that.

Mr. SKAGGS. Mr. Speaker, presumably it must be because there is a tax rate increase in the bill. Otherwise, there would be no point in having this waiver.

The SPEAKER pro tempore. The Chair will point out again that the provision is in the rule, as has been read.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia [Mr. PAYNE].

Mr. PAYNE of Virginia. Mr. Speaker, I rise in strong opposition to this rule, because all year long, every time that someone from this side of the aisle has come down to criticize or even talk about the Republican plan, we were met with the same response: ''Where is your Medicare plan,'' they said, ''and what will you do to save Medicare?''

Well, Mr. Speaker, those of us from the Democratic Conservative Coalition came up with a plan to protect Medicare and the 37 million people it serves. What was the response of the Republican majority? They gagged us. The Committee on Rules will not even permit our plan to be heard on this floor today.

Let me tell my colleagues what they are missing. We put together a Medicare reform plan that is not driven by a promise to cut taxes, but by the need to create efficiency, choice, and personal responsibility. The coalition's plan is a solid, middle-ground plan. It combines long-term structural reforms with reasonable cost savings to ensure Medicare's long-term solvency. Our Medicare reform plan provides $100 billion more for Medicare than does the Republican plan in the next 7 years.

There are four other good reasons why we should hear this plan today. The coalition's plan contains substantive Medicare reforms designed to promote efficiency and fairness. It contains provisions to protect beneficiaries. It does more to protect our rural hospitals than does the Republican plan. Finally, we meet our obligation to ensure the solvency of the Medicare Program.

For 30 years, Medicare has served the elderly and disabled of this country. Because of Medicare, many fewer older Americans live in poverty today than 30 years ago, and all have a better quality of life because of Medicare.

We need to be thoughtful and deliberative in our approach to Medicare reform, and that is what our coalition bill does. It is a travesty that this bill will not be heard on this floor today, and I urge a no vote on this rule.

Mr. LINDER. Mr. Speaker, I am pleased to yield for the purpose of debate only 3 minutes to the gentleman from Florida [Mr. GOSS], a member of the Committee on Rules.

(Mr. GOSS asked and was given permission to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, I thank my friend from Georgia [Mr. LINDER], for yielding and congratulate him for a marvelous job in managing this rule.

Mr. Speaker, the quality and the quantity of debate we had all day yesterday in the Rules Committee underscores the importance of the Medicare Program and the high level of interest it holds for all Members. This rule is fair and reasonable. By way of comparison, when the Medicare Program was first created 30 years ago, there were no amendments allowed, other than technical changes proposed by the Ways and Means Committee. Today's rule allows the minority two opportunities to present alternative reform plans—so let's cut out this nonsense about process.

Mr. Speaker, the history of this moment should not be lost on us. We have a bedrock program that affects the most personal aspect of the lives of tens of millions of Americans—but we all know Medicare part A is a health care program that is headed over the cliff to oblivion of bankruptcy in a few short years. The Republican majority, well aware of the risks of losing the rhetorical war to the scaremongers, nonetheless has stepped up to our commitment to preserve, protect, and improve Medicare. We offer opportunity for more choice, more access, less cost. Repeatedly newspapers like the Washington Post and the New York Times have commended us for taking on this tough challenge. As yesterday's New York Times made clear, we are not ducking our responsibility of governance. We are not employing an oft-used technique of the Democrates in packaging this vote within a larger bill to shield Members from the so-called tough votes. We are going to pass this bill because our constituents want us to save the Medicare program, not just for today's seniors, but for their children and their grandchildren. That's the moral imperative we have before us. And I think, as Americans listen carefully to the details of what this legislation does they'll like what they hear. That's what polls show. They'll find that the scare tactics have been overblown and misleading—''medabobury'' as the Washington Post calls it. Choose our plan. Under our plan seniors who are happy with the current system can keep what they have now. Those who think they can get a better program from a health maintenance organization or a medical savings account, will have those options to choose from. Despite some claims to the contrary, we are tackling the major problems of fraud and abuse, which, by the way, are among the biggest complaints seniors have about the Medicare program. This bill provides incentives for seniors to report fraud and it doubles the penalties on those who cheat the system. And we have seen to it that this rule takes us even further, incorporating critical antifraud and abuse proposals drafted by our colleague, former prosecutor STEVE SCHIFF. The Schiff language beefs up enforcement, increases civil penalties and fines, and, most importantly, establishes health care fraud as a Federal felony. Mr. Speaker, I served as a member of the Kerrey Commission on Entitlement Reform. We grappled with the fact that doing nothing means disaster for Medicare and all entitlements. Today we step up to our responsibility and offer positive action to avert that crisis. I hope my colleagues will join me in doing the right thing for Medicare, for America.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. DOGGETT] who has a presentation.

Mr. DOGGETT. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, you know, unless you are a special interest with a swarm of lobbyists, you have very little to smile about with reference to this Republican pay-more, get-less plan. But I think I have found something to give you a smile with. It is a painting that I think captures it all. It captures the raw truth of this Republican plan, a painting by a great American artist, William Harnett, known for the remarkable precision of his painting, who gave in this particular painting a meticulous examination of the physical reality of a lowly object. It is called ''Plucked Clean,'' and that is what is happening to American seniors. A chicken carcass against the wall, plucked clean.

I do not suggest that the Republicans were chicken about hiding this plan. If you has a plan this sorry, you would hide it too. What I am concerned about and why I think ''Plucked Clean'' summarizes this plan is that seniors are being plucked clean, a feather today, a feather here, really all about destroying the Medicare system.

Mr. LINDER. Mr. Speaker, for the purpose of debate only, I yield 1 minute to the gentleman from New Mexico [Mr. SCHIFF].

Mr. SCHIFF. Mr. Speaker, I rise in support of this rule. I want to thank and acknowledge the Committee on Rules for making as a part of this rule my proposed amendment to strengthen the prosecution of health care fraud as part of the rule that will be enacted with the adoption of the rule.

The language that I offered in my amendment is not new language. It can be found as part of H.R. 2326, a bill I developed with the gentleman from Connecticut [Mr. SHAYS], chairman of the Subcommittee on Human Resources of the Committee on Government Reform and Oversight.

This bill, which deals with health care fraud, has bipartisan cosponsorship. This provision builds on the provisions already included by the gentleman from California, Chairman THOMAS, in the first draft of the Medicare bill, which includes provisions such as a trust fund to help support additional investigations and prosecutions of health care providers.

My amendment in particular would first make health care fraud a crime, regardless of whether through fraud, embezzlement, false statements, or bribery and kickbacks.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentlewoman from Arkansas [Mrs. LINCOLN].

(Mrs. LINCOLN asked and was given permission to revise and extend her remarks.)

Mrs. LINCOLN. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, my voice may be lost here in the roaring sea of petty, partisan politics, but I think the American people need to know that in this discussion and in this argument, they are the ones that are being forgotten.

It has been said, ''Be careful what you ask for, for you may get it.'' The Republicans asked us to give them an alternative to their plan to cut $270 billion from Medicare. The Conservative Democratic Coalition delivered. We gave them a plan that will guarantee Medicare solvency and balance the budget by 2002. Our plan will reduce Medicare by $100 billion less than the Republican plan.

Now that we have given them what they have asked for, they will not give House Members the chance to vote on our plan. The coalition's plan is more reasonable and fair to strengthen Medicare than the two plans that will be voted on here today.

I like the way my colleague from Minnesota, Mr. SABO, explained it. It bears repeating. If our plan was ruled in order, House members would have three choices. No. 1, vote for $90 billion in cuts to ensure solvency until 2006, but do nothing to balance the budget. No. 2, vote for the coalition's plan to ensure solvency of Medicare for future generations, while balancing the budget by 2002. That will reduce Medicare by $100 billion less than the Republican plan. Or, No. 3, vote for the Republican plan to cut $270 billion from Medicare, paying for a tax cut, while balancing the budget by 2002.

The first option does not cut enough to really take care of the problem. The third option cuts too much, digging into the pockets of senior citizens and rural health care providers and hospitals.

The second option, however, the coalition's plan, is the solution between the two extremes, what the American people are looking for. Republicans leaders asked us not to criticize unless we could offer a better plan, and we did.

□ 1030

Now they will not allow us to bring our plan to the floor for a vote, and I suspect that might be because ours is the most reasonable plan and it would probably get the most votes. But the senior citizens in the first district of Arkansas and the young people who will be on Medicare in the future have asked us to quit playing petty politics and do the right thing. I hope we can.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. KLINK].

Mr. KLINK. Mr. Speaker, I urge my colleagues to vote no against this rule. First of all, in the Committee on Commerce we were given a bill that was 420 some pages, and then the next day we saw a bill that was 430 some pages, then we were given a bill that was 470 some pages, when we arrived here this week we got a bill that was over 900 pages, and now we have a bill that is, again, almost a thousand pages and on none of these bills did we have a chance to have a hearing. No hearings on this.

No Members know what it is they are going to be voting on today because they have not had a chance to read it. This rule and the strict limit of debate are designed simply to push through a hysterical bill, not historic but hysterical bill, that will not stand up to the light of day, that will not stand up to public debate, that will not stand up to scrutiny, that will not stand up to an open amendment process.

Mr. Speaker, this process is very simply designed to pass a horrendous piece of legislation in time to make the 6 o'clock news tonight.

I think the symbolism of this was not lost when last week as 15 senior citizens came into our committee and tried to inquire as to why there were no hearings they were led away. They were handcuffed and the lights were turned off. Indeed, this whole system has been done in the dark.

Mr. LINDER. Mr. Speaker, may I inquire as to how much time remains?

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman from Georgia [Mr. LINDER] has 9½ minutes remaining, and the gentleman from Massachusetts [Mr. MOAKLEY] has 12 minutes remaining.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Speaker, I rise in strong opposition to this rule and in strong opposition to this bill which will cut $270 billion from Medicare to pay for a tax cut to the wealthy. This bill is a bad deal for seniors. It means seniors will see their premiums increase and their benefits decrease. For seniors this plan should be called the pay-more-get-less plan.

It is a good deal for the special interests. Last week NEWT GINGRICH bought off the doctors' lobby with a $3 billion back-room deal. Under this plan, seniors, on fixed incomes, will pay more while doctors with a 6-figure incomes will make more.

Mr. Speaker, 30 years ago another Congress made a pact with our seniors, it said never again would they have to worry that one accident or one illness will wipe out their life's savings. This Congress has no right to break that sacred pact. Vote no on a $270 billion Medicare cut to pay for a $245 billion tax break.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota [Mr. PETERSON].

(Mr. PETERSON of Minnesota asked and was given permission to revise and extend his remarks.)

Mr. PETERSON of Minnesota. Mr. Speaker, I hope that the American people are listening to what the Members of the coalition are saying today because the political parties in Washington are not listening. They are, once again, putting bills on the floor to achieve their partisan political ends. The coalition has a bill that is going to fix the Medicare System and do it in the right way, and we are not even going to be allowed to have a vote on that bill on the floor of the House today, and I think it is an outrage.

I give credit to my Democratic colleagues. They put a bill together that fixes the part A problem with Medicare. The problem is they have ignored the problem in the part B part of the system. Frankly, we think it needs to be fixed if we are to have a sustainable situation here that will not come back to haunt us within our hospital system and within the senior citizens.

On the other side, the Republicans have put together a bill that goes further than we think they can sustain. We do not think what they have in this bill is achievable, and, frankly, they have this hundred billion dollars extra in this bill so they can pay for the tax cut which Members of the coalition, by the way, support. We just think it should be put off until after we get the budget balanced, and we think this is where the American people are as well.

Mr. Speaker, our bill, as I said, picks up the fixes to part A, but we also do the fixes that need to be made in part B, and we also do the things that need to be done to make the rural health part of the system work. Yesterday the Republicans made an attempt to fix the rural health part of the bill and what they found out happened, as some of their Members are telling me, is they will have hospitals in their district that will have money taken away from them to pay for other hospitals in their district. One of those Members said 25 of his counties will lose, 22 are going to gain.

Mr. Speaker, that is no kind of fix. The reason they are in this problem is they have rates of growth in their bill that are too low, that is not realistic, and that is why they cannot make this work. We think it is really an outrage, one more time, that we have two extreme positions, that are not the right positions, and we will not have the opportunity to vote on the right position until next week. We urge the defeat of this rule.

Mr. LINDER. Mr. Speaker, for the purposes of debate only, I yield 2 minutes to the gentleman from Florida [Mr. MILLER].

Mr. MILLER of Florida. Mr. Speaker, today we are going to have a historic debate and vote on one of the most important issues facing senior citizens and that is Medicare. We have been debating the issue for 3 years and now we are finally going to have a chance to really make good reforms in the program.

We have a good program. I am proud of this program. It is a good program for our senior citizens. We agree with so many things that our colleagues on the other side are talking about. We

agree Medicare is going bankrupt and we need to save it. Where we disagree is we do not want to have just a Band-Aid to fix it for a year or so, we want to fix it before the baby bommers retire in the year 2010.

We want to give choices. And it is amazing why the people on the other side are opposed to choices. We have choice as a Member of Congress. Every year we get to have a choice of plans, just like all other Federal employees. We are in the same plan with the Department of Agriculture employees and Department of Commerce and such. We get to choose. What is wrong with choice? What is wrong with giving people the right to choose?

Mr. Speaker, we are going to give people the right to stay in the plan now. My 86-year-old mother will not change, and there is no reason to make her change. People can stay in the current plan. Those that want to choose a medical savings account, great, let them choose it. Those that want to go in managed care, great, let them choose it.

Why not let local doctors and local hospitals who deliver the care to their local communities offer their own program? What is wrong with that? Why deny choice? Why is this one-size-fits-all in Washington the rule that has to be kept? Why not give choice?

We are increasing spending every year. We talk about $270 billion in cuts. Let us look at how much we are increasing it. Whether the glass is half full or half empty, we are increasing spending on Medicare by $354 billion over 7 years compared to the last 7 years. That goes from $4,800 to $6,700. That is an increase.

Mr. Speaker, we have a good bill that is going to make Medicare a better program for our seniors.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentlewoman from North Carolina [Mrs. CLAYTON].

(Mrs. CLAYTON asked and was given permission to revise and extend her remarks.)

Mrs. CLAYTON. Mr. Speaker, America has reason to be concerned. They call it Mediscare, we call it Medicare.

They want to cut corners, we want to cut sickness.

They believe Government should not carry the disabled, we believe the disabled can carry themselves—if given a chance.

They want those with money to get more wealth, we want those without money to have an equal chance—at health.

They refuse to hear those who disagree with them, we want decisions to be made with all the facts. And, we want to know what's in that 1,000-page bill.

They want to tighten the belt and strangle our senior citizens and their families, we want enough room to include everyone, especially those in need.

For themselves, they want hospitals just moments away, for many in rural America, we simply want hospitals.

They say Medicare cuts are not funding the tax cut, we ask, What is?

Mr. Speaker, the voice of the American people was not heard before the committees of Congress when they briefly considered these radical changes in the Medicare Program.

The majority conducted a 1-day hearing on their proposal to cut the Medicare Program by $270 billion.

And, when those most directly affected by these cuts came to Congress to raise their voices of appeal—they were not heard—they were forced to raise their hands so that they could be handcuffed and arrested.

Perhaps that is because they want us to ignore the impact of this $270 billion cut upon the heart and soul of our Nation—rural America.

This bill makes the most sweeping changes in the Medicare Program since it was first created more than 30 years ago.

Citizens of rural America have incomes that are 33 percent—yes, one-third—lower than their urban counterparts.

The elderly who live in rural areas are 60 percent more likely to live in poverty—60 percent.

Through this Medicare Preservation Act, Medicare funds for rural Americans will be cut by at least $58 billion.

The $270 billion cut translates into at least $45 billion less for the health care for impoverished, disabled, or elderly Americans in rural areas—and translates into $70 billion less for hospitals.

For Pitt County Memorial Hospital, one of the finest university medical centers in rural areas, this cut translates into a $621 million loss—$621 million less for needed medical care.

For Nash General Hospital, $234 billion less in the same time period.

For the Craven Regional Medical Center, $211 billion less—and I could go on and on and on.

The bill cuts $54.5 billion from payments to health care providers.

Twenty-five percent of rural hospitals already operate at a loss, and that is because Medicare alone accounts for almost 40 percent of the average hospital's net patient revenue.

This bill, that is thicker than Webster's dictionary, cuts funding for teaching hospitals, reduces payments for nursing homes—and, fails to dedicate most of the cuts to the Medicare trust fund.

Can you imagine the devastation that these cuts will cause to rural areas?

Hospitals are certain to close—doctors will become scarce—rural Americans will go without health care.

We call it Medicare, they call it Mediscare. Mr. Speaker, America has reason to fear.

Mr. LINDER. Mr. Speaker, may I inquire as to the time remaining on each side?

The SPEAKER pro tempore. The gentleman from Georgia [Mr. LINDER] has 7½ minutes remaining, and the gentleman from Massachusetts [Mr. MOAKLEY] has 8 minutes remaining.

Mr. LINDER. Mr. Speaker, for the purpose of debate only, I yield 2 minutes to the gentleman from Connecticut [Mr. SHAYS].

Mr. SHAYS. Mr. Speaker, I thank the gentleman for yielding me time, and I just wanted to say that I oppose the Medicare bill described by the Democrats. It is an outrageous bill as described by the Democrats, but that is not our bill.

Democrats are saying, regretfully, we want copayments. We do not want copayments. There are no copayments. They say we want deductibles. There are no increases in deductibles. They say we increased the premium, and the premium stays at 31½ percent. The taxpayer will continue to pay 68½ percent.

Mr. Speaker, we have three main goals as this Republican majority. We want to get the financial house in order and balance our budget. We want to save our trust funds. We want to protect, preserve, and strengthen them. And we want to transform this social corporate farming welfare state into an opportunity society. We are going to do that, but we must save our trust fund, it is going bankrupt, and we will.

How do we do it? No new taxes. We do not affect beneficiaries. We affect providers and we change the system. We are transforming the system, allowing people to keep what they have or we are allowing them to get into private care. We are giving them choice. We are allowing them to have the same kind of health care that we as Federal employees have. We are giving them the choice they asked for.

Mr. Speaker, we are doing it without cutting the program. We are increasing it. We are going to spend $600 billion more of new money. Not $300 billion, $600 billion more. It will go from $4800 per beneficiary to $6700 per beneficiary. Only in Washington when we spend 50 percent more do people call it a cut.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from Illinois [Mr. DURBIN], a distinguished member of the Committee on Appropriations.

Mr. DURBIN. Mr. Speaker, for those who cannot stay tuned to this expensive debate today, because of the Republican rule we have 3 hours to debate a $270 billion cut in Medicare. That is a billion and a half a minute. If people cannot stay tuned, I will tell them what will happen.

The Democrats who created Medicare will lose today. The Republicans, under the gentleman from Georgia [Mr. GINGRICH], will ram through a $270 billion cut that will increase premiums for seniors to the tune of $400 a year and it will end up giving the wealthiest 1 percent in America a $19,000 annual tax break.

But do not lose heart. Seniors may be glum tonight, the special interests will be dancing in Washington, but we are counting on the President of the United States to veto this monstrosity, to

bring us back to the table for a bipartisan, common sense approach to really save Medicare.

Mr. Speaker, the real winners not only have to be seniors and their families, we have to tell the special interests to get out of the business of wrecking Medicare, get out of the business of tax breaks for the wealthy. Let us make Medicare a solid system. Let us not make it a piggy bank for the wealthy.

Mr. LINDER. Mr. Speaker, for the purpose of debate only, I yield 2 minutes to the gentleman from Ohio [Mr. HOKE].

Mr. HOKE. Mr. Speaker, I thank the gentleman for yielding me time, and I rise in strong support of this rule and the Medicare Preservation Act to save Medicare from bankruptcy, preserve it for the current retirees and protect it for the future.

Now we have heard so much demagoguery medigoguery from the other side of the aisle on this bill for the past 6 months, and it would take weeks to answer every erroneous charge and accusation. I would like to focus on one particularly disingenuous argument we have heard constantly and it is that the Medicare trustees have said that saving Medicare will require only $89 billion in savings.

First, the Medicare trustees in their report did not recommend a specific savings level necessary to prevent Medicare from becoming insolvent. Their only conclusion was that the plan was going bankrupt and that swift and decisive action should be taken to save it.

Second, the $89 billion the Democrats talk about would amount to nothing more than another in a long line of band-aid solutions that would only get us through the next election, when we should be worried about getting us through well into the next century. Remember, the baby boomers begin retiring in about 2008–2010. If we don't take strong and decisive measures now, Medicare would be seriously jeopardized by then.

Third, the $89 billion figure was proposed by one Medicare trustee, Robert Rubin, the Secretary of the Treasury. My question is this. If $89 billion in savings is all that is needed to save Medicare, why didn't Rubin tell President Clinton, whose proposal called for $190 billion in savings? Clinton is Rubin's boss, isn't he? He's also one of Clinton's Medicare trustees. So why didn't he just walk across the street and tell the President?

The reason is politics. The $89 billion being bandied about by the medigogues on the other side of the aisle is a political calculation, not an actuarial one. It is rooted in Presidential politics, not economic reality.

□ 1045

I guess nobody expected anybody in this Congress to read the report that was prepared for the Congress. I guess the Democrats, while they controlled the Congress, never bothered to read the report.

Mr. Speaker, we are going to move forward to save Medicare on our own, if the other side refuses to be constructive.

Mr. BEILENSON. Mr. Speaker, I yield 1 minute to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Speaker, I rise in opposition to the rule because I object to the limitation it places on debate.

Mr. Speaker, in order to keep the American people in the dark, the Republican leadership has demanded a closed process which stifles debate and shuts out the voices of those affected by this legislation.

Mr. Speaker, I oppose the rule because of the process, but also because of the substance of the legislation. The Republican proposal assaults the quality, security, affordability, and accessibility of health care to our seniors.

This legislation is not legitimate, because it has not been subject to a period of public comment. It is not responsible, because it imposes higher cost and benefit cuts for America's seniors to give a $270 billion tax break to America's wealthiest. This is a sad day in America, because the Republican leadership is undermining the dignity of our seniors, undermining the quality of our health care, and undermining the greatness of our country.

Mr. Speaker, I urge our colleagues to vote ''no'' on the rule, to vote ''no'' on the bill. I urge our colleagues to support Medicare, yes; tax cuts no.

Mr. LINDER. Mr. Speaker, may I inquire as to the time?

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman from Georgia [Mr. LINDER] has 4 minutes remaining and the gentleman from California [Mr. BEILENSON] has 6 minutes remaining.

Mr. BEILENSON. Mr. Speaker, I yield 1 minute to the gentleman from Kentucky [Mr. WARD].

Mr. WARD. Mr. Speaker, I have a chart here that I think is very important for the American people to see as this debate begins. Remember, we all want to make sure that Medicare stays safe and sound, just as we have done almost every year since 1970.

Mr. Speaker, we are seeing a study that says Medicare going to need some help, but it does not need $270 billion of help. The reason they have to do $270 billion on this side of the aisle is to keep the promises they have made for tax cuts, half of which go to the top one-eighth of income earners in this country.

Mr. Speaker, this chart shows that people who are making more than $100,000 a year are going to get 52 percent. Over half of the tax breaks that they are instituting this year will go to people earning over $100,000. Today, the Wall Street Journal said, ''Tax analysis shows GOP package would mean increases for half of taxpayers.'' They are increasing taxes on the poor, and the working poor, and lowering them on the wealthy. It is not right.

Mr. BEILENSON. Mr. Speaker, I yield 30 seconds to the gentleman from Michigan [Mr. LEVIN].

(Mr. LEVIN asked and was given permission to revise and extend his remarks.)

Mr. LEVIN. Mr. Speaker, part of the October assault of the Republicans on Medicare is on Medicare fraud and abuse. Last night, they put into the bill, last night, five or six pages. I want my colleagues to know it is a smoke screen.

Mr. Speaker, the conduct that is covered in this bill is already covered under Federal law. They are weakening Federal law. The inspector general says, ''Crippling.'' Justice Department says, ''Seriously undercutting.'' They cannot cover up this assault on our battle against fraud and abuse in Medicare.

Mr. Speaker, to my colleagues on the other side of the aisle I say, Shame on you.

Mr. BEILENSON. Mr. Speaker, I yield myself such time as I may consume.

(Mr. BEILENSON asked and was given permission to revise and extend his remarks.)

Mr. BEILENSON. Mr. Speaker, I oppose this rule and the bill representing the Medicare portion of the 1995 budget reconciliation legislation that it makes in order.

The modified closed rule we are considering today is totally inadequate for the consideration of one of the most important bills we will be asked to vote on this year. If enacted, the Medicare portion of the reconciliation legislation will have a profound impact on the lives of nearly 40 million elderly and disabled citizens—Americans who are among the most vulnerable members of our society.

This major and complicated piece of legislation deserves, if not an entirely open rule, certainly one that allows far more time for debate and that makes many more amendments in order than the rule before us permits.

We urged in the strongest possible terms that the majority on the Rules Committee approve a more open rule for H.R. 2425, so that the fullest possible debate could be held on its provisions and on their enormously serious consequences.

Unfortunately, we were unsuccessful, and we are faced now with a rule that severely limits debate and shuts a great many members out of the amendment process entirely.

Mr. Speaker, the Rules Committee heard yesterday from at least 40 members—Republican, Democratic, and independent—of the House, most of whom came before us to ask that their proposed amendments to H.R. 2425 be made in order.

At least some of those amendments deserve to be debated and voted on by the full House. They are reasonable proposals; they were offered by sensible and thoughtful Members of this body who obviously have given their suggestions a great deal of thought.

Instead, the rule we are considering denied 14 members of the Democratic caucus and 5 Republican members the right to offer their amendments today. At the very least, we felt that the majority on the Rules Committee would have made in order the very reasonable and thoughtful amendments proposed by several Republicans.

This is a list of the Republican amendments that we will be unable to vote on today, and which certainly deserve consideration:

The gentleman from Iowa [Mr. GANSKE] requested that three amendments be made in order. Two of them are aimed at curbing potential abuses by HMO's, an issue that was central to last year's debate on health care reform and should be of as much concern to our Republican colleagues this year.

The first amendment would require that physicians, rather than nonmedical personnel, review denials of care. The second would make it more difficult for HMO's to retroactively deny payment for care in emergency situations. These two were approved by the Commerce Committee but were not included in the Archer-Bliley compromise that is being made in order as the original text.

The third Ganske amendment would provide a minimum floor in the adjusted average per capita cost of 85 percent of the national average and then provide for differential updates to close the gap.

The gentleman from Connecticut [Mr. SHAYS] requested that his amendment dealing with Medicare fraud and abuse be made in order. That amendment would add important antifraud prevention measures to H.R. 2425 by improving coordination between Federal and State antifraud efforts; improving Federal criminal law to better address health care fraud; and improving administrative procedures, especially those to keep providers previously barred from participating in Medicare. There is obviously a good deal of support for strengthening the provisions in the bill to combat waste, fraud and abuse; this comprehensive amendment should have been made in order so that Members could decide if its provisions are necessary to protect and strengthen the Medicare Program.

The gentleman from Massachusetts [Mr. TORKILDSEN] asked that his amendment be in order allowing all States to see their Medicare funding increase at the national average, instead of the proposal in the bill that has different growth rates for different States. He argued that a uniform rate of increase is essential so that some States do not have to bear far more of the national burden in cuts than other States.

The gentleman from Michigan [Mr. CAMP] asked that the House be allowed to vote on his amendment exempting from the medical malpractice liability cap those instances in which medical treatment was intentionally withheld.

Mr. Speaker, the Democratic amendments should also have been in order.

They sought to allow Members to vote on cuts in Medicare that would have ensured its solvency, but would not have been so great as the Republican plan that uses cuts in Medicare to help pay for tax Increases for the wealthiest Americans.

They sought to strengthen fraud and abuse provisions that the bill weakens unacceptably.

They sought to add new preventative benefits such as mammography, colorectal screening, and diabetes screening.

They sought to reinstate the clinical laboratory regulations, the nursing home reform standards, the ban on physician self-referral, and to remove the serious exemptions from antitrust laws for physicians forming managed care groups.

These are only a few of the very serious issues that Members should have been allowed to vote on today.

Mr. Speaker, H.R. 2425 is the single largest part of the massive budget reconciliation plan; it cuts Medicare far beyond what is necessary to safeguard the Medicare trust fund.

It would not only impose new and heavy financial burdens on the elderly, but it would also irresponsibly relax Federal regulation of doctors and the operations of their practices. The concessions that loosen or repeal Federal regulations that are in the bill to win the support of the American Medical Association are far too extreme; no one argues that Federal regulation that is too complex and burdensome should not be rectified, but the legislation before us uses reported excesses as an excuse to do away with Federal oversight almost entirely.

The provisions that severely weaken Federal laws prohibiting kickbacks and fraud and abuse and that allow doctors to refer patients to companies in which they have a financial interest—a practice now forbidden—would undermine consumer protections and could harm public health, especially when combined with other provisions in the bill that end Federal standards for nursing homes and make it more difficult for victims of malpractice to collect large judgments.

Mr. Speaker, we should be concerned that this complex bill relaxes or repeals many laws that were originally adopted in response to abuses that prompted public outrage. And even though the bill is promoted as being written to control the costs of Medicare, many of its proposals—including those weakening fraud sanctions—would actually increase the costs.

There are many other worrisome provisions in this bill. For example, in a little noticed provision, the bill would reimburse private hospitals for some local taxes, a provision that in effect takes money from hospitals that serve disproportionate numbers of the poor and uninsured and gives it to hospitals whose main purpose is to make a profit.

Mr. Speaker, this bill makes the most profound changes in the Medicare Program since its inception. It is a shame that the majority is allowing this bill to be rushed through without adequate time or amendment and without a complete understanding by Members of the House or the public of the seriousness and complexity of the changes this bill is proposing.

This rule should be defeated so that we can consider a wider range of amendments to this major bill. If it is not, the bill itself should be defeated—in its present form it will severely damage a system on which 40 million elderly and disabled Americans rely. It does not deserve our support.

Mr. BEILENSON. Mr. Speaker, I yield 2 minutes to the gentleman from Mississippi [Mr. TAYLOR].

Mr. TAYLOR of Mississippi. Mr. Speaker, I come to the floor today to ask my colleagues to vote against this rule.

Mr. Speaker, I want to begin by saying shame on the Republican leadership who control the Committee on Rules for not allowing the coalition to offer their $170 billion plan to save Medicaid; and dollar-for-dollar plan that would save Medicaid, as their trustees asked us to do; would allow military retirees to take their Medicaid money to military hospitals and have the much needed care.

Mr. Speaker, I also want to say shame on the Democratic leadership for not allowing the coalition to offer their plan as the Democratic alternative in the motion to recommit. This body is about finding fairness for the American people. It is not about catering to the Republicans' special interests or the Democrats; special interests. It is doing what is right for the American people.

The Republicans promised open rules, and yet they are depriving us of the opportunity to offer a very good plan that was put together. They claim to be for fairness, and yet the fairest plan of all, one that would solve the problem, will not see the light of day because they do not want a better alternative to come to the floor, because both groups are afraid it would pass.

Mr. Speaker, I would like to point out that several members of the Committee on Rules that voted to deny the coalition the plan to bring Medicare subvention to the floor, the gentleman from New York [Mr. SOLOMON], the gentleman from Georgia [Mr. LINDER], the gentlewoman from Ohio [Ms. PRYCE], the gentleman from Florida [Mr. DIAZ-BALART], the gentleman from Colorado [Mr. MCINNIS], the gentleman from Texas [Mr. FROST], and the gentleman from Ohio [Mr. HALL], are all cosponsors of the bill to fix Medicare subvention. Yet those seven Members, a majority of the Committee on Rules, would not let this important measure as a part of the coalition budget, come to the floor.

Mr. Speaker, I say to these colleagues, ''Shame on all of you all.''

Mr. LINDER. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. DREIER], a colleague on the Committee on Rules.

(Mr. DREIER asked and was given permission to revise and extend his remarks.)

Mr. DREIER. Mr. Speaker, the world has changed since 1965. Back in 1965, we saw the automobile industry in a great deal of difficulty. It was world competition which played a role in bringing about the changes that we have seen. The companies that produced those automobiles back in 1965 have gone through tremendous managerial changes.

We need to recognize that it is a new day. And thank heavens, this new majority has stepped up to the plate and decided to bring this very important system into the 21st century.

We are doing it under a very unique process. Thirty years ago, April 7, 1965, when this measure came to the floor, it came under a completely closed rule. A completely closed rule which did not allow any amendments, any substitute, any motion to recommit.

Today, as we look and seek to protect, strengthen, and preserve Medicare, what are we doing? We are providing the opportunity for alternatives to

be met. We are doing it in a bipartisan way. In a bipartisan way we came to the conclusion that we should deal with this language that addresses the issue of fraud. We have done it very effectively. We did it last night up in the Committee on Rules.

I also believe that we need to recognize that the rhetoric that we have heard from so many of my very good friends on the other side of the aisle has been correctly described by the Washington Post as nothing more than Medigoguery.

Mr. GIBBONS. Mr. Speaker, will the gentleman yield?

Mr. DREIER. Mr. Speaker, I have only a limited amount of time.

Mr. GIBBONS. Mr. Speaker, the gentleman is the one who imposed the time limit by this rule.

Mr. LINDER. Regular order.

Mr. DREIER. Mr. Speaker, I yield to the gentleman from Florida.

Mr. GIBBONS. Mr. Speaker, I want to correct what the gentleman from California said. The Republicans got a motion to recommit in 1965. The motion to recommit gutted Social Security, and every Republican but 10 voted for it.

Mr. DREIER. Mr. Speaker, reclaiming my time, as my friend has made it very clear, I was not here. The gentleman from Florida was here then, but there was not a substitute that was offered.

Mr. Speaker, this rule is much more open than the rule that considered Medicare in 1965. I urge an aye vote on this very fair rule, and recognition that stepping up to the plate and dealing with a serious problem that President Clinton has acknowledged is something that the majority of this Congress is willing to do.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from New Mexico [Mr. RICHARDSON], a Nobel Prize candidate.

(Mr. RICHARDSON asked and was given permission to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, 30 years ago, the Congress covered itself with glory by passing the Medicare Program, which provided health coverage for millions of Americans.

Mr. Speaker, today in this Chamber we are presiding over the decimating of Medicare. If this monstrosity becomes law, Medicare will end as we know it today, America, is this what you voted for last November?

Maybe my colleagues on the other side will win the vote today, and maybe they will win the vote in the corridors of the AMA and other Gucci lobbyists on K Street, but they will lose the vote in the hearts and minds of ordinary Americans.

Mr. Speaker, we are ramming through this bill at 100 miles an hour with no hearings, 3 hours of debate, for a drastic overhaul of the system that affects 40 million Americans.

Does the Republican leadership think that nobody is going to notice? Mr. Speaker, this is a bad bill. It should go down.

Mr. Speaker, I have two words to describe this rule—bate and switch.

Three times I have received a copy of this bill only to walk into a committee meeting the next day and find a new bill.

In fact, yesterday afternoon at 4 p.m., we saw for the first time the bill we are now debating.

Cuts in Medicare will directly affect 37 million Americans.

For an issue so important to America—this rule allows only 4 hours of debate.

This rule is about a bill which cuts $270 billion to provide for a tax cut for the wealthy.

Yet, the latest polls show that 83 percent of Americans do not want to cut Medicare to provide for a tax break for the wealthy.

We are also told that this bill is about giving seniors a choice. But, as far as I can tell the only choice seniors will have is to pay more or give up their doctor.

Yesterday, I asked to offer two amendments that would have strengthened this bill and cost Medicare nothing.

The House will not even have the chance to consider my amendments under this rule.

It is not just unfair to run the peoples House this way—it is undemocratic.

I urge my colleagues to vote ''no'' on the previous question and vote ''no'' on this rule.

Mr. LINDER. Mr. Speaker, I reserve the right to close.

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman from Massachusetts has 1½ minutes remaining, and the gentleman from Georgia reserves the balance of his time to close.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from Oregon [Mr. DEFAZIO].

Mr. DEFAZIO. Mr. Speaker, what strange version of democracy is this? We have a program that affects the lives, directly, of 40 million Americans, affects the lives of their children or their parents or their grandparents, a tremendously important program, and without any hearings on the final version of this legislation, this House is going to be forced to move forward with 3 hours of debate.

Mr. Speaker, we spent about 10 times as much on the Waco hearings as we are going to spend on Medicare for every American.

Medicare has problems. Yes. Does this bill address those problems? No. Is it a thoughtful approach? No. Is it something that will stabilize Medicare into the next century and anticipate the retirement of the baby boom? Absolutely not.

Mr. Speaker, it is purely budget- and politics-driven. Medicare does have a problem. It has a $90 billion shortfall over a 7-year period. They are taking $273 billion to fix a $90 billion problem.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume.

(Mr. MOAKLEY asked and was given permission to revise and extend his remarks.)

Mr. Speaker, I think that Members have heard the debate. They say a person convinced against his will is of the same opinion still, but I hope that despite that old adage that some people will pay attention to the debate and have a change of mind.

Mr. Speaker, I urge a no on the previous question. If the previous question is defeated, I will offer an amendment to the rule.

Mr. Speaker, I will insert in the RECORD the text of my amendment. The amendment would do two things. First, it would strike the provision and waive the three-fifths vote requirement on any measure with a Federal income tax rate increase; and, second, Mr. Speaker, will make in order the Rangel amendment to make Medicare solvent by an across-the-board limit on tax cuts for the wealthy.

Mr. Speaker, I submit the following for inclusion in the RECORD.

AMENDMENT TO H. RES. 238

On page 3, lines 18–20, strike ''Clause 5(c) of rule XXI shall not apply to the bill, amendments thereto, or conference reports thereon.''

On page 2, line 25, strike ''.'' and add ''and the amendment in the nature of a substitute printed in the Congressional Record and numbered 3 pursuant to clause 6 of rule XXIII, which may be considered any rule of the House to the contrary notwithstanding, to be offered only by Representative Rangel of New York or his designee, which shall be considered as read, shall be debatable for one hour equally divided and controlled by the proponent and an opponent, and shall not be subject to amendment.''

On page 3, line 1, strike ''that amendment in the nature of a substitute'' and insert ''the amendments in the nature of a substitute made in order under this resolution''.

Mr. Speaker, I urge a ''no'' vote on the previous question.

□ 1100

Mr. LINDER. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, in closing, I would like to emphasize again the quote or the comment made on this floor by the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN said Democrats are going to lose today. They are indeed. They are going to lose control of a program that they began and have held control over and has grown entirely out of control. They are going to lose control over the lives and choices of seniors in health care, and they are going to lose control over money of future generations to pay for it.

We have heard a lot of florid prose today, not to say lurid prose. The gentleman from New Mexico said, we are decimating Medicare. To decimate means to reduce by one-tenth. We are actually increasing Medicare spending over the next 7 years to $1.6 trillion. It was $924 billion over the last 7 years. That is hardly to decimate to reduce by one-tenth.

Much reference has been made to the rule regarding a 60 percent vote for increases in tax rates. There is no increase in tax rates in this bill. There are no increases in taxes in this bill. But those of us in the majority wondered if some on the minority would call the part B premium a tax and call it an increase. It has been called a premium for 30 years. But it is no doubt

that somebody would begin to call it a tax in the debate today and take up another hour of time defending it.

We have heard that Republicans have never supported Medicare. Yet when it passed 30 years ago, it passed 313 to 115 with nearly half of the Republicans in this House voting yes.

We heard in the Committee on Rules yesterday by the gentleman from California [Mr. STARK], that in 8 of the last 9 years or 9 of the last 10 years, I forget which number he gave us, that bipartisan bills have been introduced, Republicans and Democrats, to change reimbursement rates to attempt to strengthen Medicare. It has not worked. It is growing out of control.

In closing, let me give Members one more quote that I support from a Democrat. Just 2 years ago it was said, ''Today Medicaid and Medicare are going up at three times the rate of inflation. We propose to let it go up another two times the rate of inflation. This is not a Medicare or Medicaid cut.''

That Democrat was Mr. Clinton on October 5, 1993.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. LAHOOD). The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MOAKLEY. Mr. Speaker, I object to the vote on the ground a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to the provisions of clause 5 of rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of adoption of the resolution.

The vote was taken by electronic device, and there were—yeas 231, nays 194, not voting 7 as follows:

[Roll No. 726]

YEAS—231

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—194

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Filner
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hayes
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Tanner
Taylor (MS)
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—7

Cox
Crane
Fields (LA)
Flake
Martinez
Tejeda
Tucker

☐ 1123

Mr. TOWNS changed his vote from ''yea'' to ''nay.''

Mr. SHUSTER and Mrs. MORELLA changed their vote from ''nay'' to ''yea.''

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. LAHOOD). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. MOAKLEY. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 227, noes 192, not voting 13, as follows:

[Roll No. 727]

AYES—227

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson, Sam
Jones

Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—192

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Filner
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hayes
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Tanner
Taylor (MS)
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Velazquez
Vento
Visclosky
Volkmer
Ward
Watt (NC)
Waxman
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—13

Crane
Fields (LA)
Flake
Johnson (CT)
Lazio
Martinez
Morella
Payne (VA)
Roth
Tejeda
Tucker
Waters
Williams

□ 1131

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## PERSONAL EXPLANATION

Mr. PAYNE of Virginia. Mr. Speaker, during rollcall vote No. 727 on House Resolution 238 I was unavoidably detained. Had I been present I would have voted "no."

## PERSONAL EXPLANATION

Mr. ROTH. Mr. Speaker, on rollcall No. 727 I was in a meeting on the agriculture trade provisions, but had I been present, I would have voted ''yea.''

## PERSONAL EXPLANATION

Mrs. JOHNSON of Connecticut. Mr. Speaker, on rollcall No. 727 I was inadvertently detained, but had I been present, I would have voted ''yes.''

## GENERAL LEAVE

Mr. ARCHER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 2425.

The SPEAKER pro tempore (Mr. LAHOOD). Is there objection to the request of the gentleman from Texas?

There was no objection.

## MEDICARE PRESERVATION ACT OF 1995

The SPEAKER pro tempore. Pursuant to House Resolution 238 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2425.

□ 1132

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2425) to amend title XVIII of the Social Security Act to preserve and reform the Medicare Program, with Mr. LINDER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Texas [Mr. ARCHER] will be recognized for 45 minutes, the gentleman from Florida [Mr. GIBBONS] will be recognized for 45 minutes, the gentleman from Virginia [Mr. BLILEY] will be recognized for 45 minutes, and the gentleman from Michigan [Mr. DINGELL] will be recognized for 45 minutes.

The Chair recognizes the gentleman from Texas [Mr. ARCHER].

Mr. ARCHER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, today marks a great and historic occasion. With the action we are about to take, we will perform lifesaving legislative surgery on our Nation's vital Medicare Program.

In just 74 days, for the first time in the 30-year history of Medicare, the Government will begin a year in which it spends more Medicare money than it takes in. I repeat, this has never happened before.

That is why the action we are taking today is so very important.

This bill saves Medicare for seniors. It preserves Medicare for 50-year-olds, and it tells young voters to have faith in their Government. We Republicans have long-term solutions, and we are determined to protect Medicare for them, too, without raising their taxes.

Our bill is innovative, bold, and visionary. It is long term. When it comes to a program as important as Medicare, nothing else is acceptable.

Under our bill, seniors will have the right to freely choose the Medicare plan that best suits their needs, including staying in the present fee for service system, and to keep their own doctor, keep their own hospital, and keep their own plan, if that is their preference. It is their choice to make, and no one in government will force that choice.

For the first time, Medicare will give seniors access to the same kind of health care plans that are available in the private sector, many of which include benefits that are not currently available under Medicare.

We also have to ask, why should not seniors have the same choices like Congressman do? Under Medicare-plus, they will. And to make certain our solution is long term, we protect the savings, thanks to a proposal of the gentleman from Pennsylvania [Mr. ENGLISH], language in this bill guarantees that the savings cannot be used for tax cuts.

The Democrats know that we paid for our tax cuts, more than paid for them, last spring, before we ever got into Medicare. This bill is about saving Medicare for Medicare's sake.

Our bill powerfully and effectively cracks down on fraud and abuse. It rewards seniors who discover fraudulent practices. It doubles civil penalties and creates new criminal penalties against those who commit fraud.

As I mentioned earlier, our solution is long term. It saves Medicare for the next generation. This contrasts with the Democrats' quick fix approach, a Band-Aid approach, designed to save themselves for the next election.

Mr. Chairman, I believe that not only will this bill be historic, so, too, will this Congress. We are the first group of lawmakers to directly challenge the convention political wisdom that it is not politically possible to fix America's explosive entitlement programs, which threaten to bankrupt our Nation and the future of our children.

The Democrats who ran Congress for 40 years refused to confront the Nation's long-term problems, other than by raising taxes. Republicans are proving today that we can and will solve our Nation's most difficult problems, and I predict the American people will be thankful that we did.

Mr. Chairman, long-term programs must be fair for all generations. I am proud to author this bill, not just as a Member of Congress, but as a Medicare beneficiary myself and as a parent and a grandparent. What we do today in historic. It is wise, it is just, and, most importantly, it saves, preserves, and protects Medicare.

Mr. Chairman, I reserve the balance of my time.

Mr. GIBBONS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this is, I agree with the gentleman from Texas [Mr. ARCHER], truly an historic day. Unfortunately, it is another day in infamy for 40 million Americans who depend upon Medicare for their health care. These 40 million Americans will in a few years, if this bill becomes law, be herded into managed care, where instead of getting a doctor when they need help, they will get a gatekeeper, and the money saved by all of that will be used to pay for an unconscionable tax cut. That is the simple issue that we are deciding here today.

Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. STARK], the ranking member on the Subcommittee on Health of the Committee Ways and Means.

Mr. STARK. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, Medicare is one of the finest achievements of the U.S. Government, and for 30 years, hundreds of millions of seniors have been provided quality health care at a reasonable cost, in an efficient manner, under the guidance of the Federal Government.

Now one Republican, in a messianic grab for power, seeks to destroy Medicare. With reckless disregard for the seniors, these leaders on the Republican side bribed the American Medical Association with a $300 million pay raise. The seniors are paying for that $300 million bribe to the doctors by being denied cancer treatment in mammograms and colorectal screening.

The same Republicans, on the same day the bribe was given, voted to cut cancer screening for seniors, to repay political contributors of over $1 million by the Golden Rule Insurance Co. alone. Medical savings accounts have been delivered. They cost $3 billion. Who pays for them? The seniors, by having their part B premiums doubled.

Seniors are denied the free choice under the Republican bill of doctors and are forced to join managed care plans run by the likes of Prudential Insurance Co., a company convicted of defrauding its customers of over $3 billion. Why should we vote to have our parents' health care entrusted to crooks like Prudential Insurance Co., just so the same rich executives who run that company can share in $245 billion in tax cuts? It is immoral, it is un-American.

It is what the Republicans are doing, unknowingly, at the direction of one person. Not a person on that side of the aisle knows what is in this bill. No subcommittee ever met to consider the bill. It was written by one person in the bowels of this Capital to destroy Medicare, and that is what they are doing. This same leader destroys any protection from fraud and abuse and shoddy care in nursing homes, all in the name of less government.

Every congressional district in this country under this Republican plan will see hospital payments cut by an average of $300 million. Go home and tell your hospital administrator that for the next 7 years they get $300 million less. Ask they which emergency room they are gong to close, which senior citizen they are going to deny care.

Unfortunately, nothing is so likely to sway the Republicans as honesty and decency. But these cuts they propose will hurt, and hurt badly, real people. Hard-working Americans, who paid into Medicare for years will not get community health care centers, they will not get safety net systems to provide them Medicare.

For 30 years we have working successfully to uphold the one true Contract with America, and that is Medicare. We have not and will not agree to breaking that contract in order to finance Republican tax cuts for the wealthiest Americans. We must do everything to defeat this reckless Republican plan. I urge a ''no'' vote.

Mr. BLILEY. Mr. Chairman, I yield 2 minutes to the gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, as we begin this historic debate on the Medicare Preservation Act, I would like to lay a few principles on the table: The first is that no one in this Chamber should dare suggest that they love their parent or grandparent any more than anybody else in this Chamber. As I speak today, my mother, 77 years old last week, twice a cancer survivor, is laying in a hospital bed in room 219 of Thibodaux General Hospital in my hometown. She is doing fine. My sisters are with her, and I speak to her every hour. She is on Medicare, one of the prime beneficiaries in this country of a great system. To suggest that anyone in this room does not love their parents enough to sustain that system is simply wrong. We can do better than that in this debate.

□ 1145

The second principle I would like to lay down is, we all agree the Medicare trust fund will begin running out of money next year and run out of money in 7 years unless we do as the trustees suggest; fundamentally change the system to keep it out of bankruptcy, to preserve it for my mother and your parents and grandparents.

Now, we differ on how to accomplish that. We should debate those differences and not challenge each other's motives here. Our differences are simple. We believe, as President Clinton believes, and as he has said, ''Medicare and Medicaid are going up at three times the rate of inflation''. We propose to let it go up at two times the rate of inflation. That is not a Medicare or Medicaid cut.

Mr. Chairman, when we hear all this business about cuts, let me caution Members that that is not what is going on. We are talking about increases in Medicare and a reduction in the rate of growth.

We believe as the President does, that we have to substantially cut back the waste, the fraud, and the inefficient spending in Medicare to save it.

Second, we believe seniors should have the choice to stay in Medicare, and our plan lets them stay. To choose Medicare, to choose their own doctor, choose their own hospital, or, if they want to, like my mother, remain in the system. Our plan allows that. We also believe seniors should have the same choices we Members have, other options, and that is what our plan provides.

Mr. Chairman, I urge a ''yes'' vote on this good bill.

Mr. DINGELL. Mr. Chairman, I yield myself 2 minutes.

Thirty years ago this year I had the privilege of sitting in the Chair and presiding over the House when we passed Medicare into law. This is the gavel I used. Before that time better than half of Americans had no health insurance if they were senior citizens. Today, 99½ percent of American senior citizens are covered by health insurance.

What is going to happen today is that this body, under a gag rule, is going to vote to cut the benefits of senior citizens, to reduce their choice of doctors, to cut money for fraud enforcement, and to weaken the laws against fraud. And the Justice Department and the inspector general of the Department of Health and Human Services say so. It is going to force people into HMO's. We will close hospitals today, especially rural hospitals.

Mr. Chairman, this is because the House is preparing to honor a Republican commitment to cut $245 billion in taxes for the rich and to cut Medicare $270 billion. Without that cut of $270 billion in Medicare, the tax cut is not possible.

This bill will reduce protection for nursing home patients. It was crafted by an abundance of sneaky, unreported, backroom deals. The bill is over 300 pages long. It has grown like fungus, and each of those growths represents a significant benefit to special interests. Last night the bill was changed after the House adjourned.

Mr. Chairman, no one knows what is in this bill because no hearings have been held upon it. I urge my colleagues to reject the bill.

Mr. Chairman, I include for the RECORD my full statement.

Mr. Chairman, many years ago, a clever songwriter offered advice this House would do well to heed: ''Fools rush in where wise men fear to go.''

The process by which we have reached this point is foolish in every sense. Without a single hearing devoted to the contents of this bill, Republicans ask America's seniors to stand like deer in the headlights, transfixed by the notion of fixing the Medicare program. They expect senior citizens to accept without question or complaint the absurd declaration that unless we destroy the Medicare program now, it will destroy itself.

Nothing could be further from the truth. I say to my Republican colleagues that it's this simple: Drop your tax cut for the rich, and none of these Medicare cuts will be necessary.

This debate occurs, appropriately, in October, the month of Halloween. This is the time for walking around in costumes and masks. This Medicare bill has been costumed by the Republicans in the cloak of Medicare preservation. But after today's trick or treat is over, after the mask comes off, Medicare beneficiaries will understand that the only reason the Republicans have to cut $270 billion from the Medicare program is to provide for a tax break for their rich friends who don't need it.

This Republican bill will cost seniors more money. It will reduce their choice of doctors. It will jeopardize the quality of the health care system. It will compound, not correct, the problems waste, fraud, and abuse. And if this bill passes, my friends, the AMA's members will need that tax cut to shelter all their additional income from the extra money stuck in this bill for them in some backroom deal for which they sold their support.

This is the same AMA, I remind the seniors out there, that opposed the creation of Medicare in the first place. Socialized medicine, they called it. But now that they have their snouts in the public trough, they just want more and more and more. For seniors, that means less and less and less.

Mr. Chairman, the American people will hear more throughout the day about the defects in this legislation. I urge my colleagues to oppose this bill. It took 30 years for us to create and build the Medicare system; let's not take just a few hours to destroy it.

Mr. ARCHER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we are going to hear a lot of misinformation presented in this debate, and I would challenge my Democrat friends to begin to list the benefit cuts that are made in this package from what are currently available under Medicare, because there are none.

Mr. Chairman, I yield 2 minutes to the gentleman from Kentucky [Mr. BUNNING], a respected member of the committee.

(Mr. BUNNING of Kentucky asked and was give permission to revise and extend his remarks.)

Mr. BUNNING of Kentucky. Mr. Chairman, I rise in support of the Medicare Preservation Act. It's a good bill.

It preserves Medicare—it strengthens Medicare.

It keeps Medicare from going Bankrupt. And best of all it gives senior citizens more options—more choices.

I think you will all agree that Members of the U.S. Congress have a good health care system.

We get a booklet every year that lists the options available to us—insurance plans or PPOS and HMOS. We get a wide range of choices. We can pick a plan that suits our needs and our family's needs. It's a good deal.

I have enrolled in a PPO. I still get to see my family doctor—my gatekeeper. I show him this card—and my office visit only costs me $10. And I have this other card that I can take to the drug store and pick up my prescription medicine and no matter how much it costs, I only pay $10.

It's a good deal.

This Medicare reform bill that we are considering today gives the senior citizens of our country the same kind of options that Members of Congress now have. It will give them the same kind of choices we have.

That's the beauty of this bill. We save Medicare. We strengthen Medicare and on top of it all, we make Medicare better.

We are going to hear a lot of outrageous rhetoric about how we are slashing benefits—that's hogwash. It's political hogwash. And I, for one, think that this program is too important to play political games with.

This bill is a good bill—it gives senior citizens the same kind of health care that Members of Congress enjoy now. That's a good deal.

Mr. GIBBONS. Mr. Chairman, I yield myself such time as I may consume to answer the gentleman from Texas' challenge.

I am sure the gentleman is familiar with his bill. He knows there is a fail-safe device in there. The impact of the fail-safe device is to require the Secretary of Health and Human Services to make cuts only in the fee-for-service program an undesignated amount of money in order to balance the Federal budget. There is no way that the Secretary of Health and Human Services can make that kind of cut and preserve fee-for-service type service for people who elect it.

Mr. Chairman, that is the fraud in the gentleman's bill. One of the many frauds in his bill. And it will drive all seniors into a gatekeeper operation under managed care.

Mr. Chairman, I yield 4 minutes to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, I speak today as a woman who has served on the Ways and Means Committee for over a decade. During that time, I have taken a number of tough votes to protect Medicare's solvency—and today, I am again willing to vote to protect Medicare and its future. However, my experience tells me that a $90 billion problem does not demand a $270 billion solution—so I know the reductions in the majority's bill are too deep and too damaging to Medicare.

Let me raise two specific reasons why this legislation would hurt senior citizens.

First, the bill would limit the amount Medicare pays for beneficiaries. The bill's hard cap on payments would not keep pace with medical inflation, and would therefore create a growing disparity between what health services cost and what Medicare would pay. This disparity would certainly undercut the quality of care under Medicare and force seniors into a terrible choice: Either pay more to make up the difference or settle for second-rate health care. Seniors should not be discriminated against in this way.

Second, proponents of the bill claim that people on Medicare will have new choices while retaining their right to stay in traditional Medicare. I support providing additional choices, but choice for some should not ruin the only choice for others—traditional Medicare.

Under the majority's bill, some seniors would pay the price for the choices made by others. This puts a new spin on the carrot-and-stick approach: Under this bill, when healthier seniors choose the carrot, sicker seniors get the stick.

For example, when younger, healthier seniors leave traditional Medicare by selecting a medical savings account, that will leave older, sicker seniors behind in traditional Medicare to face rising costs. As a result, these higher costs would trigger the so-called failsafe cuts, further reducing payments to doctors and hospitals in traditional Medicare. The obvious consequence would be fewer and fewer quality providers for seniors remaining in traditional fee-for-service Medicare.

Some might reply that a well-designed risk adjuster would address this problem of adverse selection. But the simple truth is: We do not currently have, nor does this bill propose, such a risk adjuster—and anyone who understands this issue, which is always present in insurance decisions, knows how hard it would be and has been to design one.

If we are going to tell seniors they can stay in traditional Medicare, then we have an obligation to ensure that it is a real option, and not just a false promise. This bill fails that test.

The majority often implies that seniors will barely notice the reductions, since so much of their bill's savings

would be achieved by cutting fraud and by providing seniors more health care options. But the truth is that almost all of the bill's savings come from cutting payments to providers and increasing beneficiaries' premiums. In fact, the Congressional Budget Office [CBO] has said that only 1 percent of the bill's savings come from reducing fraud, and that only 2 or 3 percent of the bill's savings come from providing seniors new choices. More than 95 percent of the savings will come in ways that will be all too evident to America's seniors. The Medicare they know will be no more.

Mr. Chairman, the American people want to keep Medicare solvent. I do too. That is why I am voting for $90 billion to save Medicare. But $270 billion in Medicare reductions is ludicrous. It should not happen, and it will wreck Medicare as we know it.

Mr. ARCHER. Mr. Chairman, I yield 30 seconds to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. Mr. Chairman, I want to point out for the RECORD that no speaker has pointed to any benefit cuts. In fact, our bill guarantees all Medicare benefits, for future retirees as well as for current retirees, an increase of spending per retiree of $2,000 over the 7 years, which is just as much as we increased spending over the last 7 years. Thus, absolutely guaranteeing the benefits will be there for America's seniors.

Mr. GREENWOOD. Mr. Chairman, I yield 1½ minutes to the gentleman from North Carolina [Mr. BURR], a fine new freshman Member of the House who has contributed significantly to the bill.

(Mr. BURR asked and was given permission to revise and extend his remarks.)

Mr. BURR. Mr. Chairman, I came to Congress because I believed that there were many things in this country that just did not work like they were designed. Medicare is one of them. For once, it is time for us to stand up to the Federal Government bureaucrats who believe that they can do no wrong.

In my opinion, Medicare is a perfect example of good intentions choked by a bureaucracy unable to address the changing needs of a vital program. It is long past time that we inject the wisdom of the private sector, which has created products that work, into a health care blueprint for seniors in America.

It is time to offer choice to Medicare beneficiaries which allow and encourage them to spend their health-care dollars in a way that best fits their health needs.

It is time we allow our parents the ability to choose their coverage while maintaining the security of the current system for those who need it.

Call me crazy, Mr. Chairman, but for decades we have delayed, ignored, and tinkered with Medicare while my parents and 36 million other Americans have seen their health care costs rise and consume 21 percent of their disposable income.

Mr. Chairman, when I joined with Members of the 104th Congress in a genuine effort to reform Medicare and preserve it for the next generation, I made a deal with myself. I pledged that I would not support a plan that I could not sit down with my parents and explain.

□ 1200

Well, I have explained it, and, Mr. Chairman, I am here today to say that we owe it to the American seniors to pass this preservation act.

Mr. DINGELL. Mr. Chairman, I yield 15 seconds to the gentleman from Michigan [Mr. STUPAK].

Mr. STUPAK. Mr. Chairman, the gentlewoman from Connecticut said there are no cuts in this bill. I would direct the attention of the gentlewoman to page 275 in PPS hospitals, which shows that for 1996, which started 18 days ago, fiscal year 1996, there is a 15-percent cut for hospitals. That 15 percent will not only affect seniors, but the whole population that is served by those hospitals.

Mr. DINGELL. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from California [Mr. WAXMAN].

(Mr. WAXMAN asked and was given permission to revise and extend his remarks.)

Mr. WAXMAN. Mr. Chairman, what we are going to do today, if the Republicans get their way, is a travesty, it is irresponsible, and it is wrong. Thirty-seven million Americans depend on Medicare. They want a program that let them see their own doctor and protects them from financial ruin when they get sick.

Mr. Chairman, they do not want us to gamble with Medicare. They do not want us to go along with what some health-care theorist thinks might make them more cost-conscious consumers. They already watch their dollars. They pay enough in premiums and coinsurance, and most Medicare recipients live on less than $25,000 a year.

Most of all, they do not want us to balance the budget on the backs of Medicare recipients. They do not want us to cut Medicare so we can cut taxes.

The supporters of this bill are not telling us some facts. First of all, not only will Medicare beneficiaries pay higher premiums to hold on to part B, but the bill will allow doctors and hospitals to charge the patients more money directly over and above what they get now paid from the Medicare fund. That is something they cannot do at the present time.

Second, this will take away the choice of doctors and will herd people into managed care plans. That is not a bad choice if you want an HMO, but that should not be your only choice.

Third, this bill is going to jeopardize the quality of care for everyone, when hospitals and emergency rooms are forced to close, when medical research hospitals are starved of funding.

Mr. Chairman, this is a bad bill. It has not been thought through and we ought not take a chance with a program that is so important to so many Americans.

Mr. ARCHER. Mr. Chairman, I yield 30 seconds to the gentleman from California [Mr. THOMAS] chairman of the Health Subcommittee of the Committee on Ways and Means, a gentleman who has contributed so much in the development of this plan.

Mr. THOMAS. Mr. Chairman, we are going to respond every time someone makes a misstatement, and the misstatement was that we are cutting the hospital updates. We are not cutting; we are slowing the growth.

Mr. Chairman, the gentleman from Louisiana talked about ''slowing the growth'' in a statement from the President. Here are the updates according to the CBO numbers. As any Member can see, every year the hospital reimbursement goes up. That is slowing the growth. That is not a cut.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentleman from Georgia [Mr. COLLINS], a member of the Committee on Ways and Means.

Mr. COLLINS of Georgia. Mr. Chairman, there is an old saying: Temptation will beat your door down, but opportunity will knock only once.

Today the Democrats offer temptation: To extend Medicare until 2006. But the Republicans offer an opportunity to extend Medicare to 2012 and beyond.

The real difference between temptation and opportunity is that the Democrat temptation sets the stage for another tax increase by the year 2006. Their plan will leave the Medicare trust fund underfunded by $309 billion—just when those Medicare funds will be needed by the World War II generation.

But Mr. Chairman, this is nothing new—this has been the pattern of Congress over the last 31 years, since Medicare was created.

Congress has either increased the rate or changed the income base 23 times in 31 years in order to keep the Medicare program running.

The temptation the Democrats offer today continues that history and ensures that taxes will again have to be raised in order to continue Medicare.

Mr. Chairman, what happens when payroll taxes are increased?

Seniors know. Seniors know their children and grandchildren will have less income for their families; the cost of consumer goods and services will increase; and we are less competitive in the world market.

Mr. Chairman, when our Medicare seniors, who are on a fixed income, go to the doctor, the grocery store, or pay utilities, the cost of each of these services will reflect the increase in payroll taxes.

The Democrat temptation to Medicare reform repeats the mistakes of the past.

The Medicare Preservation Act is the best of the two options.

It addresses concerns about excessive charges for health care, addresses waste, fraud, and abuse of precious Medicare dollars, and ensures that Medicare will be solvent until 2012 and beyond.

The Medicare Preservation Act requires that we look ahead and anticipate the World War II generation; and we will study the changes to make sure it is working like it's supposed to.

It does all this by changing the Medicare process, without a tax increase.

Mr. BLILEY. Mr. Chairman, I yield 1½ minutes to the gentleman from Texas [Mr. BARTON].

(Mr. BARTON of Texas asked and was given permission to revise and extend his remarks.)

Mr. BARTON of Texas. Mr. Chairman, Medicare is going to lose $18 billion this year from waste, fraud, and abuse. That is $50 million a day, $2 million an hour, $3,000 dollars a minute. Since the debate began at 9 o'clock this morning, Medicare has lost $6 million due to waste, fraud, and abuse.

Mr. Chairman, the bill before us has the toughest penalties ever presented to the Congress on waste, fraud, and abuse. For the first time we have a definition of Federal health care fraud.

Mr. Chairman, I want to read that very quickly:

> Whoever, having devised or intending to devise a scheme or artifice, commits or attempts to commit an act in furtherance of or for the purpose of executing such scheme or artifice to defraud any health care benefit program; or to obtain, by means of fault or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control of, any health care benefit program.

That is the definition. They can be fined and imprisoned for up to 10 years. If the fraud results in bodily harm, they can be imprisoned for up to 20 years. If the fraud results in death, they can be imprisoned for life.

Mr. Chairman, that is tough. If they make a false statement, they can be imprisoned for 5 years. That is currently a misdemeanor. If they try to embezzle or steal money, they can be in prison for up to 10 years. If they try to bribe or engage in graft, they can be in prison for up to 15 years.

Mr. Chairman, I could go on and on, but this bill has the toughest waste, fraud, and abuse penalties ever presented to this Congress. I urge my colleagues to vote for it.

Mr. DINGELL. Mr. Chairman, I yield 90 seconds to the gentleman from Michigan [Mr. STUPAK].

Mr. STUPAK. Mr. Chairman, the last gentleman spoke about fraud in this bill. I agree with the gentleman. It is a fraud to have this bill.

Mr. Chairman, if you take a look at it, this GOP bill, what the Republicans have done, they have legalized fraud in this bill. They have raised the legal standard that is required of law enforcement to crack down on fraud, waste, and abuse. They have raised the legal standard in which HCFA and OIG can recover proceeds, money stolen from the trust fund.

Mr. Chairman, the GOP bill makes it harder to detect fraud; makes it harder to prosecute fraud; makes it harder to recover. Even CBO, that the gentleman from California [Mr. THOMAS] has quoted from, says the fraud provisions will only get us $2 billion over 7 years.

Mr. Chairman, they do not even find any fraud in this bill until 1998. They cannot find any. I can tell my colleagues that with oxygen concentrates, we can recover $4.2 billion in 5 years just by using the same formula the Veterans Administration uses. But my colleagues on the other side do not accept those things.

Mr. Chairman, there is no fraud-fighting elements in this bill. The Department of Justice is against it. The Office of Inspector General is against it. They have all come out against these so-called fraud and abuse sections. Take the charts from CBO and take the time line that has been created. Mr. Chairman, $2 billion is all they recover.

Mr. ARCHER. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. THOMAS], chairman of the Subcommittee on Health.

Mr. THOMAS. Mr. Chairman, we are talking about fraud and abuse. What my colleagues should do is look at the bill.

Mr. Chairman, this bill, as the gentleman from Texas [Mr. BARTON] correctly pointed out, does more than any other provision ever in the history of Medicare.

Fraud: We find it. We utilize 37 million Americans with not only a toll-free number, but a whistleblower reward structure by the Secretary. We require, it is not required now, an explanation of what goes on, so recipients will know what has been done to them.

Mr. Chairman, we have a Medicare Integrity Program. We utilize the newest technology to go after fraud. We have a corporate whistleblower program. We double the civil penalties. We have criminal penalties. We have expulsion from all Federal programs if providers are found to be violators.

Mr. Chairman, we increase the enforcement with bucks put in by the Shaw-Gibbons amendment for more enforcement officials. Lastly, and most importantly, we define in a way so that people will know what they can or cannot do. It is clear. It is responsible. Fraud: we find it, we fight it, and we fix it.

Mr. GIBBONS. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. LEVIN].

Mr. LEVIN. Mr. Chairman, clearly the issue of fraud and abuse is a sensitive nerve on the majority side, and it should be.

Mr. Chairman, the Inspector General and the Justice Department have said my colleagues on the other side are going to cripple efforts under Medicare, and they are.

The Republican side called these efforts to weaken the fraud statute salacious. It is. What they inserted last night was a provision that does not touch their weakening of the fraud and abuse provisions. They have weakened them, and they have told Members maybe they will fix them later.

Why did they do this? And nothing they did last night can cover it up. What they did last night may be a small step forward in some areas, but it is five steps backward in terms of fighting fraud and abuse against Medicare. That is what they have done and it is shameful.

Mr. BLILEY. Mr. Chairman, I yield 1½ minutes to the gentleman from Wisconsin [Mr. KLUG].

Mr. KLUG. Mr. Chairman, this is quite simply a choice about two different headlines.

January 1, 2002. ''Medicare Bankrupt. Seniors Devastated. Hospitals to close. Safety net Destroyed.''

Or October 20, 1995. ''Medicare Saved. Federal government delivers on its promise to seniors.''

Which headlines would you prefer to see. Now which headline do you think I want my mom to see who's now living in Wisconsin who's 78 years old?

If we do not save Medicare today the President's own Medicare trustees say the Medicare trust fund will be tapped out in 7 years. There will be nothing left. Zero. Zippo.

Oh sure there is another way to fix it. To raise taxes. To pump more into a bureaucratic, Washington system whose losses are twice the private sector. The President admitted the other day he made a mistake raising taxes last year. No fooling.

What kind of tax increases will it take to save Medicare—how about another 1.3 percent payroll tax—$585 a year for someone making $45,000 a year. Now that is just in the next few years.

But as the shortfall gets worse we would have to raise the taxes again—nearly double the current rate—meaning an increase of $1,584 a year for that worker making $45,000.

The impact on small businesses is absolutely devastating—the Chamber of Commerce says a small business with 25 workers—mail in another $13,000 in tax payments. How do most businesses react to tax increases, they cut jobs, raise prices—and that means 3 million jobs vanish.

Fix Medicare today—give seniors options, live up to the promise. Listen to the President's own death bed conversation about raising taxes. Which headline do you prefer? Medicare thrives, or Medicare dies. Not too tough a choice is it?

Mr. Chairman, the choice is easy. One headline or the other: ''Medicare Thrives'' or ''Medicare Dies''.

□ 1215

Mr. DINGELL. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from New Jersey [Mr. PALLONE], chairman of the Democratic Health Care Task Force.

Mr. PALLONE. Mr. Chairman, I want to make a plea to my colleagues on the

other side of the aisle to oppose this ill-conceived Medicare plan. The Republican leadership proposal, as we know, will cut $270 billion out of Medicare to pay for $245 billion in tax cuts mostly for the wealthy.

It is not necessary to make these cuts in order to keep Medicare solvent. The Medicare trustees have told us that Speaker GINGRICH's cuts had three times any estimate of what is needed to make Medicare solvent. Mr. Chairman, seniors are going to be forced to pay more to get less under the Gingrich proposal. Part B premiums will double without a penny of that increase going back into the part A Medicare hospital trust fund.

Seniors will ultimately be forced into HMO's and have to give up their own doctors because the Republican proposal puts money into HMO's at the expense of the traditional Medicare system.

My colleagues, the Republican plan will destroy America's high quality health care system because hospitals and other health care providers will be so squeezed for Medicare dollars that they will be forced to close or significantly cut back on their services.

None of this would be necessary if Speaker GINGRICH were not insisting on a big tax break for the wealthy. I know that at least half of my Republican colleagues from the State of New Jersey have already indicated that they are voting no on this terrible bill. I would ask all of my colleagues on the other side to heed the words of three Republican State legislators from the Jersey Shore who wrote to my New Jersey colleagues in the House this week and urged support for the Gibbons-Dingell substitute.

They said, and I quote:

> Alternative proposals have been offered that would maintain the solvency of the part A and part B trust funds until the year 2006. This $90 billion compromise package would provide a decade for Congress and the White House to achieve a well-planned and balanced proposal to resolve Medicare's financial problems.
>
> We feel very strongly that a rush to judgment on this issue is bad public policy. America should not turn its back on our parents and grandparents.

Mr. Chairman, I include for the RECORD this letter from my fellow Republican State legislators in New Jersey urging opposition to this.

STATE OF NEW JERSEY,
9TH DISTRICT LEGISLATIVE OFFICES,
*Forked River, NJ, October 13, 1995.*

Re Medicare.

To: Hon. Christopher H. Smith, Hon. Robert E. Andrews, Hon. Marge Roukema, Hon. Robert D. Franks, Hon. Robert G. Torricelli, Hon. Rodney P. Frelinghuysen, Hon. Robert Menendez, Hon. H. James Saxton, Hon. Frank A. LoBiondo, Hon. Frank Pallone, Jr., Hon. William J. Martini, Hon. Donald M. Payne, and Hon. Richard A. Zimmer.

DEAR HOUSE MEMBERS: It is our understanding the House Ways and Means Committee has voted 22–14 to send the Medicare reform package to the House floor next week.

Our 9th District Delegation, which represents the largest Senior Citizen population in New Jersey in Ocean, Burlington and Atlantic counties, issued a letter on September 22, 1995 to House Speaker Newt Gingrich and Senate Majority Leader Bob Dole, urging them to scrap this plan.

Copies of our correspondence to Speaker Gingrich and Senator Dole were conveyed to New Jersey's Congressional Delegation. For your convenience, a second copy of this appeal is enclosed.

Please allow our Delegation this opportunity to reiterate our profound concerns about these cuts in Medicare services for our elderly.

As you are aware, alternative proposals have been offered that would maintain the solvency of the Part A and Part B trust funds until 2006. This $90 billion compromise package would provide a decade for Congress and the While House to achieve a well-planned and balanced proposal to resolve Medicare's financial problems. This compromise would also provide the opportunity for a bipartisan consensus.

Our Delegation is genuinely sensitive to the difficult decision you face and have had our own feet roasted by the hot coals of Leadership. We feel very strongly that a rush to judgment on this issue is bad public policy. America must never turn its back on our parents and grandparents.

We, respectfully, urge New Jersey's House Members to oppose this $270 billion Medicare cut. Your leadership, in targeting Medicare fraud, the staggering costs of health care and in building a bridge to the future with the alternative proposals set forth by Reps Sam Gibbons that will provide the chance for Congress to seek a consensus solution to preserve Medicare for our parents and grandparents.

Thank you for your thoughtful attention to this appeal on behalf of the Senior Citizens of Ocean, Burlington and Atlantic counties.

Sincerely,

LEONARD T. CONNORS, JR.,
*Senator—9th District.*
JEFFREY W. MORAN,
*Assemblyman—9th District.*
CHRISTOPHER J. CONNORS,
*Assemblyman—9th District.*

## ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. The Chair would like to take the time to remind Members that it is not appropriate to wear or display badges while engaging in debate.

Mr. ARCHER. Mr. Chairman, I yield 3 minutes to the gentleman from Louisiana [Mr. MCCRERY], a valuable member of the Subcommittee on Health.

Mr. MCCRERY. Mr. Chairman, as this chart shows, spending on the Medicare system has skyrocketed since 1970. Here we are today and Members can see, if nothing is done, it goes off the chart.

In 1970, Medicare spent about $8 billion; in 1994, Medicare spending was about $165 billion. That is an increase of almost 2,100 percent in just 14 years. In the part B side alone, growth rates have been so rapid that outlays of the program have increased 40 percent per enrollee just in the past 5 years. More alarming is that Medicare spending is projected to explode to over $350 billion in 2002. Clearly, this is an unsustainable trend and one that neither seniors nor younger Americans working to support themselves and their families can be asked to underwrite.

The financial crisis in the Medicare program is not a short-term cash flow problem, as the Democrats would like the American people to believe. The trustees of the Medicare trust fund, three of whom are President Clinton's own Cabinet members, said in their report on the HI, or part A, trust fund, ''The trust fund fails to meet the trustee's test of long range close actuarial balance by an extremely wide margin.'' Further, the same trustees said in their report on the SMI trust fund, the part B trust fund, ''while in balance on an annual basis, shows a rate of growth of costs which is clearly unsustainable.''

The public trustees of the Medicare program were very clear when they said, ''The Medicare Program is clearly unsustainable in its present form.''

The Democrats in the past have ignored the long-range spending problem of the Medicare Program. Their solution has been to continually raise taxes on working Americans, and that is still their solution.

In the years since the enactment of Medicare, the maximum taxable amount has been raised 23 times. Two years ago, the Congress, then controlled by Democrats, raised taxes, Medicare taxes again. All that did was just put another financial burden on the taxpayers and put off the financial crisis in the trust fund for just a few months. Clearly, raising taxes yet again on the American people is not the answer.

The Medicare Preservation Act, on the other hand, addresses the out-of-control spending in the Medicare Program by opening up the private health care market to the senior population. By harnessing some of the innovative cost effective and high quality private sector health care delivery options, Medicare beneficiaries will not only have a choice in their health care coverage for the first time, but the Government will also be able to rein in out-of-control Medicare spending. It is a win/win situation.

The Republican plan provides security for not only today's seniors but also lays the groundwork for the retirement of my generation, and it does it without increasing the tax burden on working people.

Mr. DINGELL. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Pennsylvania [Mr. KLINK].

Mr. KLINK. Mr. Chairman, I thank the gentleman for yielding time to me.

I would like to begin by yielding to the gentleman from Ohio [Mr. BROWN].

Mr. BROWN of Ohio. Mr. Chairman, the previous speaker, under the Gingrich Medicare plan, the hospitals in and around the district of the gentleman from Louisiana [Mr. MCCRERY], will lose $158 million over the next 7 years under the Gingrich Medicare cut plan.

Mr. KLINK. Mr. Chairman, I thank the gentleman for that input. Here is the chart which actually shows the reduction in Medicare spending per beneficiary under the House Republican plan. I have to get this straight. When is a cut not a cut?

Last year when we were trying to do health care, every Republican on the Committee on Ways and Means signed a letter which said, ''the additional massive cuts in reimbursement to providers proposed in this bill''—the Clinton bill—''will reduce the quality of care for the Nation's elderly.'' That was $168 billion versus $70 billion now.

The current chairman of the Committee on Ways and Means made the statement, ''I just don't believe that the quality of care and availability of care can survive these additional cuts.'' Now they are saying that these are not cuts. It is cuts in the rate of growth. Were you lying to us now or are you lying to us then?

Mr. ARCHER. Mr. Chairman, I yield myself such time as I may consume.

I resent the fact that the gentleman implied that I have lied. No. 1, that does not belong on this floor. But the gentleman, as usual, has not given the factual information.

The plan that I made those comments on cut $490 billion out of Medicare and Medicaid. Without transforming Medicare, without giving other options, without including true savings in the cost drivers. That was a totally different time, a totally different program. But it cuts $490 billion out of Medicare and Medicaid.

Mr. Chairman, I reserve the balance of my time.

Mr. GIBBONS. Mr. Chairman, I yield such time as he may consume to the gentleman from Georgia [Mr. LEWIS].

Mr. LEWIS of Georgia. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise today in strong opposition to the Republican Medicare plan. I rise to tell you there is another way, a better way. We Democrats have a plan. We save the Medicare trust fund, and we do it without hurting the poor, the sick, and the elderly.

How can we do it? We can do it because we do not pay for tax breaks for the rich. There is only so much money—you can either use it to help the sick and the elderly or you can give it to the rich. My Republican colleagues may say whatever they wish, but the truth is that these very large—these huge Medicare cuts are needed to pay for their tax breaks for the rich.

The Republicans say they want to help Medicare. But what they do is different. Thirty years ago, the Democrats created Medicare and the Republicans voted against it.

Two years ago, Democrats passed a bill that helped the Medicare trust fund. Every Republican voted no.

Earlier this year. the Republicans took $87 billion from the Medicare trust fund. Today, they want to cut an additional $270 billion.

They voted against Medicare 30 years ago, and they are voting against it again today. My colleagues, actions speak louder than words, and the Republican actions are loud and clear.

The Republicans did not want Medicare 30 years ago and they want to dismantle it now.

I do not believe that we must destroy Medicare to save it. Democrats do not raise premiums for seniors. Democrats ensure that Medicare is there for our families, for our children, for our grandchildren, and their children.

Under their plan, the Republicans eliminate nursing home standards. Poor seniors lose help for copayments and deductibles.

Under the Republican plan, the rich get tax cuts, and our Nation's elderly and hard-working families get higher Medicare bills. It's a scam, a sham, and a shame. I know it. You know it. Now the American people know it.

Mr. Chairman, on this day, October 19, let the word go forth from this place into every State, every city, every town, every village, every hamlet that it was the Republicans who voted to cut Medicare—they voted to cut Medicare by $270 billion in order to give a $245 billion tax break to the wealthy. The Republican plan is too much, too radical, too extreme.

We have more than a legislative responsibility to oppose this Republican plan. We have a mandate, a mission, and a moral obligation to protect Medicare.

This vote—this debate is about something much bigger than one vote. It is bigger than one bill. It is about two contracts, the Republican contact with the rich, and the Democratic contract with the American people—Medicare. Medicare is a contract—a sacred trust with our Nation's seniors and our Nation's hard-working families.

My fellow Americans, remember—it was the Democrats who found the courage and the strength to provide health care to our seniors, and it is the Democrats who will preserve it for unborn generations.

We must not and will not break the contract with America's seniors and families. I urge my colleagues to support the Democratic alternative and oppose the Republican plan to cut Medicare.

Mr. ARCHER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the facts have already been presented to this committee. Medicare increases per beneficiary go from $4,800 to $6,700 per year. The total aggregate increase in medical expenditures increases $1.4 trillion under our plan over the next 7 years. But only in Washington can an increase be called a cut.

Mr. BLILEY. Mr. Chairman, I yield 1½ minutes to the gentleman from Pennsylvania [Mr. GREENWOOD].

Mr. GREENWOOD. Mr. Chairman, earlier this year we got some very bad news for Americans and senior citizens. The trustees of the Medicare funds told us that under all sets of assumptions the fund goes bankrupt, and it goes bankrupt in 7 years. Taking our responsibility very seriously, we Republicans went to work.

We gathered with senior citizens, with experts from around the country, and we said, what can we do? Is there any good news? Can we fix the situation? We found good news. We found that health insurance costs for working people, not retired people, were going down. Inflation rates at 10.5 percent in Medicare are killing it.

□ 1230

The private sector using intelligent new programs have brought the inflation rate down below to virtually zero. We said the good news is this. We can preserve Medicare, we can preserve fee-for-service options for everyone who wants to stay that way, but we have new and exciting options.

Mr. Chairman, my mother and father have chosen the managed-care option. They love it. They save $1,000 a year each because they no longer buy MediGap insurance. They have new prescription drug benefits. They get all of the referrals they want. They are delighted.

This plan is very straightforward. We preserve fee-for-service, we increase the per beneficiary expenditure from $4,800 a year to $6,700 a year, and for those seniors who want new choices, we have excellent new choices in managed care. This is a spectacular bill. Americans will be proud of it. Senior citizens love it. Vote ''yes.''

Mr. DINGELL. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Oregon [Mr. WYDEN].

(Mr. WYDEN asked and was given permission to revise and extend his remarks.)

Mr. WYDEN. Mr. Chairman, our Nation needs——

Mr. STARK. Mr. Chairman, will the gentleman yield?

Mr. WYDEN. I yield to the gentleman from California.

Mr. STARK. Mr. Chairman, I wish to inform the gentleman that in the district of the gentleman from Pennsylvania [Mr. GREENWOOD] there will be $128 cut from hospitals over the next 7 years.

Mr. WYDEN. Mr. Chairman, our Nation needs bipartisan reform of Medicare, but instead today's bill will deliver a nationwide Medicare migraine. Instead of listening to our seniors, and our families, and to the inspector general, this is a cut first, ask questions later Medicare initiative, and the fraud section is a metaphor for the whole bill. Instead of legislation to protect seniors and taxpayers, it protects the crooks and the thieves. Instead of improving access to health care, it provides a freeway to fraud, and, my colleagues, think of the words of the nonpartisan fraud-buster at the Office of the Inspector General who said that this bill will cripple, it will cripple, efforts to bring justice.

Let me tell my colleagues it is possible to develop 21st century Medicare that works for seniors and taxpayers. Reject this bill and come with me to Oregon because I will show each of you programs that protect seniors, hold down costs, and insure that we have a path to the 21st century. We can do this job right. We can do it in a bipartisan way. But let us listen to our seniors and our taxpayers.

Mr. DINGELL. Mr. Chairman, I yield 1 minute to the distinguished gentlewoman from Oregon [Ms. FURSE].

Ms. FURSE. Mr. Chairman, I thank the gentleman for yielding this time to me.

I have here a list of words that I am told the Republicans were asked to use in this debate, words like historic, successful, saves. Well, there was a historic event 30 years ago. The Democrats in this House passed Medicare. Not one Republican voted for it.

Successful? Well, yes. This bill successfully guts Medicare.

Saves? Well, yes. This bill saves the promised tax breaks for the rich.

Mr. Chairman, also on this list it says we should say the Democrats are scaring 85-year-olds. Mr. Chairman, as a member of the committee, I know that it was the Republicans who ordered the arrest of 85-year-olds who came to the committee. They came there. They came to ask the committee what is going to happen to our Medicare protection. They were Americans. It is a disgrace that they were arrested.

I think there is a word that is not on this list, Mr. Chairman, and that word is shame.

Mr. BLILEY. Mr. Chairman, I yield myself 30 seconds to respond.

Mr. Chairman, the rules of this House are explicit. The chairman of any committee is required to preserve order, and when citizens of any persuasion, any age, come in, refuse to obey the orders of this House, the chairman has no choice but to have them escorted out of the room.

Mr. Chairman, that is exactly what happened in the Committee on Commerce, and that is what we had to do regrettably, but that is the truth.

Mr. DINGELL. Mr. Chairman, I yield myself 15 seconds.

Mr. Chairman, I love my dear friend from Virginia, but I notice he did nothing when a bunch of people came in and dumped bags of mail from dead men, from people who were not supporting the legislation in question, and some of which were addressed ''contributor.'' Our Republican colleagues have a great sensitivity about the senior citizens, but none whatsoever about rascality by high-paid lobbyists.

Mr. BLILEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the organization that disrupted that meeting, I would like the RECORD to show, 96 percent of those funds come from the public treasury. The person who was the ringleader was a paid staff person.

Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. BILIRAKIS].

(Mr. BILIRAKIS asked and was given permission to revise and extend his remarks.)

Mr. BILIRAKIS. Mr. Chairman, I will use the word ''shame.'' Shame on those politicians who over the years, not just now, use scare tactics and misinformation to frighten our senior citizens all in the interests of getting votes through fear. These actions are unconscionable.

Only the most affluent retirees are having their part B premiums raised substantially. We are not raising Medicare copayments or deductibles. We will not be reducing services or benefits—our legislation ensures that the core services in the current Medicare Program will be retained and must be offered to all beneficiaries.

I also want to make it clear that no one will be forced into HMO's. If Medicare beneficiaries wish to keep the current fee-for-service benefit where they have complete choice of their doctor, they will be permitted to do so. If beneficiaries want to enroll in an HMO which might include additional health benefits, or some other Medicare-plus plan, they can do so. It will be their choice. Under our proposal, coverage will be assured to all senior citizens, regardless of prior health history or age.

From the beginning of this effort, I have insisted that protecting beneficiaries was an essential part of any Medicare report effort. I represent a congressional district that has one of the highest percentages of senior citizens in the country. I also worked for years as an attorney and a community volunteer with many retirees. Recently, I myself, reached Medicare age.

This bill is the product of listening and learning. It is a product of many discussions with people who had real life, day to day experiences with the Medicare Program. It protects our current beneficiaries while ensuring that Medicare will exist for future beneficiaries.

In a recent Washington Post article, Robert Samuelson said it well when he stated that ''Republicans occupy the high moral ground and the low political ground. They have raised critical questions at the risk of political suicide.''

And, knowing that, Republicans still believe it is our responsibility to show pure guts and courage to save Medicare for our seniors, their children, and grandchildren. We have taken on the task of protecting and preserving Medicare because it is our moral responsibility, not because of political necessity. We have taken the higher ground and this is ground that I am proud to stand on.

Mr. WAXMAN. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. BRYANT] and I ask him if he would yield back to me 15 seconds.

Mr. BRYANT of Texas. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Chairman, I just want to comment on the statement made by the previous gentleman. He claimed we are not cutting benefits, we are not going to make people pay for benefits for their health care. How are we getting $270 billion in Medicare cuts and the AMA supports the bill? Something just does not add up.

Mr. BRYANT of Texas. Mr. Chairman, the gentleman's logic is impeccable. I would point out that the losses to hospitals in and around the district of the gentleman from Florida [Mr. BILIRAKIS] are going to be $210 million over the next 7 years, and my colleague says there are no cuts. His folks are going to feel them.

The fact of the matter is, Mr. BILIRAKIS, as chairman of the Subcommittee on Health, my colleague and his Republican friends ought to be working on the fact that health care costs are rising. Instead my colleague is working on cutting health care insurance that elderly people use to cope with health care costs. That is the problem.

The fact of the matter is it is not a secret that my colleague's party philosophically does not believe Medicare is the appropriate role of government, and yet he comes in here and tells us they are not cutting it. Mr. Chairman, my colleague has gotten power, and now he is cutting it. He boasts throughout the land he is cutting government, but today, as he takes $270 billion out of the program that insures the health needs of seniors, he says he is not cutting it.

Only in Washington would anybody believe that, Mr. ARCHER.

I would point out that with regard to these cuts, Mr. Chairman, the gentleman from Texas [Mr. ARCHER] and I are pretty much both in the same situation. In Harris County, TX, we are talking about $2.4 billion in cuts between 1996 and the year 2002 according to the Health Care Finance Administration.

Now my colleagues asked for facts, There is facts. Dallas County, $1.6 billion in cuts between 1996 and the year 2002. Why? To pay for tax cuts for wealthy people out of the hides of elderly people who are not going to be able to pay their medical bills because they have cut their insurance.

Mr. ARCHER. Mr. Chairman, I yield myself such times as I may consume very simply to say that once again we are back into the same rhetoric. There will be increases for hospitals across this country. Those increases have already been demonstrated by the facts.

Only in Washington can a Member of Congress stand up and call increases a cut.

Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. CAMP], a respected member of the committee.

(Mr. CAMP asked and was given permission to revise and extend his remarks.)

Mr. CAMP. Mr. Chairman, I thank the distinguished gentleman from

Texas [Mr. ARCHER] for yielding this time to me, and I rise today in support of the Medicare Preservation Act because it officially ends the policy of just raise taxes.

Mr. Chairman, some who oppose our program have called it extreme. What is extreme is that year after year the Democrat's answer to the Medicare crisis has been to raise taxes. Almost every year, Democrats dug deeper into the pockets of working Americans just to get through the next election. And in 1993, they even raised taxes on seniors citizens.

Nine times, since 1965, the Medicare Board of Trustees has stated that Medicare was in severe financial trouble and needed reform. What was the Democrats answer? Raise taxes. Just throw more money at it to get through the next election.

Since 1965, Democrats raised the payroll tax on working Americans eight times, over 450 percent. They raised the earnings subject to tax for Medicare 10 times, an increase of over 2000 percent. Then they raised taxes on Federal and State employees, and, when they still needed more, in 1993, they raised taxes on American seniors who had already paid their fair share into the program. Now, a senior earning just $34,000 pays not half of their Social Security in taxes but 85 percent. And now even the President admits taxes were raised too much in 1993.

Mr. Chairman, that is extreme.

Could we put the Medicare crisis off a few years if we raise taxes again? Sure we could.

Could we avoid the vicious attacks by special interest groups if we didn't reform the system? Sure.

But we are not going to do that. We are going to preserve, protect and strengthen Medicare not to get through the next election, but for the next generation. We will ensure the solvency of this program. We will increase benefits. We will maintain the current premium rate and for the first time in the history of Medicare, we will give seniors the right to choose the health care plan that best suits their health needs.

Mr. BLILEY. Mr. Chairman, I yield 5 minutes to the gentleman from Florida [Mr. STEARNS].

Mr. STEARNS. Mr. Chairman, I would like to have a colloquy, if I could, with the gentleman from Pennsylvania. Both he and I have worked hard in our districts getting the message out how important it is to look at this program because it is going bankrupt, and we want to offer them choices, much like the choices that the gentleman and I have. Perhaps many Members do not know that a large number of the Federal employees are retired and they have choices, HMO's, PPO's, and all these other things. Let us talk, for example, about a widow whose $600-a-month pension is too low to pay for this expensive part C medigap insurance and whose biggest problem is that she cannot afford the deductible portion of her doctor's bill.

□ 1245

So what happens, she does not go to take care of herself. Now, what would we have under this program with our HMO's and PPO's and the PSN's? I mean, even a $5 doctor bill is something that she would be concerned about. You might want to amplify on that.

Mr. GREENWOOD. If the gentleman will yield, the option that would be very attractive for the constituent in your district that you just have described would be a managed care option. Most of the managed care companies have told us that, and they are already doing this in many areas of the country, that they will offer managed care plans in which there is no requirement whatsoever to pay Medigap insurance. So that $1,000 a year that she may be paying now toward her Medigap insurance would disappear. Suddenly she would gain new benefits. She would probably gain a prescription drug benefit. She may get an improved dental or vision benefit. She would no longer have that out-of-pocket cost at all and still be able to go to her doctors within her network whenever she chooses. She would, I think, would welcome this change very much and be far better off and have more money left over in her budget at the end of each month.

Mr. STEARNS. Is it not a point of fact that all the people in this room have the Federal employee health benefit program, and is it not a point of fact that people on this side are in HMO's, in fact, there are Members of Congress who have retired who are in health management organizations and they are not picketing and screaming and worried? Because actually what we are trying to do is develop a program for Medicare that is much like the First Lady and the President has and all of us have, which basically says that health management organizations might work for some people. It should be a choice, and surely if it is good enough for Members of Congress, these same choices should be available for the seniors. So I think that is what you are saying for this particular woman in Florida who is on a very small pension every month. This would be a possible choice for her. You might want to just amplify on that, because I know you have toured, like I have, many health maintenance organizations, talked to the seniors, and for some of them they are very happy.

There are people that have high monthly drug costs, and the HMO is paying for that, and it is paying for their deductible. So that surely that is an approach we should not rule out by keeping the one warehouse, one-size-fits-all program we now have. Surely moving it to what we have in the Federal employee health benefits program is a step forward.

Mr. GREENWOOD. The fact of the matter is 9 percent of seniors in this country already have chosen the option of receiving their Medicare benefits through managed care. That number is growing rapidly because you know how seniors will get together and talk and compare notes, and when one learns from the other that they have a new prescription drug program benefit, they say, ''How do I get that,'' and they make the choice.

One of the things about this debate that has been interesting to me is you and I and Members of this side of the aisle know our friends on the other side of the aisle will spend all day, as they have spent the last 6 or 7 months, scaring senior citizens that all of these terrible things are going to befall them.

The fact of the matter is that we are confident today, we are confident because we know when the political dust settles, when this plan is finally signed into law, that the senior citizens will then, beginning in January, have these new options. They will see, my goodness, their copays did not go up, deductibles did not go up, their Social Security check, even with part B deduction, is bigger than it was this year. They will then thank us. Once this debate is over, we think we will be able to say we told you so.

Mr. STEARNS. Is it not also true, if they want to remain in Medicare as it is right now, they can still do that? They still have that choice?

Mr. GREENWOOD. Absolutely. That is the beauty part. We have made certain from day one there is the fee-for-service option will always be available to every single senior citizen in America that wants to keep it. Those that may be a little too old for change, do not like to change, can keep their fee-for-service and enjoy the kind of Medicare that they have grown to enjoy these past years.

Mr. GIBBONS. Mr. Chairman, I yield myself 30 seconds.

I know the two gentlemen who just had this colloquy on the floor are sincere. But last year I checked all of the Medicare policies of every Member in Congress here. Ninety-nine percent of us have fee-for-service. Ninety-nine percent of us have fee-for-service, and all of those, all of those that have fee-for-service have abortion benefits in our medical care policies. You know, those are in the records of the House. Go check them.

PARLIAMENTARY INQUIRY

Mr. THOMAS. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. THOMAS. Mr. Chairman, is it against the rules to wear slogans, buttons, while addressing the Committee of the Whole, and did the Chairman not already indicate what the rules are?

The CHAIRMAN. The gentleman is correct.

Mr. STUPAK. Mr. Chairman, I yield 90 seconds to the gentleman from New York [Mr. MANTON].

Mr. MANTON. Mr. Chairman, at the outset, I yield to the gentleman from Michigan [Mr. STUPAK].

Mr. STUPAK. Mr. Chairman, I just wanted to point out the last speaker in

the well down here, the gentleman from Florida [Mr. STEARNS], his district will lose $154 million over the next 7 years if this Republican plan goes through, just to give a tax break to the rich.

I am more concerned about the State of Michigan where the gentleman from Michigan [Mr. CAMP] spoke in which in his district the hospitals will lose $125 million between now and 2002 just to pay for this tax break for the rich. Being from Michigan, I am very concerned about that.

Mr. MANTON. Mr. Chairman, I rise in strong opposition to this draconian plan to slash $270 billion from Medicare. This so-called Medicare preservation plan will seriously threaten the integrity of the program and inflict undue pain on America's elderly.

Under this bill, the elderly will suffer an increase in their premiums and a decrease in the quality of their health care services. Quite simply, you are asking seniors to pay a lot more, but expect a lot less.

And last night, Mr. Chairman, in one final act of cruelty, the majority included a provision to deny anti-nausea drugs for chemotherapy patients. How can you possibly justify denying basic dignity and comfort to those in the twilight of their life, who are fighting for that very life.

Speaking out against this outrageous proposal is not a matter of demagoguery, its a matter of duty. Duty to the senior citizens we represent.

Oppose this legislation.

Mr. ARCHER. Mr. Chairman, I yield 30 seconds to the gentleman from Louisiana [Mr. MCCRERY].

Mr. MCCRERY. Mr. Chairman, the gentleman stated something that is just incorrect, and it has been stated in the media some. We are not denying payments for anti-nausea drugs for cancer patients. The fact is that we will continue to pay for the intravenous drug that people, the cancer patients, use to fight nausea.

Mr. BLILEY. Mr. Chairman, I yield 4 minutes to the gentleman from Pennsylvania [Mr. GREENWOOD].

Mr. GREENWOOD. Mr. Chairman, I yield to the gentleman from New York [Mr. PAXON] for a question.

Mr. PAXON. Mr. Chairman, I have many constituents back in western New York, in the Buffalo and Rochester, Finger Lakes areas, that are concerned about catastrophic costs in health care. How would medical savings accounts help those with recurring health problems pay for these catastrophic expenses?

Mr. GREENWOOD. The medical savings account is a new component of Medicare that we have included in this reform. Those seniors who choose it would have deposited into their medical savings account a number of dollars that would average about $5,000 across the Nation; the first portion of that deposit would be used to buy catastrophic or major medical insurance that would cover them above he deductible. Then the senior gets to use what is left in the account for his or her medical benefits, go to whatever doctor or hospital he or she wants. Once the deductible is reached, then in a year in which that particular individual has high costs, then the medical, the catastrophic, coverage would kick in and they would have no more out-of-pocket costs whatsoever.

In a year in which she was particularly healthy, managed her costs and did not go to a doctor very often, she would be able to keep the balance in the medical savings account. It is a good opportunity for savings for those seniors.

Mr. PAXON. I would make a comment. My parents are both retired. Both have had catastrophic health care concerns. Of course, this would be very important to them.

I also want to make the point Medicare is important to them today, too. They want to see Medicare protected and strengthened. It is their health care needs. It concerns me deeply. If their Medicare is not safe and secure, they have to turn to the family to help. We want to make certain for them and all of the constituents this plan is preserved and protected for the coming years.

Mr. FRISA. Mr. Chairman, will the gentleman yield?

Mr. GREENWOOD. I yield to the gentleman from New York.

Mr. FRISA. Mr. Chairman, I just wanted to, if we could, because this is such a serious issue, it is an important one for our senior citizens. My folks are both retired and are counting on Medicare being there throughout their retirement, and they are happy that we are taking the opportunity to make Medicare safe and sound and better for all of us.

So I would like to ask the gentleman, are there going to be increased funds for seniors under the Republican plan?

Mr. GREENWOOD. Well, of course, there are. Despite all of the rhetoric to the contrary, we are actually taking, right now, we are spending on average $4,800 per each beneficiary in the Medicare Program. Our plan increases that about 5 percent each year for a 40-percent increase over the next 7 years. So 7 years from now we will be spending $6,700 for beneficiaries. It is a huge increase.

What we are doing is bringing down the unsustainable inflation rate which is bankrupting the system.

Mr. FRISA. In other words, and I think this is very important, despite the rhetoric, it is really not truthful. We are saying the average senior citizen will be getting an extra 100 $20-bills spent on their medical behalf. So there is more money being spent for senior citizens under the Republican plan.

It is absolutely incredible, I think you would agree, that my colleagues on the other side of the aisle are trying to say that 100 additional $20-bills for our senior citizens is a cut. It is absolutely incredible.

I thank the gentleman for explaining that and making it clear to the American people and, most importantly, to our senior citizens that the Republicans, by providing a $2,000-per-beneficiary increase is what is going to save Medicare for our seniors so they can feel that it is safe and sound and better for them.

Mr. DINGELL. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Florida [Mr. DEUTSCH].

Mr. DEUTSCH. Mr. Chairman, you know, sometimes we can make complicated issues simple. If we are saving $270 billion and there are 37.6 million beneficiaries, this is what it is going to cost each Medicare beneficiary in America, whether in terms of direct out-of-pocket expenses or not.

There is another chart which I think is probably the best chart and the clearest and most factual, and if we can focus in on this so people watching can see, my Republican colleagues have said we have to do something, there is this incredible crisis, the trust fund is gong to go bankrupt in 7 years.

Well, the Medicare Program has existed for 30 years. Twelve of those thirty years there was a shorter life expectancy than 7 years that exists today, and we did incremental changes. We fixed it.

It is a flat-out lie that this is unprecedented. It is a flat-out lie that $270 billion needs to be cut. It is a flat-out lie that choice will be available for Medicare beneficiaries.

Mr. GIBBONS. Mr. Chairman, I yield such time as he may consume to the gentleman from Tennessee [Mr. CLEMENT].

(Mr. CLEMENT asked and was given permission to revise and extend his remarks.)

Mr. CLEMENT. Mr. Chairman, I rise in opposition to the Republican Medicare reform plan and ask my colleagues to support the Dingell-Gibbons substitute.

Mr. Chairman, when President Lyndon Johnson began the Medicare Program in 1965, less than half of all seniors had health insurance. It was understood that the elderly had declining resources, costly health care needs, and few insurers willing to sell them coverage. Since its creation, the Medicare Program has been a great success. Today, 99 percent of senior citizens and a substantial proportion of the disabled are covered by Medicare. It has contributed to reducing poverty among the elderly and causing the life expectancy rate in America to exceed that of every country in the world except Japan. Medicare is fulfilling its mission.

Let me review briefly the two areas of the Medicare Program. Part A of Medicare is financed by the hospital insurance trust fund, which comes primarily from the hospital insurance or Medicare payroll tax contributions paid by employers, employees, and self-employed individuals. Medicare part A will pay for inpatient hospital care, skilled nursing facilities, home health care, and hospice services. It is the trust fund of part A which the Medicare trustees say is ''severely out of financial balance'' and must receive ''prompt, effective,

and decisive action'' from Congress to restore the stability of the program.

The second aspect of the Medicare Program is part B, the supplementary medical insurance trust fund. Part B is optional, and primarily finances physician and hospital outpatient services. Part B is financed by premium payments from enrollees and by general revenue funds from the Federal Government. The part B premium is currently $46.10 monthly or 31.5 percent of total costs of Medicare, and the budget of 1993 would bring the premium down to 25 percent of total costs from 1996 to 1998. Beneficiaries are responsible for an annual deductible of $100 and coinsurance, usually a 20-percent copayment. The part B trust fund is not in financial crisis, though only because it is financed partially by the general fund which is experiencing runaway health care costs and driving up the deficit of the U.S. Government.

Let me be clear that I do not believe Medicare is out of control or too generous as some have stated. In truth, Medicare pays only 45 percent of the Nation's health care bill for the elderly, and it is less generous than 85 percent of private health insurance plans.

The problems we are facing with Medicare today are primarily external, not internal. Though some problems do exist internally such as fraud and abuse, most of the factors which bring us to the present crisis are external. Let me share a few with you.

First, the primary threat to Medicare is its rising costs which are consequently driving up the Federal deficit at alarming rates. The ability of any reform proposal must be measured by the following yardstick if we are to balance the budget and get our financial house in order: Does the reform measure control the costs of Medicare? Over the past 20 years the cost of the Medicare Program has increased an average of 15 percent a year. In this year alone, Medicare will account for 11.6 percent of all Federal spending. This will rise to 18.5 percent by 2005 if costs are not controlled.

Another factor which threatens the future of Medicare is the growing number of senior citizens in America. The Baby Boomers will begin retiring shortly after 2010, and recent years have seen a dramatic increase in life expectancy. During the 30-year period from 1990 to 2020, the growth rate of the senior citizen population will be double the growth rate of the total U.S. population. This means that those receiving Medicare benefits will outnumber those employees and employers paying into Medicare.

Among other contributors to the rising cost of Medicare are the high cost of advanced medical technologies, the rapid increase in procedures by doctors after a fee schedule was imposed by Medicare, the fee-for-service arrangement which gives no cost-saving incentives to providers or patients, and the rise of Medicare fraud and abuse. All these factors, some of which I applaud such as life expectancy and miraculous technology, have brought us to this present moment of crisis.

Before looking at the specific proposals to reform Medicare, I wish to suggest the values which I believe should drive any attempt at reform. I believe you will agree with me. These values are:

First, ensuring that every dollar saved from Medicare goes directly toward strengthening the part A trust fund and eliminating the Federal deficit;

Second, making the trust fund sound for the short term and the long term;

Third, protecting beneficiaries from dramatically increased costs and reduced access to care;

Fourth, improving patient choice without coercion or compromising the quality of care;

Fifth, reasonable sacrifice by all while ensuring the quality and viability of provider services for all Americans.

Let us now turn to a quick overview of the two major proposals now before the Congress, one from each party. First, let's look at the Republican plan to reform Medicare.

The Republicans, in their noble effort to balance the Federal budget and reduce the deficit, agreed to a fiscal year 1996 budget resolution which would reduce the rate of increase in Medicare spending by $270 billion by the year 2002, bringing its rate of growth down from its current 10 percent a year to about 6 percent a year.

The most important innovation in the Republican proposal is a feature which would allow Medicare beneficiaries to opt for a wide range of privately run health plans, with the Government paying the premium. The plan would provide an incentive for beneficiaries to choose an option that is less costly, such as managed care or preferred provider groups, while allowing those who want to stay in the traditional fee-for-service style Medicare Program to do so. However, the Republican plan would force many low-income seniors out of the traditional program because of the high cost of staying in the fee-for-service as compared to other options. The Dingell-Gibbons substitute, which I will support today, allows seniors to move into managed care and rewards this cost-saving sacrifice without punishing those who wish to stay in traditional fee-for-service programs.

Another set of cost-saving provisions in the Republican plan would reduce the growth of fees paid to hospitals, doctors, and other care providers by an estimated $110 billion over 7 years. The Democratic and Republican plans both rely heavily on reductions in the increase of payments to providers, but the Republican plan also contains a look back provision which I oppose that would balance the budget on the backs of providers if the projected cost savings are not realized. This will only mean that doctors and hospitals will begin turning down Medicare patients, leading to a national health care travesty.

Both Democratic and Republican plans also contain provisions to eliminate excessive fraud and abuse within the Medicare Program. The Congressional Budget Office estimates that at least $20 billion could be saved over 7 years by reducing fraud and abuse in the Medicare Program. I believe it is wrong to raise premiums for seniors until the cheats and ripoff artists are weeded out of Medicare. The Democratic plan makes significant headway toward reducing fraud, but the Republican plan will repeal existing statutes that keep doctors from preying on their patients for their own financial self-interests.

These measures, and others, are slated to ensure the viability of the Medicare part A trust fund. Let us turn to part B for a moment. I remind you that the primary reason to reform part B is to reduce the growth in the Federal deficit, not to build up the part A trust fund which receives its revenues from elsewhere. The Republicans choose to deal with the rising cost of part B by keeping the part B premium at 31.5 percent of total cost rather than at 25 percent as now planned. This means a doubling of Medicare part B premiums by 2002, increasing from $46.10 now to approximately $104 in 2002. While I do not oppose a sensible increase in premiums, I believe this increase is out of reach for many low-income seniors. I support the Democratic plan which would permanently maintain premiums at 25 percent of total cost.

As you can see, many of the aims and methods are the same in the two plans. But the details differ at significant points, particularly with regard to how much of the burden seniors are asked to bear.

I would like to sum up the Medicare debate as I see it. First, I support many of the reforms both sides support including incentives for entering managed care, slowing the increase in provider payments, and eliminating fraud and abuse. These are all contained in the Democratic substitute which I am supporting.

Let me share with you my disagreements with both plans, Democratic and Republican. Too often Democrats have sat on the sidelines this year while the Super Bowl is being played on the field—we have offered more critique than solutions. While this may be a good political stunt, it is not responsible nor respectful of our Nation's senior citizens or our children who will bear the cost of the Medicare Program if we do nothing. But I have not been content to sit on the sidelines. Before this debate even began, I stepped out in support of health care reform bill this year that would have made many of the adjustments we are now discussing. Even today, I would have preferred to have voted for the coalition substitute which would have dealt with part A and part B. But the Republicans in the Rules Committee would not allow this bill to come to the House floor for a vote. So, today I will choose between the better of two evils and support the Democratic substitute.

I sharply disagree with Republicans at one major point. Earlier this year, the Republicans voted for a $245 billion tax cut which gives over 50 percent of the cut to those who make over $100,000 a year. It is any wonder then that Republicans now need to save $270 billion from the Medicare Program to pay for these tax cuts. I believe a tax cut of this magnitude at this time is irresponsible, especially when the majority of the tax cut goes to wealthy Americans. This translates into the outrageous premium and deductible increases Republicans now propose.

The seniors in my district are telling me, ''Congressman, I don't mind sacrificing some benefits and bearing some of the financial burden of the Medicare Program to ensure the viability of the trust fund. But it seems to me that the Republicans are asking us to bear most of the burden for this reform, and it is not fair.'' I've been hearing a lot of people at home saying that they are beginning to think that GOP stands for Get the Old People party. I am not so sure they are wrong.

The Greek word for crisis is krisis. The Greeks used this word to point to a critical moment in time when the road ahead would either mean a time of devastation or a time of great opportunity. This is a time of krisis. The decisions Congress make at this time will mean a future of prosperity and health security for all Americans, or it will mean a bleak future

of prosperity and health care for only the privileged few. I believe this is the time of great opportunity, and together we will forge out a Medicare Program that will provide the best health care for our Nation's elderly for decades to come.

Mr. GIBBONS. Mr. Chairman, I yield 30 seconds to the gentleman from Wisconsin [Mr. KLECZKA].

Mr. KLECZKA. Mr. Chairman, the previous speaker indicated we are going to be giving all of this cash to senior citizens under the Republican plan.

What he did not tell the seniors that are watching today is we are going to double your premiums in part B; all right. The Senate provisions provides more copays, more out-of-pocket-expenses.

Seniors, this is what you are getting: Nothing.

Mr. GIBBONS. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts [Mr. NEAL].

Mr. NEAL of Massachusetts. Mr. Chairman, the Massachusetts Hospital Association and the gentleman from Massachusetts [Mr. TORKILDSEN] have rejected the Republican Medicare bill. The MHA says the spending reductions in these proposals are too fast, too deep, and would jeopardize the ability of Massachusetts hospitals to provide quality health care to patients and communities.

Health care in Massachusetts is world-class. When Raisa Gorbachev and Elizabeth Dole, and as I learned yesterday, when Chairman SOLOMON, of the Committee on Rules, all were ill, they came to Massachusetts.

□ 1300

If the Medicare bill was a good bill, would not the Massachusetts teaching hospitals, with the renowned reputation that they have earned over many years, take the lead and endorse the bill? We trust these hospitals with our lives. We should also trust their assessment of the Republican Medicare bill.

The Gingrich Medicare cuts are simply too large for hospitals to absorb. Cuts of this magnitude will damage the quality of health care in America, especially for senior citizens and future generations. We should be investing, and not cutting research and education.

These outlandish cuts to hospitals will cause massive job loss across this country. The people hurt most by these cuts will be the hard working men and women of America, all so that a tax cut can be given to wealthy Americans who have not even asked for it. It is just not right.

Mr. DINGELL. Mr. Chairman, I yield 1½ minutes to the distinguished gentleman from New Mexico [Mr. RICHARDSON].

(Mr. RICHARDSON asked and was given permission to revise and extend his remarks.)

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. RICHARDSON. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, under the Gingrich Medicare plan, the hospitals in and around the district of the gentleman from New York [Mr. PAXON] will lose $64 million over the next several years to give tax breaks to the wealthy. Under the Gingrich Medicare plan, the district of the gentleman from New York [Mr. FRISA] will lose $262 million, again to give tax breaks to the wealthiest people in this country that do not need it.

Mr. RICHARDSON. Mr. Chairman, reclaiming my time, I want to talk about the effect of this plan on rural hospitals. That is what I represent. On Indian reservations throughout the State of New Mexico and many States in this country, rural health care will be devastated. Rural hospitals will close under this plan. In no way are they going to get more funds and resources.

Now, this is according to the American Hospital Association. The typical rural hospital will lose $5 million in Medicare funding over 7 years, and that means many of them are going to close. In my own district, the average senior lives on $800 a month, and paying $92 a month in premiums and unlimited out-of-pocket expenses is going to be devastating.

Rural Medicare patients are going to lose access to doctors. America's rural areas are going to need at least 5,000 more primary care physicians to have the same access to those that accept Medicare. The American Medical Association says cuts in Medicare are so severe they will unquestionably cause some rural physicians to leave Medicare.

Mr. DINGELL. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Ohio [Mr. BROWN].

Mr. BROWN of Ohio. Mr. Chairman, I appreciate the gentleman yielding time.

Mr. Chairman, we have listened to the Republicans talk over and over about what a great plan this is, how it expands choice. The fact is senior citizens in this country now have full choice with Medicare. Yes, under the Gingrich plan seniors will have their choice of a plan, but they lose their choice of doctor.

The Gingrich plan gives physicians financial incentives, the New York Times calls it ''bribes for doctors,'' to move out of traditional fee-for-service into HMO's. Medicare beneficiaries therefore will be pushed out of traditional fee-for-service and forced into HMO's, forced into managed care.

This is purely and simply a political payoff to big insurance companies. We know it, NEWT GINGRICH knows it, the Republicans know it, and the American people know it.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. HOUGHTON], a respected member of the Committee on Ways and Means.

(Mr. HOUGHTON asked and was given permission to revise and extend his remarks.)

Mr. HOUGHTON. Mr. Chairman, there is a lot of emotion in this issue, and I can understand it. It is a very important issue. I always think of what Wilbur Mills said, that there are probably more votes changed in the House Chapel than there are on the House floor.

I am not going to try to convince anybody, but I am just going to tell you where I am coming from. The gentleman from Ohio [Mr. BROWN] has thrown around a lot of numbers is terms of how many cuts will be in people's hospitals. I would question those numbers. I have seen those numbers myself as far as my own district is concerned and I question the authenticity of them.

Second, I think the issue is are we going to face up to this thing or not? Everybody agrees we should. The President agrees, the Democrats agree, the Republicans agree. How are we going to do it? It is a matter in terms of timing and numbers.

Also, there always is a better way. I can devise a better way. I am not sure this plan is exactly the way I want, but it is a good plan.

The next point is that there are no eternal fixes for the Medicare problem. We never can go asleep. We are always going to have to be on top of this thing. The question is are we going to have a short-term or longer term approach to this thing.

Let me talk a little bit about cuts. If I spend $1 today and I spend 90 cents 7 years from now, that is a cut. If I spend $1 today and I spend $1.45 7 years from now, that is not a cut. Those are the relationships we are talking about.

Let me talk a little bit about taxes. I did not vote for a tax cut. I did not think it was appropriate, I did not think it was the right timing. However, the Republican Party has felt that is important, the President has felt that is important, the gentleman from Missouri [Mr. GEPHARDT], the minority leader, has felt that is important. It is a fact we deal with everyday. Why can we not get together; why can we not, if our philosophy is the same, do something which is important as far as this overall Medicare issue is concerned?

Mr. GIBBONS. Mr. Chairman, I yield 1½ minutes to the gentleman from Indiana [Mr. JACOBS].

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. JACOBS. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, the gentleman from New York [Mr. HOUGHTON] mentioned he has other figures and he did not believe these figures. Under the Gingrich Medicare plan, the hospitals in and around the gentleman's district, my friend from New York, will lose $167 million over the next 7 years.

I would ask if he would come back in the well and perhaps tell us what the numbers he has that are different from

the numbers that we have been recounting, because we have heard no debate or no questioning of those numbers.

Mr. JACOBS. Mr. Chairman, reclaiming my time, speaking of numbers, the proponents of this measure cite approvingly the trustees' report that there will be a shortfall in the next 7 years in Medicare part A, and that is the truth. But it is not all the truth.

The rest of the trustees' report states how much that shortfall is, $90 billion. So if you accept approvingly the one part, you should accept approvingly the other; $90 billion is considerably less than $270 billion. I wonder anyone remembers the city of Bentre in Vietnam. That is the one that was wiped out, every lock, stock, horse carriage, human being, and building, the Army major declaring it became necessary to destroy it in order to save it.

My father used to say that in politics you can get people to eat the pudding, but you cannot get them to read the recipe. Today we are talking the recipe. We will see how the pudding tastes.

Mr. DINGELL. Mr. Chairman, I yield 2 minutes to the distinguished gentlewoman from California [Ms. ESHOO].

Ms. ESHOO. Mr. Chairman, today the Gingrich Republicans are being encouraged to use certain words, probably put together by some PR agency or PR person, to describe their Medicare plan, words like ''historic, serious, and long-term.''

Well, in some ways, I could not agree with them more. Their plan is historic because it marks the end of a 30-year commitment to provide our seniors with health care. It is serious. It is radical surgery, because it places the lives and well-being of 37 million Americans at risk. And it is long-term because it will tear holes in our social safety net that will remain for many years to come.

It ''saves, preserves, and protects,'' not Medicare, but $245 billion in tax breaks that no one is asking for. It ''protects the right to stay with your doctor,'' but only if you are able to pay more for the privilege. It ''protects the right to choose,'' only if your choices are slim and none. It is ''responsible,'' but only if you are a member of the AMA. It is ''innovative and bold,'' inasmuch as it breaks new ground for being cruel to seniors. It is ''the right thing to do,'' but only if your parents did not raise you to know any better.

Mr. Chairman, the Republican Medicare plan is all these words and one more, disgraceful, and I urge my colleagues to defeat it so that we can go on and make America a stronger, better, and more gentle Nation.

Mr. GIBBONS. Mr. Chairman, I yield 3 minutes to the gentleman from Washington [Mr. MCDERMOTT].

Mr. MCDERMOTT. Mr. Chairman, like the gentleman from New York [Mr. HOUGHTON], I wish that this debate would be about substance and we could actually talk about what is going to happen. We can argue about $90 billion or $270 billion, but the real issue here is what is happening to the health security of senior citizens.

Right now, senior citizens in this country get enough money to buy a program that covers what they need. And the Republicans are saying that in the first year, 1996, in the dark bar, we are going to give them enough to buy exactly what they have today. By the year 2000, you can see that the dark bar does not go as high as the CBO says an equivalent health plan is going to cost. The difference is $1,100. That is the national average.

Now, if you are from California and watching this, you are going to need another $1,200. If you are from New York, you are going to need another $1,100. If you are from Texas, you are only going to need $994. Ask yourself where those senior citizens are going to come up with that extra $1,100 to buy the same thing they have today.

Every time the Republicans use the word, ''choice,'' listen to that and say to yourself ''voucher.'' They are putting my father and my mother, my father 90, my mother 86, and everybody else's grandparents and parents, out on the street with a voucher. They call it choice. We are going to let you choose anything you want. But if you do not have the money, if that voucher only buys 75 percent of what it buys today, who will make it up? The kids will make it up.

This is the hidden agenda here. They are shoving that $1,000, they will not say it is cuts and I will not say it is cuts, they are shoving that additional $1,000 into their kids.

If you happen to be out there watching this or if Members are on this floor and happen to have a kid in college, you know what tuition does to you. To have your parents show up at the same time and say, ''well, I cannot afford it. It is not paid for by my health insurance,'' for the first time in 30 years, people my age, 58 and down, are going to have to think about how they make up that difference for their parents.

One can talk about $90 billion and actuarials and all the rest of this stuff. There is 96 pages of things where they give away to doctors. As a doctor, I am ashamed by the kind of deal they came in and cut. When we are cutting money from senior citizens and putting them at risk like this, for doctors to come in and negotiate for another $500 million, is a shame. There is no reason to do that.

Mr. BLILEY. Mr. Chairman, I yield 1½ minutes to the gentleman from Washington [Mr. WHITE].

Mr. WHITE. Mr. Chairman, I would like to say, first of all, that the explanation we just heard from my colleague from the Seattle area, who I have a great deal of affection and respect for, is exactly the kind of thinking that got us in this mess in the first place. We have been doing this for 30 years, and the fact is it is a self-fulfilling prophecy.

If the Government tells you the cost of medical care is going to go up 10 percent every year, you can be sure that it will, because people who are buying health care or selling health care to the Government are going to spend every nickel their customer tells them they are going to spend the next year.

The fact is we have to exercise some control at the Federal Government level to control these costs. Otherwise, they will be out of control forever and that is the reason we find ourselves in this situation. We have to fix this program. Otherwise, it is going to go bankrupt.

□ 1315

I want to say one other word about the Seattle area because it is very important. Seattle is an urban community and yet it is one of the healthiest communities in the Nation. It is also one where we have one of the most efficient health care systems in the Nation.

Why is that, Mr. Chairman? It is because in Seattle we essentially invented the managed care program. Under managed care individuals get to sign up in a program that looks out for your health over the long-term basis. Instead of trying to cure diseases as they come up, it actually prevents individuals from getting sick in the first place. A lot of people in the Seattle area have found that to be a good idea.

One of the great things about this bill is that it tries to do for the rest of the Nation what we have done very successfully in Seattle by having the option to take managed care instead of the fee-for-service program. We have been able to keep the costs down across the board, and that is what this bill will do for the entire country.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes and 30 seconds to the gentleman from Ohio [Mr. PORTMAN], another respected member of the Committee on Ways and Means.

Mr. PORTMAN. Mr. Chairman, I thank the gentleman for yielding time to me.

We have heard a lot today from the other side of the aisle about how the increases in spending in our Medicare plan will not keep up with the private sector growth. We just heard from the gentleman from Washington [Mr. MCDERMOTT]. I wish his chart were still up. Maybe it can be put up again. It might be useful to have it. It is just not accurate. It is not accurate.

The charts we just saw from the gentleman compares apples to oranges. It is full of unknowns. It is full of false assumptions. Let me give Members a couple.

First of all, the Medicare figures are per beneficiary. The private sector figures are not per beneficiary. How can we compare those two? The private sector figures are, thus, inflated.

Second, the Medicare figures the Democrats use do not include a lot of other costs, including administrative costs. It is comparing apples to oranges.

Here is a better chart that illustrates clearly what the gentleman from New

York [Mr. HOUGHTON] and others have been trying to explain, which is that under this bill before us Medicare spending actually goes up. Guess what? It actually keeps pace with the private sector. It will be higher than the private sector 7 years from now as it is today.

This chart compares apples to apples. It compares what employers will pay per employee for health care in the private sector to what the government will pay per beneficiary under the Medicare Preservation Act. It clearly shows that, even when we assume a growth rate of 7 percent, as the gentleman from Washington did, Medicare will still pay more in each year through the year 2002 than we pay in the private sector. In fact, that 7 percent private sector health care figure is inflated.

I will give Members a couple of reasons it is. First, the private health care cost increases have been far lower over recent years than 7 percent. The administration's own Department of Labor tells us last year health care costs were nationally at about 4.5 percent.

Mr. Chairman, we have seen reports recently, including a story in the Washington Post of just a couple weeks ago, which indicates that recent surveys, comprehensive surveys have shown us that for the first time in 10 years health care costs nationally are below inflation.

All this, incidentally, was included in a recent CBO report that I would encourage everyone to read. The point is that the private sector numbers are nowhere near that 7 percent. But even when we include the 7 percent numbers, the Medicare spending continues to be higher than the private sector spending.

This is a generous program, folks. What we have come up with is a very generous plan. It is a responsible approach to a very real problem. I would encourage all Members to support the Republican plan.

Mr. BLILEY. Mr. Chairman, I yield 1½ minutes to the gentleman from Illinois [Mr. HASTERT].

(Mr. HASTERT asked and was given permission to revise and extend his remarks.)

Mr. HASTERT. Mr. Chairman, the question before us today is simple. Do we give seniors more choices or do we choose, do we choose, to let Medicare go bankrupt without any choices for anybody at all?

Under the Republican plan to save Medicare, seniors get more choices. One new choice, for instance, that is not offered today is preferred provider organizations. Many Americans are familiar with this option. In fact, it is available under the congressional medical insurance plan.

Mr. Chairman, under a preferred provider organization or PPO, seniors are part of a managed care plan but they can see any doctor they want, even a doctor outside the network through a point of service arrangement. That means if my father, who lives in Illinois, wants to see a cataract specialist at the Mayo Clinic, he would be able to do that and still receive his health care coverage.

All I want to emphasize is one important point; that under the Republican plan PPO's are required to take any senior who wants to sign up. If an individual happens to be diagnosed with cancer and wants to enroll in a PPO offered in their area, they have that option under this bill. Nobody can keep them out. They have to accept all comers.

Under the current Medicare system, PPO's are not available. Under the Medicare reform plan, PPO's are an option under this plan.

Mr. GIBBONS. Mr. Chairman, I yield 30 seconds to the gentleman from Maryland [Mr. CARDIN].

Mr. CARDIN. Mr. Chairman, we seem to have a debate over what is a cut. My constituents define it this way. If they are asked to pay more to get the same benefits, it is a cut. If they are receiving moneys that will not buy the same amount of service 7 years from now, and they are expected to put more money in their pocket in order to pay for those services, it is a cut.

The chart shown by the gentleman from Ohio [Mr. PORTMAN] shows what the per cost is per person. Yes, it costs less to provide for people under 65 than over 65, because people over 65 use more health care. This bill is a cut.

Mr. DINGELL. Mr. Chairman, I yield 30 seconds to the distinguished gentleman from Ohio [Mr. BROWN].

Mr. BROWN of Ohio. Mr. Chairman, I thank my friend for yielding me time, and I offer my condolences to my friend from Washington State about the Seattle Mariners.

More importantly, Mr. Chairman, I offer my condolences to the elderly in his district who will suffer some $31 million in cuts in services to them; and to the gentleman from Ohio [Mr. PORTMAN], in his district, $67 million in the next 7 years will be taken from the elderly in the Cincinnati area; and the gentleman from Illinois [Mr. HASTERT], in his district, some $143 million will be taken from the elderly in that area.

Mr. DINGELL. Mr. Chairman, I yield such time as he may consume to the gentleman from West Virginia [Mr. RAHALL].

(Mr. RAHALL asked and was given permission to revise and extend his remarks.)

Mr. RAHALL. Mr. Chairman, I rise in opposition to the so-called Republican Medicare plan.

Mr. Chairman, I rise today in total opposition to the so-called Medicare Reform bill before the House.

Mr. Chairman, H.R. 2425 is a little bit like topsy—it grows, and grows and grows. The bill before us is nearly 1,000 pages long—and few of us have had a chance to read it, much less understand it. But from what we've heard since the secrecy on details of the Republican plan was lifted, it's enough to put fear and trembling in the hearts of every senior citizen in the United States for decades to come.

Mr. Chairman, 380,239 of Americans on Medicare live in the State of West Virginia—my State. How many of them will be disenfranchised, when they lose $1.5 billion and more in Medicare payments under this bill? How many will become more seriously ill, or even die, as a result of denied health services under Medicare? The Republicans say: They don't know, and they don't care—all they know is they need to find $245 billion in a hurry, and Medicare is one of the biggest piggy banks around.

Mostly, what we don't understand is why it is necessary to take these drastic actions in a program that is not insolvent, and according to the trustees report, wasn't in danger of becoming insolvent for another 7 years? This 7-year window gives us plenty of time to work out ways in which to keep the program solvent as we have done since 1970 when the first trustees report came out—giving us only a 2-year window in which to bring solvency back to Medicare. For every year since, Congress has responded to the trustees report, and has never failed to assure continued solvency for Medicare.

The Medicare actuaries have stated, over and over again, that in order to bring solvency back to the Medicare Program now, we need only cut $89 billion from the Program. Why then the unprecedented, frightening cut of three times that amount?

H.R. 2425 calls for a cut of $270 billion in the program, supposedly in order to save it. Save it for whom? We believe, based on the evidence before us, that this $270 billion is necessary so that Republicans can award tax cuts for those who don't need it—and most wouldn't even want it if it disenfranchised the elderly.

This bill, if allowed to pass, will increase senior's Medicare premiums from today's $46 a month to more than $90 a month by 2002. It will force seniors off their current fee for service plan into managed care plans, where they will have no choice of physician or hospital. Under managed care, seniors will be unable to call 911 for an ambulance in an emergency—not unless someone somewhere in a new managed care bureaucracy preapproves the emergency.

Emergencies don't often happen during office hours where the preapproval comes from—and in my experience, when a person has an emergency, they are not inclined to call a business office for preapproval—they are more than prone to calling 911. Not allowed under this Medicare reform proposal. If a senior goes to the emergency room or calls an ambulance without managed care preapproval—even if it turns out to be a costly heart attack—that senior will be presented a bill for those costs—and required to pay them out of their own pockets.

If a senior needs home care which, today, costs seniors nothing in copayments under Medicare, that senior will in the future be forced to pay 20 percent of home care costs. Pretty tough on seniors on low, fixed incomes who are already struggling with decisions about whether to heat, or eat—or whether they can pay for their prescription drugs and still buy groceries.

And for those seniors not yet old enough for Medicare coverage—not yet 65 years of age—it gets worse—for in future they will have to wait a little longer—until they are age 67.

Mr. Chairman, let me repeat that, the Medicare cuts for my State of West Virginia will be more than $1.5 billion. Currently, West Virginia's 380,239 seniors who are enrolled in Medicare live predominantly in rural areas—54 percent of them. By living in rural areas, they are already limited with respect to access to health care providers of facilities. Cuts in Medicare reimbursement to hospitals located in rural areas is expected to cause many of them to close—further limiting rural West Virginia seniors' access to hospital care.

Seniors in West Virginia can expect to pay from $535 to over $1,000 in additional out of pocket expenses for less coverage and fewer services than they get from Medicare today. The current deductible is expected to go from the current $100 to $150 next year, and above $150 between now and 2002.

My West Virginia seniors can't afford additional premiums, additional deductibles, additional costs of 20 percent for home care, or to lose access to their own physician, hospital, and emergency response ambulances.

I am appalled at the mean-spiritedness of H.R. 2425, Mr. Chairman. I am appalled that anyone would treat our seniors as tiresome old people not important enough for their Government to champion their health care needs. These seniors have lived and worked long, hard lives, giving to society at large, to their own communities, end up being tossed out of their health care system—too poor and too disenfranchised to have their Government look after their health needs.

Mr. Chairman, we may not have the votes to defeat this measure, but we can and we will continue to tell our seniors that the $270 billion cut wasn't necessary—because the Medicare trustees stated plainly that only about $89 billion would be necessary to ensure its solvency for the next decade—at least to 2006.

Mr. DINGELL. Mr. Chairman, I yield 1½ minutes to the distinguished gentleman from Illinois [Mr. RUSH].

Mr. RUSH. Mr. Chairman, I want to thank the gentleman for yielding me time.

Mr. Chairman, it was bad enough that Republicans last year voted unanimously to reject legislation providing Americans with the health security that every other advanced Nation in the world provides to its citizens, leaving 41 million of our fellow citizens without health care. This year the Republicans want to cut $182 billion out of Medicaid with a big, big chunk of those savings coming from disproportionate share payments under that program. And now Republicans want to cut Medicare so that hospitals cannot keep their doors open.

Mr. Chairman, let me ask the Republicans how on Earth they expect these hospitals to survive. On air? How do they think they will be able to continue to provide services to 41 million uninsured Americans if they cut off all sources of support for them. These hospitals are already in serious financial trouble before all of these additional costs even hit them. They have the lowest margins of revenue over costs of any type of hospital, a full 25 percent below the average. They have the highest number of hospitals of any type with overall negative margins. They have physical plants which average more than 25 years in asset age as compared to 7 years for other hospitals.

Mr. Chairman, cutting these hospitals is the last place we should consider rather than the first place we should consider.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentlewoman from the State of Washington [Ms. DUNN], a respected member of the Committee on Ways and Means.

Ms. DUNN of Washington. Mr. Chairman, like many seniors in my district, my own parents sometimes have been frightened by the rhetoric that has been generated in this debate. I rise today to clear away some of that emotionalism, perhaps to set the record straight, and to reassure my parents in Bellevue, WA, and seniors around the country.

Mr. Chairman, if I we able to speak to them for a few minutes today this is what I would tell them:

> Mother and Dad, our Medicare plan will preserve your right to stay in the current Medicare. You can stay in the system just as it is, if you want to. That is a fact. You can also choose one of the new options, every one of which will be very clearly explained to you. But the truth is that nobody will be forced out of traditional Medicare. If you wish to remain in traditional Medicare, fee-for-service, traditional service, if you want to keep your current doctor with no change to a doctor you do not know or do not want, you can do that. That is a guarantee, and the Federal Government will continue to provide two-thirds of your part B premiums. There will be no increase in your copayments, there will be no increase in your deductibles and there will be no decrease in your benefits.

Mr. Chairman. I also want to assure seniors that nobody will be forced into HMOs or forced to go to a doctor that they do not know. Managed care is just one of several options we provide in our Medicare Preservation Act.

Over the past several months, I have talked to constituents who deal with the Medicare system every single day. Throughout those talks I have been guided by several principles that my folks and seniors around the country are looking for in Medicare reform. They want Medicare saved for their children and for their grandchildren. They want the problem solved, not just postponed, and they want to choose for themselves among the plans and the doctors they know. This is my promise, my commitment to the seniors of today.

Mr. GIBBONS. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. LANTOS].

(Mr. LANTOS asked and was given permission to revise and extend his remarks.)

Mr. LANTOS. Mr. Chairman, I strongly oppose this economically bankrupt proposal that will damage seniors and children.

Today, the House is considering the so-called Medicare Preservation Act. Naming it does not make it so. We could just as well call this legislation the End of Medicare as We Know It Act.

One of my favorite stories about Joseph Stalin relates to his manipulative use of labels. He designated the Soviet satellites of Eastern Europe ''People's Democracies.'' The label did not make these enslaved countries either democratic or popular.

When the Soviet-dominated international Communist movement wanted a snappy title for its newspaper, Stalin came up with a real show-stopper. The newspaper was called: For a Lasting Peace, For a People's Democracy. The strategy was simple—make capitalists mouth a Communist political slogan when they quoted the newspaper. The Soviet Union and its affiliated Communist parties were hardly committed to peace or democracy, but the slogan got considerable mileage.

Today, Mr. Chairman, we have the same type of subterfuge being carried out by the majority in this body. They have given this economic monstrosity a politically correct title, ''The Medicare Preservation Act of 1995''. This legislation will neither preserve nor protect Medicare. It will simply strip away benefits to America's most vulnerable and voiceless citizens of our country in order to pay for an outrageously large tax break for the wealthiest individuals.

I have several names to propose for the legislation that we are considering today, Mr. Chairman.

First of all, this could be called ''The Robin Hood in Reverse Act of 1995.'' It clearly deserves that title. It robs the poor to give to the rich. A $270 billion cut is unnecessary to save Medicare. Democratic alternatives—the one we are permitted to consider today as well as others that should be considered—would keep Medicare solvent without imposing a huge burden on our senior citizens. The reason we have this economically irresponsible legislation is so the Republicans can offer a $245 billion tax cut to the wealthy.

Second, we could call this legislation Bash the Seniors Act of 1995. Premiums for our senior citizens will increase by some $400. Since a third of all seniors barely get by on their monthly Social Security checks, this Republican legislation will force seniors to choose between health care and food, or between health care and heat, or between health care and rent.

Third, we could logically call this The Them That Has Gets Even More Act of 1995. While our low-income seniors—those in the sunset of their lives—will be forced to dig deeper in their meager resources. Meanwhile, those earning over $100,000 a year will receive half of the Republican tax break. Furthermore the wealthiest 1 percent of Americans will get an average tax break of $19,000. Those who need this tax break least are the ones who get the most, while costs for our seniors are increased.

Mr. Chairman, I could continue with a number of other titles for this legislation, all of which would more accurately describe the impact of this ill-named, ill-conceived, ill-considered sell out of our senior citizens for the benefit of special interests.

My point is clear. This is poor legislation. It should be rejected. I urge my colleagues to repudiate this ill-named bill.

Mr. GIBBONS. Mr. Chairman, I yield 3 minutes and 30 seconds to the gentleman from Michigan [Mr. LEVIN].

(Mr. LEVIN asked and was given permission to revise and extend his remarks.)

Mr. LEVIN. Mr. Chairman, I just want to explain, so that everybody understands, why this is such an extreme proposal.

The gentleman from Washington [Mr. MCDERMOTT] referred to this chart. And what it does is to show how the projected or the capped expenditures on Medicare are below the projected rate of inflation. Now, those numbers do not come from the gentleman from Washington. They do not come from Democrats. They come from CBO, which is essentially controlled by the Republicans. And there is nothing that the gentleman from Ohio [Mr. PORTMAN], or anybody else can say that changes that.

Mr. Chairman, this resolution assumes an inflation rate under 4.9 percent. Under 5 percent—4.9. The CBO figure is 7.1. And that is why, as the gentleman from Washington [Mr. MCDERMOTT] says, we end up with this gap of $1,000 per beneficiary in the year 2002.

The gentlewoman from Connecticut [Mrs. JOHNSON] asked where are the changes in benefits? The answer is, as the gentleman from Washington [Mr. MCDERMOTT] said, when we have a $1,000 shortfall, something has to give. And who is going to give are hospitals who are underfunded, who are, in turn, going to either shift it to the private sector, or are going to close emergency rooms, or who will have to cut benefits. That is the problem.

Now, Mr. Chairman, I want us to refer to history. My friend, the gentleman from Texas [Mr. ARCHER], does not like me to quote his previous statement. I understand that. ''Make no mistake about it,'' he said just a year ago, ''for the elderly in this country, these cuts are going to devastate their program under Medicare.''

Our Medicare cuts in the resolution about which he was talking were $168 billion, and most of that was plowed back into the Medicare System. Here we have a proposal for $270 billion, and what they are saying is it is going to save Medicare. We need to save Medicare from the Republican majority of the House of Representatives.

Mr. Chairman, I want to read from the gentleman's minority views, if the gentleman does not like my reference to his words.

□ 1330

This is the minority views about our Medicare proposal, which is much less and most of it plowed back into the system. And I quote,

> For more than a decade, Congress has cut back on payments to doctors and hospitals until they no longer cover the costs for Medicare patients, and the additional massive cuts in reimbursement to providers proposed in this bill will reduce the quality of care for the Nation's elderly.

Mr. Chairman, will reduce the quality of care, the gentleman was saying, for the Nation's elderly. There will be no place else to shift.

I do not expect the Republicans to eat their words in public, but we are not going to let them gobble up Medicare on this day, October 1995.

Mr. ARCHER. Mr. Chairman, it is sad that we have to replow this ground. The gentleman from Michigan [Mr. LEVIN] misspoke. The gentleman knows it.

Mr. Chairman, we were not dealing with a Government takeover of the entire health care system in this country. My remarks, and our minority views, were directed toward that. But as a part of that overall health care program, CBO scored the cuts in Medicare and Medicaid at $490 billion. That was intolerable. It was intolerable, particularly independent of any transformation of Medicare to make it more efficient.

So once again, Mr. Chairman, the gentleman has taken this completely out of context.

Mr. GIBBONS. Mr. Chairman, I yield 30 seconds to the gentleman from Michigan [Mr. LEVIN].

Mr. LEVIN. Mr. Chairman, let me read some of the gentleman's specific words a year ago. ''Make no mistake about it. For the elderly in this country, these cuts are going to devastate their program under Medicare.''

Mr. Chairman, the gentleman from Texas [Mr. ARCHER] is moving in a 180-degree different direction. The reason for it is because my colleagues on the other side have got a $245 billion tax cut for very wealthy families, and they have to find a way to pay for it, and it is on the backs of the seniors of this country. That is not fair.

Mr. BLILEY. Mr. Chairman, I yield 1½ minutes to the gentleman from Georgia, [Mr. NORWOOD].

Mr. NORWOOD. Mr. Chairman, I know this debate must be very difficult on our seniors trying to determine what is fact and what is not. It is particularly difficult with so much misinformation coming out on this floor. But before the gentleman from Ohio [Mr. BROWN] has an opportunity to talk about the hospitals in the 10th District of Georgia, I want the gentleman to know that those hospitals are having increased funding each year over the next 7 years. I would like for the gentleman to also know that for the first time in history of this government, we are giving the hospitals the opportunity to lower their cots by repealing very, very difficult and expensive rules and regulations, tort reform, and antitrust legislation.

Mr. Chairman, giving senior Americans the option to choose from among the many new health care plans is the absolute key to saving Medicare. I want to talk just about one of those options: Provider Sponsored Networks, PSN's.

Mr. Chairman, I have a message to my mother-in-law: If you like traditional Medicare, you can continue to choose it just like you have it today. Part A, part B, Medigap; can you keep it just like you have got it, if you would like to do that. But, I would like for you to consider one of these excellent choices known as Provider Sponsored Networks.

Mr. Chairman, they are locally organized care networks formed by doctors and hospitals. They will provide coordinated care that allow the providers to achieve the efficiencies and cost controls that have been forbidden by laws in years past.

Mr. DINGELL. Mr. Chairman, I yield 15 seconds to the gentleman from Florida [Mr. DEUTSCH].

Mr. DEUTSCH. Mr. Chairman, let me just point out that under the Gingrich Medicare plan, the hospitals in and around the district of the gentleman from Georgia [Mr. NORWOOD] would lose $232 million over the next 7 years to pay for the program and tax cuts for the very rich in this country.

Mr. GIBBONS. Mr. Chairman, I would yield myself 30 seconds to respond to the gentleman.

Mr. Chairman, I would respond to the gentleman that he better tell his mother-in-law the whole truth. There will not be any fee-for-service, because under the Archer bill, the Gingrich bill, it will be abolished, because the Secretary of Health and Human Services must take all the cuts in this bill out of fee-for-service. So, she may look for it, but it just will not be there.

Mr. DINGELL. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Chairman, not since the feudal days of lords and serfs has such an effective system of transfer of wealth from the poor and giving it to the rich been enacted.

Mr. Chairman, the trustees of Medicare said that part A is $90 billion in arrears over the next 10 years. The Democratic substitute solves that problem. The Republican substitute solves that problem and then takes out an additional $180 billion more than is needed.

Now, listen to this. Of the 37 million Americans on Medicare, 11 million of them are widows living on an income of $8,000 a year or less. Under the Republican proposal, those 11 million widows, by the year 2002, each year will have their Medicare part B premiums go up $300 to $400 a year.

Mr. Chairman, in that same year, those who make more than $350,000 a

year will get a $19,000 tax break. It takes 60 widows paying $300 to $400 a year more to give a tax break into the pockets of the wealthy making $350,000 a year.

Mr. Chairman, under the Republican plan, the rich get rich and the poor get poorer, and that is wrong. Just plain wrong. We have a better country than that.

There is no uniform sacrifice here. The contract with the country club that the Republicans signed a year ago on the steps of the Capitol requires the poor in this country to be tipped upside down. GOP used to stand for ''Grand Old Party.'' Today, it stands for ''Get Old People.''

Mr. BLILEY. Mr. Chairman, I yield 1 minute to the gentleman from Ohio [Mr. OXLEY].

(Mr. OXLEY asked and was given permission to revise and extend his remarks.)

Mr. OXLEY. Mr. Chairman, we have heard today about many of the improvements that this bill makes to the Medicare Program. Foremost among these is what we call the seamless web. Today, millions of retirees are forced by rigid and antiquated Medicare rules to disenroll from their employer's health plan—even if the coverage they receive was better than that provided by Medicare. Just because you retire shouldn't mean that you have to give up the coverage you're used to—but today, that's the case. Under the bill, your 65th birthday doesn't have to be the day you give up your association or employer coverage. This bill frees retirees from this unreasonable and counterproductive requirement. Under our plan, retirees can remain in their preretirement health plan, so long as it meets important Medicare standards. In fact, this bill allows members of associations and labor unions to maintain their current coverage even after they retire. Why do we feel it is so important to create this seamless web? Because Medicare should create opportunities—not obstacles—to better health care coverage and greater senior satisfaction.

Mr. DINGELL. Mr. Chairman, I yield 15 seconds to the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Chairman, I wanted to point out that under the Gingrich Medicare plan, the hospitals in and around the district of the gentleman from Ohio [Mr. OXLEY] will lose $144 million over the next 7 years.

Mr. DINGELL. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Texas [Mr. DOGGETT].

Mr. DOGGETT. Mr. Chairman, today if an elderly American wants quality health care, all they need is this. Even if they are not an American hero, like the gentleman from Florida [Mr. GIBBONS] who has this Medicare card, they are going to get quality health care the way seniors have for the last three decades.

But, Mr. Chairman, after Speaker GINGRICH and his cohorts finish today paying for their tax cut to the rich, this is the plan that they will have. This is the new Medicare maze that our Republican colleagues present. They have got one bureaucracy after another.

Mr. Chairman, we have a lot of new commissions. A baby boom commission. We have got boxes. We have got arrows. We have got quite a new organization of the health care system that for those seniors who could not decide today whether they were getting a cut or increase are going to need to go back from their retirement to get a doctorate to figure out how they are going to get health care.

Mr. Chairman, there is one thing that is certain: These red arrows coming from the plan to pay for a tax cut for the wealthy, out of the hide of the seniors of this country.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentleman from Texas, Mr. SAM JOHNSON, a true American hero, a respected member of the Committee on Ways and Means.

Mr. SAM JOHNSON of Texas. Mr. Chairman, unlike my friend, the gentleman from Texas [Mr. DOGGETT], we are not interested in the next election; we are interested in the future of America.

Mr. Chairman, Republicans have faced the challenge head on. We have addressed a broken system. Instead of scaring seniors and ignoring the problem, we have worked with seniors and produced a solution. Most importantly, we have not allowed Democrat scare tactics and politics as usual to keep us from doing what is right for America.

Mr. Chairman, I plan to choose a medical savings account. I just turned 65, and now I do have a Medicare card. I am thankful that this bill will allow me to get out of the inefficient system of 1965 and into a program and choose an option that is better suited for me 30 years later in 1995.

Mr. Chairman, with a medical savings option, I will get a high-deductible insurance policy and a cash deposit in a medical savings account to cover a significant portion of the deductible. There are no copayments. I am empowered to make my own decisions concerning my health care without the interference of a middle man. I can be a cost-conscious consumer and, with others, fundamentally empower and change the health care delivery systems in America.

The accounts are available for all qualified medical expenses; a great advantage over the current system. There are many other options, but no one is going to be forced into any particular plan. In the true American spirit, we know that people want different choices and this bill makes those choices available.

Mr. Chairman, this is a vote to save Medicare and give seniors a choice.

Mr. BILIRAKIS. Mr. Chairman, I yield 1 minute to the gentleman from Ohio [Mr. GILLMOR].

Mr. GILLMOR. Mr. Chairman, I wanted to take a few moments to highlight one of the innovative additions to the Medicare system in H.R. 2425: the incentive it provides for citizens to expose and attack Medicare fraud and abuse. I am also pleased by the legislation's measures that implement stiff new criminal penalties. For those convicted of Federal health care fraud, embezzlement or false billings, the legislation provides for up to 10 years in prison. There is no limit placed on the penalty's prison term if such a criminal violation should result in bodily injury.

Until now, Medicare beneficiaries have participated in a system that simply did not provide adequate enforcement mechanisms or adequate civil or criminal penalties. Without these, we have lacked an effective deterrent to waste. Fraud and abuse continues to rob the system and the taxpayers that finance it.

The Medicare Preservation Act, through innovative and focused task forces, financial incentives that empower seniors, and stronger criminal and civil penalties, unequivocally acknowledges and addresses these problems. The current Medicare system is losing 10 cents on the dollar to waste, fraud, and abuse—$50 million every day that could have and should be used for patient care. Let the word go out to those who would bilk the Medicare system—once this bill is passed, enforcement is innovative and it is real. Barney Fife has his walking papers, and the terminator is on the job.

□ 1345

Mr. DINGELL. Mr. Chairman, could we have a recapitulation of the time?

The CHAIRMAN. The gentleman from Texas [Mr. ARCHER] has 17 minutes remaining, the gentleman from Florida [Mr. GIBBONS] has 17 minutes remaining, the gentleman from Florida [Mr. BILIRAKIS] for the gentleman from Virginia [Mr. BLILEY] has 18 minutes remaining, and the gentleman from Michigan [Mr. DINGELL] has 18½ minutes remaining.

Mr. DINGELL. Mr. Chairman, I yield 1 minute to the distinguished gentlewoman from Arkansas [Mrs. LINCOLN].

(Mrs. LINCOLN asked and was given permission to revise and extend his remarks.)

Mrs. LINCOLN. Mr. Chairman, I thank the gentleman for yielding time to me.

The people of the First District of Arkansas sent me here to put people above politics. Unfortunately, here today we have got both sides who really seem more interested in making campaign commercials rather than good policy. One cuts too much and the other does not do enough.

What the American people do not know is that there is a proposal out there that we have not been allowed to bring to the floor that actually makes good common sense, reasonable policy. The Republican bill will close the doors of rural hospitals. The Republican bill will penalize the rural areas by cutting

fee-for-service, when we cannot afford managed care without infrastructure. The Republican bill will dig into the pockets of senior citizens. The Democratic bill has missed the opportunities to restore complete dignity and solvency of Medicare while balancing the budget.

I came here to preserve the dignity of senior citizens who depend on Medicare and to restore the faith of the young people who are paying now into the system but will not use this program for decades. This is not the democratic process that I learned in civics class, and it is no wonder that the American people are frustrated.

Mr. ARCHER. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. CLINGER].

(Mr. CLINGER asked and was given permission to revise and extend his remarks.)

Mr. CLINGER. Mr. Chairman, I rise in strong support of this bill.

Mr. Chairman, I rise in support of H.R. 2425, the Medicare Preservation Act. I did not, however, arrive at my decision to support the bill easily or without hesitation. As someone who represents a very rural district with an aged population, I am keenly aware of the importance of Medicare in meeting the health care needs of older Americans.

Last spring, the Board of Trustees for the Medicare Trust Fund warned in its 1995 annual report that the hospital insurance, part A portion of the Medicare Trust Fund will start going bankrupt beginning as early as next year and will run out of money by 2002. The Board of Trustees for the Medicare Trust Fund, which is a bi-partisan panel that includes three of President Clinton's Cabinet secretaries, state clearly in the report that the Federal Government has no authority to pay hospital bills if funds in the part A trust fund are depleted. What is more, the Medicare part B trust fund, which pays for physician and outpatient services, is also in financial trouble and needs to be addressed. Without significant reform, part B expenses are projected to double by 2002.

The reason for the imbalance between what Medicare takes in and what it pays out is that the Medicare Program is growing at an unsustainable rate of 10.5 percent, more than twice the rate of increase for private health care spending, which is 4.4 percent. Controlling this excessive growth rate is the necessary, responsible, and moral thing to do.

When I learned of Medicare's financial outlook, I conducted a survey of the Pennsylvanians I represent. By an overwhelming number, my constituents agree that Congress should act promptly to preserve and protect this vital insurance program, which serves nearly 36 million Americans, but should do so in a responsible manner that goes after fraud and abuse and addresses rural concerns. Mr. Chairman, I believe that this legislation, though it is not any easy fix, achieves these crucial goals while ensuring that Medicare will be preserved for future generations.

First, I want to clarify the impact this legislation will have on seniors. Beneficiaries will see no increase in their copayments or deductibles and will continue to pay 31.5 percent of the part B premium, as they do today. In fact, out-of-pocket costs for seniors will be just $4 more each month in 2002 than under President Clinton's plan. And Medicare will be preserved for the next generation, not just for the next election.

Despite all the rhetoric during this debate that Republicans are cutting Medicare, spending per beneficiary will increase from $4,800 next year to $6,700 in 2002 under H.R. 2425. Furthermore, we have spent $844 billion on Medicare over the past 7 years, and under this legislation we will spend $1.6 trillion over the next 7 years—an increase of $742 billion. Only in Washington can a spending increase be called a cut.

What is more, seniors will be offered more choices of health care plans, in addition to traditional Medicare. Under the bill, a MedicarePlus program will be established to allow beneficiaries to enroll in a range of private or employer-based health plans, including managed-care plans, traditional fee-for-service plans, high deductible insurance/medical savings accounts, or so-called provider-sponsored networks [PSN's] formed by health care providers. In some cases, these plans could mean more or better benefits for seniors, such as free eyeglasses or prescription drug benefits. However, none will be forced to change plans or change doctors under the bill. These fundamental reforms will not only provide beneficiaries with a broader range of health care choices but will also strengthen the existing Medicare Program.

I am very encouraged by other provisions in the bill as well. H.R. 2425 will reform medical malpractice law by establishing uniform standards for health care liability actions and capping non-economic damages at $250,000 in a particular case. The bill also establishes a commission to recommend long-term structural changes to preserve and protect Medicare when the Baby Boom generation begins retiring in 2010. Finally, this legislation contains a lock-box mechanism that places all savings from part B into a Medicare preservation trust fund and prohibits any transfers to pay for future tax cuts.

Throughout the debate, I have heard a lot of misinformation that Republicans are trying to push Medicare reforms through Congress without sufficient hearings. That is simply not true. The Medicare Preservation Act is the culmination of months of hearings by the House Committees on Ways and Means and Commerce, who have jurisdiction over the Medicare Program. Altogether, these committees held nearly 30 hearings throughout the summer and into the fall to find ways to control Medicare's unsustainable growth rate, make the program more efficient, and offer seniors more choices in the type of coverage they receive.

During that time, I, too, have been studying this issue and actively seeking feedback from my constituents. In addition to the thousands of survey forms, letters and phone calls on Medicare I have received from constituents, I have visited senior centers and met with hospital administrators in my area of Pennsylvania to discuss proposals to preserve and protect the Medicare Program. Here in Washington, I have met with the House Rural Health Care Task Force to discuss the impact of Medicare reform proposals on rural areas, and I have heard regularly from such organizations as the Hospital Association of Pennsylvania, the American Association of Retired Persons [AARP], and the Seniors Coalition.

One key aspect of the Medicare Preservation Act that I particularly want to make note of is the bill's provisions combating fraud and abuse. The Government Reform and Oversight Committee, which I chair, has held a series of hearings to examine the problem of waste and fraud in the Medicare and Medicaid programs. As I learned at the hearings, the General Accounting Office [GAO] estimates that these programs will lose approximately $26 billion this year alone to fraudulent activities. Without question, waste, fraud, and abuse drive up the cost of these programs and make it increasingly difficult not only for Medicare beneficiaries, but for all individuals to afford quality health care.

As a result of these hearings, I helped introduce legislation to crack down on the problem of waste and fraud in the Medicare and Medicaid programs. This legislation, the Health Care Fraud and Abuse Prevention Act, H.R. 2326, contains substantive measures that will serve as a valuable deterrent against health care fraud.

The Medicare Preservation Act strengthens Federal efforts to combat fraud and abuse in the Medicare program by creating new criminal penalties for those who fraudulently abuse the Medicare program, providing monetary incentives for individuals who report a violation that results in savings in the program, doubling sanctions for filing false claims or committing fraud, and authorizing funding to bolster the Health and Human Services Inspector General's anti-fraud efforts and payment safeguard activities.

I am very pleased that the Medicare Preservation Act addresses this serious issue and incorporates some of the tough, anti-fraud provisions contained in the Health Care Fraud and Abuse Prevention Act. Indeed, these anti-fraud measures are long overdue and will create significant savings in the Medicare program. Furthermore, I pledge to continue working with my colleagues on the Government Reform and Oversight Committee to carry on the effort to crack down on health care fraud and abuse.

Another area of the legislation that has been of particular concern to me throughout this process—along with my colleagues on the Rural Health Care Task Force—is Medicare's payment rate to Medicare contractors, known as the average adjusted per capita cost [AAPCC] rate. One of the primary structural reforms contained in the Medicare Preservation Act is the establishment of Medicare-plus organizations.

The AAPCC is based on a complex formula which determines Medicare's payment rate to certain types of plans that will be offered under the Medicare-plus program, specifically, health maintenance organizations [HMOs], provider-sponsored networks, and medical savings accounts. However, because the AAPCC formula is tied to Medicare utilization, which is typically lower in rural areas, wide geographic disparities have arisen between rural and urban communities. This variation makes it economically impossible for Medicare to offer choices to beneficiaries in many rural areas.

Five counties in my part of Pennsylvania have payment rates that are below the national average, which directly impacts the ability of HMOs and PSNs to operate in these

counties. Although the bill, as originally drafted, made adjustments that began to correct the disparity, the changes did not go far enough and would have failed to lift payment rates to a sufficient level.

Fortunately, after much deliberation with the Republican leadership and the drafters of the bill, my colleagues on the Rural Health Care Task Force and I were successful in negotiating substantive improvements to the AAPCC formula. I feel confident these changes will put my district on a more level playing field with urban areas and will ensure that rural America won't be left behind. Rural America should be allowed to participate in the new range of choices that will be created under the Medicare Preservation Act and be part of the 21st Century Government.

Despite this positive change, there are still areas in the bill that I feel could be improved, including the level of hospital reimbursements—namely the Prospective Payment System update factor, disproportionate share payments, and inpatient capital, the timing of Graduate Medical Education Trust Fund payments to academic health centers, and the treatment of ancillary services provided in skilled nursing facilities, which, under the bill, will be subject to routine service costs.

In the end, I remain strongly supportive of the fundamental goal of saving Medicare for current and future beneficiaries; we simply cannot afford to do nothing. The Medicare Preservation Act ensures the solvency of the Medicare system without jeopardizing the medical coverage seniors need and addresses Medicare's long-term solvency by putting the structural changes in place that will enable Congress to address the ''Baby Boom'' generation's entrance into retirement. I firmly believe that the Medicare Preservation Act is the only plan that will accomplish these goals.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota [Mr. RAMSTAD], another respected member of the Committee on Way and Means.

Mr. RAMSTAD. Mr. Chairman, I rise today in strong support of freedom of choice for America's seniors in their health plans. Why should not America's seniors have the same choice in health care plans as every other American? All of us know that most Americans secure their health care coverage through their employers. They have a vast variety of health plans from which to choose. How many choices do America's seniors have under Medicare? Only two: fee-for-service and traditional HMOs.

Now, with all respect to my friends from Massachusetts, no Sate is more advanced in their innovative health care, quality of health care and innovative health care choices than the good State of Minnesota. Minnesotans have a vast array of health care choices, ranging from traditional indemnity plans, to points of service plans, to HMOs. It is reasonable to expect then that seniors in Minnesota would have a similar range of choices. But how many choices to Minnesota's seniors have under Medicare? Only two: fee-for-service or traditional HMOs.

I have heard from countless seniors who want the opportunity to choose their own health plan. These seniors are fully capable of choosing from a variety of health plans to get the coverage that best fits their needs. Mr. Chairman, the seniors of America deserve nothing less than freedom of choice. We have heard today from opponents of saving Medicare, of this legislation here today to give seniors choices, that seniors will be forced to join HMOs. Nonsense. Under our bill, what happens to seniors is they can remain in the current fee-for-service system.

Mr. Chairman, we have also heard that benefits offered to enrollees in Medicare Plus plans would not compare favorably to those in traditional fee-for-service plans. That is also nonsense. The same benefits or better benefits will be available for seniors.

Vote for freedom of choice. Vote for the Medicare Preservation Act.

Mr. GIBBONS. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. COYNE].

(Mr. COYNE asked and was given permission to revise and extend his remarks.)

Mr. COYNE. Mr. Chairman, I rise in opposition to the Republican plan.

Mr. Chairman, I rise to oppose this legislation. The Republican Medicare reform bill will undoubtedly be adopted by this body today, but I strongly believe that the policy decisions that are reflected in this legislation are unnecessarily harsh, unprincipled, and unwise.

The $270 billion in Medicare cuts contained in this legislation are not necessary to keep the Medicare trust fund solvent for the next 10 years. In fact, less than $100 billion in cuts are needed to meet that goal. Significant long-term changes will be necessary in order to address the impact that the baby boom generation will have on the Medicare system, but such major changes should be addressed in a more thorough, thoughtful manner than that which has characterized the process by which this legislation was developed.

I believe that the so-called Medicare Preservation Act is unprincipled because its primary goal is not, in fact, the preservation of the Medicare system. The real objective of this legislation is clearly to produce savings in order to balance the budget and finance the Republican tax cut. If anyone doubts that, they should carefully consider the fact that the proposal to cut $370 billion out of Medicare grew out of Republican efforts to pay for the Contract With America's tax cuts—not the Republicans' concern over the future of this vital program.

I believe that this legislation is unwise because it ignores much of our past experience with the Nation's health care system. For example this legislation would repeal Federal nursing home standards that were enacted in 1987. These standards were not established on some whim; they were adopted in response to reports of unacceptable conditions in nursing homes across the country. It is reasonable to assume that absent these standards, such conditions will return. Another example is the repeal of the ban on physician referrals to labs in which they have financial interests. Such referrals increased Medicare costs unnecessarily prior to the imposition of the ban, and there is little reason to believe that lifting the ban now will have some other effect. Finally, while the legislation contains a useful provision that allows physicians to establish organizations to compete for business with HMOs, the bill exempts these physician-sponsored organizations from the State licensing requirements that other health care providers have to meet, and it exempts them from the balance billing restrictions that apply to other providers. State licensing protects the quality of care that patients receive, and balance bill restrictions ensure that patients benefit from the purchasing power wielded by the Federal Government. Exempting physician-sponsored organizations from these requirements is unwise because it creates an uneven playing field for different competing providers—and because it could allow inadequate regulation of an industry with tremendous potential for fraud and abuse.

Every member of Congress understands that Medicare must be reformed in order to keep program costs under control. Where Democrats disagree with the Republican majority is on what reforms are necessary to keep Medicare solvent, and on whether Medicare beneficiaries should be forced to bear the triple burden of Medicare reform, balancing the Federal budget, and paying for a tax cut for the affluent as well. I urge my colleagues to vote this proposal down, and to work on a bipartisan solution to the problems confronting Medicare.

Mr. DINGELL. Mr. Chairman, I yield such time as she may consume to the distinguished gentlewoman from Ohio [Ms. KAPTUR].

(Ms. KAPTUR asked and was given permission to revise and extend her remarks.)

Ms. KAPTUR. Mr. Chairman, I thank the gentleman and rise in opposition to this Republican plan under which the seniors in our community alone will lose over $377 million over the next 7 years.

I rise today in opposition to the bill before us and to raise serious concerns with the manner in which H.R. 2425, the Medicare Preservation Act, has been railroaded through the House of Representatives. Literally millions of citizens in our country depend on Medicare as their lifeline. These 36 million older and disabled people receive medical insurance through this program. Congress must proceed carefully before taking any action that will affect the lives and futures of millions of our families and their loved ones. Cutting $270 billion from Medicare and then transferring that money for tax cuts to the rich is absolutely wrong.

TIMING

On Friday, September 29, legislation was officially introduced to reform Medicare. What did the leadership of the House do next? Did it hold comprehensive hearings on the most sweeping changes to Medicare since its inception 30 years ago? No—they allowed only 1 day of hearings before their bill was distributed to Members and left town, only to return on October 9 and proceed with marking up the bill. No senior citizens were even invited to testify.

The committees marked up around the clock until Wednesday October 11. Mr. Chairman, the legislative process used to move this bill has been a disgrace. This Congress has spent 48 days holding hearings on

Whitewater, Ruby Ridge—we even spent an afternoon debating snails—but they could not manage to hold more than 1 day of hearings on Medicare.

The very people who will be most affected by these cuts, our Nation's seniors, have been subject to arrest and silenced as the leadership rushed this bill through committees. Could we not have allowed just 1 day to hear their concerns? With $136 billion in the current Medicare part A trust fund there are funds to meet obligations for 7 years. We know we must act, but why the rush?

Members, especially those not on the committees of jurisdiction such as myself, have been given very little time to review these sweeping changes. This is not the way to legislate. We have disenfranchised the American public by not allowing their elected representatives to do their job—to analyze and make an informed vote on Medicare reform. And the American people have been barred from testifying, and senior citizens in the hearing room were even arrested.

REPUBLICAN PLAN AND TAX CUTS

Mr. Chairman, this past weekend I met with our community's health advisory group, a bipartisan group of citizens from my district representing health professions, businesses, labor, retirees, insurance, hospitals, and all health professions. The group was charged with analyzing the Medicare trustees report and the Medicare Preservation Act.

The consensus of the group was that these Medicare cuts are draconian. Any changes in Medicare should be used only for the preservation of Medicare and should not be used to provide a tax cut for the wealthy. Our health advisory group stated that they would not operate a business the way this bill has been considered and that the Congress is making too many changes too fast. The members of the group also stated emphatically that this is absolutely the wrong time to be discussing a tax cut whose beneficiaries are primarily the wealthier among us, with those in upper incomes emphasizing that it is right that they pay their fair share.

Our health advisory group suggests a short-term solution must address waste, fraud, and abuse, spiraling health costs of prescription drugs, labs, equipment, doctor and hospital fees, home health care, vision and dental care, and durable medical equipment. New ways to fix the long-term financing of Medicare must also be explored including the high cost of pharmaceuticals and private insurance. Research and development of drugs is a cost of doing business and should not be passed on the consumers in the form of higher prescription drug prices. A national commission must be set up for this purpose of developing a long-term solvency plan for the Medicare Program beyond 2010.

The trustees report has been cited as the reason reform is needed. I agree. Medicare is facing a short-term financing crisis in the part A hospital insurance [HI] trust fund which we must solve this year and a long-term crisis which needs much more careful consideration. However the plan before us cuts $270 billion from Medicare when the trustees only call for $90 billion in savings. In addition, the plan before us doubles part B premiums and we all know that not one dime of that money will go to the HI trust fund cited in the trustees report. Where is all this money going? To a balanced budget? No. It is being used to pay for a $245 billion tax cut for the privileged few in our society.

I cannot and will not vote for a bill which provides a tax cut to the wealthy on the backs of our senior citizens.

FRAUD AND ABUSE

As I visit the senior centers of my district one message resonates. It is time to cut fraud and abuse. Find your savings by hiring more investigators to crack down on the crooks in the system, do not make cuts at the expense of seniors. Isn't it ironic that the majority passed legislation earlier this year that would eliminate 72 fraud and abuse inspectors at HHS Office of the Inspector General. The plan before us actually weakens the ability of HHS to detect waste, fraud, and abuse. In fact, the HHS Inspector General June Gibbs Brown states that this bill would:

Make the existing civil monetary penalty and antikickback laws considerably more lenient and place an insurmountable burden of proof on the Government to punish illegal kickbacks;

Relieve providers of the legal duty to use reasonable diligence for insuring that the claims they submit to Medicare and Medicaid are true and accurate;

Create new exemptions to the law which could be exploited by those who wish to pay rewards or incentives to physicians for the referral of patients; and divert to private contractors scare resources currently devoted to law enforcement against fraud and abuse.

In conclusion, let us take our time and truly study the changes that are needed to provide both long-and short-term solutions to our system of Medicare financing. Let me quote from the book ''Intensive Care'', ''The health care system in the U.S. is far too complicated for anyone or any group to claim that a single reform plan is the solution to the crisis. Rather than taking a huge first step with a new untested system, wouldn't it make sense to pilot test a number of proposals? This is the only reasonable method to determine what works and what doesn't work. The danger with scrapping any old system of any kind is that a new system may not be any better.''

Mr. Chairman, let us heed this advice. Send this bill back to the committees of jurisdiction and let us do this reform in a reasoned, bipartisan manner.

Mr. GIBBONS. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. CONYERS] who is the ranking Democrat on the Committee on the Judiciary, which, unfortunately, waived all chances of participating in this debate today through its chairman's actions.

(Mr. CONYERS asked and was given permission to revise and extend his remarks.)

Mr. CONYERS. Mr. Chairman, before I talk about the antifraud and antitrust provisions, let me point out that the medical malpractice provisions in this bill for the first time tells the States that the Big Brother Federal Government is going to preempt them in the area of medical malpractice, and the provisions are a gift for the irresponsible and the reckless.

Take the case of Mr. King, who recently lost the wrong leg in an amputation in one of the worst medical malpractice cases in recent times. He would have been forced to face an absolute cap on pain and suffering at $250,000 even though he could face excruciating pain and suffering for every day for the remainder of his life. Yet a CEO who could not perform his job because of the same exact injury would face no such cap.

Similarly, with this bill the House Republican leadership is saying that the woman who loses her reproductive capacity as a result of medical malpractice would have her damages capped at $250,000. Does anyone here believe that a woman's reproductive capacity is worth a mere $250,000?

Now, on antitrust and fraud, there is more. Under the False Claims Act that allowed whistleblowers to sue for those who defraud taxpayers, we gutted, it has been taken out by the Republicans. That provision has returned $1 billion to the Government in savings from fraud, waste, and abuse, $1 billion. This bill will gut that law.

I am saying to my colleagues, do not be fooled by this phony new health care. The Committee on the Judiciary has not had a second's worth of hearings on any of these antitrust, antifraud provisions.

Mr. BLILEY. Mr. Chairman, I yield 1 minute to the gentleman from Georgia [Mr. DEAL].

Mr. DEAL of Georgia. Mr. Chairman, like many of my colleagues, I held meetings with my constituents this summer about Medicare. The No. 1 complaint that most senior citizens had was the amount of money that was being spent for services that were not rendered, for overcharges for drugs and supplies, and for general waste. They are angry, and well they should be, when they see Medicare paying $2 for an aspirin, $12 for a box of Kleenex, and thousands of dollars for services that were unnecessary or never delivered.

We must stop these abuses of the status quo. They are costing at least 10 cents out of every Medicare dollar, $50 million a day, that will amount to $1.3 trillion over the next 7 years.

Can we do better than that? Of course we can, if we let our senior citizens have a part in pointing out these abuses. They know better than a government bureaucrat what services and supplies they receive. They are tired of being told not to worry about the fraud since Medicare is paying for it. They know, even if some in government don't, that it is their tax money that is being wasted.

This bill gives Medicare recipients a voice in the process. These are men and women who lived through the Depression, fought in the World Wars, and built this Nation by hard work and sacrifice. If they are empowered rather than victimized, they will help eliminate the thieves and con artists who cheat Medicare out of $50 million every day.

Let us pass this bill and stop this outrage.

Mr. GIBBONS. Mr. Chairman, I yield myself such time as I may consume.

The gentleman just does not know what he is talking about. We pay hospitals based on a capitated basis. We do not pay hospitals for all that foolishness that the gentleman just read off. I do not know where he got that information.

Mr. BLILEY. Mr. Chairman, I yield such time as he may consume to the gentleman from Georgia [Mr. DEAL].

Mr. DEAL of Georgia. Mr. Chairman, it is very clear that there are those who wish to try to defend the status quo. We are here to change the status quo and do something about these problems.

Mr. DINGELL. Mr. Chairman, I yield 30 seconds to the distinguished gentleman from Illinois [Mr. RUSH].

Mr. RUSH. Mr. Chairman, under the Gingrich Medicare plan, the hospitals in and around the district of the gentleman from Georgia [Mr. DEAL] will lose approximately $159 million over the next 7 years.

Last week, in the Committee on Commerce, the Republicans delivered thousands of bogus letters. The seniors of my district and my State requested that I deliver a symbol of their true feelings regarding the Republican Medicare plan, a cut of pure grade bologna.

Mr. BLILEY. Mr. Chairman, I yield 1 minute to the gentleman from Colorado [Mr. SCHAEFER].

(Mr. SCHAEFER asked and was given permission to revise and extend his remarks.)

Mr. SCHAEFER. Mr. Chairman, I rise in strong support of the Medicare Preservation Act. This well thought-out package takes an important step towards ensuring the solvency of Medicare for today's beneficiaries and for generations to come.

In addition to the numerous hearings the Ways and Means and Commerce Committees held on saving Medicare, we all got an earful of advice during our respective town meetings. At my town meetings, many good suggestions were put forward. However, more than anything else, seniors asked that we vigorously attack the waste, fraud, and abuse that now plagues the system.

Senior citizens I have talked with routinely witness overbilling and needless tests. ''Don't worry,'' some say. ''Medicare will pay it.'' Unfortunately, seniors know it is they, their children and grandchildren who really foot the bill.

There are many steps the Medicare Preservation Act takes to combat waste, fraud, and abuse. None is more basic and makes more sense than simply doubling the monetary fines for defrauding the system. The money collected through these fines will be immediately recommitted to pursue additional anti-fraud efforts.

Mr. Chairman, this legislation will literally save Medicare from ruin. Rooting out the waste, fraud, and abuse is an important piece of the overall package. I urge all of my colleagues to join this important effort.

Mr. DINGELL. Mr. Chairman, I yield 2 minutes to the distinguished gentlewoman from Illinois [Mrs. COLLINS].

(Mrs. COLLINS of Illinois asked and was given permission to revise and extend her remarks.)

Mrs. COLLINS of Illinois. Mr. Chairman, I rise in opposition to H.R. 2425, the ''Get Old People, Gingrich Republican, Put The Hurt on Seniors, Medicare Destruction Act of 1995.'' This bill is nothing more than a mean-spirited attempt by the majority to destroy the basic health care rights all older Americans now enjoy in order to give tax breaks to their wealthy, big business, special interest buddies. Never in all my time in Congress have I witnessed a greater legislative travesty than the ill-conceived proposal we have before us today.

To begin with, the rule we just considered stifles any amount of reasonable debate on this legislation. For instance, with the exception of pap smear testing, this bill eliminates quality assurance guarantees that are now in place for patients who have diagnostic or other types of testing done in their doctor's office laboratories.

It probably should not be surprising that the Republican Medicare proposal—which bends so close to special interests and tilts so far from the best interests of America's senior citizens—would eliminate requirements for quality and accuracy of laboratory tests. This, like the Republicans' blatant and cruel elimination of national standards for nursing homes, is one more way of saying to the ill, the infirmed and the aged: you're on your own—good luck!

Where is the rationale for eliminating quality standards for cholesterol tests, colon and prostate cancer screening, needle biopsies to detect precancerous conditions, glucose monitoring and so on? There isn't any!

Equally disturbing is the fact that this Republican bill places a seven-year freeze on Medicare payments to providers of durable medical equipment such as wheel chairs, electric beds, walkers and, yes, even oxygen. Now this freeze is at a time when more and more Americans are aging and the need will be greater.

This freeze will cause severe disruptions in the health care and quality of life for sick and/or infirmed Americans who need their wheelchairs and walkers to get around more easily, electrical beds to rest comfortably and oxygen to breath effectively. By putting a freeze on oxygen, the Republicans are literally taking the breath of life out of the bodies of old folk. Only God has that right.

Mr. Chairman, I heard a Member a few minutes ago say that he was glad that he had made 65 and qualifies for Medicare. A lot of people qualify for Medicare who do not make $133,000 a year, as he does. And not only that, people who use facilities like wheelchairs and the like were among those who are thrown out of the committee by the Republican side in the Committee on Commerce: Julia Searles, 75; Joseph Rourke, 90 years old; Theresa McKenna, 68 years old; Bert Seidman, Loretta Adkins, Cecelia Banks, Doretha Beverly, Barbara Greenwell, Gladys Lyles, Roberta Saxton, Annie Earl, Marie Roots, Lilly Valentine, Gertrude Snead, Ruth Thorn, Edna Custis, all over age 69 who do not make $133,000 a year.

Mr. Chairman, the 7-year freeze on DME payments once again demonstrates the lengths to which the Republicans have been driven by adopting an arbitrary cut of $270 billion in Medicare so that they finance a tax cut for the rich.

In an attempt to protect these Medicare beneficiaries, I attempted to offer amendments to restore these provisions. Unfortunately, the Republicans would not let me.

Let me also address the blatantly undemocratic process by which this proposal, which will directly impact the health and well-being of 37 million older Americans and nearly every family in the Nation, has been brought forth. Not one public hearing has been held in which the legislative specifics of the drastic Medicare changes we are about to act on were in plain view. This is appalling and flies in the face of the legislative process.

After flagrantly spending the taxpayer's time and money without a second thought to conduct 28 days of hearings on Whitewater, 10 days of hearings on Waco, and 8 days of hearings on Ruby Ridge, it is crystal clear that the Republican party has put partisan politics above the public interest.

The fact that Democrats had to convene hearings on the lawn of the Capitol in order to provide a public forum to examine the GOP plan is compelling evidence, in and of itself, that the Speaker and his troops know that their proposals cannot stand up to public scrutiny. Moreover, it speaks volumes to the enormous disconnect that exists between the Republican party and the rights and needs of older Americans today.

Such a disconnect became extremely apparent on October 11, when 13 seniors, some of whom were over 90 years old and relegated to wheel chairs, came to ask questions about the Republican Medicare proposal prior to markup by the Commerce Committee. They were promptly arrested and hauled off to jail at the direction of the committee chairman!

During the Democratic ''lawn'' hearings, however, we helped answer the question, just what does the Republican Medicare proposal do? It charges seniors more for medical care, medicine, wheelchairs and medical devices. It forces seniors to abandon their own doctors for some uncharted course through the HMO system. It takes $270 billion in Medicare funding away from seniors, doctors, and hospitals all to pay for tax cuts for the wealthy. In short, it devastates the health care program upon which so many millions of Americans have come to rely.

Among the many witnesses were several of my constituents from Chicago who testified about the devastating consequences of the GOP so-called reforms.

Dr. William Troyer, director of External Services for the University of Illinois at Chicago Medical Center, an academic health center which houses the Nation's largest medical school and serves thousands of 7th District residents, gave a bleak view of the future under Republican Medicare changes. To quote Dr. Troyer, ''a gradual weakening and eventual demise'' of UIC Medical Center will

result from the more than $7 billion in cuts to direct and indirect medical education funding proposed by the GOP.

Following Dr. Troyer, Mr. Lacy Thomas, chief financial officer of the Cook County Bureau of Health Services, was equally dismal in his predictions. As a safety net provider for the disadvantaged and underserved in Chicago, the Bureau will be unable to deliver basic care for this population due to the total elimination of assistance to non-U.S. medical graduates—graduates which comprise nearly 40 percent of Chicago Medical Society physicians. In addition, $8 billion in reductions for disproportionate share payments to hospitals serving the indigent, such as Cook County, will only serve to exacerbate the pain felt by these patients.

Yet, I believe the most compelling testimony came from Ms. Irene Nelson, a senior from Chicago, who spoke eloquently regarding her fears of the Republican Medicare cuts. She stated,

> It is obvious to me that the people who are making these decisions are completely out of touch with the daily struggles of senior citizens like me. I wonder if any of these people have ever been forced to decide between eating, heating, and paying that outstanding medical. I doubt it very much! But that is what I, and many other seniors out there, will be forced to do if the Republicans are allowed to cut Medicare.

Mr. Chairman, it is of extreme importance that the American people are provided with this information on the Republican plan to gut Medicare in the dark of night and leave our Nation's seniors holding the bag.

After promising to balance the Federal budget in 7 years, increase military spending, and provide hefty tax cuts to the richest Americans in the country, the GOP is looking for a magic potion to fund these big promises.

Unfortunately, the Republicans seem to think Medicare is going to be the cure-all. In pushing a package of the deepest Medicare cuts in the program's 30-year history, $270 billion, the GOP wants to immediately increase the cost of Medicare to the average senior citizen by nearly $1,000, and force many to give up their own doctors.

This is bad policymaking and bad medicine for senior citizens.

In my State of Illinois, the proposed cuts will eliminate health care coverage outright for more than 58,000 individuals with disabilities over the next 7 years. In addition, 23,000 senior citizens will lose coverage.

Out-of-pocket costs will increase by an average of $3,500 over the next 7 years for each of Illinois' 1.62 million Medicare recipients. Further, Illinois will be denied $6.2 billion in Federal health care assistance over the next 7 years.

I am outraged at the efforts of the GOP to gut this essential program for no reason other than to pay for $245 billion in tax cuts for the rich. It is unnecessary, it is outrageous, it is wrong.

As the saying goes, ''You can fool some people some of the time, but you can't fool all the people all of the time.'' The vast majority of the American people are not fooled Mr. Chairman. Pass these Medicare cuts and you will discover that cold, hard fact pretty darn quick.

I urge my colleagues to vote ''no'' on H.R. 2425. Let's not take the ''care'' out of Medicare.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. SHAW], a respected member of the Committee on Ways and Means, the chairman of the Subcommittee on Human Resources.

(Mr. SHAW asked and was given permission to revise and extend his remarks.)

Mr. SHAW. Mr. Chairman, I rise today in support of the Medicare Preservation Act, and to deliver to this legislative body a message from my senior constituents in south Florida. Stop the fraudulent and abusive practices against the Medicare system. Do something about it, and just stop it.

On September 6, I mailed a letter to all of my constituents who qualify for Medicare which explained the problems that face the Medicare program. In this letter I asked for their input on how to preserve the system. To my surprise, over 90 percent of those who responded said that Congress must stop the fraud and abuse that they feel is widespread. Just listen to what is going on out there.

On September 22, I received a letter from Mrs. Jack Barnett, whose husband at one time was the chief of surgery at his hospital in New Jersey. Today Dr. Barnett is an invalid living with his wife in Hollywood, FL. Mrs. Barnett noticed last year that they were receiving billing statements for feeding tubes which Dr. Barnett never used. The company charging for these services received $2,765, $3,870, and $4,411 from Medicare. Mrs. Barnett asked her husband's nurse if she had ever seen anything like this before, and when the nurse saw the name of the company, she stated that two of her other patients were billed for the same thing by the same company.

Mrs. Audrey Vitolo of Deerfield Beach, FL was charged $600 for a simple blood test. Medicare paid the bill. She told me she felt victimized.

Mr. Ted Murphy of Fort Lauderdale, FL, was charged $10,000 for a simple operation on his eye lid. Even though this was an outpatient procedure, Medicare paid the bill. He told me that he complained to the hospital, but no action was taken.

Mr. Chairman, I want my constituents to know that their message came through loud and clear, and that Congress today is taking serious steps to stop fraud and abuse.

This Medicare bill will make it a Federal offense to engage in fraud, theft, embezzlement, false statement, bribery, graft, and illegal remunerations, including kickbacks. Civil penalties have been doubled and incentives have been added to encourage people to report cases of fraud and abuse.

First, the Secretary of the Department of Health and Human Services will be required to alert beneficiaries of instances of fraud and abuse against the program. A toll-free number will be established to report cases of fraud and abuse. Also, at the request of any person, the Secretary will publish a special fraud alert, which notifies the public of practices that are suspect.

Second, a beneficiary incentive program will be established where individuals who report cases of fraud and abuse can share the amount collected against those who are fined. Just think of the power of this provision, Mr. Chairman. There are currently 37 million Americans in the Medicare program. This means there are 37 million potential private attorney generals to help stop fraudulent and abusive practices. I know this will please many of my constituents, especially the Simons of Hallandale, FL, who wrote to me recently to inform me that they saved Medicare $4,000 by reporting suspect billing practices of their doctor.

Third, under this legislation, direct spending for Medicare-related activities of the inspector general of the Department of Health and Human Services will significantly increase. These activities include: First, prosecuting Medicare-related matters through criminal, civil, and administrative proceeding; second, conducting investigations relating to the Medicare program; third, performing financial and performance audits of programs and operations relating to the Medicare program; fourth, performing inspections and other evaluations relating to the Medicare program; and fifth, conducting provider and consumer education activities regarding Medicare fraud and abuse.

I want to stress to my constituents that this legislation is not a paper tiger. This bill provides serious money to stop fraud and abuse: At least $430 million in 1996; $490 million in 1997; $550 million in 1998; $620 million in 1999; $670 million in the year 2000; $690 million in 2001; and $710 million in 2002. This is a serious financial commitment that the Congressional Budget Office said will save Medicare money.

Finally, this bill establishes a health care anti-fraud task force. This task force will be a coordinated effort by the Department of Justice to prosecute health care fraud offenses.

Mr. Chairman, the Medicare Preservation Act is the toughest, most serious attempt this Congress has ever taken to stop fraud and abuse in the Medicare program. I am proud to have contributed to the effort to address the issue of fraud and abuse, and I know when my constituents learn of their new rights under the Medicare program, they will be proud of this Congress too. I urge my colleagues to vote for this most important legislation. Vote to preserve and strengthen Medicare.

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Mr. GIBBONS. Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio [Mr. SAWYER].

(Mr. SAWYER asked and was given permission to revise and extend his remarks.)

Mr. SAWYER. Mr. Chairman, today, Congress is debating cuts to the Medicare program.

As the post-war generation ages and their parents outlive all previous generations, we

are facing the largest elderly population in our Nation's history and, therefore, the largest Medicare beneficiary population. Our national policies must reflect this changing reality. As we seek ways to balance the Federal budget, we must also continue investing in our Nation's future—including ensuring that both current and future retirees will have the resources they need to survive.

However, the Republican Medicare proposal would cut benefits for current retirees, those who no longer have the opportunity to prepare for their retirement, in order to increase discretionary spending for current working age people. This type of policy perpetuates the generation battle for my pot of money. Instead, we need to work together to find ways to reduce the deficit, ensure the stability of Medicare, and invest in the future.

We also have to learn from our history. As a nation, America cannot afford to return to the bad old days before the Medicare program was created. Medicare has helped secure our Nation's seniors against the threat of poverty and has limited the high costs of emergency and non-insured health care. Medicare has allowed our Nation's elderly to take care of their own health needs, regain self-respect, and, in turn, remain active members of society.

I support efforts that enable us to extend the life of the Medicare program which has been so important to the health of many older Americans. That is why I have supported the Democratic alternative which ensures the solvency of the Medicare trust fund through 2006—the same as the Republican proposal—without making harmful and excessive cuts to the Medicare program.

The American health care system, despite its shortcomings, is the envy of the world. Medicare has opened the door for many Americans to quality health care. The Republican proposal will undermine the graduate medical education program, and hurt urban and rural hospitals which are already struggling to remain open. Finally, the Republican proposal will mean that premiums will double in 7 years, meaning that for the poorest of the elderly, health care will continue to absorb more and more of their living costs.

The Republican Medicare bill is simply bad policy. It pits one generation against another, rich against poor, Democrats against Republicans. The Republican Medicare bill does not invest in our future, nor does it help current retirees.

I urge my colleagues to vote against this bill.

Mr. GIBBONS. Mr. Chairman, I yield such time as he may consume to the gentleman from New Mexico [Mr. PASTOR].

(Mr. PASTOR asked and was given permission to revise and extend his remarks.)

Mr. PASTOR. Mr. Chairman, as we consider this sweeping piece of legislation today, let us at least make an attempt to honestly describe what is being proposed. To begin, we are reducing Medicare payments to hospitals and doctors. Secondly, we are increasing the premiums paid by beneficiaries. And, although we are considering some modest changes in how health services will be provided, the fact that Medicare payments are being cut and premiums are being increased remain the most salient features of the legislation. This is what most alarms me about this proposal.

While the public is being told we need to make these changes in order to save the system, the fact of the matter is that the proposed cuts far exceed the amount needed. It is part A of Medicare which is scheduled to become insolvent by the year 2002 and its $90 billion which is needed to avoid this catastrophe. Yet, the combined cuts in payments to doctors and hospitals surpasses this figure. More startling is the fact the premium increases, which have nothing to do with keeping part A of Medicare solvent, will further reduce Medicare costs. The combined cuts, premium increases, and other changes to the system will reduce Medicare by $270 billion over 7 years. This leaves a large gap of $180 billion.

Even a simple examination of this proposal yields numerous questions. Why are we proposing to wreck havoc in rural America by jeopardizing the delivery of health care there; Why are we proposing to increase premiums for beneficiaries, many of whom will only be able to make these payments through great personal sacrifice; and, why are we moving to undermine public hospitals?

There are only two answers that are readily discernible. One is that excessive Medicare cuts facilitate a cut in taxes further down the road; the other is that these cuts could allow the budget deficit to be reduced by some factor. While I could support both tax and budget reductions, I cannot support such an effort under these circumstances. Why would we want to jeopardize the welfare of our senior citizens to either give more money to wealthier individuals or to reduce a budget deficit? Are there not more equitable approaches we could follow to achieve these goals?

I would propose that, foremost, we consider sacrosanct the welfare of those who have made significant, lifetime contributions to this nation. Whatever approach we use to stimulate investment in this country should not be done on the backs of our senior citizens. Our budget deficit is real. Yet how can we in good conscience engage in this wholesale attack against senior citizens when other, more measured alternatives remain at our disposal? Let us make an honest effort to address our budget deficit problem without strangling our most vulnerable citizens. And, let us consider policies which stimulate economic activity without exacerbating our deficit.

Mr. GIBBONS. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. POSHARD].

(Mr. POSHARD asked and was given permission to revise and extend his remarks.)

Mr. POSHARD. Mr. Chairman, due to the concerns I have regarding the future of our rural health care system and the people who depend on those facilities, I rise in strong opposition to the bill, H.R. 2425.

It is difficult to misread the conclusions contained in the report of the Entitlement Reform Commission, which states that without fundamental change, our entire Federal budget will be consumed by entitlements and interest on the debt by the year 2012. That means none of the tax money sent to Washington will be available for national defense, our transportation system, education, law enforcement, science or space, national parks or any of the other functions of government which operate with discretionary funds. It will all be committed to interest on the debt and entitlement spending.

Doing nothing is not an option. But doing the wrong thing is no better. Today we face a trio of choices concerning the future of Medicare and our prospects for balancing the budget.

The Board of Trustees of the Medicare Hospital Insurance Trust Fund indicate that we have traditionally maintained a 10- to 12-year balance in the fund, and, currently, we are only 6 years from going broke. We are obligated to take action to ensure the solvency of the fund.

By most estimates, we could control the growth of Medicare spending over the next 7 years by about $90 billion and protect the integrity of the fund by extending its balance to 10 years solvency. But that course ignores the fundamental problem that entitlement spending must be further contained if we are going to meet our balanced budget goal.

Our second option, which I have voted for and will continue to support, is to control Medicare growth by $170 billion over the next 7 years. That would secure the trust fund and contribute the necessary cost controls which, when combined with the rest of the coalition budget, would bring us to balance in 7 years. We must do both of those things—preserve Medicare for our seniors, and balance the budget on behalf of future generations of our sons and daughters.

The third option, which is before us today, takes $270 billion out of the Medicare Program. It will stabilize the trust fund and put us on a 7-year path toward a balanced budget. But it also takes $100 billion more out of Medicare than is necessary to achieve financial solvency of the Medicare trust fund and to balance the budget. This additional $100 billion, coming directly from Medicare, will be used to help finance a $245 billion tax cut for some of the wealthiest people in America.

As Cochair of the Rural Health Care Coalition, I have long been concerned with preserving an adequate and affordable health care system for people in rural areas such as the 19th district of Illinois, which I am privileged to represent. The approach being advanced today encourages health maintenance organizations to provide Medicare services, an approach which may work well in urban areas but will never adequately serve the rural people of this country. Why would a health care provider establish a system in a rural area where the monthly payment is approximately $300 when it receives nearly $500 for providing similar services in a more urban area?

This week, the Illinois Hospital and HealthSystems Association wrote me a letter which states:

> IHHA continues to be strongly opposed to the magnitude of Medicare reductions that are contained in this proposal. The House measure calls for approximately $76 billion in Medicare reductions to be achieved by reducing payments to hospitals. Of this total, reductions to Illinois hospitals would be $3.5 billion. For the hospitals in your district, the reductions amount to $119 million.

As the specifics of this proposal became clear, I traveled my district to listen to the people who run the hospitals and clinics and the patients who depend on them to maintain their quality of life. One after another, hospital administrators in my district told me of the hundreds of thousands of dollars they would lose under this plan. Rural hospitals are valuable not only for their vital health care services, but for providing some of the best paying jobs in

our communities. They cannot be allowed to dry up and blow away, leaving people wanting for medical care.

Mr. Chairman, we cannot continue the Medicare System as it presently exists which today stands near bankruptcy. We should and must consider asking seniors who are financially secure to pay more for their share of the Medicare Program. I am on record supporting a bill which would means test Medicare premiums for higher income individuals to make the system more fair.

We cannot simply make the short term fix to sustain the trust fund. It is equally irresponsible to cut the Medicare Program to pay for a tax cut which Republican analysts admit will add $95 billion to the national debt. Both courses of action are wrong.

Let us come together as a deliberative body to secure the trust fund, balance the budget, and put our country in a position to care for its people and compete in the international marketplace in the coming century. We can do better for all generations of Americans, and I stand ready to work with anyone of any party to make better choices than the one before us today.

It is unfortunate that the leadership of both parties will not allow the moderate Democrat proposal to come forward on this floor for a vote. This proposal is the best option available because it accomplishes both a balanced budget and a fiscally sound Medicare trust fund, but does not overreach by downsizing Medicare another $100 billion for fund a tax cut which is unnecessary.

My hope will be that this sensible approach to fiscal responsibility will be allowed next week in the reconciliation bill and that eventually this Congress will achieve the middle ground that is necessary to solve these problems.

Mr. GIBBONS. Mr. Chairman, I yield 30 seconds to the gentleman from Wisconsin [Mr. KLECZKA].

Mr. KLECZAK. Mr. Chairman, last year the Democrats had a proposal to extend the solvency of Medicare by cutting $168 billion in the program. The speaker who just addressed us from Florida indicated to the committee at that time, ''We have here in this bill the seeds of destruction of Medicare. Let's not destroy a health care program in this country that we know works well and that our seniors are depending on it.'' Now he comes to the floor supporting a bill cutting $270 billion.

Mr. Chairman, I guess those seeds have germinated.

Mr. DINGELL. Mr. Chairman, I yield 30 seconds to the distinguished gentleman from Pennsylvania [Mr. KLINK].

Mr. KLINK. Mr. Chairman, we are hearing about this bill cutting waste, fraud, and abuse. It is odd that the GAO, the Department of Justice, and the HHS Office of Inspector General all have very grave concerns about what this bill does to provisions in the Medicare bill that would allow them to do law enforcement. In fact, if my colleagues like waste, fraud, and abuse, which we all agree now account for about 10 percent of all that is spent on Medicare and Medicaid, my colleagues are going to love this bill because it makes the health care waste fraud a growth industry and a new way of life for a lot of Willie Suttons.

Mr. BLILEY. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois [Mr. HYDE], chairman of the Committee on the Judiciary.

(Mr. HYDE asked and was given permission to revise and extend his remarks.)

Mr. HYDE. Mr. Chairman, I rise in strong support of H.R. 2425, the Medicare Preservation Act of 1995.

Mr. Chairman, there is no question that reform of the Medicare Program is imperative if it is to survive. But its mere survival is not the goal of this legislation: What we seek is to preserve Medicare by keeping it solvent while strengthening and improving the coverage and options it provides to this Nation's elderly. We must not squander this opportunity to deal comprehensively with the multitude of issues which bear on the efficient delivery of health care in this country.

As the chairman of the Committee on the Judiciary, I would like to point out some particularly important provisions contained in this bill that fall within our Committee's jurisdiction. Specifically, the bill contains provisions designed to facilitate the operation of the revised Medicare Program—notably, health care liability reform, antitrust relief for provider service networks, and an antitrust exemption for medical self-policing entities. The combined effect of these changes will provide a fertile environment for the delivery of Medicare services in a manner which maximizes consumer choice. Liability reform will generally decrease the cost of providing health care services, and eliminate many of the frivolous lawsuits which are clogging our courts. Antitrust relief for provider service networks, or PSN's, will increase competition for contracts under the Medicare system, thereby increasing choice and decreasing costs. Providing an antitrust exemption to medical self-regulatory entities will encourage physicians and hospitals to police themselves, and will contribute to a reduction in malpractice, fraud, and abuse.

HEALTH CARE LIABILITY REFORM

Our health care system is clearly being burdened by a number of cost-based pressures. One of these costs is the threat of liability suits facing medical practitioners and health care providers and the large dollar amounts they are forced to spend to protect themselves against these legal actions.

The average physician has a 40-percent chance of being sued at some time in his or her career. This increases to 52 percent for surgeons and to 78 percent obstetricians. The estimate is that medical malpractice premiums now total $10 billion annually. The average annual medical premium for a doctor specializing in obstetrics in some urban areas now exceeds $100,000 a year.

Many liability cases brought against doctors are frivolous. In fact, two out of three medical liability claims are closed without any payment to the claimant, but only after large legal and administrative fees have already been incurred.

Further, the increasing insurance premiums for malpractice coverage represent only a part of this problem. The estimates are that the costs of defensive medicine run from $20 to $25 billion a year.

Numerous other entities in addition to doctors and hospitals such as pharmaceutical manufacturers and those that manufacture medical devices or provide blood or tissue services are also impacted by the same liability concerns. Finally, as we move more and more into a managed care system, the scope of third-party liability is also a matter of increasing concern.

There is no question but that our health care system is seriously burdened by both the threat, and the reality, of liability suits facing medical practitioners and health care providers. The Health Care Liability Reform legislation that is included in this bill will solve this serious national problem.

EASING OF ANTITRUST BARRIERS FOR PHYSICIAN SERVICE NETWORKS

Provider service networks—those composed of doctors, hospitals, and other entities who actually deliver health care services—are potentially vigorous competitors for Medicare beneficiaries. The benefits to the Medicare Program of their participation would be lower costs and higher quality of care than in nonprovider sponsored health plans. Costs would be lower because contracting with a PSN instead of an insurer could eliminate a layer of profit and overhead. Quality would be higher because providers, and particularly physicians, would have direct control over medical decision-making. Arguably, physicians and other providers are better qualified than insurers to strike the balance between conserving costs and meeting the needs of the patient.

There are obstacles, however, to the formation of PSN's. One of the most serious is the application of the antitrust laws to such groups in a manner which does not allow the network to engage in joint pricing agreements, regardless of whether its effect on competition is positive rather than negative.

Antitrust law prohibits agreements among competitors that fix prices or allocate markets. Such agreements are per se illegal. Where competitors economically integrate in a joint venture, however, agreements on prices or other terms of competition that are reasonably necessary to accomplish to procompetitive benefits of the integration are not necessarily unlawful. Price setting conduct by these joint ventures should be evaluated under the rule of reason, that is, on the basis of its reasonableness, taking into account all relevant factors affecting competition.

Current Department of Justice-Federal Trade Commission guidelines require that a physician group share substantial financial risk before being considered a joint venture and thus eligible for rule of reason analysis. Their definition of substantial financial risk is too rigid, thereby eliminating from the market PSN's which would provide an expanded set of consumer choices and increase competition in the market for health care services.

The proposed legislation overcomes this barrier by mandating that the conduct of an organization meeting the criteria of a provider service network be judged under the rule of reason. The result will be to permit a case by case determination as to whether the conduct of that PSN would be procompetitive, and thus permissible under the antitrust laws. It is important to understand, however, that this is not an exemption from the antitrust laws. In no event would providers be allowed to set prices or control markets so as to injure competition.

Only an organization meeting specified criteria would qualify for this more liberal, rule of reason consideration. The network must have in place written programs for quality assurance, utilization review, coordination of care, and resolution of patient grievances and complaints. It must contract as a group, and mandate that all providers forming part of the group be accountable for provision of the services for which the organization has contracted.

ANTITRUST EXEMPTION FOR MEDICAL SELF-REGULATORY ENTITIES

Standard setting is a cooperative activity engaged in by the providers of health care services in this country. Those entities have a long history of protecting the public with standards for medical education, professional ethics, and specialty certification. These activities have increasingly been challenged under the antitrust laws in recent years, typically by those who fail to meet the standards. Congress attempted to address this problem with the Health Care Quality Improvement Act of 1986, 42 U.S.C. §11101 et seq., which provided antitrust protection for peer review actions conducted in good faith. While beneficial, this law shifted the debate in antitrust litigation over peer review to whether the participants acted in good faith and has not served to stem the tide of antitrust law suits.

The medical self-regulatory entity exemption included in our legislation would bar antitrust suits against medical self-regulatory entities that develop or enforce medical standards. This would include activities such as accreditation of health care providers and medical education programs and institutions, technology assessment and risk management, development and implementation of practice guidelines and parameters, and official peer review proceedings. The exemption would cover suits against individual members of the groups which undertake these activities as well as the organizational entity on whose behalf they act.

The scope of this antitrust protection is not absolute, however, Activities by a medical self-regulatory body that are conducted for purposes of financial gain or which would interfere with the provision of health care services of a provider who is not a member of the profession that sets the standard would not be covered or exempted by this legislation.

Mr. Chairman, H.R. 2425 represents a historic step forward in improving the delivery of health care in America. It deserves the support of every Member of this body.

Mr. DINGELL. Mr. Chairman, I yield 30 seconds to the gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. Mr. Chairman, I say to the gentleman, great statement. The gentleman's district loses in hospital fees $260 million. The legal news points out doctors mop up on medical malpractice reform, and you have not had 1 minute's hearing on medical malpractice reform. The Judiciary Committee was cut out.

Mr. DINGELL. Mr. Chairman, I yield 1 minute to the distinguished gentleman from New York [Mr. TOWNS].

Mr. TOWNS. Mr. Chairman, make no mistake about it. What we are doing here today is applying a $270 billion meat-ax approach to a $90 billion problem merely to pay for a $245 billion tax cut for the wealthy.

Let me say that I know my colleagues want to help their rich friends, but let me say to the Republicans, Please find another way to help your friends. Do not do it on the backs of senior citizens, those that have worked all their lives to come to this point now and to be told we are going to cut, cut, cut, cut.

Let me just talk about two lies here very quickly. No. 1 is that we are going to go after fraud and abuse. My colleagues are not going after fraud and abuse; they are cutting half of the people that is supposed to go find fraud and abuse. How are they going after it if they eliminate half of the people that are supposed to look for it? And the last one is choice. The biggest lie of all is choice. If they do not have the resources, they have no choice.

Mr. GIBBONS. Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. RANGEL].

(Mr. RANGEL asked and was given permission to revise and extend his remarks.)

Mr. RANGEL. Like so many of my friends here, Mr. Chairman, I am sick and tired of these Republicans being beat up on really. Most of the chairmen and certainly the committee people have nothing to do with this. Someone told them that they had to find a $245 billion tax cut. Do my colleagues think these people, kind and gentle as they are, will be going after housing, and job training, and lunch programs? No, it is not their fault.

And let us get another thing straight about this $270 billion cut. It is a savings; do my colleagues not get it? What it means is that, as we find U.S. population growing and people getting older, and becoming more ill, and having to see more doctors and more hospitals, we are going to give them some more money. So who the heck is saying that they are not giving more? What they are not doing is taking care of those older people the way they should be taken care of because they have decided to legislate the rate of inflation.

Now another thing which we have to understand is that we want to save money by taking these old folks off of this fee-for-service, seeing their own doctor business. Cannot my colleagues not understand that? We have these private organizations. They meet every month. Most of them are Republican, but what has that got to do with it? When they are there, they do not have meetings asking how many lives did we save. They want to know many bucks did we make. Now the quicker we get people off of these expensive doctors, because now it is costing us $3 billion more, these doctors are a lot of money, as my colleagues know; ask them, they can tell us how much they want; and get them on these programs where we can ration the care, then it is not really cutting services. It is not really cutting money, it is cutting the services, and so do not call that a cut.

Now some may say, Well, how are these old people going to shop around, feeble as they are in wheelchairs, and find one of these for-profit organizations to give them care? My Democratic friends, I want them to know they can stay in the program they are in. They can stay there, and it is discriminatory if one of these for-profits do not let them in.

Now there is a problem. There is nothing in the law that says these for-profits have to go in communities where there is sick people. There is nothing in here that says they have to go to the rural areas, there is nothing in here that says they have to go to the inner city, and why should they? They are in the business of making money. There are sick people in these communities, and we have to avoid it, but the meanest thing of all, my Republican friends, and I wish they could help me to explain this, is that for years we have known when one works and they have no insurance, when someone is poor and they have no coverage, they go to the public hospitals. I ask, why did you hit them so hard? Mr. Chairman, that is where people have no place else to go.

Mr. ARCHER. Mr. Chairman, I yield 3 minutes to the gentlewoman from Connecticut [Mrs. JOHNSON], chairman of the Subcommittee on Oversight of the Committee on Ways and Means who has given so much of her time and her knowledge in developing this plan.

Mrs. JOHNSON of Connecticut. Mr. Chairman, the goal of this bill is very simple. It is to preserve Medicare for current retirees and for future retirees. Why do we want to do this? Because the twin pillars of retirement security for American seniors are Social Security and Medicare, and believe me, when the Trustees of Medicare say next year they are going to pay out more money than they are going to take in and in 5 years after that they are going to use up all their savings and be broke, I think that is a crisis. I think that is a problem. I think delaying addressing that problem is going to make it harder, not easier.

So I am proud to support a bill that says simply we have a crisis, that to preserve Medicare we have to fix it, and we can do it. It is actually not very hard. It means reducing the rate of growth in Medicare from 10 percent down to 6.5 percent.

Why do we think we can do this? Because the private sector has already reduced the rate of health care cost growth to 3 percent. We can preserve Medicare by reducing its growth rate to twice that of the private sector. We

can do that, and we can do that in a way that opens up new opportunities for seniors because Medicare is an old-fashioned program that does not provide prescription drugs nor cover prevention, all of which can save money.

Right in Boston today we have two plans open to Medicare seniors offering all Medicare services, prescription drugs, and a number of other services, for zero premium. That is a zero-premium choice.

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That means for the same dollar we are investing into Medicare, these folks in Boston, our senior citizens, are going to get choices that buy better than Medicare benefits. That is what this is all about. It is about controlling costs in Medicare by opening up to seniors the kinds of plans that in the private sector have preserved benefits and reduce the rate of medical inflation in this country.

And how do we get the $270 billion? This is how we get it. We reduce the rate of growth in hospital reimbursement rates and doctor reimbursement rates so they go up 6.5 percent instead of 10 percent. You Democrats keep jumping up and saying ''We are cutting funding to hospitals''. Mr. Chairman, I ask Members to ask their kids if they can pay more than the 19 percent of payroll that they are now paying for Social Security and Medicare so we can let those hospitals grow at 10 percent instead of 6.5 percent. Ask them that. They will tell us they cannot afford it.

Yes, we can guarantee Medicare to our seniors by slowing the rate of growth in reimbursements to hospitals and physicians, and by getting tough on fraud and abuse. Incidentally, if the Members on that side of the aisle do not like our fraud and abuse provisions, why didn't they propose tougher laws when they were in the majority for 40 years?

We get $2 billion more in revenues from our fraud and abuse provisions because we are tougher than we have been in the past. So, the $270 billion comes from slowing the rate of growth in reimbursements to doctors and hospitals, cracking down on fraud and abuse and, yes, requiring seniors to continue paying premiums to cover 31 percent, just what they are paying today, and, though the Members on that side never mentioned it, in our plan requiring rich seniors to pay more. We are proud of our plan. It preserves Medicare and protects seniors.

Mr. GIBBONS. Mr. Chairman, I yield 1 minute and 30 seconds to the gentlewoman from Florida [Mrs. MEEK].

(Mrs. MEEK of Florida asked and was given permission to revise and extend her remarks.)

Mrs. MEEK of Florida. Mr. Chairman, who do the Republicans think they are, the Oracle of Adelphi? They have just put a bill together where they arbitrarily set interest? They look forward to the year 2002, and they have said how much money people are going to make. They have set the inflationary rate. Who are they, the Oracle? They cannot do that.

What they have done here by setting those unofficial rates, they have cheated the senior citizens of this country. My Medicare card is shivering in my pocket when I sit here and listen to some of this, because what they are doing is fooling the senior citizens. They say to me, ''Don't scare them.'' I need to scare them and say, ''Look out, it is coming.'' I ask the Members, would they know a hurricane is coming and not do anything about it?

I am saying, and all over this country I will continue to say that they are not telling the full truth to these senior citizens. Mr. Chairman, the honorable gentleman from Pennsylvania [Mr. GREENWOOD] this morning said, and also my sister here who is a health care expert, bringing down the inflation rate. Who told them they can do that? They do not know what is going to happen. I rebut that stand very much, because they cannot do that.

I can tell Members how many of them are going to be hurting when they get back home. People back home do not know they are up here pontificating. They do not know that. But when they get back there and they look at how their hospitals are going broke, they are going to come to them and say, ''What gives here? How can you be the Oracle at Delphi?''

Mr. UPTON. Mr. Chairman, I yield 2 minutes to the gentleman from Oklahoma [Mr. COBURN].

(Mr. COBURN asked and was given permission to revise and extend his remarks.)

Mr. COBURN. Mr. Chairman, many of the people of this country sent new representatives to this Congress, representatives that have a basis of experience.

As a practicing physician who continues to care for Medicare patients and Medicaid patients, whose practice was made of a majority of Medicaid and Medicare patients, I have truthfully and honestly looked at this bill. This bill is going to save Medicare. It is not perfect, but it does the things that we need to do to preserve this program. To do otherwise, to put a band-aid on it, is wrong.

I want to share with the Members for a moment what happened and what we have done by changing some of the system. Not long ago, in the late 1980s, a program called the Clinical Laboratory Improvement Act was introduced. The effect of the act is that you can have a pregnancy test at home using technology today that the Federal Government says your doctor is not capable of using unless approved by the Government.

As a result of that, what we see is that 30 percent of the doctors, and mainly in rural America, are still testing, 54 percent of the doctors stopped some form of testing because of this law. Seven percent dropped tests for other reasons, and 9 percent of the rural doctors in this country quit testing completely.

The fact is we had a well-intentioned plan. There were problems with pap smears in this country, but there were not that kind of problems. Now what we do is we have patients paying two and three times for the same testing, waiting 2 and 3 days to get the same results back. CLIA was well-intended. It has now been changed. We will have quality because we are going to trust our caregivers to give us quality.

Mr. GIBBONS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would ask the gentleman, how many 65-year-old older women in his district were pregnant last year? How many 65-year-old women, older women, were pregnant in his district last year?

Mr. DINGELL. Mr. Chairman, I yield 30 seconds to the distinguished gentleman from Pennsylvania [Mr. KLINK].

Mr. KLINK. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I just wanted to say that under the Gingrich Medicare plan, medical providers and hospitals around the district of the gentlewomen from Connecticut [Mrs. JOHNSON], and she spoke just a few moments ago, are going to lose $129 million over the next 7 years. That is what I call choice under the Gingrich Medicare programs. The doctors and hospitals are going to lose $152 million. That is choice.

Janis Joplin, if she were alive, would say freedom is just another word for being forced to choose between your doctor, who will leave the traditional Medicare plan, and whatever else you are going to do.

Mr. DINGELL. Mr. Chairman, I yield 1½ minutes to the distinguished gentleman from Maryland [Mr. HOYER].

Mr. GIBBONS. Mr. Chairman, I yield 30 seconds to the gentleman from Maryland.

The CHAIRMAN. The gentleman from Maryland [Mr. HOYER] is recognized for 2 minutes.

(Mr. HOYER asked and was given permission to revise and extend his remarks.)

Mr. HOYER. Mr. Chairman, we had the opportunity to see a tape from a consultant to a Republican meeting. The consultant said ''Use soothing words for your radical change. Tell them you are saving Medicare. Tell them you are giving them choices. Express moderation in your radicalism and swear that the $270 billion cut in Medicare has nothing to do with the $245 billion cut in taxes,'' and hope that the public is lulled into apathy.

So we hear on this floor talk by our Republican colleagues of preserving and reforming a health care system that 93 percent of them opposed in 1965. Beware, the wolf in sheep's clothing. Beware those who want to save that which they eschew. Beware those who want to come from the majority party in Washington and help you.

Mr. Chairman, if we pass this bill today, before too long Medicare for

millions and millions of Americans will become Medigone. Oppose this Republican medical killing proposal.

Mr. BLIILEY. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. BILBRAY].

Mr. BILBRAY. Mr. Chairman, not too long ago I got a call from a senior citizen in my county about the fact that she was billed for two mammograms. When she confronted the billing agent on it, they assured her that she was wrong and she was just a senior, just a senior and did not understand. The mistake is the seniors understand. This women pointed out that it was physically impossible for her to have two mammograms, because she had had surgery 2 years before, and when this billing agent found out about their mistake, the comment was ''Well, it is not your money, ma'am. Why are you worried about it?''

For too long, people have been saying to the seniors ''It is not your money, do not worry about it.'' The seniors care. In this bill, we are going to fight fraud by creating a neighborhood watch strategy for fighting Medicare fraud. We are going to allow the seniors to participate, not only in choosing their program for their health care, but also participate in fighting fraud.

Mr. Chairman, I strongly support this concept, because I think if we really want to be serious about fighting fraud, then have the guts to allow the seniors to participate in these programs and approve this bill.

Mr. Chairman, I rise in opposition to the Medicare package before us today.

The Republicans have proposed cutting $270 billion out of the Medicare system.

They did not choose $270 billion because it is needed to save the trust fund, or because there is $270 billion worth of waste, fraud, and abuse in the system, or because cutting $270 billion will improve seniors' health.

They chose $270 billion because they have a huge fiscal hole to fill—a hole created by an unnecessary and irresponsible tax cut for the wealthy.

The Republicans have committed to balancing the budget, increasing spending on defense, and cutting taxes.

If revenues are going down by $245 billion, and you're going to balance the budget, you've got to raid the bank somewhere else.

That somewhere else is Medicare.

The Republican plan is not driven by a desire to save Medicare.

Ninety-three percent of Republicans voted against the Medicare Program at its creation.

Ninety-nine percent of House Republicans voted to cut more than $280 billion out of the program in 1995.

This Republican plan is a stake in the heart of the medical insurance program 37 million seniors from all walks of life rely on for their health security.

The Republican plan will increase charges to seniors with an average income of $13,000 per year so that people with incomes of $350,000 per year can get a $20,000 dollar tax cut.

I don't think that's fair, and I don't believe it's right.

The Republican plan will undermine Medicare in other ways as well.

Medicare-plus Programs will be allowed to cherry-pick low risk seniors, leaving traditional Medicare subject to the higher costs of adverse selection.

The plan creates incentives for doctors and hospitals to leave traditional Medicare for Medicare-plus options that permit them to charge seniors higher fees—creating the probability that seniors who cannot afford higher Medicare-plus charges will be unable to find doctors and hospitals willing to treat them.

And, the plan actually weakened sanctions against waste, fraud and abuse.

I believe that we need to take steps to fix what's broken with Medicare.

We must crack down on the waste, fraud, and abuse.

I know that seniors are willing to bear their fair share of the costs of balancing the Federal budget for our children and grandchildren.

But this debate is not about fixing what's wrong.

It's not about changing the parts of Medicare that don't make sense.

It's about charging seniors more for health care.

It's about giving seniors less for their Medicare dollars.

And it's about filling the tax cut hole.

I urge my colleagues to vote ''no'' on the Republican Medicare plan.

PARLIAMENTARY INQUIRY

Mr. THOMAS. Mr. Chairman, I would ask the Chair, what are the rules in terms of sloganeering, buttons worn on the floor when participating in debate?

The CHAIRMAN. The Chair has already stated that wearing badges on the floor while participating in debate is against the rules of the House.

Mr. DINGELL. Mr. Chairman, I will take it off, and I will be delighted to give it to the gentleman from California. It will benefit him highly.

Mr. Chairman, I yield 15 seconds to the distinguished gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I just wanted to point out that under the Gingrich Medicare plan, the hospitals in and around the district of the gentleman from California, [Mr. BILBRAY] will lose $345 million over the next 7 years in order to pay for a tax cut for the rich.

Mr. DINGELL. Mr. Chairman, I yield such time as she may consume to the gentlewoman from California [Ms. LOFGREN].

(Ms. LOFGREN asked and was given permission to revise and extend her remarks.)

Ms. LOFGREN. Mr. Chairman, I oppose the bill.

Mr. Chairman, I rise today on the behalf of the thousands of senior citizens, parents, children, women, hospitals, doctors, nurses, health-care providers and workers who live in my district and have written to me, talked to me and pleaded with Congress to stop these ill-conceived cuts to Medicare.

Thirty years ago the Congress made a promise to the American people. That promise was a bold commitment to entitle older Americans, poor children, families, and the disabled to health coverage through the Medicaid and Medicare Programs. Today, our new Republican leaders are turning their backs on that promise.

Why? The facts are that they cut Medicare so deep to pay for their tax breaks. American seniors will be forced to pay more out of their pockets, will have less choice in selecting their own doctor and will receive a lower quality of service, so that the Republicans can use savings for a tax cut.

None of the $270 billion that the Republicans are cutting out of the Medicare Program will go back into the Medicare trust fund—not one cent. It will all go back into the general Treasury. The Republican lockbox is a gimmick. It does not change the fact that the cuts are there to be counted in determining whether the budget is balanced and you can't give those tax breaks, and balance the budget—not without cuts. Did the Republicans cut defense to pay for their tax break? No, they cut Medicare and Medicaid.

The Medicare trustees say that the proposed cuts are more than three times greater than the $89 billion recommended to keep the Medicare trust fund solvent. I doesn't take a Ph.D. in mathematics to figure out that the $270 billion in Medicare cuts will cover the cost of the $245 billion tax break.

When I came to Congress in January as a freshman Member of Congress, I expected Congress to take care in passing laws. Not in this Congress. The Medicare cuts that are before the House today got 1 day of hearings—1 day. And, the committee members didn't even have the real bill in front of them before the hearing started. Today we have 1 day of debate, with no amendments allowed, on the basic health care program relied on by millions of Americans. We spent all of yesterday on the floor of the House talking about fish—seems to me we could have waited to deal with fish and used at least part of that time to deliberate on the fate of American's seniors.

The impact on the State of California will be large. California will lose $27.5 billion in Medicare funding over 7 years. California will lose $816 million next year alone and the losses will only increase as each year passes. The combined potential loss in Federal health care spending in California over 7 years will be at least $44.1 billion. In 1996 California will lose $1.5 billion in Federal health care spending and the loss per year will increase every year after 1996 reaching a whopping loss of $12.1 billion in 2002. To put this in perspective, the State of California's entire budget for this fiscal year was $42 billion. The personal cost for Seniors in my State will be high. They can expect their premiums to double by the year 2002. Let me repeat that: California seniors will pay double what they are paying now in just 6 short years. And Medicare spending per beneficiary will be cut by $1,700 by the year 2002.

In my district in Santa Clara County, CA the effects of these cuts will be profound. By the year 2002, Santa Clara County's Medicare

loss will be $1.2 billion. Next year alone, Santa Clara will loss $33.4 million in Federal Medicare money. I was a Santa Clara County supervisor for 14 years and I can tell you from experience the ramifications of these cuts will be far-reaching. Counties and hospitals will be forced to thin the health care soup. Costs will be shifted and care will jeopardized. Patients in other insurance programs will feel it—their costs are likely to go up or coverage down.

I have received letters from both private and public hospitals in my district that tell me they do not know how they will be able to cover the Medicare losses. Public hospitals form the backbone of the safety net in most counties. They provide substantial amounts of care to low-income populations and the uninsured. They rely heavily on Medicaid and Medicare to pay for that care. These hospitals also provide wide range of regional and community services that are often not otherwise available, such as trauma care, children's specialty services, spinal cord injury rehabilitation and burn care. Medicaid and Medicare ensure that these hospitals remain financially viable to provide these much needed services. In California the number of people who rely on public hospitals is growing. And, growing along with it at an even more alarming rate is the number of uninsured people.

While the financial side of these cuts is important, the human question of serving people in need is paramount. On behalf of all of those people who live in the 16th district of California who have taken the time to write, to call and to speak up against these cuts, I ask my colleagues here in Congress, not to turn your back on this American promise. Don't turn your back on America's seniors and uninsured. It isn't too late to say: "this goes too far."

Mr. DINGELL. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Virginia [Mr. SISISKY].

(Mr. SISISKY asked and was given permission to revise and extend his remarks.)

Mr. SISISKY. Mr. Chairman, I have just completed, 7 weeks ago, an operation for rectal cancer. I was able to afford the prescreening of that, even though I am on Medicare, but I found out today that it is not even included in this bill. How can we be uncompassionate for people who cannot afford to get these examinations? It just seems to me that that is one of the things that should be included. Mr. Chairman, I do not need 30 seconds more to say that I do not believe in attacking, and doing this from the Democrats or Republicans, but just from utter compassion for people, I promise the Members, to get that examination, they do not have to worry about fraud and abuse then. Nobody will ask and beg for that examination, I promise that. But for goodness sakes, care about people who do need that examination.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Illinois [Mr. CRANE], chairman of the Subcommittee on Trade of the the Committee on Ways and Means.

Mr. CRANE. Mr. Chairman, there was an interesting cartoon in yesterday's newspaper that perhaps not everybody in our listening or viewing audience saw. It had this patient lying in bed in a hospital on a life support system, and at the foot of the bed he was identified as Medicare, and there were two Republican elephants there that were dressed in doctor's attire and they said, "He needs immediate surgery to survive," and the nurse was behind the two elephants and she was standing in front of the Jackass and a man who occupies the other end of Pennsylvania Avenue, and said "No, no, the family insists, no surgery. They believe in faith healing." I think it pretty well describes so much of the rhetoric that has been going on here in this debate. We got from the administration's trustees the death sentence. They handed down the death sentence on the fate of Medicare.

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It required some kind of immediate attention. Now, to be sure, we could have enacted blood transfusions out of my children and my grandchildren by tripling their taxes as a way of addressing this problem. But there are more efficient ways and ways that employ certain options that have been prevalent in the private sector all along, and that is guaranteeing people more choice and more control over their own medical coverage.

The fact of the matter is I am confident that the Republican approach can address this problem and simultaneously hold those escalating costs on an annual basis to just a little more than 2 percent than the escalating costs in the private sector. That is not too much to expect.

The fact of the matter is this is long overdue legislation. It is a shame we waited until the 11th hour to finally take a look at it, but I support H.R. 2425. I urge all of you too.

Mr. GIBBONS. Mr. Chairman, I yield such time as he may consume to the gentleman from Massachusetts [Mr. OLVER].

(Mr. OLVER asked and was given permission to revise and extend his remarks.)

Mr. OLVER. Mr. Chairman, I rise in opposition to this legislation.,

Mr. Chairman, today the Republican Party takes on the onus for dismantling Medicare, the health care guarantee within Social Security.

And you can bet the Republican Party has its sights on dismantling Social Security as well.

And to what end? To create a comprehensive health care system which 80 percent of Americans want? No.

To serve extremists in the Republican Party.

To serve the insurance companies and the American Medical Association.

The Republican Party in cutting $270 billion from health care for American retirees to give $245 billion in tax cuts.

More than half of the tax cut goes to fat cats already making over $100,000 per year—while 75 percent of the people taking Medicare cuts to pay for that tax cut live on less than $20,000 per year.

The Republican Party is taking health care dollars from low- and middle-income retired Americans to give billions to insurance companies and the already wealthy.

You can bet Americans will remember next November.

Mr. GIBBONS. Mr. Chairman, I yield such time as he may consume to the gentleman from North Carolina [Mr. WATT].

(Mr. WATT of North Carolina asked and was given permission to revise and extend his remarks.)

Mr. WATT of North Carolina. Mr. Chairman, I rise in strong opposition to the scam on the senior citizens of America.

Mr. GIBBONS. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. DIXON].

(Mr. DIXON asked and was given permission to revise and extend his remarks.)

Mr. DIXON. Mr. Chairman, I rise in opposition to this bill.

Mr. Chairman, I rise today in strong opposition to the Medicare Preservation Act of 1995 (H.R. 2425), a bill which cuts $270 billion from the Medicare Program over the next 7 years. This bill would make these cuts by substantially increasing out-of-pocket costs for beneficiaries and reducing the payments to health care providers, which has serious implications for the quality of care our seniors deserve.

Under this bill, beneficiaries face a retirement plagued by higher health costs. The bill permanently increases the beneficiary's portion of the Medicare part B premium to 31.5 percent, resulting in a $48 billion increase in costs over 7 years.

Hospitals and other health care institutions, already facing severe budget constraints, would face a $70 billion cut in Medicare payments. Roughly half would come from a reduction in the inflation adjustment received by hospitals. Skilled nursing facilities would find themselves $10 billion poorer. Hospitals which treat a disproportionate share of low-income beneficiaries get their funding cut twice. One cut will come from the inflation adjustment and another cut will come from a reduction in funds from the disproportionate share program [DSH] by $9 billion.

Health care providers participating in traditional Medicare would face an extra hit from the so-called failsafe provision. This provision would require the Secretary of Health and Human Services to further reduce payments to doctors and hospitals if Medicare spending exceeds the targets for a given year.

These reductions would apply only to traditional Medicare and are estimated to result in an additional $31 billion in cuts. The failsafe provisions clearly demonstrate the bias against the traditional Medicare fee-for-service system, on which the vast majority of beneficiaries now rely.

Until very recently, doctors would have faced nearly $55 billion in cuts. However, the Republicans made a last minute change in calculating payments to physicians to secure the endorsement of their bill from the American Medical Association [AMA].

Another enticement for doctors is the bill's arbitrary limits on the recovery of damages in malpractice suits. Such a provision has nothing to do with Medicare and does not belong in the measure. It is shameful that the GOP would commingle the cost of delivering health care with tort reform.

We know that Medicare's insolvency must be addressed. We also know that it is not necessary to do so by cutting $270 billion from the program. Treasury Secretary Robert Rubin—one of the Medicare trustees—wrote to Speaker GINGRICH to let him know that $270 billion in cuts are not necessary to keep the program solvent. Also, the Republicans have admitted that their bill will only keep Medicare solvent until 2006. That is the same length of time that the Democratic alternative, which cuts only $90 billion, would keep Medicare solvent.

Why are the Republicans recommending these Medicare cuts? Because they need to find $245 billion to pay for their tax cut proposal—most of which benefits corporations and higher income Americans.

The American people want a different approach—one which ensures Medicare's solvency but without jeopardizing the quality of care that Medicare beneficiaries currently receive. The alternative offered by Democrats on the Ways and Means Committee would make smaller reductions in the Medicare Program without raising premiums. However, the alternative was rejected by the Ways and Means Committee Republicans.

It is ironic that the Republicans named their bill the Medicare Preservation Act. It should be renamed the Medicare Devastation Act. This bill jeopardizes the health care of beneficiaries and places a heavy burden on health care providers. We should not be making deep cuts in Medicare to pay for tax cuts. America's seniors deserve better.

Vote ''no'' on the Medicare Preservation Act.

Mr. GIBBONS. Mr. Chairman, I yield 1 minute to the gentleman from Tennessee [Mr. FORD].

Mr. FORD. Mr. Chairman, under the Gingrich Medicare plan, the hospitals in and around the district of the gentleman from Illinois [Mr. CRANE], who spoke earlier, will lose about $67 million over the next 7 years.

Mr. Chairman, I have been receiving calls all afternoon in my office with this debate being heard throughout America. People are saying: ''Please, do not vote for the Gingrich Medicare plan.''

I am not going to vote for that plan today. I want my constituents to know that.

In my district alone, I say to the gentleman from Texas [Mr. ARCHER], hospitals in my area will lose $457 million over the next 7 years. There are clear winners and losers in this Gingrich Medicare plan. The losers are the elderly and the hospitals throughout America.

Those winners are the health insurance industry, and naturally we know those who will receive the huge tax breaks.

There will be a substitute that will come soon to this bill that Democrats will being solvency to the Medicare plan only with $90 billion, and not the $270 billion under the Gingrich plan.

Mr. BLILEY. Mr. Chairman, could I inquire how much time remains?

The CHAIRMAN. The gentleman from Texas has 8 minutes remaining, the gentleman from Florida has 8½ minutes remaining, the gentleman from Virginia [Mr. BLILEY] has 10 minutes remaining, and the gentleman from Michigan [Mr. DINGELL] has 9¼ minutes remaining.

Mr. BLILEY. Mr. Chairman, do I have the right to close for the Committee on Commerce?

The CHAIRMAN. The gentleman from Virginia is reserving the right to close.

Mr. BLILEY. Mr. Chairman, I yield 2 minutes to the gentleman from Connecticut [Mr. FRANKS].

Mr. FRANKS of Connecticut. Mr. Chairman, in the 103d Congress, all parties involved in the delivery of health care services as well as those receiving care recognized that change was in order. However, the public said ''no'' to the radical government takeover Clinton plan and ''yes'' to a market-driven system.

Now in the 104th Congress, we are attempting to address the unacceptable double-digit growth of Medicare which would lead to its bankruptcy. Our plan provides health care security for today and tomorrow's seniors. It does so without increasing the tax burden on families and without increasing copays or deductibles for seniors.

Like in the general population, Mr. Chairman, Medicare-plus will allow seniors to choose from a variety of plans. If seniors would like to stay in the traditional Medicare plan, they can. Our plan will help end waste, fraud, and abuse in our current system. It offers regulatory relief to help curb the growth of health care costs.

We also protect the quality of health care for the future by protecting and strengthening our teaching hospitals. It should be noted, Mr. Chairman, that better managing the services would not mean lesser services. It would mean doing things better and smarter.

We have incentives in our plan to encourage all involved in Medicare to play a role in better managing each dollar spent on health care.

The Democrats would like to give the public the impression that they have the market cornered on compassion. Oh, how wrong. Oh, how wrong.

A variety of plans will give us competition and will thus increase the likelihood of a more efficient system.

Mr. DINGELL. Mr. Chairman, I yield myself 15 seconds.

I note for the record that, under the Gingrich Medicare plan, hospitals in and around the district of my good friend, the gentleman from Connecticut [Mr. FRANKS], in Waterbury, CT, will lose $211.8 million over the next 7 years so the rich can get a tax cut.

Mr. Chairman, I yield 1 minute to the distinguished gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Chairman, I just came to say we now know what this is all about. The Speaker said the crown jewel is going to be the tax cut, the tax cut for the parade of millionaires we have seen going in and out of his office recouping what they have invested in GOPAC and everything else.

As I hear people from this side of the aisle coming down and saying, ''Trust us, we are so compassionate,'' the reason we do not trust you is that you were not for this program to begin with. You waved the trustees' report around as to why you had to cut this, not the tax cut, but the trustees. But you will not wave your 961-page bill past the trustees to see if they fixed it. No; no; no.

We fix it as much as you fix it. We do what they do about fixing. You go on to raid it. You do not really like that. You do not really like people pointing that out.

You also turn on the fraud faucet, as the Attorney General said. That is why we do not trust you, and that is why this is a tragic day because you are unraveling social Medicare as we know it and Medicaid as we know it, and you know it.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentleman from Nebraska [Mr. CHRISTENSEN], another respected member of the Committee on Ways and Means.

Mr. CHRISTENSEN. Mr. Chairman, 30 years ago Medicare, when it was started, was estimated to cost, in 1995, $9 billion. The people who were operating the Government back then miscalculated a little bit. Today it costs $178 billion, a $169 billion miscalculation, a miscalculation that has caused an incredible stress upon the system, a miscalculation that the Medicare trustees said would bankrupt the system in the year 2002, and that we were given the choice of whether we should let it go bankrupt or whether we should try to save it.

Since working on this plan for the last 8 months, I am proud to say this plan is going to offer a lot of choices. It is going to offer choices to my 84-year-old grandmother. It is going to offer choices to my soon-to-be 65-year-old father. It is going to give him the opportunity, as he lives in rural America, to get into a medical savings account. It is also going to give him the opportunity and choice to get into a provider-sponsored network.

He thinks he can manage his money better than the Federal Government can.

I am proud this plan is going to save Medicare for whose who want to remain in the current Medicare system and offer choices for those who want to get into new Medicare, Medicare-plus. This is a good plan.

I urge strong support for passage of the Medicare Preservation Act.

Mr. GIBBONS. Mr. Chairman, I yield 30 seconds to the gentleman from New York [Mr. ENGEL].

Mr. ENGEL. Mr. Chairman, this sign says it all. Shame on NEWT GINGRICH and the Republicans for what they are doing to senior citizens in this country. Shame on them for what they are doing to people who have worked hard all of their lives.

At least our Republican colleagues have been somewhat consistent. This

bill came out of the Committee on Ways and Means. They certainly found many ways to be mean to senior citizens in this country.

Our colleagues talk about choice, our Republican colleagues. The only choice senior citizens are going to have under this legislation is whether or not to buy dog food to eat because that is all they will be able to afford after they get through paying for health care under this bill.

Shame, this bill ought to be rejected.

Mr. BLILEY. Mr. Chairman, I yield 1½ minutes to the gentleman from Texas [Mr. FIELDS].

(Mr. FIELDS of Texas asked and was given permission to revise and extend his remarks.)

Mr. FIELDS of Texas. Mr. Chairman, facts should be important in this debate.

Mr. Chairman, when most Americans who are in managed care plans go to the doctor, it costs $10. However, Medicare recipients, such as my mother and grandmother, pay the first $100 and then 20 percent of the remainder. When most Americans go to the hospital, they pay $35 a day. Seniors, on the other hand, pay a $716 deductible for the first 60 days and then $179 for every day afterwards. That is because while most Americans have a choice, seniors, choices are made for them by Washington bureaucrats.

So after months of hearings and careful study, we will vote today on legislation that will not only ensure the long-term fiscal health of Medicare, but also create choice by providing options for senior citizens. This bill moves the decision-making down the Potomac River, outside of the beltway and into the hands of people like my mother and my grandmother.

The Medicare Preservation Act of 1995 offers seniors the opportunity to continue participating in the existing ''fee for service'' system, if they want to. However, it will give them much greater choice. Seniors will have the chance to opt into HMO's or to buy private health insurance policies.

They will be able to select the medical system that best suits their needs; that saves them money; that provides the most benefits for the lowest cost.

This bill creates tax-free ''medisave'' accounts that provide seniors incentives to shop around for the most cost-effective care and to reward seniors who maintain healthy habits. This bill will also help retirees maintain previously held employer-provided health coverage.

Finally, according to one study, if Medicare is not reformed soon, the average increase in cost per household, in my district alone, initially will be $1,541. Therefore, I urge my colleagues to pass H.R. 2425 because under this bill, seniors, like my mother and grandmother, are winners.

Mr. DINGELL. Mr. Chairman, I yield 1 minute to the distinguished gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Chairman, Members of the House, it is a good thing my colleague, the gentleman from Texas [Mr. FIELDS], has hospitals that charge $35 a day, because they are going to lose $102 million, and so that is about all they are going to be able to provide is $35 worth of service.

Mr. Chairman, and Members of the House, today the Gingrich Republicans snatched from the elderly of this country the finest health care system in the world, the most comprehensive health care system in the world, that gives the finest quality of health care in the world, and they do so not to strengthen that system, not to preserve that system, they do so simply to snatch over $200 million in excess cuts to provide a tax cut to the wealthiest.

This day is the day that a system that has been built up to provide security and protection for America's elderly, for the people who built this Nation and fought its wars, this is the day we start to shred that system, and in a matter of years it will not be whether they force you out of the system, there will be no system that people have come to expect in this country.

Mr. GIBBONS. Mr. Chairman, I yield 30 seconds to the gentleman from New Jersey [Mr. MENENDEZ].

(Mr. MENENDEZ asked and was given permission to revise and extend his remarks.)

Mr. MENENDEZ. Mr. Chairman, I hope my New Jersey Republican colleagues will remember that not only will we be hurting New Jersey senior citizens who will pay $1,000 for the privilege of getting less but we will lose $14 billion, $7 billion from Medicare, $7 billion from Medicaid. That is not right. It is wrong. It is not necessary, and there is not one New Jersey Representative who can stand on this floor and in good conscience vote for this package. This is not the Medicare Preservation Act. It is the Medicare Destruction Act, and New Jersey is one of the prime targets.

Mr. Chairman, I rise today in strong opposition to devastating Medicare. Common sense dictates that taking $270 billion out of your account—and telling you that you will be better off—just does not make sense. If this bill passes, it will hurt Americans of all ages. Seniors will be hurt because they will have less choice in their health care. They will be hurt because they will pay over $1,000 more by the year 2002. To remain in Medicare as they know it, they will be forced to pay substantially higher prices than they do today. Their children will be hurt because they will be expected to step in and help their older parents meet these rising Medicare and nursing home expenses, at the same time they're trying to send their kids to school.

If this bill passes, our hospitals will be severely impacted. I hope my New Jersey colleagues remember that Medicare provides 45 percent of all hospital revenues—76 of our New Jersey hospitals will be on a critical list.

Many of those hospitals receive over 65 percent of their revenue from Medicare; and, if this bill passes, they may be forced to consolidate, offer fewer services, or even close. Any of those options adversely impact everyone in the community; not just seniors. And everyone will suffer because of the reduced health care delivery systems available to them.

This bill is not a Medicare Preservation Act. It's the Medicare Destruction Act. Thirty years ago, 93 percent of all Republicans voted against Medicare—trying to kill it before it was born—now they're trying to kill it again. The $452 billion savings attained at the expense of our older Americans, our poor women and children and even the working children of senior citizens will be used to pay for a $245 billion tax cut which benefits a minority of wealthy Americans. It is not fair, it is not right, it is not necessary. We should vote ''no.''

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Mr. GIBBONS. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts [Mr. NEAL].

Mr. NEAL of Massachusetts. Mr. Chairman, this Republican Medicare bill is a direct assault upon hospitals across America. The bill includes the largest cuts in the history of Medicare, and do not kid yourself, they are aimed at our hospitals.

Do not be fooled by this rhetoric. The Gingrich Medicare bill does much more than tinker around the edges with the way hospitals are reimbursed. These Republican Medicare cuts jeopardize the ability of hospitals to continue to provide quality care.

Republicans say that the cuts to hospitals included within this bill are just reductions in growth. This is simply not true. The Republican Medicare bill will bring real pain to many hospitals across America. This bill could include outright cuts to many hospitals, hospitals that are already vulnerable and in difficult financial situations.

We have the luxury in this Congress today of looking at Medicare in a vacuum. Hospitals do not have this luxury. When drastic cuts to Medicare disproportionate share and teaching hospitals are coupled with outlandish Medicaid cuts that are coming, our Nation's hospitals are going to be left out to dry. Public hospitals, community hospitals, and old urban hospitals, disproportionate share hospitals and teaching hospitals, they simply cannot absorb the cuts of this magnitude, as Republicans naively suggest.

The Medicare bill will damage the quality of care that our hospitals enjoy. It is that simple. Vote against this ill-conceived, unwarranted, and unwise attack.

Mr. ARCHER. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, a great deal of information has been presented today. Some numbers have been called cuts, some have been called increases. I think it is important that we focus on why this difference occurs.

The hospitals will get an increase in every year under our plan, compared to the previous year, but the Democrats call those cuts, because they are using the CBO projections that assume that health care costs are going to go up at over 10 percent per year. That projection is unsustainable. We all know that.

But if we take anything off of that unsustainable increase, they call it a cut. If we increase above today's level of expenditure and above the rate of inflation, they still call that a cut. As I have said earlier, only in Washington is an increase, because of this phony projection, called a cut. We are not cutting hospitals, we are increasing them at a slower rate.

Mr. DINGELL. Mr. Chairman, I yield 1 minute to the gentleman from Texas, Mr. GENE GREEN.

(Mr. GENE GREEN of Texas asked and was given permission to revise and extend his remarks.)

Mr. GENE GREEN of Texas. Mr. Chairman, it is a sad day that the House is about to pass this crown jewel of the contract which slashes a $270 billion from Medicare in order to pay for a budget busting $245 billion tax cut.

The bill that is about to be passed by Speaker GINGRICH and the Republican majority will add hundreds of dollars every year to seniors' out-of-pocket medical costs and force seniors to give up their life-long doctors, without saving Medicare past the year 2006 and without cutting, in fact increasing the problems, of fraud, abuse, and waste.

This bill is about as much designed to save Medicare as the grim reap is designed to bring happiness to our lives.

Mr. Chairman, I urge everyone to continue this fight. The decision today is just round one. The Democrats will continue to fight this extreme bill if it is enacted. The senior citizens in my district and around our country deserve better. I hope the Senate will change it. If not, I pray the President will veto it.

Mr. BLILEY. Mr. Chairman, I yield 1½ minutes to the gentleman from Michigan [Mr. UPTON] who was so helpful in helping us revise the AAPC formula.

Mr. UPTON. Mr. Chairman, days like today we need to think about the reasons why we are here. Are we here to talk about problems or are we here to solve them? The current Medicare Program today is going bankrupt. You know that, and we know that. Can you imagine the answer to the question in the next decade if today we shirk our responsibility from saving Medicare from going bankrupt, what seniors will say about this Congress? ''What the hell happened when you all saw the writing on the wall? What did you do?''

Two years ago there was a lot of talk about the Clinton health care plan, and the more that folks heard about it, the more they did not like it, and it never even came up for a vote. Today, as I have met with hundreds and hundreds of seniors and many of my providers, I realize that the more folks understand this bill, knowing that the alternative is either doubling the FICA tax or letting Medicare go belly up, the more they like the idea of themselves choosing the plan that fits their needs best. The right to choose, with knowledge that they can keep Medicare the way they have it now, without a reduction in benefits, will always remain as an option.

Mr. Chairman, I do not ever want to look in the eyes of one of my seniors and say ''Medicare went bankrupt on my watch.''

Mr. DINGELL. Mr. Chairman, I yield myself 15 seconds to note that the hospitals of my friend, the gentleman from Michigan [Mr. UPTON], under the Republican bill will lose $211 million over the next 7 years so we can give a tax cut to the rich.

Mr. GIBBONS. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, I sat through a number of hearings with the gentleman from Texas [Mr. ARCHER] and heard him make the same speech. I have listened to him all day make the same speech. He says there are not any cuts in his bill. I do not know which one it is in, the one he introduced the other day of the one he introduced last night, but the CBO just gave a scoring table on his bill, whichever one it is, and says it cuts $270 billion. Now, somebody is stretching the truth.

Mr. BLILEY. Mr. Chairman, I yield 2 minutes to the gentleman from Iowa [Mr. GANSKE].

Mr. GANSKE. Mr. Chairman, everybody in this Chamber cares deeply about the health care of our senior citizens. Prior to last November, I was a doctor taking care of Medicare patients, and I too am especially concerned about this issue. Which is why I am going to support the Medicare Preservation Act.

Mr. Chairman, for many years the Health Care Financing Administration has been tightening the tourniquet on health care by price controls, and bureaucratic paperwork, and regulations. If we do nothing substantive and structural, then you will see much more of the same, and no longterm solution to explosive costs. A tourniquet too tight can cause gangrene.

This bill makes an honest effort to provide structural changes that will allow seniors to choose options in which they will be able to make decisions, in consultation with their doctor, about their health care, rather than having that decision made by a faceless Government bureaucrat.

The question, Mr. Chairman, is not whether decisions are going to have to be made, the question is who is going to make that choice—the Government or the patient?

I have devoted a great deal of thought to this bill and I have studied and read it. This bill is not exactly the way I would have written it, but many thoughtful people have worked on this bill and I hasten to add that I am under no illusion that my solutions are the only way to achieve a good end.

However this bill does have provisions in it for patient protections that I have worked with many Members on, it does start to address the inequity in geographic variations of reimbursement that exist under the current system, it does offer choices to Medicare recipients that they don't currently have, and it is much better than the fiscal band-aid that has been proposed by my Democratic colleagues across the aisle.

Mr. Chairman, I want my former patients and, now my senior citizen constituents, to have good health care. Our final vote on this measure will probably be after a Presidential veto and then an agreement between the President and Congress. If at that time, I am not happy with a plan that protects our senior citizens' health care than I will vote accordingly. Unfortunately, I don't have a crystal ball. For today, I vote for the bill because it is moving in the right direction.

Mr. GIBBONS. Mr. Chairman, I yield 30 seconds to the gentleman from California [Mr. WAXMAN].

Mr. WAXMAN. Mr. Chairman, the preceding speaker talked about the decisions that have to be made and who will make those decisions. I would submit if people are herded into HMO's because they really have no other choice, because they cannot afford anything else, the decisions will be made by a bureaucrat in an HMO that wants to maximize the profit for the HMO. That is not the way the decisions for health care should be made in this country.

Mr. DINGELL. Mr. Chairman, I yield 15 seconds to the distinguished gentleman from Ohio [Mr. BROWN].

Mr. BROWN of Ohio. Mr. Chairman, the previous speaker, the gentleman from Iowa [Mr. GANSKE], my friend on the Committee on Commerce, his hospitals in and around his district will lose $241 million over the next 7 years because of the Gingrich Medicare cuts.

Mr. DINGELL. Mr. Chairman, I yield 1 minute to the distinguished gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Chairman, Hubert Humphrey remarked in 1977:

> It was once said that the moral test of government is how that government treats those who are in the dawn of life, the children, those who are in the twilight of life, the elderly, and those who are in the shadows of life, the sick, the needy, and the handicapped.

Mr. Chairman, this Republican controlled House miserably fails that moral test. I stand here in this Chamber ashamed, ashamed that my Republican colleagues are trading, trading the health security of our Nation's elderly for a tax break for the rich.

They talk about attacking fraud and abuse in the system, but it is bogus, for the Republican plan turns back the clock on statutes to combat fraud and abuse. They repeal the laws that prohibits fraudulent practices, like prohibitions on doctors who refer patients to providers that they or a family member personally profit from.

The Washington Post says it best, ''Gingrich Places Low Priority on Medicare Crooks.''

Mr. GIBBONS. Mr. Chairman, I yield myself 15 seconds.

Mr. Chairman, I know since there are no cuts in this bill and everything is an

increase, I know the gentleman from Texas [Mr. ARCHER], will be sad to learn that the Texas Medical Center in Houston will lose $500 million, $500 million.

Mr. Chairman, I yield 1 minute to the gentleman from Maryland [Mr. CARDIN].

Mr. CARDIN. Mr. Chairman, let me correct some of the misstatements that have been made by my colleagues on the other side of the aisle.

First, it has been said that our beneficiaries will not have to pay anymore because we are just continuing the current law. That is not correct. According to the Congressional Budget Office, ''It would increase the portion of costs borne by beneficiaries through premiums relative to current law.''

Under the bill before us, the premium increase goes up to $87 a month for part B. Under the bill that we will be bringing forward as a substitute, it is $30 a month less. That is $360 a year. For seniors who on average have a modest income, that is a lot of money.

Second, CBO has estimated seniors will have to pay an extra $1,000 a year in order to be able to maintain the same benefits. When it costs you more to maintain the same benefits, it is a cut.

Let me quote finally from the Washington Post. You have quoted the Washington Post before the plan was unveiled. The Washington Post said, ''It is not clear that Government contributions would any longer even pay for basic insurance.''

Mr. DINGELL. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from Texas [Mr. EDWARDS].

(Mr. EDWARDS asked and was given permission to revise and extend his remarks.)

Mr. EDWARDS. Mr. Chairman, I rise in opposition to this unfair, hastily put together legislation.

Mr. DINGELL. Mr. Chairman, I yield such time as he may consume to the gentleman from Rhode Island [Mr. REED].

(Mr. REED asked and was given permission to revise and extend his remarks.)

Mr. REED. Mr. Chairman, I rise in opposition to the Republican proposal.

For more than 30 years, the Medicare and Medicaid programs have exemplified our national commitment to care for seniors, disabled Americans, and low-income Americans. In essence, it is the tangible evidence that, in the most affluent and productive country in the world, we would not let millions of Americans suffer because they were too old, too poor, or too ill to fend for themselves, Because of our investments in Medicare and Medicaid, we have also created the most sophisticated and highest quality health care system in the world.

But today, Republicans will begin their all-out assault on these programs by cutting the Medicare program by $270 billion. These cuts represent the most sweeping changes in the Medicare program since its establishment in 1965. And let me be clear, these cuts are not about reforming the Medicare program—it is about tax cuts for wealthy Americans and an arbitrary march to a seven year deficit reduction target. These cuts are three times more than any estimate of what is necessary to make Medicare solvent.

Treasury Secretary Robert Rubin, managing trustee of the Medicare Trust Fund, has recently stated that ''no member of Congress should vote for the $270 billion in cuts believing that reductions of this size have been recommended by the Medicare trustees or that such reductions are needed now to prevent an imminent funding crisis. That would be factually incorrect''.

Here is why the Republican cuts in Medicare are not about reforming the system and are about paying for a tax cut for the rich and a forced march to deficit reduction. The Medicare Part A Trust Fund is not faced with an unprecedented and immediate crisis. The trustees are required by law to report each year on the status of the Part A Trust. The trustees have on eight previous occasions warned that the Trust Fund would be insolvent within seven years. On each of these occasions, the Congress and the president—without alarmist predictions of collapse—took appropriate action to protect the fund.

Republican proposals go far beyond the Part A Trust Fund and also reach into the Part B Trust Fund. Their plan calls for about $170 billion in cuts to Part A of Medicare, which funds hospitalization, and about $100 billion in cuts to Part B, which pays for doctor visits and ancillary services. The Part A Trust is financed by employer and employee contributions, and ''savings'' will be retained by the Trust. However, since the federal deficit is calculated by including the surplus of the Part A Trust, these savings will be used to fund the tax cut and mask deficits in other public accounts. Part B is funded by premiums paid by the elderly and the Treasury. Savings here will directly rebound to tax cuts and deficit reduction.

And the cuts we will vote on today are not only about senior citizens paying more for less health care; the cuts are also about straining the intergenerational benefit of the Medicare program. When Congress passed the Medicare program in 1965, we assured working families that they would not have to choose between investing in their children and caring for their elderly parents when they became old and frail. I have heard from many middle-aged working parents in my district who are afraid of what these Medicare cuts will mean for their families—How will they find the means to ensure that their parents receive quality health care in their old age? How will they choose between their parents and their children? Surely this is not reform.

This bill also repeals the current prohibition against physician self-referral. These laws provide vital protections for consumers. It has been well documented that physician self-referral leads to excessive utilization, fraud and abuse, and drives up the cost of health care. The Congressional Budget Office estimates that these changes to the physician self-referral laws will cost Medicare an additional $400 million over the next 7 years—$400 million in patient abuse in over-testing and over-referring!

Republicans claim that this bill will give seniors more choices. However, the real truth is that the Republicans will squeeze down so hard on payments to health plans that beneficiaries are likely to pay higher premiums to get the same or fewer benefits. That is not what I would characterize as more choices.

This bill also represents the possible dismantling of my state's medical education infrastructure. As a result of the proposed cuts in the Medicare program, Rhode Island alone will lose $20 million (10%) of its medical education budget each year. This bill does nothing to rationalize the graduate medication education system financed through Medicare; rather, it simply guts GME which will translate into a reduction in the quality of health care and reduced access for many citizens as teaching hospitals close and downsize.

The Republican proposal that this House will vote on today will increase costs for health coverage for seniors, reduce quality and access, and burden working parents. But most importantly, this bill represents nothing less than a betrayal of the trust of the people of this country and a reversal of a generation of guaranteed health care for the elderly.

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Mr. DINGELL. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania [Mr. HOLDEN].

Mr. HOLDEN. Mr. Chairman, the Gingrich Medicare plan will have a devastating effect on health care for citizens in Pennsylvania. I spent the summer talking to my hospital administrators and they tell me that currently they are reimbursed $1.01 for every dollar of services they provide to a Medicare patient. Under the Gingrich plan they will be reimbursed $.88 for every dollar of services they provide.

There are two choices that our hospitals are going to be left with: Cost shift on to employers and working families who are paying premiums, or reduce services for senior citizens. This plan is unacceptable.

Mr. Chairman, the American people cannot be fooled. The American people know that the Medicare trustees have called for $90 billion to make the system solvent to the year 2006. The Democratic plan does that. And the American people also know that the Republican plan only puts in $90 billion to make the plan solvent to 2006, and the rest of the money is being used for a tax break and to balance the budget on the backs of senior citizens. That is wrong.

Mr. GIBBONS. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I apologize to everyone that this debate has been so hurried, but it is not my fault. Mr. GINGRICH prescribed the time we would have on this debate. Yesterday he gave the House 4 hours to talk about shrimp. Yesterday, Mr. GINGRICH gave the House 4 hours to talk about shrimp. Today he gave us 3 hours to talk about the benefits of 40 million Americans, the most fragile of our Americans, too, by the way. So much for Republican priorities and for Mr. GINGRICH's concern about people versus shrimp.

Mr. Chairman, this is a horrible piece of legislation. We know most of the Medicare people are not sick. Ninety percent of them are not sick. We only

spend about $1,300 apiece on them. The Republican bill takes all that money, gives it to the insurance companies, the medical savings accounts, and leaves Medicare with all of the sick people. It will ruin Medicare as it now is.

Mr. DINGELL. Mr. Chairman, may I discuss how many speakers we have remaining. I know the gentleman from Texas has said he has one, the gentleman from Virginia has indicated he has one, and I am not certain how many my good friend from Florida has.

Mr. GIBBONS. I have one more, Mr. Chairman; it is for the minority leader, and I will yield him the balance of my time.

Mr. DINGELL. Mr. Chairman, I have a similar situation.

Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. COSTELLO].

(Mr. COSTELLO asked and was given permission to revise and extend his remarks.)

Mr. COSTELLO. Mr. Chairman, I rise in opposition to the bill.

Mr. Chairman, I rise today in opposition to the Medicare Preservation Act. For the 30 years since it was signed into law, Medicare has been the primary source of health care coverage for Americans 65 and older. Today, I fear, we are going to put the security of our seniors' health care in jeopardy.

This bill cuts $270 billion out of the Medicare Program over 7 years. Two hundred and seventy billion dollars can only come from one of two places: Cuts to seniors or cuts to providers. Either way, my district loses. People lose. Mr. Chairman, I held Medicare forums with each of the hospitals in my district. All of them, without exception, said $270 billion cuts would be disastrous to their facilities. At least two hospitals will close. A hospital in East St. Louis is the only health facility in the area that provides obstetric care. What will happen if there is no where in the city to deliver babies? The hospitals in the 12th District of Illinois have already streamlined operations. They have cut staff and services. They feel additional cuts will be so detrimental to services, they would rather close than compromise quality of care. Is this what we've come to—forcing hospitals to close and threatening the health and safety of entire communities to pay for a tax cut?

If $270 billion does not come from providers, seniors are going to feel the burden of "slowing the growth in Medicare spending." Haven't we asked enough of our senior citizens? Mr. Chairman, I support a balanced budget. In fact, I voted for the balanced budget constitutional amendment. However, if we are serious about balancing our budget, we should not be talking about a huge tax cut which clearly is going to benefit the very wealthy in our society.

If we are serious about reforming Medicare, we should be engaging in open debate about how to keep Medicare solvent into the next century. It is hypocrisy to call for a $245 billion tax break while cutting Medicare by $270 billion. Granted, there are major problems with the Medicare Program. However, Medicare is no closer to going broke than it has been the nine times in the past that we have faced similar solvency issues. Medicare will be at a zero balance in 2002, with a debt the following year, if adjustments are not made. However, the President's Medicare Board of Trustees shows that only $79 billion is needed to keep the trust fund solvent. That means we are looking at $181 billion in unnecessary cuts. That $181 billion could go a long way in protecting seniors from increased premiums or cuts in services.

Mr. DINGELL. Mr. Chairman, I yield 1 minute to the distinguished gentleman from California [Mr. WAXMAN].

Mr. WAXMAN. Mr. Chairman, today we are discussing only the Medicare bill. We talked about it in terms of the relationship to the tax bill that is coming up next week. I want to mention the relationship between Medicare and Medicaid, which is coming up next week.

Mr. Chairman, we have no program to protect seniors when they become so frail that they require nursing home care. We have relied on Medicaid to take care of that. But next week the Medicaid program is going to be repealed and there will be no guarantee of a person in a nursing home getting coverage after they spend every cent they own. There will be no protection for the spouse of that nursing home resident or the children of that nursing home resident or the lien to be put on the home.

There will be no protection in the standards of care that will be given in that nursing home because all of that law has been repealed under the bill passed out of the Committee on Commerce.

Mr. Chairman, we should not think of Medicare alone, we should think of it in the context of the tax cut the money from Medicare will pay for and the other undercutting of services for the elderly under Medicaid.

Mr. GIBBONS. Mr. Chairman, may I inquire of the Chair how much time I have officially remaining?

The CHAIRMAN. The gentleman from Florida [Mr. GIBBONS] has 2¼ minutes remaining, the gentleman from Texas [Mr. ARCHER] has 5 minutes remaining, the gentleman from Virginia [Mr. BLILEY] has 3 minutes remaining, and the gentleman from Michigan [Mr. DINGELL] has 2½ minutes remaining.

Mr. DINGELL. Mr. Chairman, I note we have, I think on this side, about 2½ minutes each, something like about 4, 4½ minutes, but my good friends over there have 8 minutes.

Mr. ARCHER. Mr. Chairman, my understanding of the agreement is they will reduce their time to one speaker, we will then use our last speaker, their speaker will then speak, and then the gentleman from Virginia [Mr. BLILEY] will close.

The CHAIRMAN. Is that the understanding of the gentleman from Michigan?

Mr. DINGELL. Mr. Chairman, I am not quite sure I understand what was said. I note they have 8 minutes over there and we have something like 4.

The CHAIRMAN. My understanding is the gentleman from Texas [Mr. ARCHER] will yield his 5 minutes to his speaker, then the gentleman from Michigan [Mr. DINGELL] and the gentleman from Florida [Mr. GIBBONS] will each yield their 2-plus minutes to the minority leader, and then the closing debate will be by the gentleman from Virginia [Mr. BLILEY].

The CHAIRMAN. The gentleman from Texas [Mr. ARCHER] is recognized.

Mr. ARCHER. Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. THOMAS], chairman of the Health Subcommittee of the Committee on Ways and Means, a gentleman who has contributed massively in the development of this plan.

(Mr. THOMAS asked and was given permission to revise and extend his remarks.)

Mr. THOMAS. First of all, I want to thank my colleagues, Mr. Chairman, for allowing me to be part of a majority that has rejected politics as usual. What we have heard today from the minority was a lot of sloganeering, figurative and literal baloney, and that what we propose to do is, in fact, bold and innovative. And I think those are appropriate words, but I also believe it is radical.

Mr. Chairman, what we propose to do is to not follow the politics as usual solution. What is the politics as usual solution? Fix Medicare until the next election.

When the Democrats were in the majority that is exactly what they did. In the last 10 years, between 1985 and today, the Democrats fixed Medicare over and over again. Six times the Democrats either raised the payroll tax or raised wages subject to the payroll tax. That is how they fixed Medicare. And in 1993, they even blew the lid off of wages. There is no limit to the payroll tax being applied to wages today thanks to the solutions offered by the former majority. This new majority will not buy that approach. Quick fixes are out. Real solutions are in.

Mr. Chairman, this is a quote from President Clinton, and it is up there because I, frankly, admire that he had the guts to say it. I counted over 100 times the Democrats went to the well and said cut. Is it because they just do not get it or is it because this is more of the demagoguery and the sloganeering? Even the President of the United States admits that when we slow the growth of Medicare, we do not cut it, we slow the growth of Medicare.

Mr. Chairman, what we do is slow the growth of Medicare. That is how we make the savings. We do not stay at a 10½ percent increase because it will go bankrupt if we do. Hospital spending goes up under our program. It does not go up as fast as it was going to go up, but $652 billion will be spent between now and 2002 on hospitals.

Physicians: Payments to physicians go up every year. Not a cut, but a reduction in growth. In fact, over those 7 years, more than $315 billion will be paid for physician services under the

Medicare program proposed by the Republicans, and every year those payments grow larger.

Mr. Chairman, in home health care, the same thing. Every year the payments go up. More than $150 billion over the next 7 years. And every year the payment to the home health care industry will go up. We are not making cuts, folks, we are slowing the growth.

Mr. Chairman, there has been a lot said about changes, and frankly, this is one of the more exciting parts about the Republican program. What we are doing is opening up the Medicare program to the choices available to more and more Americans today. The Medicare savings accounts, the provider sponsored organizations, the seamless coverage that has been discussed will be available so that individuals can go from the workplace to the rocking chair and not have to change or look for a new kind of a health care program. The coordinated health care programs will be expanded and improved.

This is what we will get under the Republican program to preserve Medicare. This is what is offered now. This is what seniors will have available: Prescription drugs, routine physicals, the cancer physical that was discussed. Seniors will have available eye exams, lenses, ear exams, hearing aids, and dental coverage. That is available today and it will be available under the new program.

Mr. Chairman, let us talk about eliminating fraud and abuse. We find it. We double the civil penalties. We establish new criminal penalties, and, more important, we have already passed medical malpractice. We did that in March.

Here is the bottom line. What do we get for the money out of the Republican program? A sound program until 2010. We are in the black, or the blue, if you will, until 2010. The Republican program gets us clear to the baby boomer generation. The Democratic program has a $300 billion deficit in the same time.

Mr. Chairman, let us focus on seniors, but let us remember people who are paying their taxes now want a program as well. The Republican program preserves, protects, and makes sure that Medicare is available for those who pay the bills today.

Mr. DINGELL. Mr. Chairman, I yield the balance of my time to the distinguished gentleman from Missouri, [Mr. GEPHARDT], the minority leader.

Mr. GIBBONS. Mr. Chairman, I yield the balance of my time to the gentleman from Missouri [Mr. GEPHARDT], and say that he has, for years, toiled on this problem. He was a member of the Health Subcommittee of the Committee on Ways and Means, and I can personally remember his long and effective work on this program.

Mr. GEPHARDT. Mr. Chairman, I want to first congratulate the ranking member of the Committee on Ways and Means and of the Committee on Commerce and their colleagues on the committees for the great work that they have done in working on this issue. But I rise today with sadness and almost disbelief of what I am afraid is about to happen to what I believe to be the most important program, the most important help that the people of our country have enjoyed now for over 30 years.

I say to the Members that this is the kind of vote that comes once in a generation, maybe once in a career, about the very future of one of the most important efforts that our country has ever made.

Mr. Chairman, the cuts, the changes, the modifications that are called for in Medicare, and Medicaid next week, are the largest changes in these great health care programs that have ever been called for, by far. If they were being made because they were necessary to balance the budget, that would be one thing; if they were being made to save Medicare, that would be another thing; but, in my opinion, if we look at these changes and then we look at the amounts of money that are projected to be saved and then we look at the tax break, which is included in the very same budget, no matter how people may try to separate the issues, we will see that the reason for these deep, severe, damaging cuts in Medicare are to pay for a tax break for the wealthiest Americans.

Mr. Chairman, I would ask us to just imagine, just think in our minds of two individuals, two families, if you will. Think first of a frail 85-year-old woman, who, undoubtedly, lives in your district, and I know lives in mine.

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Think of an 85-year-old who today lives on their Social Security, maybe $7,000, $8,000, $9,000 a year. That is all the income they have. My colleagues on the other side may not think that $45 a month is a big deal out of their Social Security check to pay the increased premium, but to them, they are already counting every penny, every month, in order to get by.

Mr. Chairman, I have met seniors who have a $3,000 prescription drug bill now that comes out of that $9,000 a year. They are counting every penny every month. The change that is being called for here will ask them to pay $40 or $45 additional a month that will come out of their Social Security check. Tell them that this is not a big deal.

It would be one thing if that were to balance the budget or to save Medicare. But think about the other person. The family making $500,000 a year that, for the Republican tax break, will get over $19,000 a year in the tax break. It is wrong by anybody's light to take $400 a year from somebody who is 85 and frail and living on 9 grand a year and give it to somebody who is making a half a million dollars a year. That is precisely what this budget is calling for.

Mr. Chairman, that is not all. When we make cuts this deep in Medicare and Medicaid, we close 25 percent of the health facilities in this country. The ones that will be closed are the ones we can least afford to close; the ones in the inner city, the ones in the rural areas where people already have a lack of health care facilities.

Yes, medical education will be affected. Medicare and Medicaid now pay over 60 percent of the costs of medical education. In an intensely competitive world, private health insurance will pay less and less and less of medical education. So, the Government is the only entity that will do this.

Mr. Chairman, I have told this story many times. My son was diagnosed with terminal cancer in 1972 at the age of 2. We were devastated. The next morning, a young resident showed up bright-eyed and bushy-tailed at 7 o'clock in the morning. He met my wife and I, and he said:

> I know you are devastated, but I stayed up half the night on the computer and I found a therapy that I think might, do not get your hopes up, but it might save his life. We are going to try.

Let me tell my colleagues something. That day we needed that doctor and we needed those ideas. We needed good medical education. We needed the quality of this health care system. And I am telling my colleagues today, if these cuts are made this deeply, the medical education that has been the bright light of this health care system through our entire lives will be ripped apart.

Mr. Chairman, I say to the ladies and the gentleman of the House, this vote is a vote of conscience. It is a vote of values. It is a vote of what is right and wrong. And I ask my colleagues before they deliver this vote today, to examine their consequences, because if we do what is wrong instead of what is right, in the days ahead every time you face a senior citizen who is trying to scrape it out on $8,000 or $9,000 a year, my colleagues are going to know that they voted to make life harder for them.

Every time my colleagues pass a health clinic or a rural hospital that has been closed, they are going to turn their back on that. And every time they meet somebody's family who had somebody who died because of the lack of medical education, they will know we did the wrong thing.

Mr. Chairman, I say to my colleagues, do the right thing today and refuse to go along with this program which is not being done for the right reasons, but for the wrong.

Mr. BLILEY. Mr. Chairman, I yield such time as he may consume to the gentleman from Virginia [Mr. GOODLATTE].

(Mr. GOODLATTE asked and was given permission to revise and extend his remarks.)

Mr. GOODLATTE. Mr. Chairman, I rise in strong support of the Medicare Preservation Act of 1995.

This historic legislation will preserve, protect, and strengthen this vital lifeline to our senior citizens.

Mr. Chairman, today we are voting on a realistic solution to a crisis situation. America's seniors, families, doctors, and employers all agree that Medicare is broken and this legislation fixes it.

By saving Medicare from bankruptcy, we ensure that the program will be there to serve the health needs of seniors. We are giving seniors the choice in selecting the best health care plan for their needs, including the right to keep the same Medicare coverage and doctors they have now. Finally, we are guaranteeing Medicare's solvency well into the next century so that the program can serve future generations of seniors.

Contrary to all of the talk about cuts in Medicare, spending per person will actually increase by nearly $2,000—from $4,800 today to $6,700 in 2002. Total Medicare spending increases by 54 percent from $178 billion this year to $274 billion in 2002. Leave it to the big spenders here in Washington to call such increases cuts.

Choice is a key part of this Medicare legislation. Those who want to stay with their current Medicare plan can do so. No one will be forced to change coverage or doctors.

Seniors will have the option to choose from additional health care plans under Medicare-plus. Options will include coordinated care plans, a physician service organization, or a MediSave account.

These plans are required to offer at least as good a benefit package as Medicare does now. Some of these new plans actually offer more benefits, such as prescription drug and eyeglass coverage which are not available under Medicare. They also can reduce out-of-pocket costs and eliminate the need for MediGap insurance that costs $750 to $1,200 a year.

Today, seniors pay 31.5 percent of part B costs and taxpayers pay the remaining 68.5 percent. That rate will not change. Premiums, therefore, will go up only because the cost of the program rises. The only exception will be for affluent seniors who will be asked to pay more.

By 2002, part B premiums will be $87 per month instead of the $46.10 per month today. Under President Clinton's budget, which does not offer a plan to preserve Medicare, monthly premiums would increase to $83 per month. That is only a $4 a month difference—which is not too much to pay to help save the Medicare Program.

The bill provides fair but limited increases in spending on hospital and doctor services. Health care providers will have to manage under funding limits and compete in the marketplace on the basis of price and quality.

There will be a Medicare preservation trust fund created within the part B Medicare Program to ensure that senior's premiums go to save Medicare and are not used for other purposes such as tax cuts.

Mr. Chairman, we must not miss this opportunity to offer security for seniors and save Medicare for the next generation. I urge my colleagues to vote in favor of the Medicare Preservation Act.

Mr. BLILEY. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, for the 6 months that have followed the Medicare trustee's report, we have held a national debate on the question of how best to save Medicare from bankruptcy. We took the trustee's report to the American people and we asked them for their best advice. We listened. We listened to our friends and neighbors in thousands of town hall meetings from coast to coast.

We listened in 40 congressional hearings this summer, 10 of them in my committee alone; more hearings in my committee on Medicare than the other side held in the last 6 years combined. We heard 70 witnesses who gave thousands of pages of testimony. We listened to the views of Americans of every political stripe.

We did a computerized search of articles on Medicare, just since the beginning of the year. There were more than 11,000 articles on Medicare this year in the major newspapers alone.

We listened and we learned. We learned that as good a program as Medicare is, as important as this program has become to America's seniors, there is still plenty of room for improvement.

We learned from health care managers in the private sector how new managed care options can help hold down costs and give beneficiaries better quality care. We learned from experts in health planning about the value of medical savings accounts.

Throughout the process, there emerged a national consensus that Medicare can indeed be preserved. In fact, that it can be improved considerably in the process. But, something else happened as well, because during this 6 months, America has seen the difference between the two major political parties.

Mr. Chairman, while we were risking our careers to save Medicare, our opponents were frightening senior citizens. We developed a plan to save Medicare. They pulled neckties and broke glasses and stormed out of congressional hearings.

Last week in my committee, they used senior citizens as props to disrupt a plan to save Medicare for 37 million Americans. Today, as we discussed our plan, they have given us 3 hours of excuses, 3 hours of politics, 3 hours of hysterics.

Mr. Chairman, I would say: There you have it, America. In 3 very revealing hours, the crystallization of the differences between us. On the one hand, political courage, accountability, leadership in solving a crisis. On the other hand, excuses, distortions, overstatements, misstatements, fear.

Mr. Chairman, I used to be a Democrat. It is sad for me to see a once-great political party reduced to this.

Mr. EVANS. Mr. Chairman, do not let anyone fool you. This proposal is not about saving Medicare, it is about giving tax breaks to businesses and wealthy Americans.

It pays for a $245 billion tax break for the rich by breaking seniors backs. It makes health care less accessible and more expensive. It will close hospitals and other health facilities. And it will cost thousands of Americans their jobs.

The Republican proposal cuts $270 billion from Medicare and deprives millions of seniors health care when they need it the most.

It will force our parents and grandparents to choose between medical care, food, and shelter. It will force hospitals and providers around the Nation to curtail services or close for good.

It will roll back efforts to crack down on waste, fraud, and abuse. It will lead to lower the quality of care, increase patient abuse, and cost the Medicare program over $1 billion.

These cuts are cruel. The deficit should not be lowered at the expense of the elderly. Seniors should not have to suffer in order to give tax breaks to the rich.

For over 30 years, Medicare has protected the health and financial security of millions of Americans. These men and women did not work for decades and pay their taxes just to have the rug pulled out from under them as they prepared to retire. The Republican proposal would do just that. It would decrease the value of seniors' savings and seriously drop their quality of life.

Seniors deserve more respect than this. They should be able to enjoy their later years. They should not worry about whether they can afford health care.

Thousands of my constituents have told me to oppose the Republican proposal. They do not want to pay more for less. They do not want to give a $245 billion tax cut to wealthy Americans. They know that this proposal will hurt them, their families, and the country.

I oppose this bill and ask you to do so as well.

Mr. DICKS. Mr. Chairman, I strongly oppose H.R. 2425, Medicare legislation which I fear will hurt far too many Americans—literally making senior citizens less healthy and less financially well off than they are today under the current Medicare program.

Over the years here in the House, I have found that it is necessary to put major legislation like this into better focus by concentrating on how it will impact those people who will be affected. By cutting $270 billion from Medicare, this bill will hurt many of the people I have come to know representing the 6th District of Washington State.

And like most Americans, this drastic cut in Medicare spending will affect my family. My parents have been retired for years, still living in my hometown of Bremerton. And like most Americans their age, they depend on Medicare to live a healthy and productive retirement. But because they are middle class—like most people in the district I represent and throughout America—the large increase in out-of-pocket costs will lower their living standard, I cannot help but take it personally that the Republican majorities in Congress want to lower my parents living standard in order to pay for a huge tax cut that is really not necessary.

Over and over today we have heard the false charge that those of us who vote against this legislation are against Medicare reform. That is not true. I support the Democratic alternative plan, which shores up Medicare's financial health without increasing costs for beneficiaries. This Democratic alternative cuts Medicare spending by just one-third of the GOP's $270 billion of cuts. The simple fact is that the House leadership needs the whole $270 billion in Medicare cuts in order to pay for their huge tax cut.

As we here in Congress ask the American people to roll up their sleeves for deficit reduction, it is absolutely unfair to make middle-class retirees on Medicare pay for this tax cut. For that reason, I oppose this Medicare legislation.

Mr. STOKES. Mr. Chairman, today, the House is debating H.R. 2425, the Medicare Preservation Act of 1995. I am strongly opposed to H.R. 2425, and I plan to vote for its defeat. In my opinion, the legislation represents a full attack on the health of our Nation's elderly population.

H.R. 2425 slashes $270 billion from health care services for the elderly. We know that to achieve this enormous reduction, health care premiums for seniors will double. Also removed from the bill are limitations on the amount that doctors and hospitals can charge patients. I am also opposed to the bill because it opens the door for fraud and abuse. Current provisions that are designed to prevent kickbacks and provide accurate billing are repealed. This provision alone will cost American citizens over $1 billion.

Mr. Speaker, the enactment of H.R. 2425, the Medicare Preservation Act of 1995, would be devastating to seniors throughout America. In my home State of Ohio, 1.6 million Medicare beneficiaries would suffer from reduced benefits and a lower quality of life. Earlier today, while our Republican colleagues were pushing to gut the Medicare program, a nonprofit research organization, Speak Out! USA, sponsored a special Medicare hearing with testimony from all 50 States. I was honored to attend this important hearing where Medicare beneficiaries and their families testified about their experience with Medicare and concerns about proposed cuts in the program.

Mr. Chairman, I applaud Speak Out! USA for putting a human face on the Medicare debate. It would be impossible to hear from senior citizens who have real life experience with Medicare and then enter this Chamber and vote to demolish the program. One of the witnesses at the Speak Out! USA hearing was Bishop Marvin Johnson, a resident of my congressional district. Bishop Johnson is a minister of the Good Sheppard Divine Spiritual Temple in Cleveland. He is confined to a wheelchair and began receiving Medicare disability payments for diabetic ulcers on his feet in 1992. Bishop Johnson's testimony was very moving and to the point. It served as an important reminder of the people we are pledged to represent as Members of this body. As we debate the Medicare issue, I want to share his testimony with my colleagues.

TESTIMONY OF BISHOP MARVIN JOHNSON, GOOD SHEPARD DIVINE SPIRITUAL TEMPLE

SPEAK OUT! USA SPECIAL HEARING ON MEDICARE

I would be on the streets if it were not for Medicare. I pay for my own medication from my Social Security check. I don't have family to help me. My diabetic condition keeps me from working and I am forced to live on full-time disability. I came to Washington to tell our elected officials to save the Medicare Program. If the Nation's poor don't have Medicare, many people will not be able to go to the hospital when they are sick. Without Medicare, I would not be able to buy insurance for myself.

Through the Medicare Program, I receive quality care from the Visiting Nurse Association. If the Medicare Program is gutted, I have nowhere to turn for health care.

Mr. ACKERMAN. Mr. Chairman, it is not quite Halloween but the majority is already playing trick or trick.

In the spirit of the season, the Republicans are about to commit the Medicare massacre. My colleagues on the other side would have us believe that Medicare is in some unprecedented state of crisis and that without their meat cleavers and chain saws the program will cease to exist.

In fact, most of their bill's Medicare cuts will not be dedicated to the so-called trust fund crisis, not one penny of the cuts the bill makes in Medicare part B, and not one penny of the increases in part B premiums paid by beneficiaries will go into the trust fund—the only part of Medicare that needs propping up.

The trick, Mr. Chairman, is that the bill will force seniors and doctors out of fee-for-service medicine by arbitrarily limiting the growth in Medicare, as people live longer, not for reasons of health care policy, but simply to meet budget targets. In addition, the bill's failsafe mechanism, this gimmick that automatically reduces payments if the targets are not met, only cuts from the fee-for-service portion of Medicare, not from the HMO's.

The bill also allows doctors, for the first time, to ''balance bill'' senior citizens for the difference between what Medicare pays and the providers' actual costs.

The other trick, according to our Republican colleagues, is that they are protecting the solvency of Medicare for future generations. But as we all know, the bill cuts three times the amount the Medicare trustees say is necessary.

In reality, the Republican bill extends the solvency of the trust fund until 2006. Precisely where we would be if we adopted the trustees', and not the Republicans' level of cuts.

Mr. Chairman, the trick under the Republican Medicare plan is that seniors will pay more and get less. The treat—I guess will have to wait until next year.

Mr. VENTO. Mr. Chairman, I rise today in opposition to H.R. 2425, a bill which will radically change the nature of health care in the United States, decimating seniors' health care security.

Medicare is one of our Nation's most successful programs. It was established over 30 years ago as a national commitment to assuring seniors health care coverage. Before it was enacted in 1965, only 46 percent of seniors had health coverage. Today 99 percent of seniors are assured of access to health care. Medicare is an intergenerational contract between working Americans and seniors, and it represents a commitment from our Federal Government that seniors should not have to choose between buying food or going to the doctor.

Medicare has served America's senior citizens well for 30 years. Most seniors are not well off. Under Medicare, seniors have complete freedom to select the health care plan of their choice, with guaranteed coverage. Now Republicans want to slash Medicare. They say that they are doing this to save the Medicare trust fund. Well, Medicare is in danger, because the Republicans are in control. The changes they are proposing are going to cost Medicare three times what is needed to extend the trust fund solvency to the year 2006. The trustees of the Medicare trust fund have stated that it would take approximately $90 billion to shore up the Medicare system for 10 years, but Republicans want to cut $270 billion to achieve the same objective. Ironically, the Democratic plan offered during Committee consideration of this bill actually extends the trust fund solvency to the same year, 2006, as the Republican plan, while only cutting about $90 billion. The truth is that Republicans are searching for a way to finance their budget priorities, and are using Medicare cuts as a cash honey pot to pay for a $245 billion tax break for wealthier people and increased military spending, not for helping the Medicare trust fund or the American health care system.

We all know that some improvements need to be made in the Medicare Program. After all, the health care laws have been constantly evolving for decades. For instance, I hear from seniors all of the time about the high cost of prescription drugs. A sound outpatient prescription drug benefit should be part of Medicare. Certainly we need to crack down on fraud and abuse within the system so that crucial health care dollars aren't going down the drain. Ironically, however, the Republicans cut money for inspectors of waste, fraud and abuse in the fiscal year 1996 appropriations bill, and this Medicare bill will make it more difficult to curb fraud and abuse by changing the standard for making sure Medicare claims are accurate, and repealing the 1987 laws governing nursing homes.

In the process of bleeding the Medicare trust fund, the Republican scheme is going to destroy seniors' health care security. Under this bill, overall Medicare spending will be cut by $6,795 per senior over the next 7 years, meaning that in 2002 there will be $1,747 less in Medicare dollars per senior in that year itself.

This Republican Medicare cut scheme will increase seniors' monthly premiums by $53.5 billion over 7 years—this means an individual senior will pay approximately $490 more per year in premiums by 2002. This amount will be doubled for married couples. This is a lot of money considering that 80 percent of Medicare beneficiaries earn less than $25,000 a year, and none of the premiums go into the Medicare trust fund, but are a part of the general revenue bottom line instead. Once again this illustrates the true impact of the GOP efforts—financing their priority which is a tax break for the wealthy.

The Republicans are going to cut $150 billion from payments to providers. There is not one hospital in this country that won't be affected by this drastic cut. This, combined with the proposed Medicaid cuts in the GOP budget plan, mean that hospitals will be forced to shut down, or try to make up the difference in cost by increasing and shifting health care costs onto Americans of all ages. Hospitals may well start to turn away Medicare and Medicaid patients, just as some physicians do already today.

Another disturbing part of the Republican proposal is the ''look back'' proposal where Republicans say they will make unspecified cuts in the future. When Republicans say ''look back'' seniors should ''look out.'' The GOP's so-called safety valve provides compliance with their scheme to cut Medicare, but no safety, no security, and no health care for Medicare recipients.

Provisions of the Republican scheme will fundamentally restructure Medicare, shifting seniors out of fee-for-service care by putting resources into other untried and untested

forms of care such as medical savings accounts and provider-sponsored organizations, therefore making traditional fee-for-service care so prohibitively expensive for most seniors as to eliminate the option. Ironically, the new medical savings accounts will actually cost Medicare money, with estimates ranging to $15 billion over 7 years, as more trust funds are passed out to healthy seniors who may not even need medical care, draining the funds which cost taxpayers billions. Provider-sponsored organizations will be exempt from State financial and consumer protection requirements, which insurers and HMOs have to comply with, meaning that provider-sponsored organizations will not be put on a level playing field with these other providers. This is a prescription for problems, not health care policy.

We also need to look at what Republicans are doing for Medicaid, the companion health care program which helps so many seniors get access to nursing home care. They are going to turn over complete control of this program to the States, stripping away mandates that guarantee coverage to children, the elderly, and the disabled. The Republican Medicaid scheme cuts the program by $182 billion in 7 years, a 20-percent reduction, and abolishes the entitlement status and State maintenance of effort. Minnesota was one of the biggest losers in the restructuring of the House Medicaid formula and is going to lose $3.4 billion over the next 7 years under the House plan. This is a cut of over 21 percent.

These changes will affect every person in this Nation, whether indirectly through their health care costs increases due to the rising number of uninsured people, or directly if they have to deal with the cutbacks in their coverage or their parents', spouse's or child's coverage.

The problems we face with health care demand a response, but a long term solution requires more than slashing health care coverage. The need remains not to consider Medicare and Medicaid in a vacuum, but to address the health care system as a whole. The trustees of the Medicare trust fund strongly oppose the Republican plan because the extensive cuts go far beyond program reform or deficit reduction.

What a difference a year makes. Last fall 1994, the Congress was struggling to expand health care to those without Medicare, Medicaid or private coverage. There were over 40 million uninsured Americans from working families then and the number has risen by 1.4 million more in the past year. Today Congress isn't even addressing the issue of those without health care, but pulling back and punching holes in the American health care programs, Medicare and Medicaid, that help people. What a shame and what a disgrace that the modest programs that provide dignity to the elderly and the disabled, and compassion and empathy for those without means, in fact 16 million children, are being bled for priorities that place tax breaks for the wealthy ahead of health care for the needy.

At the Democrats' hearings on the Capitol lawn and at public meetings in Minnesota, I've learned anew from a broad spectrum of people who will be hurt by the GOP policy path. Not only from doctors and hospitals, but from seniors who rely on them for their health care security. One senior at the hearing gave these words of wisdom, ''Seniors weren't born yesterday. They know what before you sign any policy, you read the fine print.'' Well, I urge my colleagues to look at the fine print of the Republican plan and see the bottom line which is that seniors and Americans of all ages are going to pay more for less.

Medicare represents our Nation at it's best. It represents the desire on the part of the people to pull together and care for those who otherwise might not have enough resources to have access to health care. Instead of building upon this success, by responsibility managing Medicare and expanding health care coverage to all Americans, this Republican bill rolls back the progress that has been made. I urge my colleagues to vote against the Republican plan.

Mr. SKAGGS. Mr. Chairman, this Republican Medicare bill is tragic almost any way you look at it. It's tragic because it will make life harder for many older Americans in order to make life easier for a few who are already financially comfortable. And it's tragic because we're missing an opportunity for genuine reform.

Medicare is in need of corrective surgery. This bill instead prescribes amputation.

By any reasonable assessment, Medicare has been a resounding success. Since it was signed into law by President Johnson in 1965, the system has dramatically improved the lives of millions and millions of older Americans and their families.

Before the system was created, over half of all seniors had no health insurance at all, and largely because of that problem, one-third lived in poverty. Today, thanks to Medicare, virtually all seniors have insurance, and less than 13 percent live below the poverty line.

That's hardly the outcome Republicans predicted. In 1965, 93 percent of Republicans in Congress voted against creating the system in the first place, because it was, they said, socialized medicine.

Thirty years later, the Medicare system remains essentially a private, market-oriented system. It's substantially less bureaucratic than the private sector system of health insurance—about 2 percent of Medicare goes toward administrative costs versus anywhere from 6 to 25 percent in the private health insurance market. Every American agrees Medicare must be maintained and must be put on a sound financial footing.

Medicare does face some serious actuarial problems. Medicare costs have been rising along with the skyrocketing cost of all health care. Those cost increases have outpaced revenue increases, so that the part A trust fund, which pays primarily for hospital coverage, needs to be shored up.

According to the Medicare trustees, the Part A trust fund faces a shortfall over the next several years of about $90 billion. Other more pessimistic analyses range up to $130 billion. So, we need to find $90 billion in savings or additional revenue to keep part A solvent.

But it is clear this is not the problem the Republican majority is trying to solve.

No, the Republicans set out to reach two other goals; first, to cut taxes, mostly for the wealthy; and second, to balanced the budget in 7 years. To make this math work, and given other priorities, they close to reduce Medicare spending by $270 billion, or two to three times what's necessary to deal with the Part A trust fund problem.

In other words, the size of the Medicare reductions wasn't driven by the health-care needs of seniors or the fiscal needs of the Medicare trust fund, but by the political agenda of the Republican majority.

In fact, the first Medicare action taken by the Republicans was last spring, in the $354 billion tax cut bull they pushed through. And ironically, it was designed to make Medicare's financial problems worse. How? By draining $36 billion in revenue out of the Medicare Part A trust fund. To offset that action, Republicans now have to make larger cuts in the hospital insurance program than otherwise necessary. These additional cuts will, inevitably, result in a lower quality of care for seniors.

The Republican plan also raises the premiums that help fund Part B of Medicare, which primarily pays doctors' bills. They're also trying hard to get seniors to opt out of the Medicare program altogether. By reducing spending on part B, which is paid for by general tax revenue, the GOP frees more money to funnel into tax breaks for people making over $100,000. And, of course, the savings from those moves won't do a thing for the insolvency problem in part A, which is the illness they're purporting to treat.

It's perfectly clear what's happening. The Republicans need to squeeze money out of the Medicare program to provide a promised $245 billion tax break—the crown jewel of the so- called Contract With America—to some of the wealthiest people and corporations in the country. And, to add insult to injury, the Speaker of the House has been busy cutting backroom deals in a desperate attempt to get this travesty to pass.

First, he bought the AMA's endorsement with concessions they wanted. Then, astoundingly, he decided to loosen the rules on Medicare fraud. Rather than making things tougher on those who cheat the system, and drive up costs, the Speaker will make fraud and abuse easier—just to win the support of powerful interest groups.

Let me stipulate: much more needs to be done to assure the long-term sustainability of Medicare than just fixing the part A trust fund shortfall. We need to ask those beneficiaries who can pay more for their care to do so. We need to tackle the systemic failings in the overall health insurance and to rein in costs.

But these matters ought to be addressed on their merits, and in the context of health care reform generally, not as mere mans to the end of a tax cut we can't now afford.

So it is, as my Republican colleagues have claimed, a historic day. Thirty years ago, Republicans voted in large numbers against Medicare. They will do so again today.

Older Americans, who have worked hard, and played by the rules, and paid into the system for a generation, deserve better from us. I urge my colleagues to vote against the bill.

Mr. SERRANO. Mr. Chairman, I rise in strong and determined opposition to H.R. 2425, the Medicare so-called Preservation Act of 1995.

H.R. 2425 is a very bad bill. It comes to the floor after a very flawed process and under artificial time limits imposed by the Republicans to prevent full and free discussion of the issues.

H.R. 2425 is driven by the Republicans' draconian budget, which means it is based on very bad numbers, not on any understanding of health care in this country. It will have far-reaching, negative impacts on most Americans.

H.R. 2425 would cut $270 billion in future Medicare spending. That is three times the size of any previous provision to address the Hospital Insurance Trust Fund's solvency. Yet it will extend the HI Trust Fund's year of exhaustion only to 2006—the same year the Democrats' much more modest proposal, based on the Medicare trustees' recommendations would.

The balance of the $270 billion does nothing to shore up the HI Trust Fund, but, instead, makes possible $245 Billion in unnecessary tax cuts aimed at the wealthiest—more than half the tax break goes to people making over $100 thousands a year.

Seniors would pay twice the current part B premium in 2002, as well as higher deductible and copayments.

Cost growth would be held below the growth in private sector health spending. Seniors who have greater health needs than the working population, would be forced to pay much more, particularly as fewer providers would be willing to accept rock-bottom Medicare reimbursement rates, and protections from balance billing would be repealed. Otherwise, seniors would have to give up their choice of doctors and accept second-class health care in underfunded managed care plans.

Hospitals are already reeling from changes in the health care industry; the hits they would take in reduced payments for graduate medical education, bad debt, disproportionate low-income patient load, and the like, would put many hospitals, particularly the public hospitals that serve the poorest populations and our great teaching hospitals, at great risk of closing.

Special deals for various portions of the health care industry would weaken consumer protections and make it much harder to combat Medicare fraud and abuse, kickbacks, and other anticompetitive behavior.

Meanwhile, medical research and the care provided by specialized institutions such as our children's hospitals are very much at risk.

The process, too, is very bad. Medicare is being rushed to the floor without full consideration by all the committees with jurisdiction. The Judiciary Committee majority actually waived—just gave away—its jurisdiction over crucial changes in medical malpractice, antitrust rules, the False Claims Act, and antikickback penalties. That is just not right.

Nor should the House consider Medicare apart from the rest of reconciliation, just so the Republicans can try to convince the American people that there is no relationship between Medicare cuts and tax cuts for the wealthy.

Under a fair and open process, this House would consider and amend all parts of reconciliation—the inexplicable tax increases on the working poor, the unnecessary tax cuts for the wealthy, the dangerous attack on workers' pension funds, the reckless spending cuts across the budget, as well as the excessive cuts and changes in Medicare and Medicaid—together.

The House should be able to consider the cumulative impacts of all the changes and make necessary adjustments. American's so-called sandwich generation, for instance, as a result of reconciliation, will find themselves pressed harder and harder, helping their parents with higher Medicare premiums and other health care costs while dealing with cuts in their children's student aid.

Because of the close relationship between Medicare and Medicaid, the House should be able to consider—and, where necessary, do something about—the impacts on each of changes in the other as well as the cumulative effects of changes to both.

What will be the combined impact of Medicare and Medicaid cuts on our health system?

A report by Barents Group LLC prepared for the Greater New York Hospital Association estimates that, over 7 years, New York City residents will pay $2 billion in excess part B premiums; and hospitals and long-term-care facilities together will lose more than $24 billion. By 2002, job loss will total 140,000, of which 112,000 will be in health care sector.

The Healthcare Association of New York State estimates that the 16th district will lose over $2 billion and nearly 11,000 health care jobs. Individual hospitals will lose hundreds of millions of dollars.

And what would be the impact on Medicare if a State, given authority to set Medicaid eligibility and coverage and a shrinking pot of Medicaid dollars, decides it cannot afford to fund long-term care? Under the proposed caps on Medicare spending, how will Medicare cover the much more expensive hospitalization that will surely result?

What recourse will seniors have if a State decides not to fully cover the Medicare premiums, deductibles, and copayments of the elderly poor? Their coverage would effectively be ended, and it is unlikely that managed care plans will have sufficient enrollment capacity soon enough or in enough places to meet the needs of all seniors who need low-cost health care.

I believe the House ought to be able to consider situations like this, but separating consideration of Medicare from Medicaid by nearly a week will make it impossible.

Mr. Chairman, there is much more I could say in opposition to this bill, but I will not go on. I simply urge my Republican colleagues to come to their senses and support the Democratic alternative, which extends Medicare's life just as long as H.R. 2425 without all the other harmful baggage. At a minimum, I urge all my colleagues to oppose this dangerous, ill-considered bill.

Mr. EVERETT. Mr. Chairman, I rise today in strong support of the Medicare Preservation Act. Yes, reforming Medicare is intimidating. Yes, maintaining the status quo is easier. Well, my constituents did not send me up here to take the easy way out, but to make hard choices in the best interest of the second district of Alabama and for this country's future.

I believe that there is nothing more abhorrent than using the power of this institution to terrify the elderly, the disabled, and the poor. But, the House Democrats are doing just that. While they are well aware that the Medicare Program is in a state of crisis, they continue to spout fear rhetoric. We all know, and even Democrats cannot deny, that Medicare is growing at over 10 percent every year. In order to sustain this rate of growth. Congress would be forced to cripple working Americans by raising the payroll tax by 44 percent. The only other alternative would be to allow Medicare outlays to reach 100 percent of Federal revenues by the year 2030 and bankrupt the entire country.

The Republican Party has a plan to save, preserve, and improve Medicare for today's beneficiaries and for future generations. The Medicare Preservation Act offers seniors the same cost effective choices for quality health care available to younger Americans, but develops innovative ways to save health care dollars; all while still delivering the best health care to all Americans without cutting a single dollar to beneficiaries. Let me make that clear, regardless of Democrat's demagoguery, there are no cuts in this legislation, Mr. Speaker.

Medicare payments will increase at a high rate of 6.5 percent allowing for a $2,000 increase from the current $4,800 today to $6,700 in 2002, for every single beneficiary. Correct me if I am wrong, but a $2,000 increase is not a cut in any teacher's math class. Currently, Medicare recipients pay 31.5 percent of their Medicare part B premium. Under the MPA, traditional Medicare recipients will continue to pay 31.5 percent of their Medicare part B premium. The MPA does not include changes to the deductible or the co-payment. Again, how can this mean that seniors pay more? The truth of the matter is that because the Medicare Program is a 30-year-old dinosaur, seniors actually pay more money in traditional Medicare for fewer services than their children and grandchildren do in the health care open market.

This historic legislation empowers seniors by offering choices through MedicarePlus coverage which includes coordinated care preferred provider organizations, local union or association policies, HMO's, private fee-for-service, medical saving's accounts, or continuing traditional Medicare. Most of these choices are currently available for every other American. Why should senior citizens continue to get the short end of the stick? The MPA goes a step further and opens the health care playing field to hospital and doctor coordinated organizations who can network to offer direct medical care to beneficiaries saving the cost of a middleman. Since hospitals are burdened with a large portion of the Medicare payment reimbursement savings, creating provider service organizations [PSO's] will allay some of their burden while opening up a whole new choice for direct medical care.

Medical savings account [MSA's] will allow seniors who choose this option to completely control how their Medicare contribution and out-of-pocket money is spent. They will receive their Medicare contribution each year in one sum which will be deposited into their medical savings account. They can then choose a high deductible policy which best fits their needs, maintaining at least 60 percent of the cost of the deductible in their MSA at all times. They can then use the balance of their MSA for doctor's visits, prescription drugs, eyeglasses or other medical-related expenses. If they are hospitalized the MSA pays for the

deductible and then insurance pays for the rest. If money is left over in the MSA at the end of the year, the money belongs to the senior and can be used for any purpose or can be rolled over into the next year's MSA.

MPA not only keeps the Medicare Program healthy into the 21st century, but finally gives seniors the power and choices they deserve. The legislation also includes long awaited liability reforms, strong incentives for combating fraud and abuse, and many other reforms which will only improve the Medicare health care delivery program. The amazing thing about this is that the MPA does not cut a single dollar from a beneficiary check, nor does it ask seniors to pay a single dollar more than they now pay. Again, in simple language, there are not cuts to beneficiaries in this bill, Mr. Speaker.

Mr. Chairman, we must all take the responsibility for protecting and caring for our grandparents and parents and of those disabled either physically, emotionally, or financially. But, we also have a responsibility to our younger taxpayers who are not only future beneficiaries of Medicare, but the future of this country. At this point they are paying 68.5 percent of the Medicare part B premium. Like most seniors, they simply cannot afford to pay more. Private health care organizations have been successful in the last several years at finding savings by actively seeking new and innovative ways to deliver the quality health care that Americans expect and deserve. The Republican Medicare Preservation Act accomplishes this same goal for America's seniors.

In support of the Medicare Preservation Act, I challenge Democrats to quit their scare tactics and join Republicans as we get down to the business of saving Medicare today and protecting and preserving the program into the 21st century.

Mr. GEJDENSEN. Mr. Chairman, I rise today to express my strong opposition to Newt Gingrich's bill to cut the Medicare Program by $270 billion in order to pay for a tax break to the wealthy.

Contrary to their recent pronouncements that the cuts in H.R. 2425 are necessary to save Medicare, it is clear that the Republicans do not want to save the Medicare system. They want to eliminate it. In fact, they have a longstanding record of opposing the program. In 1965, 93 percent of Republicans voted against the bill which established Medicare.

Throughout the years, the trustees have predicted imminent bankruptcy for the program. And, every time, Democrats have taken the steps necessary to keep this pay-as-you-go system solvent. In 1970, the trust fund was supposed to go broke in 1972. In 1972, it was to be bankrupt in 1976. In 1993, the trustees reported that the trust fund would go broke in 1999. However, thanks to reforms in the system enacted as part of the Omnibus Budget Reconciliation Act of 1993 [OBRA #93], the life of Medicare was extended until 2002. OBRA 93 passed the House of Representatives without one Republican vote. Where were Newt Gingrich and his friends then?

Earlier this year, the Medicare trustees reported that the Medicare part A trust fund needed $90 billion in cuts to remain solvent for the next decade. For that reason, I will vote for the Democratic alternative which saves exactly that amount. Nevertheless, Newt Gringrich and his loyal followers in Congress have crafted a bill to cut the program by almost three times the amount necessary. Why?—to pay for tax cut for wealthy Americans.

The Republican plan reduces Medicare spending by $270 billion, but increases beneficiary cost-sharing by $55 billion by raising monthly premiums. Under the proposal, the premium will rise from the current $46.10 to $87 in 2002. These figures are in direct contrast to the alternatives. Under the Democratic alternative, the premium will increase to only $58 in the same year. If current law were continued, the premium would increase to $61.

In addition, the majority's ill-advised proposal will result in seniors losing the ability to choose their own doctors. Proponents of this measure contend that beneficiaries will have unlimited choice, but the bill provides financial and other incentives to entice physicians to accept only MedicarePlus enrollees. Therefore, if a doctor decides to stop participating in the traditional fee-for-service Medicare, his or her patients are essentially left with no choice at all.

IN short, the Republicans' priorities are reversed. Their Medicare plan helps the greedy at the expense of the needy. That is simply wrong and I will vote against this shortsighted and punitive legislation. I urge my colleagues to do the same.

Mr. COLLINS of Georgia. Mr. Chairman, over the past several months I have held many townhall meetings for the purpose of listening and learning about Medicare from the people of Georgia's Third Congressional District. I have met with groups of senior citizens, physicians, and hospital administrators to better understand their concerns about the current Medicare insurance program.

I have learned from senior citizens of their fear of losing their Medicare insurance. They have shared with me their concerns about excessive fees charged by doctors and hospitals. They have brought me copies of complicated doctor and hospital bills they have received. They are frustrated with these billing procedures. Our seniors are concerned over excessive charges and fraudulent use of their Medicare insurance money.

I learned of the frustrations of doctors and hospitals that try to provide health care to Medicare patients under intrusive regulations and complicated reimbursement rules that have been forced onto them by past Congresses. They also shared their concerns about excessive testing and the overpracticing of health care due to the fear of lawsuits. Doctors and hospitals are frustrated because they are not allowed to legally discuss the delivery of health care within a community because of antitrust laws.

Mr. Chairman, in simple terms, the people of Georgia's Third District know and understand this Congress must address the problems within the Medicare insurance program such as overcharging, waste, and fraud. They also understand that in 1996, the Medicare insurance trust fund will begin paying out more money than the trust fund collects from payroll taxes deducted from each and every paycheck earned by the working people of this country.

But, Mr. Chairman, I am not the only Member of Congress who has listened and learned. The message I heard from the people of my district can be repeated by almost every Member of this House of Representatives who heard the same concerns in meetings held throughout their districts and out across our great Nation.

As a result of these meetings, the Republican Members of the House of Representatives have written, and now passed, the Medicare Preservation Act [MPA]. The MPA saves Medicare by addressing the very areas of concern voiced by those who depend on Medicare to pay for the cost of their health care.

Mr. Chairman, I read a speech not long ago which was given by the CEO of the Chrysler Corp., Mr. Eaton. In his speech he referred to a period of time some 15 years ago when the Japanese were taking over a large portion of the American automobile market.

The Japanese were beating the domestic automakers in the area of quality and price, very similar to the way the private health care industry is beating today's Government-run Medicare Program in quality and price.

What did the big three U.S. automakers do? They looked at the process of how they were manufacturing cars. They pulled together supervisors, union leaders, consumer groups, dealers, and anyone who they thought might have valuable input in how to change the process of manufacturing.

As a direct result of changing the process, the quality of their products has increased two and one-half times and they are building the same number of cars with half the work force.

Mr. Chairman, the process of Medicare is what the MPA changes.

Let's look first at who will be covered by Medicare under the MPA. Everyone. That's right everyone who receives Medicare today. I will say it again—everyone—each and every individual who is eligible for Medicare today will remain in the Medicare insurance program. Each and every individual who will become eligible for Medicare in the future will be covered under Medicare when they reach the Medicare age. No one—not one senior or disabled person will be mandated to leave the current Medicare insurance program.

Mr. Chairman, the American people are now hearing a great deal of rhetoric about how the Republicans are ending Medicare. Some special interest groups, and even some of our own colleagues in Congress, are engaging in scare tactics and giving false, misleading information about our plan. Well that is just what it is: Rhetoric. The truth is—the Medicare Preservation Act does not and will not end Medicare. In fact Mr. Speaker, the MPA does not cut—I repeat—does not cut Medicare benefits.

Well, if MPA does not cut Medicare, how do we plan to save $270 billion over 7 years at an average of $36.5 billion per year? The answer is we are making the changes our senior citizens requested to make. And by making those changes the taxpayers will spend $270 billion less than will be necessary under the current Medicare insurance program.

Mr. Chairman, we have a choice—either we correct the major problems within the Medicare process or we raise taxes on every working person in the Nation. In the past, raising taxes has been Congress' answer to fixing Medicare. In fact, the payroll tax and the income base have been raised 23 times over the past 31 years to fund runaway cost in the Medicare system.

But raising taxes decreases a family's income, increases the cost of consumer goods and services, and increases the cost of living for everyone, including seniors, who are on Medicare and a fixed income. Rather than raising taxes again, Republicans have chosen

to fix Medicare, according to what our senior citizens have requested. Let's take a quick look at some of the changes our seniors have suggested.

First, we are reducing the growth of excessive payments to doctors and hospitals. The Medicare Preservation Act consolidates a clumsy multiple layer reimbursement process which is unfair to general practitioners and very favorable to specialized medicine practitioners. It also simplifies the reimbursement process in a more fair and equitable manner.

The Medicare Preservation Act will simplify hospital bills so those insured by Medicare will better understand the billing process while at the same time reducing the growth of reimbursements for hospital care. One of the real problems with many hospitals is the lack of utilization of the entire facility or low occupancy rates. Yet many hospitals continue to build and add on to their hospital.

Have you ever wondered why? One reason is a part of the Medicare reimbursement for hospital care is based on the capital investment of the hospital. In other words the more the hospital makes capital investment, the more reimbursement they get from Medicare. Well the Medicare Preservation Act will slow down the unnecessary building by reducing the reimbursement based on capital investment. This should have been done many years ago.

Mr. Chairman, back during the late 1970's I served as chairman of the board of commissioners for a rural county in Georgia. The county has a Hill-Burton Hospital and the local government was responsible for keeping the doors open. Our hospital was losing money and had a high account receivable owed to it by Medicare.

As one who was responsible for the people's tax dollars, I paid a visit to the Blue Cross-Blue Shield insurance company and asked why they had not fully reimbursed the hospital for the bills submitted. They looked in the file and said, ''we are discounting your bills because you are not charging us enough.'' I could not believe what I had heard. Our hospital was being penalized by Medicare rules because we were not charging enough for our hospital care. It is no wonder Medicare has had money problems for a long time.

Mr. Chairman, if we are reducing doctor and hospital reimbursements, we also must help them reduce their cost of operation or we may discourage them from serving the Medicare insured. We are reducing their costs by including in the Medicare Preservation Act a provision commonly known as malpractice reform.

Today, doctors and hospitals pay ridiculously high premiums for malpractice insurance and most feel they have to practice defensive medicine to avoid lawsuits. Both the cost of the insurance and the overpracticing of medicine have led to higher costs for health care.

Additionally, the Medicare Preservation Act includes an antitrust provision so doctors and hospitals can legally discuss better ways to deliver health care to a community. It is just plain common sense to allow providers this flexibility.

Another good idea included in the Medicare Preservation Act is to purchase the necessary equipment to better track how much we pay doctors and hospitals for health care delivered to each Medicare insured beneficiary. You would think this would have already been done—it only makes good business sense to keep up with your accounts payable. But at this point nothing surprises me about how the current Medicare insurance program is operated.

Next we heard what folks were saying about waste, fraud, and abuse. Therefore the Medicare Preservation Act includes several provisions to eliminate waste, fraud, and abuse. Provisions such as:

One, requiring the Secretary of Health and Human Services to alert individuals entitled to Medicare of scams aimed at ripping off Medicare and providing a tollfree number to report such scams.

Two, rewarding beneficiaries who report huge illegal charges and rewarding them for good ideas which save Medicare dollars and improves the program. This will be a good incentive for those who are covered by Medicare to help keep down program costs and report fraud and abuse.

Three, a voluntary disclosure program for doctors who may have unintentionally overcharged for Medicare services. There is no such provision in current law.

Fourth, heavy fines on doctors who commit fraud against Medicare.

Five, a Medicare integrity program whereby the Secretary can contract with private concerns to review activities of doctors, audit the cost reports, determine whether Medicare should or should not have paid for services charged, and gives the Secretary the authority to collect overcharges.

Six, establish within the Department of Justice an antifraud task force.

Third, the Medicare Preservation Act establishes a trust fund for medical education. Currently teaching hospitals receive additional reimbursement money to help pay for medical education; again increasing the cost of Medicare.

Fourth, the Medicare Preservation Act establishes a baby boomer commission. This commission will begin now to look ahead for ideas of how to best ensure that Medicare will be there for those Americans born during or after World War II. In the past Congress has waited until a crisis occurs before taking an action. This commission will change that precedent. It is a very needed provision because when the baby boomers reach Medicare age there will only be 2.5 workers per Medicare insured, compared to today where there are 3.3 workers per Medicare recipient.

Fifth, there is a provision requiring a lookback commission to review the Medicare Preservation Act changes and how they are working. This will give Congress an idea of just what affect Medicare reform has on the cost of Medicare and recommendations for any necessary corrections needed to protect benefits.

Mr. Chairman, many of our seniors are worried about whether copayments or their hospital deductible will be increased under the Medicare Preservation Act. The answer is no. I will repeat the answer, no—capital NO—no.

The question has also been asked, will my part B premium increase? The answer is: The part B premium deducted from Social Security checks will remain at the current 31.5-percent level. This is different from the Democrats substitute which would have dropped the part B premium deduction to 25 percent. Under the Medicare Preservation Act, those individuals insured by Medicare who have an annual income of $75,000; and for those couples that earn $125,000, their part B premium will increase gradually to a point they could pay for the whole premium.

Mr. Chairman, there are a lot of misleading comments about what happens to the money saved by passing the Medicare Preservation Act. What will happen to those dollars? First of all the hospital trust fund, which pays for part A Medicare insurance, will continue to collect the payroll taxes needed to sustain itself. Second, the fewer dollars needed to subsidize the part B insurance, less general fund dollars, will be needed to pay for Medicare. Of course, Mr. Speaker, as you know the general fund is already overdrawn by some $5 trillion.

There are the changes to the current Medicare insurance program. However, there are other options for health care which will be available under the Medicare Preservation Act known as MedicarePlus plans. These new MedicarePlus options include: One, provider-sponsored organizations; two, medical savings accounts; and three, health maintenance organizations.

Each new option is a marketplace program. Each option will be completely voluntary. No one insured by Medicare will be required to select one of these options. The success of these options will be determined by the marketplace according to the quality of care provided, and the fees charged for the care provided. If an individual is not satisfied with either the quality of care or the price charged, they will have the ability to go back to the current Medicare system.

Mr. Chairman, the Medicare Preservation Act is a good idea. It is a plan which I fully believe will ensure that Medicare will be there for me 14 years from now when I become eligible for Medicare insurance.

Mr. HORN. Mr. Chairman, we have endured a great deal of campaign rhetoric regarding the Republican tax cut proposal and its alleged affects on the reforms we offer today to Medicare. I would like to refute the well-choreographed Democratic attempt to sideline a valiant effort to save Medicare.

The Republican plan to strengthen and save Medicare has nothing to do with the tax cut proposed for working families. When we passed the revenue bill in the House we had already made the spending cuts to permit a tax reduction. And they know that. There is a gap as wide as the Grand Canyon between what they know and what they say.

Even if the budget were balanced, Medicare would still have to be saved from bankruptcy. The President claims that, ''not 1 red cent of the money being paid by seniors will go to the trust fund. It will go to fund a tax cut that is too big.'' The President is wrong. He ought to read the law. Under current law, premiums and payroll taxes paid into the Medicare trust funds can only be used for the Medicare program. This is true for both the trust fund that pays hospital expenses, part A, and the trust fund that pays physician and other expenses, part B. As the Medicare trustees stated in their April 1995 report: ''The assets of the trust fund may not be used for any other purpose.''

Now let us address the so-called tax cuts for the rich. The House Budget Committee estimated that 74 percent of the $500-per-child family tax credit will go to families making less than $75,000 per year. The 4.7 million working families earning $25,000 a year and below will no longer pay any Federal income taxes; families earning between $25,000 and $30,000 will

have 48 percent of their Federal tax liability wiped out; although families with incomes of $100,000 will only have their Federal taxes reduced by 5 percent.

President Clinton penalized seniors with a retirement income above $34,000 by imposing higher taxes on them in his 1993 tax bill. The Republican Contract with American legislation provides tax relief to senior citizens by phasing out the President's 1993 Social Security benefits tax. We also help seniors who continue to work after turning 65 by raising the earnings limit. If you continue to work and earn more than $11,280 after turning 65, you currently are hit with a tax on your Social Security benefits. I think seniors who desire to work should be encouraged to work, not punished with lost benefits. Our revenue proposal raised this earnings limit from $11,280 to $30,000. Is a senior earning $30,000 rich? I do not think so.

Mr. Chairman, what the naysayers do not want to admit is that the Republican proposal to save Medicare is a viable plan not only for those who currently depend on its services but also for the generations to follow.

Mr. Chairman, 30 years ago as the legislative assistant to Senator Thomas H. Kuchel, the Republican Whip/deputy leader of the Senate, I was part of the working group that met with key Members of the Johnson administration to put together what became known as Medicare. I have been a strong supporter of Medicare over the three decades since that time.

Today, we are preserving, strengthening, and saving Medicare from bankruptcy. We have provided much improved choices for all senior citizens. The result is a much improved Medicare which will meet the needs of the current and future generations of older Americans.

Vote for the Medicare Preservation Act of 1995. History will prove we did the right thing.

Mr. FAZIO of California. Mr. Chairman, we are not talking today about Medicare preservation—we are talking about Medicare decimation. The Republican Medicare proposal flunks the test by which we judge sensible health policy. On all counts, it fails to measure up to the standards that the American people demand and deserve. It reflects not the informed consensus of the millions of seniors who depend on Medicare, but the arbitrary will of a handful of Republican leaders.

Health policy experts agree that this plan will actually end up hurting seniors, not helping them. At the expense of Medicare beneficiaries, primarily seniors on fixed incomes, this Medicare plan lines the pockets of special interests. And the scope of the plan—far exceeding what is necessary to shore-up the Medicare trust fund well into the next century—is a dead-giveaway that the cuts are, in fact, simply a vehicle to finance tax cuts for people who don't need them.

This so-called Medicare Preservation Act isn't about making Medicare more efficient. It's not about working with seniors and health policy experts to craft sensible reforms that guarantee our seniors the safety and security they deserve.

This plan is about one thing. It is about squeezing the people in the middle, and the people who have worked hard and paid into Medicare all their lives, in order to give the people at the top a $19,000 tax break.

The New York Times, in a recent article, explained exactly how the GOP decided to cut $270 billion out of Medicare. It's not pretty. In fact, it's more bad math and good government. Essentially, they set themselves a 7 year timeline for reaching a balanced budget. An admirable goal. But, then they insisted on a $245 billion tax cut. What NEWT GINGRICH called the crown jewel of the Republican agenda, turns out to be a combination of tax credits and tax cuts that help the richest 1 percent. Then, they turned their sights on discretionary spending, squeezing as much as they could out of programs that help kids, families, and the underprivileged.

Left with a $270 billion shortfall, they devised a last-minute plan to squeeze exactly that amount out of Medicare.

Coincidence, conspiracy, or incompetence? Regardless, the true losers are the 37 million seniors who depend on Medicare—the real crown jewel of our 30 year commitment to quality health care.

Just over 3 weeks ago, Democrats here in Congress decided we'd had enough Enough bad math, enough bad policy, enough disregard, on the GOP's part, for open debate and free discussion.

We staged our own series of hearings to evaluate the elements of the Republican proposal. We invited health care providers, Medicare beneficiaries, and health policy experts to present their views in the court of public opinion, right here in the shadow of the Capitol. In some ways, I regret that we had to step outside the convention and custom of the House, and away from a committee system that I respect, to conduct these hearings.

But, as I listened to these witnesses, I felt, at last, that we had begun the real public dialog. In some cases, we heard the views of people who had been shut out of the official debate—shut out of the single day of Republican-led hearings in the Ways and Means Committee.

I have also been listening to seniors in my district, hearing about how this Medicare decimation proposal would be devastating to them. It is estimated that this plan will cost seniors $400 a year more in premiums costs. This may not sound like much to the people who are benefiting from the tax breaks in the overall budget package. But keep in mind that more than half our seniors have no pension income other than a Social Security check and half of these seniors get less than $7,000 a year.

These are not just faceless statistics. Listen to the words of Mary Hopkins, a Medicare recipient who lives in my district in Carmichael, CA.

> My husband's employer went bankrupt, wiping out all his benefits. He now works part time at McDonald's to make ends meet.
>
> I suffer from arthritis, asthma, and a heart condition, so I am taking a lot of medication and see my doctor at least every 3 months.
>
> I am very concerned about how I would pay for any increase in my copayments for Medicare service. There is no room in our budget for any further medical expenses, so we would have to go on welfare. Where are the savings there?

While I believe this plan to cut Medicare will be bad for hundreds of thousands of people like Mary Hopkins, I know it will be even worse for rural residents. My district in northern California encompasses many rural areas and small towns. The fragile economies of rural areas often mean many residents have little or no insurance, making it difficult for these communities to attract and keep doctors and maintain local hospitals.

There is no question that there is an excess of hospital beds in some communities and that some hospitals could be closed. The problem with this plan is that, as a result of these drastic cuts, the wrong hospitals will end up closing. Hospitals in many of the smaller communities in my district are in precarious financial situations, and if they close, there may not be another facility for 75 miles.

When I visited with the head of one of these hospitals in my district his message was clear. Ed Bland of Colusa Hospital said simply, ''When you put everyone on a starvation diet, the small and the weak die first.''

This Medicare plan, combined with the unprecedented Medicaid cuts that are also proposed, will be a one-two punch to rural residents. Out of the patients the hospitals in my area serve, approximately 43 percent receive Medicare reimbursed service and 17 percent Medicaid reimbursed service. On the average, this means a full 60 percent of the care these hospitals provide is federally financed care.

If these Medicare reductions go into effect, hospitals in my district alone would have $175 million taken out of their budgets over the next 7 years. There is no way you could take that much out of our hospital budgets without harming the quality of patient care these facilities could offer.

What we have before us is a Medicare decimation act—put Medicare on a starvation diet, raise premiums for seniors, drive up their out-of-pocket costs, bankrupt rural hospitals. All of this to give the wealthiest in this country a tax break.

The alternative to today's Medicare decimation act is a sensible, equitable reform plan that does not jeopardize the health and security of millions of seniors and their families.

The Democratic alternative has no premium increases for Medicare beneficiaries, expands choices of providers and plans, adds new preventive benefits, and implements tougher fraud and abuse standards. It reduces Medicare spending by two-thirds less than the Republican plan, only $90 billion, but extends the solvency of the trust fund to the same year as the Republican plan—2006.

Let me reinforce this point—the Democratic alternative would preserve the Medicare trust fund for until 2006. This is the same exact time frame as the Republican's proposal to save Medicare.

Mr. Chairman, I will not support a plan which claims to save Medicare by taking $270 billion out of the program in order to fund $245 billion in tax breaks for the wealthy. I urge my colleagues to join me in rejecting this Medicare decimation act.

Mr. MURTHA. Mr. Chairman, we simply cannot solve Medicare in a partisan manner, and that's why this is the wrong bill, at the wrong time, for the wrong reasons. It's the wrong bill because it increases premiums, reduces coverage and reduces choices for older Americans while closing rural hospitals—as many as half the hospitals in our area would close, according to the Pennsylvania Hospital Association. It's the wrong time because we're not in a crisis situation that demands the drastic steps contained in this legislation—we have time to study the alternatives and develop a bipartisan consensus. And it's the wrong reasons because the savings won't go to the Medicare trust fund, but instead would go toward a tax cut slanted toward the wealthy.

Let's separate Medicare from the budget-tax cut issue, and work for legislation which guarantees that older Americans will continue to have access to affordable, quality health care of their choice.

For the last 30 years, Medicare has worked very well—it's enabled senior citizens to get the health care they need without facing financial disaster. The backers of this legislation claim we're in a crisis situation which demands the drastic steps contained in this legislation, but that's simply not true.

This bill does everything senior citizens don't want—it makes health care more expensive, it forces them to go to doctors they don't want, and if they need to go to a hospital, it may risk their lives by forcing them to travel farther, because according to the Pennsylvania Hospital Association, half the hospitals in western Pennsylvania may close if this bill is signed into law. And the legislation doesn't do what everyone, including seniors, feels is necessary—to guarantee the stability of Medicare for more than 10 years.

The supporters of this legislation should stop worrying so much about reaching a certain number for savings and start paying attention to the needs of senior citizens. We should take our time and come up with a bipartisan solution which starts with addressing the waste, fraud, and high administrative costs in the Medicare system. The savings we could get from those areas are enough to stabilize Medicare and avoid the premium increases and limits on care which are going to penalize older Americans.

Medicare is too important to too many people to be lost in political rhetoric. Seniors should feel confident they're receiving the best possible care at a cost they can afford. So let's not throw 30 years of success away in a panic—let's protect Medicare, and not make it a program where only the wealthy can get the best care.

Ms. WOOLSEY. Mr. Chairman, now is the time to stand up for seniors by voting down this plan to raid Medicare to provide tax breaks for wealthy special interests. Instead of continued partisan bickering, we need a bipartisan effort to save Medicare by eliminating the waste and fraud that cost billions each year.

I come to this floor today as the Representative for Sonoma and Marin Counties in California. As I always say to my colleagues, I am so fortunate to represent such a concerned and caring constituency.

For the last several months, I have been speaking to the people in my Congressional District. I have been speaking with senior citizens, with hospital administrators, with physicians, and with working families. Seniors are scared to death because they will have to pay more for less at a time when so many are struggling to get by. And families are scared to death because they do not understand how they will support aging parents and send their kids to college at the same time. The people of Sonoma and Marin Counties have spoken loud and clear: they do not support $270 billion in Medicare cuts in order to pay for $245 billion in tax breaks for wealthy special interests.

The new majority is making the argument that these massive cuts in Medicare are needed to save the system. I agree that Medicare and Medicaid can be improved, and that Congress should vigorously support efforts to make this system better. But I disagree with Speaker GINGRICH that the way to keep Medicare solvent is to operate on it with an axe, instead of a scalpel.

Speaker GINGRICH would like to convince the American public that Medicare is in a sudden crisis. However, concerns about the Medicare Trust Fund are not new. The Medicare Trustees have on eight previous occasions warned that the Trust Fund would be insolvent within 7 years. Each time, Congress responded immediately in a bipartisan way to make the changes necessary to keep Medicare solvent. However, the cuts proposed by Speaker GINGRICH go far beyond what is needed to protect the Medicare Trust Fund. What is more, since the proposed premium increases do not even contribute to the Medicare Trust Fund, it is clear that the new majority is increasing premiums only to pay for a special interest tax giveaway, not to strengthen Medicare.

In other words, the Gingrich Medicare plan is a major cut. According to the non-partisan Congressional Budget Office, the rate of growth in health care spending per person in the private sector over the next 7 years will be 7.9 percent. The Gingrich Medicare plan, however, brings the rate of growth of Medicare spending down to 4.9 percent per beneficiary. This means that the Gingrich plan will not keep up with the pace of inflation and the growing population of older and disabled Americans. As a result, there will be major increases in costs: by the year 2002, seniors will spend $400 more in Medicare premiums. Moreover, seniors may lose their choice of doctor because they will be forced into a Government-mandated managed care plan. In addition, hospitals and emergency rooms will be forced to reduce care and many will close. Some health care experts predict that up to 25 percent of all hospitals could close if Speaker GINGRICH's assault on Medicare becomes law.

But I do support making Medicare stronger. That is why I voted for the Democratic substitute to reform Medicare, and am a cosponsor of H.R. 2476, the Common Sense Medicare Reform Act.

The Democratic substitute saves $90 billion over the next 7 years. It reduces seniors' premiums, while providing coverage for new benefits such as more frequent mammograms, colorectal screenings, Pap smears and diabetes screening. The Democratic substitute increases seniors' choice of health care coverage, but does not force them to give up their own doctors. Under the Democratic substitute, the Medicare program will be strong and solvent, and seniors will continue to receive high quality care from doctors they know and trust.

I also support the approach taken in the Common Sense Medicare Reform Act, which strengthens Medicare by eliminating real waste, fraud, and abuse in the Medicare system. It will also save the amount needed to keep Medicare solvent for years to come. This bill will give law enforcement more tools to fight Medicare fraud, a crime which harms Medicare and the American taxpayer. And this bill, unlike the new majority's plan, will require that any funds recovered through cuts or savings from waste, fraud, and abuse will be automatically returned to the Medicare Trust Fund—not used to pay for a special interest tax giveaway.

In addition, I would also like to raise my objection to the way that Speaker GINGRICH has conducted the debate on his massive changes to Medicare. As someone who believes in the democratic process, I am outraged that the new majority only allowed for one day of public hearings on this assault on Medicare. As a former Petaluma City Council member, I remember that we talked longer and harder about sidewalk repairs than the House of Representatives has about an issue which affects the health of millions of Americans. This is unfair and undemocratic.

So, I am here to speak out for the people who have been shut out of the democratic process by this new majority. These people should not be silenced, and they should not see their concerns ignored by a Congress bent on pursuing a partisan agenda.

We would all do better if we listened carefully to those we represent. As one man in my district said, ''I worked hard all my life, raised ten kids and fought in two wars to live my life in peace. Living on only $801 a month, I need all the help I can get.''

To my colleagues on both sides of the aisle, I would like you to remember these words. Think about this man, and the millions of seniors just like him all over America who do not deserve second rate medical care and who do not deserve to have their pockets picked for a special interest tax giveaway. I call on my colleagues to reject this bill, take the tax giveaways off the table, and get on with the bipartisan job of restoring Medicare's solvency by eliminating rampant waste and fraud. Stand up for seniors by voting down this bill.

Mr. BORSKI. Mr. Chairman, I rise today to denounce the majority's plan to cut $270 billion from Medicare and $182 billion from Medicaid over the next 7 years in order to pay for $245 billion in tax breaks for the wealthy. These excessive cuts are unnecessary and harmful to America's senior citizens, working families, and the health care industry.

It is my honor to represent the Third congressional district in Pennsylvania, the twentieth oldest congressional district in the country. Pennsylvania is the second oldest State in the Nation where one out of six residents is a Medicare recipient and one out of seven is a Medicaid recipient. In the Third Congressional District, approximately 100,000 residents rely on Medicare. Approximately 400,000 people in Philadelphia rely on Medicaid.

Not only will the senior citizens in my district suffer, but all citizens, our health care system, and the entire Philadelphia economy will be endangered by these insidious cuts. Let me give you an example. At the Episcopal Hospital in Philadelphia, 88 percent of the people who enter the hospital are Medicare or Medicaid beneficiaries. If these cuts are approved, I don't know how the Episcopal Hospital will survive. Several other hospitals in my district, in other parts of Philadelphia, and across the State of Pennsylvania, are on the critical list as well. Health care workers—as many as 25,000 in Philadelphia and up to 6,000 in the Third District alone, will be at risk of losing their jobs. Communities will lose their local hospitals when these devastating cuts force them to close their doors. In addition, working families will pay more for their own health care as a result of the cost shifting which will follow these cuts.

But none of this deep, human pain seems to matter to this majority. In Washington, these days, a chill wind blows over our Nation's senior citizens. A lack of compassion fills the air.

The senior citizens in the Third District, and across the Nation, will pay more for their

health care, have less choice regarding their doctor, and receive a lower quality of care. Balance billing protection, which prohibits health care providers from charging seniors more than 15 percent above the Medicare reimbursement rate, will be eliminated. Seniors who enroll in HMO's because it has become financially impossible to remain with their family doctor will have no protection against additional charges once they are locked into an HMO. That's the bad news. There is no good news in this Republican plan.

Now, let me tell you the worst news. Everyone knows that Medicare is for our senior citizens and Medicaid is for those who are less fortunate. But, what people across America don't realize is that Medicaid also pays for the long term care costs of senior citizens. In Pennsylvania, 65 percent of all long term care costs are paid for by Medicaid. After our seniors have exhausted the savings they have worked so hard to accumulate over their lifetime, they go on Medicaid to receive the nursing home care they so desperately need. With the costs for a modest nursing home averaging about $4,000 a month, it is easy to understand how typical Philadelphia seniors could easily drain their savings in a short time. After these savings are depleted, Medicaid provides seniors with a safety net. As a result of these cuts, this safety net is now gone. The guarantee that Medicaid will cover Medicare costs for poor senior citizens is now gone. Some laws that enable the Government to stop fraud, waste, and abuse are now gone.

These exorbitant and heartless cuts are not designed to fix or save Medicare. They are being enacted in order to give $245 billion in tax breaks to the country's wealthiest individuals. Despite all the rhetoric from the majority, one fact is clear: The savings from the Medicare cuts will not go back into the Medicare trust fund. They will pay for tax breaks for the wealthy. Our senior citizens on fixed incomes cannot afford these increased costs. The Medicare system can not afford these excessive cuts.

I have traveled my district and asked hundreds and hundreds of my constituents if they support $270 billion in Medicare cuts and $182 billion in Medicaid cuts in order to provide $245 billion in tax breaks for the wealthiest in our country. The answer is always the same—no.

I will vote against this mean-spirited legislation and I urge my colleagues to do the same.

Ms. HARMAN. Mr. Chairman, on behalf of hundreds of seniors in the 36th District of California with whom I met over the course of this debate, I rise in strong opposition to this bill that would decimate Medicare, our most successful Federal program.

For more than 30 years, Medicare has guaranteed health care coverage for seniors—99 percent of whom are now covered—and it has dramatically reduced poverty among seniors, from 33 percent in 1965 before Medicare's creation to 13 percent today.

I have carefully read the Medicare trustees report. I agree that Medicare must be reformed. We must extend the solvency of the part A trust fund and take steps to control Medicare's high rate of growth—10 percent a year—to save Medicare for today's seniors and for generations to come.

Unfortunately, Washington is at it again playing politics. Members from both sides of the aisle have been more concerned with pointing fingers at the other rather than engaging in substantive discussion of real solutions to address the rapidly rising costs of Medicare.

I would like to share with my colleagues what I have learned from my constituents, and tell you some of their personal stories. I have been greatly impressed by their understanding of the changes being proposed and their ideas about how to reform Medicare.

The plan before us is not Medicare reform—it is Medicare destruction. The bill cuts Medicare by $270 billion over 7 years even though the Medicare trustees have stated that cuts of about $90 billion will extend the life of the part A trust fund to 2006.

My constituents have asked: ''why does the Gingrich plan cut Medicare by $180 billion more than what the trustees say is necessary?'' To them, the reason is clear: To pay for an ill-timed tax cut. They want the focus on saving Medicare and balancing the budget—not on cutting taxes. ''We can't afford a tax cut now,'' wrote Glenda Masek. ''And I'm a registered Republican,'' she added.

Many seniors recognize the financial problems facing Medicare and express a fervent desire for reforms. Some seniors told me they are willing to pay slightly higher premiums and deductibles, as long as the increases are fair. ''Some of us can afford to pay a little more,'' Irwin Gerst acknowledges. ''But many seniors are on fixed incomes and so any increases should be minimal and gradual and not used to offset tax cuts.''

Like these individuals, I cannot support a proposal that will take money out of the pockets of Medicare beneficiaries who have an average income of $13,000 a year. Under the bill before us beneficiaries' monthly premiums will rise to $87 by 2002, as compared to $61 under current law, and $1,700 less will be spent per beneficiary. These figures translate into higher costs for less care.

Not all my constituents can afford the increases:

One San Pedro senior, Katie Brazerich, pleads: ''Please don't cut my Medicare benefits and raise my premiums. Every single dollar is needed to help with my living expenses. There isn't any extra left for me to cut.''

''Don't bankrupt us just because we are living longer,'' comments her neighbor.

''These cuts are cruel,'' Lillian Watson observes.

Joyce Short, a 75-year-old Westchester resident told me, ''I paid into it [Medicare] all my life, and now I need it.''

Another, 71-year-old Mary Ford, fears she will be put out in the street. ''I have been diagnosed with Lupus and probably will be completely bankrupt if these cutbacks go through. We are the same Americans who went through the Depression.''

I support expanding choices for Medicare beneficiaries. While the bill purports to do this, a choice is not a choice when it becomes too expensive and when doctors move elsewhere. What supporters of the so-called choices in this bill do not mention is that under their plan, beneficiaries will no longer have extra billing protection. This means health care providers can charge seniors above what Medicare reimburses for the same services they receive without additional charge under Medicare today. Fear of extra billing will drive seniors out of fee-for-service arrangements.

''I don't want to be forced into an HMO,'' Virginia Balesteri told me. ''And I don't want my children to have to take care of us.''

These Americans want the right to choose their doctors. If premiums are such that they cannot afford fee-for-service plans, that choice is effectively taken away.

I have also heard countless stories of waste, fraud, and abuse within the Medicare system. Seniors have told me about receiving bills for services they did not receive. When they questioned the bills, they were told by Medicare administrators that it was easier and cheaper to just pay. ''If I ran my business like those Medicare folks,'' one told me, ''I'd be going broke, too.''

To counter fraud, one group of seniors in my district has suggested an incentive program for reporting abuses. Others suggested making Medicare billing easier for consumers to understand. They explained that people need to know exactly what the doctors and hospital are charging to make sure that those tests and services were received—and necessary. I agree that legislative change is necessary to crack down on waste, fraud, and abuse, and a bipartisan approach is essential.

Health care reform is essential. But the reform must help seniors, one of our most vulnerable populations. I strongly believe that we can make reforms to Medicare that attack fraud and abuse and which lower costs.

I urge my colleagues to vote against the Medicare Preservation Act, an oxymoron if there ever was one.

Mr. BARCIA. Mr. Chairman, when people reach the age of senior citizens, their biggest concern is their ability to maintain their quality of life. They have worked all their lives. They have sacrificed. Many have served in our Nation's Armed Forces. They are owed a great debt for their years of contribution.

I agree that we need to make responsible reductions in the cost of the Medicare Program. But we also need to make sure that we maintain a viable health care system that provides hospitals, doctors, nurses, and the other support mechanisms that people need when their health demands it. The bill before today just does not do this.

The ability to have access to health care is vital for the elderly. Last year, many of us heard from our senior citizens who were concerned that proposed changes to the health care system would leave them without access to their own doctor, would drive up their premiums, would force them into managed care systems when they did not want them. In my own district, in response to a questionnaire that I sent out last year, 43 percent said the choice of their own doctor was the most important element of health care. This year, nearly 60 percent of my constituents said that they did not want to see HMO's instead of being able to choose any doctor. And by a 2-to-1 margin they said that we should maintain spending on Medicare and Medicaid, not cut it.

The Michigan Health and Hospital Association has written to me claiming that these anticipated cuts in Medicare and Medicaid will probably result in many rural hospitals closing. I have several rural counties. How can I go back to my constituents and say I supported a proposal that meant that their local hospital was likely to close? Where would these people go for treatment, especially in an emergency, when the hospital closed? How many doctors would locate in rural areas where it would be difficult to get to hospitals where they could adequately treat their patients?

Some will say that doctors and patients can go to hospitals in the nearest city. Bay Medical Center in Bay City, one place that would be a likely alternative, tells me that the cuts in Medicare proposed by this bill would mean a loss of $70 million in revenue between now and 2002. That is before we add in the impact of the Medicaid proposals we will consider next week. Bay Medical Center could be in serious jeopardy if these proposals pass. if this hospital were to close, where would my constituents who need assistance go?

Yesterday we spent 4 hours debating shrimp and lobsters. Today we get only 3 hours to debate the future of a health care system for millions of senior citizens and for millions more who will need to make use of that system in the future. We were able to debate thirteen amendments for shrimp and lobsters. Today senior citizens will be restricted to only one. Earlier this year I celebrated passage of new House rules requiring a three-fifths vote to impose any tax increase. If this bill does not raise fees—taxes—for our seniors, why must we waive this provision? We were sent here to do the people's business, not to give greater consideration to shrimp and lobsters, nor to go back on the reforms we made at the first available opportunity.

Mr. Chairman, I cannot support this bill. It jeopardizes health care for our seniors. It does not give them the kind of system they want and deserve. It is being forced through without adequate review, and it breaks our word. Our seniors deserve better. We can and should do better.

Mr. JOHNSON of South Dakota. Mr. Chairman, I rise in strong opposition to H.R. 2425, legislation designed to reduce Medicare funding by $270 billion over the next 7 years. While I support constructive efforts to stabilize the Medicare part A trust fund and other efforts to promote administrative efficiencies and simplification, the plain fact is that this bill does little to strengthen Medicare and is primarily designed to free up $270 billion in order to finance the cost of the $245 billion tax cut and $60 billion defense pork provisions contained in Speaker GINGRICH's budget reconciliation bill.

Seniors in South Dakota have always been willing to make some adjustments to assist with Federal budget deficit reduction and they realize the need for some health care reforms that will slow down the growth of health care inflation—but they are also wise and experienced enough to know when someone is trying to sell them the Brooklyn Bridge. I have been holding town meetings on the Medicare and Medicaid issue all around South Dakota, and the bipartisan opposition to H.R. 2425 is overwhelming. Seniors want Medicare reforms, but they absolutely do not want wealthy special interests laughing at them all the way to the bank at their expense.

Mr. Chairman, I support alternative legislation which is designed to stabilize the Medicare part A trust fund and does so in a manner which does not raise premiums or reduce benefits to seniors. I cannot and I will not, however, support this misdirected, ''Reverse Robin Hood'' attack on Medicare and Medicaid.

Mr. FAWELL. Mr. Chairman, I rise in support of H.R. 2425, the Medicare Preservation Act of 1995. In April, the Medicare Board of Trustees concluded in their annual report that ''* * * prompt, effective and decisive action is necessary'' to avert the projected bankruptcy of Medicare by the year 2002. I am pleased that today House Republicans are fulfilling their commitment to saving Medicare by adopting this legislation.

The Medicare Preservation Act represents a major overhaul of Medicare. The proposal is aimed at preserving, protecting, and strengthening Medicare, while empowering seniors to choose the health care plan that best suits their needs.

The principle behind this legislation is choice. The Medicare Preservation Act contains an important and innovative feature that will give seniors more choice as well as introduce a truly competitive framework, called Medicare-plus. Medicare-plus will give beneficiaries new options to select from a broader array of privately offered plans, with the Government paying the premiums. These plans could include private traditional insurance, HMO's, new physician-hospital network—provider-sponsored organizations—coordinated care, Medisave plans, and limited enrollment plans sponsored by unions or trade associations. Under Medicare-plus, standard Medicare benefits will be retained so that future beneficiaries will be assured that their benefits will not be reduced. Moreover, if a health plan can provide Medicare benefits at less than the Government contribution, the plan can either provide additional benefits or provide a rebate to beneficiaries.

I want to stress the significance of the provider-sponsored organization [PSO] portion of the bill. This area gives recognition to the important competitive aspects of having PSO's as a choice option for Medicare recipients while also according these entities certain Federal protections. In my view, the ability of providers—doctors and hospitals—to offer health services directly to Medicare recipients adds an extremely important new aspect to the pulsating revolution already taking place in the private health care market. In fact, these providers are already offering health services to employees covered under the Employee Retirement Income Security Act [ERISA] covered plans sponsored by employers and unions. Under the PSO option, Medicare enrollees also will have the freedom to choose the doctors and hospitals they think will provide them the best care at the lowest cost. PSO's and similar entities, which continue to drive down the cost of private health care, will be an important element of the solution to containing Medicare health costs and preserving quality health care.

The extension of choice of coverage to members of qualified associations and Taft-Hartley multiemployer plans is also another key element for expanding the choice of Medicare-plus coverage and allowing seniors to continue their care under organizations that they looked to while working. Moreover, I want to stress that the PSO, qualified association, and multiemployer plan options under the bill does not amend or modify the Federal preemption framework under ERISA.

While providing choice in new options for beneficiaries, the bill simultaneously allows any Medicare beneficiary to remain in or return to the current fee-for-service system where they choose their own doctor or hospital. Other priorities of the Medicare Preservation Act include: combating Medicare fraud and abuse by rewarding seniors who discover and report fraud and abuse; increasing the punishment for those engaged in fraud; curtailing malpractice abuse; and, providing regulatory relief to improve efficiency and help stem the growth in health care costs.

Mr. Chairman, I urge my colleagues to recognize the Medicare crisis, and to support the Medicare Preservation Act. Only by acting now, can we preserve, protect, and strengthen Medicare for generations to come.

Mr. WELDON of Pennsylvania. Mr. Chairman, we have heard in this debate on the floor today and over the past few months an unrelenting barrage of denial, disinformation, distortion, and demagoguery from the Democratic Party on the subject of Medicare. That's why it is no wonder so many senior citizens have expressed concerns about this bill.

Denial, because the nonpartisan Medicare Board of Trustees, which includes three members of President Clinton's own Cabinet, issued a report in April stating that the Hospital Insurance trust fund will be able to pay benefits for only about 7 more years. The trustees said that even under the best estimates, if nothing is done, the trust fund will be exhausted by 2002. Yet the Democrats deny there is a problem and say do nothing.

Disinformation, because the Democrats speak falsely of massive cuts in Medicare, when it can plainly be demonstrated that Medicare spending goes up each year under the Medicare Preservation Act, that we will spend almost $2,000 more per Medicare beneficiary by 2002 under this plan, and that there are no cuts.

Distortion, because the Democrats want you to believe that these supposed cuts, which don't exist, will pay for Republican tax cuts for the rich, another figment of the Democrats' imaginations. Yet this bill contains a lock-box provision that puts all savings back into Medicare. Furthermore, the Republican tax cuts for the middle class—including a $500 a year credit per child for working families—has already been paid for by other savings in the Republican budget. We did that months ago. The Democrats choose to ignore that inconvenient fact.

Demagoguery, because Democrats have engaged in a conscious effort to frighten senior citizens, to scare them into thinking someone is trying to take away their benefits. It is absolutely outrageous. They are sending videos to senior centers claiming that this bill will ''destroy Medicare, not save it.'' This prompted the dean of the University of Pennsylvania's Annenberg School of Communications, Kathleen Hall Jamieson, quoted in the Philadelphia Inquirer, to state, ''It's inappropriate to target a vulnerable population with that kind of information.''

It's far worse than inappropriate. It's offensive to suggest that Republicans don't care about seniors, that we want to harm seniors. My 85-year-old mother relies on Medicare and Medicaid and Social Security and I resent having anyone on the other side suggest that I don't care about my mother. That my party doesn't care about seniors.

Despite the distortions, despite the demagogues, despite the bitterly partisan rhetoric, it is Republicans who are facing up to the problem and taking action to save Medicare. The Medicare Preservation Act does just what its name says. It preserves Medicare for seniors. It saves Medicare for the next generations. It strengthens Medicare for all of us. This bill will attack waste, fraud, and abuse. It will give

seniors more health care choices. It does not raise copayments, deductibles, or premium rates. The Medicare Preservation Act ensures that Medicare will be there well into the future.

Mr. Chairman, I urge all my colleagues to join in support of this bill. It is our responsibility to act. We have to step up to the plate. No one else can. We must have the courage to act. Let us do the right thing and save Medicare.

Mrs. CHENOWETH. Mr. Chairman, I rise today to once again remind the American people of who has a plan to save Medicare and who doesn't.

My constituents are understandably concerned over what might happen to Medicare. Instead of putting legislation where their mouths are, opponents of Republican Medicare reforms have done nothing but use inflamed rhetoric to frighten and confuse people. In fact, I've seen some newspapers describe it as ''MediScare.''

I am happy to point out, however, that one of the newspapers in my district—the Idaho Statesman out of Boise—recently endorsed the Republican Medicare proposal. To quote the Statesman ''GOP-sponsored reforms in Congress make a modest beginning at getting Medicare costs under control * * * Without their passage, senior citizens won't have a viable health-care system.'' I am submitting the Stateman's editorial for the RECORD.

The problem we are facing is this: If we don't act to strengthen Medicare, the benefits available now just won't be there in the future. We must not let politics as usual get in the way of protecting the security that all Americans should have when they retire. We need to keep our eyes on the facts.

I know I couldn't bear to look at my grandchildren and explain to them we had the chance to fix the system in 1995 but didn't.

Let's stop the bickering and pass Medicare reform now.

[From the Idaho Statesman, Oct. 11, 1995]

CONGRESS CAN TRIM MEDICARE

Public health assistance for billionaires is hardly what Americans had in mind for Medicare when it was created 30 years ago. But such unintended consequences are one of the reasons the massive health insurance program is going broke.

GOP-sponsored reforms in Congress make a modest beginning at getting Medicare costs under control. Lawmakers can also set income limits for recipients or have high-income recipients chip in more for their coverage. They also need to allow recipients to pick private plans as an alternative to the traditional Medicare program.

Such reforms are necessary because the current program covers virtually every American, not just the needy. For example, when Boise billionaire J.R. Simplot had hip-replacement surgery last spring, Medicare covered some of the costs. That simply makes no sense to Simplot or anyone else.

Congress also needs to get the paperwork under control. Look at what Vice President Al Gore discovered about just one rule of the Health Care Financing Administration, the agency that directs Medicare and Medicaid.

That one rule generated 11 million forms. Each hospital spend about $22,500 a year filling out those forms—and Medicare is governed by 3,200 pages of federal regulations.

GOP Medicare reforms are scheduled for a vote next week in the House. A similar bill is pending in the Senate. Without their passage, senior citizens won't have a viable health-care system.

Mrs. COLLINS of Illinois. Mr. Chairman, I rise in opposition to this rule and in opposition to the underlying bill, H.R. 2425.

Democratic Members of Congress and seniors across this Nation continue to ask for free and open debate on the extreme and unnecessary Medicare cuts that are before this body today. They have yet to be heard, let alone answered.

There were 10 hours of debate on the legislation that established the Medicare Program 30 years ago. Today we have half that time on a bill to dismantle it. There were 20 hours of debate earlier this year on legislation to send U.S. aid overseas. Today we have one-fourth of that time to consider ripping $270 billion in health care away from older Americans. Where is the logic?

Last week during markup of H.R. 2425, 13 senior and elderly citizens were led out of the Commerce Committee and arrested just because the committee chairman and his GOP colleagues were unwilling to answer the most basic questions about the consequences of passing the Republican Medicare bill. The rule we have before us on this bill continues this gag order by denying Members on both sides of the aisle the opportunity to participate in a fair and democratic review of H.R. 2425 and to offer amendments to this drastic legislation.

As members of the National Council of Senior Citizens testified before Democrats on the Government Reform and Oversight Committee yesterday, the flame of democracy continues to be smothered by the Gingrich Republicans.

Yesterday I presented testimony on two amendments before the Rules Committee that I believe would improve certain deficiencies of H.R. 2425. My amendments were not made in order. The Rules Committee didn't bother to listen to me, and therefore didn't bother to listen to my senior constituents and hundreds of thousands like them around this country.

My amendments are designed to restore current protections for seniors who have diagnostic tests performed in a doctors' office and to ensure that our elderly continue to have access to durable medical equipment such as wheelchairs, electrical beds, walkers, and oxygen.

My Clinical Laboratory Improvement Act [CLIA] amendment would reinstate quality assurance guarantees for patients who have testing done in physician office laboratories by striking the provision in the bill that eliminates the requirements of CLIA for labs in doctors' offices.

It probably should not be surprising that the Republican Medicare proposal—which bends so close to special interests and tilts so far from the best interests of America's senior citizens—would eliminate requirements for quality and accuracy of laboratory tests. This like the Republicans' blatant and cruel elimination of national standards for nursing homes, is one more way of saying to Medicare beneficiaries: You're on your own—good luck.

What is the rationale for exempting office labs? What is the rationale for exempting one specific test—pap smears—from such labs? If it is critically important for doctors' offices to meet quality standards for pap smears, why shouldn't those same quality standards be met when it comes to cholesterol tests, colon and prostate cancer screening, needle biopsies to detect precancerous conditions, and glucose monitoring?

My second amendment would remove the 7-year freeze on payments for durable medical equipment [DME].

H.R. 2425 will cause severe disruptions for seniors and the elderly who need their oxygen to breathe, electrical beds, wheelchairs and walkers to move about. Without these needed and essential items, seniors and the disabled could be forced into potentially life threatening situations.

Unfortunately Mr. Chairman, the Republican leadership just doesn't care.

I urge all my colleagues to vote ''no'' on this rule and ''no'' on the bill.

Mr. KOLBE. Mr. Chairman, today, Congress has a historic opportunity to pass legislation that will allow recipients of Medicare—both present and future—the freedom to choose their doctors, their health plans, and the health care services they decide are appropriate for them. It is time we allow Medicare recipients access to the same choices in health care that the rest of us have. That is the heart and soul of this legislation.

It's become abundantly clear in the last several months that Medicare faces a very real threat of bankruptcy. It is this looming bankruptcy of the trust fund that first alerted the country to the need for extensive changes if we were to save the Medicare system. What won't work is another Band-Aid. Yet, for decades that has been the Democrats' only answer to ensure solvency of the Medicare trust fund. The trustees themselves have told us it needs a systemic fix to be real. This year, once again, the Democrats have proposed the same quick fix solution and have failed to deal honestly with the underlying structural problems of the Medicare system. By simply reducing payments to hospitals and physicians, the Democrats Band-Aid staves off bankruptcy for another 2 or 3 years. This is simply irresponsible; it's what we've done for too long on too many other issues. It's why Medicare faces such a bleak future today.

H.R. 2425 doesn't wait for disaster to wash over us; it takes action now to assure the future security of Medicare for seniors. By providing fundamental changes to the structure of the program, the Medicare Preservation Act will keep Medicare solvent for at least 15 years, until the baby boomer generation begins retiring. We freely acknowledge that another deeper fix will be required then, but this legislation gives us time to see how well free market solutions can work to retain health care costs.

The heart of this legislation is the expansion of Medicare beneficiaries choice of health care options. The private health care market has demonstrated that health care services can be provided in a cost-effective way while maintaining the patient's quality of care. Such care is found in alternative health care systems, such as managed care system, health maintenance organizations, preferred providers organizations and medical savings accounts. Currently, Medicare recipients have not had wide access to these options. With passing of H.R. 2425 Medicare recipients will not have to rely on a system that is a relic of 1965 medicine.

It is unfortunate that my colleagues across the aisle, do not recognize the need for comprehensive reform. Their bill provides no security for seniors who rely on Medicare today, because it extends its life by only a year or two. It provides even less assurances for future seniors who are counting on Medicare to be there for their retirement.

Even if the Medicare trust fund were not facing bankruptcy, this legislation would make sense. It allows Medicare recipients access to the same range of choices in health care that other Americans have. Similar to the Federal Employees Health Benefit Plan, Medicare recipients would receive information each year about different health care providers and plans in their area. And like other Americans, they will be able to choose who provides their health care.

Arizona has been on the forefront in developing a successful managed care market. Over a decade ago, the Arizona Medicaid program, AHCCCS, was established as a managed care system. Now, with an extensive network of HMO's seniors are enrolling in the same system in increasing numbers. They are, by and large, very satisfied with the health care services offered by the competing health plans and have found that some plans offer services outside the required Medicare services, such as eye glasses, lower or no copays for visits and lower prescription drug prices. They can compete on these added services because they hold costs down on basic services.

Then there are medical saving accounts—an option not available now to any Medicare recipient. This option will allow seniors to buy a high deductible, catastrophic policy and pay for out of pocket expenses with the cash from their Medicare payment. If they use health care services prudently, they can even pocket the excess as income. It turns health care consumers into cost-conscious health care purchasers.

Will these options—and there are others—save money and prevent Medicare from going bankrupt? Yes, because private health care is more efficient and consumer driven choices more cost effective than a government administered one-size-fits-all health care program. Medicare costs grew at about 10.5 percent last year. But, in the private sector, large employers actually saw their cost decrease by 1.1 percent. The marketplace can work in health care.

The Medicare Preservation Act addresses another concern of seniors and taxpayers alike by putting in place a systematic program to combat fraud and abuse. As Medicare is designed right now, doctors are paid for procedures whether or not the patient needs it. That means the taxpayer gets ripped off, and the Medicare patient often doesn't get the proper care. By allowing providers and hospitals and insurers to compete for your business, the system will root our fraud and abuse, and will squeeze out waste. Furthermore, seniors who find fraud in their bills will be rewarded with a percentage of the money recovered.

Mr. Chairman, this legislation provides our seniors with health care they can trust and believe in. It is not riddled with burdensome Federal mandates on providers. As a consequence, it allows physicians to do what they do best—provide top quality care for their patients. It is about time we allow seniors to have the same type of health care as the rest of us have. Let's pass this real Medicare reform.

Mr. EDWARDS. I come to the well today because, like many Americans, I am concerned about fate of the Medicare Program.

I cannot support NEWT GINGRICH's plan to cut $270 billion from Medicare while offering a hefty tax break to people making over $200,000. The Gingrich plan cuts Medicare too deeply and hurts senior citizens without really strengthening the program.

I am not willing to sacrifice the quality of health care for senior citizens to pay for NEWT GINGRICH's $20,000 tax break for individuals making over $200,000 a year.

Seniors will pay more and get less. The cost of health care will climb and Medicare benefits won't keep up. Seven years from now seniors citizens and health care providers will find themselves in a hole because of a tax cut for the wealthy.

For senior citizens the plan means up to $1,200 in extra out-of-pocket expenses, limits on their choice of doctors and decreases in future benefits.

Central Texas rural hospital administrators have told me their hospitals could close as Medicare payments drop dramatically. Rural hospitals in central Texas have a high percentage of Medicare patients because of our large population of senior citizens. Some hospitals can't keep their doors open with the low level of reimbursement that the Gingrich plan offers.

I oppose the Gingrich Medicare plan because no one really knows what is in it. The 968 page Medicare bill landed on my desk Wednesday night and was being revised today, the same day I am forced to vote on it. Central Texas senior citizens, medical professionals, and taxpayers have no idea what is in the bill.

To railroad legislation through the House that directly affects 37 million senior citizens and their families is absolutely unfair. To pass such legislation before my constituents and American citizens have a chance to review it and express their views is irresponsible.

There is no question that we must reform Medicare to preserve it for future senior citizens. I'm willing to make the tough choices to cut spending, preserving the program, and balance the budget. However, Newt's Medicare plan simply does not pass the fairness test.

Mr. ALLARD. Mr. Chairman, this year Medicare turned 30, and while it has served the country well, it is still running on a 1965 engine.

In the last 30 years, medical procedures and technology have made tremendous advances. Medicare has not. It is out of touch with today's health care system. Medicare is like a 1965 car—it looks nice and elicits nostalgia, but it gets terrible gas mileage and you're never sure how long it will run. Without any reforms, Medicare can run cruise control only until the year 2002 before sputtering out of gas.

Major reforms are needed if Medicare is going to last. First, we have to slow the rate of growth in Medicare spending from 10.5 to 6.5 percent a year. Even with these changes, the average Medicare yearly benefits per person will increase from $4,800 this year to $6,700 by 2002.

The second step calls for major changes that gives senior Americans more flexibility and choices of medical plans to replace the outdated, bureaucratic one-size-fits-all plan designed by Congress 30 years ago.

Medicare recipients should have the same opportunities as other Americans to select the health care options that are best for them. The Federal Government should stop interfering with the relationship between patients and their doctors.

Unlike President Clinton's 1994 health care reform plan, the Medicare Preservation Act will not force anyone to leave the current system, nor will it force seniors into mandatory health alliances. Proposed reforms will offer Medicare beneficiaries more choices and better benefits than they enjoy now.

Let me review carefully the proposed reforms. First, Medicare would continue to be available to any beneficiary, and seniors could keep their current coverage. There would be no change in copayments or deductibles. Premium rates for Medicare part B would remain at 31.5 percent of total costs, which would mean an increase of only $4 a month above what is scheduled to occur under current law.

The only exception would be for wealthy seniors: single seniors making $75,000 a year or senior couples making $125,000 a year would be asked to pay higher part B premiums.

Average spending per beneficiary would increase by $1,900 over the next 7 years. If seniors don't like their current plan, or if they are unable to change plans, they would have options. Seniors who do not make a choice would be enrolled automatically in the traditional Medicare system.

Second, the Medicare Preservation Act would allow beneficiaries to choose several private sector options in a new Medicare Plus plan. Every year, beneficiaries would receive information about the approved plans available in their area. All they would have to do is check off their plan of choice.

Health plans under this MediChoice option would be selected by the seniors, not the Government. Seniors would choose a complete plan with its medical providers in return for more benefits. Unlike the traditional Medicare, they could choose less out-of-pocket expenses for coinsurance and deductibles, outpatient prescriptions drugs, eyeglasses and hearing aids.

A third option would allow seniors to take complete control of their health care with MediSave, a kind of medical savings account. The Government would pay for a catastrophic illness policy. Seniors would draw the remaining balance of their benefits from an account to pay a significant portion of their deductible. The high deductible policy would have no copayments, limiting seniors' out-of-pocket costs.

No one would be denied coverage due to illness or preexisting conditions. Every plan participating in Medicare must take all applicants and allow everyone to stay in a plan as long as they want. Seniors would not only keep their health care, but it would be better and stable for years.

I've heard countless horror stories about waste, fraud, and abuse in the Medicare system. The act would remedy that in part by rewarding recipients who report misuse of traditional Medicare. It also would require private Medicare plans to set up a toll-free phoneline to receive billing complaints. And it would impose strict penalties on anyone who defrauds Medicare. Furthermore, it would compel facilities to give patients cost estimates to guard against later bill padding.

Giving seniors more flexibility and control of their health care is critical. Our seniors' future should be controlled by them, not the Federal Government. Simply fretting about the system

will not help Medicare survive into the next century.

When we are engaged in the predictable political wrangling over this important issue, we must never lose sight of our ultimate goal: A health care system that delivers the best possible service to our seniors.

Mrs. FOWLER. Mr. Chairman, in emergency rooms, medical teams frequently have to use what are called heroic measures to resuscitate someone who's dying. This week in Congress, we are trying to rescue our desperately ill Medicare system, and H.R. 2425 is the heroic measure that will save the patient.

H.R. 2425 clamps down on overpayments, fraud, and abuse. It provides new choices for seniors, like medical savings accounts, provider service networks, and private health insurance, but not force them into change.

Some have said that Republicans are cutting Medicare to pay for a tax cut for the rich. Wrong on both counts. The tax cut was paid for long ago—and we are not cutting Medicare. Spending per beneficiary will continue to increase by nearly $2,000 per beneficiary over the next 7 years.

Scare tactics and lies will not save the Medicare system, but working together and passing the Medicare Preservation Act will keep Medicare strong and healthy for us and our children.

Mr. GILMAN. Mr. Chairman, I rise today in support of H.R. 2425, the Medicare Preservation Act. I would like to commend the gentleman from Texas [Mr. ARCHER] for introducing this important measure.

Over the past months, I have heard from many of my constituents concerned about cutting the Medicare program. Unfortunately, there have been a number of mediscare critics misrepresenting the current Medicare reform proposals.

H.R. 2425 overhauls the current Medicare system and slows its growth to achieve a projected $270 billion in savings over 7 years. It limits increases in payments to hospitals—except for rural hospitals—to save over $130 billion to keep the Medicare part A hospital insurance [HI] trust fund solvent until fiscal year 2010. It freezes the part B premium at 31.4 percent of program costs and restructures payments to providers. Additionally, the bill contains a lock-box mechanism that places all savings from part B into a Medicare preservation trust fund and prohibits any transfers to pay for future tax cuts.

In order to clear the record, please bear in mind that H.R. 2425 contains a number of fundamental reforms to provide beneficiaries with a broader range of health care choices and strengthens the existing program.

Specifically, the Medicare reform bill: First, establishes a Medicare plus program that allows beneficiaries to enroll in a range of private or employer-based health plans, including managed care plans, traditional fee-for-service plans, or high deductible insurance/medical savings accounts; second, allows health care providers to establish provider-sponsored organizations that can offer Medicare plus products; third, establishes a Commission to recommend long-term structural changes to preserve and protect Medicare when the baby boom generation begins retiring in 2010; fourth, strengthens Federal efforts to combat fraud and abuse in the Medicare program; fifth, eases or eliminates regulations banning physician self-referrals; sixth, reforms medical malpractice law; seventh, establishes a prospective payment system for home health services; eighth, creates a separate new trust fund, funded from both Medicare and the Federal Treasury, to finance teaching hospitals and graduate medical education programs; and ninth, creates a fail-save budget sequestration mechanism to reduce Medicare fee-for-service spending if budget targets are not met.

It is urgent for Congress to address the Medicare crisis. The administration's Medicare board of trustees reported on April 3 that under current policies, the hospital insurance trust fund—Medicare part A—which pays for inpatient hospital care and other related care for those age 65 and over as well as the long-term disabled, will be bankrupt by the year 2002, unless the system is reformed.

It is, therefore, critically important that Congress and the President take immediate action to preserve, protect, and improve Medicare not only for those who rely on the program now, but for those of us who expect to begin receiving benefits in the years ahead. One thing is certain: doing nothing will guarantee the bankruptcy of the program and will lead to a major health care crisis for millions of senior citizens.

Regrettably, practitioners are promoting mediscare rather than trying to work with the Congress to preserve, protect, and improve Medicare, using the Medicare reform debate as a tool to scare our seniors into believing that Medicare spending will be severely cut. On the contrary, payments made to help seniors will go up, not down. Medicare spending per beneficiary will increase by almost $2,000 from $4,800 to $6,700 over the next 7 years.

Although I support H.R. 2425, I do have reservations about the bill. I feel that this bill does not help my district hospitals from experiencing financial hardship. I hope that as we progress through our efforts to reform the ailing Medicare system, we will further look to find ways to help hospitals that have received unfair reimbursements under the current geographic reclassification regulations.

Mr. Chairman, whenever Americans have faced a crisis, we have come together as a nation to solve our problems. The problems facing Medicare are serious, but can be resolved if we keep an open mind and are all willing to do our part to protect, preserve, and improve Medicare. We must do it for our current recipients and for future generations.

Accordingly, I support H.R. 2425, and urge my colleagues to vote in favor of it.

Mrs. MINK. Mr. Chairman, 30 years ago I had the great privilege of voting for the Medicare program. It has changed the character and quality of life for all seniors over 65 years of age, and has allowed their children to build their lives without the fear of costly illnesses of their parents which could consume all their earnings and savings. The Medicare program has liberated families and allowed the elderly and their children the freedom of knowing that the best health care would be made available. It placed the cost of hospital care in part A on all the working people and their employers by assessing a payroll tax of 1.45 percent on the worker and on the employer. This part A is what the trustees report indicated will be in financial trouble in the year 2002.

Let us understand that the Medicare trustees have reported previously, eight times in fact, that part A hospital care was in fiscal difficulty. And each time the Congress responded and fixed the payment structure for the providers. This trustee's report is no different. The Congress should not rush to a ''fix'' which will jeopardize the health security that has been guaranteed these past 30 years.

I say ''rush to a fix'', because that is exactly what has been the process followed by the Republican majority. Without a single day of hearings by either Committees of jurisdiction this bill is being rammed through. No one has read this bill. They could not have, because it was only put into final form late last night.

For all the declamation that the Republicans seek only to ''save'' Medicare from bankruptcy, why do we have to vote on a bill that has not been read, has not been published for the public to read and comment on, and has not been analyzed? The fine print has been written in secret with various special interest groups, like the American Medical Association.

The process is outrageous. I could not possibly vote for a bill that has not seen the sunshine of public scrutiny.

The Republican strategy is to seize upon the trustees report as though it justifies this radical reversal of guarantees for medical care without even one day of hearings. If the Republican majority truly believe the course of action they are pursuing is good for the system, then they should be willing to allow it to be reviewed, analyzed and objectively studied by all parties affected, and not only a select few.

Second, one of the most serious concerns that I have about the estimated cuts of $270 billion is that it will penalize the poorest and the sickest of our seniors. These brutal cuts are not needed. They are proposed because the Republicans had to come up with ''savings'' in Federal spending to balance the budget which they are committed to do by the year 2002.

The reason they had to come up with this large cut in spending in Medicare is because the deficit is $245 billion larger than when you started. The increase in the deficit by $245 billion is due to your tax cuts by this amount. If you cut taxes by $245 billion, obviously you have that much less revenues, that much more deficit, and that much more red ink.

In order to cover this loss of revenue the Republican majority had to find programs that they could cut in order to have a balanced budget by the year 2002. They cut here, and they cut there, but nowhere were there funds to cover this enormous tax revenue giveaway. And so their budget ax turned to Medicare. It was not to save the solvency of Medicare. It was to meet the goal of balancing the budget by the year 2002. Let no one fool you into thinking that this cut of $270 billion in Medicare is needed to ''save'' Medicare from bankruptcy. This Medicare cut is to balance the budget deficit because of tax giveaways of $245 billion, more than half of which go to persons who have taxable incomes in excess of $100,000.

If the Republican tax plan did not have these $245 billion of tax cuts, the budget would have a $245 billion surplus. If the budget had a $245 billion surplus there would not be any need to cut Medicare.

The connection between the tax cut for the very wealthy people and the cuts in Medicare funding are directly related. Without the former, there would not need to be the latter.

Third, last year when we were debating the Universal Health Care plan for all Americans,

we all knew that with rising health care costs it was imperative that we act to rein in these costs. This was the central motivation for the President's initiative. We held months of hearings in three committees on these proposals. It was fully debated. It failed to pass. No one can say that Democrats were blind to the need for reform, the need for change, and the need to cut costs of medical care. We are recorded in favor of health care reform. But not a reform bill that was written in the dark, in secret, without any of us really knowing what the impact will be on our elderly, on our existing health care providers, and on the quality of health care.

Fourth, the real cost savings in Medicare is in routing out fraud and abuse. This is the place for the Federal Government to move in and crack down on the abuse. It has been noted that we could save $80 billion over a 7-year period if we installed tougher rules and regulations to rout out fraud and abuse. Instead we are now advised by the Justice Department that indeed the Republican bill will make it easier to commit fraud and get away with it. How do we know? No one saw the bill to read it until last night. Most of us only saw the bill this morning.

Why are the majority Members of this House afraid to have their ideas aired in the open and subject to public scrutiny?

Fifth, I am very concerned that the rural hospitals and clinics in my district will be forced to close. Why can't we have full hearings before this catastrophe occurs? I represent rural communities for whom life and death depends on the ability of these health facilities to survive.

Sixth, in 1993 the Congress passed a law that said that the cost of Medicare part B, doctors and laboratory services, would be paid by enrollees at the rate of 25 percent of the costs of the program. The Federal Government paid 75 percent of the cost of part B. The Republican bill before us today raises this premium charge paid by the enrollee to 31.5 percent of the total cost. Without cost controls, this means that the amount of money that the enrollee has to pay will rise astronomically. If the cost of doctor's care rises, the 31.5 percent that has to be paid by the enrollee must also rise. The failure of the Republican plan is that it does nothing to curb the rising costs of health care.

Seventh, the Republicans like to argue that they are not cutting funding only reducing the percentage of increase. In point of fact the Republican plan restricts the growth rate to 4.9 percent whereas the private sector estimates the growth rate of costs of health care at 7.1 percent. That is the major source of cuts. Any time your family budget has a 2.2-percent shortfall of earnings you know that you will have to cut how you spend. Accordingly under the restrictions of only 4.9 percent growth in Medicare costs, there is no other conclusion to be reached than that benefits will have to be cut and that the restrictions will shrink the reimbursements to providers and many Medicare beneficiaries will find themselves without any provider at all. This unrealistic restriction of the rate of growth is the real culprit. More people are going to reach 65 years of age. Health care costs are going to rise. A cap on the costs means benefits will have to be cut.

Eighth, as these changes are being made, the possibility that the quality of health care will be lowered is great. There will be less safeguards. Even under this cloud, the Republican plan enacts limits of liability for negligent and faulty medical care. Remember that patient who went into the operating room expecting that his left leg would be amputated, and woke up in his room with his good right leg gone. His left leg was so badly infected that it too had to be amputated, leaving him without any legs at all. Do you honestly think that having this doctor and hospital pay him $250,000 is adequate compensation for his loss? He is elderly and has no economic losses which could be used to treble his award. This bill has a $250,000 liability limit. This is unfair to the public. It is another reason I cannot vote for this bill.

From the mail I have received, there are a myriad of other provisions in this bill, that require further review. I cannot answer the question posed. No one can. It would be irresponsible to vote for this bill.

This is a day the Republican majority will have to answer for in the years ahead. As the tragic consequences enfold over the next 7 years, seniors will die before their time, and as rural hospitals close all persons living in those areas will die before their time. This is not a historic day. It is a sad day in the history of America.

Mr. EMERSON. Mr. Chairman, the choice before Congress today is clear. We can act now to preserve and strengthen Medicare as the President's own Medicare Trustees recommend, or we can do nothing and let Medicare go bankrupt in less than 7 years. Clearly, it would be the height of irresponsibility to let Medicare go broke. We have an absolute obligation to America's senior citizens to save Medicare, and I am pleased that Congress is working to do just that.

The Medicare Preservation Act will save Medicare without cutting benefits or increasing seniors' out-of-pocket costs. This year, Medicare per beneficiary spending averages about $4,800. This amount will increase to $6,700 per beneficiary under our plan.

Much has been made in this debate about process. I believe the Medicare Preservation Act is a good example of what the legislative process is all about—taking a bill and making it better.

For example, after meetings and discussions with the leadership, we have secured important rural funding changes to better serve rural citizens. As a senior member of the Rural Health Care Coalition, I am pleased that this Medicare reform package will significantly boost Medicare reimbursement rates to rural counties, like those in Southern Missouri. We all know that rural America faces unique health care challenges, and our plan responds by changing a Medicare reimbursement formula to attract more doctors and health care provider options to rural areas. Much work remains to be done to improve health care quality and access in rural regions, and our Medicare preservation plan is a leap in the right direction. I look forward to working with the Senate to see that the legislative process continues to move the plan to save Medicare forward.

The Medicare Prevention Act also gets tough on abuse, fraud and waste in the Medicare program. Seniors who report a verifiable incident of abuse, fraud or waste will receive a financial reward. Criminal and civil penalties will also be strengthened for anyone caught defrauding Medicare. Cleaning up the program is one of the best ways to save Medicare without cutting benefits.

The Medicare Preservation Act lives up to the obligation we in Congress owe to America's seniors. We have a non-negotiable responsibility to ensure that Medicare meets the health care needs of seniors who have worked hard all of their lives and contributed their share for health security. Our plan preserves, protects and strengthens Medicare for the next generation, as opposed to the President and his liberal allies in Congress, who offer a disingenuous press release to Band-Aid Medicare until the next election.

Mr. OWENS. Mr. Chairman, this bill takes us back to a time when the elderly expected to live in poverty sooner or later because of mounting health care bills they could ill afford to pay. Thirty years ago, with the swipe of a pen, President Johnson erased such fears of impoverishment, working with a Democratic Congress to overcome a hostile Republican minority. Our Government made a solemn promise to our senior citizens back then, but now the new Republican majority is proposing to break that contract with our seniors and make them live in fear once again.

The $270 billion that the Republicans propose to cut from Medicare will buy them their $245 billion tax cut for the rich, $51 billion of which will go directly into the coffers of large corporations. It is sad that the Republicans' priorities are so upside down. If they were to reduce corporate subsidies by the same percentage as the budget as a whole, as called for in the budget resolution, they would need to take $122 billion over 7 years from the pockets of the Fortune 500 fat cats freeloaders. Obviously, that won't happen.

Instead, America's seniors will pay $400 more in premiums each year by the year 2002. My home State of New York will lose $25 billion—$650 million from my district alone. And these figures don't even begin to tell the horror story that will result from the Medicaid cuts the Republicans will inflict upon the American people next week. Those cuts will be neatly buried in the budget reconciliation package, as the Grand Old Party removes the final shreds of dignity that the poorest of the poor have left.

Deep cuts in Medicare will expel seniors out of nursing homes or bankrupt their families who will have to pay for $40,000 a year nursing home bills . Not only will seniors be forced to pay more money for fewer services, they also will have to give up their own doctors as they are herded into HMO's. Finally, many hospital officials have predicted that up to 25 percent of all hospitals could close their doors because of these Republican Medicare cutbacks.

Mr. Chairman, I am submitting for the record a chart showing the billions of dollars that hospitals, nursing homes, and home health care agencies in my district will lose so that my constituents can see the negative impact that Republican Medicare and Medicaid cuts will have on the quality of health care services they receive.

PRELIMINARY ANALYSIS OF THE HOUSE AND SENATE MEDICARE REFORM PROPOSAL ON NEW YORK STATE

[7-YEAR IMPACT 1996 TO 2002—LOSSES IN $MILLIONS]

| District | Representative | Type of facility | Facility name | Medicaid-Federal funds | | Medicare | | |
|---|---|---|---|---|---|---|---|---|
| | | | | House | Senate | House | Senate | Budget cap/ lookback |
| 11 | Major R. Owens | Hospitals | Catholic medical center (St. Mary's of Brooklyn division | $122.9 | $136.3 | $31.0 | $32.7 | $6.1 to $16.2 |
| | | | HHC (Kings County Hospital Center) | 376.5 | 429.1 | 59.5 | 50.0 | 5.3 to 14.0 |
| | | | Interfaith Medical Center (All Divisions) | 114.6 | 142.6 | 71.9 | 56.5 | 8.5 to 22.5 |
| | | | Kingsbrook Jewish Medical Center | 44.6 | 38.1 | 74.4 | 57.7 | 10.7 to 28.4 |
| | | | University Hospital of Brooklyn | 79.5 | 77.0 | 93.1 | 71.9 | 11.4 to 30.4 |
| | | Nursing homes [1] | Carlton Nursing Home Inc | 8.2 | 6.4 | | | |
| | | | Caton Park Nursing Home | 6.8 | 5.3 | | | |
| | | | Center for Nursing & Rehabilitation Inc | 24.2 | 18.7 | | | |
| | | | Dover Nursing Home | 2.3 | 1.7 | | | |
| | | | Flatbush Manor Care Center | 12.7 | 9.8 | | | |
| | | | Madonna Residence | 17.3 | 13.3 | | | |
| | | | Marcus Garvey Nursing Home Company Inc | 18.4 | 14.2 | | | |
| | | | NY Congregational Home for the Aged | 4.1 | 3.1 | | | |
| | | | Oxford Nursing Home | 12.8 | 9.9 | | | |
| | | | Prospect Park Nursing Home | 11.4 | 8.8 | | | |
| | | | Rutland Nursing Home Co. Inc | 47.9 | 37.1 | | | |
| | | Certified home health [1] | Interfaith Med Ctr/Jewish Hosp Med Ctr of Brooklyn Home Care Dept | 1.0 | 0.8 | | | |
| | | | Kingsbrook Jewish Medical Center Home Care Department | 2.9 | 2.3 | | | |
| | | | St. Mary's Hospital of Brooklyn Inc. Home Care Department | 17.0 | 13.1 | | | |
| | | | The Brooklyn Hospital Center Home Health Services Division | 3.2 | 2.5 | | | |
| | | | Visiting Nurse Association of Brooklyn, Inc | 15.3 | 11.8 | | | |
| | | Long term home health [1] | St. Mary's Hospital of Brooklyn | 11.0 | 8.5 | | | |
| | | | Visiting Nurse Association of Brooklyn Inc | 15.4 | 11.9 | | | |

[1] Insufficient Medicare data to estimate facility-and agency-specific impacts.

Mr. HEINEMAN. Mr. Chairman, I rise today as a 65-year-old citizen on Medicare. I speak not only for myself today, but I speak for the millions of seniors in our country who depend on Medicare. I also speak for my children and grandchildren who will one day need a financially sound Medicare system.

Mr. Chairman, as a senior citizen I have been very disturbed by all the rhetoric, scare tactics and fear which have been injected into the Medicare debate. People who use these negative tactics are wrong. They are not being truthful in addressing the problem we have with Medicare. It is a simple fact. In 7 years, in the year 2002, the system will go broke unless it is reformed.

The Medicare Preservation Act will save the Medicare Program $270 billion—savings which will go directly into the Medicare Program by law.

The President knows the problem. In 1993, Bill Clinton said, and I quote ''I will recommend reducing the growth of spending in Medicare dramatically and in Medicaid. This will not be a cut. Don't let people tell you it is a cut. We simply have to reduce this incredible rate of spending to save the system.'' I agree with Bill Clinton—he is right.

While the House Democratic leadership offered no plan, our Democratic colleagues in the other body finally put out their version of a plan to reform Medicare. It saves $90 billion. It has one problem—it simply delays the date of bankruptcy for 3 years beyond 2002.

The Medicare Preservation Act will increase per beneficiary spending from $4,800 to $6,700 in 2002. Seniors will stay in the current Medicare system—with no increases in deductibles or copayments—unless they choose MedicarePlus. If a senior chooses MedicarePlus he or she will be able to choose from a variety of plans, with different benefit options. The Medicare Preservation Act also attacks waste, fraud, and abuse and rewards seniors who help weed out fraud.

Let's stop playing politics with Medicare. It is too important for our senior citizens; they deserve better.

I urge my colleagues on both sides of the aisle to reject the rhetoric and start dealing with reality. Vote for H.R. 2425, support our senior citizens and save Medicare.

[From the Raleigh News & Observer, Oct. 16, 1995]

DEMOCRATS HOPE THAT SCARING GRANNY WILL BRING VOTES

(By Rob Christensen)

There's a new soap opera on the tube these days: a political commercial paid for by the Teamsters and aimed at Republican Rep. Fred Heineman.

A middle-aged couple stand in their kitchen, fretting. Hubby says he can't believe how the Republicans want to cut Medicare just to give a tax break to the rich. The Mrs. says she might have to quit her job to take care of Granny if the cuts go through.

Meanwhile, Granny is eavesdropping in the dining room, an anguished look on her face.

The commercial nearly brought tears to my eyes. I wanted to reach out, pat her on the arm and say: ''It's all right, Granny. The Democrats will take care of you.''

The TV ad is part of a national campaign by the Democratic Party and its allies to portray the Republicans in Congress as a group of cold-hearted rich folks who want to deny the elderly crutches and walkers so they can buy a nicer Mercedes.

The reason for the Democratic public relations blitz is a GOP plan making its way through Congress to reduce projected spending for Medicare by $270 billion during the next seven years.

At a forum at Durham's Preiss-Steele Place the other day, the Democratic Party rolled out some of its biggest guns to attack the Republican Medicare plan.

''Insane,'' Dick Gephardt, the House Democratic leader, said of the GOP Medicare proposal. ''A tax cut for the wealthy,'' said Rep. Eva Clayton. ''Extreme cuts,'' said Rep. Mel Watt.

To put a nice face on the Democratic attacks, let's call it political hyperbole. It's a good example of why Congress finds it so difficult to balance the federal budget and reduce the huge debt.

What the Democrats fail to mention is that the Republican plan proposes to INCREASE Medicare, not cut it.

The GOP plans calls for a slowing of Medicare's annual growth from 10 percent per year to 6.4 percent.

In 1994, we spent $160 billion on Medicare. If left unchanged, annual Medicare costs are projected to rise to $345 billion by 2002. Under the GOP plan, Medicare spending would increase to $247 billion per year by 2002, an INCREASE of 54 percent.

Of the $270 billion in Medicare growth reductions in the GOP plan, about $200 billion is designed to limit the growth in payments to hospitals and doctors.

That's not to say the Republican plan won't cause pain. It will lead to higher premiums, less choice in doctors and other new restrictions on coverage. It could cause hospitals heavily dependent on Medicare and Medicaid to close—especially the hospitals serving the poor in inner cities or rural areas.

But some pain is necessary if we are to stem the tide of red ink and to prevent the Medicare program from growing broke.

Nearly every serious examination of the federal budget deficit has concluded that we must slow the growth of the huge entitlement programs such as Social Security and Medicare.

People are living longer. Medicine and medical treatment is becoming more expensive. In 1965, 14 percent of the federal budget went for Social Security and Medicare. Today, it's more than one-third.

If you rule out a tax increase, the only realistic way to balance the budget is to slow the tremendous growth in such entitlement programs as Medicare, Medicaid and Social Security, said Dick Stubbing, a public policy professor at Duke University and a federal budget expert.

Scaring Granny has always been a political winner for the Democrats.

Much of the public has never trusted the Republicans to protect social programs. Social Security and Medicare were passed by Democratic liberals—under the leadership of Franklin Roosevelt and Lyndon Johnson—over the opposition of conservative Republicans who decried such programs as socialism. According to a recent Times-Mirror poll, 45 percent of those surveyed trusted the Democrats to reform the Medicare program, while 32 percent trusted the Republicans.

''Some who are pushing for current Medicare plan are of the same view as those who fought the creation of Medicare in 1965 and in 1995 are trying to deny the comforts our senior citizens,'' Clayton told the Preiss-Steele residents in Durham. ''Should they be trusted? I think not.''

The Democrats are trying to tie Medicare growth cutbacks to $245 billion in tax cuts the Republicans are pushing. But the proposed tax cuts, which would be like pouring gasoline on the roaring fire of the federal debt, are a separate issue.

Of course, the Democrats did not invent political demagoguery. Most recently, the Republicans did their part to scare the elderly and everyone else when they distorted the

Clinton administration's health care proposal.

But for the moment, it's the Republicans who are trying to do right—and the Democrats who are trying to scare Granny.

[From the Herald-Sun, Oct. 17, 1995]

GIVE GOP CREDIT FOR IDEAS

However much one might quibble with the way the GOP in Congress is bearing down on the Federal deficit, this must be said: At least somebody in Washington is trying to lasso those dollar-gorging entitlement programs.

Everybody knows that entitlements—Social Security, Medicare, Medicaid and so on—are the arch stones of a balanced budget. Unless these programs are brought under control, they will literally bankrupt the United States. It's that simple, and it's that serious.

Democrats on Capitol Hill do the country and themselves a disservice by running around and screaming that the GOP in effect plans to cast the elderly loose on ice floes, Fling that $270 billion ''cut'' in Medicare spending over the next seven years out to a chapter of the AARP, and the gasps will come on cue.

In fact, even under the GOP plan, federal outlays for Medicare and Medicaid are expected to rise through the year 2002. However, the rate of increase will be slowed, and that's where much of the projected $270 billion in savings will come from.

Somehow, this part of the GOP plan never gets beyond the Democrats' gatekeepers.

This is not to say, though, that the GOP plan is above criticism. Converting Medicaid into a block-grant program for the states is a risky venture, especially for poor states. If the block grant money runs out, the states will have to come up with the balance—not an easy thing to do in North Carolina, Maine, Mississippi, New Mexico and other low-wage states.

Furthermore, the GOP plan scraps an important law that prohibits physicians from ''double dipping'' their patients. Double-dipping occurs when a physician charges patients for blood work and other tests done at a laboratory in which the physician has a financial stake. The law came about a few years ago in response to widespread abuses in such arrangements, but the GOP promised last week to toss it out in return for the American Medical Association's endorsement of the reform plan.

If the Democrats have a straight-flying arrow in their quiver, it's their criticism of the GOP's proposed $245 billion tax cut. The leadership of both houses of Congress has signed off on the cut. Reducing entitlement spending while cutting taxes has all the flavor of guns and butter. It would be far better to get a grip on entitlement programs, then go for tax cuts.

As we said, quibbles. The GOP seized the initiative in this struggle a year ago, and seems likely to keep it. The Democrats—yes, there are some still left in Congress—have only themselves to blame for their impotence.

Mr. HILLEARY. Mr. Chairman I rise in support of H.R. 2425—the Medicare Preservation Act and encourage my colleagues to do the same. This issue is so important to so many people, it should be above partisan politics, misinformation, and lies.

Throughout this autumn's important debate on how to save Medicare from bankruptcy, opponents of the Republican plan have used one—and only one—argument against the plan: The Republicans are cutting Medicare to pay for tax cuts for the rich. This is the same hollow rhetoric, based on class envy, that was soundly rejected at the polls in last year's historic elections. And of course, this year's rhetoric is just as untrue as it has been in previous years.

This issue is so important to so many people, it should be above partisan politics, misinformation, and lies. But because the American people deserve to know what's really going on, it has become necessary for Republicans to respond to these false claims.

Let's analyze the sole argument Democrat critics have used in this debate: The Republicans are cutting Medicare to pay for tax cuts for the rich. There are three distinct parts to this statement, and all three of them are completely false. In this World Series season, they hope to convert these pitches into a home run, but all they do is strike out. Big Time.

Pitch 1: ''The Republicans are cutting Medicare . . .'' This is simply not true. Any way you slice it, more money will be spent on Medicare every single year. If Republican reforms are enacted, overall spending will rise from $161 billion this year to $274 billion in 2002. The average Medicare recipient will receive $4,800 in benefits this year, and the average recipient will receive $6,700 7 years from now.

What Republicans are doing is containing the current growth rate of 10.5 percent, which is unsustainable and will bankrupt the Medicare system in 7 years. The good news is that we can save the program from bankruptcy by limiting growth to approximately 6 percent a year. This comes to roughly a 40 percent increase over the next 7 years. Only in Washington is a 40-percent spending increase considered a cut. Strike One.

Pitch 2: ''. . . to pay for tax cuts . . .'' The fact is that every red cent of Medicare savings will go directly to the Medicare trust fund, and not one penny will go to pay for tax cuts of any kind. To make this perfectly clear, the Ways and Means Committee adopted a lockbox amendment which specifically states that all Medicare savings must be used to make the system solvent, and not to pay for tax cuts. There is absolutely no link between Republican efforts to save Medicare and to lower taxes.

The House passed its tax reform bill last spring, and every one of those cuts were paid for at the time by cutting wasteful spending in other areas. Also, even if the budget were already balanced, and the tax burden were at an acceptable level, Medicare would still have to be saved from bankruptcy. In other words, the Medicare trust fund would be broke in 7 years no matter what kind of income tax policy we have. Strike Two.

Pitch 3: ''. . . for the rich.'' By now, it should be clear that Republicans are not cutting Medicare, and that Medicare reform is unrelated to tax reform. The third piece of misinformation in the Democrats' one-sentence Medicare strategy is that our tax reform package is geared toward the wealthy.

The truth is that if the House-passed tax reform bill becomes law, the rich will pay a larger share of taxes. According to the Joint Economic Committee, the richest 10 percent will pay 48.6 percent of all taxes—up from the current 46.6 percent. Moreover, the top 1 percent will pay 18.2 percent—up from the currently 18 percent.

The idea that the Republican tax reform bill unfairly benefits the rich is simply ridiculous. The centerpiece of our package is the $500-per-child tax credit, of which 74 percent of the credit will go to families which make less than $75,000 a year. This credit also means that families earning less than $25,000 will not pay any Federal taxes, and those earning $30,000 will see a 48 percent Federal tax cut.

Other aspects of our tax package include a capital gains tax cut—77 percent of beneficiaries will be families that earn less than $75,000, a repeal of President Clinton's tax on Social Security benefits, and an adoption tax credit to families making less than $60,000 a year.

Obviously, any claim that Republican middle class tax cuts are aimed at the rich is inaccurate to say the least. Moreover, if the Republican Medicare reform plan is passed, the wealthiest seniors will have to pay a greater percentage of their Medicare premiums, while middle income recipients will pay the same share—31.5 percent—that they are paying now. Strike Three. This last false claim completes the strikeout in the Democrats' attempt to hit a home run with ideas they should have retired years ago.

Perhaps the most destructive result of spreading false information and using class warfare tactics is that they purposely divide Americans at a time when we need to try to bring people back together. Instead of spreading misinformation and envy, we should be having an honest debate about how we can make all Americans healthier and more financially stable in their old age. Anything less is just plain wrong, and I hope that the Clinton Democrats decide to put aside their class warfare and join us in an honest debate very soon. I believe this bill is a step in the right direction and I'm proud to support it.

Mr. BUNNING. Mr. Chairman, I rise in support of the Medicare Preservation Act. It's a good bill.

It preserves Medicare—it strengthens Medicare.

It keeps Medicare from going bankrupt. And best of all it gives senior citizens more options—more choices.

I think you will all agree that Members of the U.S. Congress have a pretty good health care system.

We get a booklet every year that lists the options available to us—insurance plans or PPO's and HMO's. We get a wide range of choices. We can pick a plan that suits our needs and our family's needs. It's a pretty good deal.

I have enrolled in a PPO. I still get to see my family doctor. I show him this card and my office visit only costs me $10. And I have this other card that I can take to the drug store and pick up my prescription medicine and no matter how much it costs, I only pay $10.

It's a pretty good deal.

This Medicare reform bill that we are considering today gives the senior citizens of our country the same kind of options that Members of Congress now have. It will give them the same kind of choices we have.

That's the beauty of this bill. We save Medicare. We strengthen Medicare and on top of it all, we make Medicare better.

We are going to hear a lot of outrageous rhetoric about how we are slashing benefits. That's hogwash. It's political hogwash. And I, for one, think that this program is a little too important to play political games with.

This bill is a good bill. It gives senior citizens the same kind of health care that Members of Congress enjoy now. That's a pretty good deal for everybody.

We don't cut benefits for senior citizens. Our bill doesn't increase copayments. It doesn't increase deductibles.

It increases the average amount of money that Medicare spends on every beneficiary by nearly $2,000 over the next 7 years.

Sure we slow the growth rate. If we don't slow the growth rate of Medicare spending, Medicare will bounce over the cliff to bankruptcy in just a few years.

Ten percent growth rates simply cannot be sustained. Everybody knows that. And our bill slows the growth rate to 6½ percent. But that is still growth. It is not a cut.

It is not a cut because we slow the rate of growth in Medicare spending by providing more choices, not by cutting benefits.

By providing more options—more choices—we introduce competition into Medicare. We put private sector ideas to work. We inject the free enterprise system into the Medicare system. It will make it more efficient and more cost-effective.

At the same time, if someone is happy with Medicare just the way it is; if someone is a little nervous about trying something new; if they are happy with the traditional fee for service and don't want to change, they can keep their existing Medicare plan.

Our bill doesn't force anybody to change. It doesn't force anyone to join an HMO if they don't want to. It doesn't force them to change doctors or hospitals or anything. Anyone who likes Medicare just the way it is can keep going along just like they have been.

People like this—people who don't want to change Medicare—should like this bill too. It preserves Medicare and traditional fee for service for them. It keeps Medicare from going bankrupt.

We are not in a situation where we can stick our heads in the sand and say don't change anything, don't touch Medicare. If we do nothing, Medicare will go bankrupt in 7 years.

President Clinton's appointees who serve as trustees to the Medicare trust fund have told us that we need to make changes to keep the program solvent. We can't do nothing. Medicare is far too important to too many people.

The Democrats in Congress want to stick their heads in the sand. The President wants to stick his head in the sand. They know full well that we are doing the right thing. They know full well that Medicare needs fixing. But they would rather play political games.

They know they can win political points by crying wolf, by saying that Republicans are cutting Medicare to pay for tax cuts for the rich. They know it isn't true but they know they can win points by scaring people who are dependent on Medicare.

Republicans knew there were political risks when we took on this task. We knew it was dangerous politically to tackle Medicare's problems. It would have been much easier for us to pretend—like the President—that Medicare wasn't in that bad of shape.

It would have been much easier and safer politically to slap a band-aid on Medicare like the President wanted to do.

But we didn't take the easy way out. Republicans in Congress stepped up to the responsibility of leadership and did the right thing. We didn't dodge the issue. And we ended up with a bill that I think is about as good as possible.

It might not be perfect. It makes sweeping changes in a huge program and deals with a ton of complex issues. And we might have to go back in next year or the year after and fine tune it. But this bill provides a good basic foundation for the long term financial health of our Medicare Program.

It preserves Medicare. It strengthens Medicare. It gives senior citizens the same kind of choices in health care that Members of Congress have. And it makes Medicare more efficient and more cost-effective.

I urge my colleagues to support and pass this bill. And I urge the President to quit playing politics with the health care of our senior citizens and sign this bill when it reaches his desk.

Ms. SLAUGHTER. Mr. Chairman, I am very concerned that we are being forced to vote on this measure—which if enacted would be devastating to the health and well-being of our seniors—without adequate time for the American public or the Members of this House to study the bill and learn exactly how the 37 million people covered by Medicare will be affected. Such drastic changes to a system as massive and crucial as Medicare cannot be responsibly considered with just 3 hours of floor debate.

We will don't fully understand the consequences of what this bill will do, but what little we do know is looking pretty bad. In addition to doubling senior's Medicare payments, forcing seniors to give up their long-time doctors and shutting millions of infirm Americans out of nursing homes, there are some little known provisions that seriously and negatively affect the health and well-being of our seniors.

Take, for example, the bill's provisions to ease the ban on physician self-referrals—that is, doctors who refer Medicare patients to labs in which they have a financial stake. We have long know that this is a situation that is ripe for abuse. In fact, the HH's Office of Inspector General found that patients of referring physicians who owned or invested in independent clinical labs received 45 percent more services than all other Medicare patients in general. And the Consumer Federation of America found that doctors with a financial interest in labs ordered 34 percent to 95 percent more tests than other physicians. And the New England Journal of Medicine reported that doctors who owned imaging devices—like MRI's, for example—ordered imaging tests four times more often than doctors who did not.

That's why regulations have been implemented to prohibit doctors from sending patients for tests and services from which the doctor would profit. The Congressional Budget Office has estimated that easing this ban on self-referrals will add another $1.1 billion to the cost of Medicare, through excessive and unnecessary testing and services.

Another provision of this bill that deserves a lot more study and discussion is the section which would eliminate most Federal regulation of medical laboratories located in doctors' offices. These regulations came about after Congress heard horror stories of patients suffering and dying as a result of inaccurate lab tests. Most serious were the women who died from cervical cancer—a disease that is almost always curable if caught early—because their Pap smear test were misread.

The fight against waste, fraud and abuse has earned bipartisan support throughout recent debates on health care financing. But, cutting vital regulations without giving serious consideration to the affect on the health and well-being of millions of our citizens is irresponsible.

Mr. Chairman, it is ludicrous to rush this enormous and far-reaching legislation through the House in the hopes that the public won't be quick enough to figure out what's in it. I urge all my colleagues, in the name of the 37 million senior citizens we represent, to reject this course of action, and vote against this bill.

Mr. BALLENGER. Mr. Chairman, I rise today to express my support for H.R. 2425, the Medicare Preservation Act. Furthermore, I rise to thank the Members who understood the urgency of the Medicare Board of Trustees report showing that trust fund reserves will be fully depleted by 2002 and created a plan to save it. Unfortunately, President Clinton has been content to do nothing. I think the message is clear folks—Medicare is going broke and the Republican leadership has undertaken the task of saving it.

The Republican plan, the Medicare Preservation Act, will not take away Medicare but rather will protect, preserve, and strengthen it. We are not cutting Medicare, instead, we are allowing Medicare to grow at about 6 percent. Under the Republican budget, spending per beneficiary will increase from $4,800 to $6,700 over the next 7 years. You will get to keep your current doctors, and the Government won't force you into any plan that you don't want to be in. This is your right—to a choice of doctors, of plans, and to a system that's secure for current and future retirees. Each year Medicare beneficiaries will receive a form from the Government that lists available plans—traditional Medicare, managed care organizations, new groups known as provider sponsored networks that will be set up by doctors and hospitals, and medical savings accounts, where you purchase a high-deductible policy and the Government deposits money to cover that deductible in an interest-bearing account. If you do nothing, you're automatically enrolled in traditional Medicare. If you want another plan, that's up to you.

Furthermore, to accumulate more savings, the GOP plan would eventually end the subsidy that goes to wealthy seniors who choose to remain in the traditional Medicare Program. Wealthy beneficiaries—single people earning more than $75,000 a year and couples earning more than $150,000 a year—would pay the total cost of their premiums for the doctor portion of Medicare part B. Projected savings would be approximately $10 billion.

Our plan also combats fraud and abuse. As Medicare is designed right now, doctors are paid for procedures whether or not the patient needs them. That means the taxpayers get ripped off, and the Medicare patient doesn't get the best care. By allowing providers, hospitals, and insurers to compete for your business, the system will root out fraud and abuse and will squeeze out the waste. Seniors who find fraud in their bills will be rewarded with a percentage of the money recovered. In addition, regulatory relief would allow hospitals serving the same geographical areas to jointly plan to provide services and facilities, which they are currently precluded from doing by antitrust laws. The intent is to prevent a duplication of expensive machines and services and to remove the costly use of an insurance company or managed care organization as an intermediary. This would help beneficiaries in rural areas where there are few managed care groups.

I urge all Members to support the Medicare Preservation Act. With the support of the American Medical Association [AMA], the Seniors Coalition, U.S. Chambers of Commerce, the National Taxpayers Union, and millions of seniors, we are providing Medicare for future generations.

Mr. COLEMAN. Mr. Chairman, I am privileged to represent El Paso, TX, a community of approximately 600,000 people. Of this amount, almost 60,000 people receive Medicare. In other words, 10 percent of El Paso's population is on Medicare. That is a significant number. These are significant cuts.

I regret that the majority has not scheduled more time for hearings nor the ability to review the plan. The Democratic leadership has been forced to schedule additional days of hearings on the only space provided to us, the lawn of the Capitol, so that the American people can have a chance to participate in the process that will affect 37 million of them.

In fact, this back room dealing on the Medicare plan has gone so far as to force senior citizens to stage protests in the Commerce Committee and be arrested by the Capitol Police. Also, in an article titled ''Bribes for Doctors'' the New York Times points out that Speaker GINGRICH ''brought the American Medical Association behind his Medicare reform program last week by handing out three concessions.'' These concessions were not given in the light of day after debate. No, they were given in a last minute desperate secret attempt to reign the AMA in.

I have had over 500 constituents writing or calling to urge me to oppose these cuts. One constituent writes:

My wish is that the Democratic Party would hammer on the fact that President Clinton wanted health care reform 2 years ago. . . . The Republican Party bombarded the air waves stating that if it was not broken, don't fix it. It's ironic that the moment the Republicans came into office, health [care] had deteriorated so quickly, that now, the Republicans are the only solution to Medicare.

I could not agree more. Not only has the Republican Party opposed the original drafting of this legislation, but they have continued to be antagonistic toward its existence for years. Now after providing only an outline, we are supposed to realistically debate the Republican effort to save Medicare in one day? I have the same trouble believing this as my constituent does.

However, I will limit my comments to the minor details I am aware of regarding this plan.

PART B PREMIUMS

First and foremost is my problem with the increase in part B premiums. The plan calls for a continuation of the 31-percent premium instead of dropping the level to 25 percent as current law now dictates. This allows for an increase of almost $700 a year by 2002.

Not one penny of this increase will go toward the part A trust fund. This increase will only go toward the general fund and can be used to balance the budget while giving a $245-billion tax cut to the wealthy.

CHOICE

The outline states that it offers a choice to seniors in the type of health care organization they would like to become a part of without limiting their ability to stay in the traditional Medicare program.

However, the different choices available to seniors have not been subjected to a test to determine if they will save any money. And plans such as medical savings accounts and HMO's are only viable options for wealthy and relatively healthy senior citizens. Therefore, these options are only available to the few seniors who fit that description.

WASTE, FRAUD, AND ABUSE

Waste, fraud, and abuse is the single biggest concern of my constituency regarding Medicare. I have spoken to many El Pasoans and, by far, the largest complaint regarding Medicare I have heard is ''Stop the waste and fraud and you will find the money to support Medicare.''

The Republican plan offers only three minor initiatives, a hotline, making nursing facilities provide cost estimates, and stiffer penalties for those found guilty of fraud.

Again, there is no estimate on how much these programs will actually save and these measures are not comprehensive enough to deal with the entrenched problem of fraud and abuse throughout the system.

EFFECT ON HOSPITALS AND PROVIDERS

The plan also contains significant changes in assistance to health care providers. I had previously sent a letter to El Paso hospitals outlining the possible changes that might occur under this plan and asked them to illustrate how these changes might effect the day to day functioning of their hospitals. I would like to illustrate the destructive change this plan would have by reading one of those letters:

Expected Effects to . . . as a Result of Medicare and Medicaid Reductions:

Staffing:

If funding is not available, . . . would face the very real possibility of staff reduction by as much as 992 positions during the 7 year period. We would lose $31,982,080 over the next 7-year period for the El Paso economy.

Clinics:

Our clinics currently operate five days a week. The reductions would force a 50% cutback in operations to 2.5 days a week.

Reduction in Services.

The hospital district's mandate is to care for indigent patients and we do not believe that we could eliminate basic services. A reduction in both Medicare and Medicaid dollars would lead to a rationing of resources that would be manifested in a number of ways:

1. Eliminate Level One Trauma Services;
2. Reduction of Pharmacy, Physical Therapy and all other outpatient services;
3. Frequent delays in all inpatient services throughout every area of care.
4. Elimination of elective cases in the operating room and reserving the operating room for emergencies only. This would lead to less funding support to the rest of the hospital and create a greater need for tax payor [sic] support.
5. Our current funding for Physician Service totaling $5,000,000 could be reduced by as much as 50% causing us to care for mainly indigent care patients.
6. Residency Programs: Our current funding of 148 residents would be reduced by as much as 60% or to only 59 residents. This sets the pattern for future physician shortages.

The above possibilities could eliminate all funded patients, putting greater risk on the tax base. All planned admissions could be delayed and the hospital could become one giant emergency room and triage hospital.

This is just one example of the type of destructive impact this plan would have on our community. I have received similar letters from all the other hospitals in El Paso.

MEANS TESTING

The plan also proposes to charge seniors with incomes over $75,000 for individuals and $150,000 for couples higher premiums. Again, these premiums will not put one penny in the part A trust fund. However, this revenue will go directly into the general fund. Means testing in this form is unnecessary.

FAIL SAFE PROVISION

The entire Republican budget plan rests on their ability to provide $270 billion in savings from the Medicare Program. However, the plan falls short of these savings by $90 billion. Yesterday, NEWT GINGRICH said he was afraid that his own CBO would substantially underscore the savings he believed could be accomplished by using HMO's and other provider plans.

If the CBO cannot come up with the magic numbers Speaker GINGRICH wants, where do you think they will come from? From the 37 million beneficiaries that Medicare now serves.

Aware that this plan may not total the $270 billion, it includes a fail safe provision that will allow future bureaucrats to make additional costs.

This hidden provision subjects beneficiaries to unknown future liability. If future decisions expose health care providers to additional cuts, they may pass the cost directly to the beneficiary or drop out of the program altogether. This would mean that even after paying more money for less services this year, seniors would be asked to do the sacrifice again, sometime in the next seven years, to achieve the same savings the original plan proposed and have a choice of much fewer providers.

This plan is the wrong way to achieve the savings that Medicare needs. This plan allows the Republicans to attempt to balance the budget while giving a huge tax break to the most wealthy Americans on the backs of senior citizens and the disabled. It is wrong.

Mr. BEREUTER. Mr. Chairman, this Member is pleased that the leadership has agreed to improve the AAPCC formula used to determine county capitation payments for the MedicarePlus program. This change is critically important and will ensure that rural Americans have the same access to the options in the MedicarePlus program as citizens in urban areas.

This change will greatly improve the health care options in rural areas by creating a formula floor of $300 per month the first year for all counties now below that level. It would rise to at least $320 the next year. Almost all counties in Nebraska fall in this category. In fact, in the 1st Congressional District of Nebraska, 21 out of 25 counties, including Lancaster County, will benefit because they are now well under the $300 county capitation rate.

This change also rectified the problem experienced in some metropolitan areas such as Seattle and Minneapolis whose medical communities are more efficient providers of health care than other urban areas.

Mr. Chairman, since this improvement was made in the bill, this Member is pleased to support it.

Ms. BROWN of Florida. Mr. Chairman, the House of Representatives is the People's House. We were sent here to Congress with a mission: to serve the people. As Members of Congress, we should be listening to our constituents and voting against proposals that will devastate our seniors.

Here I have hundreds of questionnaires that my constituents signed opposing drastic Medicare cuts. During the break, I met with over 3,000 of my constituents at 14 town meetings and they told me they are appalled at the Republican plan to cut Medicare. Oh, did I say CUT? I meant GUT.

Mr. Chairman, the Republican Leadership is unhappy about us using the word CUT to describe the Republicans' Medicare plan. Okay, fine. Maybe CUT is not quite the right word. Well how about G-U-T? How do you like the word GUT? The fact is that Republicans want to destroy Medicare's security and leave our seniors stranded to fend for themselves. They say they are ''saving'' Medicare.

Well, I come from Florida where I served for 10 years in the Florida House. In Florida we have a saying for that kind of thing, ''That dog won't hunt.''

Thousands of my constituents have told me that they are outraged at the Republicans' reverse Robin Hood tactics, stealing from the working people and giving tax breaks to the wealthy. As we say in Florida, ''That dog won't hunt.''

Two days ago, I spoke to the National Council of Senior Citizens, who have been leading the fight against drastic cuts in Medicare. NCSC has shown great courage and true leadership in this fight and I want to say to them: Thank you. Thank you for your work. Thank you for your bravery. And thank you for your commitment to seniors.

Recently in Washington, NCSC led a rally against Republican Medicare cuts by rolling out a giant Trojan Horse representing Republicans' empty promises on Medicare.

And last week, seniors from NCSC came to Congress to protest the fact that the Commerce Committee was voting on a Medicare bill without having one hearing on it. For that, they were arrested?

Shame on my Republican colleagues for shutting out seniors from Congress—the People's House. As a Democrat who believes in the Democratic process, I believe those seniors deserve to be heard, and not arrested.

Seniors are the ones who made this country great, and we owe it to them to protect their health care. We should be celebrating and embracing our seniors, not stabbing them in the back by taking away their health care.

Mr. KIM. Mr. Chairman, I rise today in support of the Republican plan to save Medicare.

I think everyone would agree that the Medicare program has been an enormous success over the past 30 years. Because of Medicare, millions of senior citizens have gained access to the health care that they otherwise wouldn't have been unable to afford.

But trouble looms just over the horizon for Medicare. As many people have heard by now, the Medicare trustees recently warned that the Medicare trust fund is going to be broke by 2002. That would be a catastrophe: If the Medicare trust fund is exhausted, the program cannot legally continue to provide benefits to senior citizens- leaving millions of seniors without needed health care.

In response, Republicans have put forth a dramatic plan to save Medicare from bankruptcy. Unfortunately, many of my Democratic colleagues are skeptical of the need for reform. ''We agree the system is in trouble,'' my colleagues argue, ''but the Medicare trust fund has faced bankruptcy before and the program has survived. Why do we have to make sure dramatic changes now?''

The answer is simple: The current Medicare crisis is of such magnitude that it demands a long-term, comprehensive reform of the system.

In the past, Congress has always dealt with Medicare's financial problems with short-term, quick fixes. Several times over the past two decades, Congress has tinkered with Medicare to shore up the financial problems in the program. Usually, these short term solutions involved raising payroll taxes, cutting payments to providers, or raising premiums and copayments for seniors. And these quick fixes worked, at least temporarily. After each one, Medicare was able to limp along for a few more years, until the program had to be ''fixed'' again.

But the day of reckoning has arrived for Medicare. For the first time in the program's history, the costs of Medicare are growing so rapidly that no amount of ''tinkering'' can make up the difference. If Congress does nothing, Medicare spending will nearly double by 2002—growing from $160 billion today to $318 billion in just 7 years. And that's before the first wave of baby boomers starts to draw benefits from Medicare. If left unchecked, such astronomical growth will swamp the Medicare program and add trillions of dollars to the national debt.

Why is Medicare growing so fast? The main problem is that the current Medicare program simply does not deliver health care cost effectively. While innovations in the private health care market have had some success in controlling health care costs, costs in the government-run Medicare program have continued to skyrocket. For example, while large private insurers cut their health care costs by 1.1 percent last year, Medicare costs grew by more than 10 percent. Of course, these results should not be shocking: Should we really be surprised that a government-run program such as Medicare is characterized by rampant inefficiency and skyrocketing costs? I think not.

To put it simply, Medicare is a 1960's government insurance program that simply does not meet the demands of providing health care in the 1990's. The system needs fundamental reform in order to survive.

That is why Republicans are proposing the ''Medicare Preservation Act''. Our proposal is an attempt to save the Medicare system from bankruptcy by making the program more efficient and cost effective. In doing so, it would reduce the growth of Medicare by $270 billion over the next 7 years?

So how does our plan reduce the growth of Medicare?

The plan starts by declaring war on Medicare waste and fraud. Among other things, the plan dramatically increases penalties for fraud, provides funds for new computer technology that can identify fraudulent activities, and sets up procedures for giving cash rewards to seniors who report abuse in the Medicare program. The plan also implements malpractice reform to eliminate frivolous lawsuits which drive up costs for everyone in the system. Finally, our proposal reforms how Medicare pays doctors and hospitals to make sure that health care providers don't order extra tests or unnecessary procedures simply for financial gain.

The plan also asks doctors, hospitals and seniors each to contribute a little toward saving the program. For example, doctors and hospitals will continue to see their Medicare payments grow—but not as fast as they would under current law. Seniors will be asked to pay a little more Part B premiums. Note that even with these premium increases, seniors will continue to only pay about 1/3d of the cost of Part B—and taxpayers will continue to subsidize 2/3ds of the cost. I think this is fair—we cannot force working families, many of whom can't afford health insurance themselves, to increase their subsidy of the Part B program.

But our proposal goes much further than just attacking waste and limiting the growth of payments to doctors and hospitals. The core of the Republican proposal is a truly revolutionary idea: Let seniors have the same health insurance choices that their children and grandchildren have.

Under our plan seniors would have three options: First, join a private health insurance plan and have Medicare pay the premiums; Second, use Medicare dollars to purchase a high-deductible health plan and have savings placed in a medical savings account. or Third, stay in the current system. So, for example, if you like the health plan you have at work, you can keep it when you retire—and Medicare will pay the premiums. If you want to join another private insurance plan, you can—without being excluded for preexisting conditions. And if you want to stay in the current government-run Medicare system, you can do that, too. The idea is that, by allowing seniors to join more efficient private insurance plans, we can save money and give seniors more health care options at the same time.

In short, the Republican proposal is a fundamental departure from past attempts to reform Medicare. Instead of trying to squeeze more money out the current system, we are proposing to change the system so that it can provide the same benefits for less money. And don't forget: Republicans are not proposing to cut Medicare—under our plan, benefits will still grow from $4,700 per person today to $6,700 per person in 2002.

Unfortunately, opponents of our plan reject the kind of fundamental reform Republicans are proposing. They want to tinker with the system some more—maybe push Medicare's bankruptcy back a couple of years. The problem is, under this approach, we will be right back here in a few years, arguing over these same issues. Except, by then, the deficit will have grown substantially, the Medicare trust fund will be in even worse shape, and—most importantly—the baby boom generation will be that much closer to retirement. In fact, a recent study estimated that the Medicare reform plan offered by the Democrats would leave Medicare $300 billion dollars in debt just as we have to start paying for the baby boomers. To me, that's irresponsible.

Finally, I want to respond to my Democratic colleagues who accuse Republicans of cutting Medicare to provide a ''tax cut for the rich''. I am here to tell you that nothing could be far-

ther from the truth. The fact, is Republicans have already passed more than enough spending cuts than are needed to pay for our proposed tax cut. The Republican budget resolution—passed last April—contains $622 billion in non-Medicare spending cuts. That is two-and-a-half times the amount of spending cuts needed to pay for tax cuts. And let's look at the tax cuts themselves: Is a $500 per-child tax credit a tax cut for the rich? Is a $500 tax credit for the care of an elderly relative a tax cut for the rich? Is cutting taxes on IRA withdrawals or the sale of a home a tax cut for the rich? I think not.

So let's end this partisan bickering. We must act now to save Medicare—while there is still time to engage in rational, thoughtful reform of the Medicare system. By making the system work more cost-effectively, we can preserve, strengthen and simplify Medicare—and make sure current and future generations of seniors will have access to this vital program. For these reason, I urge my colleagues to support the Republican plan to save Medicare.

Mr. PORTMAN. Mr. Chairman, Medicare's problems are now well known. The question is whether official Washington has the courage and foresight to fix them. If the partisan bickering continues and nothing is done, the Federal program providing health care insurance for roughly 33 million seniors and 4 million disabled Americans won't be there for anyone.

We know that skyrocketing medical costs, an aging population and a decline in the ratio of workers paying into the system have placed Medicare in dire financial straits. We know about the alarming Medicare Trustees' report—the Part A Trust Fund—which covers hospital, skilled nursing and home health services—starts paying out more than it takes in next year and goes broke 6 years later. We also know that Medicare offers limited choices to beneficiaries, is rife with fraud and abuse and, typical and entitlement programs, lacks a cost control mechanism. Such cost increases are simply unsustainable in a program that now accounts for over 11 percent of the Federal budget. This has led to annual cost increases in excess of 10 percent, at least twice as high as private health care costs.

With all of this knowledge and after more than two dozen public hearings and hundreds of town hall meetings, comprehensive Medicare reform legislation was introduced in the House at the end of September. Democrats have dismissed the plan as a mere means for paying for Republican-sponsored tax cuts. This misses the point. The tax relief has already been paid for with spending cuts and has nothing to do with Medicare reform. Republicans, in turn, are too defensive about the politically sensitive task of curbing entitlement spending. Both sides need to be honest about the facts, get down to work on the serious challenge before them, and stop the political gamesmanship. Here's what the proposal just introduced does and doesn't do.

It does allow beneficiaries to keep their current coverage. If someone is currently enrolled in the traditional fee-for-service plan—which over 90 percent of beneficiaries are—by doing nothing that plan is continued. But many will want to change. The innovative aspect of the proposal is that it offers seniors choices until now only available in the private sector—coordinated care, Medical Savings Accounts and provider-sponsored networks, to name a few—and sufficient information to make good choices.

Some may opt for coordinated care to reduce out-of-pocket costs or obtain prescription drugs, eyeglasses or other coverage currently excluded under Medicare. Others may want to take advantage of a Medicare Savings Account where beneficiaries can purchase a high deductible, low-cost insurance policy and the government deposits money that would have gone toward more traditional Medicare benefits into an interest bearing account that can be withdrawn tax-free to cover medical expenses.

Contrary to the heated rhetoric, Medicare is not being ''cut''; spending per beneficiary will actually increase under the proposal from about $4,800 in 1996 to $6,700 in 2002. Granted, that is not as steep an increase as currently projected, but it remains a generous program. Moreover, despite claims from the plan's critics, the House proposal does not increase copayments or deductibles. Premiums will increase in absolute numbers under the House GOP plan, a bit more than they would under current law. This is because the proposal locks in today's premium of 31.5 percent of the cost of Part B services (doctors visits, lab work, etc. . . .), rather than having the percentage paid by beneficiaries decrease (and the percentage of the public subsidy increase) as it would under current law. As a result, instead of paying $61 a month seven years from now as would be the case under current law, the amount would be approximately $87 a month. This reflects the fact that health care costs will go up in that time period. Most seniors I talk to are willing to see this kind of increase if it is part of getting the system on its feet.

Only those better off (individuals with incomes over $75,000 and couples with incomes over $125,000) will pay a higher percentage of Part B premium costs. Again and again in my town meetings and discussions with seniors, I've been impressed with the willingness of people to pay a little more if it helps put Medicare back on its feet.

The proposal also tackles fraud and abuse. Seniors in my District and around the country have offered innovative ideas to curb the fraud and abuse that adds billions of dollars in health care costs each year. The proposal rewards seniors who report fraud to the government and the government, in turn, increases penalties for those who defraud the system.

Those who have taken a hard look at the benefits of increased choice and competition believe that health care delivery can be improved and costs reduced. In conjunction with affluence testing and reduced fraud and abuse, many believe that savings will be generated adequate to keep the program solvent at least until the baby boom generation begins to retire. But they may be wrong. That's why the current plan also builds in a ''failsafe'' mechanism, under which government payments to providers will be reduced if targets are not met.

Is this plan perfect? No. It surely can be improved and there ought to be a bipartisan effort to do so. But it's the only plan out there that seriously addresses Medicare's financial troubles. For the 37 million Americans in the system and those millions more in years to come, let's hope Congress and the White House can get beyond the rhetoric and work together to produce a responsible plan that saves this vital system. And, in the process, let's hope both sides can be more honest with the American public about how that's achieved.

I urge my colleagues to support this legislation as a responsible approach to a very real problem.

Mr. FOGLIETTA. Mr. Chairman, there has been a lot of talk this year about contracts. First, there was the Contract With America. Or as they call it in my neighborhood in south Philadelphia, the contract on America. There is the contract with the American family.

Now I studied contracts in law school. A contract is not a very complicated thing: you agree to do something for me and I will do something for you.

As we vote on this bill today, let us all think about what our parents did for us and for America. The generations of parents who stand at risk because of this legislation gave decades of their lives at work to raise us, feed us, clothe us, to educate us.

They fought the Second World War for us, they saved the world from an enemy so evil it is unthinkable to consider what would have happened without them, our parents.

After World War II, men and women in this Chamber did a profound thing. They created a way for our parents to live out their lives in security, in peace, and in health.

The created the Social Security and Medicare systems.

These programs represent a covenant among generations. But now we are tearing up that contract.

They are tearing up that contract when they raise premiums on elderly Medicare recipients who just cannot afford it, and next week they propose to cut Medicare to the bone to pay for a tax cut for the wealthiest Americans.

They are tearing up the contract by pushing people too hard into a system that will take their choice away.

They are tearing up that contract with huge cuts to hospitals and doctors and that slam the door on access.

These are senior citizens who have held up their end of the contract. We have to keep our part of the bargain. I urge my colleagues to oppose this bill and support the Gibbons-Dingell substitute.

Mr. CASTLE. Mr. Chairman, I rise in support of the Medicare Preservation Act. This is a realistic proposal which addresses the serious problem of Medicare's pending bankruptcy. For the last 6 months, I've traveled throughout Delaware, held town meetings, and visited with senior centers to talk about this important program, which provides health care for roughly 100,000 aged and disabled Delawareans. Delawareans want to know that this critical program will be there for them in the future. They recognize that the Government cannot afford to continue the Medicare Program as it currently exists.

Medicare, created in 1965, is comprised of two parts, part A and part B, which provide hospital coverage and doctor coverage for 99 percent of all older Americans. President Clinton's Medicare trustees have clearly and succinctly stated that the program is in financial dire straits. Why? The Medicare Program grew at a rate of 10.5 percent last year—three times that of inflation and twice as much as private sector medical costs. Further, the General Accounting Office [GAO] has estimated that as much as $44 billion a year is wasted on Medicare and Medicaid fraud, and about 30 cents of every dollar is wasted or lost due to mismanagement by a Federal agency.

Thirty-seven million people depend on the Medicare Program, and it is frustrating to see the program politicized. No one—not Democrats, not Republicans—invented Medicare's financial crisis. The program has been heading toward bankruptcy for years. During the last Congress, President Clinton created a bipartisan Commission on Entitlement and Tax Reform, on which I was selected to serve, to try to transcend politics and address entitlement programs in a responsible, bipartisan manner.

In forming the Commission, President Clinton said ''This Commission will be asked to grapple with real issues of entitlement reforms. . . . This panel, I expect, will ask and answer the tough questions. . . . Many regard this as a thankless task. It will not be thankless if it gives us a strong and secure and healthy American economy and society moving into the 21st Century.'' While the final report to the President did not endorse specific proposals to reform entitlement programs, it stated ''We must act promptly to address this imbalance between the government's promises and its ability to pay.'' However, no further action was taken by the Democratic leadership in Congress or the President.

In contrast, Republican leadership in Congress has bravely confronted the issue, refusing to be thrown off track by those who are trying to turn Medicare reform into a political hot button. The Republican proposal recognizes that we simply must control the program's spiraling growth rate to guarantee that the program is maintained well into the future. The proposal does not bow to the political pressure of those who want a feel-good proposal that only scratches the surface of reform in order to provide a quick fix until after the next election.

Having said that, I think it would be naive to throw unconditional support behind any proposal that modernizes a 30-year program. Reforming Medicare is complicated business, and we do not have crystal balls allowing us to predict perfectly the outcome of these bold reforms. I do have some reservations about the proposal. For example, I am concerned about the potential impact of the ''look back'' provision that allows additional savings to come from doctor and hospital reimbursement rates if the amount of savings predicted under the bill do not measure up. I want to ensure that nursing homes continue to be a safe place for our seniors. I want to ensure that some of the deregulatory provisions in the bill don't ultimately increase costs, like those relating to physician self-referral.

Given the stakes here, however, the good cannot be set aside while we try to achieve the perfect. In its entirety, the proposal is realistic, sensible, and fair. The proposal saves Medicare from bankruptcy and recognizes that dramatic changes must be made and new options must be provided to this important program.

Next year, the Federal Government starts spending more on Medicare than it takes in and in 6 short years, the Medicare Program is insolvent. Under the Republican plan, Medicare is preserved until 2010, benefits will continue to grow and patient choice is not only maintained—it is expanded. Older Americans receiving Medicare can stay in the current system, with their current doctor, without having to choose another health care plan. Or, they can choose a private sector plan that offers more benefits, like prescription drugs or eyeglasses or put their funds into a medical savings account.

Under the Republican plan, there are no cuts in spending—spending goes up 40 percent over 7 years, with per beneficiary spending increasing from $4,800 today to $6,700 in 2002; there is no increase in Medicare copayments; there is no increase in Medicare deductibles; and there is no change in the current rate of Medicare premiums. Today and tomorrow, premiums are 31.5 percent of Medicare part B costs. They will continue to be calculated that way.

In addition, the bill cracks down on waste, fraud, and abuse that pervades the current system, enacts tough malpractice reforms to end runaway spending and frivolous lawsuits, and allows doctors and hospitals to join hands in providing health care in a provider network arrangement. Lastly, the Medicare Preservation Act clearly states that the savings from slowing Medicare's growth rate must go back into the health care system in a lock box and cannot be used for any other purpose.

Enacting a bold Medicare preservation plan is not only absolutely necessary; it is the responsible action and the least we can do for the 37 million Americans who depend upon Medicare now and for the millions of Americans who will depend upon Medicare in the future.

Mrs. THURMAN. Mr. Chairman, I rise today to express my opposition to the Republican plan to cut Medicare to finance a $245 billion tax cut for the wealthy. Under the Republican plan, Florida will lose $28 billion from Medicare. As a result, my constituents will play higher premiums, face uncertainty about their ability to stay with trusted doctors, and lose their sense of health care security.

Republicans have promised a utopian world of free choice and complete access to services. But, there is no choice when cuts in the fee-for-service program force seniors into health maintenance organizations. And there is no quality service when our health care system for the elderly is cut to free up money for tax cuts. Paying more for the same service is a cut, and the Republicans know it.

We need to stand up for the seniors of America. Seniors were forcibly silenced during the so-called debate on this issue in committee. When we tried to expose the Republicans plan for what it is, we were shut out of hearings and forced to meet on the Capitol lawn. It is our obligation, as representatives of all citizens, including the most vulnerable, to speak out and vote against these drastic cuts.

Mr. LATHAM. Mr. Chairman, I rise to support the Medicare Preservation Act.

Medicare has successfully provided basic health care for our Nation's senior citizens. However, the Medicare Program is sick, very sick. According to President Clinton's own advisors, the Medicare system will face bankruptcy in the next decade if fundamental reforms do not take place. If the program goes broke, seniors will lose their Medicare hospital coverage.

During the Medicare reform debate, I have worked to ensure that four goals are achieved. First, the long-term integrity of the Medicare system must be preserved for present and future retirees. Second, lower-income seniors must be protected from cost increases that they cannot afford. Third, Medicare reforms should provide more competition and consumer choice, not more Government control. And finally, the huge reimbursement discrepancy between rural and urban counties must be fairly adjusted. I am proud to say that the Medicare Preservation Act meets these goals.

The Medicare Preservation Act will ensure that every Medicare recipient will continue to receive affordable, high quality health care now and in the future. Medicare spending will increase from $4,800 to $6,700 per person over the next 7 years. Seniors will have more health care options including traditional fee-for-service Medicare, managed care plans, and medical savings accounts. Finally, the increase in per capita payments for rural counties will ensure that seniors who live in rural communities will have the same health care options as their friends in urban areas.

The Medicare Preservation Act strengthens Medicare for the 21st century. I strongly urge my colleagues to support passage of the H.R. 2425.

Mr. KLECZKA. Mr. Chairman, today the new Republican majority has demonstrated that their position on Medicare has not changed in 30 years. In 1965, Democrats enacted the Medicare Program amidst Republican opposition. and today, despite the overwhelming success of this program, Republicans have voted to undermine it. I am not surprised that the GPO has voted to make unprecedented cuts in this critical health care program, after all, they have never consistently supported Medicare. But to take $270 billion out of a program that protects senior citizens in order to pay for tax cuts and to balance the budget—this is simply extreme.

Republicans claim these cuts are to strengthen the trust fund, which according to the Medicare trustees is expected to become insolvent 7 years from now, in 2002. But in the last 20 years the trustees have projected that the fund would be insolvent in 7 years or less at least nine times. In fact, just last year, the trust fund was projected to become insolvent in the year 2001—7 years out. Yet my Republican colleagues said nothing. In fact, the only provision proposed to date by the Republican majority that has a measurable impact on the trust fund actually takes more than $87 billion out of the fund over the next 10 years! For 30 years it has been up to the Democrats to protect and preserve Medicare. It looks as if it will be up to us for the next 30 as well.

In their new found concern about the Medicare trust fund, the GOP plan cuts the program by $270 billion over 7 years. And their plan does extend the life of the trust fund to the year 2006. However, what they don't tell you is that the Medicare actuaries estimate that only $90 billion is needed to extend the trust fund to that year. What are they doing

with the balance of the money? They are using it to pay for tax cuts and deficit reduction.

In contrast, the Democrats have introduced alternative plans that achieve the same level of solvency that the Republican plan achieves, but at only a third of the cost. These proposals reduce Medicare expenditures by only $90 billion over 7 years and still assure that the trust fund remains solvent for the next 10 years. Because every penny of this $90 billion is targeted to the trust fund, we are able to strengthen the fund without weakening the program for current beneficiaries.

The Democratic substitute contains a series of responsible reforms combined with modest improvements that put beneficiaries first. This alternative does not increase premiums, copayments or deductibles. In fact, the plan even eliminates excessive copayments that beneficiaries currently pay for hospital outpatient services. Moreover, Medicare's current limits on balance billing are retained, essential protections for Medicare beneficiaries in nursing homes are preserved, and tough laws against fraud and abuse remain on the books.

The Democratic bill updates Medicare benefits to prevent cancer and complications from diabetes including colorectal screening, pap smears, pelvic examinations, and increased coverage of breast cancer screening. Also, payment would be authorized for diabetes outpatient self-management services and for blood-testing strips for individuals with diabetes.

Our plan also offers expanded choice of providers and plans, permitting beneficiaries to enroll in preferred provider organizations [PPO], point-of-service [POS] plans and provider service organizations in addition to the current fee-for-service and HMO options. But unlike the Republican bill, our reform proposal also ensures that these new options are real choices. Plans must honor limits on balanced billing and they are paid adequately in order to shield beneficiaries from additional out-of-pocket costs.

Certainly, efforts to control spending require that some limits be places on reimbursements to all providers, including physicians. Since the American Medical Association has been so supportive of the GOP plan, the Democratic alternative largely mirrors the Republican proposal with respect to payment reforms. Special caution is taken with reductions in payments to hospitals. Excessive cuts in hospitals, like those proposed by the majority, could be counter productive, negatively affecting the quality of care, reducing access to care and resulting in higher costs for the private sector. The alternative plans includes reasonable reductions in hospital payments but also safeguards hospitals that serve the uninsured in rural and urban areas.

I urge my Republican colleagues to stop marching blindly for just one moment to consider this worthy, thoughtful alternative. If your goal is to preserve the trust fund, this alternative plan accomplishes that goal. If you want to strengthen the Medicare program and bring it into the twentieth century, this plan gets there. If instead, you wish to pursue this scorched earth policy in order to balance the budget and pay for tax cuts, then you have that option before you today. But at least stop long enough to think about what it is that you want to achieve.

It dismays me that we have come this far in the process and are left with a Republican plan or the Democratic alternative. It did not have to come down to this. Democrats on the Ways and Means Committee and on the Commerce Committee attempted to work with Republicans to add these protections included in the Democratic alternative to the Republican plan and to improve the GOP proposal. Ways and Means Democrats offered more than 35 constructive amendments to the Republican bill. Of these, only four were accepted by the Republican majority.

Today we will not have the opportunity to present constructive amendments because the rule is closed. But they cannot hide from their agenda. Republicans on the Ways and Means Committee voted in lockstep to reject an amendment to extend basic consumer protections to Medicare beneficiaries who choose managed care plans. They opposed an amendment, offered by myself, to safeguard beneficiaries from a practice called balance billing in which the patient is expected to pay the difference between what the doctor charges and what Medicare pays. Republican members voted against an amendment that would have restored funding for inner city and rural hospitals who serve the uninsured, and rejected an amendment to retain the current standards for nursing homes. They also voted against amendments to increase screening for breast and cervical cancer, rejected amendments to provide coverage for colorectal and prostate cancer screening, and turned back an amendment to provide better coverage for diabetics.

These are just some of the proposals on which the Republicans have gone on record. But today is the day to keep score. Today we each have a choice—to support senior citizens or to support tax cuts for wealthy Americans. I urge my colleagues to not take lightly this decision.

Mr. MFUME. Mr. Chairman, I rise today in opposition to H.R. 2425, the Medicare Preservation Act. This bill makes the most sweeping changes in the Medicare Program since its establishment in 1965. Since assuming control of Congress this January, House and Senate Republicans have been pushing for passage of the deepest package of Medicare cuts in the program's 30-year history. These changes will increase the cost of Medicare to the average senior citizen by nearly $1,000 and force many to give up their own doctors. According to the American Association of Retired Persons, the Republican Medicare cuts would be ''the end of Medicare as we know it.''

There is much in the bill that concerns me and my constituents. However, the provisions of this bill to change nursing home standards have raised the ire of many others. H.R. 2425 repeals current federal standards for nursing homes participating in the Medicare Program and replaces them with a requirement that nursing homes be State certified.

Many of my elderly constituents and their families recall the days when some nursing homes were little more than abusive prisons for America's seniors. They are not impressed by this so-called preservation effort.

Why the assault on Medicare? Why propose deep and potentially devastating cuts in a program that is a contract between Government and seniors who have paid into the program all their lives? Some Republicans will say that they are trying to save the program from bankruptcy. Others will say they need to raid Medicare to balance the budget (although at the same time they are proposing huge tax breaks for the wealthiest Americans). What are the real answers?

In understanding this latest attack on Medicare, I believe it is important to look beyond the latest conservative rhetoric about Medicare and examine the record instead. The fact is, since the 1950's, the GOP has consistently opposed even the creation of Medicare. Many of the party's prominent leaders voted against Medicare when it was first established in 1965. And current party leaders have repeatedly attacked Medicare and Social Security.

If the Republican Party had been in the majority in 1965, Medicare simply would not exist. A full 93 percent of House Republicans voted against Medicare when it was introduced. In fact, the Republicans voted overwhelmingly against the creation of Medicare on three other occasions in the early 1960's.

Their arguments were extreme then and they're extreme now. In 1965 they called Medicare ''socialized medicine'' and claimed it would ''impair the quality of health care, retard the advancement of medicine and displace private insurance.'' Nevertheless, Medicare passed, and for many years was widely hailed, even by Republicans, as a triumph of government.

Despite the doomsday predictions 30 years ago, Medicare has dramatically improved the health and welfare of American seniors and ensured that the elderly will never again have to choose between health care and food or rent.

Ironically, one of the reasons we even have a debate about reforming Medicare is because of its profound success. Americans are living longer and more productive lives. That means many more reach an age where greater health problems can emerge. We should not use the success of Medicare as a reason to recklessly cut the program.

The Medicare Preservation Act being voted on today does not preserve Medicare. Rather, it will violate the compact made with American's elderly over 30 years ago. This bill will push patients into managed care; provide obstacles for Medicare beneficiaries to find a physician willing to provide them care because of lower reimbursement rates; double Part B premiums for seniors living on a fixed income by the year 2002; close inner-city and rural hospitals which are already on the brink of bankruptcy and give a few bad doctors an open license to provide shoddy treatment since patients would no longer be able to rely on the court system for redress. Additionally this bill would repeal balance billing requirements for some categories of beneficiaries; encourage doctors to perform unnecessary tests—increasing overall health care costs—and allow them to refer patients to facilities they have a financial stake in; and increase costs by allowing healthier, younger seniors to opt out of Medicare through Medical Savings Accounts while leaving sicker and older patients in traditional Medicare.

The Republican cuts in Medicare are misguided and faulty. They go way beyond what is reasonable or necessary to maintain the solvency of the program. And when you strip away the rhetoric, all that remains is a huge tax break for the wealthy. They need a way to pay for their trickle-down tax break, and they believe they can pull it out of the pockets of

struggling seniors. America's seniors were told that their deepest beliefs in fairness, personal responsibility, social duty and contribution to society would be rewarded if they trusted Congress with their health care. Now Congress is using Medicare cuts to pay for a tax break for the wealthy.

Despite the feel-good rhetoric, the reality is that Medicare has been moved into the bullseye of the GOP target for massive cuts. When you look at the shotgun of this crew and the other targets of the conservatives—student aid, summer jobs, Federal workers—it looks less like responsible budget cutting and more like a drive-by shooting.

Mr. EWING. Mr. Chairman, the Medicare Board of Trustees reported last spring that ''The Medicare Trust Fund continues to be severely out of balance and is projected to be exhausted in 7 years.'' This report was signed by, among others, President Clinton's Secretary of the Treasury, his Secretary of Labor, and his Secretary of Health and Human Services.

Mr. Chairman, I am proud to stand up in support of legislation which will provide a long-term solution to the financial problems in the Medicare Program and guarantee that the program will be available for senor citizens well into the next century. In addition, this legislation will provide senior citizens with more choices in their health care decisions, while guaranteeing that senior citizens in Medicare now may remain in the program and keep their current doctor and hospital if they choose. This bill provides for an increase of Medicare spending from $4,800 per person now to $6,700 per person over the next 7 years, while at the same time guaranteeing the solvency of Medicare. I am proud to support legislation which protects and preserves Medicare without changing Medicare benefits, does not increase deductibles, and does not change co-payments.

I would like to commend the Republican leadership for agreeing to alterations in the legislation which will guarantee a minimum Medicare reimbursement level for rural counties which for years have received substantially less than more populous areas. This agreement will make the Medicare program more fair than it has been for seniors who live in rural America, while at the same time providing an incentive for HMO's and managed care programs to expand their services into rural America. This will provide seniors in rural areas more choice in their health care decisions.

It is extremely unfortunate that some have decided to play politics with Medicare by scaring senior citizens into thinking that their benefits will be cut by this legislation. It is unconscionable. Senior citizens deserve to live with the security that Medicare will continue to be there for them when they need it, and they should not be the subject of partisan politics.

This legislation simply controls the rate of growth of Medicare, which has been growing more than 10 percent every year, much higher than inflation. Spending on the program will continue to increase, only at a more controlled rate. The bill accomplishes this objective by maintaining premiums at the current 31 percent level (rather than decreasing as scheduled), reducing waste and fraud in Medicare, and encouraging managed care without forcing anyone into it.

Senior citizens don't want a band-aid solution to the pending bankruptcy of Medicare. They want a long-term solution which guarantees that Medicare will be there for them. This legislation does just that.

Mr. GALLEGLY. Mr. Chairman, I rise in support of H.R. 2425, the Medicare Preservation Act of 1995.

Mr. Chairman, when the majority in the Congress first took up the challenge of a potentially bankrupt Medicare System as presented by the Board of Trustees, I wanted to ensure that any reforms we initiated achieved two goals: first, the reforms must make the trust fund solvent as far into the future as possible; and second, none of the reforms could result in any degradation of current health services now enjoyed by those covered by the Medicare System.

In the days and weeks leading to today's vote on the Medicare Preservation Act of 1995, literally thousands of constituents contacted me to discuss this legislation and to voice their specific questions/concerns. As I began to research and consider the proposed reforms, their questions became my questions and I realized I could not in good faith cast my vote before I had all the answers.

One of the things they wanted to know was whether the new plan would allow beneficiaries to remain in the traditional Medicare System. The answer, of course, is absolutely. Only Medicare beneficiaries who choose to participate in one of the new MedicarePlus options will change plans.

Some were concerned by reports that the Republican plan was ''cutting'' Medicare benefits. Was this true? Were we cutting Medicare? The answer was absolutely not. The plan we adopted today significantly increases Medicare spending. Under the Medicare Preservation Act of 1995, average spending per beneficiary in California goes from $5,821 to $8,139 over the next seven years—an increase of more than $2,300.

Many of those who contacted me had been exposed to the false and inflammatory reports that the money we were saving by reforming Medicare would be used toward deficit reduction or tax cuts. In fact, nothing could be further from the truth. Any savings realized through our reform of Medicare must stay in Medicare. Period.

A final concern many seniors expressed to me was whether the quality of the care they currently receive would decline under a reformed Medicare. Well, I can report that—at a bare minimum—seniors under this plan will be guaranteed the same benefits they have now, no matter what specific plan they choose. At the same time, many seniors will be able to select a plan that may offer something they do not currently receive, whether it be prescription drugs, eyeglasses, or better hospital care. The bottom line is that the quality of benefits in all cases will measure up to yesterday's Medicare and, in many cases, will improve.

These were the kinds of things I needed to know before casting my vote today in favor of the Medicare Preservation Act of 1995. Like many of my constituents—and colleagues—I was concerned about the rhetoric and misinformation swirling around this issue prior to the vote. However, once I had the facts at my disposal I saw only one appropriate course. That course was supporting a reformed Medicare System which increases benefits, expands the options to beneficiaries, and is structured in such a way that it will survive far into the future.

H.R. 2425, the Medicare Preservation Act of 1995, accomplishes all of these goals while retaining the essential elements of traditional Medicare. I truly believe that we have done the right thing today in adopting these reforms. We have taken a program that was failing, a program on track to consume itself and we have given it new life. We rose above the scare tactics and sound bites aimed at preventing us from having the courage to do the right thing and we did the right thing.

I am proud to have had a hand in bringing about these badly needed reforms, and I look forward to celebrating the positive impact our action today will have on current and future Medicare beneficiaries.

Mr. HALL of Ohio. Mr. Chairman, today we are debating H.R. 2425, the so-called Medicare Preservation Act. Who can be opposed to preserving a program on which more than 37 million Americans are dependent? Unfortunately, the bill does not live up to its title.

Its supporters claim that unless action is taken, the part A trust fund will be bankrupt in the year 2002. However, all that this bill does is to move the date of insolvency back to the third quarter of 2006 according to actuaries at the Health Care Financing Administration. At what cost?

The part B premium will rise by an estimated 89 percent. Payments to hospitals will be cut, especially to hospitals that provide a disproportional share of care to indigent patients and teaching hospitals, and as a result, many hospitals will be forced to close. Payments for home health care will be reduced which will lead to more people being placed in nursing homes, but payments for nursing homes will also be reduced.

This is a bill to cut $270 billion from the growth of the Medicare Program over the next 7 years, far more than is needed to keep the program solvent. As painful as the cuts in the bill are, the program changes in the bill are even worse.

The bill is predicated on beneficiaries moving into managed care plans such as health maintenance organizations. It also provides for establishing medical savings account plans with high deductibles. These accounts could be used for medical services not currently covered by Medicare. These options are all right for people who are basically healthy, but they will have a devastating impact on those who are not. Plans will vigorously compete for those in the first group; but the others will be left behind in traditional fee-for-service plans. As more and more healthy people leave these traditional plans, premiums will skyrocket, which in turn will increase the exodus.

I believe a compromise Medicare bill can be passed, but in crafting this bill, the majority party did not seek input from this side of the aisle. They did not seek input from the public at large by conducting committee hearings. A small group of Members wrote the bill and changes were made at the behest of certain interest groups. This is not the way to legislate.

Mr. OLVER. Mr. Chairman, today the Republican Party takes on the onus for dismantling Medicare, the health care guarantee within Social Security.

And you can bet the Republican Party has its sights on dismantling Social Security as well.

And to what end? To create a comprehensive health care system which 80 percent of Americans want? No.

To serve extremists in the Republican Party.

To serve the insurance companies and the American Medical Association.

The Republican Party is cutting $270 billion from health care for American retirees to give $245 billion in tax cuts.

More than half of the tax cut goes to fat cats already making over $100,000 per year—while 75 percent of the people taking Medicare cuts to pay for that tax cut live on less than $20,000 per year.

The Republican Party is taking health care dollars from low- and middle-income retired Americans to give billions to insurance companies and the already wealthy.

You can bet Americans will remember next November.

Mr. MILLER of Florida. Mr. Chairman, I would like to insert the following letter, polling results, and testimony on the Medicare Preservation Act by the U.S. Chamber of Commerce into the CONGRESSIONAL RECORD.

U.S. CHAMBER OF COMMERCE,
*Washington, DC, October 18, 1995.*

*Members of the U.S. House of Representatives:*

The Chamber urges your support for H.R. 2425, the Medicare Preservation Act. Because of the importance of this issue to our members and the budget reconciliation measure, the Chamber will include this vote in its annual How They Voted vote ratings. For your information, I have included the results of a recent poll taken among Chamber members concerning elements of Medicare reform which reflects overwhelming support for this legislation.

Medicare is clearly in a state of crisis. Over the past five years, the program has grown at a staggering annual rate averaging 10½ percent. Immediately ahead of us is a seismic demographic shift: the ratio of taxpayers to Medicare beneficiaries is declining rapidly—from about four to one today, to only two to one in the next fifty years. The program as currently structured simply cannot survive.

Just as clearly, the failed Medicare reform approaches of the past will fail to measure up to this crisis and will threaten both business and the economy. Since 1970, Congress has raised payroll taxes over 20 times and the Medicare Trustee's 1995 Report pointed out that payroll taxes would have to be raised by another 1.3 to 3.5 percentage points to bring the system into balance. When you consider that many small and medium size businesses already pay more in payroll taxes than income taxes and that payroll taxes must be paid regardless of economic conditions, it becomes clear why Medicare requires solutions other than tax increases.

We believe the long-term solution to Medicare's problem is comprehensive reform that increases competition while restraining the growth in spending. Competition will help bring prices down and will provide secure and expanded benefits for seniors. The Medicare Preservation Act is a bold means of securing the solvency of the Medicare Trust Fund and setting Medicare on a secure path for the future.

We urge your support for the Medicare Preservation Act during its consideration on the House floor and throughout debate on the budget reconciliation measure.

Sincerely,

R. BRUCE JOSTEN.

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U.S. CHAMBER OF COMMERCE—MEDICARE FAX POLL RESULTS

On October 11, 1995, the U.S. Chamber surveyed 9,700 business, chamber and association members on their attitudes concerning Medicare reform and specific reform elements. Responses to the Chamber survey (nearly 10 percent responded, 68.9% of which employ fewer than 50 workers) indicated strong support for market-oriented Medicare reform comparable to the House and Senate Majority plans for Medicare reform. The complete survey and results are provided below.

Medicare is ''severely out of financial balance and the Trustees believe that . . . prompt, effective and decisive action is necessary.''

Medicare reform has become a focal point of the budget debate. Medicare—the national health insurance program for seniors—will run out of money in seven years, according to the system's trustees. Spending on Medicare and other entitlements threatens to crowd out all other budget priorities and increase the budget deficit.

Previous approaches to Medicare reform have failed to slow Medicare's growth. Worse, these approaches have increased the burden on businesses and their employees through higher payroll taxes and higher insurance premiums.

Since 1970, Congress has raised payroll taxes over 20 times and the Trustee's Report pointed out that payroll taxes would have to be raised by another 1.3 to 3.5 percentage points to bring the system into balance. When you consider that many small and medium size businesses already pay more in payroll taxes than income taxes and that payroll taxes must be paid regardless of economic conditions, it becomes clear why Medicare requires solutions other than tax increases.

We need your help. Please review the following questions on Medicare reform and FAX back your answers by close of business October 16.

1. Medicare should be modernized by adopting the market-based strategies private employers and health plans are using successfully to improve health care quality and control costs. These strategies include improving the quality of care provided to enrollees, increasing enrollee choice by expanding health plan options, and reducing the rate of growth of Medicare spending.

Agree, 98.9 percent; Disagree, 0.6 percent.

2. Two competing approaches to Medicare reform have emerged in Congress. One more limited approach addresses the Medicare Part A trust fund, delaying insolvency for an additional two years through $89 billion in Medicare Part A trust fund, delaying insolvency for an additional two years through $89 billion in Medicare savings, primarily from reducing the rate of growth in Medicare payments to providers A second approach is more comprehensive in nature, addressing both Medicare part A (hospital bills) and Part B (doctors bills). Medicare Part A would be protected at least an additional 10 years through $270 billion in Medicare savings achieved through increased competition and reducing the rate of growth in Medicare payments to providers. Which approach would you favor?

Limited, 4.3 percent; Comprehensive, 94.6 percent.

3. Do you favor or oppose the following elements of Medicare reform?

a. Provide seniors choices between competing health plans including existing fee-for-service benefits.

Favor, 97.4 percent; Oppose, 1.6 percent.

b. Contain Medicare spending by increasing competition and reducing the rate of growth in Medicare payments.

Favor, 97.4 percent; Oppose 2.9 percent.

c. Increase managed care options for seniors.

favor, 93.8 percent; Oppose, 43.3 percent.

d. Provide seniors a medical savings account option.

Favor, 88.2 percent; Oppose, 7.3 percent.

e. Allow provider groups (i.e., doctors and hospitals) to offer health coverage (similar to managed care networks) directly to seniors—a new proposal known as provider sponsored networks or PSNs.

Favor, 91.9 percent; Oppose, 5.7 percent.

f. Require managed care plans to provide out-of-network benefits at a higher cost to the beneficiary.

Favor, 72.4 percent; Oppose, 18.2 percent.

4. For purposes of tabulation: type of organization: Business, 93.2 percent; Chamber, 4.3 percent; Other, 2.0 percent. Approximate number of employees: under 10, 29.4 percent; 10–49, 39.5 percent; 50–99, 12.5 percent; 100–249, 8.6 percent; 250–499, 3.7 percent; 500–4,999, 3.7 percent; 5,000 +, 1.4 percent.

[From the U.S. Chamber of Commerce, Economic Policy Division]

THE MEDICARE CRISIS: THE TAX SOLUTION IS NO SOLUTION

The only solution detailed by the Medicare Board of Trustees for achieving financial balance in Medicare Part A is to raise taxes. Unfortunately, this is no solution at all. Higher taxes will rob working individuals of their hard-won dollars, significantly increase costs on small and large businesses alike and bring the economy to the brink of recession.

The Trustees calculate that balancing the Medicare trust fund for the next 75 years requires us to immediately hike the Medicare payroll tax from 2.90% to 6.42%. While the tax increase may seem to amount to only a few percentage points, it amounts to hundreds of dollars to the typical worker, thousands of dollars to the small business, and billions of dollars for the economy. Analysis by the Economic Policy Division of the U.S. Chamber of Commerce suggests the following impacts on individuals, businesses and the economy:

For a worker making $30,000 a year, total Medicare payroll taxes paid would jump to $1,926 from the current $870.

A small business employing 25 such workers would be liable for an additional $13,200 tax payment per year.

When aggregated across the entire economy, the effect would be to lower real GDP by $179.4 billion within two years and hold GDP about $95 billion lower 10 years later. This amount to a 3.1% decline in GDP in the short run. With economic growth projected to average less than 3% over the next five years, this decline could easily result in a recession.

These results are even more startling when you consider that they represent an optimistic evaluation, not a worst-case scenario.

OVERVIEW OF MEDICARE: WHY REFORM IS NECESSARY

Medicare is a nationwide health insurance program for older Americans and certain disabled persons. It is composed of two parts: Part A, the hospital insurance (HI) program, and Part B, the supplementary medical insurance (SMI) program.

Part A covers expenses for the first sixty days of inpatient care less a deductible ($716 in 1995) for those age 65 and older and for the long-term disabled. It also covers skilled nursing care, home health care and hospice care. The HI program is financed primarily by payroll taxes. Employees and employers each pay 1.45% of taxable earnings, while self-employed persons pay 2.90%. In 1994, the HI earnings caps were eliminated, meaning that the HI tax applies to all payroll earnings.

Part B is a voluntary program which pays for physicians' services, outpatient hospital services, and other medical expenses for persons aged 65 and over and for the long-term

disabled. It generally pays 80% of the approved amount for covered services in excess of an annual deductible ($100). About a quarter of the funding comes from monthly premiums ($46.10 in 1995); the remainder comes from general tax revenues and interest.

Medicare is not a means-tested program. That is, income is not a factor in determining an individual's eligibility or, for Part B, premium levels. Age is the primary eligibility criteria, with the program also extending to qualified disabled individuals younger than 65.

Over the years, tax revenues for Medicare Part A have exceeded disbursements, and so the remaining revenues have been credited to the Medicare HI Trust Fund. At the end of 1994, the trust fund held $132.8 billion.

CONCLUSION OF THE TRUSTEES

Each year, trustees of Medicare's Hospital Insurance Trust Fund analyze the current status and the long-term outlook for the trust fund, and their findings are published in an annual report. The 1995 edition, issued in April, demonstrated that the Medicare system is in serious financial trouble. The program's six trustees—four of whom are Clinton appointees (cabinet secretaries Robert Rubin, Robert Reich and Donna Shalala, and commissioner of Social Security, Shirley Chater)—reported the following conclusions:

Based on the financial projections developed for this report, the Trustees apply an explicit test of short-range financial adequacy. The HI trust fund fails this test by a wide margin. In particular, the trust fund is projected to become insolvent within the next 6 to 11 years . . . (HI Annual Report, pg. 2)

Under the Trustees' intermediate assumptions, the present financing schedule for the HI program is sufficient to ensure the payment of benefits only over the next 7 years (pg. 3)

The program is severely out of financial balance and substantial measures will be required to increase revenues and/or reduce expenditures. (pg. 18)

. . . the HI program is severely out of financial balance and the Trustees believe that the Congress must take timely action to establish long-term financial stability for the program. (pg. 28)

The Trustees believe that prompt, effective and decisive action is necessary (pg. 28)

The same set of Trustees also oversees the Medicare Part B program. In their 1995 Annual Report, they wrote: ''Although the SMI program (Medicare Part B) is currently actuarially sound, the Trustees note with great concern the past and projected rapid growth in the cost of the program. . . Growth rates have been so rapid that outlays of the program have increased 53% in the aggregate and 40% per enrollee in the last 5 years.'' (SMI Annual Report, pg. 3). ''The Trustees believe that prompt, effective and decisive action is necessary.'' (pg. 3)

Obviously, the Trustees believe that the Medicare program deserves our careful, immediate attention. The following pages present the figures that led the Trustees to their conclusions.

WHERE MEDICARE STANDS TODAY

Medicare is a huge federal program. In 1994: Medicare expenditures reached $160 billion, just over half the size of Social Security; Expenditures grew 11.4% from 1993; Eleven cents of every dollar spent by the federal government went to Medicare; Medicare represented one-fifth of total entitlement spending.

Between 1990 and 1994, Medicare grew at a 10.4% average annual rate, almost three times the 3.6% average inflation rate over the same period and twice the 5.1% average annual growth of the economy as a whole.

MEDICARE AND THE FEDERAL BUDGET

Medicare spending must be addressed as part of the solution to balancing the federal budget. That's because spending on federal entitlements—such as Medicare, Medicaid and Social Security—soared 8.4% annually on average between 1990 and 1994. Spending on discretionary, annually appropriated programs—such as defense, education and infrastructure—increased 2.2%, which is less than the rate of inflation. Coming decades will see even more pressure for entitlement growth, as the leading edge of the Baby Boom generation reaches 65 in 2011.

Entitlements are not only the fastest growing portion of the federal budget, they're already its largest component, as shown in the accompanying chart. Just over half of all federal expenditures is spent on entitlements; only a third go to discretionary programs. If we are going to balance the federal budget—and keep it in balance over the long term—entitlement reform must be part of the solution

WHERE MEDICARE IS HEADED IF WE DO NOTHING

Under current law, Medicare is projected by the Congressional Budget Office to grow at a 10.4% average annual rate over the next seven years. In 2002, the CBO projects Medicare spending will reach $344 billion, claiming almost 16 cents of every dollar spent by the federal government.

Moreover, beginning next year, Medicare HI expenditures will exceed the program's revenues. The HI Trust fund, which at year-end 1994 held $132.8 billion, will have to be tapped to cover the projected $867 million difference.

However, according to the Trustees' Annual Report, this shortfall isn't temporary. Instead, it will balloon to be about seven times larger in 1997, which is just the following year, and more than twenty times larger by 1999. Under assumptions reflecting the most likely demographic and economic trends. 1996 will be the first year of hemorrhage that will deplete the entire trust fund by 2002—just seven years away. The optimistic set of assumptions buys us only a little time, with trust fund depletion projected in 2006. Under the pessimistic scenario, the fund is exhausted as early as 2001. In other words, within the next 6 to 11 years, it's virtually certain that Medicare will be insolvent—unless we take action.

The danger of inaction was made clear last winter when the President's Bipartisan Commission on Entitlement and Tax Reform, chaired by Sen. Bob Kerrey and then-Sen. John Danforth, issued its final report. The focus of the report was to look not years ahead, but decades ahead to assess the impact of federal budget trends. The report is sobering: Under current trends, virtually all federal government revenues are absorbed by entitlement spending and net interest by 2010, as shown in Chart 2. Deficit-financing will be required to cover almost all of the discretionary programs, including defense, health research, the FBI, support for education, and the federal judicial system.

Ten years later, the situation is worse. Growth in entitlements is so explosive that not only would the government have to borrow to pay for discretionary expenses, it would have to borrow funds to pay the lion's share of interest payments on the national debt.

MEDICARE'S IMPACT ON THE PAY STUB

In addition to detailing the projected dissipation of Trust Fund under current law, the Trustees' Report also describes the measures that would be necessary to shore up the trust fund over the next 25, 50 and 75 years. If the expenditure formulas are not altered, then preserving the trust fund can only be done through increases in the payroll tax or additional subsidies from general revenues. Table 1 illustrates the payroll tax increases that would be necessary to balance the trust fund.

CURRENT LAW

Currently, the combined (employee and employer) Medicare tax rate is 2.90%, applied to all payroll earnings. A worker earning $30,000 a year in salary or wages, for instance, is directly taxed 1.45%, or $435 annually, for Medicare Part A, the hospital insurance program. Employers then match that payment with another $435, resulting in $870 of tax revenue earmarked for the Medicare HI trust fund generated by having that worker on the payroll.

The Medicare contributions from both the worker and firm don't stop there, however. Because two-thirds of Medicare Part B (SMI) is financed through general revenues (the other third coming from Medicare premiums and interest), a portion of the worker's and the firm's general income taxes are also financing Medicare. The Trustees reported that $36.2 billion of general funds were used to pay Medicare Part B claims in 1994.

TABLE 1.—MEDICARE HOSPITAL INSURANCE PAYROLL TAXES

| | Current law employee plus employer | To balance the HI trust fund over the next— | | | | | |
|---|---|---|---|---|---|---|---|
| | | 25 yrs. | | 50 yrs. | | 75 yrs. | |
| | | Additional tax | Total HI tax | Additional tax | Total HI tax | Additional tax | Total HI tax |
| Tax rates (pct.) | 2.90 | 1.33 | 4.23 | 2.68 | 5.58 | 3.52 | 6.42 |
| Pct. increase over current law | ..... | ..... | 45.9 | ..... | 92.4 | ..... | 121.4 |
| Payroll earnings: | | | | | | | |
| $10,000 | $290 | $133 | $423 | $268 | $558 | $352 | $642 |
| 20,000 | 580 | 266 | 846 | 536 | 1,116 | 704 | 1,284 |
| 30,000 | 870 | 399 | 1,269 | 804 | 1,674 | 1,056 | 1,926 |
| 40,000 | 1,160 | 532 | 1,692 | 1,072 | 2,232 | 1,408 | 2,568 |
| 50,000 | 1,450 | 665 | 2,115 | 1,340 | 2,790 | 1,760 | 3,210 |
| 60,000 | 1,740 | 798 | 2,538 | 1,608 | 3,348 | 2,112 | 3,852 |
| 70,000 | 2,030 | 931 | 2,961 | 1,876 | 3,906 | 2,464 | 4,494 |
| 80,000 | 2,320 | 1,064 | 3,384 | 2,144 | 4,464 | 2,816 | 5,136 |
| 90,000 | 2,610 | 1,197 | 3,807 | 2,412 | 5,022 | 3,168 | 5,778 |
| 100,000 | 2,900 | 1,330 | 4,230 | 2,680 | 5,580 | 3,520 | 6,420 |

Source (for all tables): 1995 Annual Report of the Board of Trustees. Medicare Hospital Insurance Trust Fund. Table 1.D3, page 22, Calculations and macroeconomics simulations by the U.S. Chamber of Commerce.

To Balance the Medicare HI Trust Fund for the Next 25 Years (through 2019): According to the Trustees' analysis, the hospital insurance payroll tax would have to rise from 2.90% to 4.23% (a 46% increase) to keep the HI trust fund in balance for the next 25 years. Further, the increase would have to be made immediately and maintained through the entire 25-year period.

For our $30,000/year worker for whom $870 is currently provided to Medicare HI, this increase means an additional tax of $399, bringing total annual hospital insurance payroll taxes to $1,269. And that's before any other federal and state payroll taxes (such as unemployment insurance and Social Security) or federal and state income taxes.

However, even this increase in payroll taxes still leaves the trust fund exhausted in 2019, with the oldest of the baby boomers just shy of reaching their life expectancy. Because of this demographic bulge, balancing the HI trust fund over a longer period would require even higher payroll taxes.

To Balance the Medicare Trust Fund for the Next 50 Years (through 2044): Balancing the trust fund over the next fifty years—a span long enough to see most of the Baby Boomers through their lifetimes—would require virtually doubling the hospital insurance payroll tax from 2.90% to 5.58%. The increase would have to be made immediately and remain permanent through the entire 50-year period. Again, for the worker earning $30,000 a year, the total HI payroll tax rises from $870 to $1,674, an increase of 92.4%.

To Balance the Medicare Trust Fund for the Next 75 Years (through 2069): Balancing the trust fund over the next seventy-five years—roughly through the life expectancy of an individual born this year, and the usual period for long-term fiscal solvency—would require an immediate boost in the Medicare tax rate of 121.4%, from 2.90% to 6.42%. Total HI payroll taxes for a worker earning $30,000 a year would rise from $870 to $1,926.

MEDICARE'S IMPACT ON BUSINESS

Because it's levied on employment levels, not income, the payroll tax due remains the same through both good and bad economic times. This feature accentuates the pain of a downturn on employers, who need to pay the tax regardless of profitability. Consequently, relative to the income tax, a payroll tax can be particularly punishing to start-up firms or companies trying to weather a drop in business.

Table 2 shows the liability for Medicare HI payroll taxes that would be faced by firms of various sizes. Total liability is shown under current law and under the three tax rates computed by the Trustees to bring the HI trust fund in balance over periods of 25, 50 and 75 years.

For instance, a 25-person firm where the average worker earns $20,000 per year is currently liable for a $7,250 tax payment for the Medicare HI program (for their contribution, the workers themselves would be taxed an identical amount). To balance the trust fund over the next 25 years, the combined employee and employer tax rate would have to rise from the current 2.90% to 4.23%. Assuming that the liability continues to be evenly split between the employee and employer, the firm will face an HI payroll tax of about 2.11% per worker. For our 25-person firm, the total HI payroll tax would rise from $7,250 to $10,575 per year.

TABLE 2.—MEDICARE HOSPITAL INSURANCE PAYROLL TAX ANNUAL EMPLOYER TAX LIABILITY

[In dollars]

| | Number of employees— | | | | | | |
|---|---|---|---|---|---|---|---|
| | 5 | 10 | 25 | 50 | 100 | 500 | 1,000 |
| Average salary: $20,000: | | | | | | | |
| Current law | 1,450 | 2,900 | 7,250 | 14,500 | 29,000 | 145,000 | 290,000 |
| To balance Medicare HI over the next: | | | | | | | |
| 25 yrs | 2,115 | 4,230 | 10,575 | 21,150 | 42,300 | 211,500 | 423,000 |
| 50 yrs | 2,790 | 5,580 | 13,950 | 27,900 | 55,800 | 279,000 | 558,000 |
| 75 yrs | 3,210 | 6,420 | 16,050 | 32,100 | 64,200 | 321,000 | 642,000 |
| Average salary: $30,000: | | | | | | | |
| Current law | 2,175 | 4,350 | 10,875 | 21,750 | 43,500 | 217,500 | 435,000 |
| To balance Medicare HI over the next: | | | | | | | |
| 25 yrs | 3,173 | 6,345 | 15,862 | 31,725 | 63,450 | 317,250 | 634,500 |
| 50 yrs | 4,185 | 8,370 | 20,925 | 41,850 | 83,700 | 418,500 | 837,000 |
| 75 yrs | 4,815 | 9,630 | 24,075 | 48,150 | 96,300 | 481,500 | 963,000 |

MEDICARE'S IMPACT ON THE ECONOMY

Raising payroll taxes to keep the Medicare Hospital Insurance trust fund afloat imposes substantial burdens on both workers and firms. To measure what that means for the economy as a whole, we conducted several policy simulations using the highly respected Washington University Macro Model from Laurence H. Meyer & Associates of St. Louis, MO.

The results are striking: The economy would suffer through sharply slower economic growth and higher unemployment in the near term. Over a longer period, the economy is saddled with a permanent loss of production and employment. As shown in Tables 3 and 4, the degree of severity for GDP and employment depends upon the increase in Medicare taxes enacted.

The tables compare each of three alternative tax simulations specified in the Trustees' Annual Report to LHM&A's June 1995 baseline forecast. To demonstrate the policy change working its way through the economy, we display the results for three of the ten years of our simulation: 1997, 2000 and 2004. This gives us snapshots of he short-term, intermediate-term and long-term impacts on economic output and employment. In each case, the imposition of the Medicare payroll tax increase takes place in the fourth quarter of 1995.

TABLE 3.—IMPACT ON GROSS DOMESTIC PRODUCT

[Balancing the HI Trust Fund Through Raising Payroll Tax Rates]

| Yrs to balance HI trust fund | Required Medicare tax rate (pct.) | Difference from baseline in given year, billions of 1987 dollars | | | Pct difference from baseline in given year (pct.) | | |
|---|---|---|---|---|---|---|---|
| | | 1997 | 2000 | 2004 | 1997 | 2000 | 2004 |
| 25 Yrs | 4.23 | −68.4 | −30.1 | −36.1 | −1.2 | −0.5 | −0.5 |
| 50 Yrs | 5.58 | −137.1 | −60.5 | −72.1 | −2.4 | −1.0 | −1.1 |
| 75 Yrs | 6.42 | −179.4 | −79.4 | −95.6 | −3.16 | −1.3 | −1.4 |

As shown in Table 3, if the government imposed the most modest payroll tax increase—enough to keep the Medicare trust fund in balance for the next 25 years—production in the economy would be 1.2%, or almost $70 billion, lower in 1997 than it would have been otherwise. By 2000, the percentage-point gap between the alternative closes to within 0.5% of the baseline level of production, but that distance is maintained even ten years after the tax increase took effect.

The short-term loss in output translates into 1.2 million fewer jobs relative to what we would have had otherwise, as shown in Table 4. While this decline to about 1% of the economy's jobs, moderates over time, the economy appears to have lost over 0.5% of its jobs permanently.

Of course, all of this economic turbulence puts the Medicare HI trust fund in actuarial balance for only the next 25 years. To generate long-term actuarial balance for the full 75-year period, the Medicare payroll tax rate would have to jump form 2.90% to 6.42%, triggering even stronger economic impacts than those described above. Production in the economy would be about 3% lower in 1997 than it would have been otherwise, with the long-term loss in output projected at 1.5%. Over 3 million jobs would be eliminated in 1997 relative to the baseline, with a projected permanent loss of about 1.5% of total employment over the long term.

TABLE 4.—IMPACT ON EMPLOYMENT

[Balancing the HI Trust Fund Through Raising Payroll Tax Rates]

| Yrs to balance HI trust fund | Required Medicare tax rate (pct.) | Difference from baseline in given year, millions of jobs | | | Percent difference from baseline in given year (pct.) | | |
|---|---|---|---|---|---|---|---|
| | | 1997 | 2000 | 2004 | 1997 | 2000 | 2004 |
| 25 Yrs | 4.23 | −1.2 | −0.6 | −0.8 | −0.9 | −0.4 | −0.6 |
| 50 Yrs | 5.58 | −2.4 | −1.2 | −1.6 | −1.9 | −0.9 | −1.2 |
| 75 Yrs | 6.42 | −3.2 | −1.5 | −2.2 | −2.5 | −1.2 | −1.5 |

As dramatic as these figures are, there's good reason to believe that they are optimistic estimates. Because the macro model used in these simulations treats the Medicare payroll tax like the Social Security payroll tax, the increases in the tax rates apply only to the first $61,200 earned (in 1995, and rising afterwards). That is, the model is not picking up the economic impact of applying the higher tax rates to incomes over the taxable base. Thus, these results should be considered a minimum measure of the economic impact of raising Medicare payroll taxes. Attempts to account for this problem yield significantly greater job loss and lower GDP. These results are available from the Economic Policy Division of the U.S. Chamber of Commerce.

It is important to note that, even with the set of numbers presented here with its inherent bias toward underestimating the economic impact, we can see that using payroll taxes to balance the Medicare trust fund imposes severe costs on the U.S. economy. These results clearly indicate that the Medicare problem must be solved by fundamental program reform, not tax increases.

Mr. BLILEY. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN (Mr. LINDER). All time for general debate has expired.

Pursuant to the rule, an amendment in the nature of a substitute consisting of the text of H.R. 2485, modified by the amendment printed in House Report 104–282, is adopted and the bill, as amended, is considered as an original bill for the purpose of further amendment and is considered read.

The text of the amendment in the nature of a substitute, as modified, is as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. PURPOSE.**

The purpose of this Act is to reform the medicare program, in order to preserve and protect the financial stability of the program.

**TITLE XV—MEDICARE**

**SEC. 15000. SHORT TITLE OF TITLE; AMENDMENTS AND REFERENCES TO OBRA; TABLE OF CONTENTS OF TITLE.**

(a) SHORT TITLE.—This title may be cited as the ''Medicare Preservation Act of 1995''.

(b) AMENDMENTS TO SOCIAL SECURITY ACT.—Except as otherwise specifically provided, whenever in this title an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

(c) REFERENCES TO OBRA.—In this title, the terms ''OBRA–1986'', ''OBRA–1987'', ''OBRA–1989'', ''OBRA–1990'', and ''OBRA–1993'' refer to the Omnibus Budget Reconciliation Act of 1986 (Public Law 99–509), the Omnibus Budget Reconciliation Act of 1987 (Public Law 100–203), the Omnibus Budget Reconciliation Act of 1989 (Public Law 101–239), the Omnibus Budget Reconciliation Act

of 1990 (Public Law 101–508), and the Omnibus Budget Reconciliation Act of 1993 (Public Law 103–66), respectively.

(d) TABLE OF CONTENTS OF TITLE.—The table of contents of this title is as follows:


Sec. 15000. Short title of title; amendments and references to OBRA; table of contents of title.

**Subtitle A—MedicarePlus Program**

PART 1—INCREASING CHOICE UNDER THE MEDICARE PROGRAM

Sec. 15001. Increasing choice under medicare.
Sec. 15002. MedicarePlus program.

''PART C—PROVISIONS RELATING TO MEDICAREPLUS

''Sec. 1851. Requirements for MedicarePlus organizations; high deductible/medisave products.
''Sec. 1852. Requirements relating to benefits, provision of services, enrollment, and premiums.
''Sec. 1853. Patient protection standards.
''Sec. 1854. Provider-sponsored organizations.
''Sec. 1855. Payments to MedicarePlus organizations.
''Sec. 1856. Establishment of standards for MedicarePlus organizations and products.
''Sec. 1857. MedicarePlus certification.
''Sec. 1858. Contracts with MedicarePlus organizations.''
Sec. 15003. Duplication and coordination of medicare-related products.
Sec. 15004. Transitional rules for current medicare HMO program.

PART 2—SPECIAL RULES FOR MEDICAREPLUS MEDICAL SAVINGS ACCOUNTS

Sec. 15011. MedicarePlus MSA's.
Sec. 15012. Certain rebates excluded from gross income.

PART 3—SPECIAL ANTITRUST RULE FOR PROVIDER SERVICE NETWORKS

Sec. 15021. Application of antitrust rule of reason to provider service networks.

PART 4—COMMISSIONS

Sec. 15031. Medicare Payment Review Commission.
Sec. 15032. Commission on the Effect of the Baby Boom Generation on the Medicare Program.
Sec. 15033. Change in appointment of Administrator of HCFA.

PART 5—TREATMENT OF HOSPITALS WHICH PARTICIPATE IN PROVIDER-SPONSORED ORGANIZATIONS

Sec. 15041. Treatment of hospitals which participate in provider-sponsored organizations.

**Subtitle B—Preventing Fraud and Abuse**

PART 1—GENERAL PROVISIONS

Sec. 15101. Increasing awareness of fraud and abuse.
Sec. 15102. Beneficiary incentive programs.
Sec. 15103. Intermediate sanctions for medicare health maintenance organizations.
Sec. 15104. Voluntary disclosure program.
Sec. 15105. Revisions to current sanctions.
Sec. 15106. Direct spending for anti-fraud activities under medicare.
Sec. 15107. Permitting carriers to carry out prior authorization for certain items of durable medical equipment.
Sec. 15108. National Health Care Anti-Fraud Task Force.
Sec. 15109. Study of adequacy of private quality assurance programs.
Sec. 15110. Penalty for false certification for home health services.
Sec. 15111. Pilot projects.

PART 2—REVISIONS TO CRIMINAL LAW

Sec. 15121. Definition of Federal health care offense.
Sec. 15122. Health care fraud.
Sec. 15123. Theft or embezzlement.
Sec. 15124. False statements.
Sec. 15125. Bribery and graft.
Sec. 15126. Illegal remuneration with respect to health care benefit programs.
Sec. 15127. Obstruction of criminal investigations of health care offenses.
Sec. 15128. Civil penalties for violations of Federal health care offenses.
Sec. 15129. Injunctive relief relating to health care offenses.
Sec. 15130. Authorized investigative demand procedures.
Sec. 15131. Grand jury disclosure.
Sec. 15132. Miscellaneous amendments to title 18, United States Code.

**Subtitle C—Regulatory Relief**

PART 1—PHYSICIAN OWNERSHIP REFERRAL REFORM

Sec. 15201. Repeal of prohibitions based on compensation arrangements.
Sec. 15202. Revision of designated health services subject to prohibition.
Sec. 15203. Delay in implementation until promulgation of regulations.
Sec. 15204. Exceptions to prohibition.
Sec. 15205. Repeal of reporting requirements.
Sec. 15206. Preemption of State law.
Sec. 15207. Effective date.

PART 2—OTHER MEDICARE REGULATORY RELIEF

Sec. 15211. Repeal of Medicare and Medicaid Coverage Data Bank.
Sec. 15212. Clarification of level of intent required for imposition of sanctions.
Sec. 15213. Additional exception to anti-kickback penalties for managed care arrangements.
Sec. 15214. Solicitation and publication of modifications to existing safe harbors and new safe harbors.
Sec. 15215. Issuance of advisory opinions under title XI.
Sec. 15216. Prior notice of changes in billing and claims processing requirements for physicians' services.

PART 3—PROMOTING PHYSICIAN SELF-POLICING

Sec. 15221. Exemption from antitrust laws for certain activities of medical self-regulatory entities.

**Subtitle D—Medical Liability Reform**

PART 1—GENERAL PROVISIONS

Sec. 15301. Federal reform of health care liability actions.
Sec. 15302. Definitions.
Sec. 15303. Effective date.

PART 2—UNIFORM STANDARDS FOR HEALTH CARE LIABILITY ACTIONS

Sec. 15311. Statute of limitations.
Sec. 15312. Calculation and payment of damages.
Sec. 15313. Alternative dispute resolution.

**Subtitle E—Teaching Hospitals and Graduate Medical Education**

PART 1—TEACHING HOSPITAL AND GRADUATE MEDICAL EDUCATION TRUST FUND

Sec. 15401. Establishment of Fund; payments to teaching hospitals.

''TITLE XXII—TEACHING HOSPITAL AND GRADUATE MEDICAL EDUCATION TRUST FUND

''PART A—ESTABLISHMENT OF FUND

''Sec. 2201. Establishment of Fund.

''PART B—PAYMENTS TO TEACHING HOSPITALS

''Subpart 1—Requirement of Payments

''Sec. 2211. Formula payments to teaching hospitals.

''Subpart 2—Amount Relating to Indirect Costs of Graduate Medical Education

''Sec. 2221. Determination of amount relating to indirect costs.
''Sec. 2222. Indirect costs; special rules regarding determination of hospital-specific percentage.
''Sec. 2223. Indirect costs; alternative payments regarding teaching hospitals in certain States.

''Subpart 3—Amount Relating to Direct Costs of Graduate Medical Education

''Sec. 2231. Determination of amount relating to direct costs.
''Sec. 2232. Direct costs; special rules regarding determination of hospital-specific percentage.
''Sec. 2233. Direct costs; authority for payments to consortia of providers.
''Sec. 2234. Direct costs; alternative payments regarding teaching hospitals in certain States.

''Subpart 4—General Provisions

''Sec. 2241. Adjustments in payment amounts.''

PART 2—AMENDMENTS TO MEDICARE PROGRAM

Sec. 15411. Transfers to Teaching Hospital and Graduate Medical Education Trust Fund.
Sec. 15412. Modification in payment policies regarding graduate medical education.

PART 3—REFORM OF FEDERAL POLICIES REGARDING TEACHING HOSPITALS AND GRADUATE MEDICAL EDUCATION

Sec. 15421. Establishment of advisory panel for recommending policies.

''PART C—OTHER MATTERS

''Sec. 2251. Advisory Panel on Reform in Financing of Teaching Hospitals and Graduate Medical Education.''

**Subtitle F—Provisions Relating to Medicare Part A**

PART 1—HOSPITALS

SUBPART A—GENERAL PROVISIONS RELATING TO HOSPITALS

Sec. 15501. Reductions in inflation updates for PPS hospitals.
Sec. 15502. Reductions in disproportionate share payment adjustments.
Sec. 15503. Payments for capital-related costs for inpatient hospital services.
Sec. 15504. Reduction in adjustment for indirect medical education.
Sec. 15505. Treatment of PPS-exempt hospitals.
Sec. 15506. Reduction in payments to hospitals for enrollees' bad debts.
Sec. 15507. Permanent extension of hemophilia pass-through.
Sec. 15508. Conforming amendment to certification of Christian Science providers.

SUBPART B—PROVISIONS RELATING TO RURAL HOSPITALS

Sec. 15511. Sole community hospitals.
Sec. 15512. Clarification of treatment of EAC and RPC hospitals.
Sec. 15513. Establishment of rural emergency access care hospitals.
Sec. 15514. Classification of rural referral centers.
Sec. 15515. Floor on area wage index.

PART 2—PAYMENTS TO SKILLED NURSING FACILITIES

Sec. 15521. Payments for routine service costs.

Sec. 15522. Incentives for cost effective management of covered non-routine services.
Sec. 15523. Payments for routine service costs.
Sec. 15524. Reductions in payment for capital-related costs.
Sec. 15525. Treatment of items and services paid for under part B.
Sec. 15526. Certification of facilities meeting revised nursing home reform standards.
Sec. 15527. Medical review process.
Sec. 15528. Report by Medicare Payment Review Commission.
Sec. 15529. Effective date.

PART 3—CLARIFICATION OF CREDITS TO PART A TRUST FUND

Sec. 15531. Clarification of amount of taxes credited to Federal Hospital Insurance Trust Fund.

**Subtitle G—Provisions Relating to Medicare Part B**

PART 1—PAYMENT REFORMS

Sec. 15601. Payments for physicians' services.
Sec. 15602. Elimination of formula-driven overpayments for certain outpatient hospital services.
Sec. 15603. Payments for durable medical equipment.
Sec. 15604. Reduction in updates to payment amounts for clinical diagnostic laboratory tests.
Sec. 15605. Extension of reductions in payments for costs of hospital outpatient services.
Sec. 15606. Freeze in payments for ambulatory surgical center services.
Sec. 15607. Rural emergency access care hospitals.
Sec. 15608. Ensuring payment for physician and nurse for jointly furnished anesthesia services.
Sec. 15609. Statewide fee schedule area for physicians' services.
Sec. 15609A. Establishment of fee schedule for ambulance services.
Sec. 15609B. Standards for physical therapy services furnished by physicians.

PART 2—PART B PREMIUM

Sec. 15611. Extension of part B premium.
Sec. 15612. Income-related reduction in medicare subsidy.

PART 3—ADMINISTRATION AND BILLING OF LABORATORY SERVICES

Sec. 15621. Administrative simplification for laboratory services.
Sec. 15622. Restrictions on direct billing for laboratory services.

PART 4—QUALITY STANDARDS FOR DURABLE MEDICAL EQUIPMENT

Sec. 15631. Recommendations for quality standards for durable medicare equipment.

**Subtitle H—Provisions Relating to Medicare Parts A and B**

PART 1—PAYMENT FOR HOME HEALTH SERVICES

Sec. 15701. Payment for home health services.
Sec. 15702. Maintaining savings resulting from temporary freeze on payment increases for home health services.
Sec. 15703. Extension of waiver of presumption of lack of knowledge of exclusion from coverage for home health agencies.
Sec. 15704. Report on recommendations for payments and certification for home health services of Christian Science providers.
Sec. 15705. Extension of period of home health agency certification.

PART 2—MEDICARE SECONDARY PAYER IMPROVEMENTS

Sec. 15711. Extension and expansion of existing requirements.
Sec. 15712. Improvements in recovery of payments.
Sec. 15713. Prohibiting retroactive application of policy regarding ESRD beneficiaries enrolled in primary plans.

PART 3—FAILSAFE

Sec. 15721. Failsafe budget mechanism.

PART 4—ADMINISTRATIVE SIMPLIFICATION

Sec. 15731. Standards for medicare information transactions and data elements.

PART 5—OTHER PROVISIONS RELATING TO PARTS A AND B

Sec. 15741. Clarification of medicare coverage of items and services associated with certain medical devices approved for investigational use.
Sec. 15742. Additional exclusion from coverage.
Sec. 15743. Competitive bidding for certain items and services.
Sec. 15744. Disclosure of criminal convictions relating to provision of home health services.
Sec. 15745. Requiring renal dialysis facilities to make services available on a 24-hour basis.

**Subtitle I—Clinical Laboratories**

Sec. 15801. Exemption of physician office laboratories.

**Subtitle J—Lock-Box Provisions for Medicare Part B Savings from Growth Reductions**

Sec. 15901. Establishment of Medicare Growth Reduction Trust Fund for Part B savings.

**Subtitle A—MedicarePlus Program**

**PART 1—INCREASING CHOICE UNDER THE MEDICARE PROGRAM**

**Subtitle A, Part 1**

**SEC. 15001. INCREASING CHOICE UNDER MEDICARE.**

(a) IN GENERAL.—Title XVIII is amended by inserting after section 1804 the following new section:

''PROVIDING FOR CHOICE OF COVERAGE

''SEC. 1805. (a) CHOICE OF COVERAGE.—

''(1) IN GENERAL.—Subject to the provisions of this section, every individual who is entitled to benefits under part A and enrolled under part B shall elect to receive benefits under this title through one of the following:

''(A) THROUGH FEE-FOR-SERVICE SYSTEM.—Through the provisions of parts A and B.

''(B) THROUGH A MEDICAREPLUS PRODUCT.—Through a MedicarePlus product (as defined in paragraph (2)), which may be—

''(i) a high deductible/medisave product (and a contribution into a MedicarePlus medical savings account (MSA)),

''(ii) a product offered by a provider-sponsored organization,

''(iii) a product offered by an organization that is a union, Taft-Hartley plan, or association, or

''(iv) a product providing for benefits on a fee-for-service or other basis.

''(2) MEDICAREPLUS PRODUCT DEFINED.—For purposes this section and part C, the term 'MedicarePlus product' means health benefits coverage offered under a policy, contract, or plan by a MedicarePlus organization (as defined in section 1851(a)) pursuant to and in accordance with a contract under section 1858.

''(3) TERMINOLOGY RELATING TO OPTIONS.—For purposes of this section and part C—

''(A) NON-MEDICAREPLUS OPTION.—An individual who has made the election described in paragraph (1)(A) is considered to have elected the 'Non-MedicarePlus option'.

''(B) MEDICAREPLUS OPTION.—An individual who has made the election described in paragraph (1)(B) to obtain coverage through a MedicarePlus product is considered to have elected the 'MedicarePlus option' for that product.

''(b) SPECIAL RULES.—

''(1) RESIDENCE REQUIREMENT.—Except as the Secretary may otherwise provide, an individual is eligible to elect a MedicarePlus product offered by a MedicarePlus organization only if the organization in relation to the product serves the geographic area in which the individual resides.

''(2) AFFILIATION REQUIREMENTS FOR CERTAIN PRODUCTS.—

''(A) IN GENERAL.—Subject to subparagraph (B), an individual is eligible to elect a MedicarePlus product offered by a limited enrollment MedicarePlus organization (as defined in section 1852(c)(4)(E)) only if—

''(i) the individual is eligible under section 1852(c)(4) to make such election, and

''(ii) in the case of a MedicarePlus organization that is a union sponsor or a Taft-Hartley sponsor (as defined in section 1852(c)(4)), the individual elected under this section a MedicarePlus product offered by the sponsor during the first enrollment period in which the individual was eligible to make such election with respect to such sponsor.

''(B) NO REELECTION AFTER DISENROLLMENT FOR CERTAIN PRODUCTS.—An individual is not eligible to elect a MedicarePlus product offered by a MedicarePlus organization that is a union sponsor or a Taft-Hartley sponsor if the individual previously had elected a MedicarePlus product offered by the organization and had subsequently discontinued to elect such a product offered by the organization.

''(3) SPECIAL RULE FOR CERTAIN ANNUITANTS.—An individual is not eligible to elect a high deductible/medisave product if the individual is entitled to benefits under chapter 89 of title 5, United States Code, as an annuitant or spouse of an annuitant.

''(c) PROCESS FOR EXERCISING CHOICE.—

''(1) IN GENERAL.—The Secretary shall establish a process through which elections described in subsection (a) are made and changed, including the form and manner in which such elections are made and changed. Such elections shall be made or changed only during coverage election periods specified under subsection (e) and shall become effective as provided in subsection (f).

''(2) EXPEDITED IMPLEMENTATION.—The Secretary shall establish the process of electing coverage under this section during the transition period (as defined in subsection (e)(1)(B)) in such an expedited manner as will permit such an election for MedicarePlus products in an area as soon as such products become available in that area.

''(3) COORDINATION THROUGH MEDICAREPLUS ORGANIZATIONS.—

''(A) ENROLLMENT.—Such process shall permit an individual who wishes to elect a MedicarePlus product offered by a MedicarePlus organization to make such election through the filing of an appropriate election form with the organization.

''(B) DISENROLLMENT.—Such process shall permit an individual, who has elected a MedicarePlus product offered by a MedicarePlus organization and who wishes to terminate such election, to terminate such election through the filing of an appropriate election form with the organization.

''(4) DEFAULT.—

''(A) INITIAL ELECTION.—

''(i) IN GENERAL.—Subject to clause (ii), an individual who fails to make an election during an initial election period under subsection (e)(1) is deemed to have chosen the Non-MedicarePlus option.

''(ii) SEAMLESS CONTINUATION OF COVERAGE.—The Secretary shall establish procedures under which individuals who are enrolled with a MedicarePlus organization at the time of the initial election period and who fail to elect to receive coverage other than through the organization are deemed to have elected an appropriate MedicarePlus product offered by the organization.

''(B) CONTINUING PERIODS.—An individual who has made (or deemed to have made) an election under this section is considered to have continued to make such election until such time as—

''(i) the individual changes the election under this section, or

''(ii) a MedicarePlus product is discontinued, if the individual had elected such product at the time of the discontinuation.

''(5) AGREEMENTS WITH COMMISSIONER OF SOCIAL SECURITY TO PROMOTE EFFICIENT ADMINISTRATION.—In order to promote the efficient administration of this section and the MedicarePlus program under part C, the Secretary may enter into an agreement with the Commissioner of Social Security under which the Commissioner performs administrative responsibilities relating to enrollment and disenrollment in MedicarePlus products under this section.

''(d) PROVISION OF BENEFICIARY INFORMATION TO PROMOTE INFORMED CHOICE.—

''(1) IN GENERAL.—The Secretary shall provide for activities under this subsection to disseminate broadly information to medicare beneficiaries (and prospective medicare beneficiaries) on the coverage options provided under this section in order to promote an active, informed selection among such options. Such information shall be made available on such a timely basis (such as 6 months before the date an individual would first attain eligibility for medicare on the basis of age) as to permit individuals to elect the MedicarePlus option during the initial election period described in subsection (e)(1).

''(2) USE OF NONFEDERAL ENTITIES.—The Secretary shall, to the maximum extent feasible, enter into contracts with appropriate non-Federal entities to carry out activities under this subsection.

''(3) SPECIFIC ACTIVITIES.—In carrying out this subsection, the Secretary shall provide for at least the following activities in all areas in which MedicarePlus products are offered:

''(A) INFORMATION BOOKLET.—

''(i) IN GENERAL.—The Secretary shall publish an information booklet and disseminate the booklet to all individuals eligible to elect the MedicarePlus option under this section during coverage election periods.

''(ii) INFORMATION INCLUDED.—The booklet shall include information presented in plain English and in a standardized format regarding—

''(I) the benefits (including cost-sharing) and premiums for the various MedicarePlus products in the areas involved;

''(II) the quality of such products, including consumer satisfaction information; and

''(III) rights and responsibilities of medicare beneficiaries under such products.

''(iii) PERIODIC UPDATING.—The booklet shall be updated on a regular basis (not less often than once every 12 months) to reflect changes in the availability of MedicarePlus products and the benefits and premiums for such products.

''(B) TOLL-FREE NUMBER.—The Secretary shall maintain a toll-free number for inquiries regarding MedicarePlus options and the operation of part C.

''(C) GENERAL INFORMATION IN MEDICARE HANDBOOK.—The Secretary shall include information about the MedicarePlus option provided under this section in the annual notice of medicare benefits under section 1804.

''(e) COVERAGE ELECTION PERIODS.—

''(1) INITIAL CHOICE UPON ELIGIBILITY TO MAKE ELECTION.—

''(A) IN GENERAL.—In the case of an individual who first becomes entitled to benefits under part A and enrolled under part B after the beginning of the transition period (as defined in subparagraph (B)), the individual shall make the election under this section during a period (of a duration and beginning at a time specified by the Secretary) at the first time the individual both is entitled to benefits under part A and enrolled under part B. Such period shall be specified in a manner so that, in the case of an individual who elects a MedicarePlus product during the period, coverage under the product becomes effective as of the first date on which the individual may receive such coverage.

''(B) TRANSITION PERIOD DEFINED.—In this subsection, the term 'transition period' means, with respect to an individual in an area, the period beginning on the first day of the first month in which a MedicarePlus product is first made available to individuals in the area and ending with the month preceding the beginning of the first annual, coordinated election period under paragraph (3).

''(2) DURING TRANSITION PERIOD.—Subject to paragraph (6)—

''(A) CONTINUOUS OPEN ENROLLMENT INTO A MEDICARE-PLUS OPTION.—During the transition period, an individual who is eligible to make an election under this section and who has elected the non-MedicarePlus option may change such election to a MedicarePlus option at any time.

''(B) OPEN DISENROLLMENT BEFORE END OF TRANSITION PERIOD.—

''(i) IN GENERAL.—During the transition period, an individual who has elected a MedicarePlus option for a MedicarePlus product may change such election to another MedicarePlus product or to the non-MedicarePlus option.

''(ii) SPECIAL RULE.—During the transition period, an individual who has elected a high deductible/medisave product may not change such election to a MedicarePlus product that is not a high deductible/medisave product unless the individual has had such election in effect for 12 months.

''(3) ANNUAL, COORDINATED ELECTION PERIOD.—

''(A) IN GENERAL.—Subject to paragraph (5), each individual who is eligible to make an election under this section may change such election during annual, coordinated election periods.

''(B) ANNUAL, COORDINATED ELECTION PERIOD.—For purposes of this section, the term 'annual, coordinated election period' means, with respect to a calendar year (beginning with 1998), the month of October before such year.

''(C) MEDICAREPLUS HEALTH FAIR DURING OCTOBER, 1996.—In the month of October, 1996, the Secretary shall provide for a nationally coordinated educational and publicity campaign to inform individuals, who are eligible to elect MedicarePlus products, about such products and the election process provided under this section (including the annual, coordinated election periods that occur in subsequent years).

''(4) SPECIAL 90-DAY DISENROLLMENT OPTION.—

''(A) IN GENERAL.—In the case of the first time an individual elects a MedicarePlus option (other than a high deductible/medisave product) under this section, the individual may discontinue such election through the filing of an appropriate notice during the 90-day period beginning on the first day on which the individual's coverage under the MedicarePlus product under such option becomes effective.

''(B) EFFECT OF DISCONTINUATION OF ELECTION.—An individual who discontinues an election under this paragraph shall be deemed at the time of such discontinuation to have elected the Non-MedicarePlus option.

''(5) SPECIAL ELECTION PERIODS.—An individual may discontinue an election of a MedicarePlus product offered by a MedicarePlus organization other than during an annual, coordinated election period and make a new election under this section if—

''(A) the organization's or product's certification under part C has been terminated or the organization has terminated or otherwise discontinued providing the product;

''(B) in the case of an individual who has elected a MedicarePlus product offered by a MedicarePlus organization, the individual is no longer eligible to elect the product because of a change in the individual's place of residence or other change in circumstances (specified by the Secretary, but not including termination of membership in a qualified association in the case of a product offered by a qualified association or termination of the individual's enrollment on the basis described in clause (i) or (ii) section 1852(c)(3)(B));

''(C) the individual demonstrates (in accordance with guidelines established by the Secretary) that—

''(i) the organization offering the product substantially violated a material provision of the organization's contract under part C in relation to the individual and the product; or

''(ii) the organization (or an agent or other entity acting on the organization's behalf) materially misrepresented the product's provisions in marketing the product to the individual; or

''(D) the individual meets such other conditions as the Secretary may provide.

''(6) SPECIAL RULE FOR HIGH DEDUCTIBLE/MEDISAVE PRODUCTS.—Notwithstanding the previous provisions of this subsection, an individual may elect a high deductible/medisave product only during an annual, coordinated election period described in paragraph (3)(B) or during the month of October, 1996.

''(f) EFFECTIVENESS OF ELECTIONS.—

''(1) DURING INITIAL COVERAGE ELECTION PERIOD.—An election of coverage made during the initial coverage election period under subsection (e)(1)(A) shall take effect upon the date the individual becomes entitled to benefits under part A and enrolled under part B, except as the Secretary may provide (consistent with section 1838) in order to prevent retroactive coverage.

''(2) DURING TRANSITION; 90-DAY DISENROLLMENT OPTION.—An election of coverage made under subsection (e)(2) and an election to discontinue a MedicarePlus option under subsection (e)(4) at any time shall take effect with the first calendar month following the date on which the election is made.

''(3) ANNUAL, COORDINATED ELECTION PERIOD AND MEDISAVE ELECTION.—An election of coverage made during an annual, coordinated election period (as defined in subsection (e)(3)(B)) in a year or for a high deductible/medisave product shall take effect as of the first day of the following year.

''(4) OTHER PERIODS.—An election of coverage made during any other period under subsection (e)(5) shall take effect in such manner as the Secretary provides in a manner consistent (to the extent practicable)

with protecting continuity of health benefit coverage.

''(g) EFFECT OF ELECTION OF MEDICAREPLUS OPTION.—Subject to the provisions of section 1855(f), payments under a contract with a MedicarePlus organization under section 1858(a) with respect to an individual electing a MedicarePlus product offered by the organization shall be instead of the amounts which (in the absence of the contract) would otherwise be payable under parts A and B for items and services furnished to the individual.

''(h) ADMINISTRATION.—

''(1) IN GENERAL.—This part and sections 1805 and 1876 shall be administered through an operating division (A) that is established or identified by the Secretary in the Department of Health and Human Services, (B) that is separate from the Health Care Financing Administration, and (C) the primary function of which is the administration of this part and such sections. The director of such division shall be of equal pay and rank to that of the individual responsible for overall administration of parts A and B.

''(2) TRANSFER AUTHORITY.—The Secretary shall transfer such personnel, administrative support systems, assets, records, funds, and other resources in the Health Care Financing Administration to the operating division referred to in paragraph (1) as are used in the administration of section 1876 and as may be required to implement the provisions referred to in such paragraph promptly and efficiently.''.

**SEC. 15002. MEDICAREPLUS PROGRAM.**

(a) IN GENERAL.—Title XVIII is amended by redesignating part C as part D and by inserting after part B the following new part:

''PART C—PROVISIONS RELATING TO MEDICAREPLUS

''REQUIREMENTS FOR MEDICAREPLUS ORGANIZATIONS WITH HIGH-DEDUCTIBLE/MEDISAVE PRODUCTS

**II is amended by redesignating part C as part D and by inserting after part B the following new part:**

''SEC. 1851. (a) MEDICAREPLUS ORGANIZATION DEFINED.—In this part, subject to the succeeding provisions of this section, the term 'MedicarePlus organization' means a public or private entity that is certified under section 1857 as meeting the requirements and standards of this part for such an organization.

''(b) ORGANIZED AND LICENSED UNDER STATE LAW.—

''(1) IN GENERAL.—A MedicarePlus organization shall be organized and licensed under State law to offer health insurance or health benefits coverage in each State in which it offers a MedicarePlus product.

''(2) EXCEPTION FOR UNION AND TAFT-HARTLEY SPONSORS.—Paragraph (1) shall not apply to an MedicarePlus organization that is a union sponsor or a Taft-Hartley sponsor (as defined in section 1852(c)(4)).

''(3) EXCEPTION FOR PROVIDER-SPONSORED ORGANIZATIONS.—Paragraph (1) shall not apply to a MedicarePlus organization that is a provider-sponsored organization (as defined in section 1854(a)) except to the extent provided under section 1857(c).

''(4) EXCEPTION FOR QUALIFIED ASSOCIATIONS.—Paragraph (1) shall not apply to a MedicarePlus organization that is a qualified association (as defined in section 1852(c)(4)(C)).

''(c) PREPAID PAYMENT.—A MedicarePlus organization shall be compensated (except for deductibles, coinsurance, and copayments) for the provision of health care services to enrolled members by a payment which is paid on a periodic basis without regard to the date the health care services are provided and which is fixed without regard to the frequency, extent, or kind of health care service actually provided to a member.

''(d) ASSUMPTION OF FULL FINANCIAL RISK.—The MedicarePlus organization shall assume full financial risk on a prospective basis for the provision of the health care services (other than hospice care) for which benefits are required to be provided under section 1852(a)(1), except that the organization—

''(1) may obtain insurance or make other arrangements for the cost of providing to any enrolled member such services the aggregate value of which exceeds $5,000 in any year,

''(2) may obtain insurance or make other arrangements for the cost of such services provided to its enrolled members other than through the organization because medical necessity required their provision before they could be secured through the organization,

''(3) may obtain insurance or make other arrangements for not more than 90 percent of the amount by which its costs for any of its fiscal years exceed 115 percent of its income for such fiscal year, and

''(4) may make arrangements with physicians or other health professionals, health care institutions, or any combination of such individuals or institutions to assume all or part of the financial risk on a prospective basis for the provision of basic health services by the physicians or other health professionals or through the institutions.

In the case of a MedicarePlus organization that is a union sponsor (as defined in section 1852(c)(4)(A)), Taft-Hartley sponsor (as defined in section 1852(c)(4)(B)), a qualified association (as defined in section 1852(c)(4)(C)), this subsection shall not apply with respect to MedicarePlus products offered by such organization and issued by an organization to which subsection (b)(1) applies or by a provider-sponsored organization (as defined in section 1854(a)).

''(e) PROVISION AGAINST RISK OF INSOLVENCY.—

''(1) IN GENERAL.—A MedicarePlus organization shall meet standards under section 1856 relating to the financial solvency and capital adequacy of the organization. Such standards shall take into account the nature and type of MedicarePlus products offered by the organization.

''(2) TREATMENT OF UNION AND TAFT-HARTLEY SPONSORS.—An entity that is a union sponsor or a Taft-Hartley sponsor is deemed to meet the requirement of paragraph (1).

''(3) TREATMENT OF CERTAIN QUALIFIED ASSOCIATIONS.—An entity that is a qualified association is deemed to meet the requirement of paragraph (1) with respect to MedicarePlus products offered by such association and issued by an organization to which subsection (b)(1) applies or by a provider-sponsored organization.

''(f) HIGH DEDUCTIBLE/MEDISAVE PRODUCT DEFINED.—

''(1) IN GENERAL.—In this part, the term 'high deductible/medisave product' means a MedicarePlus product that—

''(A) provides reimbursement for at least the items and services described in section 1852(a)(1) in a year but only after the enrollee incurs countable expenses (as specified under the product) equal to the amount of a deductible (described in paragraph (2));

''(B) counts as such expenses (for purposes of such deductible) at least all amounts that would have been payable under parts A and B or by the enrollee if the enrollee had elected to receive benefits through the provisions of such parts; and

''(C) provides, after such deductible is met for a year and for all subsequent expenses for benefits referred to in subparagraph (A) in the year, for a level of reimbursement that is not less than—

''(i) 100 percent of such expenses, or

''(ii) 100 percent of the amounts that would have been paid (without regard to any deductibles or coinsurance) under parts A and B with respect to such expenses,

whichever is less. Such term does not include the MedicarePlus MSA itself or any contribution into such account.

''(2) DEDUCTIBLE.—The amount of deductible under a high deductible/medisave product—

''(A) for contract year 1997 shall be not more than $10,000; and

''(B) for a subsequent contract year shall be not more than the maximum amount of such deductible for the previous contract year under this paragraph increased by the national average per capita growth rate under section 1855(c)(3) for the year.

If the amount of the deductible under subparagraph (B) is not a multiple of $50, the amount shall be rounded to the nearest multiple of $50.

''(g) ORGANIZATIONS TREATED AS MEDICAREPLUS ORGANIZATIONS DURING TRANSITION.—Any of the following organizations shall be considered to qualify as a MedicarePlus organization for contract years beginning before January 1, 1998:

''(1) HEALTH MAINTENANCE ORGANIZATIONS.—An organization that is organized under the laws of any State and that is a qualified health maintenance organization (as defined in section 1310(d) of the Public Health Service Act), an organization recognized under State law as a health maintenance organization, or a similar organization regulated under State law for solvency in the same manner and to the same extent as such a health maintenance organization.

''(2) LICENSED INSURERS.—An organization that is organized under the laws of any State and—

''(A) is licensed by a State agency as an insurer for the offering of health benefit coverage, or

''(B) is licensed by a State agency as a service benefit plan,

but only for individuals residing in an area in which the organization is licensed to offer health insurance coverage.

''(3) CURRENT RISK-CONTRACTORS.—An organization that is an eligible organization (as defined in section 1876(b)) and that has a risk-sharing contract in effect under section 1876 as of the date of the enactment of this section.

''(h) MEDIGRANT DEMONSTRATION PROJECTS.—The Secretary shall provide, in at least 10 States, for demonstration projects which would permit MediGrant programs under title XXI to be treated as MedicarePlus organizations under this part for individuals who are qualified to elect the MedicarePlus option and who eligible to receive medical assistance under the MediGrant program, for the purpose of demonstrating the delivery of primary, acute, and long-term care through an integrated delivery network which emphasizes noninstitutional care.

''REQUIREMENTS RELATING TO BENEFITS, PROVISION OF SERVICES, ENROLLMENT, AND PREMIUMS

''SEC. 1852. (a) BENEFITS COVERED.—

''(1) IN GENERAL.—Except as provided in section 1851(f)(1) with respect to high deductible/medisave products, each MedicarePlus product offered under this part shall provide benefits for at least the items and services for which benefits are available under parts A and B consistent with the standards for coverage of such items and services applicable under this title.

''(2) ORGANIZATION AS SECONDARY PAYER.—Notwithstanding any other provision of law, a MedicarePlus organization may (in the case of the provision of items and services to an individual under this part under circumstances in which payment under this

title is made secondary pursuant to section 1862(b)(2)) charge or authorize the provider of such services to charge, in accordance with the charges allowed under such law or policy—

''(A) the insurance carrier, employer, or other entity which under such law, plan, or policy is to pay for the provision of such services, or

''(B) such individual to the extent that the individual has been paid under such law, plan, or policy for such services.

''(3) SATISFACTION OF REQUIREMENT.—A MedicarePlus product (other than a high deductible/medisave product) offered by a MedicarePlus organization satisfies paragraph (1) with respect to benefits for items and services if the following requirements are met:

''(A) FEE FOR SERVICE PROVIDERS.—In the case of benefits furnished through a provider that does not have a contract with the organization, the product provides for at least the dollar amount of payment for such items and services as would otherwise be provided under parts A and B.

''(B) PARTICIPATING PROVIDERS.—In the case of benefits furnished through a provider that has such a contract, the individual's liability for payment for such items and services does not exceed (after taking into account any deductible, which does not exceed any deductible under parts A and B) the lesser of the following:

''(i) NON-MEDICAREPLUS LIABILITY.—The amount of the liability that the individual would have had (based on the provider being a participating provider) if the individual had elected the non-MedicarePlus option.

''(ii) MEDICARE COINSURANCE APPLIED TO PRODUCT PAYMENT RATES.—The applicable coinsurance or copayment rate (that would have applied under the non-MedicarePlus option) of the payment rate provided under the contract.

''(b) ANTIDISCRIMINATION.—A MedicarePlus organization may not deny, limit, or condition the coverage or provision of benefits under this part based on the health status, claims experience, receipt of health care, medical history, or lack of evidence of insurability, of an individual.

''(c) GUARANTEED ISSUE AND RENEWAL.—

''(1) IN GENERAL.—Except as provided in this subsection, a MedicarePlus organization shall provide that at any time during which elections are accepted under section 1805 with respect to a MedicarePlus product offered by the organization, the organization will accept without restrictions individuals who are eligible to make such election.

''(2) PRIORITY.—If the Secretary determines that a MedicarePlus organization, in relation to a MedicarePlus product it offers, has a capacity limit and the number of eligible individuals who elect the product under section 1805 exceeds the capacity limit, the organization may limit the election of individuals of the product under such section but only if priority in election is provided—

''(A) first to such individuals as have elected the product at the time of the determination, and

''(B) then to other such individuals in such a manner that does not discriminate among the individuals (who seek to elect the product) on a basis described in subsection (b).

''(3) LIMITATION ON TERMINATION OF ELECTION.—

''(A) IN GENERAL.—Subject to subparagraph (B), a MedicarePlus organization may not for any reason terminate the election of any individual under section 1805 for a MedicarePlus product it offers.

''(B) BASIS FOR TERMINATION OF ELECTION.—A MedicarePlus organization may terminate an individual's election under section 1805 with respect to a MedicarePlus product it offers if—

''(i) any premiums required with respect to such product are not paid on a timely basis (consistent with standards under section 1856 that provide for a grace period for late payment of premiums),

''(ii) the individual has engaged in disruptive behavior (as specified in such standards), or

''(iii) the product is terminated with respect to all individuals under this part.

Any individual whose election is so terminated is deemed to have elected the Non-MedicarePlus option (as defined in section 1805(a)(3)(A)).

''(C) ORGANIZATION OBLIGATION WITH RESPECT TO ELECTION FORMS.—Pursuant to a contract under section 1858, each MedicarePlus organization receiving an election form under section 1805(c)(2) shall transmit to the Secretary (at such time and in such manner as the Secretary may specify) a copy of such form or such other information respecting the election as the Secretary may specify.

''(4) SPECIAL RULES FOR LIMITED ENROLLMENT MEDICAREPLUS ORGANIZATIONS.—

''(A) UNIONS.—

''(i) IN GENERAL.—Subject to subparagraph (D), a union sponsor (as defined in clause (ii)) shall limit eligibility of enrollees under this part for MedicarePlus products it offers to individuals who are members of the sponsor and affiliated with the sponsor through an employment relationship with any employer or are the spouses of such members.

''(ii) UNION SPONSOR.—In this part and section 1805, the term 'union sponsor' means an employee organization in relation to a group health plan that is established or maintained by the organization other than pursuant to a collective bargaining agreement.

''(B) TAFT-HARTLEY SPONSORS.—

''(i) IN GENERAL.—Subject to subparagraph (D), a MedicarePlus organization that is a Taft-Hartley sponsor (as defined in clause (ii)) shall limit eligibility of enrollees under this part for MedicarePlus products it offers to individuals who are entitled to obtain benefits through such products under the terms of an applicable collective bargaining agreement.

''(ii) TAFT-HARTLEY SPONSOR.—In this part and section 1805, the term 'Taft-Hartley sponsor' means, in relation to a group health plan that is established or maintained by two or more employers or jointly by one or more employers and one or more employee organizations, the association, committee, joint board of trustees, or other similar group of representatives of parties who establish or maintain the plan.

''(C) QUALIFIED ASSOCIATIONS.—

''(i) IN GENERAL.—Subject to subparagraph (D), a MedicarePlus organization that is a qualified association (as defined in clause (iii)) shall limit eligibility of individuals under this part for products it offers to individuals who are members of the association (or who are spouses of such individuals).

''(ii) LIMITATION ON TERMINATION OF COVERAGE.—Such a qualifying association offering a MedicarePlus product to an individual may not terminate coverage of the individual on the basis that the individual is no longer a member of the association except pursuant to a change of election during an open election period occurring on or after the date of the termination of membership.

''(iii) QUALIFIED ASSOCIATION.—In this part and section 1805, the term 'qualified association' means an association, religious fraternal organization, or other organization (which may be a trade, industry, or professional association, a chamber of commerce, or a public entity association) that the Secretary finds—

''(I) has been formed for purposes other than the sale of any health insurance and does not restrict membership based on the health status, claims experience, receipt of health care, medical history, or lack of evidence of insurability, of an individual,

''(II) does not exist solely or principally for the purpose of selling insurance, and

''(III) has at least 1,000 individual members or 200 employer members.

Such term includes a subsidiary or corporation that is wholly owned by one or more qualified organizations.

''(D) LIMITATION.—Rules of eligibility to carry out the previous subparagraphs of this paragraph shall not have the effect of denying eligibility to individuals on the basis of health status, claims experience, receipt of health care, medical history, or lack of evidence of insurability.

''(E) LIMITED ENROLLMENT MEDICAREPLUS ORGANIZATION.—In this part and section 1805, the term 'limited enrollment MedicarePlus organization' means a MedicarePlus organization that is a union sponsor, a Taft-Hartley sponsor, or a qualified association.

''(F) EMPLOYER, ETC.—In this paragraph, the terms 'employer', 'employee organization', and 'group health plan' have the meanings given such terms for purposes of part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974.

''(d) SUBMISSION AND CHARGING OF PREMIUMS.—

''(1) IN GENERAL.—Each MedicarePlus organization shall file with the Secretary each year, in a form and manner and at a time specified by the Secretary—

''(A) the amount of the monthly premiums for coverage under each MedicarePlus product it offers under this part in each payment area (as determined for purposes of section 1855) in which the product is being offered; and

''(B) the enrollment capacity in relation to the product in each such area.

''(2) AMOUNTS OF PREMIUMS CHARGED.—The amount of the monthly premium charged by a MedicarePlus organization for a MedicarePlus product offered in a payment area to an individual under this part shall be equal to the amount (if any) by which—

''(A) the amount of the monthly premium for the product for the period involved, as established under paragraph (3) and submitted under paragraph (1), exceeds

''(B)(i) 1/12 of the annual MedicarePlus capitation rate specified in section 1855(b)(2) for the area and period involved, or (ii) in the case of a high deductible/medisave product, the monthly adjusted MedicarePlus capitation rate specified in section 1855(b)(1) for the individual and period involved.

''(3) UNIFORM PREMIUM.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the premiums charged by a MedicarePlus organization under this part may not vary among individuals who reside in the same payment area.

''(B) EXCEPTION FOR HIGH DEDUCTIBLE/MEDISAVE PRODUCTS.—A MedicarePlus organization shall establish premiums for any high deductible/medisave product it offers in a payment area based on each of the risk adjustment categories established for purposes of determining the amount of the payment to MedicarePlus organizations under section 1855(b)(1) and using the identical demographic and other adjustments among such categories as are used for such purposes.

''(4) TERMS AND CONDITIONS OF IMPOSING PREMIUMS.—Each MedicarePlus organization shall permit the payment of monthly premiums on a monthly basis and may terminate election of individuals for a MedicarePlus product for failure to make

premium payments only in accordance with subsection (c)(3)(B).

''(5) RELATION OF PREMIUMS AND COST-SHARING TO BENEFITS.—In no case may the portion of a MedicarePlus organization's premium rate and the actuarial value of its deductibles, coinsurance, and copayments charged (to the extent attributable to the minimum benefits described in subsection (a)(1) and not counting any amount attributable to balance billing) to individuals who are enrolled under this part with the organization exceed the actuarial value of the coinsurance and deductibles that would be applicable on the average to individuals enrolled under this part with the organization (or, if the Secretary finds that adequate data are not available to determine that actuarial value, the actuarial value of the coinsurance and deductibles applicable on the average to individuals in the area, in the State, or in the United States, eligible to enroll under this part with the organization, or other appropriate data) and entitled to benefits under part A and enrolled under part B if they were not members of a MedicarePlus organization.

''(e) REQUIREMENT FOR ADDITIONAL BENEFITS, PART B PREMIUM DISCOUNT REBATES, OR BOTH.—

''(1) REQUIREMENT.—

''(A) IN GENERAL.—Each MedicarePlus organization (in relation to a MedicarePlus product it offers) shall provide that if there is an excess amount (as defined in subparagraph (B)) for the product for a contract year, subject to the succeeding provisions of this subsection, the organization shall provide to individuals such additional benefits (as the organization may specify), a monetary rebate (paid on a monthly basis) of the part B monthly premium, or a combination thereof, in a total value which is at least equal to the adjusted excess amount (as defined in subparagraph (C)).

''(B) EXCESS AMOUNT.—For purposes of this paragraph, the 'excess amount', for an organization for a product, is the amount (if any) by which—

''(i) the average of the capitation payments made to the organization under this part for the product at the beginning of contract year, exceeds

''(ii) the actuarial value of the minimum benefits described in subsection (a)(1) under the product for individuals under this part, as determined based upon an adjusted community rate described in paragraph (5) (as reduced for the actuarial value of the coinsurance and deductibles under parts A and B).

''(C) ADJUSTED EXCESS AMOUNT.—For purposes of this paragraph, the 'adjusted excess amount', for an organization for a product, is the excess amount reduced to reflect any amount withheld and reserved for the organization for the year under paragraph (3).

''(D) NO APPLICATION TO HIGH DEDUCTIBLE/MEDISAVE PRODUCT.—Subparagraph (A) shall not apply to a high deductible/medisave product.

''(E) UNIFORM APPLICATION.—This paragraph shall be applied uniformly for all enrollees for a product in a service area.

''(F) CONSTRUCTION.—Nothing in this subsection shall be construed as preventing a MedicarePlus organization from providing health care benefits that are in addition to the benefits otherwise required to be provided under this paragraph and from imposing a premium for such additional benefits.

''(2) LIMITATION ON AMOUNT OF PART B PREMIUM DISCOUNT REBATE.—In no case shall the amount of a part B premium discount rebate under paragraph (1)(A) exceed, with respect to a month, the amount of premiums imposed under part B (not taking into account section 1839(b) (relating to penalty for late enrollment) or 1839(h) (relating to affluence testing)), for the individual for the month. Except as provided in the previous sentence, a MedicarePlus organization is not authorized to provide for cash or other monetary rebates as an inducement for enrollment or otherwise.

''(3) STABILIZATION FUND.—A MedicarePlus organization may provide that a part of the value of an excess actuarial amount described in paragraph (1) be withheld and reserved in the Federal Hospital Insurance Trust Fund and in the Federal Supplementary Medical Insurance Trust Fund (in such proportions as the Secretary determines to be appropriate) by the Secretary for subsequent annual contract periods, to the extent required to stabilize and prevent undue fluctuations in the additional benefits and rebates offered in those subsequent periods by the organization in accordance with such paragraph. Any of such value of amount reserved which is not provided as additional benefits described in paragraph (1)(A) to individuals electing the MedicarePlus product in accordance with such paragraph prior to the end of such periods, shall revert for the use of such trust funds.

''(4) DETERMINATION BASED ON INSUFFICIENT DATA.—For purposes of this subsection, if the Secretary finds that there is insufficient enrollment experience (including no enrollment experience in the case of a provider-sponsored organization) to determine an average of the capitation payments to be made under this part at the beginning of a contract period, the Secretary may determine such an average based on the enrollment experience of other contracts entered into under this part.

''(5) ADJUSTED COMMUNITY RATE.—

''(A) IN GENERAL.—For purposes of this subsection, subject to subparagraph (B), the term 'adjusted community rate' for a service or services means, at the election of a MedicarePlus organization, either—

''(i) the rate of payment for that service or services which the Secretary annually determines would apply to an individual electing a MedicarePlus product under this part if the rate of payment were determined under a 'community rating system' (as defined in section 1302(8) of the Public Health Service Act, other than subparagraph (C)), or

''(ii) such portion of the weighted aggregate premium, which the Secretary annually estimates would apply to such an individual, as the Secretary annually estimates is attributable to that service or services,

but adjusted for differences between the utilization characteristics of the individuals electing coverage under this part and the utilization characteristics of the other enrollees with the organization (or, if the Secretary finds that adequate data are not available to adjust for those differences, the differences between the utilization characteristics of individuals selecting other MedicarePlus coverage, or individuals in the area, in the State, or in the United States, eligible to elect MedicarePlus coverage under this part and the utilization characteristics of the rest of the population in the area, in the State, or in the United States, respectively).

''(B) SPECIAL RULE FOR PROVIDER-SPONSORED ORGANIZATIONS.—In the case of a MedicarePlus organization that is a provider-sponsored organization, the adjusted community rate under subparagraph (A) for a MedicarePlus product may be computed (in a manner specified by the Secretary) using data in the general commercial marketplace or (during a transition period) based on the costs incurred by the organization in providing such a product.

''(f) RULES REGARDING PHYSICIAN PARTICIPATION.—

''(1) PROCEDURES.—Each MedicarePlus organization shall establish reasonable procedures relating to the participation (under an agreement between a physician and the organization) of physicians under MedicarePlus products offered by the organization under this part. Such procedures shall include—

''(A) providing notice of the rules regarding participation,

''(B) providing written notice of participation decisions that are adverse to physicians, and

''(C) providing a process within the organization for appealing adverse decisions, including the presentation of information and views of the physician regarding such decision.

''(2) CONSULTATION IN MEDICAL POLICIES.—A MedicarePlus organization shall consult with physicians who have entered into participation agreements with the organization regarding the organization's medical policy, quality, and medical management procedures.

''(3) LIMITATIONS ON PHYSICIAN INCENTIVE PLANS.—

''(A) IN GENERAL.—Each MedicarePlus organization may not operate any physician incentive plan (as defined in subparagraph (B)) unless the following requirements are met:

''(i) No specific payment is made directly or indirectly under the plan to a physician or physician group as an inducement to reduce or limit medically necessary services provided with respect to a specific individual enrolled with the organization.

''(ii) If the plan places a physician or physician group at substantial financial risk (as determined by the Secretary) for services not provided by the physician or physician group, the organization—

''(I) provides stop-loss protection for the physician or group that is adequate and appropriate, based on standards developed by the Secretary that take into account the number of physicians placed at such substantial financial risk in the group or under the plan and the number of individuals enrolled with the organization who receive services from the physician or the physician group, and

''(II) conducts periodic surveys of both individuals enrolled and individuals previously enrolled with the organization to determine the degree of access of such individuals to services provided by the organization and satisfaction with the quality of such services.

''(iii) The organization provides the Secretary with descriptive information regarding the plan, sufficient to permit the Secretary to determine whether the plan is in compliance with the requirements of this subparagraph.

''(B) PHYSICIAN INCENTIVE PLAN DEFINED.—In this paragraph, the term 'physician incentive plan' means any compensation arrangement between a MedicarePlus organization and a physician or physician group that may directly or indirectly have the effect of reducing or limiting services provided with respect to individuals enrolled with the organization under this part.

''(4) LIMITATION ON PROVIDER INDEMNIFICATION.—A MedicarePlus organization may not provide (directly or indirectly) for a provider (or group of providers) to indemnify the organization against any liability resulting from a civil action brought by or on behalf of an enrollee under this part for any damage caused to the enrollee by the organization's denial of medically necessary care.

''(5) EXCEPTION FOR CERTAIN FEE-FOR-SERVICE PLANS.—The previous provisions of this subsection shall not apply in the case of a MedicarePlus organization in relation to a MedicarePlus product if the organization

does not have agreements between physicians and the organization for the provision of benefits under the product.

''(g) PROVISION OF INFORMATION.—A MedicarePlus organization shall provide the Secretary with such information on the organization and each MedicarePlus product it offers as may be required for the preparation of the information booklet described in section 1805(d)(3)(A).

''(h) COORDINATED ACUTE AND LONG-TERM CARE BENEFITS UNDER A MEDICAREPLUS PRODUCT.—Nothing in this part shall be construed as preventing a State from coordinating benefits under its MediGrant program under title XXI with those provided under a MedicarePlus product in a manner that assures continuity of a full-range of acute care and long-term care services to poor elderly or disabled individuals eligible for benefits under this title and under such program.

''(i) TRANSITIONAL FILE AND USE FOR CERTAIN REQUIREMENTS.—

''(1) IN GENERAL.—In the case of a MedicarePlus product proposed to be offered before the end of the transition period (as defined in section 1805(e)(1)(B)), by a MedicarePlus organization described in section 1851(g)(3) or by a MedicarePlus organization with a contract in effect under section 1858, if the organization submits complete information to the Secretary regarding the product demonstrating that the product meets the requirements and standards under subsections (a), (d), and (e) (relating to benefits and premiums), the product shall be deemed as meeting such requirements and standards under such subsections unless the Secretary disapproves the product within 60 days after the date of submission of the complete information.

''(2) CONSTRUCTION.—Nothing in paragraph (1) shall be construed as waiving the requirement of a contract under section 1858 or waiving requirements and standards not referred to in paragraph (1).

''PATIENT PROTECTION STANDARDS

''SEC. 1853. (a) DISCLOSURE TO ENROLLEES.—A MedicarePlus organization shall disclose in clear, accurate, and standardized form, information regarding all of the following for each MedicarePlus product it offers:

''(1) Benefits under the MedicarePlus product offered, including exclusions from coverage and, if it is a high deductible/medisave product, a comparison of benefits under such a product with benefits under other MedicarePlus products.

''(2) Rules regarding prior authorization or other review requirements that could result in nonpayment.

''(3) Potential liability for cost-sharing for out-of-network services.

''(4) The number, mix, and distribution of participating providers.

''(5) The financial obligations of the enrollee, including premiums, deductibles, copayments, and maximum limits on out-of-pocket losses for items and services (both in and out of network).

''(6) Statistics on enrollee satisfaction with the product and organization, including rates of reenrollment.

''(7) Enrollee rights and responsibilities, including the grievance process provided under subsection (f).

''(8) A statement that the use of the 911 emergency telephone number is appropriate in emergency situations and an explanation of what constitutes an emergency situation.

''(9) A description of the organization's quality assurance program under subsection (d).

Such information shall be disclosed to each enrollee under this part at the time of enrollment and at least annually thereafter.

''(b) ACCESS TO SERVICES.—

''(1) IN GENERAL.—A MedicarePlus organization offering a MedicarePlus product may restrict the providers from whom the benefits under the product are provided so long as—

''(A) the organization makes such benefits available and accessible to each individual electing the product within the product service area with reasonable promptness and in a manner which assures continuity in the provision of benefits;

''(B) when medically necessary the organization makes such benefits available and accessible 24 hours a day and 7 days a week;

''(C) the product provides for reimbursement with respect to services which are covered under subparagraphs (A) and (B) and which are provided to such an individual other than through the organization, if—

''(i) the services were medically necessary and immediately required because of an unforeseen illness, injury, or condition, and

''(ii) it was not reasonable given the circumstances to obtain the services through the organization; and

''(D) coverage is provided for emergency services (as defined in paragraph (4)) without regard to prior authorization or the emergency care provider's contractual relationship with the organization.

''(2) MINIMUM PAYMENT LEVELS WHERE PROVIDING POINT-OF-SERVICE COVERAGE.—If a MedicarePlus product provides benefits for items and services (not described in paragraph (1)(C)) through a network of providers and also permits payment to be made under the product for such items and services not provided through such a network, the payment level under the product with respect to such items and services furnished outside the network shall be at least 70 percent (or, if the effective cost-sharing rate is 50 percent, at least 40 percent) of the lesser of—

''(A) the payment basis (determined without regard to deductibles and cost-sharing) that would have applied for such items and services under parts A and B, or

''(B) the amount charged by the entity furnishing such items and services.

''(3) PROTECTION OF ENROLLEES FOR CERTAIN EMERGENCY SERVICES.—

''(A) PARTICIPATING PROVIDERS.—In the case of emergency services described in subparagraph (C) which are furnished by a participating physician or provider of services to an individual enrolled with a MedicarePlus organization under this section, the applicable participation agreement is deemed to provide that the physician or provider of services will accept as payment in full from the organization for such emergency services described in subparagraph (C) the amount that would be payable to the physician or provider of services under part B and from the individual under such part, if the individual were not enrolled with such an organization under this part.

''(B) NONPARTICIPATING PROVIDERS.—In the case of emergency services described in subparagraph (C) which are furnished by a nonparticipating physician, the limitations on actual charges for such services otherwise applicable under part B (to services furnished by individuals not enrolled with a MedicarePlus organization under this section) shall apply in the same manner as such limitations apply to services furnished to individuals not enrolled with such an organization.

''(C) EMERGENCY SERVICES DESCRIBED.—The emergency services described in this subparagraph are emergency services which are furnished to an enrollee of a MedicarePlus organization under this part by a physician or provider of services that is not under a contract with the organization.

''(D) EXCEPTION FOR CERTAIN FEE-FOR-SERVICE PLANS.—The previous provisions of this paragraph shall not apply in the case of a MedicarePlus organization in relation to a MedicarePlus product if the organization does not have agreements between physicians and the organization for the provision of benefits under the product.

''(4) DEFINITION OF EMERGENCY SERVICES.—In this subsection, the term 'emergency services' means, with respect to an individual enrolled with an organization, covered inpatient and outpatient services that—

''(A) are furnished by an appropriate source other than the organization,

''(B) are needed immediately because of an injury or sudden illness, and

''(C) are needed because the time required to reach the organization's providers or suppliers would have meant risk of serious damage to the patient's health.

''(c) CONFIDENTIALITY AND ACCURACY OF ENROLLEE RECORDS.—Each MedicarePlus organization shall establish procedures—

''(1) to safeguard the privacy of individually identifiable enrollee information, and

''(2) to maintain accurate and timely medical records for enrollees.

''(d) QUALITY ASSURANCE PROGRAM.—

''(1) IN GENERAL.—Each MedicarePlus organization must have arrangements, established in accordance with regulations of the Secretary, for an ongoing quality assurance program for health care services it provides to such individuals.

''(2) ELEMENTS OF PROGRAM.—The quality assurance program shall—

''(A) stress health outcomes;

''(B) provide for the establishment of written protocols for utilization review, based on current standards of medical practice;

''(C) provide review by physicians and other health care professionals of the process followed in the provision of such health care services;

''(D) monitors and evaluates high volume and high risk services and the care of acute and chronic conditions;

''(E) evaluates the continuity and coordination of care that enrollees receive;

''(F) has mechanisms to detect both underutilization and overutilization of services;

''(G) after identifying areas for improvement, establishes or alters practice parameters;

''(H) takes action to improve quality and assesses the effectiveness of such action through systematic follow-up;

''(I) makes available information on quality and outcomes measures to facilitate beneficiary comparison and choice of health coverage options (in such form and on such quality and outcomes measures as the Secretary determines to be appropriate);

''(J) is evaluated on an ongoing basis as to its effectiveness; and

''(K) provide for external accreditation or review, by a utilization and quality control peer review organization under part B of title XI or other qualified independent review organization, of the quality of services furnished by the organization meets professionally recognized standards of health care (including providing adequate access of enrollees to services).

''(3) EXCEPTION FOR CERTAIN FEE-FOR-SERVICE PLANS.—Paragraph (1) and subsection (c)(2) shall not apply in the case of a MedicarePlus organization in relation to a MedicarePlus product to the extent the organization provides for coverage of benefits without restrictions relating to utilization and without regard to whether the provider has a contract or other arrangement with the plan for the provision of such benefits.

''(4) TREATMENT OF ACCREDITATION.—The Secretary shall provide that a MedicarePlus

organization is deemed to meet the requirements of paragraphs (1) and (2) of this subsection and subsection (c) if the organization is accredited (and periodically reaccredited) by a private organization under a process that the Secretary has determined assures that the organization meets standards that are no less stringent than the standards established under section 1856 to carry out this subsection and subsection (c).

''(e) COVERAGE DETERMINATIONS.—

''(1) DECISIONS ON NONEMERGENCY CARE.—A MedicarePlus organization shall make determinations regarding authorization requests for nonemergency care on a timely basis, depending on the urgency of the situation.

''(2) APPEALS.—

''(A) IN GENERAL.—Appeals from a determination of an organization denying coverage shall be decided within 30 days of the date of receipt of medical information, but not later than 60 days after the date of the decision.

''(B) PHYSICIAN DECISION ON CERTAIN APPEALS.—Appeal decisions relating to a determination to deny coverage based on a lack of medical necessity shall be made only by a physician.

''(C) EMERGENCY CASES.—Appeals from such a determination involving a life-threatening or emergency situation shall be decided on an expedited basis.

''(f) GRIEVANCES AND APPEALS.—

''(1) GRIEVANCE MECHANISM.—Each MedicarePlus organization must provide meaningful procedures for hearing and resolving grievances between the organization (including any entity or individual through which the organization provides health care services) and enrollees under this part.

''(2) APPEALS.—An enrollee with an organization under this part who is dissatisfied by reason of the enrollee's failure to receive any health service to which the enrollee believes the enrollee is entitled and at no greater charge than the enrollee believes the enrollee is required to pay is entitled, if the amount in controversy is $100 or more, to a hearing before the Secretary to the same extent as is provided in section 205(b), and in any such hearing the Secretary shall make the organization a party. If the amount in controversy is $1,000 or more, the individual or organization shall, upon notifying the other party, be entitled to judicial review of the Secretary's final decision as provided in section 205(g), and both the individual and the organization shall be entitled to be parties to that judicial review. In applying sections 205(b) and 205(g) as provided in this subparagraph, and in applying section 205(l) thereto, any reference therein to the Commissioner of Social Security or the Social Security Administration shall be considered a reference to the Secretary or the Department of Health and Human Services, respectively.

''(3) INDEPENDENT REVIEW OF CERTAIN COVERAGE DENIALS.—The Secretary shall contract with an independent, outside entity to review and resolve appeals of denials of coverage related to urgent or emergency services with respect to MedicarePlus products.

''(4) COORDINATION WITH SECRETARY OF LABOR.—The Secretary shall consult with the Secretary of Labor so as to ensure that the requirements of this subsection, as they apply in the case of grievances referred to in paragraph (1) to which section 503 of the Employee Retirement Income Security Act of 1974 applies, are applied in a manner consistent with the requirements of such section 503.

''(g) INFORMATION ON ADVANCE DIRECTIVES.—Each MedicarePlus organization shall meet the requirement of section 1866(f) (relating to maintaining written policies and procedures respecting advance directives).

''(h) APPROVAL OF MARKETING MATERIALS.—

''(1) SUBMISSION.—Each MedicarePlus organization may not distribute marketing materials unless—

''(A) at least 45 days before the date of distribution the organization has submitted the material to the Secretary for review, and

''(B) the Secretary has not disapproved the distribution of such material.

''(2) REVIEW.—The standards established under section 1856 shall include guidelines for the review of all such material submitted and under such guidelines the Secretary shall disapprove such material if the material is materially inaccurate or misleading or otherwise makes a material misrepresentation.

''(3) DEEMED APPROVAL (1-STOP SHOPPING).—In the case of material that is submitted under paragraph (1)(A) to the Secretary or a regional office of the Department of Health and Human Services and the Secretary or the office has not disapproved the distribution of marketing materials under paragraph (1)(B) with respect to a MedicarePlus product in an area, the Secretary is deemed not to have disapproved such distribution in all other areas covered by the product and organization.

''(4) PROHIBITION OF CERTAIN MARKETING PRACTICES.—Each MedicarePlus organization shall conform to fair marketing standards in relation to MedicarePlus products offered under this part, included in the standards established under section 1856. Such standards shall include a prohibition against an organization (or agent of such an organization) completing any portion of any election form under section 1805 on behalf of any individual.

''PROVIDER-SPONSORED ORGANIZATIONS

''SEC. 1854. (a) PROVIDER-SPONSORED ORGANIZATION DEFINED.—

''(1) IN GENERAL.—In this part, the term 'provider-sponsored organization' means a public or private entity that (in accordance with standards established under subsection (b)) is a provider, or group of affiliated providers, that provides a substantial proportion (as defined by the Secretary under such standards) of the health care items and services under the contract under this part directly through the provider or affiliated group of providers.

''(2) SUBSTANTIAL PROPORTION.—In defining what is a 'substantial proportion' for purposes of paragraph (1), the Secretary—

''(A) shall take into account the need for such an organization to assume responsibility for a substantial proportion of services in order to assure financial stability and the practical difficulties in such an organization integrating a very wide range of service providers; and

''(B) may vary such proportion based upon relevant differences among organizations, such as their location in an urban or rural area.

''(3) AFFILIATION.—For purposes of this subsection, a provider is 'affiliated' with another provider if, through contract, ownership, or otherwise—

''(A) one provider, directly or indirectly, controls, is controlled by, or is under common control with the other,

''(B) each provider is a participant in a lawful combination under which each provider shares, directly or indirectly, substantial financial risk in connection with their operations,

''(C) both providers are part of a controlled group of corporations under section 1563 of the Internal Revenue Code of 1986, or

''(D) both providers are part of an affiliated service group under section 414 of such Code.

''(4) CONTROL.—For purposes of paragraph (3), control is presumed to exist if one party, directly or indirectly, owns, controls, or holds the power to vote, or proxies for, not less than 51 percent of the voting rights or governance rights of another.

''(b) PROCESS FOR ESTABLISHING STANDARDS FOR PROVIDER-SPONSORED ORGANIZATIONS.—For process of establishing of standards for provider-sponsored organizations, see section 1856(c).

''(c) PROCESS FOR STATE CERTIFICATION OF PROVIDER-SPONSORED ORGANIZATIONS.—For process of State certification of provider-sponsored organizations, see section 1857(c).

''(d) PREEMPTION OF STATE INSURANCE LICENSING REQUIREMENTS.—

''(1) IN GENERAL.—This section supersedes any State law which—

''(A) requires that a provider-sponsored organization meet requirements for insurers of health services or health maintenance organizations doing business in the State with respect to initial capitalization and establishment of financial reserves against insolvency, or

''(B) imposes requirements that would have the effect of prohibiting the organization from complying with the applicable requirements of this part,

insofar as such the law applies to individuals enrolled with the organization under this part.

''(2) EXCEPTION.—Paragraph (1) shall not apply with respect to any State law to the extent that such law provides standards or requirements, or provides for enforcement thereof, so as to meet the requirements of section 1857(c)(2) with respect to approval by the Secretary of State certification requirements thereunder.

''(3) CONSTRUCTION.—Nothing in this subsection shall be construed as affecting the operation of section 514 of the Employee Retirement Income Security Act of 1974.

''PAYMENTS TO MEDICAREPLUS ORGANIZATIONS

''SEC. 1855. (a) PAYMENTS.—

''(1) IN GENERAL.—Under a contract under section 1858 the Secretary shall pay to each MedicarePlus organization, with respect to coverage of an individual under this part in a payment area for a month, an amount equal to the monthly adjusted MedicarePlus capitation rate (as provided under subsection (b)) with respect to that individual for that area.

''(2) ANNUAL ANNOUNCEMENT.—The Secretary shall annually determine, and shall announce (in a manner intended to provide notice to interested parties) not later than September 7 before the calendar year concerned—

''(A) the annual MedicarePlus capitation rate for each payment area for the year, and

''(B) the factors to be used in adjusting such rates under subsection (b) for payments for months in that year.

''(3) ADVANCE NOTICE OF METHODOLOGICAL CHANGES.—At least 45 days before making the announcement under paragraph (2) for a year, the Secretary shall provide for notice to MedicarePlus organizations of proposed changes to be made in the methodology or benefit coverage assumptions from the methodology and assumptions used in the previous announcement and shall provide such organizations an opportunity to comment on such proposed changes.

''(4) EXPLANATION OF ASSUMPTIONS.—In each announcement made under paragraph (2) for a year, the Secretary shall include an explanation of the assumptions (including any benefit coverage assumptions) and changes in methodology used in the announcement in sufficient detail so that MedicarePlus organizations can compute monthly adjusted MedicarePlus capitation rates for classes of individuals located in each payment area which is in whole or in

part within the service area of such an organization.

''(b) MONTHLY ADJUSTED MEDICAREPLUS CAPITATION RATE.—

''(1) IN GENERAL.—For purposes of this section, the 'monthly adjusted MedicarePlus capitation rate' under this subsection, for a month in a year for an individual in a payment area (specified under paragraph (3)) and in a class (established under paragraph (4)), is 1/12 of the annual MedicarePlus capitation rate specified in paragraph (2) for that area for the year, adjusted to reflect the actuarial value of benefits under this title with respect to individuals in such class compared to the national average for individuals in all classes.

''(2) ANNUAL MEDICAREPLUS CAPITATION RATES.—For purposes of this section, the annual MedicarePlus capitation rate for a payment area for a year is equal to the annual MedicarePlus capitation rate for the area for the previous year (or, in the case of 1996, the average annual per capita rate of payment described in section 1876(a)(1)(C) for the area for 1995) increased by the per capita growth rate for that area and year (as determined under subsection (c)).

''(3) PAYMENT AREA DEFINED.—In this section, the term 'payment area' means a county (or equivalent area specified by the Secretary), except that in the case of the population group described in paragraph (5)(C), the payment area shall be each State.

''(4) CLASSES.—

''(A) IN GENERAL.—For purposes of this section, the Secretary shall define appropriate classes of enrollees, consistent with paragraph (5), based on age, gender, welfare status, institutionalization, and such other factors as the Secretary determines to be appropriate, so as to ensure actuarial equivalence. The Secretary may add to, modify, or substitute for such classes, if such changes will improve the determination of actuarial equivalence.

''(B) RESEARCH.—The Secretary shall conduct such research as may be necessary to provide for greater accuracy in the adjustment of capitation rates under this subsection. Such research may include research into the addition or modification of classes under subparagraph (A). The Secretary shall submit to Congress a report on such research by not later than January 1, 1997.

''(5) DIVISION OF MEDICARE POPULATION.—In carrying out paragraph (4) and this section, the Secretary shall recognize the following separate population groups:

''(A) AGED.—Individuals 65 years of age or older who are not described in subparagraph (C).

''(B) DISABLED.—Disabled individuals who are under 65 years of age and not described in subparagraph (C).

''(C) INDIVIDUALS WITH END STAGE RENAL DISEASE.—Individuals who are determined to have end stage renal disease.

''(c) PER CAPITA GROWTH RATES.—

''(1) FOR 1996.—

''(A) IN GENERAL.—For purposes of this section and subject to subparagraph (B), the per capita growth rates for 1996, for a payment area assigned to a service utilization cohort under subsection (d), shall be the following:

''(i) LOWEST SERVICE UTILIZATION COHORT.—For areas assigned to the lowest service utilization cohort, 9.0 percent plus the additional percent provided under subparagraph (B)(ii).

''(ii) LOWER SERVICE UTILIZATION COHORT.—For areas assigned to the lower service utilization cohort, 8.0 percent.

''(iii) MEDIAN SERVICE UTILIZATION COHORT.—For areas assigned to the median service utilization cohort, 5.1 percent.

''(iv) HIGHER SERVICE UTILIZATION COHORT.—For areas assigned to the higher service utilization cohort, 4.7 percent.

''(v) HIGHEST SERVICE UTILIZATION COHORT.—For areas assigned to the highest service utilization cohort, 4.0 percent.

''(B) BUDGET NEUTRAL ADJUSTMENT.—In order to assure that the total capitation payments under this section during 1996 are the same as the amount such payments would have been if the per capita growth rate for all such areas for 1996 were equal to the national average per capita growth rate, specified in paragraph (3) for 1996, the Secretary shall adjust the per capita growth rates for payment areas as follows:

''(i) INCREASE UP TO FLOOR.—First, such additional percent increase as may be necessary to assure that the annual MedicarePlus capitation rate for each payment area is at least 12 times $300 for 1996.

''(ii) RESIDUAL INCREASE TO LOWEST SERVICE UTILIZATION COHORT.—Next, for payment areas assigned to the lowest service utilization cohort, such additional percent increase as will assure that the total capitation payments under this section during 1996 are the same as the amount such payments would have been if the per capita growth rate for all such areas for 1996 were equal to the national average per capita growth rate. The increase under this clause may apply to a payment area described in clause (i) and shall be applied after the increase provided under such clause.

''(2) FOR SUBSEQUENT YEARS.—

''(A) IN GENERAL.—For purposes of this section and subject to subparagraphs (B) and (C), the Secretary shall compute a per capita growth rate for each year after 1996, for each payment area as assigned to a service utilization cohort under subsection (d), consistent with the following rules:

''(i) MEDIAN SERVICE UTILIZATION COHORT SET AT NATIONAL AVERAGE PER CAPITA GROWTH RATE.—The per capita growth rate for areas assigned to the median service utilization cohort for the year shall be the national average per capita growth rate for the year (as specified under paragraph (3)), subject to subparagraph (C).

''(ii) HIGHEST SERVICE UTILIZATION COHORT SET AT 75 PERCENT OF NATIONAL AVERAGE PER CAPITA GROWTH RATE.—The per capita growth rate for areas assigned to the highest service utilization cohort for the year shall be 75 percent of the national average per capita growth rate for the year.

''(iii) LOWEST SERVICE UTILIZATION COHORT SET AT 187.5 PERCENT OF NATIONAL AVERAGE PER CAPITA GROWTH RATE.—The per capita growth rate for areas assigned to the lowest service utilization cohort for the year shall be 187.5 percent of the national average per capita growth rate for the year, subject to subparagraph (C).

''(iv) LOWER SERVICE UTILIZATION COHORT SET AT 150 PERCENT OF NATIONAL AVERAGE PER CAPITA GROWTH RATE.—

''(I) IN GENERAL.—Subject to subclause (II), the per capita growth rate for areas assigned to the lower service utilization cohort for the year shall be 150 percent of the national average per capita growth rate for the year.

''(II) ADJUSTMENT.—If the Secretary has established under clause (v) the per capita growth rate for areas assigned to the higher service utilization cohort for the year at 75 percent of the national average per capita growth rate, the Secretary may provide for a reduced per capita growth rate under subclause (I) to the extent necessary to comply with subparagraph (B).

''(v) HIGHER SERVICE UTILIZATION COHORT.—The per capita growth rate for areas assigned to the higher service utilization cohort for the year shall be such percent (not less than 75 percent) of the national average per capita growth rate, as the Secretary may determine consistent with subparagraph (B).

''(B) AVERAGE PER CAPITA GROWTH RATE AT NATIONAL AVERAGE TO ASSURE BUDGET NEUTRALITY.—The Secretary shall compute per capita growth rates for a year under subparagraph (A) (before the application of subparagraph (C)) in a manner so that the weighted average per capita growth rate for all areas for the year (weighted to reflect the number of medicare beneficiaries in each area) is equal to the national average per capita growth rate under paragraph (3) for the year.

''(C) FINAL ADJUSTMENT OF GROWTH RATES.—After computing per capita growth rates under the previous provisions of this paragraph for a year, the Secretary shall—

''(i) reduce the per capita growth rate for areas assigned to the median service utilization cohort by the ratio of .1 to 5.3;

''(ii) if the year is 1997, increase per capita growth rates for payment areas to the extent necessary to assure that the annual MedicarePlus capitation rate for each payment area for such year is at least 12 times $320; and

''(iii) adjust (consistent with clause (ii)) the per capita growth rate for areas assigned to the lowest service utilization cohort by such proportion as the Secretary determines will result in no net increase in outlays resulting from the application of this subparagraph for the year involved.''; and

''(3) NATIONAL AVERAGE PER CAPITA GROWTH RATES.—In this subsection, the 'national average per capita growth rate' for—

''(A) 1996 is 5.3 percent,

''(B) 1997 is 3.8 percent,

''(C) 1998 is 4.6 percent,

''(D) 1999 is 4.3 percent,

''(E) 2000 is 3.8 percent,

''(F) 2001 is 5.5 percent,

''(G) 2002 is 5.6 percent, and

''(H) each subsequent year is 5.0 percent.

''(d) ASSIGNMENT OF PAYMENT AREAS TO SERVICE UTILIZATION COHORTS.—

''(1) IN GENERAL.—For purposes of determining per capita growth rates under subsection (c) for areas for a year, the Secretary shall assign each payment area to a service utilization cohort (based on the service utilization index value for that area determined under paragraph (2)) as follows:

''(A) LOWEST SERVICE UTILIZATION COHORT.—Areas with a service utilization index value of less than .80 shall be assigned to the lowest service utilization cohort.

''(B) LOWER SERVICE UTILIZATION COHORT.—Areas with a service utilization index value of at least .80 but less than .90 shall be assigned to the lower service utilization cohort.

''(C) MEDIAN SERVICE UTILIZATION COHORT.—Areas with a service utilization index value of at least .90 but less than 1.10 shall be assigned to the median service utilization cohort.

''(D) HIGHER SERVICE UTILIZATION COHORT.—Areas with a service utilization index value of at least 1.10 but less than 1.20 shall be assigned to the higher service utilization cohort.

''(E) HIGHEST SERVICE UTILIZATION COHORT.—Areas with a service utilization index value of at least 1.20 shall be assigned to the highest service utilization cohort.

''(2) DETERMINATION OF SERVICE UTILIZATION INDEX VALUES.—In order to determine the per capita growth rate for a payment area for each year (beginning with 1996), the Secretary shall determine for such area and year a service utilization index value, which is equal to—

''(A) the annual MedicarePlus capitation rate under this section for the area for the year in which the determination is made (or, in the case of 1996, the average annual per

capita rate of payment (described in section 1876(a)(1)(C)) for the area for 1995); divided by

''(B) the input-price-adjusted annual national MedicarePlus capitation rate (as determined under paragraph (3)) for that area for the year in which the determination is made.

''(3) DETERMINATION OF INPUT-PRICE-ADJUSTED RATES.—

''(A) IN GENERAL.—For purposes of paragraph (2), the 'input-price-adjusted annual national MedicarePlus capitation rate' for a payment area for a year is equal to the sum, for all the types of medicare services (as classified by the Secretary), of the product (for each such type) of—

''(i) the national standardized MedicarePlus capitation rate (determined under subparagraph (B)) for the year,

''(ii) the proportion of such rate for the year which is attributable to such type of services, and

''(iii) an index that reflects (for that year and that type of services) the relative input price of such services in the area compared to the national average input price of such services.

In applying clause (iii), the Secretary shall, subject to subparagraph (C), apply those indices under this title that are used in applying (or updating) national payment rates for specific areas and localities.

''(B) NATIONAL STANDARDIZED MEDICAREPLUS CAPITATION RATE.—In this paragraph, the 'national standardized MedicarePlus capitation rate' for a year is equal to—

''(i) the sum (for all payment areas) of the product of (I) the annual MedicarePlus capitation rate for that year for the area under subsection (b)(2), and (II) the average number of medicare beneficiaries residing in that area in the year; divided by

''(ii) the total average number of medicare beneficiaries residing in all the payment areas for that year.

''(C) SPECIAL RULES FOR 1996.—In applying this paragraph for 1996—

''(i) medicare services shall be divided into 2 types of services: part A services and part B services;

''(ii) the proportions described in subparagraph (A)(ii) for such types of services shall be—

''(I) for part A services, the ratio (expressed as a percentage) of the average annual per capita rate of payment for the area for part A for 1995 to the total average annual per capita rate of payment for the area for parts A and B for 1995, and

''(II) for part B services, 100 percent minus the ratio described in subclause (I);

''(iii) for the part A services, 70 percent of payments attributable to such services shall be adjusted by the index used under section 1886(d)(3)(E) to adjust payment rates for relative hospital wage levels for hospitals located in the payment area involved;

''(iv) for part B services—

''(I) 66 percent of payments attributable to such services shall be adjusted by the index of the geographic area factors under section 1848(e) used to adjust payment rates for physicians' services furnished in the payment area, and

''(II) of the remaining 34 percent of the amount of such payments, 70 percent shall be adjusted by the index described in clause (iii);

''(v) the index values shall be computed based only on the beneficiary population described in subsection (b)(5)(A).

The Secretary may continue to apply the rules described in this subparagraph (or similar rules) for 1997.

''(e) PAYMENT PROCESS.—

''(1) IN GENERAL.—Subject to subsection (f), the Secretary shall make monthly payments under this section in advance and in accordance with the rate determined under subsection (a) to the plan for each individual enrolled with a MedicarePlus organization under this part.

''(2) ADJUSTMENT TO REFLECT NUMBER OF ENROLLEES.—

''(A) IN GENERAL.—The amount of payment under this subsection may be retroactively adjusted to take into account any difference between the actual number of individuals enrolled with an organization under this part and the number of such individuals estimated to be so enrolled in determining the amount of the advance payment.

''(B) SPECIAL RULE FOR CERTAIN ENROLLEES.—

''(i) IN GENERAL.—Subject to clause (ii), the Secretary may make retroactive adjustments under subparagraph (A) to take into account individuals enrolled during the period beginning on the date on which the individual enrolls with a MedicarePlus organization under a product operated, sponsored, or contributed to by the individual's employer or former employer (or the employer or former employer of the individual's spouse) and ending on the date on which the individual is enrolled in the organization under this part, except that for purposes of making such retroactive adjustments under this subparagraph, such period may not exceed 90 days.

''(ii) EXCEPTION.—No adjustment may be made under clause (i) with respect to any individual who does not certify that the organization provided the individual with the disclosure statement described in section 1853(a) at the time the individual enrolled with the organization.

''(f) SPECIAL RULES FOR INDIVIDUALS ELECTING HIGH DEDUCTIBLE/MEDISAVE PRODUCT.—

''(1) IN GENERAL.—In the case of an individual who has elected a high deductible/medisave product, notwithstanding the preceding provisions of this section—

''(A) the amount of the payment to the MedicarePlus organization offering the high deductible/medisave product shall not exceed the premium for the product, and

''(B) subject to paragraph (2), the difference between the amount of payment that would otherwise be made and the amount of payment to such organization shall be made directly into a MedicarePlus MSA established (and, if applicable, designated) by the individual under paragraph (2).

''(2) ESTABLISHMENT AND DESIGNATION OF MEDICAREPLUS MEDICAL SAVINGS ACCOUNT AS REQUIREMENT FOR PAYMENT OF CONTRIBUTION.—In the case of an individual who has elected coverage under a high deductible/medisave product, no payment shall be made under paragraph (1)(B) on behalf of an individual for a month unless the individual—

''(A) has established before the beginning of the month (or by such other deadline as the Secretary may specify) a MedicarePlus MSA (as defined in section 137(b) of the Internal Revenue Code of 1986), and

''(B) if the individual has established more than one MedicarePlus MSA, has designated one of such accounts as the individual's MedicarePlus MSA for purposes of this part.

Under rules under this section, such an individual may change the designation of such account under subparagraph (B) for purposes of this part.

''(3) LUMP SUM DEPOSIT OF MEDICAL SAVINGS ACCOUNT CONTRIBUTION.—In the case of an individual electing a high deductible/medisave product effective beginning with a month in a year, the amount of the contribution to the MedicarePlus MSA on behalf of the individual for that month and all successive months in the year shall be deposited during that first month. In the case of a termination of such an election as of a month before the end of a year, the Secretary shall provide for a procedure for the recovery of deposits attributable to the remaining months in the year.

''(g) PAYMENTS FROM TRUST FUND.—The payment to a MedicarePlus organization under this section for individuals enrolled under this part with the organization, and payments to a MedicarePlus MSA under subsection (f)(1)(B), shall be made from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund in such proportion as the Secretary determines reflects the relative weight that benefits under part A and under part B represents of the actuarial value of the total benefits under this title.

''(h) SPECIAL RULE FOR CERTAIN INPATIENT HOSPITAL STAYS.—In the case of an individual who is receiving inpatient hospital services from a subsection (d) hospital (as defined in section 1886(d)(1)(B)) as of the effective date of the individual's—

''(1) election under this part of a MedicarePlus product offered by a MedicarePlus organization—

''(A) payment for such services until the date of the individual's discharge shall be made under this title through the MedicarePlus product or Non-MedicarePlus option (as the case may be) elected before the election with such organization,

''(B) the elected organization shall not be financially responsible for payment for such services until the date after the date of the individual's discharge, and

''(C) the organization shall nonetheless be paid the full amount otherwise payable to the organization under this part; or

''(2) termination of election with respect to a MedicarePlus organization under this part—

''(A) the organization shall be financially responsible for payment for such services after such date and until the date of the individual's discharge,

''(B) payment for such services during the stay shall not be made under section 1886(d) or by any succeeding MedicarePlus organization, and

''(C) the terminated organization shall not receive any payment with respect to the individual under this part during the period the individual is not enrolled.

''ESTABLISHMENT OF STANDARDS FOR MEDICARE-PLUS ORGANIZATIONS AND PRODUCTS

''SEC. 1856. (a) STANDARDS APPLICABLE TO STATE-REGULATED ORGANIZATIONS AND PRODUCTS.—

''(1) RECOMMENDATIONS OF NAIC.—The Secretary shall request the National Association of Insurance Commissioners to develop and submit to the Secretary, not later than 12 months after the date of the enactment of the Medicare Preservation Act of 1995, proposed standards consistent with the requirements of this part for MedicarePlus organizations (other than union sponsors, Taft-Hartley sponsors, and provider-sponsored organizations) and MedicarePlus products offered by such organizations, except that such proposed standards may relate to MedicarePlus organizations that are qualified associations only with respect to MedicarePlus products offered by them and only if such products are issued by organizations to which section 1851(b)(1) applies.

''(2) REVIEW.—If the Association submits such standards on a timely basis, the Secretary shall review such standards to determine if the standards meet the requirements of the part. The Secretary shall complete the review of the standards not later than 90 days after the date of their submission. The Secretary shall promulgate such proposed

standards to apply to organizations and products described in paragraph (1) except to the extent that the Secretary modifies such proposed standards because they do not meet such requirements.

''(3) FAILURE TO SUBMIT.—If the Association does not submit such standards on a timely basis, the Secretary shall promulgate such standards by not later than the date the Secretary would otherwise have been required to promulgate standards under paragraph (2).

''(4) USE OF INTERIM RULES.—For the period in which this part is in effect and standards are being developed and established under the preceding provisions of this subsection, the Secretary shall provide by not later than June 1, 1996, for the application of such interim standards (without regard to any requirements for notice and public comment) as may be appropriate to provide for the expedited implementation of this part. Such interim standards shall not apply after the date standards are established under the preceding provisions of this subsection.

''(b) UNION AND TAFT-HARTLEY SPONSORS, QUALIFIED ASSOCIATIONS, AND PRODUCTS.—

''(1) IN GENERAL.—The Secretary shall develop and promulgate by regulation standards consistent with the requirements of this part for union and Taft-Hartley sponsors, for qualified associations, and for MedicarePlus products offered by such organizations (other than MedicarePlus products offered by qualified associations that are issued by organizations to which section 1851(b)(1) applies).

''(2) CONSULTATION WITH LABOR.—The Secretary shall consult with the Secretary of Labor with respect to such standards for such sponsors and products.

''(3) TIMING.—Standards under this subsection shall be promulgated at or about the time standards are promulgated under subsection (a).

''(c) ESTABLISHMENT OF STANDARDS FOR PROVIDER-SPONSORED ORGANIZATIONS.—

''(1) IN GENERAL.—The Secretary shall establish, on an expedited basis and using a negotiated rulemaking process under subchapter 3 of chapter 5 of title 5, United States Code, standards that entities must meet to qualify as provider-sponsored organizations under this part.

''(2) PUBLICATION OF NOTICE.—In carrying out the rulemaking process under this subsection, the Secretary, after consultation with the National Association of Insurance Commissioners, the American Academy of Actuaries, organizations representative of medicare beneficiaries, and other interested parties, shall publish the notice provided for under section 564(a) of title 5, United States Code, by not later than 45 days after the date of the enactment of Medicare Preservation Act of 1995.

''(3) TARGET DATE FOR PUBLICATION OF RULE.—As part of the notice under paragraph (2), and for purposes of this subsection, the 'target date for publication' (referred to in section 564(a)(5) of such title) shall be September 1, 1996.

''(4) ABBREVIATED PERIOD FOR SUBMISSION OF COMMENTS.—In applying section 564(c) of such title under this subsection, '15 days' shall be substituted for '30 days'.

''(5) APPOINTMENT OF NEGOTIATED RULEMAKING COMMITTEE AND FACILITATOR.—The Secretary shall provide for—

''(A) the appointment of a negotiated rulemaking committee under section 565(a) of such title by not later than 30 days after the end of the comment period provided for under section 564(c) of such title (as shortened under paragraph (4)), and

''(B) the nomination of a facilitator under section 566(c) of such title by not later than 10 days after the date of appointment of the committee.

''(6) PRELIMINARY COMMITTEE REPORT.—The negotiated rulemaking committee appointed under paragraph (5) shall report to the Secretary, by not later than June 1, 1996, regarding the committee's progress on achieving a concensus with regard to the rulemaking proceeding and whether such consensus is likely to occur before one month before the target date for publication of the rule. If the committee reports that the committee has failed to make significant progress towards such consensus or is unlikely to reach such consensus by the target date, the Secretary may terminate such process and provide for the publication of a rule under this subsection through such other methods as the Secretary may provide.

''(7) FINAL COMMITTEE REPORT.—If the committee is not terminated under paragraph (6), the rulemaking committee shall submit a report containing a proposed rule by not later than one month before the target publication date.

''(8) INTERIM, FINAL EFFECT.—The Secretary shall publish a rule under this subsection in the Federal Register by not later than the target publication date. Such rule shall be effective and final immediately on an interim basis, but is subject to change and revision after public notice and opportunity for a period (of not less than 60 days) for public comment. In connection with such rule, the Secretary shall specify the process for the timely review and approval of applications of entities to be certified as provider-sponsored organizations pursuant to such rules and consistent with this subsection.

''(9) PUBLICATION OF RULE AFTER PUBLIC COMMENT.—The Secretary shall provide for consideration of such comments and republication of such rule by not later than 1 year after the target publication date.

''(10) PROCESS FOR APPROVAL OF APPLICATIONS FOR CERTIFICATION.—

''(A) IN GENERAL.—The Secretary shall establish a process for the receipt and approval of applications of entities for certification as provider-sponsored organizations under this part. Under such process, the Secretary shall act upon a complete application submitted within 60 days after the date it is received.

''(B) CIRCULATION OF PROPOSED APPLICATION FORM.—By March 1, 1996, the Secretary, after consultation with the negotiated rulemaking committee, shall circulate a proposed application form that could be used by entities considering becoming certified as a provider-sponsored organization under this part.

''(d) COORDINATION AMONG FINAL STANDARDS.—In establishing standards (other than on an interim basis) under the previous provisions of this section, the Secretary shall seek to provide for consistency (as appropriate) across the different types of MedicarePlus organizations, in order to promote equitable treatment of different types of organizations and consistent protection for individuals who elect products offered by the different types of MedicarePlus organizations.

''(e) USE OF CURRENT STANDARDS FOR INTERIM STANDARDS.—To the extent practicable and consistent with the requirements of this part, standards established on an interim basis to carry out requirements of this part may be based on currently applicable standards, such as the rules established under section 1876 (as in effect as of the date of the enactment of this section) to carry out analogous provisions of such section or standards established or developed for application in the private health insurance market.

''(f) APPLICATION OF NEW STANDARDS TO ENTITIES WITH A CONTRACT.—In the case of a MedicarePlus organization with a contract in effect under this part at the time standards applicable to the organization under this section are changed, the organization may elect not to have such changes apply to the organization until the end of the current contract year (or, if there is less than 6 months remaining in the contract year, until 1 year after the end of the current contract year).

''(g) RELATION TO STATE LAWS.—The standards established under this section shall supersede any State law or regulation with respect to MedicarePlus products which are offered by MedicarePlus organizations and are issued by organizations to which section 1851(b)(1) applies, to the extent such law or regulation is inconsistent with such standards.

''MEDICARE-PLUS CERTIFICATION

''SEC. 1857. (a) STATE CERTIFICATION PROCESS FOR STATE-REGULATED ORGANIZATIONS.—

''(1) APPROVAL OF STATE PROCESS.—The Secretary shall approve a MedicarePlus certification and enforcement program established by a State for applying the standards established under section 1856 to MedicarePlus organizations (other than union sponsors, Taft-Hartley sponsors, and provider-sponsored organizations) and MedicarePlus products offered by such organizations if the Secretary determines that the program effectively provides for the application and enforcement of such standards in the State with respect to such organizations and products. Such program shall provide for certification of compliance of MedicarePlus organizations and products with the applicable requirements of this part not less often than once every 3 years.

''(2) EFFECT OF CERTIFICATION UNDER STATE PROCESS.—A MedicarePlus organization and MedicarePlus product offered by such an organization that is certified under such program is considered to have been certified under this subsection with respect to the offering of the product to individuals residing in the State.

''(3) USER FEES.—The State may impose user fees on organizations seeking certification under this subsection in such amounts as the State deems sufficient to finance the costs of such certification. Nothing in this paragraph shall be construed as restricting a State's authority to impose premium taxes, other taxes, or other levies.

''(4) REVIEW.—The Secretary periodically shall review State programs approved under paragraph (1) to determine if they continue to provide for certification and enforcement described in such paragraph. If the Secretary finds that a State program no longer so provides, before making a final determination, the Secretary shall provide the State an opportunity to adopt such a plan of correction as would permit the State program to meet the requirements of paragraph (1). If the Secretary makes a final determination that the State program, after such an opportunity, fails to meet such requirements, the provisions of subsection (b) shall apply to MedicarePlus organizations and products in the State.

''(5) EFFECT OF NO STATE PROGRAM.—Beginning on the date standards are established under section 1856, in the case of organizations and products in States in which a certification program has not been approved and in operation under paragraph (1), the Secretary shall establish a process for the certification of MedicarePlus organizations (other than union sponsors, Taft-Hartley sponsors, and provider-sponsored organizations) and products of such organizations as meeting such standards.

''(6) PUBLICATION OF LIST OF APPROVED STATE PROGRAMS.—The Secretary shall publish (and periodically update) a list of those State programs which are approved for purposes of this subsection.

''(b) FEDERAL CERTIFICATION PROCESS FOR UNION SPONSORS, TAFT-HARTLEY SPONSORS, AND PROVIDER-SPONSORED ORGANIZATIONS.—

''(1) ESTABLISHMENT.—The Secretary shall establish a process for the certification of union sponsors, Taft-Hartley sponsors, and provider-sponsored organizations and MedicarePlus products offered by such sponsors and organizations as meeting the applicable standards established under section 1856.

''(2) INVOLVEMENT OF SECRETARY OF LABOR.—Such process shall be established and operated in cooperation with the Secretary of Labor with respect to union sponsors and Taft-Hartley sponsors.

''(3) USE OF STATE LICENSING AND PRIVATE ACCREDITATION PROCESSES.—

''(A) IN GENERAL.—The process under this subsection shall, to the maximum extent practicable, provide that MedicarePlus organizations and products that are licensed or certified through a qualified private accreditation process that the Secretary finds applies standards that are no less stringent than the requirements of this part are deemed to meet the corresponding requirements of this part for such an organization or product.

''(B) PERIODIC ACCREDITATION.—The use of an accreditation under subparagraph (A) shall be valid only for such period as the Secretary specifies.

''(4) USER FEES.—The Secretary may impose user fees on entities seeking certification under this subsection in such amounts as the Secretary deems sufficient to finance the costs of such certification.

''(c) CERTIFICATION OF PROVIDER-SPONSORED ORGANIZATIONS BY STATES.—

''(1) IN GENERAL.—The Secretary shall establish a process under which a State may propose to provide for certification of entities as meeting the requirements of this part to be provider-sponsored organizations.

''(2) CONDITIONS FOR APPROVAL.—The Secretary may not approve a State program for certification under paragraph (1) unless the Secretary determines that the certification program applies standards and requirements that are identical to the standards and requirements of this part and the applicable provisions for enforcement of such standards and requirements do not result in a lower level or quality of enforcement than that which is otherwise applicable under this title.

''(d) NOTICE TO ENROLLEES IN CASE OF DECERTIFICATION.—If a MedicarePlus organization or product is decertified under this section, the organization shall notify each enrollee with the organization and product under this part of such decertification.

''(e) QUALIFIED ASSOCIATIONS.—In the case of MedicarePlus products offered by a MedicarePlus organization that is a qualified association (as defined in section 1854(c)(4)(C)) and issued by an organization to which section 1851(b)(1) applies or by a provider-sponsored organization (as defined in section 1854(a)), nothing in this section shall be construed as limiting the authority of States to regulate such products.

''CONTRACTS WITH MEDICAREPLUS ORGANIZATIONS

''SEC. 1858. (a) IN GENERAL.—The Secretary shall not permit the election under section 1805 of a MedicarePlus product offered by a MedicarePlus organization under this part, and no payment shall be made under section 1856 to an organization, unless the Secretary has entered into a contract under this section with an organization with respect to the offering of such product. Such a contract with an organization may cover more than one MedicarePlus product. Such contract shall provide that the organization agrees to comply with the applicable requirements and standards of this part and the terms and conditions of payment as provided for in this part.

''(b) MINIMUM ENROLLMENT REQUIREMENTS.—

''(1) IN GENERAL.—Subject to paragraphs (1) and (2), the Secretary may not enter into a contract under this section with a MedicarePlus organization (other than a union sponsor or Taft-Hartley sponsor) unless the organization has at least 5,000 individuals (or 1,500 individuals in the case of an organization that is a provider-sponsored organization) who are receiving health benefits through the organization, except that the standards under section 1856 may permit the organization to have a lesser number of beneficiaries (but not less than 500 in the case of an organization that is a provider-sponsored organization) if the organization primarily serves individuals residing outside of urbanized areas.

''(2) EXCEPTION FOR HIGH DEDUCTIBLE/MEDISAVE PRODUCT.—Paragraph (1) shall not apply with respect to a contract that relates only to a high deductible/medisave product.

''(3) ALLOWING TRANSITION.—The Secretary may waive the requirement of paragraph (1) during the first 3 contract years with respect to an organization.

''(c) CONTRACT PERIOD AND EFFECTIVENESS.—

''(1) PERIOD.—Each contract under this section shall be for a term of at least one year, as determined by the Secretary, and may be made automatically renewable from term to term in the absence of notice by either party of intention to terminate at the end of the current term.

''(2) TERMINATION AUTHORITY.—In accordance with procedures established under subsection (h), the Secretary may at any time terminate any such contract or may impose the intermediate sanctions described in an applicable paragraph of subsection (g) on the MedicarePlus organization if the Secretary determines that the organization—

''(A) has failed substantially to carry out the contract;

''(B) is carrying out the contract in a manner inconsistent with the efficient and effective administration of this part;

''(C) is operating in a manner that is not in the best interests of the individuals covered under the contract; or

''(D) no longer substantially meets the applicable conditions of this part.

''(3) EFFECTIVE DATE OF CONTRACTS.—The effective date of any contract executed pursuant to this section shall be specified in the contract, except that in no case shall a contract under this section which provides for coverage under a high deductible/medisave account be effective before January 1997 with respect to such coverage.

''(4) PREVIOUS TERMINATIONS.—The Secretary may not enter into a contract with a MedicarePlus organization if a previous contract with that organization under this section was terminated at the request of the organization within the preceding five-year period, except in circumstances which warrant special consideration, as determined by the Secretary.

''(5) NO CONTRACTING AUTHORITY.—The authority vested in the Secretary by this part may be performed without regard to such provisions of law or regulations relating to the making, performance, amendment, or modification of contracts of the United States as the Secretary may determine to be inconsistent with the furtherance of the purpose of this title.

''(d) PROTECTIONS AGAINST FRAUD AND BENEFICIARY PROTECTIONS.—

''(1) INSPECTION AND AUDIT.—Each contract under this section shall provide that the Secretary, or any person or organization designated by the Secretary—

''(A) shall have the right to inspect or otherwise evaluate (i) the quality, appropriateness, and timeliness of services performed under the contract and (ii) the facilities of the organization when there is reasonable evidence of some need for such inspection, and

''(B) shall have the right to audit and inspect any books and records of the MedicarePlus organization that pertain (i) to the ability of the organization to bear the risk of potential financial losses, or (ii) to services performed or determinations of amounts payable under the contract.

''(2) ENROLLEE NOTICE AT TIME OF TERMINATION.—Each contract under this section shall require the organization to provide (and pay for) written notice in advance of the contract's termination, as well as a description of alternatives for obtaining benefits under this title, to each individual enrolled with the organization under this part.

''(3) DISCLOSURE.—

''(A) IN GENERAL.—Each MedicarePlus organization shall, in accordance with regulations of the Secretary, report to the Secretary financial information which shall include the following:

''(i) Such information as the Secretary may require demonstrating that the organization has a fiscally sound operation.

''(ii) A copy of the report, if any, filed with the Health Care Financing Administration containing the information required to be reported under section 1124 by disclosing entities.

''(iii) A description of transactions, as specified by the Secretary, between the organization and a party in interest. Such transactions shall include—

''(I) any sale or exchange, or leasing of any property between the organization and a party in interest;

''(II) any furnishing for consideration of goods, services (including management services), or facilities between the organization and a party in interest, but not including salaries paid to employees for services provided in the normal course of their employment and health services provided to members by hospitals and other providers and by staff, medical group (or groups), individual practice association (or associations), or any combination thereof; and

''(III) any lending of money or other extension of credit between an organization and a party in interest.

The Secretary may require that information reported respecting an organization which controls, is controlled by, or is under common control with, another entity be in the form of a consolidated financial statement for the organization and such entity.

''(B) PARTY IN INTEREST DEFINED.—For the purposes of this paragraph, the term 'party in interest' means—

''(i) any director, officer, partner, or employee responsible for management or administration of a MedicarePlus organization, any person who is directly or indirectly the beneficial owner of more than 5 percent of the equity of the organization, any person who is the beneficial owner of a mortgage, deed of trust, note, or other interest secured by, and valuing more than 5 percent of the organization, and, in the case of a MedicarePlus organization organized as a nonprofit corporation, an incorporator or member of such corporation under applicable State corporation law;

''(ii) any entity in which a person described in clause (i)—

''(I) is an officer or director;

''(II) is a partner (if such entity is organized as a partnership);

''(III) has directly or indirectly a beneficial interest of more than 5 percent of the equity; or

''(IV) has a mortgage, deed of trust, note, or other interest valuing more than 5 percent of the assets of such entity;

''(iii) any person directly or indirectly controlling, controlled by, or under common control with an organization; and

''(iv) any spouse, child, or parent of an individual described in clause (i).

''(C) ACCESS TO INFORMATION.—Each MedicarePlus organization shall make the information reported pursuant to subparagraph (A) available to its enrollees upon reasonable request.

''(4) LOAN INFORMATION.—The contract shall require the organization to notify the Secretary of loans and other special financial arrangements which are made between the organization and subcontractors, affiliates, and related parties.

''(e) ADDITIONAL CONTRACT TERMS.—The contract shall contain such other terms and conditions not inconsistent with this part (including requiring the organization to provide the Secretary with such information) as the Secretary may find necessary and appropriate.

''(f) INTERMEDIATE SANCTIONS.—

''(1) IN GENERAL.—If the Secretary determines that a MedicarePlus organization with a contract under this section—

''(A) fails substantially to provide medically necessary items and services that are required (under law or under the contract) to be provided to an individual covered under the contract, if the failure has adversely affected (or has substantial likelihood of adversely affecting) the individual;

''(B) imposes premiums on individuals enrolled under this part in excess of the premiums permitted;

''(C) acts to expel or to refuse to re-enroll an individual in violation of the provisions of this part;

''(D) engages in any practice that would reasonably be expected to have the effect of denying or discouraging enrollment (except as permitted by this part) by eligible individuals with the organization whose medical condition or history indicates a need for substantial future medical services;

''(E) misrepresents or falsifies information that is furnished—

''(i) to the Secretary under this part, or

''(ii) to an individual or to any other entity under this part;

''(F) fails to comply with the requirements of section 1852(f)(3); or

''(G) employs or contracts with any individual or entity that is excluded from participation under this title under section 1128 or 1128A for the provision of health care, utilization review, medical social work, or administrative services or employs or contracts with any entity for the provision (directly or indirectly) through such an excluded individual or entity of such services; the Secretary may provide, in addition to any other remedies authorized by law, for any of the remedies described in paragraph (2).

''(2) REMEDIES.—The remedies described in this paragraph are—

''(A) civil money penalties of not more than $25,000 for each determination under paragraph (1) or, with respect to a determination under subparagraph (D) or (E)(i) of such paragraph, of not more than $100,000 for each such determination, plus, with respect to a determination under paragraph (1)(B), double the excess amount charged in violation of such paragraph (and the excess amount charged shall be deducted from the penalty and returned to the individual concerned), and plus, with respect to a determination under paragraph (1)(D), $15,000 for each individual not enrolled as a result of the practice involved,

''(B) suspension of enrollment of individuals under this part after the date the Secretary notifies the organization of a determination under paragraph (1) and until the Secretary is satisfied that the basis for such determination has been corrected and is not likely to recur, or

''(C) suspension of payment to the organization under this part for individuals enrolled after the date the Secretary notifies the organization of a determination under paragraph (1) and until the Secretary is satisfied that the basis for such determination has been corrected and is not likely to recur.

''(3) OTHER INTERMEDIATE SANCTIONS.—In the case of a MedicarePlus organization for which the Secretary makes a determination under subsection (c)(2) the basis of which is not described in paragraph (1), the Secretary may apply the following intermediate sanctions:

''(A) civil money penalties of not more than $25,000 for each determination under subsection (c)(2) if the deficiency that is the basis of the determination has directly adversely affected (or has the substantial likelihood of adversely affecting) an individual covered under the organization's contract;

''(B) civil money penalties of not more than $10,000 for each week beginning after the initiation of procedures by the Secretary under subsection (h) during which the deficiency that is the basis of a determination under subsection (c)(2) exists; and

''(C) suspension of enrollment of individuals under this part after the date the Secretary notifies the organization of a determination under subsection (c)(2) and until the Secretary is satisfied that the deficiency that is the basis for the determination has been corrected and is not likely to recur.

''(4) PROCEDURES FOR IMPOSING SANCTIONS.—The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under paragraph (1) or (2) in the same manner as they apply to a civil money penalty or proceeding under section 1128A(a).

''(g) PROCEDURES FOR IMPOSING SANCTIONS.—The Secretary may terminate a contract with a MedicarePlus organization under this section or may impose the intermediate sanctions described in subsection (f) on the organization in accordance with formal investigation and compliance procedures established by the Secretary under which—

''(1) the Secretary provides the organization with the opportunity to develop and implement a corrective action plan to correct the deficiencies that were the basis of the Secretary's determination under subsection (c)(2);

''(2) the Secretary shall impose more severe sanctions on organizations that have a history of deficiencies or that have not taken steps to correct deficiencies the Secretary has brought to their attention;

''(3) there are no unreasonable or unnecessary delays between the finding of a deficiency and the imposition of sanctions; and

''(4) the Secretary provides the organization with reasonable notice and opportunity for hearing (including the right to appeal an initial decision) before imposing any sanction or terminating the contract.''.

(b) CONFORMING REFERENCES TO PREVIOUS PART C.—Any reference in law (in effect before the date of the enactment of this Act) to part C of title XVIII of the Social Security Act is deemed a reference to part D of such title (as in effect after such date).

(c) USE OF INTERIM, FINAL REGULATIONS.—In order to carry out the amendment made by subsection (a) in a timely manner, the Secretary of Health and Human Services may promulgate regulations that take effect on an interim basis, after notice and pending opportunity for public comment.

(d) ADVANCE DIRECTIVES.—Section 1866(f) (42 U.S.C. 1395cc(f)) is amended—

(1) in paragraph (1)—

(A) by inserting ''1853(g),'' after ''1833(s),'', and

(B) by inserting '', MedicarePlus organization,'' after ''provider of services'', and

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

''(4) Nothing in this subsection shall be construed to require the provision of information regarding assisted suicide, euthanasia, or mercy killing.''.

(e) CONFORMING AMENDMENT.—Section 1866(a)(1)(O) (42 U.S.C. 1395cc(a)(1)(O)) is amended by inserting before the semicolon at the end the following: ''and in the case of hospitals to accept as payment in full for inpatient hospital services that are emergency services (as defined in section 1853(b)(4)) that are covered under this title and are furnished to any individual enrolled under part C with a MedicarePlus organization which does not have a contract establishing payment amounts for services furnished to members of the organization the amounts that would be made as a payment in full under this title if the individuals were not so enrolled''.

**SEC. 15003. DUPLICATION AND COORDINATION OF MEDICARE-RELATED PRODUCTS.**

(a) TREATMENT OF CERTAIN HEALTH INSURANCE POLICIES AS NONDUPLICATIVE.—

(1) IN GENERAL.—Effective as if included in the enactment of section 4354 of the Omnibus Budget Reconciliation Act of 1990, section 1882(d)(3)(A) (42 U.S.C. 1395ss(d)(3)(A)) is amended—

(A) by amending clause (i) to read as follows:

''(i) It is unlawful for a person to sell or issue to an individual entitled to benefits under part A or enrolled under part B of this title or electing a MedicarePlus product under section 1805—

''(I) a health insurance policy (other than a medicare supplemental policy) with knowledge that the policy duplicates health benefits to which the individual is otherwise entitled under this title or title XIX,

''(II) in the case of an individual not electing a MedicarePlus product, a medicare supplemental policy with knowledge that the individual is entitled to benefits under another medicare supplemental policy, or

''(III) in the case of an individual electing a MedicarePlus product, a medicare supplemental policy with knowledge that the policy duplicates health benefits to which the individual is otherwise entitled under this title or under another medicare supplemental policy.'';

(B) in clause (iii), by striking ''clause (i)'' and inserting ''clause (i)(II)''; and

(C) by adding at the end the following new clauses:

''(iv) For purposes of this subparagraph a health insurance policy shall be considered to 'duplicate' benefits under this title only when, under its terms, the policy provides specific reimbursement for identical items and services to the extent paid for under this title, and a health insurance policy providing for benefits which are payable to or on behalf of an individual without regard to other health benefit coverage of such individual is not considered to 'duplicate' any health benefits under this title.

''(v) For purposes of this subparagraph, a health insurance policy (or a rider to an insurance contract which is not a health insurance policy), including a policy (such as a long-term care insurance contract described in section 7702B(b) of the Internal Revenue Code of 1986, as added by the Contract with America Tax Relief Act of 1995 (H.R. 1215))

providing benefits for long-term care, nursing home care, home health care, or community-based care, that coordinates against or excludes items and services available or paid for under this title and (for policies sold or issued after January 1, 1996) that discloses such coordination or exclusion in the policy's outline of coverage, is not considered to 'duplicate' health benefits under this title. For purposes of this clause, the terms 'coordinates' and 'coordination' mean, with respect to a policy in relation to health benefits under this title, that the policy under its terms is secondary to, or excludes from payment, items and services to the extent available or paid for under this title.

''(vi) Notwithstanding any other provision of law, no criminal or civil penalty may be imposed at any time under this subparagraph and no legal action may be brought or continued at any time in any Federal or State court if the penalty or action is based on an act or omission that occurred after November 5, 1991, and before the date of the enactment of this clause, and relates to the sale, issuance, or renewal of any health insurance policy during such period, if such policy meets the requirements of clause (iv) or (v).

''(vii) A State may not impose, with respect to the sale or issuance of a policy (or rider) that meets the requirements of this title pursuant to clause (iv) or (v) to an individual entitled to benefits under part A or enrolled under part B or enrolled under a MedicarePlus product under part C, any requirement based on the premise that such a policy or rider duplicates health benefits to which the individual is otherwise entitled under this title.''.

(2) CONFORMING AMENDMENTS.—Section 1882(d)(3) (42 U.S.C. 1395ss(d)(3)) is amended—

(A) in subparagraph (B), by inserting ''(including any MedicarePlus product)'' after ''health insurance policies'';

(B) in subparagraph (C)—

(i) by striking ''with respect to (i)'' and inserting ''with respect to'', and

(ii) by striking '', (ii) the sale'' and all that follows up to the period at the end; and

(C) by striking subparagraph (D).

(3) MEDICAREPLUS PRODUCTS NOT TREATED AS MEDICARE SUPPLEMENTARY POLICIES.—Section 1882(g) (42 U.S.C. 1395ss(g)) is amended by inserting ''a MedicarePlus product or'' after ''and does not include''

(4) REPORT ON DUPLICATION AND COORDINATION OF HEALTH INSURANCE POLICIES THAT ARE NOT MEDICARE SUPPLEMENTAL POLICIES.—Not later than 3 years after the date of the enactment of this Act, the Secretary of Health and Human Services shall prepare and submit to Congress a report on the advisability and feasibility of restricting the sale to medicare beneficiaries of health insurance policies that duplicate (within the meaning of section 1882(d)(3)(A) of the Social Security Act) other health insurance policies that such a beneficiary may have. In preparing such report, the Secretary shall seek the advice of the National Association of Insurance Commissioners and shall take into account the standards established under section 1807 of the Social Security Act for the electronic coordination of benefits.

(b) ADDITIONAL RULES RELATING TO INDIVIDUALS ENROLLED IN MEDICAREPLUS PRODUCTS.—Section 1882 (42 U.S.C. 1395ss) is further amended by adding at the end the following new subsection:

''(u)(1) Notwithstanding the previous provisions of this section, the following provisions shall not apply to a health insurance policy (other than a medicare supplemental policy) provided to an individual who has elected the MedicarePlus option under section 1805:

''(A) Subsections (o)(1), (o)(2), (p)(1)(A)(i), (p)(2), (p)(3), (p)(8), and (p)(9) (insofar as they relate to limitations on benefits or groups of benefits that may be offered).

''(B) Subsection (r) (relating to loss-ratios).

''(2)(A) It is unlawful for a person to sell or issue a policy described in subparagraph (B) to an individual with knowledge that the individual has in effect under section 1805 an election of a high deductible/medisave product.

''(B) A policy described in this subparagraph is a health insurance policy that provides for coverage of expenses that are otherwise required to be counted toward meeting the annual deductible amount provided under the high deductible/medisave product.''.

**SEC. 15004. TRANSITIONAL RULES FOR CURRENT MEDICARE HMO PROGRAM.**

(a) TRANSITION FROM CURRENT CONTRACTS.—

(1) LIMITATION ON NEW CONTRACTS.—

(A) NO NEW RISK-SHARING CONTRACTS AFTER NEW STANDARDS ESTABLISHED.—The Secretary of Health and Human Services (in this section referred to as the ''Secretary'') shall not enter into any risk-sharing contract under section 1876 of the Social Security Act with an eligible organization for any contract year beginning on or after the date standards for MedicarePlus organizations and products are first established under section 1856(a) of such Act with respect to MedicarePlus organizations that are insurers or health maintenance organizations unless such a contract had been in effect under section 1876 of such Act for the organization for the previous contract year.

(B) NO NEW COST REIMBURSEMENT CONTRACTS.—The Secretary shall not enter into any cost reimbursement contract under section 1876 of the Social Security Act beginning for any contract year beginning on or after the date of the enactment of this Act.

(2) TERMINATION OF CURRENT CONTRACTS.—

(A) RISK-SHARING CONTRACTS.—Notwithstanding any other provision of law, the Secretary shall not extend or continue any risk-sharing contract with an eligible organization under section 1876 of the Social Security Act (for which a contract was entered into consistent with paragraph (1)(A)) for any contract year beginning on or after 1 year after the date standards described in paragraph (1)(A) are established.

(B) COST REIMBURSEMENT CONTRACTS.—The Secretary shall not extend or continue any reasonable cost reimbursement contract with an eligible organization under section 1876 of the Social Security Act for any contract year beginning on or after January 1, 1998.

(b) CONFORMING PAYMENT RATES.—

(1) RISK-SHARING CONTRACTS.—Notwithstanding any other provision of law, the Secretary shall provide that payment amounts under risk-sharing contracts under section 1876(a) of the Social Security Act for months in a year (beginning with January 1996) shall be computed—

(A) with respect to individuals entitled to benefits under both parts A and B of title XVIII of such Act, by substituting payment rates under section 1855(a) of such Act for the payment rates otherwise established under section 1876(a) of such Act, and

(B) with respect to individuals only entitled to benefits under part B of such title, by substituting an appropriate proportion of such rates (reflecting the relative proportion of payments under such title attributable to such part) for the payment rates otherwise established under section 1876(a) of such Act. For purposes of carrying out this paragraph for payment for months in 1996, the Secretary shall compute, announce, and apply the payment rates under section 1855(a) of such Act (notwithstanding any deadlines specified in such section) in as timely a manner as possible and may (to the extent necessary) provide for retroactive adjustment in payments made not in accordance with such rates.

(2) COST CONTRACTS.—Notwithstanding any other provision of law, the Secretary shall provide that payment amounts under cost reimbursement contracts under section 1876(a) of the Social Security Act shall take into account adjustments in payment amounts made in parts A and B of title XVIII of such Act pursuant to the amendments made by this title.

(c) ELIMINATION OF 50:50 RULE.—

(1) IN GENERAL.—Section 1876 (42 U.S.C. 1395mm) is amended by striking subsection (f).

(2) CONFORMING AMENDMENTS.—Section 1876 is further amended—

(A) in subsection (c)(3)(A)(i), by striking ''would result in failure to meet the requirements of subsection (f) or'', and

(B) in subsection (i)(1)(C), by striking ''(e), and (f)'' and inserting ''and (e)''.

(3) EFFECTIVE DATE.—The amendments made by this section shall apply to contract years beginning on or after January 1, 1996.

**PART 2—SPECIAL RULES FOR MEDICAREPLUS MEDICAL SAVINGS ACCOUNTS**

**SEC. 15011. MEDICAREPLUS MSA'S.**

(a) IN GENERAL.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to amounts specifically excluded from gross income) is amended by redesignating section 137 as section 138 and by inserting after section 136 the following new section:

**''SEC. 137. MEDICAREPLUS MSA'S.**

''(a) EXCLUSION.—Gross income shall not include any payment to the MedicarePlus MSA of an individual by the Secretary of Health and Human Services under section 1855(f)(1)(B) of the Social Security Act.

''(b) MEDICAREPLUS MSA.—For purposes of this section—

''(1) MEDICAREPLUS MSA.—The term 'MedicarePlus MSA' means a trust created or organized in the United States exclusively for the purpose of paying the qualified medical expenses of the account holder, but only if the written governing instrument creating the trust meets the following requirements:

''(A) Except in the case of a trustee-to-trustee transfer described in subsection (d)(4), no contribution will be accepted unless it is made by the Secretary of Health and Human Services under section 1855(f)(1)(B) of the Social Security Act.

''(B) The trustee is a bank (as defined in section 408(n)), an insurance company (as defined in section 816), or another person who demonstrates to the satisfaction of the Secretary that the manner in which such person will administer the trust will be consistent with the requirements of this section.

''(C) No part of the trust assets will be invested in life insurance contracts.

''(D) The assets of the trust will not be commingled with other property except in a common trust fund or common investment fund.

''(E) The interest of an individual in the balance in his account is nonforfeitable.

''(F) Trustee-to-trustee transfers described in subsection (d)(4) may be made to and from the trust.

''(2) QUALIFIED MEDICAL EXPENSES.—

''(A) IN GENERAL.—The term 'qualified medical expenses' means, with respect to an account holder, amounts paid by such holder—

''(i) for medical care (as defined in section 213(d)) for the account holder, but only to the extent such amounts are not compensated for by insurance or otherwise, or

''(ii) for long-term care insurance for the account holder.

''(B) HEALTH INSURANCE MAY NOT BE PURCHASED FROM ACCOUNT.—Subparagraph (A)(i) shall not apply to any payment for insurance.

''(3) ACCOUNT HOLDER.—The term 'account holder' means the individual on whose behalf the MedicarePlus MSA is maintained.

''(4) CERTAIN RULES TO APPLY.—Rules similar to the rules of subsections (g) and (h) of section 408 shall apply for purposes of this section.

''(c) TAX TREATMENT OF ACCOUNTS.—

''(1) IN GENERAL.—A MedicarePlus MSA is exempt from taxation under this subtitle unless such MSA has ceased to be a MedicarePlus MSA by reason of paragraph (2). Notwithstanding the preceding sentence, any such MSA is subject to the taxes imposed by section 511 (relating to imposition of tax on unrelated business income of charitable, etc. organizations).

''(2) ACCOUNT ASSETS TREATED AS DISTRIBUTED IN THE CASE OF PROHIBITED TRANSACTIONS OR ACCOUNT PLEDGED AS SECURITY FOR LOAN.—Rules similar to the rules of paragraphs (2) and (4) of section 408(e) shall apply to MedicarePlus MSA's, and any amount treated as distributed under such rules shall be treated as not used to pay qualified medical expenses.

''(d) TAX TREATMENT OF DISTRIBUTIONS.—

''(1) INCLUSION OF AMOUNTS NOT USED FOR QUALIFIED MEDICAL EXPENSES.—No amount shall be included in the gross income of the account holder by reason of a payment or distribution from a MedicarePlus MSA which is used exclusively to pay the qualified medical expenses of the account holder. Any amount paid or distributed from a MedicarePlus MSA which is not so used shall be included in the gross income of such holder.

''(2) PENALTY FOR DISTRIBUTIONS NOT USED FOR QUALIFIED MEDICAL EXPENSES IF MINIMUM BALANCE NOT MAINTAINED.—

''(A) IN GENERAL.—The tax imposed by this chapter for any taxable year in which there is a payment or distribution from a MedicarePlus MSA which is not used exclusively to pay the qualified medical expenses of the account holder shall be increased by 50 percent of the excess (if any) of—

''(i) the amount of such payment or distribution, over

''(ii) the excess (if any) of—

''(I) the fair market value of the assets in the MedicarePlus MSA as of the close of the calendar year preceding the calendar year in which the taxable year begins, over

''(II) an amount equal to 60 percent of the deductible under the high deductible/medisave product covering the account holder as of January 1 of the calendar year in which the taxable year begins.

''(B) EXCEPTIONS.—Subparagraph (A) shall not apply if the payment or distribution is made on or after the date the account holder—

''(i) becomes disabled within the meaning of section 72(m)(7), or

''(ii) dies.

''(C) SPECIAL RULES.—For purposes of subparagraph (A)—

''(i) all MedicarePlus MSA's of the account holder shall be treated as 1 account,

''(ii) all payments and distributions not used exclusively to pay the qualified medical expenses of the account holder during any taxable year shall be treated as 1 distribution, and

''(iii) any distribution of property shall be taken into account at its fair market value on the date of the distribution.

''(3) WITHDRAWAL OF ERRONEOUS CONTRIBUTIONS.—Paragraphs (1) and (2) shall not apply to any payment or distribution from a MedicarePlus MSA to the Secretary of Health and Human Services of an erroneous contribution to such MSA and of the net income attributable to such contribution.

''(4) TRUSTEE-TO-TRUSTEE TRANSFERS.—Paragraphs (1) and (2) shall not apply to any trustee-to-trustee transfer from a MedicarePlus MSA of an account holder to another MedicarePlus MSA of such account holder.

''(5) COORDINATION WITH MEDICAL EXPENSE DEDUCTION.—For purposes of section 213, any payment or distribution out of a MedicarePlus MSA for qualified medical expenses shall not be treated as an expense paid for medical care.

''(e) TREATMENT OF ACCOUNT AFTER DEATH OF ACCOUNT HOLDER.—

''(1) TREATMENT IF DESIGNATED BENEFICIARY IS SPOUSE.—

''(A) IN GENERAL.—In the case of an account holder's interest in a MedicarePlus MSA which is payable to (or for the benefit of) such holder's spouse upon the death of such holder, such MedicarePlus MSA shall be treated as a MedicarePlus MSA of such spouse as of the date of such death.

''(B) SPECIAL RULES IF SPOUSE NOT MEDICARE ELIGIBLE.—If, as of the date of such death, such spouse is not entitled to benefits under title XVIII of the Social Security Act, then after the date of such death—

''(i) the Secretary of Health and Human Services may not make any payments to such MedicarePlus MSA, other than payments attributable to periods before such date,

''(ii) in applying subsection (b)(2) with respect to such MedicarePlus MSA, references to the account holder shall be treated as including references to any dependent (as defined in section 152) of such spouse and any subsequent spouse of such spouse, and

''(iii) in lieu of applying subsection (d)(2), the rules of section 220(f)(2) shall apply.

''(2) TREATMENT IF DESIGNATED BENEFICIARY IS NOT SPOUSE.—In the case of an account holder's interest in a MedicarePlus MSA which is payable to (or for the benefit of) any person other than such holder's spouse upon the death of such holder—

''(A) such account shall cease to be a MedicarePlus MSA as of the date of death, and

''(B) an amount equal to the fair market value of the assets in such account on such date shall be includible—

''(i) if such person is not the estate of such holder, in such person's gross income for the taxable year which includes such date, or

''(ii) if such person is the estate of such holder, in such holder's gross income for last taxable year of such holder.

''(f) REPORTS.—

''(1) IN GENERAL.—The trustee of a MedicarePlus MSA shall make such reports regarding such account to the Secretary and to the account holder with respect to—

''(A) the fair market value of the assets in such MedicarePlus MSA as of the close of each calendar year, and

''(B) contributions, distributions, and other matters,

as the Secretary may require by regulations.

''(2) TIME AND MANNER OF REPORTS.—The reports required by this subsection—

''(A) shall be filed at such time and in such manner as the Secretary prescribes in such regulations, and

''(B) shall be furnished to the account holder—

''(i) not later than January 31 of the calendar year following the calendar year to which such reports relate, and

''(ii) in such manner as the Secretary prescribes in such regulations.''

(b) EXCLUSION OF MEDICAREPLUS MSA'S FROM ESTATE TAX.—Part IV of subchapter A of chapter 11 of such Code is amended by adding at the end the following new section:

**''SEC. 2057. MEDICAREPLUS MSA'S.**

''For purposes of the tax imposed by section 2001, the value of the taxable estate shall be determined by deducting from the value of the gross estate an amount equal to the value of any MedicarePlus MSA (as defined in section 137(b)) included in the gross estate.''

(c) TAX ON PROHIBITED TRANSACTIONS.—

(1) Section 4975 of such Code (relating to tax on prohibited transactions) is amended by adding at the end of subsection (c) the following new paragraph:

''(4) SPECIAL RULE FOR MEDICAREPLUS MSA'S.—An individual for whose benefit a MedicarePlus MSA (within the meaning of section 137(b)) is established shall be exempt from the tax imposed by this section with respect to any transaction concerning such account (which would otherwise be taxable under this section) if, with respect to such transaction, the account ceases to be a MedicarePlus MSA by reason of the application of section 137(c)(2) to such account.''

(2) Paragraph (1) of section 4975(e) of such Code is amended to read as follows:

''(1) PLAN.—For purposes of this section, the term 'plan' means—

''(A) a trust described in section 401(a) which forms a part of a plan, or a plan described in section 403(a), which trust or plan is exempt from tax under section 501(a),

''(B) an individual retirement account described in section 408(a),

''(C) an individual retirement annuity described in section 408(b),

''(D) a medical savings account described in section 220(d),

''(E) a MedicarePlus MSA described in section 137(b), or

''(F) a trust, plan, account, or annuity which, at any time, has been determined by the Secretary to be described in any preceding subparagraph of this paragraph.''

(d) FAILURE TO PROVIDE REPORTS ON MEDICAREPLUS MSA'S.—

(1) Subsection (a) of section 6693 of such Code (relating to failure to provide reports on individual retirement accounts or annuities) is amended to read as follows:

''(a) REPORTS.—

''(1) IN GENERAL.—If a person required to file a report under a provision referred to in paragraph (2) fails to file such report at the time and in the manner required by such provision, such person shall pay a penalty of $50 for each failure unless it is shown that such failure is due to reasonable cause.

''(2) PROVISIONS.—The provisions referred to in this paragraph are—

''(A) subsections (i) and (l) of section 408 (relating to individual retirement plans),

''(B) section 220(h) (relating to medical savings accounts), and

''(C) section 137(f) (relating to MedicarePlus MSA's).''

(2) The section heading for section 6693 of such Code is amended to read as follows:

**''SEC. 6693. FAILURE TO FILE REPORTS ON INDIVIDUAL RETIREMENT PLANS AND CERTAIN OTHER TAX-FAVORED ACCOUNTS; PENALTIES RELATING TO DESIGNATED NONDEDUCTIBLE CONTRIBUTIONS.''**

(e) CLERICAL AMENDMENTS.—

(1) The table of sections for part III of subchapter B of chapter 1 of such Code is amended by striking the last item and inserting the following:

''Sec. 137. MedicarePlus MSA's.

''Sec. 138. Cross references to other Acts.''

(2) The table of sections for part 1 of subchapter B of chapter 68 of such Code is amended by striking the item relating to

section 6693 and inserting the following new item:

''Sec. 6693. Failure to file reports on individual retirement plans and certain other tax-favored accounts; penalties relating to designated nondeductible contributions.''

(3) The table of sections for part IV of subchapter A of chapter 11 of such Code is amended by adding at the end the following new item:

''Sec. 2057. MedicarePlus MSA's.''

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

**SEC. 15012. CERTAIN REBATES EXCLUDED FROM GROSS INCOME.**

(a) IN GENERAL.—Section 105 of the Internal Revenue Code of 1986 (relating to amounts received under accident and health plans) is amended by adding at the end the following new subsection:

''(j) CERTAIN REBATES UNDER SOCIAL SECURITY ACT.—Gross income does not include any rebate received under section 1852(e)(1)(A) of the Social Security Act during the taxable year.''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts received after the date of the enactment of this Act.

## PART 3—SPECIAL ANTITRUST RULE FOR PROVIDER SERVICE NETWORKS

**SEC. 15021. APPLICATION OF ANTITRUST RULE OF REASON TO PROVIDER SERVICE NETWORKS.**

(a) RULE OF REASON STANDARD.—In any action under the antitrust laws, or under any State law similar to the antitrust laws—

(1) the conduct of a provider service network in negotiating, making, or performing a contract (including the establishment and modification of a fee schedule and the development of a panel of physicians), to the extent such contract is for the purpose of providing health care services to individuals under the terms of a MedicarePlus PSO product, and

(2) the conduct of any member of such network for the purpose of providing such health care services under such contract to such extent,

shall not be deemed illegal per se. Such conduct shall be judged on the basis of its reasonableness, taking into account all relevant factors affecting competition, including the effects on competition in properly defined markets.

(b) DEFINITIONS.—For purposes of subsection (a):

(1) ANTITRUST LAWS.—The term ''antitrust laws'' has the meaning given it in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12), except that such term includes section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent that such section 5 applies to unfair methods of competition.

(2) HEALTH CARE PROVIDER.—The term ''health care provider'' means any individual or entity that is engaged in the delivery of health care services in a State and that is required by State law or regulation to be licensed or certified by the State to engage in the delivery of such services in the State.

(3) HEALTH CARE SERVICE.—The term ''health care service'' means any service for which payment may be made under a MedicarePlus PSO product including services related to the delivery or administration of such service.

(4) MEDICAREPLUS PROGRAM.—The term ''MedicarePlus program'' means the program under part C of title XVIII of the Social Security Act.

(5) MEDICAREPLUS PSO PRODUCT.—The term ''MedicarePlus PSO product'' means a MedicarePlus product offered by a provider-sponsored organization under part C of title XVIII of the Social Security Act.

(6) PROVIDER SERVICE NETWORK.—The term ''provider service network'' means an organization that—

(A) is organized by, operated by, and composed of members who are health care providers and for purposes that include providing health care services,

(B) is funded in part by capital contributions made by the members of such organization,

(C) with respect to each contract made by such organization for the purpose of providing a type of health care service to individuals under the terms of a MedicarePlus PSO product—

(i) requires all members of such organization who engage in providing such type of health care service to agree to provide health care services of such type under such contract,

(ii) receives the compensation paid for the health care services of such type provided under such contract by such members, and

(iii) provides for the distribution of such compensation,

(D) has established, consistent with the requirements of the MedicarePlus program for provider-sponsored organizations, a program to review, pursuant to written guidelines, the quality, efficiency, and appropriateness of treatment methods and setting of services for all health care providers and all patients participating in such product, along with internal procedures to correct identified deficiencies relating to such methods and such services,

(E) has established, consistent with the requirements of the MedicarePlus program for provider-sponsored organizations, a program to monitor and control utilization of health care services provided under such product, for the purpose of improving efficient, appropriate care and eliminating the provision of unnecessary health care services,

(F) has established a management program to coordinate the delivery of health care services for all health care providers and all patients participating in such product, for the purpose of achieving efficiencies and enhancing the quality of health care services provided, and

(G) has established, consistent with the requirements of the MedicarePlus program for provider-sponsored organizations, a grievance and appeal process for such organization designed to review and promptly resolve beneficiary or patient grievances and complaints.

Such term may include a provider-sponsored organization.

(7) PROVIDER-SPONSORED ORGANIZATION.—The term ''provider-sponsored organization'' means a MedicarePlus organization under the MedicarePlus program that is a provider-sponsored organization (as defined in section ___ of the Social Security Act).

(8) STATE.—The term ''State'' has the meaning given it in section 4G(2) of the Clayton Act (15 U.S.C. 15g(2)).

(c) ISSUANCE OF GUIDELINES.—Not later than 120 days after the date of the enactment of this Act, the Attorney General and the Federal Trade Commission shall issue jointly guidelines specifying the enforcement policies and analytical principles that will be applied by the Department of Justice and the Commission with respect to the operation of subsection (a).

## PART 4—COMMISSIONS

**SEC. 15031. MEDICARE PAYMENT REVIEW COMMISSION.**

(a) IN GENERAL.—Title XVIII, as amended by section 15001(a), is amended by inserting after section 1805 the following new section:

''MEDICARE PAYMENT REVIEW COMMISSION

''SEC. 1806. (a) ESTABLISHMENT.—There is hereby established the Medicare Payment Review Commission (in this section referred to as the 'Commission').

''(b) DUTIES.—

''(1) GENERAL DUTIES AND REPORTS.—

''(A) IN GENERAL.—The Commission shall review, and make recommendations to Congress concerning, payment policies under this title.

''(B) ANNUAL REPORTS.—By not later than June 1 of each year, the Commission shall submit a report to Congress containing an examination of issues affecting the medicare program, including the implications of changes in health care delivery in the United States and in the market for health care services on the medicare program.

''(C) ADDITIONAL REPORTS.—The Commission may submit to Congress from time to time such other reports as the Commission deems appropriate. By not later than May 1, 1997, the Commission shall submit to Congress a report on the matter described in paragraph (2)(G).

''(D) SECRETARIAL RESPONSE IN RULEMAKING.—The Secretary shall respond to recommendations of the Commission in notices of rulemaking proceedings under this title.

''(2) SPECIFIC DUTIES RELATING TO MEDICAREPLUS PROGRAM.—Specifically, the Commission shall review, with respect to the MedicarePlus program under part C—

''(A) the appropriateness of the methodology for making payment to plans under such program, including the making of differential payments and the distribution of differential updates among different payment areas);

''(B) the appropriateness of the mechanisms used to adjust payments for risk and the need to adjust such mechanisms to take into account health status of beneficiaries;

''(C) the implications of risk selection both among MedicarePlus organizations and between the MedicarePlus option and the non-MedicarePlus option;

''(D) in relation to payment under part C, the development and implementation of mechanisms to assure the quality of care for those enrolled with MedicarePlus organizations;

''(E) the impact of the MedicarePlus program on access to care for medicare beneficiaries;

''(F) the feasibility and desirability of extending the rules for open enrollment that apply during the transition period to apply in each county during the first 2 years in which MedicarePlus products are made available to individuals residing in the county; and

''(G) other major issues in implementation and further development of the MedicarePlus program.

''(3) SPECIFIC DUTIES RELATING TO THE FAILSAFE BUDGET MECHANISM.—Specifically, the Commission shall review, with respect to the failsafe budget mechanism described in section 1895—

''(A) the appropriateness of the expenditure projections by the Secretary under section 1895(c) for each medicare sector;

''(B) the appropriateness of the growth factors for each sector and the ability to take into account substitution across sectors;

''(C) the appropriateness of the mechanisms for implementing reductions in payment amounts for different sectors, including any adjustments to reflect changes in

volume or intensity resulting for any payment reductions;

''(D) the impact of the mechanism on provider participation in parts A and B and in the MedicarePlus program; and

''(E) the appropriateness of the medicare benefit budget (under section 1895(c)(2)(C) of the Social Security Act), particularly for fiscal years after fiscal year 2002.

''(4) SPECIFIC DUTIES RELATING TO THE FEE-FOR-SERVICE SYSTEM.—Specifically, the Commission shall review payment policies under parts A and B, including—

''(A) the factors affecting expenditures for services in different sectors, including the process for updating hospital, physician, and other fees,

''(B) payment methodologies; and

''(C) the impact of payment policies on access and quality of care for medicare beneficiaries.

''(5) SPECIFIC DUTIES RELATING TO INTERACTION OF PAYMENT POLICIES WITH HEALTH CARE DELIVERY GENERALLY.—Specifically the Commission shall review the effect of payment policies under this title on the delivery of health care services under this title and assess the implications of changes in the health services market on the medicare program.

''(c) MEMBERSHIP.—

''(1) NUMBER AND APPOINTMENT.—The Commission shall be composed of 15 members appointed by the Comptroller General.

''(2) QUALIFICATIONS.—The membership of the Commission shall include individuals with national recognition for their expertise in health finance and economics, actuarial science, health facility management, health plans and integrated delivery systems, reimbursement of health facilities, allopathic and osteopathic physicians, and other providers of services, and other related fields, who provide a mix of different professionals, broad geographic representation, and a balance between urban and rural representatives, including physicians and other health professionals, employers, third party payors, individuals skilled in the conduct and interpretation of biomedical, health services, and health economics research and expertise in outcomes and effectiveness research and technology assessment. Such membership shall also include representatives of consumers and the elderly.

''(3) CONSIDERATIONS IN INITIAL APPOINTMENT.—To the extent possible, in first appointing members to the Commission the Comptroller General shall consider appointing individuals who (as of the date of the enactment of this section) were serving on the Prospective Payment Assessment Commission or the Physician Payment Review Commission.

''(4) TERMS.—

''(A) IN GENERAL.—The terms of members of the Commission shall be for 3 years except that the Comptroller General shall designate staggered terms for the members first appointed.

''(B) VACANCIES.—Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until a successor has taken office. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

''(5) COMPENSATION.—While serving on the business of the Commission (including traveltime), a member of the Commission shall be entitled to compensation at the per diem equivalent of the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code; and while so serving away from home and member's regular place of business, a member may be allowed travel expenses, as authorized by the Chairman of the Commission. Physicians serving as personnel of the Commission may be provided a physician comparability allowance by the Commission in the same manner as Government physicians may be provided such an allowance by an agency under section 5948 of title 5, United States Code, and for such purpose subsection (i) of such section shall apply to the Commission in the same manner as it applies to the Tennessee Valley Authority. For purposes of pay (other than pay of members of the Commission) and employment benefits, rights, and privileges, all personnel of the Commission shall be treated as if they were employees of the United States Senate.

''(6) CHAIRMAN; VICE CHAIRMAN.—The Comptroller General shall designate a member of the Commission, at the time of appointment of the member, as Chairman and a member as Vice Chairman for that term of appointment.

''(7) MEETINGS.—The Commission shall meet at the call of the Chairman.

''(d) DIRECTOR AND STAFF; EXPERTS AND CONSULTANTS.—Subject to such review as the Comptroller General deems necessary to assure the efficient administration of the Commission, the Commission may—

''(1) employ and fix the compensation of an Executive Director (subject to the approval of the Comptroller General) and such other personnel as may be necessary to carry out its duties (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service);

''(2) seek such assistance and support as may be required in the performance of its duties from appropriate Federal departments and agencies;

''(3) enter into contracts or make other arrangements, as may be necessary for the conduct of the work of the Commission (without regard to section 3709 of the Revised Statutes (41 U.S.C. 5));

''(4) make advance, progress, and other payments which relate to the work of the Commission;

''(5) provide transportation and subsistence for persons serving without compensation; and

''(6) prescribe such rules and regulations as it deems necessary with respect to the internal organization and operation of the Commission.

''(e) POWERS.—

''(1) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this section. Upon request of the Chairman, the head of that department or agency shall furnish that information to the Commission on an agreed upon schedule.

''(2) DATA COLLECTION.—In order to carry out its functions, the Commission shall collect and assess information to—

''(A) utilize existing information, both published and unpublished, where possible, collected and assessed either by its own staff or under other arrangements made in accordance with this section,

''(B) carry out, or award grants or contracts for, original research and experimentation, where existing information is inadequate, and

''(C) adopt procedures allowing any interested party to submit information for the Commission's use in making reports and recommendations.

''(3) ACCESS OF GAO TO INFORMATION.—The Comptroller General shall have unrestricted access to all deliberations, records, and data of the Commission, immediately upon request.

''(4) PERIODIC AUDIT.—The Commission shall be subject to periodic audit by the General Accounting Office.

''(f) AUTHORIZATION OF APPROPRIATIONS.—

''(1) REQUEST FOR APPROPRIATIONS.—The Commission shall submit requests for appropriations in the same manner as the Comptroller General submits requests for appropriations, but amounts appropriated for the Commission shall be separate from amounts appropriated for the Comptroller General.

''(2) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section. 60 percent of such appropriation shall be payable from the Federal Hospital Insurance Trust Fund, and 40 percent of such appropriation shall be payable from the Federal Supplementary Medical Insurance Trust Fund.''.

(b) ABOLITION OF PROPAC AND PPRC.—

(1) PROPAC.—

(A) IN GENERAL.—Section 1886(e) (42 U.S.C. 1395ww(e)) is amended—

(i) by striking paragraphs (2) and (6); and

(ii) in paragraph (3), by striking ''(A) The Commission'' and all that follows through ''(B)''.

(B) CONFORMING AMENDMENT.—Section 1862 (42 U.S.C. 1395y) is amended by striking ''Prospective Payment Assessment Commission'' each place it appears in subsection (a)(1)(D) and subsection (i) and inserting ''Medicare Payment Review Commission''.

(2) PPRC.—

(A) IN GENERAL.—Title XVIII is amended by striking section 1845 (42 U.S.C. 1395w–1).

(B) CONFORMING AMENDMENTS.—

(i) Section 1834(b)(2) (42 U.S.C. 1395m(b)(2)) is amended by striking ''Physician Payment Review Commission'' and inserting ''Medicare Payment Review Commission''.

(ii) Section 1842(b) (42 U.S.C. 1395u(b)) is amended by striking ''Physician Payment Review Commission'' each place it appears in paragraphs (9)(D) and (14)(C)(i) and inserting ''Medicare Payment Review Commission''.

(iii) Section 1848 (42 U.S.C. 1395w–4) is amended by striking ''Physician Payment Review Commission'' and inserting ''Medicare Payment Review Commission'' each place it appears in paragraph (2)(A)(ii), (2)(B)(iii), and (5) of subsection (c), subsection (d)(2)(F), paragraphs (1)(B), (3), and (4)(A) of subsection (f), and paragraphs (6)(C) and (7)(C) of subsection (g).

(c) EFFECTIVE DATE; TRANSITION.—

(1) IN GENERAL.—The Comptroller General shall first provide for appointment of members to the Medicare Payment Review Commission (in this subsection referred to as ''MPRC'') by not later than March 31, 1996.

(2) TRANSITION.—Effective on a date (not later than 30 days after the date a majority of members of the MPRC have first been appointed, the Prospective Payment Assessment Commission (in this subsection referred to as ''ProPAC'') and the Physician Payment Review Commission (in this subsection referred to as ''PPRC''), and amendments made by subsection (b), are terminated. The Comptroller General, to the maximum extent feasible, shall provide for the transfer to the MPRC of assets and staff of ProPAC and PPRC, without any loss of benefits or seniority by virtue of such transfers. Fund balances available to the ProPAC or PPRC for any period shall be available to the MPRC for such period for like purposes.

(3) CONTINUING RESPONSIBILITY FOR REPORTS.—The MPRC shall be responsible for the preparation and submission of reports required by law to be submitted (and which have not been submitted by the date of establishment of the MPRC) by the ProPAC and PPRC, and, for this purpose, any reference in law to either such Commission is

deemed, after the appointment of the MPRC, to refer to the MPRC.

**SEC. 15032. COMMISSION ON THE EFFECT OF THE BABY BOOM GENERATION ON THE MEDICARE PROGRAM.**

(a) ESTABLISHMENT.—There is established a commission to be known as the Commission on the Effect of the Baby Boom Generation on the Medicare Program (in this section referred to as the ''Commission'').

(b) DUTIES.—

(1) IN GENERAL.—The Commission shall—

(A) examine the financial impact on the medicare program of the significant increase in the number of medicare eligible individuals which will occur beginning approximately during 2010 and lasting for approximately 25 years, and

(B) make specific recommendations to the Congress respecting a comprehensive approach to preserve the medicare program for the period during which such individuals are eligible for medicare.

(2) CONSIDERATIONS IN MAKING RECOMMENDATIONS.—In making its recommendations, the Commission shall consider the following:

(A) The amount and sources of Federal funds to finance the medicare program, including the potential use of innovative financing methods.

(B) The most efficient and effective manner of administering the program, including the appropriateness of continuing the application of the failsafe budget mechanism under section 1895 of the Social Security Act for fiscal years after fiscal year 2002 and the appropriate long-term growth rates for contributions electing coverage under MedicarePlus under part C of title XVIII of such Act.

(C) Methods used by other nations to respond to comparable demographic patterns in eligibility for health care benefits for elderly and disabled individuals.

(D) Modifying age-based eligibility to correspond to changes in age-based eligibility under the OASDI program.

(E) Trends in employment-related health care for retirees, including the use of medical savings accounts and similar financing devices.

(c) MEMBERSHIP.—

(1) APPOINTMENT.—The Commission shall be composed of 15 members appointed as follows:

(A) The President shall appoint 3 members.

(B) The Majority Leader of the Senate shall appoint, after consultation with the minority leader of the Senate, 6 members, of whom not more than 4 may be of the same political party.

(C) The Speaker of the House of Representatives shall appoint, after consultation with the minority leader of the House of Representatives, 6 members, of whom not more than 4 may be of the same political party.

(2) CHAIRMAN AND VICE CHAIRMAN.—The Commission shall elect a Chairman and Vice Chairman from among its members.

(3) VACANCIES.—Any vacancy in the membership of the Commission shall be filled in the manner in which the original appointment was made and shall not affect the power of the remaining members to execute the duties of the Commission.

(4) QUORUM.—A quorum shall consist of 8 members of the Commission, except that 4 members may conduct a hearing under subsection (e).

(5) MEETINGS.—The Commission shall meet at the call of its Chairman or a majority of its members.

(6) COMPENSATION AND REIMBURSEMENT OF EXPENSES.—Members of the Commission are not entitled to receive compensation for service on the Commission. Members may be reimbursed for travel, subsistence, and other necessary expenses incurred in carrying out the duties of the Commission.

(d) STAFF AND CONSULTANTS.—

(1) STAFF.—The Commission may appoint and determine the compensation of such staff as may be necessary to carry out the duties of the Commission. Such appointments and compensation may be made without regard to the provisions of title 5, United States Code, that govern appointments in the competitive services, and the provisions of chapter 51 and subchapter III of chapter 53 of such title that relate to classifications and the General Schedule pay rates.

(2) CONSULTANTS.—The Commission may procure such temporary and intermittent services of consultants under section 3109(b) of title 5, United States Code, as the Commission determines to be necessary to carry out the duties of the Commission.

(e) POWERS.—

(1) HEARINGS AND OTHER ACTIVITIES.—For the purpose of carrying out its duties, the Commission may hold such hearings and undertake such other activities as the Commission determines to be necessary to carry out its duties.

(2) STUDIES BY GAO.—Upon the request of the Commission, the Comptroller General shall conduct such studies or investigations as the Commission determines to be necessary to carry out its duties.

(3) COST ESTIMATES BY CONGRESSIONAL BUDGET OFFICE.—

(A) Upon the request of the Commission, the Director of the Congressional Budget Office shall provide to the Commission such cost estimates as the Commission determines to be necessary to carry out its duties.

(B) The Commission shall reimburse the Director of the Congressional Budget Office for expenses relating to the employment in the office of the Director of such additional staff as may be necessary for the Director to comply with requests by the Commission under subparagraph (A).

(4) DETAIL OF FEDERAL EMPLOYEES.—Upon the request of the Commission, the head of any Federal agency is authorized to detail, without reimbursement, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties. Any such detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

(5) TECHNICAL ASSISTANCE.—Upon the request of the Commission, the head of a Federal agency shall provide such technical assistance to the Commission as the Commission determines to be necessary to carry out its duties.

(6) USE OF MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as Federal agencies and shall, for purposes of the frank, be considered a commission of Congress as described in section 3215 of title 39, United States Code.

(7) OBTAINING INFORMATION.—The Commission may secure directly from any Federal agency information necessary to enable it to carry out its duties, if the information may be disclosed under section 552 of title 5, United States Code. Upon request of the Chairman of the Commission, the head of such agency shall furnish such information to the Commission.

(8) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(9) ACCEPTANCE OF DONATIONS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(10) PRINTING.—For purposes of costs relating to printing and binding, including the cost of personnel detailed from the Government Printing Office, the Commission shall be deemed to be a committee of the Congress.

(f) REPORT.—Not later than May 1, 1997, the Commission shall submit to Congress a report containing its findings and recommendations regarding how to protect and preserve the medicare program in a financially solvent manner until 2030 (or, if later, throughout the period of projected solvency of the Federal Old-Age and Survivors Insurance Trust Fund). The report shall include detailed recommendations for appropriate legislative initiatives respecting how to accomplish this objective.

(g) TERMINATION.—The Commission shall terminate 60 days after the date of submission of the report required in subsection (f).

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $1,500,000 to carry out this section. Amounts appropriated to carry out this section shall remain available until expended.

**SEC. 15033. CHANGE IN APPOINTMENT OF ADMINISTRATOR OF HCFA.**

(a) IN GENERAL.—Section 1117 (42 U.S.C. 1317) is amended by striking ''President by and with the advice and consent of the Senate'' and inserting ''Secretary of Health and Human Services''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to Administrators appointed on or after the date of the enactment of this Act.

## PART 5—TREATMENT OF HOSPITALS WHICH PARTICIPATE IN PROVIDER-SPONSORED ORGANIZATIONS

**SEC. 15041. TREATMENT OF HOSPITALS WHICH PARTICIPATE IN PROVIDER-SPONSORED ORGANIZATIONS.**

(a) IN GENERAL.—Section 501 of the Internal Revenue Code of 1986 (relating to exemption from tax on corporations, certain trusts, etc.) is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

''(n) TREATMENT OF HOSPITALS PARTICIPATING IN PROVIDER-SPONSORED ORGANIZATIONS.—An organization shall not fail to be treated as organized and operated exclusively for a charitable purpose for purposes of subsection (c)(3) solely because a hospital which is owned and operated by such organization participates in a provider-sponsored organization (as defined in section 1854(a)(1) of the Social Security Act), whether or not the provider-sponsored organization is exempt from tax. For purposes of subsection (c)(3), any person with a material financial interest in such a provider-sponsored organization shall be treated as a private shareholder or individual with respect to the hospital.''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

## Subtitle B—Preventing Fraud and Abuse

## PART 1—GENERAL PROVISIONS

**SEC. 15101. INCREASING AWARENESS OF FRAUD AND ABUSE.**

(a) BENEFICIARY OUTREACH EFFORTS.—The Secretary of Health and Human Services (acting through the Administrator of the Health Care Financing Administration and the Inspector General of the Department of Health and Human Services) shall make ongoing efforts (through public service announcements, publications, and other appropriate methods) to alert individuals entitled to benefits under the medicare program of the existence of fraud and abuse committed

against the program and the costs to the program of such fraud and abuse, and of the existence of the toll-free telephone line operated by the Secretary to receive information on fraud and abuse committed against the program.

(b) CLARIFICATION OF REQUIREMENT TO PROVIDE EXPLANATION OF MEDICARE BENEFITS.—The Secretary shall provide an explanation of benefits under the medicare program with respect to each item or service for which payment may be made under the program which is furnished to an individual, without regard to whether or not a deductible or coinsurance may be imposed against the individual with respect to the item or service.

(c) PROVIDER OUTREACH EFFORTS; PUBLICATION OF FRAUD ALERTS.—

(1) SPECIAL FRAUD ALERTS.—

(A) IN GENERAL.—

(i) REQUEST FOR SPECIAL FRAUD ALERTS.—Any person may present, at any time, a request to the Secretary to issue and publish a special fraud alert.

(ii) SPECIAL FRAUD ALERT DEFINED.—In this section, a ''special fraud alert'' is a notice which informs the public of practices which the Secretary considers to be suspect or of particular concern under the medicare program or a State health care program (as defined in section 1128(h) of the Social Security Act).

(B) ISSUANCE AND PUBLICATION OF SPECIAL FRAUD ALERTS.—

(i) INVESTIGATION.—Upon receipt of a request for a special fraud alert under subparagraph (A), the Secretary shall investigate the subject matter of the request to determine whether a special fraud alert should be issued. If appropriate, the Secretary (in consultation with the Attorney General) shall issue a special fraud alert in response to the request. All special fraud alerts issued pursuant to this subparagraph shall be published in the Federal Register.

(ii) CRITERIA FOR ISSUANCE.—In determining whether to issue a special fraud alert upon a request under subparagraph (A), the Secretary may consider—

(I) whether and to what extent the practices that would be identified in the special fraud alert may result in any of the consequences described in 15214(b); and

(II) the extent and frequency of the conduct that would be identified in the special fraud alert.

(2) PUBLICATION OF ALL HCFA FRAUD ALERTS IN FEDERAL REGISTER.—Each notice issued by the Health Care Financing Administration which informs the public of practices which the Secretary considers to be suspect or of particular concern under the medicare program or a State health care program (as defined in section 1128(h) of the Social Security Act) shall be published in the Federal Register, without regard to whether or not the notice is issued by a regional office of the Health Care Financing Administration.

**SEC. 15102. BENEFICIARY INCENTIVE PROGRAMS.**

(a) PROGRAM TO COLLECT INFORMATION ON FRAUD AND ABUSE.—

(1) ESTABLISHMENT OF PROGRAM.—Not later than 3 months after the date of the enactment of this Act, the Secretary of Health and Human Services (hereinafter in this subtitle referred to as the ''Secretary'') shall establish a program under which the Secretary shall encourage individuals to report to the Secretary information on individuals and entities who are engaging or who have engaged in acts or omissions which constitute grounds for the imposition of a sanction under section 1128, section 1128A, or section 1128B of the Social Security Act, or who have otherwise engaged in fraud and abuse against the medicare program for which there is a sanction provided under law. The program shall discourage provision of, and not consider, information which is frivolous or otherwise not relevant or material to the imposition of such a sanction.

(2) PAYMENT OF PORTION OF AMOUNTS COLLECTED.—If an individual reports information to the Secretary under the program established under paragraph (1) which serves as the basis for the collection by the Secretary or the Attorney General of any amount of at least $100 (other than any amount paid as a penalty under section 1128B of the Social Security Act), the Secretary may pay a portion of the amount collected to the individual (under procedures similar to those applicable under section 7623 of the Internal Revenue Code of 1986 to payments to individuals providing information on violations of such Code).

(b) PROGRAM TO COLLECT INFORMATION ON PROGRAM EFFICIENCY.—

(1) ESTABLISHMENT OF PROGRAM.—Not later than 3 months after the date of the enactment of this Act, the Secretary shall establish a program under which the Secretary shall encourage individuals to submit to the Secretary suggestions on methods to improve the efficiency of the medicare program.

(2) PAYMENT OF PORTION OF PROGRAM SAVINGS.—If an individual submits a suggestion to the Secretary under the program established under paragraph (1) which is adopted by the Secretary and which results in savings to the program, the Secretary may make a payment to the individual of such amount as the Secretary considers appropriate.

**SEC. 15103. INTERMEDIATE SANCTIONS FOR MEDICARE HEALTH MAINTENANCE ORGANIZATIONS.**

(a) APPLICATION OF INTERMEDIATE SANCTIONS FOR ANY PROGRAM VIOLATIONS.—

(1) IN GENERAL.—Section 1876(i)(1) (42 U.S.C. 1395mm(i)(1)) is amended by striking ''the Secretary may terminate'' and all that follows and inserting the following: ''in accordance with procedures established under paragraph (9), the Secretary may at any time terminate any such contract or may impose the intermediate sanctions described in paragraph (6)(B) or (6)(C) (whichever is applicable) on the eligible organization if the Secretary determines that the organization—

''(A) has failed substantially to carry out the contract;

''(B) is carrying out the contract in a manner inconsistent with the efficient and effective administration of this section;

''(C) is operating in a manner that is not in the best interests of the individuals covered under the contract; or

''(D) no longer substantially meets the applicable conditions of subsections (b), (c), and (e).''.

(2) OTHER INTERMEDIATE SANCTIONS FOR MISCELLANEOUS PROGRAM VIOLATIONS.—Section 1876(i)(6) (42 U.S.C. 1395mm(i)(6)) is amended by adding at the end the following new subparagraph:

''(C) In the case of an eligible organization for which the Secretary makes a determination under paragraph (1) the basis of which is not described in subparagraph (A), the Secretary may apply the following intermediate sanctions:

''(i) civil money penalties of not more than $25,000 for each determination under paragraph (1) if the deficiency that is the basis of the determination has directly adversely affected (or has the substantial likelihood of adversely affecting) an individual covered under the organization's contract;

''(ii) civil money penalties of not more than $10,000 for each week beginning after the initiation of procedures by the Secretary under paragraph (9) during which the deficiency that is the basis of a determination under paragraph (1) exists; and

''(iii) suspension of enrollment of individuals under this section after the date the Secretary notifies the organization of a determination under paragraph (1) and until the Secretary is satisfied that the deficiency that is the basis for the determination has been corrected and is not likely to recur.''.

(3) PROCEDURES FOR IMPOSING SANCTIONS.—Section 1876(i) (42 U.S.C. 1395mm(i)) is amended by adding at the end the following new paragraph:

''(9) The Secretary may terminate a contract with an eligible organization under this section or may impose the intermediate sanctions described in paragraph (6) on the organization in accordance with formal investigation and compliance procedures established by the Secretary under which—

''(A) the Secretary provides the organization with the opportunity to develop and implement a corrective action plan to correct the deficiencies that were the basis of the Secretary's determination under paragraph (1);

''(B) the Secretary shall impose more severe sanctions on organizations that have a history of deficiencies or that have not taken steps to correct deficiencies the Secretary has brought to their attention;

''(C) there are no unreasonable or unnecessary delays between the finding of a deficiency and the imposition of sanctions; and

''(D) the Secretary provides the organization with reasonable notice and opportunity for hearing (including the right to appeal an initial decision) before imposing any sanction or terminating the contract.''.

(4) CONFORMING AMENDMENTS.—(A) Section 1876(i)(6)(B) (42 U.S.C. 1395mm(i)(6)(B)) is amended by striking the second sentence.

(B) Section 1876(i)(6) (42 U.S.C. 1395mm(i)(6)) is further amended by adding at the end the following new subparagraph:

''(D) The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under subparagraph (A) or (B) in the same manner as they apply to a civil money penalty or proceeding under section 1128A(a).''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to contract years beginning on or after January 1, 1996.

**SEC. 15104. VOLUNTARY DISCLOSURE PROGRAM.**

Title XI (42 U.S.C. 1301 et seq.) is amended by inserting after section 1128B the following new section:

''VOLUNTARY DISCLOSURE OF ACTS OR OMISSIONS

''SEC. 1129. (a) ESTABLISHMENT OF VOLUNTARY DISCLOSURE PROGRAM.—Not later than 3 months after the date of the enactment of this section, the Secretary shall establish a program to encourage individuals and entities to voluntarily disclose to the Secretary information on acts or omissions of the individual or entity which constitute grounds for the imposition of a sanction described in section 1128, 1128A, or 1128B.

''(b) EFFECT OF VOLUNTARY DISCLOSURE.—If an individual or entity voluntarily discloses information with respect to an act or omission to the Secretary under subsection (a), the following rules shall apply:

''(1) The Secretary may waive, reduce, or otherwise mitigate any sanction which would otherwise be applicable to the individual or entity under section 1128, 1128A, or 1128B as a result of the act or omission involved.

''(2) No qui tam action may be brought pursuant to chapter 37 of title 31, United States Code, against the individual or entity with respect to the act or omission involved.''.

**SEC. 15105. REVISIONS TO CURRENT SANCTIONS.**

(a) DOUBLING THE AMOUNT OF CIVIL MONETARY PENALTIES.—The maximum amount of civil monetary penalties specified in section 1128A of the Social Security Act or under title XVIII of such Act (as in effect on the day before the date of the enactment of this Act) shall, effective for violations occurring after the date of the enactment of this Act, be double the amount otherwise provided as of such date.

(b) ESTABLISHMENT OF MINIMUM PERIOD OF EXCLUSION FOR CERTAIN INDIVIDUALS AND ENTITIES SUBJECT TO PERMISSIVE EXCLUSION.—Section 1128(c)(3) (42 U.S.C. 1320a–7(c)(3)) is amended by adding at the end the following new subparagraphs:

''(D) In the case of an exclusion of an individual or entity under paragraph (1), (2), or (3) of subsection (b), the period of the exclusion shall be 3 years, unless the Secretary determines in accordance with regulations that a shorter period is appropriate because of mitigating circumstances or that a longer period is appropriate because of aggravating circumstances.

''(E) In the case of an exclusion of an individual or entity under subsection (b)(4) or (b)(5), the period of the exclusion shall not be less than the period during which the individual's or entity's license to provide health care is revoked, suspended, or surrendered, or the individual or the entity is excluded or suspended from a Federal or State health care program.

''(F) In the case of an exclusion of an individual or entity under subsection (b)(6)(B), the period of the exclusion shall be not less than 1 year.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to acts or omissions occurring on or after January 1, 1996.

**SEC. 15106. DIRECT SPENDING FOR ANTI-FRAUD ACTIVITIES UNDER MEDICARE.**

(a) ESTABLISHMENT OF MEDICARE INTEGRITY PROGRAM.—Title XVIII is amended by adding at the end the following new section:

''MEDICARE INTEGRITY PROGRAM

''SEC. 1893. (a) ESTABLISHMENT OF PROGRAM.—There is hereby established the Medicare Integrity Program (hereafter in this section referred to as the 'Program') under which the Secretary shall promote the integrity of the medicare program by entering into contracts in accordance with this section with eligible private entities to carry out the activities described in subsection (b).

''(b) ACTIVITIES DESCRIBED.—The activities described in this subsection are as follows:

''(1) Review of activities of providers of services or other individuals and entities furnishing items and services for which payment may be made under this title (including skilled nursing facilities and home health agencies), including medical and utilization review and fraud review (employing similar standards, processes, and technologies used by private health plans, including equipment and software technologies which surpass the capability of the equipment and technologies used in the review of claims under this title as of the date of the enactment of this section).

''(2) Audit of cost reports.

''(3) Determinations as to whether payment should not be, or should not have been, made under this title by reason of section 1862(b), and recovery of payments that should not have been made.

''(4) Education of providers of services, beneficiaries, and other persons with respect to payment integrity and benefit quality assurance issues.

''(c) ELIGIBILITY OF ENTITIES.—An entity is eligible to enter into a contract under the Program to carry out any of the activities described in subsection (b) if—

''(1) the entity has demonstrated capability to carry out such activities;

''(2) in carrying out such activities, the entity agrees to cooperate with the Inspector General of the Department of Health and Human Services, the Attorney General of the United States, and other law enforcement agencies, as appropriate, in the investigation and deterrence of fraud and abuse in relation to this title and in other cases arising out of such activities;

''(3) the entity's financial holdings, interests, or relationships will not interfere with its ability to perform the functions to be required by the contract in an effective and impartial manner; and

''(4) the entity meets such other requirements as the Secretary may impose.

''(d) PROCESS FOR ENTERING INTO CONTRACTS.—The Secretary shall enter into contracts under the Program in accordance with such procedures as the Secretary may by regulation establish, except that such procedures shall include the following:

''(1) The Secretary shall determine the appropriate number of separate contracts which are necessary to carry out the Program and the appropriate times at which the Secretary shall enter into such contracts.

''(2) The provisions of section 1153(e)(1) shall apply to contracts and contracting authority under this section, except that competitive procedures must be used when entering into new contracts under this section, or at any other time considered appropriate by the Secretary.

''(3) A contract under this section may be renewed without regard to any provision of law requiring competition if the contractor has met or exceeded the performance requirements established in the current contract.

''(e) LIMITATION ON CONTRACTOR LIABILITY.—The Secretary shall by regulation provide for the limitation of a contractor's liability for actions taken to carry out a contract under the Program, and such regulation shall, to the extent the Secretary finds appropriate, employ the same or comparable standards and other substantive and procedural provisions as are contained in section 1157.

''(f) TRANSFER OF AMOUNTS TO MEDICARE ANTI-FRAUD AND ABUSE TRUST FUND.—For each fiscal year, the Secretary shall transfer from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund to the Medicare Anti-Fraud and Abuse Trust Fund under subsection (g) such amounts as are necessary to carry out the activities described in subsection (b). Such transfer shall be in an allocation as reasonably reflects the proportion of such expenditures associated with part A and part B.

''(g) MEDICARE ANTI-FRAUD AND ABUSE TRUST FUND.—

''(1) ESTABLISHMENT.—

''(A) IN GENERAL.—There is hereby established in the Treasury of the United States the Anti-Fraud and Abuse Trust Fund (hereafter in this subsection referred to as the 'Trust Fund'). The Trust Fund shall consist of such gifts and bequests as may be made as provided in subparagraph (B) and such amounts as may be deposited in the Trust Fund as provided in subsection (f), paragraph (3), and title XI.

''(B) AUTHORIZATION TO ACCEPT GIFTS AND BEQUESTS.—The Trust Fund is authorized to accept on behalf of the United States money gifts and bequests made unconditionally to the Trust Fund, for the benefit of the Trust Fund or any activity financed through the Trust Fund.

''(2) INVESTMENT.—

''(A) IN GENERAL.—The Secretary of the Treasury shall invest such amounts of the Fund as such Secretary determines are not required to meet current withdrawals from the Fund in government account serial securities.

''(B) USE OF INCOME.—Any interest derived from investments under subparagraph (A) shall be credited to the Fund.

''(3) AMOUNTS DEPOSITED INTO TRUST FUND.—In addition to amounts transferred under subsection (f), there shall be deposited in the Trust Fund—

''(A) that portion of amounts recovered in relation to section 1128A arising out of a claim under title XVIII as remains after application of subsection (f)(2) (relating to repayment of the Federal Hospital Insurance Trust Fund or the Federal Supplementary Medical Insurance Trust Fund) of that section, as may be applicable,

''(B) fines imposed under section 1128B arising out of a claim under this title, and

''(C) penalties and damages imposed (other than funds awarded to a relator or for restitution) under sections 3729 through 3732 of title 31, United States Code (pertaining to false claims) in cases involving claims relating to programs under title XVIII, XIX, or XXI.

''(4) DIRECT APPROPRIATION OF FUNDS TO CARRY OUT PROGRAM.—

''(A) IN GENERAL.—There are appropriated from the Trust Fund for each fiscal year such amounts as are necessary to carry out the Medicare Integrity Program under this section, subject to subparagraph (B).

''(B) AMOUNTS SPECIFIED.—The amount appropriated under subparagraph (A) for a fiscal year is as follows:

''(i) For fiscal year 1996, such amount shall be not less than $430,000,000 and not more than $440,000,000.

''(ii) For fiscal year 1997, such amount shall be not less than $490,000,000 and not more than $500,000,000.

''(iii) For fiscal year 1998, such amount shall be not less than $550,000,000 and not more than $560,000,000.

''(iv) For fiscal year 1999, such amount shall be not less than $620,000,000 and not more than $630,000,000.

''(v) For fiscal year 2000, such amount shall be not less than $670,000,000 and not more than $680,000,000.

''(vi) For fiscal year 2001, such amount shall be not less than $690,000,000 and not more than $700,000,000.

''(vii) For fiscal year 2002, such amount shall be not less than $710,000,000 and not more than $720,000,000.

''(5) ANNUAL REPORT.—The Secretary shall submit an annual report to Congress on the amount of revenue which is generated and disbursed by the Trust Fund in each fiscal year.''.

(b) ELIMINATION OF FI AND CARRIER RESPONSIBILITY FOR CARRYING OUT ACTIVITIES SUBJECT TO PROGRAM.—

(1) RESPONSIBILITIES OF FISCAL INTERMEDIARIES UNDER PART A.—Section 1816 (42 U.S.C. 1395h) is amended by adding at the end the following new subsection:

''(l) No agency or organization may carry out (or receive payment for carrying out) any activity pursuant to an agreement under this section to the extent that the activity is carried out pursuant to a contract under the Medicare Integrity Program under section 1893.''.

(2) RESPONSIBILITIES OF CARRIERS UNDER PART B.—Section 1842(c) (42 U.S.C. 1395u(c)) is amended by adding at the end the following new paragraph:

''(6) No carrier may carry out (or receive payment for carrying out) any activity pursuant to a contract under this subsection to the extent that the activity is carried out pursuant to a contract under the Medicare Integrity Program under section 1893.''.

(c) CONFORMING AMENDMENT.—Section 1128A(f)(3) (42 U.S.C. 1320a–7a(f)(3)) is amended by striking ''as miscellaneous receipts of the Treasury of the United States'' and inserting ''in the Anti-Fraud and Abuse Trust Fund established under section 1893(g)''.

(d) DIRECT SPENDING FOR MEDICARE-RELATED ACTIVITIES OF INSPECTOR GENERAL.—Section 1893, as added by subsection (a), is amended by adding at the end the following new subsection:

''(h) DIRECT SPENDING FOR MEDICARE-RELATED ACTIVITIES OF INSPECTOR GENERAL.—

''(1) IN GENERAL.—There are appropriated from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund to the Inspector General of the Department of Health and Human Services for each fiscal year such amounts as are necessary to enable the Inspector General to carry out activities relating to the medicare program (as described in paragraph (2)), subject to paragraph (3).

''(2) ACTIVITIES DESCRIBED.—The activities described in this paragraph are as follows:

''(A) Prosecuting medicare-related matters through criminal, civil, and administrative proceedings.

''(B) Conducting investigations relating to the medicare program.

''(C) Performing financial and performance audits of programs and operations relating to the medicare program.

''(D) Performing inspections and other evaluations relating to the medicare program.

''(E) Conducting provider and conumer education activities regarding the requirements of this title.

''(3) AMOUNTS SPECIFIED.—The amount appropriated under paragraph (1) for a fiscal year is as follows:

''(A) For fiscal year 1996, such amount shall be $130,000,000.

''(B) For fiscal year 1997, such amount shall be $181,000,000.

''(C) For fiscal year 1998, such amount shall be $204,000,000.

''(D) For each subsequent fiscal year, the amount appropriated for the previous fiscal year, increased by the percentage increase in aggregate expenditures under this title for the fiscal year involved over the previous fiscal year.

''(4) ALLOCATION OF PAYMENTS AMONG TRUST FUNDS.—The appropriations made under paragraph (1) shall be in an allocation as reasonably reflects the proportion of such expenditures associated with part A and part B.''.

**SEC. 15107. PERMITTING CARRIERS TO CARRY OUT PRIOR AUTHORIZATION FOR CERTAIN ITEMS OF DURABLE MEDICAL EQUIPMENT.**

(a) IN GENERAL.—Section 1834(a)(15) (42 U.S.C. 1395m(a)(15)), as amended by section 135(b) of the Social Security Act Amendments of 1994, is amended by adding at the end the following new subparagraphs:

''(D) APPLICATION BY CARRIERS.—A carrier may develop (and periodically update) a list of items under subparagraph (A) and a list of suppliers under subparagraph (B) in the same manner as the Secretary may develop (and periodically update) such lists.

''(E) WAIVER OF PUBLICATION REQUIREMENT.—A carrier may make an advance determination under subparagraph (C) with respect to an item or supplier on a list developed by the Secretary or the carrier without regard to whether or not the Secretary has promulgated a regulation with respect to the list, except that the carrier may not make such an advance determination with respect to an item or supplier on a list until the expiration of the 30-day period beginning on the date the Secretary or the carrier places the item or supplier on the list.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the enactment of the Social Security Act Amendments of 1994.

**SEC. 15108. NATIONAL HEALTH CARE ANTI-FRAUD TASK FORCE.**

(a) ESTABLISHMENT.—The Attorney General, in consultation with the Secretary of Health and Human Services, shall establish a national health care anti-fraud task force (in this section referred to as the ''task force''). The Attorney General shall establish the task force within 120 days after the date of the enactment of this Act.

(b) COMPOSITION.—The task force shall include representatives of Federal agencies involved in the investigation and prosecution of persons violating laws relating to health care fraud and abuse, including at least one representative from each of the following agencies:

(1) The Department of Justice and the Federal Bureau of Investigation.

(2) The Department of Health and Human Services and the Office of the Inspector General within the Department.

(3) The office in the Department of Defense responsible for administration of the CHAMPUS program.

(4) The Department of Veterans' Affairs.

(5) The United States Postal Inspection Service.

(6) The Internal Revenue Service.

The Attorney General (or the designee of the Attorney General) shall serve as chair of the task force.

(c) DUTIES.—The task force shall coordinate Federal law enforcement activities relating to health care fraud and abuse in order to better control fraud and abuse in the delivery of health care in the United States. Specifically, the task force shall coordinate activities—

(1) in order to assure the effective targeting and investigation of persons who organize, direct, finance, or otherwise knowingly engage in health care fraud, and

(2) in order to assure full and effective cooperation between Federal and State agencies involved in health care fraud investigations.

(d) STAFF.—Each member of the task force who represents an agency shall be responsible for providing for the detail (from the agency) of at least one full-time staff person to staff the task force. Such detail shall be without change in salary, compensation, benefits, and other employment-related matters.

**SEC. 15109. STUDY OF ADEQUACY OF PRIVATE QUALITY ASSURANCE PROGRAMS.**

(a) IN GENERAL.—The Administrator of the Health Care Financing Administration (acting through the Director of the Office of Research and Demonstrations) shall enter into an agreement with a private entity to conduct a study during the 5-year period beginning on the date of the enactment of this Act of the adequacy of the quality assurance programs and consumer protections used by the MedicarePlus program under part C of title XVIII of the Social Security Act (as inserted by section 15002(a)), and shall include in the study an analysis of the effectiveness of such programs in protecting plan enrollees against the risk of insufficient provision of benefits which may result from utilization controls.

(b) REPORT.—Not later than 6 months after the conclusion of the 5-year period described in subsection (a), the Administrator shall submit a report to Congress on the study conducted under subsection (a).

**SEC. 15110. PENALTY FOR FALSE CERTIFICATION FOR HOME HEALTH SERVICES.**

(a) IN GENERAL.—Section 1128A(b) (42 U.S.C. 1320a–7a(b)) is amended by adding at the end the following new paragraph:

''(3)(A) Any physician who executes a document described in subparagraph (B) with respect to an individual knowing that all of the requirements referred to in such subparagraph are not met with respect to the individual shall be subject to a civil monetary penalty of not more than the greater of—

''(i) $5,000, or

''(ii) three times the amount of the payments under title XVIII for home health services which are made pursuant to such certification.

''(B) A document described in this subparagraph is any document that certifies, for purposes of title XVIII, that an individual meets the requirements of section 1814(a)(2)(C) or 1835(a)(2)(A) in the case of home health services furnished to the individual.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to certifications made on or after the date of the enactment of this Act.

**SEC. 15111. PILOT PROJECTS.**

The Secretary of Health and Human Services shall establish and operate 5 pilot projects (in various geographic regions of the United States) under which the Secretary shall implement innovative approaches to monitor payment claims under the medicare program to detect those claims that are wasteful or fraudulent.

**PART 2—REVISIONS TO CRIMINAL LAW**

**SEC. 15121. DEFINITION OF FEDERAL HEALTH CARE OFFENSE.**

(a) IN GENERAL.—Chapter 2 of title 18, United States Code, is amended by adding at the end the following:

**''§ 24. Definition of Federal health care offense**

''(a) As used in this title, the term 'Federal health care offense' means—

''(1) a violation of, or criminal conspiracy to violate section 226, 227, 669, 1035, 1347, or 1518 of this title;

''(2) a violation of, or criminal conspiracy to violate section 1128B of the Social Security Act (42 U.S.C. 1320a–7b);

''(3) a violation of, or criminal conspiracy to violate section 201, 287, 371, 664, 666, 1001, 1027, 1341, 1343, or 1954 of this title, if the violation or conspiracy relates to a health care benefit program;

''(4) a violation of, or criminal conspiracy to violate section 501 or 511 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1131 or 29 U.S.C. 1141), if the violation or conspiracy relates to a health care benefit program;

''(5) the commission of, or attempt to commit, an act which constitutes grounds for the imposition of a penalty under section 303 of the Federal Food, Drug, and Cosmetic Act, if the act or attempt relates to a health care benefit program; or

''(6) a violation of, or criminal conspiracy to violate, section 3 of the Anti-Kickback Act of 1986 (41 U.S.C. 53), if the violation or conspiracy relates to a health care benefit program.

''(b) As used in this title, the term 'health care benefit program' has the meaning given such term in section 1347(b) of this title.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 2 of title 18, United States Code, is amended by inserting after the item relating to section 23 the following new item:

''24. Definition relating to Federal health care offense defined.''.

**SEC. 15122. HEALTH CARE FRAUD.**

(a) IN GENERAL.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following:

**''§ 1347. Health care fraud**

''(a) Whoever, having devised or intending to devise a scheme or artifice, commits or

attempts to commit an act in furtherance of or for the purpose of executing such scheme or artifice—

''(1) to defraud any health care benefit program; or

''(2) to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control of, any health care benefit program,

shall be fined under this title or imprisoned not more than 10 years, or both. If the violation results in serious bodily injury (as defined in section 1365 of this title), such person shall be fined under this title or imprisoned not more than 20 years, or both; and if the violation results in death, such person shall be fined under this title, or imprisoned for any term of years or for life, or both.

''(b) As used in this section, the term 'health care benefit program' means any public or private plan or contract under which any medical benefit, item, or service is provided to any individual, and includes any individual or entity who is providing a medical benefit, item, or service for which payment may be made under the plan or contract.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 63 of title 18, United States Code, is amended by adding at the end the following:

''1347. Health care fraud.''

**SEC. 15123. THEFT OR EMBEZZLEMENT.**

(a) IN GENERAL.—Chapter 31 of title 18, United States Code, is amended by adding at the end the following:

**''§ 669. Theft or embezzlement in connection with health care**

''(a) Whoever embezzles, steals, or otherwise without authority willfully and unlawfully converts to the use of any person other than the rightful owner, or intentionally misapplies any of the moneys, funds, securities, premiums, credits, property, or other assets of a health care benefit program, shall be fined under this title or imprisoned not more than 10 years, or both.

''(b) As used in this section, the term 'health care benefit program' has the meaning given such term in section 1347(b) of this title.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 31 of title 18, United States Code, is amended by adding at the end the following:

''669. Theft or embezzlement in connection with health care.''.

**SEC. 15124. FALSE STATEMENTS.**

(a) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by adding at the end the following:

**''§ 1035. False statements relating to health care matters**

''(a) Whoever, in any matter involving a health care benefit program, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, shall be fined under this title or imprisoned not more than 5 years, or both.

''(b) As used in this section, the term 'health care benefit program' has the meaning given such term in section 1347(b) of this title.''.

''(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 47 of title 18, United States Code, is amended by adding at the end the following new item:

''1035. False statements relating to health care matters.''.

**SEC. 15125. BRIBERY AND GRAFT.**

(a) IN GENERAL.—Chapter 11 of title 18, United States Code, is amended by adding at the end the following:

**''§ 226. Bribery and graft in connection with health care**

''(a) Whoever—

''(1) directly or indirectly, corruptly gives, offers, or promises anything of value to a health care official, or offers or promises to give anything of value to any other person, or attempts to violate this subsection, with intent—

''(A) to influence any of the health care official's actions, decisions, or duties relating to a health care benefit program;

''(B) to influence such an official to commit or aid in the committing, or collude in or allow, any fraud, or make opportunity for the commission of any fraud, on a health care benefit program; or

''(C) to induce such an official to engage in any conduct in violation of the lawful duty of such official; or

''(2) being a health care official, directly or indirectly, corruptly demands, seeks, receives, accepts, or agrees to accept anything of value personally or for any other person or entity, the giving of which violates paragraph (1) of this subsection, or attempts to violate this subsection,

shall be fined under this title or imprisoned not more than 15 years, or both.

''(b) Whoever—

''(1) otherwise than as provided by law for the proper discharge of any duty, directly or indirectly gives, offers, or promises anything of value to a health care official, for or because of any of the health care official's actions, decisions, or duties relating to a health care benefit program, or attempts to violate this subsection; or

''(2) being a health care official, otherwise than as provided by law for the proper discharge of any duty, directly or indirectly, demands, seeks, receives, accepts or agrees to accept anything of value personally or for any other person or entity, the giving of which violates paragraph (1) of this subsection, or attempts to violate this subsection.

shall be fined under this title, or imprisoned not more than 2 years, or both.

''(c) As used in this section—

''(1) the term 'health care official'' means—

''(A) an administrator, officer, trustee, fiduciary, custodian, counsel, agent, or employee of any health care benefit program;

''(B) an officer, counsel, agent, or employee, of an organization that provides services under contract to any health care benefit program; or

''(C) an official, employee, or agent of an entity having regulatory authority over any health care benefit program; and

''(2) the term 'health care benefit program' has the meaning given such term in section 1347(b) of this title.''.

(b) CLERICAL AMENDMENT.—The table of chapters at the beginning of chapter 11 of title 18, United States Code, is amended by adding at the end the following new item:

''226. Bribery and graft in connection with health care.''.

**SEC. 15126. ILLEGAL REMUNERATION WITH RESPECT TO HEALTH CARE BENEFIT PROGRAMS.**

(a) IN GENERAL.—Chapter 11 of title 18, United States Code, is amended by adding at the end the following:

**''§ 227. Illegal remuneration with respect to health care benefit programs**

''(a) Whoever knowingly and willfully solicits or receives any remuneration (including any kickback, bribe, or rebate) directly or indirectly, overtly or covertly, in cash or in kind—

''(1) in return for referring any individual to a person for the furnishing or arranging for the furnishing of any item or service for which payment may be made in whole or in part by any health care benefit program; or

''(2) in return for purchasing, leasing, ordering, or arranging for or recommending purchasing, leasing, or ordering any good, facility, service, or item for which payment may be made in whole or in part by any health care benefit program, or attempting to do so,

shall be fined under this title or imprisoned for not more than 5 years, or both.

''(b) Whoever knowingly and willfully offers or pays any remuneration (including any kickback, bribe, or rebate) directly or indirectly, overtly, or covertly, in cash or in kind to any person to induce such person—

''(1) to refer an individual to a person for the furnishing or arranging for the furnishing of any item or service for which payment may be made in whole or in part by any health benefit program; or

''(2) to purchase, lease, order, or arrange for or recommend purchasing, leasing, or ordering any good, facility, service, or item for which payment may be made in whole or in part by any health benefit program or attempts to do so,

shall be fined under this title or imprisoned for not more than 5 years, or both.

''(c) Subsections (a) and (b) shall not apply to—

''(1) a discount or other reduction in price obtained by a provider of services or other entity under a health care benefit program if the reduction in price is properly disclosed and appropriately reflected in the costs claimed or charges made by the provider or entity under a health care benefit program;

''(2) any amount paid by an employer to an employee (who has a bona fide employment relationship with such employer) for employment in the provision of covered items or services if the amount of the remuneration under the arrangement is consistent with the fair market value of the services and is not determined in a manner that takes into account (directly or indirectly) the volume or value of any referrals;

''(3) any amount paid by a vendor of goods or services to a person authorized to act as a purchasing agent for a group of individuals or entities who are furnishing services reimbursed under a health care benefit program if—

''(A) the person has a written contract, with each such individual or entity, which specifies the amount to be paid the person, which amount may be a fixed amount or a percentage of the value of the purchases made by each such individual or entity under the contract, and

''(B) in the case of an entity that is a provider of services (as defined in section 1861(u) of the Social Security Act, the person discloses (in such form and manner as the Secretary of Health and Human Services requires) to the entity and, upon request, to the Secretary the amount received from each such vendor with respect to purchases made by or on behalf of the entity;

''(4) a waiver of any coinsurance under part B of title XVIII of the Social Security Act by a federally qualified health care center with respect to an individual who qualifies for subsidized services under a provision of the Public Health Service Act; and

''(5) any payment practice specified by the Secretary of Health and Human Services in regulations promulgated pursuant to section 14(a) of the Medicare and Medicaid Patient and Program Protection Act of 1987.

''(d) Any person injured in his business or property by reason of a violation of this section or section 226 of this title may sue there

for in any appropriate United States district court and shall recover threefold the damages such person sustains and the cost of the suit, including a reasonable attorney's fee.

''(e) As used in this section, 'health care benefit program' has the meaning given such term in section 1347(b) of this title.''.

''(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 11 of title 18, United States Code, is amended by adding at the end the following:

''227. Illegal remuneration with respect to health care benefit programs.''.

(c) CONFORMING AMENDMENT.—Section 1128B of the Social Security Act (42 U.S.C. 1320a—7b) is amended by striking subsection (b).

**SEC. 15127. OBSTRUCTION OF CRIMINAL INVESTIGATIONS OF HEALTH CARE OFFENSES.**

''(a) IN GENERAL.—Chapter 73 of title 18, United States Code, is amended by adding at the end the following:

**''§ 1518. Obstruction of criminal investigations of health care offenses**

''(a) Whoever willfully prevents, obstructs, misleads, delays or attempts to prevent, obstruct, mislead, or delay the communication of information or records relating to a violation of a health care offense to a criminal investigator shall be fined under this title or imprisoned not more than 5 years, or both.

''(b) As used in this section the term 'health care offense' has the meaning given such term in section 24 of this title.

''(c) As used in this section the term 'criminal investigator' means any individual duly authorized by a department, agency, or armed force of the United States to conduct or engage in investigations for prosecutions for violations of health care offenses.''.

''(b) ''CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 73 of title 18, United States Code, is amended by adding at the end the following new item:

''1518. Obstruction of criminal investigations of health care offenses.''.

**SEC. 15128. CIVIL PENALTIES FOR VIOLATIONS OF FEDERAL HEALTH CARE OFFENSES.**

(a) IN GENERAL.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following:

**''§ 1348. Civil penalties for violations of Federal health care offenses**

''The Attorney General may bring a civil action in the appropriate United States district court against any person who engages in conduct constituting a violation of Federal health care offense, as that term is defined in section 24 of this title and, upon proof of such conduct by a preponderance of the evidence, such person shall be subject to a civil penalty of not more than $50,000 for each violation or the amount of compensation or proceeds which the person received or offered for the prohibited conduct, whichever amount is greater. The imposition of a civil penalty under this section does not preclude any other criminal or civil statutory, common law, or administrative remedy, which is available by law to the United States or any other person.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 63 of title 18, United States Code, is amended by adding at the end the following item:

''1348. Civil penalties for violations of Federal health care offenses.''.

**SEC. 15129. INJUNCTIVE RELIEF RELATING TO HEALTH CARE OFFENSES.**

Section 1345(a)(1) of title 18, United States Code, is amended—

(1) by striking ''or'' at the end of subparagraph (A);

(2) by inserting ''or'' at the end of subparagraph (B); and

(3) by adding at the end the following:

''(C) committing or about to commit a Federal health care offense (as defined in section 24 of this title).''.

**SEC. 15130. AUTHORIZED INVESTIGATIVE DEMAND PROCEDURES.**

(a) IN GENERAL.—Chapter 233 of title 18, United States Code, is amended by adding after section 3485 the following:

**''§ 3486. Authorized investigative demand procedures**

''(a) AUTHORIZATION.—(1) In any investigation relating to functions set forth in paragraph (2), the Attorney General or the Director of the Federal Bureau of Investigation or their designees may issue in writing and cause to be served a summons compelling the attendance and testimony of witnesses and requiring the production of any records (including any books, papers, documents, electronic media, or other objects or tangible things), which may be relevant to an authorized law enforcement inquiry, that a person or legal entity may possess or have care, custody, or control. The attendance of witnesses and the production of records may be required from any place in any State or in any territory or other place subject to the jurisdiction of the United States at any designated place of hearing; except that a witness shall not be required to appear at any hearing more than 500 miles distant from the place where he was served with a subpoena. Witnesses summoned under this section shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. A summons requiring the production of records shall describe the objects required to be produced and prescribe a return date within a reasonable period of time within which the objects can be assembled and made available.

''(2) Investigative demands utilizing an administrative summons are authorized for:

''(A) Any investigation with respect to any act or activity constituting an offense involving a Federal health care offense as that term is defined in section 24 of title 18, United States Code.

''(B) Any investigation, with respect to violations of sections 1073 and 1074 of title 18, United States Code, or in which an individual has been lawfully charged with a Federal offense and such individual is avoiding prosecution or custody or confinement after conviction of such offense or attempt.

''(b) SERVICE.—A subpoena issued under this section may be served by any person designated in the subpoena to serve it. Service upon a natural person may be made by personal delivery of the subpoena to him. Service may be made upon a domestic or foreign corporation or upon a partnership or other unincorporated association which is subject to suit under a common name, by delivering the subpoena to an officer, to a managing or general agent, or to any other agent authorized by appointment or by law to receive service to process. The affidavit of the person serving the subpoena entered on a true copy thereof by the person serving it shall be proof of service.

''(c) ENFORCEMENT.—In the case of contumacy by or refusal to obey a subpoena issued to any person, the Attorney General may invoke the aid of any court of the United States within the jurisdiction of which the investigation is carried on or of which the subpoenaed person is an inhabitant, or in which he carries on business or may be found, to compel compliance with the subpoena. The court may issue an order requiring the subpoenaed person to appear before the Attorney General to produce records, if so ordered, or to give testimony touching the matter under investigation. Any failure to obey the order of the court may be punished by the court as a contempt thereof. All process in any such case may be served in any judicial district in which such person may be found.

''(d) IMMUNITY FROM CIVIL LIABILITY.—Notwithstanding any Federal, State, or local law, any person, including officers, agents, and employees, receiving a summons under this section, who complies in good faith with the summons and thus produces the materials sought, shall not be liable in any court of any State or the United States to any customer or other person for such production or for nondisclosure of that production to the customer.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 223 of title 18, United States Code, is amended by inserting after the item relating to section 3485 the following new item:

''3486. Authorized investigative demand procedures.''.

(c) CONFORMING AMENDMENT.—Section 1510(b)(3)(B) of title 18, United States Code, is amended by inserting ''or a Federal Bureau of Investigation summons (issued under section 3486 of title 18),'' after ''subpoena''.

**SEC. 15131. GRAND JURY DISCLOSURE.**

Section 3322 of title 18, United States Code, is amended—

(1) by redesignating subsections (c) and (d) as subsection (d) and (e), respectively; and

(2) by inseritng after subsection (b) the following:

''(c) A person who is privy to grand jury information concerning a health care offense—

''(1) received in the course of duty as an attorney for the Government; or

''(2) disclosed under rule 6(e)(3)(A)(ii) of the Federal Rules of Criminal Procedure;

may disclose that information to an attorney for the Government to use in any civil investigation or proceeding related to a Federal health care offense (as defined in section 24 of this title).''.

**SEC. 15132. MISCELLANEOUS AMENDMENTS TO TITLE 18, UNITED STATES CODE.**

(a) LAUNDERING OF MONETARY INSTRUMENTS.—Section 1956(c)(7) of title 18, United States Code, is amended by adding at the end thereof the following:

''(F) Any act or activity constituting an offense involving a Federal health care offense as that term is defined in section 24 of title 18, United States Code.''.

(b) ENHANCED PENALTIES.—Section 2326(2) of title 18, United States Code, is amended by striking ''sections that—'' and inserting ''or in the case of a Federal health care offense as that term is defined in section 24 of this title, that—''.

(c) AUTHORIZATION FOR INTERCEPTION OF WIRE, ORAL, OR ELECTRONIC COMMUNICATIONS.—Section 2516(1)(c) of title 18, United States Code is amended—

(1) by inserting ''section 226 (bribery and graft in connection with health care), section 227 (illegal remunerations)'' after ''section 224 (bribery in sporting contests),''; and

(2) by inserting ''section 1347 (health care fraud)'' after ''section 1344 (relating to bank fraud),''.

(d) DEFINITIONS.—Section 1961(1) of title 18, United States Code, is amended—

(1) by inserting ''sections 226 and 227 (relating to bribery and graft, and illegal remuneration in connection with health care)'' after ''section 224 (relating to sports bribery),'';

(2) by inserting ''section 669 (relating to theft or embezzlement in connection with health care)'' after ''section 664 (relating to embezzlement from pension and welfare funds),''; and

(3) by inserting ''section 1347 (relating to health care fraud)'' after ''section 1344 (relating to financial institution fraud),''.

(e) CRIMINAL FORFEITURE.—Section 982(a) of title 18, United States Code, is amended by adding at the end the following new paragraph:

''(6) The court in imposing sentence on a person convicted of a Federal health care offense as defined in section 24 of this title, shall order that the offender forfeit to the United States any real or personal property constituting or derived from proceeds that the offender obtained directly or indirectly as the result of the offense.''.

(f) REWARDS FOR INFORMATION LEADING TO PROSECUTION AND CONVICTION.—Section 3059(c)(1) of title 18, United States Code, is amended by inserting ''or furnishes information unknown to the Government relating to a possible prosecution of a Federal health care offense as defined in section 24 of this title, which results in a conviction'' before the period at the end.

**Subtitle C—Regulatory Relief**

PART 1—PHYSICIAN OWNERSHIP REFERRAL REFORM

**SEC. 15201. REPEAL OF PROHIBITIONS BASED ON COMPENSATION ARRANGEMENTS.**

(a) IN GENERAL.—Section 1877(a)(2) (42 U.S.C. 1395nn(a)(2)) is amended by striking ''is—'' and all that follows through ''equity,'' and inserting the following: ''is (except as provided in subsection (c)) an ownership or investment interest in the entity through equity,''.

(b) CONFORMING AMENDMENTS.—Section 1877 (42 U.S.C. 1395nn) is amended as follows:

(1) In subsection (b)—

(A) in the heading, by striking ''TO BOTH OWNERSHIP AND COMPENSATION ARRANGEMENT PROHIBITIONS'' and inserting ''WHERE FINANCIAL RELATIONSHIP EXISTS''; and

(B) by redesignating paragraph (4) as paragraph (7).

(2) In subsection (c)—

(A) by amending the heading to read as follows: ''EXCEPTION FOR OWNERSHIP OR INVESTMENT INTEREST IN PUBLICLY TRADED SECURITIES AND MUTUAL FUNDS''; and

(B) in the matter preceding paragraph (1), by striking ''subsection (a)(2)(A)'' and inserting ''subsection (a)(2)''.

(3) In subsection (d)—

(A) by striking the matter preceding paragraph (1);

(B) in paragraph (3), by striking ''paragraph (1)'' and inserting ''paragraph (4)''; and

(C) by redesignating paragraphs (1), (2), and (3) as paragraphs (4), (5), and (6), and by transferring and inserting such paragraphs after paragraph (3) of subsection (b).

(4) By striking subsection (e).

(5) In subsection (f)(2)—

(A) in the matter preceding paragraph (1), by striking ''ownership, investment, and compensation'' and inserting ''ownership and investment'';

(B) in paragraph (2), by striking ''subsection (a)(2)(A)'' and all that follows through ''subsection (a)(2)(B)),'' and inserting ''subsection (a)(2),''; and

(C) in paragraph (2), by striking ''or who have such a compensation relationship with the entity''.

(6) In subsection (h)—

(A) by striking paragraphs (1), (2), and (3);

(B) in paragraph (4)(A), by striking clauses (iv) and (vi);

(C) in paragraph (4)(B), by striking ''RULES.—'' and all that follows through ''(ii) FACULTY'' and inserting ''RULES FOR FACULTY''; and

(D) by adding at the end of paragraph (4) the following new subparagraph:

''(C) MEMBER OF A GROUP.—A physician is a 'member' of a group if the physician is an owner or a bona fide employee, or both, of the group.''.

**SEC. 15202. REVISION OF DESIGNATED HEALTH SERVICES SUBJECT TO PROHIBITION.**

(a) IN GENERAL.—Section 1877(h)(6) (42 U.S.C. 1395nn(h)(6)) is amended by striking subparagraphs (B) through (K) and inserting the following:

''(B) Parenteral and enteral nutrients, equipment, and supplies.

''(C) Magnetic resonance imaging and computerized tomography services.

''(D) Outpatient physical or occupational therapy services.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 1877(b)(2) (42 U.S.C. 1395nn(b)(2)) is amended in the matter preceding subparagraph (A) by striking ''services'' and all that follows through ''supplies)—'' and inserting ''services—''.

(2) Section 1877(h)(5)(C) (42 U.S.C. 1395nn(h)(5)(C)) is amended—

(A) by striking '', a request by a radiologist for diagnostic radiology services, and a request by a radiation oncologist for radiation therapy,'' and inserting ''and a request by a radiologist for magnetic resonance imaging or for computerized tomography'', and

(B) by striking ''radiologist, or radiation oncologist'' and inserting ''or radiologist''.

**SEC. 15203. DELAY IN IMPLEMENTATION UNTIL PROMULGATION OF REGULATIONS.**

(a) IN GENERAL.—Section 13562(b) of OBRA–1993 (42 U.S.C. 1395nn note) is amended—

(1) in paragraph (1), by striking ''paragraph (2)'' and inserting ''paragraphs (2) and (3)''; and

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

''(3) PROMULGATION OF REGULATIONS.—Notwithstanding paragraphs (1) and (2), the amendments made by this section shall not apply to any referrals made before the effective date of final regulations promulgated by the Secretary of Health and Human Services to carry out such amendments.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if included in the enactment of OBRA–1993.

**SEC. 15204. EXCEPTIONS TO PROHIBITION.**

(a) REVISIONS TO EXCEPTION FOR IN-OFFICE ANCILLARY SERVICES.—

(1) REPEAL OF SITE-OF-SERVICE REQUIREMENT.—Section 1877 (42 U.S.C. 1395nn) is amended—

(A) by amending subparagraph (A) of subsection (b)(2) to read as follows:

''(A) that are furnished personally by the referring physician, personally by a physician who is a member of the same group practice as the referring physician, or personally by individuals who are under the general supervision of the physician or of another physician in the group practice, and'', and

(B) by adding at the end of subsection (h) the following new paragraph:

''(7) GENERAL SUPERVISION.—An individual is considered to be under the 'general supervision' of a physician if the physician (or group practice of which the physician is a member) is legally responsible for the services performed by the individual and for ensuring that the individual meets licensure and certification requirements, if any, applicable under other provisions of law, regardless of whether or not the physician is physically present when the individual furnishes an item or service.''.

(2) CLARIFICATION OF TREATMENT OF PHYSICIAN OWNERS OF GROUP PRACTICE.—Section 1877(b)(2)(B) (42 U.S.C. 1395nn(b)(2)(B)) is amended by striking ''physician or such group practice'' and inserting ''physician, such group practice, or the physician owners of such group practice''.

(3) CONFORMING AMENDMENT.—Section 1877(b)(2) (42 U.S.C. 1395nn(b)(2)) is amended by amending the heading to read as follows: ''ANCILLARY SERVICES FURNISHED PERSONALLY OR THROUGH GROUP PRACTICE.—''.

(b) CLARIFICATION OF EXCEPTION FOR SERVICES FURNISHED IN A RURAL AREA.—Paragraph (5) of section 1877(b) (42 U.S.C. 1395nn(b)), as transferred by section 15201(b)(3)(C), is amended by striking ''substantially all'' and inserting ''not less than 75 percent''.

(c) REVISION OF EXCEPTION FOR CERTAIN MANAGED CARE ARRANGEMENTS.—Section 1877(b)(3) (42 U.S.C. 1395nn(b)(3)) is amended—

(1) in the heading by inserting ''MANAGED CARE ARRANGEMENTS'' after ''PREPAID PLANS'';

(2) in the matter preceding subparagraph (A), by striking ''organization—'' and inserting ''organization, directly or through contractual arrangements with other entities, to individuals enrolled with the organization—'';

(3) in subparagraph (A), by inserting ''or part C'' after ''section 1876'';

(4) by striking ''or'' at the end of subparagraph (C);

(5) by striking the period at the end of subparagraph (D) and inserting a comma; and

(6) by adding at the end the following new subparagraphs:

''(E) with a contract with a State to provide services under the State plan under title XIX (in accordance with section 1903(m)) or a State MediGrant plan under title XXI; or

''(F) which is a MedicarePlus organization under part C or which provides or arranges for the provision of health care items or services pursuant to a written agreement between the organization and an individual or entity if the written agreement places the individual or entity at substantial financial risk for the cost or utilization of the items or services which the individual or entity is obligated to provide, whether through a withhold, capitation, incentive pool, per diem payment, or any other similar risk arrangement which places the individual or entity at substantial financial risk.''.

(d) NEW EXCEPTION FOR SHARED FACILITY SERVICES.—

(1) IN GENERAL.—Section 1877(b) (42 U.S.C. 1395nn(b)), as amended by section 15201(b)(3)(C), is amended—

(A) by redesignating paragraphs (4) through (7) as paragraphs (5) through (8); and

(B) by inserting after paragraph (3) the following new paragraph:

''(4) SHARED FACILITY SERVICES.—In the case of a designated health service consisting of a shared facility service of a shared facility—

''(A) that is furnished—

''(i) personally by the referring physician who is a shared facility physician or personally by an individual directly employed or under the general supervision of such a physician,

''(ii) by a shared facility in a building in which the referring physician furnishes substantially all of the services of the physician that are unrelated to the furnishing of shared facility services, and

''(iii) to a patient of a shared facility physician; and

''(B) that is billed by the referring physician or a group practice of which the physician is a member.''.

(2) DEFINITIONS.—Section 1877(h) (42 U.S.C. 1395nn(h)), as amended by section 15201(b)(6), is amended by inserting before paragraph (4) the following new paragraph:

''(1) SHARED FACILITY RELATED DEFINITIONS.—

''(A) SHARED FACILITY SERVICE.—The term 'shared facility service' means, with respect to a shared facility, a designated health service furnished by the facility to patients of shared facility physicians.

''(B) SHARED FACILITY.—The term 'shared facility' means an entity that furnishes shared facility services under a shared facility arrangement.

''(C) SHARED FACILITY PHYSICIAN.—The term 'shared facility physician' means, with respect to a shared facility, a physician (or a group practice of which the physician is a member) who has a financial relationship under a shared facility arrangement with the facility.

''(D) SHARED FACILITY ARRANGEMENT.—The term 'shared facility arrangement' means, with respect to the provision of shared facility services in a building, a financial arrangement—

''(i) which is only between physicians who are providing services (unrelated to shared facility services) in the same building,

''(ii) in which the overhead expenses of the facility are shared, in accordance with methods previously determined by the physicians in the arrangement, among the physicians in the arrangement, and

''(iii) which, in the case of a corporation, is wholly owned and controlled by shared facility physicians.''.

(e) NEW EXCEPTION FOR SERVICES FURNISHED IN COMMUNITIES WITH NO ALTERNATIVE PROVIDERS.—Section 1877(b) (42 U.S.C. 1395nn(b)), as amended by section 15201(b)(3)(C) and subsection (d)(1), is amended—

(1) by redesignating paragraphs (5) through (8) as paragraphs (6) through (9); and

(2) by inserting after paragraph (4) the following new paragraph:

''(5) NO ALTERNATIVE PROVIDERS IN AREA.—In the case of a designated health service furnished in any area with respect to which the Secretary determines that individuals residing in the area do not have reasonable access to such a designated health service for which subsection (a)(1) does not apply.''.

(f) NEW EXCEPTION FOR SERVICES FURNISHED IN AMBULATORY SURGICAL CENTERS.—Section 1877(b) (42 U.S.C. 1395nn(b)), as amended by section 15201(b)(3)(C), subsection (d)(1), and subsection (e)(1), is amended—

(1) by redesignating paragraphs (6) through (9) as paragraphs (7) through (10); and

(2) by inserting after paragraph (5) the following new paragraph:

''(6) SERVICES FURNISHED IN AMBULATORY SURGICAL CENTERS.—In the case of a designated health service furnished in an ambulatory surgical center described in section 1832(a)(2)(F)(i).''.

(g) NEW EXCEPTION FOR SERVICES FURNISHED IN RENAL DIALYSIS FACILITIES.—Section 1877(b) (42 U.S.C. 1395nn(b)), as amended by section 15201(b)(3)(C), subsection (d)(1), subsection (e)(1), and subsection (f), is amended—

(1) by redesignating paragraphs (7) through (10) as paragraphs (8) through (11); and

(2) by inserting after paragraph (6) the following new paragraph:

''(7) SERVICES FURNISHED IN RENAL DIALYSIS FACILITIES.—In the case of a designated health service furnished in a renal dialysis facility under section 1881.''.

(h) NEW EXCEPTION FOR SERVICES FURNISHED IN A HOSPICE.—Section 1877(b) (42 U.S.C. 1395nn(b)), as amended by section 15201(b)(3)(C), subsection (d)(1), subsection (e)(1), subsection (f), and subsection (g), is amended—

(1) by redesignating paragraphs (8) through (11) as paragraphs (9) through (12); and

(2) by inserting after paragraph (7) the following new paragraph:

''(8) SERVICES FURNISHED BY A HOSPICE PROGRAM.—In the case of a designated health service furnished by a hospice program under section 1861(dd)(2).''.

(i) NEW EXCEPTION FOR SERVICES FURNISHED IN A COMPREHENSIVE OUTPATIENT REHABILITATION FACILITY.—Section 1877(b) (42 U.S.C. 1395nn(b)), as amended by section 15201(b)(3)(C), subsection (d)(1), subsection (e)(1), subsection (f), subsection (g), and subsection (h), is amended—

(1) by redesignating paragraphs (9) through (12) as paragraphs (10) through (13); and

(2) by inserting after paragraph (8) the following new paragraph:

''(9) SERVICES FURNISHED IN A COMPREHENSIVE OUTPATIENT REHABILITATION FACILITY.—In the case of a designated health service furnished in a comprehensive outpatient rehabilitation facility (as defined in section 1861(cc)(2)).''.

(i) DEFINITION OF REFERRAL.—Section 1877(h)(5)(A) (42 U.S.C. 1395nn(h)(5)(A)) is amended—

(1) by striking ''an item or service'' and inserting ''a designated health service'', and

(2) by striking ''the item or service'' and inserting ''the designated health service''.

**SEC. 15205. REPEAL OF REPORTING REQUIREMENTS.**

Section 1877 (42 U.S.C. 1395nn) is amended—

(1) by striking subsection (f); and

(2) by striking subsection (g)(5).

**SEC. 15206. PREEMPTION OF STATE LAW.**

Section 1877 (42 U.S.C. 1395nn) is amended by adding at the end the following new subsection:

''(i) PREEMPTION OF STATE LAW.—This section preempts State law to the extent State law is inconsistent with this section.''.

**SEC. 15207. EFFECTIVE DATE.**

Except as provided in section 15203(b), the amendments made by this part shall apply to referrals made on or after August 14, 1995, regardless of whether or not regulations are promulgated to carry out such amendments.

## PART 2—OTHER MEDICARE REGULATORY RELIEF

**SEC. 15211. REPEAL OF MEDICARE AND MEDICAID COVERAGE DATA BANK.**

(a) IN GENERAL.—Section 1144 (42 U.S.C. 1320b–14) is repealed.

(b) CONFORMING AMENDMENTS.—

(1) MEDICARE.—Section 1862(b)(5) (42 U.S.C. 1395y(b)(5)) is amended—

(A) in subparagraph (B), by striking ''under—'' and all that follows through the end and inserting ''subparagraph (A) for purposes of carrying out this subsection.'', and

(B) in subparagraph (C)(i), by striking ''subparagraph (B)(i)'' and inserting ''subparagraph (B)''.

(2) MEDICAID.—Section 1902(a)(25)(A)(i) (42 U.S.C. 1396a(a)(25)(A)(i)) is amended by striking ''including the use of'' and all that follows through ''any additional measures''.

(3) ERISA.—Section 101(f) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021(f)) is repealed.

(4) DATA MATCHES.—Section 552a(a)(8)(B) of title 5, United States Code, is amended—

(A) by adding ''; or'' at the end of clause (v),

(B) by striking ''or'' at the end of clause (vi), and

(C) by striking clause (vii).

**SEC. 15212. CLARIFICATION OF LEVEL OF INTENT REQUIRED FOR IMPOSITION OF SANCTIONS.**

(a) CLARIFICATION OF LEVEL OF KNOWLEDGE REQUIRED FOR IMPOSITION OF CIVIL MONETARY PENALTIES.—

(1) IN GENERAL.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)) is amended—

(A) in paragraphs (1) and (2), by inserting ''knowingly'' before ''presents'' each place it appears; and

(B) in paragraph (3), by striking ''gives'' and inserting ''knowingly gives or causes to be given''.

(2) DEFINITION OF STANDARD.—Section 1128A(i) (42 U.S.C. 1320a–7a(i)) is amended by adding at the end the following new paragraph:

''(6) The term 'should know' means that a person, with respect to information—

''(A) acts in deliberate ignorance of the truth or falsity of the information; or

''(B) acts in reckless disregard of the truth or falsity of the information,

and no proof of specific intent to defraud is required.''.

(b) CLARIFICATION OF EFFECT AND APPLICATION OF SAFE HARBOR EXCEPTIONS.—For purposes of section 1128B(b)(3) of the Social Security Act, the specification of any payment practice in regulations promulgated pursuant to section 14(a) of the Medicare and Medicaid Program and Patient Protection Act of 1987 is—

(1) solely for the purpose of adding additional exceptions to the types of conduct which are not subject to an anti-kickback penalty under such section and not for the purpose of limiting the scope of such exceptions; and

(2) for the purpose of prescribing criteria for qualifying for such an exception notwithstanding the intent of the party involved.

(c) LIMITING IMPOSITION OF ANTI-KICKBACK PENALTIES TO ACTIONS WITH SIGNIFICANT PURPOSE TO INDUCE REFERRALS.—Section 1128B(b)(2) (42 U.S.C. 1320a–7b(b)(2)) is amended in the matter preceding subparagraph (A) by striking ''to induce'' and inserting ''for the significant purpose of inducing''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to acts or omissions occurring on or after January 1, 1996.

**SEC. 15213. ADDITIONAL EXCEPTION TO ANTI-KICKBACK PENALTIES FOR MANAGED CARE ARRANGEMENTS.**

(a) IN GENERAL.—Section 1128B(b)(3) (42 U.S.C. 1320a–7b(b)(3)) is amended—

(1) by striking ''and'' at the end of subparagraph (D);

(2) by striking the period at the end of subparagraph (E) and inserting ''; and''; and

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

''(F) any remuneration between an organization and an individual or entity providing services pursuant to a written agreement between the organization and the individual or entity if the organization is a MedicarePlus organization under part C of title XVIII or if the written agreement places the individual or entity at substantial financial risk for the cost or utilization of the items or services which the individual or entity is obligated to provide, whether through a withhold, capitation, incentive pool, per diem payment, or any other similar risk arrangement which places the individual or entity at substantial financial risk.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to acts or omissions occurring on or after January 1, 1996.

**SEC. 15214. SOLICITATION AND PUBLICATION OF MODIFICATIONS TO EXISTING SAFE HARBORS AND NEW SAFE HARBORS.**

(a) IN GENERAL.—

(1) SOLICITATIONS.—Not later than January 1, 1996, and not less than annually thereafter, the Secretary of Health and Human Services shall publish a notice in the Federal Register soliciting proposals, which will be accepted during a 60-day period, for—

(A) modifications to existing safe harbors issued pursuant to section 14(a) of the Medicare and Medicaid Patient and Program Protection Act of 1987;

(B) additional safe harbors specifying payment practices that shall not be treated as a criminal offense under section 1128B(b) of the Social Security Act and shall not serve as the basis for an exclusion under section 1128(b)(7) of such Act; and

(C) special fraud alerts to be issued pursuant to section 15101(c).

(2) PUBLICATION OF PROPOSED MODIFICATIONS AND PROPOSED ADDITIONAL SAFE HARBORS.—Not later than 120 days after receiving the proposals described in subparagraphs (A) and (B) of paragraph (1), the Secretary, after considering such proposals in consultation with the Attorney General, shall publish in the Federal Register proposed modifications to existing safe harbors and proposed additional safe harbors, if appropriate, with a 60-day comment period. After considering any public comments received during this period, the Secretary shall issue final rules modifying the existing safe harbors and establishing new safe harbors, as appropriate.

(3) REPORT.—The Inspector General shall, in an annual report to Congress or as part of the year-end semiannual report required by section 5 of the Inspector General Act of 1978, describe the proposals received under subparagraphs (A) and (B) of paragraph (1) and explain which proposals were included in the publication described in paragraph (2), which proposals were not included in that publication, and the reasons for the rejection of the proposals that were not included.

(b) CRITERIA FOR MODIFYING AND ESTABLISHING SAFE HARBORS.—In modifying and establishing safe harbors under subsection (a)(2), the Secretary may consider the extent to which providing a safe harbor for the specified payment practice may result in any of the following:

(1) An increase or decrease in access to health care services.

(2) An increase or decrease in the quality of health care services.

(3) An increase or decrease in patient freedom of choice among health care providers.

(4) An increase or decrease in competition among health care providers.

(5) An increase or decrease in the cost to health care programs of the Federal Government.

(6) An increase or decrease in the potential overutilization of health care services.

(7) Any other factors the Secretary deems appropriate in the interest of preventing fraud and abuse in health care programs of the Federal Government.

**SEC. 15215. ISSUANCE OF ADVISORY OPINIONS UNDER TITLE XI.**

(a) IN GENERAL.—Title XI (42 U.S.C. 1301 et seq.), as amended by section 15104(a), is amended by inserting after section 1129 the following new section:

''ADVISORY OPINIONS

''SEC. 1130. (a) ISSUANCE OF ADVISORY OPINIONS.—The Secretary shall issue written advisory opinions as provided in this section.

''(b) MATTERS SUBJECT TO ADVISORY OPINIONS.—The Secretary shall issue advisory opinions as to the following matters:

''(1) What constitutes prohibited remuneration within the meaning of section 1128B(b).

''(2) Whether an arrangement or proposed arrangement satisfies the criteria set forth in section 1128B(b)(3) for activities which do not result in prohibited remuneration.

''(3) Whether an arrangement or proposed arrangement satisfies the criteria which the Secretary has established, or shall establish by regulation for activities which do not result in prohibited remuneration.

''(4) What constitutes an inducement to reduce or limit services to individuals entitled to benefits under title XVIII or title XIX or title XXI within the meaning of section 1128B(b).

''(5) Whether any activity or proposed activity constitutes grounds for the imposition of a sanction under section 1128, 1128A, or 1128B.

''(c) MATTERS NOT SUBJECT TO ADVISORY OPINIONS.—Such advisory opinions shall not address the following matters:

''(1) Whether the fair market value shall be, or was paid or received for any goods, services or property.

''(2) Whether an individual is a bona fide employee within the requirements of section 3121(d)(2) of the Internal Revenue Code of 1986.

''(d) EFFECT OF ADVISORY OPINIONS.—

''(1) BINDING AS TO SECRETARY AND PARTIES INVOLVED.—Each advisory opinion issued by the Secretary shall be binding as to the Secretary and the party or parties requesting the opinion.

''(2) FAILURE TO SEEK OPINION.—The failure of a party to seek an advisory opinion may not be introduced into evidence to prove that the party intended to violate the provisions of sections 1128, 1128A, or 1128B.

''(e) REGULATIONS.—

''(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this section, the Secretary shall issue regulations to carry out this section. Such regulations shall provide for—

''(A) the procedure to be followed by a party applying for an advisory opinion;

''(B) the procedure to be followed by the Secretary in responding to a request for an advisory opinion;

''(C) the interval in which the Secretary shall respond;

''(D) the reasonable fee to be charged to the party requesting an advisory opinion; and

''(E) the manner in which advisory opinions will be made available to the public.

''(2) SPECIFIC CONTENTS.—Under the regulations promulgated pursuant to paragraph (1)—

''(A) the Secretary shall be required to respond to a party requesting an advisory opinion by not later than 30 days after the request is received; and

''(B) the fee charged to the party requesting an advisory opinion shall be equal to the costs incurred by the Secretary in responding to the request.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to requests for advisory opinions made on or after January 1, 1996.

**SEC. 15216. PRIOR NOTICE OF CHANGES IN BILLING AND CLAIMS PROCESSING REQUIREMENTS FOR PHYSICIANS' SERVICES.**

Except as may be specifically provided by Congress, the Secretary of Health and Human Services may not implement any change in the requirements imposed on the billing and processing of claims for payment for physicians' services under part B of the medicare program unless the Secretary notifies the individuals furnishing such services of the change not later than 120 days before the effective date of the change.

## PART 3—PROMOTING PHYSICIAN SELF-POLICING

**SEC. 15221. EXEMPTION FROM ANTITRUST LAWS FOR CERTAIN ACTIVITIES OF MEDICAL SELF-REGULATORY ENTITIES.**

(a) EXEMPTION DESCRIBED.—An activity relating to the provision of health care services shall be exempt from the antitrust laws, and any State law similar to the antitrust laws, if the activity is within the safe harbor described in subsection (b).

(b) SAFE HARBOR FOR ACTIVITIES OF MEDICAL SELF-REGULATORY ENTITIES.—

(1) IN GENERAL.—The safe harbor referred to in subsection (a) is, subject to paragraph (2), any activity of a medical self-regulatory entity relating to standard setting or standard enforcement activities that are designed to promote the quality of health care services provided to patients.

(2) EXCEPTION.—No activity of a medical self-regulatory entity may be deemed to fall under the safe harbor established under paragraph (1) if the activity—

(A) is conducted for purposes of financial gain, or

(B) interferes with the provision of health care services by any health care provider who is not a member of the specific profession which is subject to the authority of the medical self-regulatory entity.

(c) DEFINITIONS.—For purposes of this section:

(1) ANTITRUST LAWS.—The term ''antitrust laws'' has the meaning given it in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)), except that such term includes section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent such section applies to unfair methods of competition.

(2) HEALTH BENEFIT PLAN.—The term ''health benefit plan'' means—

(A) a hospital or medical expense incurred policy or certificate,

(B) a hospital or medical service plan contract,

(C) a health maintenance subscriber contract,

(D) a multiple employer welfare arrangement or employee benefit plan (as defined under the Employee Retirement Income Security Act of 1974), or

(E) a MedicarePlus product (offered under part C of title XVIII of the Social Security Act),

that provides benefits with respect to health care services.

(3) HEALTH CARE SERVICE.—The term ''health care service'' means any service for which payment may be made under a health benefit plan including services related to the delivery or administration of such service.

(4) MEDICAL SELF-REGULATORY ENTITY.—The term ''medical self-regulatory entity'' means a medical society or association, a specialty board, a recognized accrediting agency, or a hospital medical staff, and includes the members, officers, employees, consultants, and volunteers or committees of such an entity.

(5) HEALTH CARE PROVIDER.—The term ''health care provider'' means any individual or entity that is engaged in the delivery of health care services in a State and that is required by State law or regulation to be licensed or certified by the State to engage in the delivery of such services in the State.

(6) STANDARD SETTING OR STANDARD ENFORCEMENT ACTIVITIES.—The term ''standard setting or standard enforcement activities'' means—

(A) accreditation of health care practitioners, health care providers, medical education institutions, or medical education programs,

(B) technology assessment and risk management activities,

(C) the development and implementation of practice guidelines or practice parameters, or

(D) official peer review proceedings undertaken by a hospital medical staff (or committee thereof) or a medical society or association for purposes of evaluating the professional conduct or quality of health care provided by a medical professional.

## Subtitle D—Medical Liability Reform

## PART 1—GENERAL PROVISIONS

**SEC. 15301. FEDERAL REFORM OF HEALTH CARE LIABILITY ACTIONS.**

(a) APPLICABILITY.—This subtitle shall apply with respect to any health care liability action brought in any State or Federal court, except that this subtitle shall not apply to—

(1) an action for damages arising from a vaccine-related injury or death to the extent that title XXI of the Public Health Service Act applies to the action, or

(2) an action under the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.).

(b) PREEMPTION.—This subtitle shall preempt any State law to the extent such law is inconsistent with the limitations contained in this subtitle. This subtitle shall not preempt any State law that provides for defenses or places limitations on a person's liability in addition to those contained in this subtitle or otherwise imposes greater restrictions than those provided in this subtitle.

(c) EFFECT ON SOVEREIGN IMMUNITY AND CHOICE OF LAW OR VENUE.—Nothing in subsection (b) shall be construed to—

(1) waive or affect any defense of sovereign immunity asserted by any State under any provision of law;

(2) waive or affect any defense of sovereign immunity asserted by the United States;

(3) affect the applicability of any provision of the Foreign Sovereign Immunities Act of 1976;

(4) preempt State choice-of-law rules with respect to claims brought by a foreign nation or a citizen of a foreign nation; or

(5) affect the right of any court to transfer venue or to apply the law of a foreign nation or to dismiss a claim of a foreign nation or of a citizen of a foreign nation on the ground of inconvenient forum.

(d) AMOUNT IN CONTROVERSY.—In an action to which this subtitle applies and which is brought under section 1332 of title 28, United States Code, the amount of noneconomic damages or punitive damages, and attorneys' fees or costs, shall not be included in determining whether the matter in controversy exceeds the sum or value of $50,000.

(e) FEDERAL COURT JURISDICTION NOT ESTABLISHED ON FEDERAL QUESTION GROUNDS.—Nothing in this subtitle shall be construed to establish any jurisdiction in the district courts of the United States over health care liability actions on the basis of section 1331 or 1337 of title 28, United States Code.

**SEC. 15302. DEFINITIONS.**

As used in this subtitle:

(1) ACTUAL DAMAGES.—The term ''actual damages'' means damages awarded to pay for economic loss.

(2) ALTERNATIVE DISPUTE RESOLUTION SYSTEM; ADR.—The term ''alternative dispute resolution system'' or ''ADR'' means a system established under Federal or State law that provides for the resolution of health care liability claims in a manner other than through health care liability actions.

(3) CLAIMANT.—The term ''claimant'' means any person who brings a health care liability action and any person on whose behalf such an action is brought. If such action is brought through or on behalf of an estate, the term includes the claimant's decedent. If such action is brought through or on behalf of a minor or incompetent, the term includes the claimant's legal guardian.

(4) CLEAR AND CONVINCING EVIDENCE.—The term ''clear and convincing evidence'' is that measure or degree of proof that will produce in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established. Such measure or degree of proof is more than that required under preponderance of the evidence but less than that required for proof beyond a reasonable doubt.

(5) COLLATERAL SOURCE PAYMENTS.—The term ''collateral source payments'' means any amount paid or reasonably likely to be paid in the future to or on behalf of a claimant, or any service, product, or other benefit provided or reasonably likely to be provided in the future to or on behalf of a claimant, as a result of an injury or wrongful death, pursuant to—

(A) any State or Federal health, sickness, income-disability, accident or workers' compensation Act;

(B) any health, sickness, income-disability, or accident insurance that provides health benefits or income-disability coverage;

(C) any contract or agreement of any group, organization, partnership, or corporation to provide, pay for, or reimburse the cost of medical, hospital, dental, or income disability benefits; and

(D) any other publicly or privately funded program.

(6) DRUG.—The term ''drug'' has the meaning given such term in section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)(1)).

(7) ECONOMIC LOSS.—The term ''economic loss'' means any pecuniary loss resulting from injury (including the loss of earnings or other benefits related to employment, medical expense loss, replacement services loss, loss due to death, burial costs, and loss of business or employment opportunities), to the extent recovery for such loss is allowed under applicable State law.

(8) HARM.—The term ''harm'' means any legally cognizable wrong or injury for which punitive damages may be imposed.

(9) HEALTH BENEFIT PLAN.—The term ''health benefit plan'' means—

(A) a hospital or medical expense incurred policy or certificate,

(B) a hospital or medical service plan contract,

(C) a health maintenance subscriber contract, or

(D) a MedicarePlus product (offered under part C of title XVIII of the Social Security Act),

that provides benefits with respect to health care services.

(10) HEALTH CARE LIABILITY ACTION.—The term ''health care liability action'' means a civil action brought in a State or Federal court against a health care provider, an entity which is obligated to provide or pay for health benefits under any health benefit plan (including any person or entity acting under a contract or arrangement to provide or administer any health benefit), or the manufacturer, distributor, supplier, marketer, promoter, or seller of a medical product, in which the claimant alleges a claim (including third party claims, cross claims, counter claims, or distribution claims) based upon the provision of (or the failure to provide or pay for) health care services or the use of a medical product, regardless of the theory of liability on which the claim is based or the number of plaintiffs, defendants, or causes of action.

(11) HEALTH CARE LIABILITY CLAIM.—The term ''health care liability claim'' means a claim in which the claimant alleges that injury was caused by the provision of (or the failure to provide) health care services.

(12) HEALTH CARE PROVIDER.—The term ''health care provider'' means any person that is engaged in the delivery of health care services in a State and that is required by the laws or regulations of the State to be licensed or certified by the State to engage in the delivery of such services in the State.

(13) HEALTH CARE SERVICE.—The term ''health care service'' means any service for which payment may be made under a health benefit plan including services related to the delivery or administration of such service.

(14) MEDICAL DEVICE.—The term ''medical device'' has the meaning given such term in section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h)).

(15) NONECONOMIC DAMAGES.—The term ''noneconomic damages'' means damages paid to an individual for pain and suffering, inconvenience, emotional distress, mental anguish, loss of consortium, injury to reputation, humiliation, and other nonpecuniary losses.

(16) PERSON.—The term ''person'' means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity, including any governmental entity.

(17) PRODUCT SELLER.—

(A) IN GENERAL.—Subject to subparagraph (B), the term ''product seller'' means a person who, in the course of a business conducted for that purpose—

(i) sells, distributes, rents, leases, prepares, blends, packages, labels, or is otherwise involved in placing, a product in the stream of commerce, or

(ii) installs, repairs, or maintains the harm-causing aspect of a product.

(B) EXCLUSION.—Such term does not include—

(i) a seller or lessor of real property;

(ii) a provider of professional services in any case in which the sale or use of a product is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(iii) any person who—

(I) acts in only a financial capacity with respect to the sale of a product; or

(II) leases a product under a lease arrangement in which the selection, possession, maintenance, and operation of the product are controlled by a person other than the lessor.

(18) PUNITIVE DAMAGES.—The term ''punitive damages'' means damages awarded against any person not to compensate for actual injury suffered, but to punish or deter such person or others from engaging in similar behavior in the future.

(19) STATE.—The term ''State'' means each of the several States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and any other territory or possession of the United States.

**SEC. 15303. EFFECTIVE DATE.**

This subtitle will apply to any health care liability action brought in a Federal or State court and to any health care liability claim subject to an alternative dispute resolution system, that is initiated on or after the date of enactment of this subtitle, except that any health care liability claim or action arising from an injury occurring prior to the date of enactment of this subtitle shall be governed by the applicable statute of limitations provisions in effect at the time the injury occurred.

## PART 2—UNIFORM STANDARDS FOR HEALTH CARE LIABILITY ACTIONS

**SEC. 15311. STATUTE OF LIMITATIONS.**

A health care liability action may not be brought after the expiration of the 2-year period that begins on the date on which the alleged injury that is the subject of the action was discovered or should reasonably have been discovered, but in no case after the expiration of the 5-year period that begins on the date the alleged injury occurred.

**SEC. 15312. CALCULATION AND PAYMENT OF DAMAGES.**

(a) TREATMENT OF NONECONOMIC DAMAGES.—

(1) LIMITATION ON NONECONOMIC DAMAGES.—The total amount of noneconomic damages that may be awarded to a claimant for losses resulting from the injury which is the subject of a health care liability action may not exceed $250,000, regardless of the number of parties against whom the action is brought or the number of actions brought with respect to the injury.

(2) JOINT AND SEVERAL LIABILITY.—In any health care liability action brought in State or Federal court, a defendant shall be liable

only for the amount of noneconomic damages attributable to such defendant in direct proportion to such defendant's share of fault or responsibility for the claimant's actual damages, as determined by the trier of fact. In all such cases, the liability of a defendant for noneconomic damages shall be several and not joint.

(b) TREATMENT OF PUNITIVE DAMAGES.—

(1) GENERAL RULE.—Punitive damages may, to the extent permitted by applicable State law, be awarded in any health care liability action for harm in any Federal or State court against a defendant if the claimant establishes by clear and convincing evidence that the harm suffered was the result of conduct—

(A) specifically intended to cause harm, or

(B) conduct manifesting a conscious, flagrant indifference to the rights or safety of others.

(2) PROPORTIONAL AWARDS.—The amount of punitive damages that may be awarded in any health care liability action subject to this subtitle shall not exceed 3 times the amount of damages awarded to the claimant for economic loss, or $250,000, whichever is greater. This paragraph shall be applied by the court and shall not be disclosed to the jury.

(3) APPLICABILITY.—This subsection shall apply to any health care liability action brought in any Federal or State court on any theory where punitive damages are sought. This subsection does not create a cause of action for punitive damages. This subsection does not preempt or supersede any State or Federal law to the extent that such law would further limit the award of punitive damages.

(4) BIFURCATION.—At the request of any party, the trier of fact shall consider in a separate proceeding whether punitive damages are to be awarded and the amount of such award. If a separate proceeding is requested, evidence relevant only to the claim of punitive damages, as determined by applicable State law, shall be inadmissible in any proceeding to determine whether actual damages are to be awarded.

(5) DRUGS AND DEVICES.—

(A) IN GENERAL.—(i) Punitive damages shall not be awarded against a manufacturer or product seller of a drug or medical device which caused the claimant's harm where—

(I) such drug or device was subject to premarket approval by the Food and Drug Administration with respect to the safety of the formulation or performance of the aspect of such drug or device which caused the claimant's harm, or the adequacy of the packaging or labeling of such drug or device which caused the harm, and such drug, device, packaging, or labeling was approved by the Food and Drug Administration; or

(II) the drug is generally recognized as safe and effective pursuant to conditions established by the Food and Drug Administration and applicable regulations, including packaging and labeling regulations.

(ii) Clause (i) shall not apply in any case in which the defendant, before or after premarket approval of a drug or device—

(I) intentionally and wrongfully withheld from or misrepresented to the Food and Drug Administration information concerning such drug or device required to be submitted under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) or section 351 of the Public Health Service Act (42 U.S.C. 262) that is material and relevant to the harm suffered by the claimant, or

(II) made an illegal payment to an official or employee of the Food and Drug Administration for the purpose of securing or maintaining approval of such drug or device.

(B) PACKAGING.—In a health care liability action for harm which is alleged to relate to the adequacy of the packaging or labeling of a drug which is required to have tamper-resistant packaging under regulations of the Secretary of Health and Human Services (including labeling regulations related to such packaging), the manufacturer or product seller of the drug shall not be held liable for punitive damages unless such packaging or labeling is found by the court by clear and convincing evidence to be substantially out of compliance with such regulations.

(c) PERIODIC PAYMENTS FOR FUTURE LOSSES.—

(1) GENERAL RULE.—In any health care liability action in which the damages awarded for future economic and noneconomic loss exceeds $50,000, a person shall not be required to pay such damages in a single, lump-sum payment, but shall be permitted to make such payments periodically based on when the damages are found likely to occur, as such payments are determined by the court.

(2) FINALITY OF JUDGMENT.—The judgment of the court awarding periodic payments under this subsection may not, in the absence of fraud, be reopened at any time to contest, amend, or modify the schedule or amount of the payments.

(3) LUMP-SUM SETTLEMENTS.—This subsection shall not be construed to preclude a settlement providing for a single, lump-sum payment.

(d) TREATMENT OF COLLATERAL SOURCE PAYMENTS.—

(1) INTRODUCTION INTO EVIDENCE.—In any health care liability action, any defendant may introduce evidence of collateral source payments. If any defendant elects to introduce such evidence, the claimant may introduce evidence of any amount paid or contributed or reasonably likely to be paid or contributed in the future by or on behalf of the claimant to secure the right to such collateral source payments.

(2) NO SUBROGATION.—No provider of collateral source payments shall recover any amount against the claimant or receive any lien or credit against the claimant's recovery or be equitably or legally subrogated the right of the claimant in a health care liability action.

(3) APPLICATION TO SETTLEMENTS.—This subsection shall apply to an action that is settled as well as an action that is resolved by a fact finder.

**SEC. 15313. ALTERNATIVE DISPUTE RESOLUTION.**

Any ADR used to resolve a health care liability action or claim shall contain provisions relating to statute of limitations, noneconomic damages, joint and several liability, punitive damages, collateral source rule, and periodic payments which are identical to the provisions relating to such matters in this subtitle.

## Subtitle E—Teaching Hospitals and Graduate Medical Education

## PART 1—TEACHING HOSPITAL AND GRADUATE MEDICAL EDUCATION TRUST FUND

**SEC. 15401. ESTABLISHMENT OF FUND; PAYMENTS TO TEACHING HOSPITALS.**

The Social Security Act (42 U.S.C. 300 et seq.) is amended by adding after title XXI the following title:

''TITLE XXII—TEACHING HOSPITAL AND GRADUATE MEDICAL EDUCATION TRUST FUND

''PART A—ESTABLISHMENT OF FUND

**"SEC. 2201. ESTABLISHMENT OF FUND.**

''(a) IN GENERAL.—There is established in the Treasury of the United States a fund to be known as the Teaching Hospital and Graduate Medical Education Trust Fund (in this title referred to as the 'Fund'), consisting of amounts appropriated to the Fund in subsection (d) and subsection (e)(3), amounts transferred to the Fund under section 1886(j), and such gifts and bequests as may be deposited in the Fund pursuant to subsection (f). Amounts in the Fund are available until expended.

''(b) EXPENDITURES FROM FUND.—Amounts in the Fund are available to the Secretary for making payments under section 2211.

''(c) ACCOUNTS IN FUND.—There are established within the Fund the following accounts:

''(1) The Indirect-Costs Medical Education Account.

''(2) The Medicare Direct-Costs Medical Education Account.

''(3) The General Direct-Costs Medical Education Account.

''(d) GENERAL TRANSFERS TO FUND.—

''(1) IN GENERAL.—For fiscal year 1997 and each subsequent fiscal year, there are appropriated to the Fund (effective on the applicable date under paragraph (2)), out of any money in the Treasury not otherwise appropriated, the following amounts (as applicable to the fiscal year involved):

''(A) For fiscal year 1997, $1,300,000,000.

''(B) For fiscal year 1998, $1,500,000,000.

''(C) For fiscal year 1999, $2,300,000,000.

''(D) For fiscal year 2000, $3,100,000,000.

''(E) For fiscal year 2001, $3,600,000,000.

''(F) For fiscal year 2002, $4,000,000,000.

''(G) For fiscal year 2003 and each subsequent fiscal year, the greater of the amount appropriated for the preceding fiscal year or an amount equal to the product of—

''(i) the amount appropriated for the preceding fiscal year; and

''(ii) 1 plus the percentage increase in the nominal gross domestic product for the one-year period ending upon July 1 of such preceding fiscal year.

''(2) EFFECTIVE DATE FOR ANNUAL APPROPRIATION.—For purposes of paragraph (1) (and for purposes of section 2221(a)(1), and subsections (b)(1)(A) and (c)(1)(A) of section 2231)), the applicable date for a fiscal year is the first day of the fiscal year, exclusive of Saturdays, Sundays, and Federal holidays.

''(3) ALLOCATION AMONG CERTAIN ACCOUNTS.—Of the amount appropriated in paragraph (1) for a fiscal year—

''(A) there shall be allocated to the Indirect-Costs Medical Education Account the percentage determined under paragraph (4)(B); and

''(B) there shall be allocated to the General Direct-Costs Medical Education Account the percentage determined under paragraph (4)(C).

''(4) DETERMINATION OF PERCENTAGES.—The Secretary of Health and Human Services, acting through the Administrator of the Health Care Financing Administration, shall determine the following:

''(A) The total amount of payments that were made under subsections (d)(5)(B) and (h) of section 1886 for fiscal year 1994.

''(B) The percentage of such total that was constituted by payments under subsection (d)(5)(B) of such section.

''(C) The percentage of such total that was constituted by payments under subsection (h) of such section.

''(e) INVESTMENT.—

''(1) IN GENERAL.—The Secretary of the Treasury shall invest such amounts of the Fund as such Secretary determines are not required to meet current withdrawals from the Fund. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired on original issue at the issue price, or by purchase of outstanding obligations at the market price.

''(2) SALE OF OBLIGATIONS.—Any obligation acquired by the Fund may be sold by the Secretary of the Treasury at the market price.

''(3) AVAILABILITY OF INCOME.—Any interest derived from obligations acquired by the Fund, and proceeds from any sale or redemption of such obligations, are hereby appropriated to the Fund.

''(f) ACCEPTANCE OF GIFTS AND BEQUESTS.—The Fund may accept on behalf of the United States money gifts and bequests made unconditionally to the Fund for the benefit of the Fund or any activity financed through the Fund.

''PART B—PAYMENTS TO TEACHING HOSPITALS

''Subpart 1—Requirement of Payments

**''SEC. 2211. FORMULA PAYMENTS TO TEACHING HOSPITALS.**

''(a) IN GENERAL.—Subject to subsection (d), in the case of each teaching hospital that in accordance with subsection (b) submits to the Secretary a payment document for fiscal year 1997 or any subsequent fiscal year, the Secretary shall make payments for the year to the teaching hospital for the costs of operating approved medical residency training programs. Such payments shall be made from the Fund, and the total of the payments to the hospital for the fiscal year shall equal the sum of the following:

''(1) An amount determined under section 2221 (relating to the indirect costs of graduate medical education).

''(2) An amount determined under section 2231 (relating to the direct costs of graduate medical education).

''(b) PAYMENT DOCUMENT.—For purposes of subsection (a), a payment document is a document containing such information as may be necessary for the Secretary to make payments under such subsection to a teaching hospital for a fiscal year. The document is submitted in accordance with this subsection if the document is submitted not later than the date specified by the Secretary, and the document is in such form and is made in such manner as the Secretary may require. The Secretary may require that information under this subsection be submitted to the Secretary in periodic reports.

''(c) ADMINISTRATOR OF PROGRAMS.—This part, and the subsequent parts of this title, shall be carried out by the Secretary acting through the Administrator of the Health Care Financing Administration.

''(d) SPECIAL RULES.—

''(1) AUTHORITY REGARDING PAYMENTS TO CONSORTIA OF PROVIDERS.—In the case of payments under subsection (a) that are determined under section 2231:

''(A) The requirement under such subsection to make the payments to teaching hospitals is subject to the authority of the Secretary under section 2233(a) to make payments to qualifying consortia.

''(B) If the Secretary authorizes such a consortium for purposes of section 2233(a), subsections (a) and (b) of this section apply to the consortium to the same extent and in the same manner as the subsections apply to teaching hospitals.

''(2) CERTAIN HOSPITALS.—Paragraph (1) of subsection (a) is subject to sections 2222 and 2223 of subpart 2. Paragraph (2) of subsection (a) is subject to sections 2232 through 2234 of subpart 3.

''(e) APPROVED MEDICAL RESIDENCY TRAINING PROGRAM.—For purposes of this title, the term 'approved medical residency training program' has the meaning given such term in section 1886(h)(5)(A).

''Subpart 2—Amount Relating to Indirect Costs of Graduate Medical Education

**''SEC. 2221. DETERMINATION OF AMOUNT RELATING TO INDIRECT COSTS.**

''(a) IN GENERAL.—For purposes of section 2211(a)(1), the amount determined under this section for a teaching hospital for a fiscal year is the product of—

''(1) the amount in the Indirect-Costs Medical Education Account on the applicable date under section 2201(d) (once the appropriation under such section is made); and

''(2) the percentage determined for the hospital under subsection (b).

''(b) HOSPITAL-SPECIFIC PERCENTAGE.—

''(1) IN GENERAL.—For purposes of subsection (a)(2), the percentage determined under this subsection for a teaching hospital is the mean average of the respective percentages determined under paragraph (3) for each fiscal year of the applicable period (as defined in paragraph (2)), adjusted by the Secretary (upward or downward, as the case may be) on a pro rata basis to the extent necessary to ensure that the sum of the percentages determined under this paragraph for all teaching hospitals is equal to 100 percent. The preceding sentence is subject to sections 2222 and 2223.

''(2) APPLICABLE PERIOD REGARDING RELEVANT DATA; FISCAL YEARS 1992 THROUGH 1994.—For purposes of this part, the term 'applicable period' means the period beginning on the first day of fiscal year 1992 and continuing through the end of fiscal year 1994.

''(3) RESPECTIVE DETERMINATIONS FOR FISCAL YEARS OF APPLICABLE PERIOD.—For purposes of paragraph (1), the percentage determined under this paragraph for a teaching hospital for a fiscal year of the applicable period is the percentage constituted by the ratio of—

''(A) the total amount of payments received by the hospital under section 1886(d)(5)(B) for discharges occurring during the fiscal year involved; to

''(B) the sum of the respective amounts determined under subparagraph (A) for the fiscal year for all teaching hospitals.

''(c) AVAILABILITY OF DATA.—If a teaching hospital received the payments specified in subsection (b)(3)(A) during the applicable period but a complete set of the relevant data is not available to the Secretary for purposes of determining an amount under such subsection for the fiscal year involved, the Secretary shall for purposes of such subsection make an estimate on the basis of such data as are available to the Secretary for the applicable period.

**''SEC. 2222. INDIRECT COSTS; SPECIAL RULES REGARDING DETERMINATION OF HOSPITAL-SPECIFIC PERCENTAGE.**

''(a) SPECIAL RULE REGARDING FISCAL YEARS 1995 AND 1996.—

''(1) IN GENERAL.—In the case of a teaching hospital whose first payments under section 1886(d)(5)(B) were for discharges occurring in fiscal year 1995 or in fiscal year 1996 (referred to in this subsection individually as a 'first payment year'), the percentage determined under paragraph (2) for the hospital is deemed to be the percentage applicable under section 2221(b) to the hospital, except that the percentage under paragraph (2) shall be adjusted in accordance with section 2221(b)(1) to the extent determined by the Secretary to be necessary with respect to a sum that equals 100 percent.

''(2) DETERMINATION OF PERCENTAGE.—For purposes of paragraph (1), the percentage determined under this paragraph for a teaching hospital is the percentage constituted by the ratio of the amount determined under subparagraph (A) to the amount determined under subparagraph (B), as follows:

''(A)(i) If the first payment year for the hospital is fiscal year 1995, the amount determined under this subparagraph is the total amount of payments received by the hospital under section 1886(d)(5)(B) for discharges occurring during fiscal year 1995.

''(ii) If the first payment year for the hospital is fiscal year 1996, the amount determined under this subparagraph is an amount equal to an estimate by the Secretary of the total amount of payments that would have been paid to the hospital under section 1886(d)(5)(B) for discharges occurring during fiscal year 1995 if such section, as in effect for fiscal year 1996, had applied to the hospital for discharges occurring during fiscal year 1995.

''(B)(i) If the first payment year for the hospital is fiscal year 1995, the amount determined under this subparagraph is the aggregate total of the payments received by teaching hospitals under section 1886(d)(5)(B) for discharges occurring during fiscal year 1995.

''(ii) If the first payment year for the hospital is fiscal year 1996—

''(I) the Secretary shall make an estimate in accordance with subparagraph (A)(ii) for all teaching hospitals; and

''(II) the amount determined under this subparagraph is the sum of the estimates made by the Secretary under subclause (I).

''(b) NEW TEACHING HOSPITALS.—

''(1) IN GENERAL.—Subject to paragraph (4), in the case of a teaching hospital that did not receive payments under section 1886(d)(5)(B) for any of the fiscal years 1992 through 1996, the percentage determined under paragraph (3) for the hospital is deemed to be the percentage applicable under section 2221(b) to the hospital, except that the percentage under paragraph (3) shall be adjusted in accordance with section 2221(b)(1) to the extent determined by the Secretary to be necessary with respect to a sum that equals 100 percent.

''(2) DESIGNATED FISCAL YEAR REGARDING DATA.—The determination under paragraph (3) of a percentage for a teaching hospital described in paragraph (1) shall be made for the most recent fiscal year for which the Secretary has sufficient data to make the determination (referred to in this subsection as the 'designated fiscal year').

''(3) DETERMINATION OF PERCENTAGE.—For purposes of paragraph (1), the percentage determined under this paragraph for the teaching hospital involved is the percentage constituted by the ratio of the amount determined under subparagraph (A) to the amount determined under subparagraph (B), as follows:

''(A) The amount determined under this subparagraph is an amount equal to an estimate by the Secretary of the total amount of payments that would have been paid to the hospital under section 1886(d)(5)(B) for the designated fiscal year if such section, as in effect for the first fiscal year for which payments pursuant to this subsection are to be made to the hospital, had applied to the hospital for the designated fiscal year.

''(B) The Secretary shall make an estimate in accordance with subparagraph (A) for all teaching hospitals. The amount determined under this subparagraph is the sum of the estimates made by the Secretary under the preceding sentence.

''(4) LIMITATION.—This subsection does not apply to a teaching hospital described in paragraph (1) if the hospital is in a State for which a demonstration project under section 1814(b)(3) is in effect.

''(c) CONSOLIDATIONS AND MERGERS.—In the case of two or more teaching hospitals that have each received payments pursuant to section 2221 for one or more fiscal years and that undergo a consolidation or merger, the percentage applicable to the resulting teaching hospital for purposes of section 2221(b) is the sum of the respective percentages that would have applied pursuant to such section if the hospitals had not undergone the consolidation or merger.

**"SEC. 2223. INDIRECT COSTS; ALTERNATIVE PAYMENTS REGARDING TEACHING HOSPITALS IN CERTAIN STATES.**

''(a) IN GENERAL.—In the case of a teaching hospital in a State for which a demonstration project under section 1814(b)(3) is in effect, this section applies in lieu of section 2221. For purposes of section 2211(a)(1), the amount determined for such a teaching hospital for a fiscal year is the product of—

''(1) the amount in the Indirect-Costs Medical Education Account for the fiscal year pursuant to the allocation under section 2201(d)(3)(A) for the year; and

''(2) the percentage determined under subsection (b) for the hospital.

''(b) DETERMINATION OF PERCENTAGE.—For purposes of subsection (a)(2):

''(1) The Secretary shall make an estimate of the total amount of payments that would have been received under section 1886(d)(5)(B) by the hospital involved with respect to each of the fiscal years of the applicable period if such section (as in effect for such fiscal years) had applied to the hospital for such years.

''(2) The percentage determined under this subsection for the hospital for a fiscal year is a mean average percentage determined for the hospital in accordance with the methodology of section 2221(b)(1), except that the estimate made by the Secretary under paragraph (1) of this subsection for a fiscal year of the applicable period is deemed to be the amount that applies for purposes of section 2221(b)(3)(A) for such year.

''(c) RULE REGARDING PAYMENTS FROM CERTAIN AMOUNTS.—In the case of a teaching hospital described in subsection (a), this section does not authorize any payment to the hospital from amounts transferred to the Fund under section 1886(j).

''(d) ADJUSTMENT REGARDING PAYMENTS TO OTHER HOSPITALS.—In the case of a fiscal year for which payments pursuant to subsection (a) are made to one or more teaching hospitals, the following applies:

''(1) The Secretary shall determine a percentage equal to the sum of the respective percentages determined for the hospitals under subsection (b).

''(2) The Secretary shall determine an amount equal to the product of—

''(A) the percentage determined under paragraph (1); and

''(B) the amount in the Indirect-Costs Medical Education Account for the fiscal year pursuant to the transfer under section 1886(j)(1).

''(3) The Secretary shall, for each hospital (other than hospitals described in subsection (a)), make payments to the hospital in amounts whose sum for the fiscal year is equal to the product of—

''(A) the amount determined under paragraph (2); and

''(B) the percentage that applies to the hospital for purposes of section 2221(b), except that such percentage shall be adjusted in accordance with the methodology of section 2221(b)(1) to the extent determined by the Secretary to be necessary with respect to a sum that equals 100 percent.

''Subpart 3—Amount Relating to Direct Costs of Graduate Medical Education

**"SEC. 2231. DETERMINATION OF AMOUNT RELATING TO DIRECT COSTS.**

''(a) IN GENERAL.—For purposes of section 2211(a)(2), the amount determined under this section for a teaching hospital for a fiscal year is the sum of—

''(1) the amount determined under subsection (b) (relating to the General Direct-Costs Medical Education Account); and

''(2) the amount determined under subsection (c) (relating to the Medicare Direct-Costs Medical Education Account).

''(b) PAYMENT FROM GENERAL ACCOUNT.—

''(1) IN GENERAL.—For purposes of subsection (a)(1), the amount determined under this subsection for a teaching hospital for a fiscal year is the product of—

''(A) the amount in the General Direct-Costs Medical Education Account on the applicable date under section 2201(d) (once the appropriation under such section is made); and

''(B) the percentage determined for the hospital under paragraph (2).

''(2) HOSPITAL-SPECIFIC PERCENTAGE.—

''(A) IN GENERAL.—For purposes of paragraph (1)(B), the percentage determined under this paragraph for a teaching hospital is the mean average of the respective percentages determined under subparagraph (B) for each fiscal year of the applicable period (as defined in section 2221(b)(2)), adjusted by the Secretary (upward or downward, as the case may be) on a pro rata basis to the extent necessary to ensure that the sum of the percentages determined under this subparagraph for all teaching hospitals is equal to 100 percent. The preceding sentence is subject to sections 2232 through 2234.

''(B) RESPECTIVE DETERMINATIONS FOR FISCAL YEARS OF APPLICABLE PERIOD.—For purposes of subparagraph (A), the percentage determined under this subparagraph for a teaching hospital for a fiscal year of the applicable period is the percentage constituted by the ratio of—

''(i) the total amount of payments received by the hospital under section 1886(h) for cost reporting periods beginning during the fiscal year involved; to

''(ii) the sum of the respective amounts determined under clause (i) for the fiscal year for all teaching hospitals.

''(3) AVAILABILITY OF DATA.—If a teaching hospital received the payments specified in paragraph (2)(B)(i) during the applicable period but a complete set of the relevant data is not available to the Secretary for purposes of determining an amount under such paragraph for the fiscal year involved, the Secretary shall for purposes of such paragraph make an estimate on the basis of such data as are available to the Secretary for the applicable period.

''(c) PAYMENT FROM MEDICARE ACCOUNT.—

''(1) IN GENERAL.—For purposes of subsection (a)(2), the amount determined under this subsection for a teaching hospital for a fiscal year is the product of—

''(A) the amount in the Medicare Direct-Costs Medical Education Account on the applicable date under section 2201(d) (once the appropriation under such section is made); and

''(B) the percentage determined for the hospital under paragraph (2) for the fiscal year.

''(2) HOSPITAL-SPECIFIC PERCENTAGE.—For purposes of paragraph (1)(B), the percentage determined under this subsection for a teaching hospital for a fiscal year is the percentage constituted by the ratio of—

''(A) the estimate made by the Secretary for the hospital for the fiscal year under section 1886(j)(2)(B); to

''(B) the sum of the respective estimates referred to in subparagraph (A) for all teaching hospitals.

**"SEC. 2232. DIRECT COSTS; SPECIAL RULES REGARDING DETERMINATION OF HOSPITAL-SPECIFIC PERCENTAGE.**

''(a) SPECIAL RULE REGARDING FISCAL YEARS 1995 AND 1996.—

''(1) IN GENERAL.—In the case of a teaching hospital whose first payments under section 1886(h) were for the cost reporting period beginning in fiscal year 1995 or in fiscal year 1996 (referred to in this subsection individually as a 'first payment year'), the percentage determined under paragraph (2) for the hospital is deemed to be the percentage applicable under section 2231(b)(2) to the hospital, except that the percentage under paragraph (2) shall be adjusted in accordance with section 2231(b)(2)(A) to the extent determined by the Secretary to be necessary with respect to a sum that equals 100 percent.

''(2) DETERMINATION OF PERCENTAGE.—For purposes of paragraph (1), the percentage determined under this paragraph for a teaching hospital is the percentage constituted by the ratio of the amount determined under subparagraph (A) to the amount determined under subparagraph (B), as follows:

''(A)(i) If the first payment year for the hospital is fiscal year 1995, the amount determined under this subparagraph is the total amount of payments received by the hospital under section 1886(h) for cost reporting periods beginning in fiscal year 1995.

''(ii) If the first payment year for the hospital is fiscal year 1996, the amount determined under this subparagraph is an amount equal to an estimate by the Secretary of the total amount of payments that would have been paid to the hospital under section 1886(h) for cost reporting periods beginning in fiscal year 1995 if such section, as in effect for fiscal year 1996, had applied to the hospital for fiscal year 1995.

''(B)(i) If the first payment year for the hospital is fiscal year 1995, the amount determined under this subparagraph is the aggregate total of the payments received by teaching hospitals under section 1886(h) for cost reporting periods beginning in fiscal year 1995.

''(ii) If the first payment year for the hospital is fiscal year 1996—

''(I) the Secretary shall make an estimate in accordance with subparagraph (A)(ii) for all teaching hospitals; and

''(II) the amount determined under this subparagraph is the sum of the estimates made by the Secretary under subclause (I).

''(b) NEW TEACHING HOSPITALS.—

''(1) IN GENERAL.—Subject to paragraph (4), in the case of a teaching hospital that did not receive payments under section 1886(h) for any of the fiscal years 1992 through 1996, the percentage determined under paragraph (3) for the hospital is deemed to be the percentage applicable under section 2231(b)(2) to the hospital, except that the percentage under paragraph (3) shall be adjusted in accordance with section 2231(b)(2)(A) to the extent determined by the Secretary to be necessary with respect to a sum that equals 100 percent.

''(2) DESIGNATED FISCAL YEAR REGARDING DATA.—The determination under paragraph (3) of a percentage for a teaching hospital described in paragraph (1) shall be made for the most recent fiscal year for which the Secretary has sufficient data to make the determination (referred to in this subsection as the 'designated fiscal year').

''(3) DETERMINATION OF PERCENTAGE.—For purposes of paragraph (1), the percentage determined under this paragraph for the teaching hospital involved is the percentage constituted by the ratio of the amount determined under subparagraph (A) to the amount determined under subparagraph (B), as follows:

''(A) The amount determined under this subparagraph is an amount equal to an estimate by the Secretary of the total amount of payments that would have been paid to the hospital under section 1886(h) for the designated fiscal year if such section, as in effect for the first fiscal year for which payments pursuant to this subsection are to be made to the hospital, had applied to the hospital for cost reporting periods beginning in the designated fiscal year.

''(B) The Secretary shall make an estimate in accordance with subparagraph (A) for all

teaching hospitals. The amount determined under this subparagraph is the sum of the estimates made by the Secretary under the preceding sentence.

''(4) LIMITATION.—This subsection does not apply to a teaching hospital described in paragraph (1) if the hospital is in a State for which a demonstration project under section 1814(b)(3) is in effect.

''(c) CONSOLIDATIONS AND MERGERS.—In the case of two or more teaching hospitals that have each received payments pursuant to section 2231 for one or more fiscal years and that undergo a consolidation or merger, the percentage applicable to the resulting teaching hospital for purposes of section 2231(b) is the sum of the respective percentages that would have applied pursuant to such section if the hospitals had not undergone the consolidation or merger.

**''SEC. 2233. DIRECT COSTS; AUTHORITY FOR PAYMENTS TO CONSORTIA OF PROVIDERS.**

''(a) IN GENERAL.—In lieu of making payments to teaching hospitals pursuant to section 2231, the Secretary may make payments under this section to consortia that meet the requirements of subsection (b).

''(b) QUALIFYING CONSORTIUM.—For purposes of subsection (a), a consortium meets the requirements of this subsection if the consortium is in compliance with the following:

''(1) The consortium consists of an approved medical residency training program and one or more of the following entities:

''(A) Schools of allopathic medicine or osteopathic medicine.

''(B) Teaching hospitals.

''(C) Other approved medical residency training programs.

''(D) Federally qualified health centers.

''(E) Medical group practices.

''(F) Managed care entities.

''(G) Entities furnishing outpatient services.

''(H) Such other entities as the Secretary determines to be appropriate.

''(2) The members of the consortium have agreed to participate in the programs of graduate medical education that are operated by the entities in the consortium.

''(3) With respect to the receipt by the consortium of payments made pursuant to this section, the members of the consortium have agreed on a method for allocating the payments among the members.

''(4) The consortium meets such additional requirements as the Secretary may establish.

''(c) PAYMENTS FROM ACCOUNTS.—

''(1) IN GENERAL.—Subject to subsection (d), the total of payments to a qualifying consortium for a fiscal year pursuant to subsection (a) shall be the sum of—

''(1) the aggregate amount determined for the teaching hospitals of the consortium pursuant to paragraph (1) of section 2231(a); and

''(2) an amount determined in accordance with the methodology that applies pursuant to paragraph (2) of such section, except that the estimate used for purposes of subsection (c)(2)(A) of such section shall be the estimate made for the consortium under section 1886(j)(2)(C)(ii).

''(d) LIMITATION ON AGGREGATE TOTAL OF PAYMENTS TO CONSORTIA.—The aggregate total of the amounts paid under subsection (c)(2) to qualifying consortia for a fiscal year may not exceed the sum of—

''(1) the aggregate total of the amounts that would have been paid under section 2231(c) for the fiscal year to the teaching hospitals of the consortia if the hospitals had not been participants in the consortia; and

''(2) an amount equal to 1 percent of the amount that applies under section 2231(c)(1)(A) for the fiscal year (relating to the Medicare Direct-Costs Medical Education Account).

''(e) DEFINITION.—For purposes of this title, the term 'qualifying consortium' means a consortium that meets the requirements of subsection (b).

**''SEC. 2234. DIRECT COSTS; ALTERNATIVE PAYMENTS REGARDING TEACHING HOSPITALS IN CERTAIN STATES.**

''(a) IN GENERAL.—In the case of a teaching hospital in a State for which a demonstration project under section 1814(b)(3) is in effect, this section applies in lieu of section 2231. For purposes of section 2211(a)(2), the amount determined for a teaching hospital for a fiscal year is the product of—

''(1) the amount in the General Direct-Costs Medical Education Account on the applicable date under section 2201(d) (once the appropriation under such section is made); and

''(2) the percentage determined under subsection (b) for the hospital.

''(b) DETERMINATION OF PERCENTAGE.—For purposes of subsection (a)(2):

''(1) The Secretary shall make an estimate of the total amount of payments that would have been received under section 1886(h) by the hospital involved with respect to each of the fiscal years of the applicable period if such section (as in effect for such fiscal years) had applied to the hospital for such years.

''(2) The percentage determined under this subsection for the hospital for a fiscal year is a mean average percentage determined for the hospital in accordance with the methodology of section 2231(b)(2)(A), except that the estimate made by the Secretary under paragraph (1) of this subsection for a fiscal year of the applicable period is deemed to be the amount that applies for purposes of section 2231(b)(2)(B)(i) for such year.

''(c) RULE REGARDING PAYMENTS FROM CERTAIN AMOUNTS.—In the case of a teaching hospital described in subsection (a), this section does not authorize any payment to the hospital from amounts transferred to the Fund under section 1886(j).

''Subpart 4—General Provisions

**''SEC. 2241. ADJUSTMENTS IN PAYMENT AMOUNTS.**

''(a) COLLECTION OF DATA ON ACCURACY OF ESTIMATES.—The Secretary shall collect data on whether the estimates made by the Secretary under section 1886(j) for a fiscal year were substantially accurate.

''(b) ADJUSTMENTS.—If the Secretary determines under subsection (a) that an estimate for a fiscal year was not substantially accurate, the Secretary shall, for the first fiscal year beginning after the Secretary makes the determination—

''(1) make adjustments accordingly in transfers to the Fund under section 1886(j); and

''(2) make adjustments accordingly in the amount of payments to teaching hospitals pursuant to 2231(c) (or, as applicable, to qualifying consortia pursuant to section 2233(c)(2)).''.

## PART 2—AMENDMENTS TO MEDICARE PROGRAM

**SEC. 15411. TRANSFERS TO TEACHING HOSPITAL AND GRADUATE MEDICAL EDUCATION TRUST FUND.**

Section 1886 (42 U.S.C. 1395ww) is amended—

(1) in subsection (d)(5)(B), in the matter preceding clause (i), by striking ''The Secretary shall provide'' and inserting the following: ''For discharges occurring on or before September 30, 1996, the Secretary shall provide'';

(2) in subsection (h)—

(A) in paragraph (1), in the first sentence, by striking ''the Secretary shall provide'' and inserting ''the Secretary shall, subject to paragraph (6), provide''; and

(B) by adding at the end the following paragraph:

''(6) LIMITATION.—

''(A) IN GENERAL.—The authority to make payments under this subsection applies only with respect to cost reporting periods ending on or before September 30, 1996, except as provided in subparagraph (B).

''(B) RULE REGARDING PORTION OF LAST COST REPORTING PERIOD.—In the case of a cost reporting period that extends beyond September 30, 1996, payments under this subsection shall be made with respect to such portion of the period as has lapsed as of such date.

''(C) RULE OF CONSTRUCTION.—This paragraph may not be construed as authorizing any payment under section 1861(v) with respect to graduate medical education.''; and

(3) by adding at the end the following subsection:

''(j) TRANSFERS TO TEACHING HOSPITAL AND GRADUATE MEDICAL EDUCATION TRUST FUND.—

''(1) INDIRECT COSTS OF MEDICAL EDUCATION.—

''(A) IN GENERAL.—From the Federal Hospital Insurance Trust Fund, the Secretary shall, for fiscal year 1997 and each subsequent fiscal year, transfer to the Indirect-Costs Medical Education Account (under section 2201) an amount determined by the Secretary in accordance with subparagraph (B).

''(B) DETERMINATION OF AMOUNTS.—The Secretary shall make an estimate for the fiscal year involved of the nationwide total of the amounts that would have been paid under subsection (d)(5)(B) to hospitals during the fiscal year if such payments had not been terminated for discharges occurring after September 30, 1996. For purposes of subparagraph (A), the amount determined under this subparagraph for the fiscal year is the estimate made by the Secretary under the preceding sentence.

''(2) DIRECT COSTS OF MEDICAL EDUCATION.—

''(A) IN GENERAL.—From the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund, the Secretary shall, for fiscal year 1997 and each subsequent fiscal year, transfer to the Medicare Direct-Costs Medical Education Account (under section 2201) the sum of—

''(i) an amount determined by the Secretary in accordance with subparagraph (B); and

''(ii) as applicable, an amount determined by the Secretary in accordance with subparagraph (C)(ii).

''(B) DETERMINATION OF AMOUNTS.—For each hospital (other than a hospital that is a member of a qualifying consortium referred to in subparagraph (C)), the Secretary shall make an estimate for the fiscal year involved of the amount that would have been paid under subsection (h) to the hospital during the fiscal year if such payments had not been terminated for cost reporting periods ending on or before September 30, 1996. For purposes of subparagraph (A)(i), the amount determined under this subparagraph for the fiscal year is the sum of all estimates made by the Secretary under the preceding sentence.

''(C) ESTIMATES REGARDING QUALIFYING CONSORTIA.—If the Secretary elects to authorize one or more qualifying consortia for purposes of section 2233(a), the Secretary shall carry out the following:

''(i) The Secretary shall establish a methodology for making payments to qualifying consortia with respect to the reasonable direct costs of such consortia in carrying out

programs of graduate medical education. The methodology shall be the methodology established in subsection (h), modified to the extent necessary to take into account the participation in such programs of entities other than hospitals.

''(ii) For each qualifying consortium, the Secretary shall make an estimate for the fiscal year involved of the amount that would have been paid to the consortium during the fiscal year if, using the methodology under clause (i), payments had been made to the consortium for the fiscal year as reimbursements with respect to cost reporting periods. For purposes of subparagraph (A)(ii), the amount determined under this clause for the fiscal year is the sum of all estimates made by the Secretary under the preceding sentence.

''(D) ALLOCATION BETWEEN FUNDS.—In providing for a transfer under subparagraph (A) for a fiscal year, the Secretary shall provide for an allocation of the amounts involved between part A and part B (and the trust funds established under the respective parts) as reasonably reflects the proportion of direct graduate medical education costs of hospitals associated with the provision of services under each respective part.

''(3) APPLICABILITY OF CERTAIN AMENDMENTS.—Amendments made to subsection (d)(5)(B) and subsection (h) that are effective on or after October 1, 1996, apply only for purposes of estimates under paragraphs (1) and (2) and for purposes of determining the amount of payments under 2211. Such amendments do not require any adjustment to amounts paid under subsection (d)(5)(B) or (h) with respect to fiscal year 1996 or any prior fiscal year.

''(4) RELATIONSHIP TO CERTAIN DEMONSTRATION PROJECTS.—In the case of a State for which a demonstration project under section 1814(b)(3) is in effect, the Secretary, in making determinations of the rates of increase under such section, shall include all amounts transferred under this subsection. Such amounts shall be so included to the same extent and in the same manner as amounts determined under subsections (d)(5)(B) and (h) were included in such determination under the provisions of this title in effect on September 30, 1996.''.

**SEC. 15412. MODIFICATION IN PAYMENT POLICIES REGARDING GRADUATE MEDICAL EDUCATION.**

(a) INDIRECT COSTS OF MEDICAL EDUCATION; APPLICABLE PERCENTAGE.—

(1) MODIFICATION REGARDING 5.6 PERCENT.—Section 1886(d)(5)(B)(ii) (42 U.S.C. 1395ww(d)(5)(B)(ii)) is amended—

(A) by striking ''on or after October 1, 1988,'' and inserting ''on or after October 1, 1999,''; and

(B) by striking ''1.89'' and inserting ''1.38''.

(2) SPECIAL RULE REGARDING FISCAL YEARS 1996 THROUGH 1998; MODIFICATION REGARDING 6 PERCENT.—Section 1886(d)(5)(B)(ii), as amended by paragraph (1), is amended by adding at the end the following: ''In the case of discharges occurring on or after October 1, 1995, and before October 1, 1999, the preceding sentence applies to the same extent and in the same manner as the sentence applies to discharges occurring on or after October 1, 1999, except that the term '1.38' is deemed to be '1.48'.''.

(3) CONFORMING AMENDMENT RELATING TO DETERMINATION OF STANDARDIZED AMOUNTS.—Section 1886(d)(2)(C)(i) (42 U.S.C. 1395ww(d)(2)(C)(i)) is amended by striking ''1985'' and inserting the following: ''1985, but (for discharges occurring after September 30, 1995) not taking into account any reductions in such costs resulting from the amendments made by section 15412(a) of the Medicare Preservation Act of 1995''.

(b) DIRECT COSTS OF MEDICAL EDUCATION.—

(1) LIMITATION ON NUMBER OF FULL-TIME-EQUIVALENT RESIDENTS.—Section 1886(h)(4) (42 U.S.C. 1395ww(h)(4)) is amended by adding at the end the following new subparagraph:

''(F) LIMITATION ON NUMBER OF RESIDENTS FOR CERTAIN FISCAL YEARS.—

''(i) IN GENERAL.—Such rules shall provide that for purposes of a cost reporting period beginning on or after October 1, 1995, and on or before September 30, 2002, the number of full-time-equivalent residents determined under this paragraph with respect to an approved medical residency training program may not exceed the number of full-time-equivalent residents with respect to the program as of August 1, 1995 (except that this subparagraph applies only to approved medical residency training programs in the fields of allopathic medicine and osteopathic medicine).

''(ii) DISPOSITION OF UNUSED RESIDENCY POSITIONS.—In the case of a cost reporting period to which the limitation under clause (i) applies, if for such a period the number of full-time-equivalent residents determined under this paragraph with respect to an approved medical residency training program is less than the maximum number applicable to the program under such clause, the Secretary may authorize for one or more other approved medical residency training programs offsetting increases in the respective maximum numbers that otherwise would be applicable under such clause to the programs. In authorizing such increases with respect to a cost reporting period, the Secretary shall ensure that the national total of the respective maximum numbers determined under such clause with respect to approved medical residency training programs is not exceeded.''.

(2) EXCLUSION OF RESIDENTS AFTER INITIAL RESIDENCY PERIOD.—Section 1886(h)(4)(C) (42 U.S.C. 1395ww(h)(4)(C)) is amended to read as follows:

''(C) WEIGHTING FACTORS FOR RESIDENTS.—Effective for cost reporting periods beginning on or after October 1, 1997, such rules shall provide that, in the calculation of the number of full-time-equivalent residents in an approved residency program, the weighting factor for a resident who is in the initial residency period (as defined in paragraph (5)(F)) is 1.0 and the weighting factor for a resident who has completed such period is 0.0. (In the case of cost reporting periods beginning before October 1, 1997, the weighting factors that apply in such calculation are the weighting factors that were applicable under this subparagraph on the day before the date of the enactment of the Medicare Preservation Act of 1995.)''.

(3) REDUCTIONS IN PAYMENTS FOR ALIEN RESIDENTS.—Section 1886(h)(4) (42 U.S.C. 1395ww(h)(4)), as amended by paragraph (1), is amended by adding at the end the following new subparagraph:

''(G) SPECIAL RULES FOR ALIEN RESIDENTS.—In the case of individuals who are not citizens or nationals of the United States, aliens lawfully admitted to the United States for permanent residence, aliens admitted to the United States as refugees, or citizens of Canada, in the calculation of the number of full-time-equivalent residents in an approved medical residency program, the following rules shall apply with respect to such individuals who are residents in the program:

''(i) For a cost reporting period beginning during fiscal year 1996, for each such individual the Secretary shall apply a weighting factor of .75.

''(ii) For a cost reporting period beginning during fiscal year 1997, for each such individual the Secretary shall apply a weighting factor of .50.

''(iii) For a cost reporting period beginning during fiscal year 1998 or any subsequent fiscal year, for each such individual the Secretary shall apply a weighting factor of .25.''.

(4) EFFECTIVE DATE.—Except as provided otherwise in this subsection (or in the amendments made by this subsection), the amendments made by this subsection apply to hospital cost reporting periods beginning on or after October 1, 1995.

**PART 3—REFORM OF FEDERAL POLICIES REGARDING TEACHING HOSPITALS AND GRADUATE MEDICAL EDUCATION**

**SEC. 15421. ESTABLISHMENT OF ADVISORY PANEL FOR RECOMMENDING POLICIES.**

Title XXII of the Social Security Act, as added by section 15401, is amended by adding at the end the following part:

''PART C—OTHER MATTERS

**''SEC. 2251. ADVISORY PANEL ON REFORM IN FINANCING OF TEACHING HOSPITALS AND GRADUATE MEDICAL EDUCATION.**

''(a) ESTABLISHMENT.—The Chair of the Medicare Payment Review Commission under section 1806 shall establish a temporary advisory panel to be known as the Advisory Panel on Financing for Teaching Hospitals and Graduate Medical Education (in this section referred to as the 'Panel').

''(b) DUTIES.—The Panel shall develop recommendations on whether and to what extent Federal policies regarding teaching hospitals and graduate medical education should be reformed, including recommendations regarding the following:

''(1) The financing of graduate medical education, including consideration of alternative broad-based sources of funding for such education.

''(2) The financing of teaching hospitals, including consideration of the difficulties encountered by such hospitals as competition among health care entities increases. Matters considered under this paragraph shall include consideration of the effects on teaching hospitals of the method of financing used for the MedicarePlus program under part C of title XVIII.

''(3) The methodology for making payments for graduate medical education, and the selection of entities to receive the payments. Matters considered under this paragraph shall include the following:

''(A) The methodology under part B for making payments from the Fund, including the use of data from the fiscal years 1992 through 1994, and including the methodology that applies with respect to consolidations and mergers of participants in the program under such part and with respect to the inclusion of additional participants in the program.

''(B) Issues regarding children's hospitals, and approved medical residency training programs in pediatrics.

''(C) Whether and to what extent payments are being made (or should be made) for graduate training in the various nonphysician health professions.

''(4) Federal policies regarding international medical graduates.

''(5) The dependence of schools of medicine on service-generated income.

''(6) The effects of the amendments made by section 15412 of the Medicare Preservation Act of 1995, including adverse effects on teaching hospitals that result from modifications in policies regarding international medical graduates.

''(7) Whether and to what extent the needs of the United States regarding the supply of physicians will change during the 10-year period beginning on October 1, 1995, and whether and to what extent any such changes will have significant financial effects on teaching hospitals.

''(8) The appropriate number and mix of residents.

''(c) COMPOSITION.—Not later than three months after being designated as the initial chair of the Medicare Payment Review Commission, the Chair of the Commission shall appoint to the Panel 19 individuals who are not members of the Commission, who are not officers or employees of the United States, and who possess expertise on matters on which the Panel is to make recommendations under subsection (b). Such individuals shall include the following:

''(1) Deans from allopathic and osteopathic schools of medicine.

''(2) Chief executive officers (or equivalent administrative heads) from academic health centers, integrated health care systems, approved medical residency training programs, and teaching hospitals that sponsor approved medical residency training programs.

''(3) Chairs of departments or divisions from allopathic and osteopathic schools of medicine, schools of dentistry, and approved medical residency training programs in oral surgery.

''(4) Individuals with leadership experience from each of the fields of advanced practice nursing, physician assistants, and podiatric medicine.

''(5) Individuals with substantial experience in the study of issues regarding the composition of the health care workforce of the United States.

''(6) Individuals with expertise on the financing of health care.

''(7) Representatives from health insurance organizations and health plan organizations.

''(d) RELATIONSHIP OF PANEL TO MEDICARE PAYMENT REVIEW COMMISSION.—From amounts appropriated under subsection (n), the Medicare Payment Review Commission shall provide for the Panel such staff and administrative support (including quarters for the Panel) as may be necessary for the Panel to carry out the duties under subsection (b).

''(e) CHAIR.—The Panel shall designate a member of the Panel to serve as the Chair of the Panel.

''(f) MEETINGS.—The Panel shall meet at the call of the Chair or a majority of the members, except that the first meeting of the Panel shall be held not later than three months after the date on which appointments under subsection (c) are completed.

''(g) TERMS.—The term of a member of the Panel is the duration of the Panel.

''(h) VACANCIES.—

''(1) IN GENERAL.—A vacancy in the membership of the Panel does not affect the power of the remaining members to carry out the duties under subsection (b). A vacancy in the membership of the Panel shall be filled in the manner in which the original appointment was made.

''(2) INCOMPLETE TERM.—If a member of the Panel does not serve the full term applicable to the member, the individual appointed to fill the resulting vacancy shall be appointed for the remainder of the term of the predecessor of the individual.

''(i) COMPENSATION; REIMBURSEMENT OF EXPENSES.—

''(1) COMPENSATION.—Members of the Panel shall receive compensation for each day (including traveltime) engaged in carrying out the duties of the Committee. Such compensation may not be in an amount in excess of the daily equivalent of the annual maximum rate of basic pay payable under the General Schedule (under title 5, United States Code) for positions above GS–15.

''(2) REIMBURSEMENT.—Members of the Panel may, in accordance with chapter 57 of title 5, United States Code, be reimbursed for travel, subsistence, and other necessary expenses incurred in carrying out the duties of the Panel.

''(j) CONSULTANTS.—The Panel may procure such temporary and intermittent services of consultants under section 3109(b) of title 5, United States Code, as the Panel may determine to be useful in carrying out the duties under subsection (b). The Panel may not procure services under this subsection at any rate in excess of the daily equivalent of the maximum annual rate of basic pay payable under the General Schedule for positions above GS–15. Consultants under this subsection may, in accordance with chapter 57 of title 5, United States Code, be reimbursed for travel, subsistence, and other necessary expenses incurred for activities carried out on behalf of the Panel pursuant to subsection (b).

''(k) POWERS.—

''(1) IN GENERAL.—For the purpose of carrying out the duties of the Panel under subsection (b), the Panel may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Panel considers appropriate.

''(2) OBTAINING OFFICIAL INFORMATION.—Upon the request of the Panel, the heads of Federal agencies shall furnish directly to the Panel information necessary for the Panel to carry out the duties under subsection (b).±

''(3) USE OF MAILS.—The Panel may use the United States mails in the same manner and under the same conditions as Federal agencies.

''(l) REPORTS.—

''(1) FIRST INTERIM REPORT.—Not later than one year after the date of the enactment of the Medicare Preservation Act of 1995, the Panel shall submit to the Congress a report providing the recommendations of the Panel regarding the matters specified in paragraphs (1) through (4) of subsection (b).

''(2) SECOND INTERIM REPORT.—Not later than 2 years after the date of enactment specified in paragraph (1), the Panel shall submit to the Congress a report providing the recommendations of the Panel regarding the matters specified in paragraphs (5) and (6) of subsection (b).

''(3) FINAL REPORT.—Not later than 3 years after the date of enactment specified in paragraph (1), the Panel shall submit to the Congress a final report providing the recommendations of the Panel under subsection (b).

''(m) DURATION.—The Panel terminates upon the expiration of the 180-day period beginning on the date on which the final report under subsection (l)(3) is submitted to the Congress.

''(n) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—Subject to paragraph (2), for the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1996 through 1999.

''(2) LIMITATION.—The authorization of appropriations established in paragraph (1) is effective only with respect to appropriations made from allocations under section 302(b) of the Congressional Budget Act of 1974—

''(A) for the Subcommittee on Labor, Health and Human Services, and Education, Committee on Appropriations of the House of Representatives, in the case of any bill, resolution, or amendment considered in the House; and

''(B) for the Subcommittee on Labor, Health and Human Services, and Education, Committee on Appropriations of the Senate, in the case of any bill, resolution, or amendment considered in the Senate.''.

## Subtitle F—Provisions Relating to Medicare Part A

## PART 1—HOSPITALS

### Subpart A—General Provisions Relating to Hospitals

**SEC. 15501. REDUCTIONS IN INFLATION UPDATES FOR PPS HOSPITALS.**

Section 1886(b)(3)(B)(i) (42 U.S.C. 1395ww(b)(3)(B)(i)) is amended by striking subclauses (XI), (XII), and (XIII) and inserting the following:

''(XI) for fiscal year 1996, the market basket percentage increase minus 2.5 percentage points for hospitals in all areas,

''(XII) for each of the fiscal years 1997 through 2002, the market basket percentage increase minus 2.0 percentage points for hospitals in all areas, and

''(XIII) for fiscal year 2003 and each subsequent fiscal year, the market basket percentage increase for hospitals in all areas.''.

**SEC. 15502. REDUCTIONS IN DISPROPORTIONATE SHARE PAYMENT ADJUSTMENTS.**

(a) IN GENERAL.—Section 1886(d)(5)(F) (42 U.S.C. 1395ww(d)(5)(F)) is amended—

(1) in clause (ii), by striking ''The amount'' and inserting ''Subject to clause (ix), the amount''; and

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

''(ix) In the case of discharges occurring on or after October 1, 1995, the additional payment amount otherwise determined under clause (ii) shall be reduced as follows:

''(I) For discharges occurring on or after October 1, 1995, and on or before September 30, 1996, by 20 percent.

''(II) For discharges occurring on or after October 1, 1996, and on or before September 30, 1997, by 25 percent.

''(III) For discharges occurring on or after October 1, 1997, by 30 percent.''.

(b) CONFORMING AMENDMENT RELATING TO DETERMINATION OF STANDARDIZED AMOUNTS.—Section 1886(d)(2)(C)(iv) (42 U.S.C. 1395ww(d)(2)(C)(iv)) is amended by striking the period at the end and inserting the following: '', and the Secretary shall not take into account any reductions in the amount of such additional payments resulting from the amendments made by section 15502(a) of the Medicare Preservation Act of 1995.''.

**SEC. 15503. PAYMENTS FOR CAPITAL-RELATED COSTS FOR INPATIENT HOSPITAL SERVICES.**

(a) REDUCTION IN PAYMENTS FOR PPS HOSPITALS.—

(1) CONTINUATION OF CURRENT REDUCTIONS.—Section 1886(g)(1)(A) (42 U.S.C. 1395ww(g)(1)(A)) is amended in the second sentence—

(A) by striking ''through 1995'' and inserting ''through 2002''; and

(B) by inserting after ''10 percent reduction'' the following: ''(or a 15 percent reduction in the case of payments during fiscal years 1996 through 2002)''.

(2) REDUCTION IN BASE PAYMENT RATES.—Section 1886(g)(1)(A) (42 U.S.C. 1395ww(g)(1)(A)) is amended by adding at the end the following new sentence: ''In addition to the reduction described in the preceding sentence, for discharges occurring after September 30, 1995, the Secretary shall reduce by 7.47 percent the unadjusted standard Federal capital payment rate (as described in 42 CFR 412.308(c), as in effect on the date of the enactment of the Medicare Preservation Act of 1995) and shall reduce by 8.27 percent the unadjusted hospital-specific rate (as described in 42 CFR 412.328(e)(1), as in effect on such date of enactment).''.

(b) REDUCTION IN PAYMENTS FOR PPS-EXEMPT HOSPITALS.—Section 1886(g) (42 U.S.C. 1395ww(g)) is amended by adding at the end the following new paragraph:

''(4)(A) Except as provided in subparagraph (B), in determining the amount of the payments that may be made under this title with respect to all the capital-related costs of inpatient hospital services furnished during fiscal years 1996 through 2002 of a hospital which is not a subsection (d) hospital or a subsection (d) Puerto Rico hospital, the Secretary shall reduce the amounts of such payments otherwise determined under this title by 15 percent.

''(B) Subparagraph (A) shall not apply to payments with respect to the capital-related costs of any hospital that is a sole community hospital (as defined in subsection (d)(5)(D)(iii) or a rural primary care hospital (as defined in section 1861(mm)(1)).''.

(c) HOSPITAL-SPECIFIC ADJUSTMENT FOR CAPITAL-RELATED TAX COSTS.—Section 1886(g)(1) (42 U.S.C. 1395ww(g)(1)) is amended—

(1) by redesignating subparagraph (C) as subparagraph (D), and

(2) by inserting after subparagraph (B) the following:

''(C)(i) For discharges occurring after September 30, 1995, such system shall provide for an adjustment in an amount equal to the amount determined under clause (iv) for capital-related tax costs for each hospital that is eligible for such adjustment.

''(ii) Subject to clause (iii), a hospital is eligible for an adjustment under this subparagraph, with respect to discharges occurring in a fiscal year, if the hospital—

''(I) is a hospital that may otherwise receive payments under this subsection,

''(II) is not a public hospital, and

''(III) incurs capital-related tax costs for the fiscal year.

''(iii)(I) In the case of a hospital that first incurs capital-related tax costs in a fiscal year after fiscal year 1992 because of a change from nonproprietary to proprietary status or because the hospital commenced operation after such fiscal year, the first fiscal year for which the hospital shall be eligible for such adjustment is the second full fiscal year following the fiscal year in which the hospital first incurs such costs.

''(II) In the case of a hospital that first incurs capital-related tax costs in a fiscal year after fiscal year 1992 because of a change in State or local tax laws, the first fiscal year for which the hospital shall be eligible for such adjustment is the fourth full fiscal year following the fiscal year in which the hospital first incurs such costs.

''(iv) The per discharge adjustment under this clause shall be equal to the hospital-specific capital-related tax costs per discharge of a hospital for fiscal year 1992 (or, in the case of a hospital that first incurs capital-related tax costs for a fiscal year after fiscal year 1992, for the first full fiscal year for which such costs are incurred), updated to the fiscal year to which the adjustment applies. Such per discharge adjustment shall be added to the Federal capital rate, after such rate has been adjusted as described in 42 CFR 412.312 (as in effect on the date of the enactment of the Medicare Preservation Act of 1995), and before such rate is multiplied by the applicable Federal rate percentage.

''(v) For purposes of this subparagraph, capital-related tax costs include—

''(I) the costs of taxes on land and depreciable assets owned by a hospital (or related organization) and used for patient care,

''(II) payments in lieu of such taxes (made by hospitals that are exempt from taxation), and

''(III) the costs of taxes paid by a hospital (or related organization) as lessee of land, buildings, or fixed equipment from a lessor that is unrelated to the hospital (or related organization) under the terms of a lease that requires the lessee to pay all expenses (including mortgage, interest, and amortization) and leaves the lessor with an amount free of all claims (sometimes referred to as a 'net net net' or 'triple net' lease).

In determining the adjustment required under clause (i), the Secretary shall not take into account any capital-related tax costs of a hospital to the extent that such costs are based on tax rates and assessments that exceed those for similar commercial properties.

''(vi) The system shall provide that the Federal capital rate for any fiscal year after September 30, 1995, shall be reduced by a percentage sufficient to ensure that the adjustments required to be paid under clause (i) for a fiscal year neither increase nor decrease the total amount that would have been paid under this system but for the payment of such adjustments for such fiscal year.''.

(d) REVISION OF EXCEPTIONS PROCESS UNDER PROSPECTIVE PAYMENT SYSTEM FOR CERTAIN PROJECTS.—

(1) IN GENERAL.—Section 1886(g)(1) (42 U.S.C. 1395ww(g)(1)), as amended by subsection (c), is amended—

(A) by redesignating subparagraph (D) as subparagraph (E), and

(B) by inserting after subparagraph (C) the following:

''(D) The exceptions under the system provided by the Secretary under subparagraph (B)(iii) shall include the provision of exception payments under the special exceptions process provided under 42 CFR 412.348(g) (as in effect on September 1, 1995), except that the Secretary shall revise such process as follows:

''(i) A hospital with at least 100 beds which is located in an urban area shall be eligible under such process without regard to its disproportionate patient percentage under subsection (d)(5)(F) or whether it qualifies for additional payment amounts under such subsection.

''(ii) The minimum payment level for qualifying hospitals shall be 85 percent.

''(iii) A hospital shall be considered to meet the requirement that it completes the project involved no later than the end of the hospital's last cost reporting period beginning after October 1, 2001, if—

''(I) the hospital has obtained a certificate of need for the project approved by the State or a local planning authority, and

''(II) by September 1, 1995, the hospital has expended on the project at least $750,000 or 10 percent of the estimated cost of the project.

''(iv) The amount of the exception payment made shall not be reduced by any offsetting amounts.''.

(2) CONFORMING AMENDMENT.—Section 1886(g)(1)(B)(iii) (42 U.S.C. 1395ww(g)(1)(B)(iii)) is amended by striking ''may provide'' and inserting ''shall provide (in accordance with subparagraph (D))''.

**SEC. 15504. REDUCTION IN ADJUSTMENT FOR INDIRECT MEDICAL EDUCATION.**

For provisions modifying medicare payment policies regarding graduate medical education, see part 2 of subtitle E.

**SEC. 15505. TREATMENT OF PPS-EXEMPT HOSPITALS.**

(a) UPDATES.—Section 1886(b)(3)(B)(ii)(V) (42 U.S.C. 1395ww(b)(3)(B)(ii)(V)) is amended by striking ''thorugh 1997'' and inserting ''through 2002''.

(b) REBASING FOR CERTAIN LONG-TERM CARE HOSPITALS.—

(1) IN GENERAL.—Section 1886(b)(3) (42 U.S.C. 1395ww(b)(3)) is amended—

(A) in subparagraph (A), by striking ''and (E)'' and inserting ''(E), and (F)'';

(B) in subparagraph (B)(ii), by striking ''(A) and (E)'' and inserting ''(A), (E), and (F)''; and

(C) by adding at the end the following new subparagraph:

''(F)(i) In the case of a qualified long-term care hospital (as defined in clause (ii)), the term 'target amount' means—

''(I) with respect to the first 12-month cost reporting period in which this subparagraph is applied to the hospital, the allowable operating costs of inpatient hospital services (as defined in subsection (a)(4)) recognized under this title for the hospital for the 12-month cost reporting period beginning during fiscal year 1991; or

''(II) with respect to a later cost reporting period, the target amount for the preceding cost reporting period, increase by the applicable percentage increase under subparagraph (B)(ii) for that later cost reporting period.

''(ii) In clause (i), a 'qualified long-term care hospital' means, with respect to a cost reporting period, a hospital described in clause (iv) of subsection (d)(1)(B) during fiscal year 1995 for which the hospital's allowable operating costs of inpatient hospital services recognized under this title for each of the two most recent previous 12-month cost reporting periods exceeded the hospital's target amount determined under this paragraph for such cost reporting periods, if the hospital—

''(I) has a disproportionate patient percentage during such cost reporting period (as determined by the Secretary under subsection (d)(5)(F)(vi) as if the hospital were a subsection (d) hospital) of at least 25 percent, or

''(II) is located in a State for which no payment is made under the State plan under title XIX for days of inpatient hospital services furnished to any individual in excess of the limit on the number of days of such services furnished to the individual for which payment may be made under this title.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to discharges occurring during cost reporting periods beginning on or after October 1, 1995.

(c) TREATMENT OF CERTAIN LONG-TERM CARE HOSPITALS LOCATED WITHIN OTHER HOSPITALS.—

(1) IN GENERAL.—Section 1886(d)(1)(B) (42 U.S.C. 1395ww(d)(1)(B)) is amended in the matter following clause (v) by striking the period and inserting the following: '', or a hospital classified by the Secretary as a long-term care hospital on or before September 30, 1995, and located in the same building as, or on the same campus as, another hospital.''.

(2) STUDY BY REVIEW COMMISSION.—Not later than 12 months after the date a majority of the members of the Medicare Payment Review Commission are first appointed, the Commission shall submit a report to Congress containing recommendations for appropriate revisions in the treatment of long-term care hospitals located in the same building as or on the same campus as another hospital for purposes of section 1886 of the Social Security Act.

(3) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to discharges occurring on or after October 1, 1995.

(d) STUDY OF PROSPECTIVE PAYMENT SYSTEM FOR REHABILITATION HOSPITALS AND UNITS.—

(1) IN GENERAL.—After consultation with the Prospective Payment Assessment Commission, providers of rehabilitation services, and other appropriate parties, the Secretary of Health and Human Services shall submit to Congress, by not later than June 1, 1996, a report on the advisability and feasibility of providing for payment based on a prospective payment system for inpatient services of rehabilitation hospitals and units under the medicare program.

(2) ITEMS INCLUDED.—The report shall include the following:

(A) The available and preferred systems of classifying rehabilitation patients relative to duration and intensity of inpatient services, including the use of functional-related groups (FRGs).

(B) The means of calculating medicare program payments to reflect such patient requirements.

(C) Other appropriate adjustments which should be made, such as for geographic variations in wages and other costs and outliers.

(D) A timetable under which such a system might be introduced.

(E) Whether such a system should be applied to other types of providers of inpatient rehabilitation services.

**SEC. 15506. REDUCTION IN PAYMENTS TO HOSPITALS FOR ENROLLEES' BAD DEBTS.**

(a) IN GENERAL.—Section 1861(v)(1) (42 U.S.C. 1395x(v)(1)) is amended by adding at the end the following new subparagraph:

''(T)(i) In determining such reasonable costs for hospitals, the amount of bad debts otherwise treated as allowable costs which are attributable to the deductibles and coinsurance amounts under this title shall be reduced by—

''(I) 75 percent for cost reporting periods beginning during fiscal year 1996,

''(II) 60 percent for cost reporting periods beginning during fiscal year 1997, and

''(III) 50 percent for subsequent cost reporting periods.

''(ii) Clause (i) shall not apply with respect to bad debt of a hospital described in section 1886(d)(1)(B)(iv) if the debt is attributable to uncollectable deductible and coinsurance payments owed by individuals enrolled in a State plan under title XIX or under the MediGrant program under title XXI.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to hospital cost reporting periods beginning on or after October 1, 1995.

**SEC. 15507. PERMANENT EXTENSION OF HEMOPHILIA PASS-THROUGH.**

Effective as if included in the enactment of OBRA–1989, section 6011(d) of such Act (as amended by section 13505 of OBRA–1993) is amended by striking ''and shall expire September 30, 1994''.

**SEC. 15508. CONFORMING AMENDMENT TO CERTIFICATION OF CHRISTIAN SCIENCE PROVIDERS.**

(a) HOSPITALS.—Section 1861(e) (42 U.S.C. 1395x(e)) is amended in the sixth sentence by inserting after ''Massachusetts,'' the following: ''or by the Commission for Accreditation of Christian Science Nursing Organizations/Facilities, Inc.,''.

(b) SKILLED NURSING FACILITIES.—Section 1861(y)(1) is amended by inserting after ''Massachusetts,'' the following: ''or by the Commission for Accreditation of Christian Science Nursing Organizations/Facilities, Inc.,''.

## Subpart B—Provisions Relating to Rural Hospitals

**SEC. 15511. SOLE COMMUNITY HOSPITALS.**

(a) UPDATE.—Section 1886(b)(3)(B)(iv) (42 U.S.C. 1395ww(b)(3)(B)(iv)) is amended—

(A) in subclause (III), by striking ''and'' at the end; and

(B) by striking subclause (IV) and inserting the following:

''(IV) for each of the fiscal years 1996 through 2000, the market basket percentage increase minus 1 percentage points, and

''(V) for fiscal year 2001 and each subsequent fiscal year, the applicable percentage increase under clause (i).''.

(b) STUDY OF IMPACT OF SOLE COMMUNITY HOSPITAL DESIGNATIONS.—

(1) STUDY.—The Medicare Payment Review Commission shall conduct a study of the impact of the designation of hospitals as sole community hospitals under the medicare program on the delivery of health care services to individuals in rural areas, and shall include in the study an analysis of the characteristics of the hospitals designated as such sole community hospitals under the program.

(2) REPORT.—Not later than 12 months after the date a majority of the members of the Commission are first appointed, the Commission shall submit to Congress a report on the study conducted under paragraph (1).

**SEC. 15512. CLARIFICATION OF TREATMENT OF EAC AND RPC HOSPITALS.**

Paragraphs (1)(A)(i) and (2)(A)(i) of section 1820(i) (42 U.S.C. 1395i–4(i)) are each amended by striking the semicolon at the end and inserting the following: '', or in a State which the Secretary finds would receive a grant under such subsection during a fiscal year if funds were appropriated for grants under such subsection for the fiscal year;''.

**SEC. 15513. ESTABLISHMENT OF RURAL EMERGENCY ACCESS CARE HOSPITALS.**

(a) IN GENERAL.—Section 1861 (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:

''Rural Emergency Access Care Hospital; Rural Emergency Access Care Hospital Services

''(oo)(1) The term 'rural emergency access care hospital' means, for a fiscal year, a facility with respect to which the Secretary finds the following:

''(A) The facility is located in a rural area (as defined in section 1886(d)(2)(D)).

''(B) The facility was a hospital under this title at any time during the 5-year period that ends on the date of the enactment of this subsection.

''(C) The facility is in danger of closing due to low inpatient utilization rates and operating losses, and the closure of the facility would limit the access to emergency services of individuals residing in the facility's service area.

''(D) The facility has entered into (or plans to enter into) an agreement with a hospital with a participation agreement in effect under section 1866(a), and under such agreement the hospital shall accept patients transferred to the hospital from the facility and receive data from and transmit data to the facility.

''(E) There is a practitioner who is qualified to provide advanced cardiac life support services (as determined by the State in which the facility is located) on-site at the facility on a 24-hour basis.

''(F) A physician is available on-call to provide emergency medical services on a 24-hour basis.

''(G) The facility meets such staffing requirements as would apply under section 1861(e) to a hospital located in a rural area, except that—

''(i) the facility need not meet hospital standards relating to the number of hours during a day, or days during a week, in which the facility must be open, except insofar as the facility is required to provide emergency care on a 24-hour basis under subparagraphs (E) and (F); and

''(ii) the facility may provide any services otherwise required to be provided by a full-time, on-site dietitian, pharmacist, laboratory technician, medical technologist, or radiological technologist on a part-time, off-site basis.

''(H) The facility meets the requirements applicable to clinics and facilities under subparagraphs (C) through (J) of paragraph (2) of section 1861(aa) and of clauses (ii) and (iv) of the second sentence of such paragraph (or, in the case of the requirements of subparagraph (E), (F), or (J) of such paragraph, would meet the requirements if any reference in such subparagraph to a 'nurse practitioner' or to 'nurse practitioners' were deemed to be a reference to a 'nurse practitioner or nurse' or to 'nurse practitioners or nurses'); except that in determining whether a facility meets the requirements of this subparagraph, subparagraphs (E) and (F) of that paragraph shall be applied as if any reference to a 'physician' is a reference to a physician as defined in section 1861(r)(1).

''(2) The term 'rural emergency access care hospital services' means the following services provided by a rural emergency access care hospital and furnished to an individual over a continuous period not to exceed 24 hours (except that such services may be furnished over a longer period in the case of an individual who is unable to leave the hospital because of inclement weather):

''(A) An appropriate medical screening examination (as described in section 1867(a)).

''(B) Necessary stabilizing examination and treatment services for an emergency medical condition and labor (as described in section 1867(b)).''.

(b) REQUIRING RURAL EMERGENCY ACCESS CARE HOSPITALS TO MEET HOSPITAL ANTI-DUMPING REQUIREMENTS.—Section 1867(e)(5) (42 U.S.C. 1395dd(e)(5)) is amended by striking ''1861(mm)(1))'' and inserting ''1861(mm)(1)) and a rural emergency access care hospital (as defined in section 1861(oo)(1))''.

(c) REFERENCE TO PAYMENT PROVISIONS UNDER PART B.—For provisions relating to payment for rural emergency access care hospital services under part B, see section 15607.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to fiscal years beginning on or after October 1, 1995.

**SEC. 15514. CLASSIFICATION OF RURAL REFERRAL CENTERS.**

(a) PROHIBITING DENIAL OF REQUEST FOR RECLASSIFICATION ON BASIS OF COMPARABILITY OF WAGES.—

(1) IN GENERAL.—Section 1886(d)(10)(D) (42 U.S.C. 1395ww(d)(10)(D)) is amended—

(A) by redesignating clause (iii) as clause (iv); and

(B) by inserting after clause (ii) the following new clause:

''(iii) Under the guidelines published by the Secretary under clause (i), in the case of a hospital which is classified by the Secretary as a rural referral center under paragraph (5)(C), the Board may not reject the application of the hospital under this paragraph on the basis of any comparison between the average hourly wage of the hospital and the average hourly wage of hospitals in the area in which it is located.''.

(2) EFFECTIVE DATE.—Notwithstanding section 1886(d)(10)(C)(ii) of the Social Security Act, a hospital may submit an application to the Medicare Geographic Classification Review Board during the 30-day period beginning on the date of the enactment of this Act requesting a change in its classification for purposes of determining the area wage index applicable to the hospital under section 1886(d)(3)(D) of such Act for fiscal year 1997, if the hospital would be eligible for such a change in its classification under the standards described in section 1886(d)(10)(D) (as amended by paragraph (1)) but for its failure to meet the deadline for applications under section 1886(d)(10)(C)(ii).

(b) CONTINUING TREATMENT OF PREVIOUSLY DESIGNATED CENTERS.—Any hospital classified as a rural referral center by the Secretary of Health and Human Services under section 1886(d)(5)(C) of the Social Security Act for fiscal year 1994 shall be classified as such a rural referral center for fiscal year 1996 and each subsequent fiscal year.

**SEC. 15515. FLOOR ON AREA WAGE INDEX.**

(a) IN GENERAL.—For purposes of section 1886(d)(3)(E) of the Social Security Act for discharges occurring on or after October 1, 1995, the area wage index applicable under such section to any hospital which is not located in a rural area (as defined in section 1886(d)(2)(D) of such Act) may not be less than the average of the area wage indices applicable under such section to hospitals located in rural areas in the State in which the hospital is located.

(b) BUDGET-NEUTRALITY IN IMPLEMENTATION.—The Secretary of Health and Human Services shall adjust the area wage indices referred to in subsection (a) for hospitals not described in such subsection in a manner which assures that the aggregate payments made under section 1886(d) of the Social Security Act in a fiscal year for the operating costs of inpatient hospital services are not greater or less than those which would have been made in the year if this section did not apply.

**PART 2—PAYMENTS TO SKILLED NURSING FACILITIES**

**SEC. 15521. PAYMENTS FOR ROUTINE SERVICE COSTS.**

(a) CLARIFICATION OF DEFINITION OF ROUTINE SERVICE COSTS.—Section 1888 (42 U.S.C. 1395yy) is amended by adding at the end the following new subsection:

''(e) For purposes of this section, the 'routine service costs' of a skilled nursing facility are all costs which are attributable to nursing services, room and board, administrative costs, other overhead costs, and all other ancillary services (including supplies and equipment), excluding costs attributable to covered non-routine services subject to payment limits under section 1888A.''.

(b) CONFORMING AMENDMENT.—Section 1888 (42 U.S.C. 1395yy) is amended in the heading by inserting ''AND CERTAIN ANCILLARY'' after ''SERVICE''.

**SEC. 15522. INCENTIVES FOR COST EFFECTIVE MANAGEMENT OF COVERED NON-ROUTINE SERVICES.**

(a) IN GENERAL.—Title XVIII is amended by inserting after section 1888 the following new section:

''INCENTIVES FOR COST-EFFECTIVE MANAGEMENT OF COVERED NON-ROUTINE SERVICES OF SKILLED NURSING FACILITIES

''SEC. 1888A. (a) DEFINITIONS.—For purposes of this section:

''(1) COVERED NON-ROUTINE SERVICES.—The term 'covered non-routine services' means post-hospital extended care services consisting of any of the following:

''(A) Physical or occupational therapy or speech-language pathology services, or respiratory therapy, including supplies and support services incident to such services and therapy.

''(B) Prescription drugs.

''(C) Complex medical equipment.

''(D) Intravenous therapy and solutions (including enteral and parenteral nutrients, supplies, and equipment).

''(E) Radiation therapy.

''(F) Diagnostic services, including laboratory, radiology (including computerized tomography services and imaging services), and pulmonary services.

''(2) SNF MARKET BASKET PERCENTAGE INCREASE.—The term 'SNF market basket percentage increase' for a fiscal year means a percentage equal to the percentage increase in routine service cost limits for the year under section 1888(a).

''(3) STAY.—The term 'stay' means, with respect to an individual who is a resident of a skilled nursing facility, a period of continuous days during which the facility provides extended care services for which payment may be made under this title with respect to the individual during the individual's spell of illness.

''(b) NEW PAYMENT METHOD FOR COVERED NON-ROUTINE SERVICES.—

''(1) IN GENERAL.—Subject to subsection (c), a skilled nursing facility shall receive interim payments under this title for covered non-routine services furnished to an individual during a cost reporting period beginning during a fiscal year (after fiscal year 1996) in an amount equal to the reasonable cost of providing such services in accordance with section 1861(v). The Secretary may adjust such payments if the Secretary determines (on the basis of such estimated information as the Secretary considers appropriate) that payments to the facility under this paragraph for a cost reporting period would substantially exceed the cost reporting period limit determined under subsection (c)(1)(B).

''(2) RESPONSIBILITY OF SKILLED NURSING FACILITY TO MANAGE BILLINGS.—

''(A) CLARIFICATION RELATING TO PART A BILLING.—In the case of a covered non-routine service furnished to an individual who (at the time the service is furnished) is a resident of a skilled nursing facility who is entitled to coverage under section 1812(a)(2) for such service, the skilled nursing facility shall submit a claim for payment under this title for such service under part A (without regard to whether or not the item or service was furnished by the facility, by others under arrangement with them made by the facility, under any other contracting or consulting arrangement, or otherwise).

''(B) PART B BILLING.—In the case of a covered non-routine service (other than a portable X-ray or portable electrocardiogram treated as a physician's service for purposes of section 1848(j)(3)) furnished to an individual who (at the time the service is furnished) is a resident of a skilled nursing facility who is not entitled to coverage under section 1812(a)(2) for such service but is entitled to coverage under part B for such service, the skilled nursing facility shall submit a claim for payment under this title for such service under part B (without regard to whether or not the item or service was furnished by the facility, by others under arrangement with them made by the facility, under any other contracting or consulting arrangement, or otherwise).

''(C) MAINTAINING RECORDS ON SERVICES FURNISHED TO RESIDENTS.—Each skilled nursing facility receiving payments for extended care services under this title shall document on the facility's cost report all covered non-routine services furnished to all residents of the facility to whom the facility provided extended care services for which payment was made under part A during a fiscal year (beginning with fiscal year 1996) (without regard to whether or not the services were furnished by the facility, by others under arrangement with them made by the facility, under any other contracting or consulting arrangement, or otherwise).

''(c) RECONCILIATION OF AMOUNTS.—

''(1) LIMIT BASED ON PER STAY LIMIT AND NUMBER OF STAYS.—

''(A) IN GENERAL.—If a skilled nursing facility has received aggregate payments under subsection (b) for covered non-routine services during a cost reporting period beginning during a fiscal year in excess of an amount equal to the cost reporting period limit determined under subparagraph (B), the Secretary shall reduce the payments made to the facility with respect to such services for cost reporting periods beginning during the following fiscal year in an amount equal to such excess. The Secretary shall reduce payments under this subparagraph at such times and in such manner during a fiscal year as the Secretary finds necessary to meet the requirement of this subparagraph.

''(B) COST REPORTING PERIOD LIMIT.—The cost reporting period limit determined under this subparagraph is an amount equal to the product of—

''(i) the per stay limit applicable to the facility under subsection (d) for the period; and

''(ii) the number of stays beginning during the period for which payment was made to the facility for such services.

''(C) PROSPECTIVE REDUCTION IN PAYMENTS.—In addition to the process for reducing payments described in subparagraph (A), the Secretary may reduce payments made to a facility under this section during a cost reporting period if the Secretary determines (on the basis of such estimated information as the Secretary considers appropriate) that payments to the facility under this section for the period will substantially exceed the cost reporting period limit for the period determined under this paragraph.

''(2) INCENTIVE PAYMENTS.—

''(A) IN GENERAL.—If a skilled nursing facility has received aggregate payments under subsection (b) for covered non-routine services during a cost reporting period beginning during a fiscal year in an amount that is less than the amount determined under paragraph (1)(B), the Secretary shall pay the skilled nursing facility in the following fiscal year an incentive payment equal to 50 percent of the difference between such amounts, except that the incentive payment may not exceed 5 percent of the aggregate payments made to the facility under subsection (b) for the previous fiscal year (without regard to subparagraph (B)).

''(B) INSTALLMENT INCENTIVE PAYMENTS.—The Secretary may make installment payments during a fiscal year to a skilled nursing facility based on the estimated incentive payment that the facility would be eligible to receive with respect to such fiscal year.

''(d) DETERMINATION OF FACILITY PER STAY LIMIT.—

''(1) LIMIT FOR FISCAL YEAR 1997.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary shall establish separate per stay limits for hospital-based and freestanding skilled nursing facilities for the 12-month cost reporting period beginning during fiscal year 1997 that are equal to the sum of—

''(i) 50 percent of the facility-specific stay amount for the facility (as determined under subsection (e)) for the last 12-month cost reporting period ending on or before September 30, 1994, increased (in a compounded manner) by the SNF market basket percentage increase for fiscal years 1995 through 1997; and

''(ii) 50 percent of the average of all facility-specific stay amounts for all hospital-based facilities or all freestanding facilities (whichever is applicable) during the cost reporting period described in clause (i), increased (in a compounded manner) by the SNF market basket percentage increase for fiscal years 1995 through 1997.

''(B) FACILITIES NOT HAVING 1994 COST REPORTING PERIOD.—In the case of a skilled nursing facility for which payments were not made under this title for covered non-routine services for the last 12-month cost reporting period ending on or before September 30, 1994, the per stay limit for the 12-month cost reporting period beginning during fiscal year 1997 shall be twice the amount determined under subparagraph (A)(ii).

''(2) LIMIT FOR SUBSEQUENT FISCAL YEARS.—The per stay limit for a skilled nursing facility for a 12-month cost reporting period beginning during a fiscal year after fiscal year 1997 is equal to the per stay limit established under this subsection for the 12-month cost reporting period beginning during the previous fiscal year, increased by the SNF market basket percentage increase for such subsequent fiscal year minus 2 percentage points.

''(3) REBASING OF AMOUNTS.—

''(A) IN GENERAL.—The Secretary shall provide for an update to the facility-specific amounts used to determine the per stay limits under this subsection for cost reporting periods beginning on or after October 1, 1999, and every 2 years thereafter.

''(B) TREATMENT OF FACILITIES NOT HAVING REBASED COST REPORTING PERIODS.—Paragraph (1)(B) shall apply with respect to a skilled nursing facility for which payments were not made under this title for covered non-routine services for the 12-month cost reporting period used by the Secretary to update facility-specific amounts under subparagraph (A) in the same manner as such paragraph applies with respect to a facility for which payments were not made under this title for covered non-routine services for the last 12-month cost reporting period ending on or before September 30, 1994.

''(e) DETERMINATION OF FACILITY-SPECIFIC STAY AMOUNTS.—The 'facility-specific stay amount' for a skilled nursing facility for a cost reporting period is the sum of—

''(1) the average amount of payments made to the facility under part A during the period which are attributable to covered non-routine services furnished during a stay; and

''(2) the Secretary's best estimate of the average amount of payments made under part B during the period for covered non-routine services furnished to all residents of the facility to whom the facility provided extended care services for which payment was made under part A during the period (without regard to whether or not the services were furnished by the facility, by others under arrangement with them made by the facility, under any other contracting or consulting arrangement, or otherwise), as estimated by the Secretary.

''(f) INTENSIVE NURSING OR THERAPY NEEDS.—

''(1) IN GENERAL.—In applying subsection (b) to covered non-routine services furnished during a stay beginning during a cost reporting period beginning during a fiscal year to a resident of a skilled nursing facility who requires intensive nursing or therapy services, the per stay limit determined for the fiscal year under the methodology for such resident shall be the per stay limit developed under paragraph (2) instead of the per stay limit determined under subsection (d)(1)(A).

''(2) PER STAY LIMIT FOR INTENSIVE NEED RESIDENTS.—Not later than June 30, 1996, the Secretary, after consultation with the Medicare Payment Review Commission and skilled nursing facility experts, shall develop and publish a methodology for determining on an annual basis a per stay limit for residents of a skilled nursing facility who require intensive nursing or therapy services.

''(3) BUDGET NEUTRALITY.—The Secretary shall adjust payments under subsection (b) in a manner that ensures that total payments for covered non-routine services under this section are not greater or less than total payments for such services would have been but for the application of paragraph (1).

''(g) SPECIAL TREATMENT FOR MEDICARE LOW VOLUME SKILLED NURSING FACILITIES.—This section shall not apply with respect to a skilled nursing facility for which payment is made for routine service costs during a cost reporting period on the basis of prospective payments under section 1888(d).

''(h) EXCEPTIONS AND ADJUSTMENTS TO LIMITS.—

''(1) IN GENERAL.—The Secretary may make exceptions and adjustments to the cost reporting limits applicable to a skilled nursing facility under subsection (c)(1)(B) for a cost reporting period, except that the total amount of any additional payments made under this section for covered non-routine services during the cost reporting period as a result of such exceptions and adjustments may not exceed 5 percent of the aggregate payments made to all skilled nursing facilities for covered non-routine services during the cost reporting period (determined without regard to this paragraph).

''(2) BUDGET NEUTRALITY.—The Secretary shall adjust payments under subsection (b) in a manner that ensures that total payments for covered non-routine services under this section are not greater or less than total payments for such services would have been but for the application of paragraph (1).

''(i) SPECIAL RULE FOR X-RAY SERVICES.—Before furnishing a covered non-routine service consisting of an X-ray service for which payment may be made under part A or part B to a resident, a skilled nursing facility shall consider whether furnishing the service through a provider of portable X-ray service services would be appropriate, taking into account the cost effectiveness of the service and the convenience to the resident.''.

(b) CONFORMING AMENDMENT.—Section 1814(b) (42 U.S.C. 1395f(b)) is amended in the matter preceding paragraph (1) by striking ''1813 and 1886'' and inserting ''1813, 1886, 1888, and 1888A''.

**SEC. 15523. PAYMENTS FOR ROUTINE SERVICE COSTS.**

(a) MAINTAINING SAVINGS RESULTING FROM TEMPORARY FREEZE ON PAYMENT INCREASES.—

(1) BASING UPDATES TO PER DIEM COST LIMITS ON LIMITS FOR FISCAL YEAR 1993.—

(A) IN GENERAL.—The last sentence of section 1888(a) (42 U.S.C. 1395yy(a)) is amended by inserting before the period at the end the following: ''(except that such updates may not take into account any changes in the routine service costs of skilled nursing facilities occurring during cost reporting periods which began during fiscal year 1994 or fiscal year 1995)''.

(B) NO EXCEPTIONS PERMITTED BASED ON AMENDMENT.—The Secretary of Health and Human Services shall not consider the amendment made by subparagraph (A) in making any adjustments pursuant to section 1888(c) of the Social Security Act.

(2) PAYMENTS DETERMINED ON PROSPECTIVE BASIS.—Any change made by the Secretary of Health and Human Services in the amount of any prospective payment paid to a skilled nursing facility under section 1888(d) of the Social Security Act for cost reporting periods beginning on or after October 1, 1995, may not take into account any changes in the costs of services occurring during cost reporting periods which began during fiscal year 1994 or fiscal year 1995.

(b) ESTABLISHMENT OF SCHEDULE FOR MAKING ADJUSTMENTS TO LIMITS.—Section 1888(c) (42 U.S.C. 1395yy(c)) is amended by striking the period at the end of the second sentence and inserting '', and may only make adjustments under this subsection with respect to a facility which applies for an adjustment during an annual application period established by the Secretary.''.

(c) LIMITATION ON AGGREGATE INCREASE IN PAYMENTS RESULTING FROM ADJUSTMENTS TO LIMITS.—Section 1888(c) (42 U.S.C. 1395yy(c)) is amended—

(1) by striking ''(c) The Secretary'' and inserting ''(c)(1) Subject to paragraph (2), the Secretary''; and

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

''(2) The Secretary may not make any adjustments under this subsection in the limits set forth in subsection (a) for a cost reporting period beginning during a fiscal year to the extent that the total amount of the additional payments made under this title as a result of such adjustments is greater than an amount equal to—

''(A) for cost reporting periods beginning during fiscal year 1997, the total amount of the additional payments made under this title as a result of adjustments under this subsection for cost reporting periods beginning during fiscal year 1996 increased by the SNF market basket percentage increase (as defined in section 1888A(e)(3)) for fiscal year 1997; and

''(B) for cost reporting periods beginning during a subsequent fiscal year, the amount determined under this paragraph for the previous fiscal year increased by the SNF market basket percentage increase for such subsequent fiscal year.''.

(d) IMPOSITION OF LIMITS FOR ALL COST REPORTING PERIODS.—Section 1888(a) (42 U.S.C. 1395yy(a)) is amended in the matter preceding paragraph (1) by inserting after ''extended care services'' the following: ''(for any cost reporting period for which payment is made under this title to the skilled nursing facility for such services)''.

**SEC. 15524. REDUCTIONS IN PAYMENT FOR CAPITAL-RELATED COSTS.**

Section 1861(v)(1) (42 U.S.C. 1395x(v)(1)), as amended by section 15506, is amended by adding at the end the following new subparagraph:

''(U) Such regulations shall provide that, in determining the amount of the payments that may be made under this title with respect to all the capital-related costs of skilled nursing facilities, the Secretary shall reduce the amounts of such payments otherwise established under this title by 15 percent for payments attributable to portions of cost reporting periods occurring during fiscal years 1996 through 2002.''.

**SEC. 15525. TREATMENT OF ITEMS AND SERVICES PAID FOR UNDER PART B.**

(a) REQUIRING PAYMENT FOR ALL ITEMS AND SERVICES TO BE MADE TO FACILITY.—

(1) IN GENERAL.—The first sentence of section 1842(b)(6) (42 U.S.C. 1395u(b)(6)) is amended—

(A) by striking ''and (D)'' and inserting ''(D)''; and

(B) by striking the period at the end and inserting the following: '', and (E) in the case of an item or service (other than physicians' services and other than a portable X-ray or portable electrocardiogram treated as a physician's service for purposes of section 1848(j)(3)) furnished to an individual who (at the time the item or service is furnished) is a resident of a skilled nursing facility, payment shall be made to the facility (without regard to whether or not the item or service was furnished by the facility, by others under arrangement with them made by the facility, or otherwise).''.

(2) EXCLUSION FOR ITEMS AND SERVICES NOT BILLED BY FACILITY.—Section 1862(a) (42 U.S.C. 1395y(a)) is amended—

(A) by striking ''or'' at the end of paragraph (14);

(B) by striking the period at the end of paragraph (15) and inserting ''; or''; and

(C) by inserting after paragraph (15) the following new paragraph:

''(16) where such expenses are for covered non-routine services (as defined in section 1888A(a)(1)) (other than a portable X-ray or portable electrocardiogram treated as a physician's service for purposes of section 1848(j)(3)) furnished to an individual who is a resident of a skilled nursing facility and for which the claim for payment under this title is not submitted by the facility.''.

(3) CONFORMING AMENDMENT.—Section 1832(a)(1) (42 U.S.C. 1395k(a)(1)) is amended by striking ''(2);'' and inserting ''(2) and section 1842(b)(6)(E);''.

(b) REDUCTION IN PAYMENTS FOR ITEMS AND SERVICES FURNISHED BY OR UNDER ARRANGEMENTS WITH FACILITIES.—Section 1861(v)(1) (42 U.S.C. 1395x(v)(1)), as amended by sections 15506 and 15524, is amended by adding at the end the following new subparagraph:

''(V) In the case of an item or service furnished by a skilled nursing facility (or by others under arrangement with them made

by a skilled nursing facility) for which payment is made under part B in an amount determined in accordance with section 1833(a)(2)(B), the Secretary shall reduce the reasonable cost for such item or service otherwise determined under clause (i)(I) of such section by 5.8 percent for payments attributable to portions of cost reporting periods occurring during fiscal years 1996 through 2002.''.

**SEC. 15526. CERTIFICATION OF FACILITIES MEETING REVISED NURSING HOME REFORM STANDARDS.**

(a) IN GENERAL.—Section 1819(a)(3) (42 U.S.C. 1395i–3(a)(3)) is amended to read as follows:

''(3)(A) is certified by the Secretary as meeting the standards established under subsection (b), or (B) is a State-certified facility (as defined in subsection (d)).''.

(b) REQUIREMENTS DESCRIBED.—Section 1819 (42 U.S.C. 1395i–3) is amended by striking subsections (b) through (i) and inserting the following:

''(b) STANDARDS FOR AND CERTIFICATION OF FACILITIES.—

''(1) STANDARDS FOR FACILITIES.—

''(A) IN GENERAL.—The Secretary shall provide for the establishment and maintenance of standards consistent with the contents described in subparagraph (B) for skilled nursing facilities which furnish services for which payment may be made under this title.

''(B) CONTENTS OF STANDARDS.—The standards established for facilities under this paragraph shall contain provisions relating to the following items:

''(i) The treatment of resident medical records.

''(ii) Policies, procedures, and bylaws for operation.

''(iii) Quality assurance systems.

''(iv) Resident assessment procedures, including care planning and outcome evaluation.

''(v) The assurance of a safe and adequate physical plant for the facility.

''(vi) Qualifications for staff sufficient to provide adequate care.

''(vii) Utilization review.

''(viii) The protection and enforcement of resident rights described in subparagraph (C).

''(C) RESIDENT RIGHTS DESCRIBED.—The resident rights described in this subparagraph are the rights of residents to the following:

''(i) To exercise the individual's rights as a resident of the facility and as a citizen or resident of the United States.

''(ii) To receive notice of rights and services.

''(iii) To be protected against the misuse of resident funds.

''(iv) To be provided privacy and confidentiality.

''(v) To voice grievances.

''(vi) To examine the results of inspections under the certification program.

''(vii) To refuse to perform services for the facility.

''(viii) To be provided privacy in communications and to receive mail.

''(ix) To have the facility provide immediate access to any resident by any representative of the certification program, the resident's individual physician, the State long term care ombudsman, and any person the resident has designated as a visitor.

''(x) To retain and use personal property.

''(xi) To be free from abuse, including verbal, sexual, physical and mental abuse, corporal punishment, and involuntary seclusion.

''(xii) To be provided with prior written notice of a pending transfer or discharge.

''(D) REQUIRING NOTICE AND COMMENT.—The standards established for facilities under this paragraph may only take effect after the Secretary has provided the public with notice and an opportunity for comment.

''(2) CERTIFICATION PROGRAM.—

''(A) IN GENERAL.—The Secretary shall provide for the establishment and operation of a program consistent with the requirements of subparagraph (B) for the certification of skilled nursing facilities which meet the standards established under paragraph (1) and the decertification of facilities which fail to meet such standards.

''(B) REQUIREMENTS FOR PROGRAM.—In addition to any other requirements the Secretary may impose, in establishing and operating the certification program under subparagraph (A), the Secretary shall ensure the following:

''(i) The Secretary shall ensure public access (as defined by the Secretary) to the certification program's evaluations of participating facilities, including compliance records and enforcement actions and other reports by the Secretary regarding the ownership, compliance histories, and services provided by certified facilities.

''(ii) Not less often than every 4 years, the Secretary shall audit its expenditures under the program, through an entity designated by the Secretary which is not affiliated with the program, as designated by the Secretary.

''(c) INTERMEDIATE SANCTION AUTHORITY.—

''(1) AUTHORITY.—In addition to any other authority, where the Secretary determines that a nursing facility which is certified for participation under this title (whether certified by the Secretary as meeting the standards established under subsection (b) or a State-ceritified facility) no longer or does not substantially meet the requirements for such a facility under this title as specified under subsection (b) and further determines that the facility's deficiencies—

''(A) immediately jeopardize the health and safety of its residents, the Secretary shall at least provide for the termination of the facility's certification for participation under this title, or

''(B) do not immediately jeopardize the health and safety of its residents, the Secretary may, in lieu of providing for terminating the facility's certification for participation under the plan, provide lesser sanctions including one that provides that no payment will be made under this title with respect to any individual admitted to such facility after a date specified by the Secretary.

''(2) NOTICE.—The Secretary shall not make such a decision with respect to a facility until the facility has had a reasonable opportunity, following the initial determination that it no longer or does not substantially meet the requirements for such a facility under this title, to correct its deficiencies, and, following this period, has been given reasonable notice and opportunity for a hearing.

''(3) EFFECTIVENESS.—The Secretary's decision to deny payment may be made effective only after such notice to the public and to the facility as may be provided for by the Secretary, and its effectiveness shall terminate (A) when the Secretary finds that the facility is in substantial compliance (or is making good faith efforts to achieve substantial compliance) with the requirements for such a facility under this title, or (B) in the case described in paragraph (1)(B), with the end of the eleventh month following the month such decision is made effective, whichever occurs first. If a facility to which clause (B) of the previous sentence applies still fails to substantially meet the provisions of the respective section on the date specified in such clause, the Secretary shall terminate such facility's certification for participation under this title effective with the first day of the first month following the month specified in such clause.

''(d) STATE-CERTIFIED FACILITY DEFINED.—In subsection (a), a 'State-certified facility' means a facility licensed or certified as a skilled nursing facility by the State in which it is located, or a facility which otherwise meets the requirements applicable to providers of nursing facility services under the State plan under title XIX or the MediGrant program under title XXI.''.

(c) CONFORMING AMENDMENTS.—(1) Section 1861(v)(1)(E) (42 U.S.C. 1395x(v)(1)(E)) is amended by striking the second sentence.

(2) Section 1864 (42 U.S.C. 1395aa) is amended by striking subsection (d).

(3) Section 1866(f)(1) (42 U.S.C. 1395cc(f)(1)) is amended by striking ''1819(c)(2)(E),''.

(4) Section 1883(f) (42 U.S.C. 1395tt(f)) is amended—

(A) in the second sentence, by striking ''such a hospital'' and inserting ''a hospital which enters into an agreement with the Secretary under this section''; and

(B) by striking the first sentence.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to cost reporting periods beginning on or after October 1, 1995.

**SEC. 15527. MEDICAL REVIEW PROCESS.**

In order to ensure that medicare beneficiaries are furnished appropriate extended care services, the Secretary of Health and Human Services shall establish and implement a thorough medical review process to examine the effects of the amendments made by this part on the quality of extended care services furnished to medicare beneficiaries. In developing such a medical review process, the Secretary shall place a particular emphasis on the quality of non-routine covered services for which payment is made under section 1888A of the Social Security Act.

**SEC. 15528. REPORT BY MEDICARE PAYMENT REVIEW COMMISSION.**

Not later than October 1, 1997, the Medicare Payment Review Commission shall submit to Congress a report on the system under which payment is made under the medicare program for extended care services furnished by skilled nursing facilities, and shall include in the report the following:

(1) An analysis of the effect of the methodology established under section 1888A of the Social Security Act (as added by section 15522) on the payments for, and the quality of, extended care services under the medicare program.

(2) An analysis of the advisability of determining the amount of payment for covered non-routine services of facilities (as described in such section) on the basis of the amounts paid for such services when furnished by suppliers under part B of the medicare program.

(3) An analysis of the desirability of maintaining separate limits for hospital-based and freestanding facilities in the costs of extended care services recognized as reasonable under the medicare program.

(4) An analysis of the quality of services furnished by skilled nursing facilities.

(5) An analysis of the adequacy of the process and standards used to provide exceptions to the limits described in paragraph (3).

**SEC. 15529. EFFECTIVE DATE.**

Except as otherwise provided in this part, the amendments made by this part shall apply to services furnished during cost reporting periods (or portions of cost reporting periods) beginning on or after October 1, 1996.

**PART 3—CLARIFICATION OF CREDITS TO PART A TRUST FUND**

**SEC. 15531. CLARIFICATION OF AMOUNT OF TAXES CREDITED TO FEDERAL HOSPITAL INSURANCE TRUST FUND.**

Section 121(e)(1)(B) of the Social Security Amendments of 1983 (Public Law 98–21) is amended by adding at the end the following: ''The Secretary of the Treasury shall carry out this subparagraph without regard to any amendments to this subsection or to section 86 of the Internal Revenue Code of 1986 which take effect on or after January 1, 1994.''.

**Subtitle G—Provisions Relating to Medicare Part B**

**PART 1—PAYMENT REFORMS**

**SEC. 15601. PAYMENTS FOR PHYSICIANS' SERVICES.**

(a) REPLACEMENT OF VOLUME PERFORMANCE STANDARD WITH SUSTAINABLE GROWTH RATE.—Section 1848(f) (42 U.S.C. 1395w–4(f)) is amended to read as follows:

''(f) SUSTAINABLE GROWTH RATE.—

''(1) SPECIFICATION OF GROWTH RATE.—

''(A) FISCAL YEAR 1996.—The sustainable growth rate for all physicians' services for fiscal year 1996 shall be equal to the product of—

''(i) 1 plus the Secretary's estimate of the percentage change in the medicare economic index for 1996 (described in the fourth sentence of section 1842(b)(3)) (divided by 100),

''(ii) 1 plus the Secretary's estimate of the percentage change (divided by 100) in the average number of individuals enrolled under this part (other than private plan enrollees) from fiscal year 1995 to fiscal year 1996,

''(iii) 1 plus the Secretary's estimate of the projected percentage growth in real gross domestic product per capita (divided by 100) from fiscal year 1995 to fiscal year 1996, plus 2 percentage points, and

''(iv) 1 plus the Secretary's estimate of the percentage change (divided by 100) in expenditures for all physicians' services in fiscal year 1996 (compared with fiscal year 1995) which will result from changes in law, determined without taking into account estimated changes in expenditures due to changes in the volume and intensity of physicians' services or changes in expenditures resulting from changes in the update to the conversion factor under subsection (d),

minus 1 and multiplied by 100.

''(B) SUBSEQUENT FISCAL YEARS.—The sustainable growth rate for all physicians' services for fiscal year 1997 and each subsequent fiscal year shall be equal to the product of—

''(i) 1 plus the Secretary's estimate of the percentage change in the medicare economic index for the fiscal year involved (described in the fourth sentence of section 1842(b)(3)) (divided by 100),

''(ii) 1 plus the Secretary's estimate of the percentage change (divided by 100) in the average number of individuals enrolled under this part (other than private plan enrollees) from the previous fiscal year to the fiscal year involved,

''(iii) 1 plus the Secretary's estimate of the projected percentage growth in real gross domestic product per capita (divided by 100) from the previous fiscal year to the fiscal year involved, plus 2 percentage points, and

''(iv) 1 plus the Secretary's estimate of the percentage change (divided by 100) in expenditures for all physicians' services in the fiscal year (compared with the previous fiscal year) which will result from changes in law (including changes made by the Secretary in response to section 1895), determined without taking into account estimated changes in expenditures due to changes in the volume and intensity of physicians' services or changes in expenditures resulting from changes in the update to the conversion factor under subsection (d)(3),

minus 1 and multiplied by 100.

''(2) EXCLUSION OF SERVICES FURNISHED TO PRIVATE PLAN ENROLLEES.—In this subsection, the term 'physicians' services' with respect to a fiscal year does not include services furnished to an individual enrolled under this part who has elected to receive benefits under this title for the fiscal year through a MedicarePlus product offered under part C or through enrollment with an eligible organization with a risk-sharing contract under section 1876.''.

(b) ESTABLISHING UPDATE TO CONVERSION FACTOR TO MATCH SPENDING UNDER SUSTAINABLE GROWTH RATE.—

(1) IN GENERAL.—Section 1848(d) (42 U.S.C. 1395w–4(d)) is amended—

(A) by striking paragraph (2);

(B) by amending paragraph (3) to read as follows:

''(3) UPDATE.—

''(A) IN GENERAL.—Subject to subparagraph (E), for purposes of this section the update for a year (beginning with 1997) is equal to the product of—

''(i) 1 plus the Secretary's estimate of the percentage increase in the medicare economic index (described in the fourth sentence of section 1842(b)(3)) for the year (divided by 100), and

''(ii) 1 plus the Secretary's estimate of the update adjustment factor for the year (divided by 100),

minus 1 and multiplied by 100.

''(B) UPDATE ADJUSTMENT FACTOR.—The 'update adjustment factor' for a year is equal to the quotient of—

''(i) the difference between (I) the sum of the allowed expenditures for physicians' services furnished during each of the years 1995 through the year involved and (II) the sum of the amount of actual expenditures for physicians' services furnished during each of the years 1995 through the previous year; divided by

''(ii) the Secretary's estimate of allowed expenditures for physicians' services furnished during the year.

''(C) DETERMINATION OF ALLOWED EXPENDITURES.—For purposes of subparagraph (B), allowed expenditures for physicians' services shall be determined as follows (as estimated by the Secretary):

''(i) In the case of allowed expenditures for 1995, such expenditures shall be equal to actual expenditures for services furnished during the 12-month period ending with June of 1995.

''(ii) In the case of allowed expenditures for 1996 and each subsequent year, such expenditures shall be equal to allowed expenditures for the previous year, increased by the sustainable growth rate under subsection (f) for the fiscal year which begins during the year.

''(D) DETERMINATION OF ACTUAL EXPENDITURES.—For purposes of subparagraph (B), the amount of actual expenditures for physicians' services furnished during a year shall be equal to the amount of expenditures for such services during the 12-month period ending with June of the previous year.

''(E) RESTRICTION ON VARIATION FROM MEDICARE ECONOMIC INDEX.—

''(i) IN GENERAL.—Notwithstanding the amount of the update adjustment factor determined under subparagraph (B) for a year, the update in the conversion factor under this paragraph for the year may not be—

''(I) greater than 103 percent of 1 plus the Secretary's estimate of the percentage increase in the medicare economic index (described in the fourth sentence of section 1842(b)(3)) for the year (divided by 100); or

''(II) less than the applicable percentage limit of 1 plus the Secretary's estimate of the percentage increase in the medicare economic index (described in the fourth sentence of section 1842(b)(3)) for the year (divided by 100).

''(ii) APPLICABLE PERCENTAGE LIMIT.—In clause (i)(II), the 'applicable percentage limit' for a year is—

''(I) for 1997, 93 percent;

''(II) for 1998, 92.25 percent; and

''(III) for 1999 and each succeeding year, 92 percent.''; and

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

''(4) REPORTING REQUIREMENTS.—

''(A) IN GENERAL.—Not later than November 1 of each year (beginning with 1996), the Secretary shall transmit to the Congress a report that describes the update in the conversion factor for physicians' services (as defined in subsection (f)(3)(A)) in the following year.

''(B) COMMISSION REVIEW.—The Medicare Payment Review Commission shall review the report submitted under subparagraph (A) for a year and shall submit to the Congress, by not later than December 1 of the year, a report containing its analysis of the conversion factor for the following year.''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to physicians' services furnished on or after January 1, 1996.

(c) ESTABLISHMENT OF SINGLE CONVERSION FACTOR FOR 1996.—

(1) IN GENERAL.—Section 1848(d)(1) (42 U.S.C. 1395w–4(d)(1)) is amended—

(A) by redesignating subparagraph (C) as subparagraph (D); and

(B) by inserting after subparagraph (B) the following new subparagraph:

''(C) SPECIAL RULE FOR 1996.—For 1996, the conversion factor under this subsection shall be $35.42 for all physicians' services.''.

(2) CONFORMING AMENDMENTS.—Section 1848 (42 U.S.C. 1395w–4), as amended by paragraph (1), is amended—

(A) by striking ''(or factors)'' each place it appears in subsection (d)(1)(A) and (d)(1)(D)(ii);

(B) in subsection (d)(1)(A), by striking ''or updates'';

(C) in subsection (d)(1)(D)(ii), by striking ''(or updates)''; and

(D) in subsection (i)(1)(C), by striking ''conversion factors'' and inserting ''the conversion factor''.

**SEC. 15602. ELIMINATION OF FORMULA-DRIVEN OVERPAYMENTS FOR CERTAIN OUTPATIENT HOSPITAL SERVICES.**

(a) AMBULATORY SURGICAL CENTER PROCEDURES.—Section 1833(i)(3)(B)(i)(II) (42 U.S.C. 1395l(i)(3)(B)(i)(II)) is amended—

(1) by striking ''of 80 percent''; and

(2) by striking the period at the end and inserting the following: '', less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A).''.

(b) RADIOLOGY SERVICES AND DIAGNOSTIC PROCEDURES.—Section 1833(n)(1)(B)(i)(II) (42 U.S.C. 1395l(n)(1)(B)(i)(II)) is amended—

(1) by striking ''of 80 percent''; and

(2) by striking the period at the end and inserting the following: '', less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished during portions of cost reporting periods occurring on or after October 1, 1995.

**SEC. 15603. PAYMENTS FOR DURABLE MEDICAL EQUIPMENT.**

(a) REDUCTION IN PAYMENT AMOUNTS FOR ITEMS OF DURABLE MEDICAL EQUIPMENT.—

(1) FREEZE IN UPDATE FOR COVERED ITEMS.—Section 1834(a)(14) (42 U.S.C. 1395m(a)(14)) is amended—

(A) by striking ''and'' at the end of subparagraph (A);

(B) in subparagraph (B)—

(i) by striking ''a subsequent year'' and inserting ''1993, 1994, and 1995'', and

(ii) by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

''(C) for each of the years 1996 through 2002, 0 percentage points; and

''(D) for a subsequent year, the percentage increase in the consumer price index for all urban consumers (U.S. urban average) for the 12-month period ending with June of the previous year.''.

(2) UPDATE FOR ORTHOTICS AND PROSTHETICS.—Section 1834(h)(4)(A) (42 U.S.C. 1395m(h)(4)(A)) is amended—

(A) by striking ''and'' at the end of clause (iii);

(B) by redesignating clause (iv) as clause (v); and

(C) by inserting after clause (iii) the following new clause:

''(iv) for each of the years 1996 through 2002, 1 percent, and''.

(b) OXYGEN AND OXYGEN EQUIPMENT.—Section 1834(a)(9)(C) (42 U.S.C. 1395m(a)(9)(C)) is amended—

(1) by striking ''and'' at the end of clause (iii);

(2) in clause (iv)—

(A) by striking ''a subsequent year'' and inserting ''1993, 1994, and 1995'', and

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

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

''(v) in 1996, is 80 percent of the national limited monthly payment rate computed under subparagraph (B) for the item for the year; and

''(vi) in a subsequent year, is the national limited monthly payment rate computed under subparagraph (B) for the item for the year.''.

(c) PAYMENT FOR UPGRADED DURABLE MEDICAL EQUIPMENT.—Section 1834(a) (42 U.S.C. 1395m(a)) is amended by inserting after paragraph (15) the following new paragraph:

''(16) PAYMENT FOR CERTAIN UPGRADED ITEMS.—

''(A) INDIVIDUAL'S RIGHT TO CHOOSE UPGRADED ITEM.—Notwithstanding any other provision of this title, effective on the date on which the Secretary issues regulations under subparagraph (C), payment may be made under this part for an upgraded item of durable medical equipment in the same manner as payment may be made for a standard item of durable medical equipment.

''(B) PAYMENTS TO SUPPLIER.—In the case of the purchase or rental of an upgraded item under subparagraph (A)—

''(i) the supplier shall receive payment under this subsection with respect to such item as if such item were a standard item; and

''(ii) the individual purchasing or renting the item shall pay the supplier an amount equal to the difference between the supplier's charge and the amount under clause (i). In no event may the supplier's charge for an upgraded item exceed the applicable fee schedule amount (if any) for such item.

''(C) CONSUMER PROTECTION SAFEGUARDS.—The Secretary shall issue regulations providing for consumer protection standards with respect to the furnishing of upgraded equipment under subparagraph (A). Such regulations shall provide for—

''(i) full disclosure by the supplier of the availability and price of standard items and proof of receipt of such disclosure information by the beneficiary before the furnishing of the upgraded item;

''(ii) conditions of participation for suppliers of upgraded items, including conditions relating to billing procedures;

''(iii) sanctions (including exclusion) of suppliers who are determined to have engaged in coercive or abusive practices; and

''(iv) such other safeguards as the Secretary determines are necessary.''.

(d) PAYMENT FREEZE FOR PARENTERAL AND ENTERAL NUTRIENTS, SUPPLIES, AND EQUIPMENT.—In determining the amount of payment under part B of title XVIII of the Social Security Act with respect to parenteral and enteral nutrients, supplies, and equipment during each of the years 1996 through 2002, the charges determined to be reasonable with respect to such nutrients, supplies, and equipment may not exceed the charges determined to be reasonable with respect to such nutrients, supplies, and equipment during 1993.

**SEC. 15604. REDUCTION IN UPDATES TO PAYMENT AMOUNTS FOR CLINICAL DIAGNOSTIC LABORATORY TESTS.**

(a) CHANGE IN UPDATE.—Section 1833(h)(2)(A)(ii)(IV) (42 U.S.C. 1395l(h)(2)(A)(ii)(IV)) is amended by striking ''1994 and 1995'' and inserting ''1994 through 2002''.

(b) LOWERING CAP ON PAYMENT AMOUNTS.—Section 1833(h)(4)(B) (42 U.S.C. 1395l(h)(4)(B)) is amended—

(1) in clause (vi), by striking ''and'' at the end;

(2) in clause (vii)—

(A) by inserting ''and before January 1, 1997,'' after ''1995,'', and

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

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

''(viii) after December 31, 1996, is equal to 65 percent of such median.''.

**SEC. 15605. EXTENSION OF REDUCTIONS IN PAYMENTS FOR COSTS OF HOSPITAL OUTPATIENT SERVICES.**

(a) REDUCTION IN PAYMENTS FOR CAPITAL-RELATED COSTS.—Section 1861(v)(1)(S)(ii)(I) (42 U.S.C. 1395x(v)(1)(S)(ii)(I)) is amended by striking ''through 1998'' and inserting ''through 2002''.

(b) REDUCTION IN PAYMENTS FOR OTHER COSTS.—Section 1861(v)(1)(S)(ii)(II) (42 U.S.C. 1395x(v)(1)(S)(ii)(II)) is amended by striking ''through 1998'' and inserting ''through 2002''.

**SEC. 15606. FREEZE IN PAYMENTS FOR AMBULATORY SURGICAL CENTER SERVICES.**

The Secretary of Health and Human Services shall not provide for any inflation update in the payment amounts under subparagraphs (A) and (B) of section 1833(i)(2) of the Social Security Act for any of the fiscal years 1996 through 2002.

**SEC. 15607. RURAL EMERGENCY ACCESS CARE HOSPITALS.**

(a) COVERAGE UNDER PART B.—Section 1832(a)(2) (42 U.S.C. 1395k(a)(2)) is amended—

(1) by striking ''and'' at the end of subparagraph (I);

(2) by striking the period at the end of subparagraph (J) and inserting ''; and''; and

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

''(K) rural emergency access care hospital services (as defined in section 1861(oo)(2)).''.

(b) PAYMENT BASED ON PAYMENT FOR OUTPATIENT RURAL PRIMARY CARE HOSPITAL SERVICES.—

(1) IN GENERAL.—Section 1833(a)(6) (42 U.S.C. 1395l(a)(6)) is amended by striking ''services,'' and inserting ''services and rural emergency access care hospital services,''.

(2) PAYMENT METHODOLOGY DESCRIBED.—Section 1834(g) (42 U.S.C. 1395m(g)) is amended—

(A) in the heading, by striking ''SERVICES'' and inserting ''SERVICES AND RURAL EMERGENCY ACCESS CARE HOSPITAL SERVICES''; and

(B) by adding at the end the following new sentence: ''The amount of payment for rural emergency access care hospital services provided during a year shall be determined using the applicable method provided under this subsection for determining payment for outpatient rural primary care hospital services during the year.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after October 1, 1995.

**SEC. 15608. ENSURING PAYMENT FOR PHYSICIAN AND NURSE FOR JOINTLY FURNISHED ANESTHESIA SERVICES.**

(a) PAYMENT FOR JOINTLY FURNISHED SINGLE CASE.—

(1) PAYMENT TO PHYSICIAN.—Section 1848(a)(4) (42 U.S.C. 1395w–4(a)(4)) is amended by adding at the end the following new subparagraph:

''(C) PAYMENT FOR SINGLE CASE.—Notwithstanding section 1862(a)(1)(A), with respect to physicians' services consisting of the furnishing of anesthesia services for a single case that are furnished jointly with a certified registered nurse anesthetist, if the carrier determines that the use of both the physician and the nurse anesthetist to furnish the anesthesia service was not medically necessary, the fee schedule amount for the physicians' services shall be equal to 50 percent (or 55 percent, in the case of services furnished during 1996 or 1997) of the fee schedule amount applicable under this section for anesthesia services personally performed by the physician alone (without regard to this subparagraph). Nothing in this subparagraph may be construed to affect the application of any provision of law regarding balance billing.''.

(2) PAYMENT TO CRNA.—Section 1833(l)(4)(B) (42 U.S.C. 1395l(l)(4)(B)) is amended by adding at the end the following new clause:

''(iv) Notwithstanding section 1862(a)(1)(A), in the case of services of a certified registered nurse anesthetist consisting of the furnishing of anesthesia services for a single case that are furnished jointly with a physician, if the carrier determines that the use of both the physician and the nurse anesthetist to furnish the anesthesia service was not medically necessary, the fee schedule amount for the services furnished by the certified registered nurse anesthetist shall be equal to 50 percent (or 40 percent, in the case of services furnished during 1996 or 1997) of the fee schedule amount applicable under section 1848 for anesthesia services personally performed by the physician alone (without regard to this clause).''.

(b) EFFECTIVE DATE.—The amendments made by subsections (a) shall apply to services furnished on or after July 1, 1996.

**SEC. 15609. STATEWIDE FEE SCHEDULE AREA FOR PHYSICIANS' SERVICES.**

(a) IN GENERAL.—Notwithstanding section 1848(j)(2) of the Social Security Act, in the case of the State of Wisconsin, the Secretary of Health and Human Services shall treat the State as a single fee schedule area for purposes of determining the fee schedule amount (as referred to in section 1848(a) of such Act) for physicians' services (as defined in section 1848(j)(3) of such Act) under part B of the medicare program.

(b) BUDGET-NEUTRALITY.—Notwithstanding any provision of part B of title XVIII of the Social Security Act, the Secretary shall carry out subsection (a) in a manner that ensures that total payments for physicians' services (as so defined) furnished by physicians in Wisconsin during a year are not greater or less than total payments for such services would have been but for this section.

(c) CONSTRUCTION.—Nothing in this section shall be construed as limiting the availability (to the Secretary, the appropriate agency or organization with a contract under section 1842 of such Act, or physicians in the State of Wisconsin) of otherwise applicable

administrative procedures for modifying the fee schedule area or areas in the State after implementation of subsection (a).

(d) EFFECTIVE DATE.—This section shall apply with respect to physicians' services furnished on or after January 1, 1997.

**SEC. 15609A. ESTABLISHMENT OF FEE SCHEDULE FOR AMBULANCE SERVICES.**

(a) PAYMENT IN ACCORDANCE WITH FEE SCHEDULE.—Section 1833(a)(1) (42 U.S.C. 1395l(a)(1)) is amended—

(1) by striking ''and (P)'' and inserting ''(P)''; and

(2) by striking the semicolon at the end and inserting the following: '', and (Q) with respect to ambulance service, the amounts paid shall be 80 percent of the lesser of the actual charge for the services or the amount determined by a fee schedule established by the Secretary for the purposes of this subparagraph (in accordance with section 15608(b) of the Medicare Preservation Act);''.

(b) REQUIREMENTS FOR ESTABLISHMENT OF FEE SCHEDULE.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall establish the fee schedule for ambulance services under section 1833(a)(1)(Q) of the Social Security Act (as added by subsection (a)) through a negotiated rulemaking process described in title 5, United States Code, and in accordance with the requirements of this subsection.

(2) CONSIDERATIONS.—In establishing the fee schedule for ambulance services, the Secretary shall—

(A) establish mechanisms to control increases in expenditures for ambulance services under part B of the medicare program which fairly reflect the changing nature of the ambulance service industry;

(B) establish definitions for ambulance services which promote efficiency and link payments (including fees for assessment and treatment services) to the type of service provided;

(C) take into account regional differences which affect cost and productivity, including differences in the costs of resources and the costs of uncompensated care;

(D) apply dynamic adjustments to payment rates to account for inflation, demographic changes in the population of medicare beneficiaries, and changes in the number of providers of ambulance services participating in the medicare program; and

(E) phase in the application of the payment rates under the fee schedule in an efficient and fair manner.

(3) SAVINGS.—In establishing the fee schedule for ambulance services, the Secretary shall—

(A) ensure that the aggregate amount of payments made for ambulance services under part B of the medicare program during 1998 does not exceed the aggregate amount of payments which would have been made for such services under part B of the program during 1998 if the amendments made by this section were not in effect; and

(B) set the payment amounts provided under the fee schedule for services furnished in 1999 and each subsequent year at amounts equal to the payment amounts under the fee schedule for service furnished during the previous year, increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June of the previous year.

(4) CONSULTATION.—In establishing the fee schedule for ambulance services, the Secretary shall consult regularly with the American Ambulance Association, the National Association of State Medical Directors, and other national organizations representing individuals and entities who furnish or regulate ambulance services, and shall share with such associations and organizations the data and data analysis used in establishing the fee schedule, including data on variations in payments for ambulance services under part B of the medicare program for years prior to 1998 among geographic areas and types of ambulance service providers.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) and the fee schedule described in subsection (b) shall apply to ambulance services furnished on or after January 1, 1998.

**SEC. 15609B. STANDARDS FOR PHYSICAL THERAPY SERVICES FURNISHED BY PHYSICIANS.**

(a) APPLICATION OF STANDARDS FOR OTHER PROVIDERS OF PHYSICAL THERAPY SERVICES TO SERVICES FURNISHED BY PHYSICIANS.—Section 1862(a) (42 U.S.C. 1395y(a)), as amended by section 15525(a)(2), is amended—

(1) by striking ''or'' at the end of paragraph (15);

(2) by striking the period at the end of paragraph (16) and inserting ''; or''; and

(3) by inserting after paragraph (16) the following new paragraph:

''(17) in the case of physicians' services under section 1848(j)(3) consisting of outpatient physical therapy services or outpatient occupational therapy services, which are furnished by a physician who does not meet the requirements applicable under section 1861(p) to a clinic or rehabilitation agency furnishing such services.''.

(b) CONFORMING AMENDMENT.—Section 1848(j)(3) (42 U.S.C. 1395w–4(j)(3)) is amended by inserting ''(subject to section 1862(a)(17))'' after ''(2)(D)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 1996.

## PART 2—PART B PREMIUM

**SEC. 15611. EXTENSION OF PART B PREMIUM.**

(a) IN GENERAL.—Section 1839(e)(1) (42 U.S.C. 1395r(e)(1)) is amended—

(1) in subparagraph (A)—

(A) by striking ''and prior to January 1999'', and

(B) by inserting ''(or, if higher, the percent described in subparagraph (C))'' after ''50 percent''; and

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

''(C) For purposes of subparagraph (A), the percent described in this subparagraph is the ratio (expressed as a percentage) of the monthly premium established under this section for months in 1995 to the monthly actuarial rate for enrollees age 65 and over applicable to such months (as specified in the most recent report of the Board of Trustees of the Federal Supplementary Medical Insurance Trust Fund published prior to the date of the enactment of the Medicare Preservation Act of 1995).''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply to premiums for months beginning with January 1996.

**SEC. 15612. INCOME-RELATED REDUCTION IN MEDICARE SUBSIDY.**

(a) IN GENERAL.—Section 1839 (42 U.S.C. 1395r) is amended by adding at the end the following:

''(h)(1) Notwithstanding the previous subsections of this section, in the case of an individual whose modified adjusted gross income for a taxable year ending with or within a calendar year (as initially determined by the Secretary in accordance with paragraph (3)) exceeds the threshold amount described in paragraph (5)(B), the Secretary shall increase the amount of the monthly premium for months in the calendar year by an amount equal to the difference between—

''(A) 200 percent of the monthly actuarial rate for enrollees age 65 and over as determined under subsection (a)(1) for that calendar year; and

''(B) the total of the monthly premiums paid by the individual under this section (determined without regard to subsection (b)) during such calendar year.

''(2) In the case of an individual described in paragraph (1) whose modified adjusted gross income exceeds the threshold amount by less than $25,000, the amount of the increase in the monthly premium applicable under paragraph (1) shall be an amount which bears the same ratio to the amount of the increase described in paragraph (1) (determined without regard to this paragraph) as such excess bears to $25,000. In the case of a joint return filed under section 6013 of the Internal Revenue Code of 1986 by spouses both of whom are enrolled under this part, the previous sentence shall be applied by substituting '$50,000' for '$25,000'. The preceding provisions of this paragraph shall not apply to any individual whose threshold amount is zero.

''(3) The Secretary shall make an initial determination of the amount of an individual's modified adjusted gross income for a taxable year ending with or within a calendar year for purposes of this subsection as follows:

''(A) Not later than October 1 of the year preceding the year, the Secretary shall provide notice to each individual whom the Secretary finds (on the basis of the individual's actual modified adjusted gross income for the most recent taxable year for which such information is available or other information provided to the Secretary by the Secretary of the Treasury) will be subject to an increase under this subsection that the individual will be subject to such an increase, and shall include in such notice the Secretary's estimate of the individual's modified adjusted gross income for the year.

''(B) If, during the 30-day period beginning on the date notice is provided to an individual under subparagraph (A), the individual provides the Secretary with information on the individual's anticipated modified adjusted gross income for the year, the amount initially determined by the Secretary under this paragraph with respect to the individual shall be based on the information provided by the individual.

''(C) If an individual does not provide the Secretary with information under subparagraph (B), the amount initially determined by the Secretary under this paragraph with respect to the individual shall be the amount included in the notice provided to the individual under subparagraph (A).

''(4)(A) If the Secretary determines (on the basis of final information provided by the Secretary of the Treasury) that the amount of an individual's actual modified adjusted gross income for a taxable year ending with or within a calendar year is less than or greater than the amount initially determined by the Secretary under paragraph (3), the Secretary shall increase or decrease the amount of the individual's monthly premium under this section (as the case may be) for months during the following calendar year by an amount equal to 1/12 of the difference between—

''(i) the total amount of all monthly premiums paid by the individual under this section during the previous calendar year; and

''(ii) the total amount of all such premiums which would have been paid by the individual during the previous calendar year if the amount of the individual's modified adjusted gross income initially determined under paragraph (3) were equal to the actual amount of the individual's modified adjusted gross income determined under this paragraph.

''(B) In the case of an individual who is not enrolled under this part for any calendar

year for which the individual's monthly premium under this section for months during the year would be increased pursuant to subparagraph (A) if the individual were enrolled under this part for the year, the Secretary may take such steps as the Secretary considers appropriate to recover from the individual the total amount by which the individual's monthly premium for months during the year would have been increased under subparagraph (A) if the individual were enrolled under this part for the year.

''(C) In the case of a deceased individual for whom the amount of the monthly premium under this section for months in a year would have been decreased pursuant to subparagraph (A) if the individual were not deceased, the Secretary shall make a payment to the individual's surviving spouse (or, in the case of an individual who does not have a surviving spouse, to the individual's estate) in an amount equal to the difference between—

''(i) the total amount by which the individual's premium would have been decreased for all months during the year pursuant to subparagraph (A); and

''(ii) the amount (if any) by which the individual's premium was decreased for months during the year pursuant to subparagraph (A).

''(5) In this subsection, the following definitions apply:

''(A) The term 'modified adjusted gross income' means adjusted gross income (as defined in section 62 of the Internal Revenue Code of 1986)—

''(i) determined without regard to sections 135, 911, 931, and 933 of such Code, and

''(ii) increased by the amount of interest received or accrued by the taxpayer during the taxable year which is exempt from tax under such Code.

''(B) The term 'threshold amount' means—

''(i) except as otherwise provided in this paragraph, $75,000,

''(ii) $125,000, in the case of a joint return (as defined in section 7701(a)(38) of such Code), and

''(iii) zero in the case of a taxpayer who—

''(I) is married at the close of the taxable year but does not file a joint return (as so defined) for such year, and

''(II) does not live apart from his spouse at all times during the taxable year.''.

(b) CONFORMING AMENDMENT.—Section 1839(f) (42 U.S.C. 1395r(f)) is amended by striking ''if an individual'' and inserting the following: ''if an individual (other than an individual subject to an increase in the monthly premium under this section pursuant to subsection (h))''.

(c) REPORTING REQUIREMENTS FOR SECRETARY OF THE TREASURY.—

(1) IN GENERAL.—Subsection (l) of section 6103 of the Internal Revenue Code of 1986 (relating to confidentiality and disclosure of returns and return information) is amended by adding at the end the following new paragraph:

''(15) DISCLOSURE OF RETURN INFORMATION TO CARRY OUT INCOME-RELATED REDUCTION IN MEDICARE PART B PREMIUM.—

''(A) IN GENERAL.—The Secretary may, upon written request from the Secretary of Health and Human Services, disclose to officers and employees of the Health Care Financing Administration return information with respect to a taxpayer who is required to pay a monthly premium under section 1839 of the Social Security Act. Such return information shall be limited to—

''(i) taxpayer identity information with respect to such taxpayer,

''(ii) the filing status of such taxpayer,

''(iii) the adjusted gross income of such taxpayer,

''(iv) the amounts excluded from such taxpayer's gross income under sections 135 and 911,

''(v) the interest received or accrued during the taxable year which is exempt from the tax imposed by chapter 1 to the extent such information is available, and

''(vi) the amounts excluded from such taxpayer's gross income by sections 931 and 933 to the extent such information is available.

''(B) RESTRICTION ON USE OF DISCLOSED INFORMATION.—Return information disclosed under subparagraph (A) may be used by officers and employees of the Health Care Financing Administration only for the purposes of, and to the extent necessary in, establishing the appropriate monthly premium under section 1839 of the Social Security Act.''

(2) CONFORMING AMENDMENT.—Paragraphs (3)(A) and (4) of section 6103(p) of such Code are each amended by striking ''or (14)'' each place it appears and inserting ''(14), or (15)''.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to the monthly premium under section 1839 of the Social Security Act for months beginning with January 1997.

## PART 3—ADMINISTRATION AND BILLING OF LABORATORY SERVICES

### SEC. 15621. ADMINISTRATIVE SIMPLIFICATION FOR LABORATORY SERVICES.

(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services (in accordance with the process described in subsection (b)) shall adopt uniform coverage, administration, and payment policies for clinical diagnostic laboratory tests under part B of the medicare program.

(b) PROCESS FOR ADOPTION OF POLICIES.—The Secretary shall adopt uniform policies under subsection (a) in accordance with the following process:

(1) The Secretary shall select from carriers with whom the Secretary has a contract under part B during 1995 15 medical directors, who will meet and develop recommendations for such uniform policies. The medical directors selected shall represent various geographic areas and have a varied range of experience in relevant medical fields, including pathology and clinical laboratory practice.

(2) The medical directors selected under paragraph (1) shall consult with independent experts in each major discipline of clinical laboratory medicine, including clinical laboratory personnel, bioanalysts, pathologists, and practicing physicians. The medical directors shall also solicit comments from other individuals and groups who wish to participate, including consumers and other affected parties. This process shall be conducted as a negotiated rulemaking under title 5, United States Code.

(3) Under the negotiated rulemaking, the recommendations for uniform policies shall be designed to simplify and reduce unnecessary administrative burdens in connection with the following:

(A) Beneficiary information required to be submitted with each claim.

(B) Physicians' obligations regarding documentation requirements and recordkeeping.

(C) Procedures for filing claims and for providing remittances by electronic media.

(D) The performance of post-payment review of test claims.

(E) The prohibition of the documentation of medical necessity except when determined to be appropriate after identification of aberrant utilization pattern through focused medical review.

(F) Beneficiary responsibility for payment.

(4) During the pendency of the adoption by the Secretary of the uniform policies, fiscal intermediaries and carriers under the medicare program may not implement any new requirement relating to the submission of a claim for clinical diagnostic laboratory tests retroactive to January 1, 1995, and carriers may not initiate any new coverage, administrative, or payment policy unless the policy promotes the goal of administrative simplification of requirements imposed on clinical laboratories in accordance with the Secretary's promulgation of the negotiated rulemaking.

(5) Not later than 6 months after the date of the enactment of this Act, the medical directors shall submit their recommendations to the Secretary, and the Secretary shall publish the recommendations and solicit public comment using negotiated rulemaking in accordance with title 5, United States Code. The Secretary shall publish final uniform policies for coverage, administration, and payment of claims for clinical diagnostic laboratory tests, effective after the expiration of the 180-day period which begins on the date of publication.

(6) After the publication of the final uniform policies, the Secretary shall implement identical uniform documentation and processing policies for all clinical diagnostic laboratory tests paid under the medicare program through fiscal intermediaries or carriers.

(c) OPTIONAL SELECTION OF SINGLE CARRIER.—Effective for claims submitted after the expiration of the 90-day period which begins on the date of the enactment of this Act, an independent laboratory may select a single carrier for the processing of all of its claims for payment under part B of the medicare program, without regard to the location where the laboratory or the patient or provider involved resides or conducts business. Such election of a single carrier shall be made by the clinical laboratory and an agreement made between the carrier and the laboratory shall be forwarded to the Secretary of Health and Human Services. Nothing in this subsection shall be construed to require a laboratory to select a single carrier under this subsection.

### SEC. 15622. RESTRICTIONS ON DIRECT BILLING FOR LABORATORY SERVICES.

(a) REQUIREMENT FOR DIRECT BILLING.—Section 1833(h) (42 U.S.C. 1395l(h)) is amended by adding at the end the following new paragraph:

''(7)(A) Effective for services furnished on or October 1, 1996, an individual or entity that performs clinical laboratory diagnostic tests shall not present or cause to be presented a claim, bill, or demand for payment to any person, other than the individual receiving such services or the health plan designated by such person, except that (i) in the case of a test performed by one laboratory at the request of another laboratory, which meets the requirements of clause (i), (ii), or (iii) of paragraph (5)(A), payment may be made to the requesting laboratory, and (ii) the Secretary may by regulation establish appropriate exceptions to the requirement of this subparagraph.

''(B)(i) Any person that collects any amounts that were billed in violation of paragraph (7)(A) above shall be liable for such amounts to the person from whom such amounts were collected.

''(ii) Any person that furnishes clinical laboratory services for which payment is made under paragraph (1)(D)(i) or paragraph (2)(D)(i) that knowingly violates subparagraph (A) is subject to a civil money penalty of not more than $10,000 for each such violation. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under this paragraph in the same manner as such provisions apply

with respect to a penalty or proceeding under section 1128A(a).

''(iii)(I) Any individual or entity that the Secretary determines has repeatedly violated subparagraph (A) may be excluded from participation in any Federal health care program. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to an exclusion under this paragraph in the same manner as such provisions apply with respect to a penalty or proceeding under section 1128A(a).

''(II) The provisions of section 1128(e) of the Social Security Act shall apply to any exclusion under clause (iii)(I) in the same manner as such provisions apply to a proceeding under section 1128.

''(iv) If the Secretary finds, after a reasonable notice and opportunity for a hearing, that a laboratory which holds a certificate pursuant to section 353 of the Public Health Service Act has on a repeated basis violated subparagraph (A), the Secretary may suspend, revoke, or limit such certification in accordance with the procedures established in section 353(k) of Public Health Service Act.

''(C) For purposes of this paragraph, the following definitions shall apply:

''(i) The term 'Federal health care program' means—

''(I) any plan or program that provides health benefits, whether directly, through insurance, or otherwise, which is funded, in whole or in part, by the United States Government; or

''(II) any State health care program, as defined in section 1128(h).

''(ii) The term 'health plan' means any hospital or medical service policy or certificate, hospital or medical service plan contract, or health maintenance organization contract offered by an insurer, except that such term does not include any of the following:

''(I) Coverage only for accident, dental, vision, disability income, or long-term care insurance, or any combination thereof.

''(II) Medicare supplemental health insurance.

''(III) Coverage issued as a supplement to liability insurance.

''(IV) Liability insurance, including general liability insurance and automobile liability insurance.

''(V) Worker's compensation or similar insurance.

''(VI) Automobile medical-payment insurance.

''(VII) Coverage for a specified disease or illness.

''(VIII) A hospital or fixed indemnity policy.

(b) LOOK BACK PROVISIONS TO ASSURE SAVINGS.—

(1) IN GENERAL.—Section 1833(h)(4)(B) (42 U.S.C. 1395l(h)(4)(B)), as amended by section 15604(b), is amended—

(A) in clause (vii), by striking ''and'' at the end;

(B) in clause (viii)—

(i) by inserting ''and before January 1, 2000,'' after ''1996,'', and

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

(C) by adding at the end the following new clause:

''(ix) after December 31, 1999, is equal to such percentage of such median as the Secretary establishes under paragraph (8)(B), or, if the Secretary does not act under paragraph (8)(B), is equal to 65 percent of such median.''.

(2) PROCESS FOR REDUCTIONS.—Section 1833(h) (42 U.S.C. 1395l(h)), as amended by subsection (a), is amended by adding at the end the following new paragraph:

''(8)(A) On July 31, 1999, the Secretary shall estimate—

''(i) the amount of expenditures under this section for clinical diagnostic laboratory tests which will be made in the period from January 1, 1997, through September 30, 2002, and

''(ii) the amount of expenditures which would have been made under this section for clinical diagnostic laboratory tests in the period from January 1, 1997, through September 30, 2002, if paragraph (7) had not been enacted.

''(B) If the amount estimated under subparagraph (A)(i) is greater than 97 percent of the amount estimated under subparagraph (A)(ii), the Secretary shall establish a limitation amount under paragraph (4)(B)(ix) such that, when such limitation amount is considered, the amount estimated under subparagraph (A)(i) is 97 percent of the amount estimated under subparagraph (A)(ii).

''(C) The Director of the Congressional Budget Office (hereafter in this subparagraph referred to as the 'Director') shall—

''(i) independently estimate the amounts specified in subparagraph (A) and compute any limitation amount required under subparagraph (B), and

''(ii) submit a report on such estimates and computation to Congress not later than August 31, 1999.

The Secretary shall provide the Director with such data as the Director reasonably requires to prepare such estimates and computation.''.

## PART 4—QUALITY STANDARDS FOR DURABLE MEDICAL EQUIPMENT

### SEC. 15631. RECOMMENDATIONS FOR QUALITY STANDARDS FOR DURABLE MEDICARE EQUIPMENT.

(a) APPOINTMENT OF TASK FORCE BY SECRETARY.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall establish a broadly based task force to develop recommendations for quality standards for durable medical equipment under part B of the medicare program.

(2) COMPOSITION.—The task force shall include individuals selected by the Secretary from representatives of suppliers of items of durable medical equipment under part B, consumers, and other users of such equipment. In appointing members, the Secretary shall assure representation from various geographic regions of the United States.

(3) NO COMPENSATION FOR SERVICE.—Members of the task force shall not receive any compensation for service on the task force.

(4) TERMINATION.—The task force shall terminate 30 days after it submits the report described in subsection (b).

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the task force established under subsection (a) shall submit to the Secretary its recommendations for quality standards for durable medicare equipment under part B of the medicare program.

## Subtitle H—Provisions Relating to Medicare Parts A and B

## PART 1—PAYMENTS FOR HOME HEALTH SERVICES

### SEC. 15701. PAYMENT FOR HOME HEALTH SERVICES.

(a) IN GENERAL.—Title XVIII (42 U.S.C. 1395 et seq.), as amended by section 15106, is amended by adding at the end the following new section:

''PAYMENT FOR HOME HEALTH SERVICES

''SEC. 1894. (a) IN GENERAL.—

''(1) PER VISIT PAYMENTS.—Subject to subsection (c), the Secretary shall make per visit payments beginning with fiscal year 1997 to a home health agency in accordance with this section for each type of home health service described in paragraph (2) furnished to an individual who at the time the service is furnished is under a plan of care by the home health agency under this title (without regard to whether or not the item or service was furnished by the agency or by others under arrangement with them made by the agency, or otherwise).

''(2) TYPES OF SERVICES.—The types of home health services described in this paragraph are the following:

''(A) Part-time or intermittent nursing care provided by or under the supervision of a registered professional nurse.

''(B) Physical therapy.

''(C) Occupational therapy.

''(D) Speech-language pathology services.

''(E) Medical social services under the direction of a physician.

''(F) To the extent permitted in regulations, part-time or intermittent services of a home health aide who has successfully completed a training program approved by the Secretary.

''(b) ESTABLISHMENT OF PER VISIT RATE FOR EACH TYPE OF SERVICES.—

''(1) IN GENERAL.—The Secretary shall, subject to paragraph (3), establish a per visit payment rate for a home health agency in an area for each type of home health service described in subsection (a)(2). Such rate shall be equal to the national per visit payment rate determined under paragraph (2) for each such type, except that the labor-related portion of such rate shall be adjusted by the area wage index applicable under section 1886(d)(3)(E) for the area in which the agency is located (as determined without regard to any reclassification of the area under section 1886(d)(8)(B) or a decision of the Medicare Geographic Classification Review Board or the Secretary under section 1886(d)(10) for cost reporting periods beginning after October 1, 1995).

''(2) NATIONAL PER VISIT PAYMENT RATE.—The national per visit payment rate for each type of service described in subsection (a)(2)—

''(A) for fiscal year 1997, is an amount equal to the national average amount paid per visit under this title to home health agencies for such type of service during the most recent 12-month cost reporting period ending on or before June 30, 1994, increased (in a compounded manner) by the home health market basket percentage increase for fiscal years 1995, 1996, and 1997; and

''(B) for each subsequent fiscal year, is an amount equal to the national per visit payment rate in effect for the preceding fiscal year, increased by the home health market basket percentage increase for such subsequent fiscal year minus 2 percentage points.

''(3) REBASING OF RATES.—The Secretary shall provide for an update to the national per visit payment rates under this subsection for cost reporting periods beginning not later than the first day of the fifth fiscal year which begins after fiscal year 1997, and not later than every 5 years thereafter, to reflect the most recent available data.

''(4) HOME HEALTH MARKET BASKET PERCENTAGE INCREASE.—For purposes of this subsection, the term 'home health market basket percentage increase' means, with respect to a fiscal year, a percentage (estimated by the Secretary before the beginning of the fiscal year) determined and applied with respect to the types of home health services described in subsection (a)(2) in the same manner as the market basket percentage increase under section 1886(b)(3)(B)(iii) is determined and applied to inpatient hospital services for the fiscal year.

''(c) PER EPISODE LIMIT.—

''(1) AGGREGATE LIMIT.—

''(A) IN GENERAL.—Except as provided in paragraph (2), a home health agency may not receive aggregate per visit payments under

subsection (a) for a fiscal year in excess of an amount equal to the sum of the following products determined for each case-mix category for which the agency receives payments:

''(i) The number of episodes of each case-mix category during the fiscal year; multiplied by

''(ii) the per episode limit determined for such case-mix category for such fiscal year.

''(B) ESTABLISHMENT OF PER EPISODE LIMITS.—

''(i) IN GENERAL.—The per episode limit for a fiscal year for any case-mix category for the area in which a home health agency is located is equal to—

''(I) the mean number of visits for each type of home health service described in subsection (a)(2) furnished during an episode of such case-mix category in such area during fiscal year 1994, adjusted by the case-mix adjustment factor determined in clause (ii) for the fiscal year involved; multiplied by

''(II) the per visit payment rate established under subsection (b) for such type of home health service for the fiscal year for which the determination is being made.

''(ii) CASE MIX ADJUSTMENT FACTOR.—For purposes of clause (i), the case-mix adjustment factor for a year is the factor determined by the Secretary to assure that aggregate payments for home health services under this section during the year will not exceed the payment for such services during the previous year as a result of changes in the number and type of home health visits within case-mix categories over the previous year.

''(iii) REBASING OF PER EPISODE AMOUNTS.—Beginning with fiscal year 1999 and every 2 years thereafter, the Secretary shall revise the mean number of home health visits determined under clause (i)(I) for each type of home health service visit described in subsection (a)(2) furnished during an episode in a case-mix category to reflect the most recently available data on the number of visits.

''(iv) DETERMINATION OF APPLICABLE AREA.—For purposes of determining per episode limits under this subparagraph, the area in which a home health agency is considered to be located shall be such area as the Secretary finds appropriate for purposes of this subparagraph.

''(C) CASE-MIX CATEGORY.—For purposes of this paragraph, the term 'case-mix category' means each of the 18 case-mix categories established under the Phase II Home Health Agency Prospective Payment Demonstration Project conducted by the Health Care Financing Administration. The Secretary may develop an alternate methodology for determining case-mix categories.

''(D) EPISODE.—

''(i) IN GENERAL.—For purposes of this paragraph, the term 'episode' means the continuous 120-day period that—

''(I) begins on the date of an individual's first visit for a type of home health service described in subsection (a)(2) for a case-mix category, and

''(II) is immediately preceded by a 60-day period in which the individual did not receive visits for a type of home health service described in subsection (a)(2).

''(ii) TREATMENT OF EPISODES SPANNING COST REPORTING PERIODS.—The Secretary shall provide for such rules as the Secretary considers appropriate regarding the treatment of episodes under this paragraph which begin during a cost reporting period and end in a subsequent cost reporting period.

''(E) EXEMPTIONS AND EXCEPTIONS.—The Secretary may provide for exemptions and exceptions to the limits established under this paragraph for a fiscal year as the Secretary deems appropriate, to the extent such exemptions and exceptions do not result in greater payments under this section than the exemptions and exceptions provided under section 1861(v)(1)(L)(ii) in fiscal year 1994, increased by the home health market basket percentage increase for the fiscal year involved (as defined in subsection (b)(4)).

''(2) RECONCILIATION OF AMOUNTS.—

''(A) OVERPAYMENTS TO HOME HEALTH AGENCIES.—Subject to subparagraph (B), if a home health agency has received aggregate per visit payments under subsection (a) for a fiscal year in excess of the amount determined under paragraph (1) with respect to such home health agency for such fiscal year, the Secretary shall reduce payments under this section to the home health agency in the following fiscal year in such manner as the Secretary considers appropriate (including on an installment basis) to recapture the amount of such excess.

''(B) EXCEPTION FOR HOME HEALTH SERVICES FURNISHED OVER A PERIOD GREATER THAN 165 DAYS.—

''(i) IN GENERAL.—For purposes of subparagraph (A), the amount of aggregate per visit payments determined under subsection (a) shall not include payments for home health visits furnished to an individual on or after a continuous period of more than 165 days after an individual begins an episode described in subsection (c)(1)(D) (if such period is not interrupted by the beginning of a new episode).

''(ii) REQUIREMENT OF CERTIFICATION.—Clause (i) shall not apply if the agency has not obtained a physician's certification with respect to the individual requiring such visits that includes a statement that the individual requires such continued visits, the reason for the need for such visits, and a description of such services furnished during such visits.

''(C) SHARE OF SAVINGS.—

''(i) BONUS PAYMENTS.—If a home health agency has received aggregate per visit payments under subsection (a) for a fiscal year in an amount less than the amount determined under paragraph (1) with respect to such home health agency for such fiscal year, the Secretary shall pay such home health agency a bonus payment equal to 50 percent of the difference between such amounts in the following fiscal year, except that the bonus payment may not exceed 5 percent of the aggregate per visit payments made to the agency for the year.

''(ii) INSTALLMENT BONUS PAYMENTS.—The Secretary may make installment payments during a fiscal year to a home health agency based on the estimated bonus payment that the agency would be eligible to receive with respect to such fiscal year.

''(d) MEDICAL REVIEW PROCESS.—The Secretary shall implement a medical review process (with a particular emphasis on fiscal years 1997 and 1998) for the system of payments described in this section that shall provide an assessment of the pattern of care furnished to individuals receiving home health services for which payments are made under this section to ensure that such individuals receive appropriate home health services. Such review process shall focus on low-cost cases described in subsection (e)(3) and cases described in subsection (c)(2)(B) and shall require recertification by intermediaries at 30, 60, 90, 120, and 165 days into an episode described in subsection (c)(1)(D).

''(e) ADJUSTMENT OF PAYMENTS TO AVOID CIRCUMVENTION OF LIMITS.—

''(1) IN GENERAL.—The Secretary shall provide for appropriate adjustments to payments to home health agencies under this section to ensure that agencies do not circumvent the purpose of this section by—

''(A) discharging patients to another home health agency or similar provider;

''(B) altering corporate structure or name to avoid being subject to this section or for the purpose of increasing payments under this title; or

''(C) undertaking other actions considered unnecessary for effective patient care and intended to achieve maximum payments under this title.

''(2) TRACKING OF PATIENTS THAT SWITCH HOME HEALTH AGENCIES DURING EPISODE.—

''(A) DEVELOPMENT OF SYSTEM.—The Secretary shall develop a system that tracks home health patients that receive home health services described in subsection (a)(2) from more than 1 home health agency during an episode described in subsection (c)(1)(D).

''(B) ADJUSTMENT OF PAYMENTS.—The Secretary shall adjust payments under this section to each home health agency that furnishes an individual with a type of home health service described in subsection (a)(2) to ensure that aggregate payments on behalf of such individual during such episode do not exceed the amount that would be paid under this section if the individual received such services from a single home health agency.

''(3) LOW-COST CASES.—The Secretary shall develop a system designed to adjust payments to a home health agency for a fiscal year to eliminate any increase in growth of the percentage of low-cost episodes for which home health services are furnished by the agency over such percentage determined for the agency for the 12-month cost reporting period ending on June 30, 1994. The Secretary shall define a low-cost episode in a manner that provides that a home health agency has an incentive to be cost efficient in delivering home health services and that the volume of such services does not increase as a result of factors other than patient needs.

''(f) REPORT BY MEDICARE PAYMENT REVIEW COMMISSION.—During the first 3 years in which payments are made under this section, the Medicare Payment Review Commission shall annually submit a report to Congress on the effectiveness of the payment methodology established under this section that shall include recommendations regarding the following:

''(1) Case-mix and volume increases.

''(2) Quality monitoring of home health agency practices.

''(3) Whether a capitated payment for home care patients receiving care during a continuous period exceeding 165 days is warranted.

''(4) Whether public providers of service are adequately reimbursed.

''(5) The adequacy of the exemptions and exceptions to the limits provided under subsection (c)(1)(E).

''(6) The appropriateness of the methods provided under this section to adjust the per episode limits and annual payment updates to reflect changes in the mix of services, number of visits, and assignment to case categories to reflect changing patterns of home health care.

''(7) The geographic areas used to determine the per episode limits.

''(g) NO EFFECT ON NON-MEDICARE SERVICES.—Nothing in this section may be construed to affect the provision of or payment for home health services for which payment is not made under this title.''.

(b) PAYMENT FOR PROSTHETICS AND ORTHOTICS UNDER PART A.—Section 1814(k) (42 U.S.C. 1395f(k)) is amended—

(1) by inserting ''and prosthetics and orthotics'' after ''durable medical equipment''; and

(2) by inserting ''and 1834(h), respectively'' after ''1834(a)(1)''.

(c) CONFORMING AMENDMENTS.—

(1) PAYMENTS UNDER PART A.—Section 1814(b) (42 U.S.C. 1395f(b)), as amended by section 15522(b), is amended in the matter preceding paragraph (1) by striking ''1888 and 1888A'' and inserting ''1888, 1888A, and 1894''.

(2) TREATMENT OF ITEMS AND SERVICES PAID UNDER PART B.—

(A) PAYMENTS UNDER PART B.—Section 1833(a)(2) (42 U.S.C. 1395l(a)(2)) is amended—

(i) by amending subparagraph (A) to read as follows:

''(A) with respect to home health services—

''(i) that are a type of home health service described in section 1894(a)(2), and which are furnished to an individual who (at the time the item or service is furnished) is under a plan of care of a home health agency, the amount determined under section 1894; or

''(ii) that are not described in clause (i) (other than a covered osteoporosis drug) (as defined in section 1861(kk)), the lesser of—

''(I) the reasonable cost of such services, as determined under section 1861(v), or

''(II) the customary charges with respect to such services;''.

(ii) by striking ''and'' at the end of subparagraph (E);

(iii) by adding ''and'' at the end of subparagraph (F); and

(iv) by adding at the end the following new subparagraph:

''(G) with respect to items and services described in section 1861(s)(10)(A), the lesser of—

''(i) the reasonable cost of such services, as determined under section 1861(v), or

''(ii) the customary charges with respect to such services,

or, if such services are furnished by a public provider of services, or by another provider which demonstrates to the satisfaction of the Secretary that a significant portion of its patients are low-income (and requests that payment be made under this provision), free of charge or at nominal charges to the public, the amount determined in accordance with section 1814(b)(2);''.

(B) REQUIRING PAYMENT FOR ALL ITEMS AND SERVICES TO BE MADE TO AGENCY.—

(i) IN GENERAL.—The first sentence of section 1842(b)(6) (42 U.S.C. 1395u(b)(6)), as amended by section 15525(a)(1), is amended—

(I) by striking ''and (E)'' and inserting ''(E)''; and

(II) by striking the period at the end and inserting the following: '', and (F) in the case of types of home health services described in section 1894(a)(2) furnished to an individual who (at the time the item or service is furnished) is under a plan of care of a home health agency, payment shall be made to the agency (without regard to whether or not the item or service was furnished by the agency, by others under arrangement with them made by the agency, or otherwise).''.

(ii) CONFORMING AMENDMENT.—Section 1832(a)(1) (42 U.S.C. 1395k(a)(1)), as amended by section 15525(a)(3), is amended by striking ''section 1842(b)(6)(E);'' and inserting ''subparagraphs (E) and (F) of section 1842(b)(6);''.

(C) EXCLUSIONS FROM COVERAGE.—Section 1862(a) (42 U.S.C. 1395y(a)), as amended by section 15525(a)(2) and section 15609B(a), is amended—

(i) by striking ''or'' at the end of paragraph (16);

(ii) by striking the period at the end of paragraph (17) and inserting ''; or''; and

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

''(18) where such expenses are for home health services furnished to an individual who is under a plan of care of the home health agency if the claim for payment for such services is not submitted by the agency.''.

(3) SUNSET OF REASONABLE COST LIMITATIONS.—Section 1861(v)(1)(L) (42 U.S.C. 1395x(v)(1)(L)) is amended by adding at the end the following new clause:

''(iv) This subparagraph shall apply only to services furnished by home health agencies during cost reporting periods ending on or before September 30, 1996.''.

(d) LIMITATION ON PART A COVERAGE.—

(1) IN GENERAL.—Section 1812(a)(3) (42 U.S.C. 1395d(a)(3)) is amended by striking the semicolon and inserting ''for up to 165 days during any spell of illness;''.

(2) CONFORMING AMENDMENT.—Section 1812(b) (42 U.S.C. 1395d(b)) is amended—

(A) by striking ''or'' at the end of paragraph (2),

(B) by striking the period at the end of paragraph (3) and inserting ''; or'', and

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

''(4) home health services furnished to the individual during such spell after such services have been furnished to the individual for 165 days during such spell.''.

(3) EXCLUSION OF ADDITIONAL PART B COSTS FROM DETERMINATION OF PART B MONTHLY PREMIUM.—Section 1839(a) (42 U.S.C. 1395r(a)) is amended—

(A) in the second sentence of paragraph (1), by striking ''enrollees.'' and inserting ''enrollees (except as provided in paragraph (5)).''; and

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

''(5) In estimating the benefits and administrative costs which will be payable from the Federal Supplementary Medical Insurance Trust Fund for a year (beginning with 1996), the Secretary shall exclude an estimate of any benefits and costs attributable to home health services for which payment would have been made under part A during the year but for paragraph (4) of section 1812(b).''.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to spells of illness beginning on or after October 1, 1995.

(e) EFFECTIVE DATE.—Except as provided in subsection (d)(4), the amendments made by this section shall apply to cost reporting periods beginning on or after October 1, 1996.

**SEC. 15702. MAINTAINING SAVINGS RESULTING FROM TEMPORARY FREEZE ON PAYMENT INCREASES FOR HOME HEALTH SERVICES.**

(a) BASING UPDATES TO PER VISIT COST LIMITS ON LIMITS FOR FISCAL YEAR 1993.—Section 1861(v)(1)(L)(iii) (42 U.S.C. 1395x(v)(1)(L)(iii)) is amended by adding at the end the following sentence: ''In establishing limits under this subparagraph, the Secretary may not take into account any changes in the costs of the provision of services furnished by home health agencies with respect to cost reporting periods which began on or after July 1, 1994, and before July 1, 1996.''.

(b) NO EXCEPTIONS PERMITTED BASED ON AMENDMENT.—The Secretary of Health and Human Services shall not consider the amendment made by subsection (a) in making any exemptions and exceptions pursuant to section 1861(v)(1)(L)(ii) of the Social Security Act.

**SEC. 15703. EXTENSION OF WAIVER OF PRESUMPTION OF LACK OF KNOWLEDGE OF EXCLUSION FROM COVERAGE FOR HOME HEALTH AGENCIES.**

Section 9305(g)(3) of OBRA–1986, as amended by section 426(d) of the Medicare Catastrophic Coverage Act of 1988 and section 4207(b)(3) of OBRA–1990 (as renumbered by section 160(d)(4) of the Social Security Act Amendments of 1994), is amended by striking ''December 31, 1995'' and inserting ''September 30, 1996''.

**SEC. 15704. REPORT ON RECOMMENDATIONS FOR PAYMENTS AND CERTIFICATION FOR HOME HEALTH SERVICES OF CHRISTIAN SCIENCE PROVIDERS.**

Not later than July 1, 1996, the Secretary of Health and Human Services shall submit recommendations to Congress regarding an appropriate methodology for making payments under the medicare program for home health services furnished by Christian Science providers who meet applicable requirements of the First Church of Christ, Scientist, Boston, Massachusetts, and appropriate criteria for the certification of such providers for purposes of the medicare program.

**SEC. 15705. EXTENSION OF PERIOD OF HOME HEALTH AGENCY CERTIFICATION.**

Section 1891(c)(2)(A) (42 U.S.C. 1395bbb(c)(2)(A)) is amended—

(1) by striking ''15 months'' and inserting ''36 months''; and

(2) by striking the second sentence and inserting the following: ''The Secretary shall establish a frequency for surveys of home health agencies within this 36-month interval commensurate with the need to assure the delivery of quality home health services.''.

## PART 2—MEDICARE SECONDARY PAYER IMPROVEMENTS

**SEC. 15711. EXTENSION AND EXPANSION OF EXISTING REQUIREMENTS.**

(a) DATA MATCH.—

(1) Section 1862(b)(5)(C) (42 U.S.C. 1395y(b)(5)(C)) is amended by striking clause (iii).

(2) Section 6103(l)(12) of the Internal Revenue Code of 1986 is amended by striking subparagraph (F).

(b) APPLICATION TO DISABLED INDIVIDUALS IN LARGE GROUP HEALTH PLANS.—

(1) IN GENERAL.—Section 1862(b)(1)(B) (42 U.S.C. 1395y(b)(1)(B)) is amended—

(A) in clause (i), by striking ''clause (iv)'' and inserting ''clause (iii)'',

(B) by striking clause (iii), and

(C) by redesignating clause (iv) as clause (iii).

(2) CONFORMING AMENDMENTS.—Paragraphs (1) through (3) of section 1837(i) (42 U.S.C. 1395p(i)) and the second sentence of section 1839(b) (42 U.S.C. 1395r(b)) are each amended by striking ''1862(b)(1)(B)(iv)'' each place it appears and inserting ''1862(b)(1)(B)(iii)''.

(c) EXPANSION OF PERIOD OF APPLICATION TO INDIVIDUALS WITH END STAGE RENAL DISEASE.—Section 1862(b)(1)(C) (42 U.S.C. 1395y(b)(1)(C)) is amended—

(1) in the first sentence, by striking ''12-month'' each place it appears and inserting ''24-month'', and

(2) by striking the second sentence.

**SEC. 15712. IMPROVEMENTS IN RECOVERY OF PAYMENTS.**

(a) PERMITTING RECOVERY AGAINST THIRD PARTY ADMINISTRATORS OF PRIMARY PLANS.—Section 1862(b)(2)(B)(ii) (42 U.S.C. 1395y(b)(2)(B)(ii)) is amended—

(1) by striking ''under this subsection to pay'' and inserting ''(directly, as a third-party administrator, or otherwise) to make payment'', and

(2) by adding at the end the following: ''The United States may not recover from a third-party administrator under this clause in cases where the third-party administrator would not be able to recover the amount at issue from the employer or group health plan for whom it provides administrative services due to the insolvency or bankruptcy of the employer or plan.''.

(b) EXTENSION OF CLAIMS FILING PERIOD.—Section 1862(b)(2)(B) (42 U.S.C. 1395y(b)(2)(B)) is amended by adding at the end the following new clause:

''(v) CLAIMS-FILING PERIOD.—Notwithstanding any other time limits that may exist for

filing a claim under an employer group health plan, the United States may seek to recover conditional payments in accordance with this subparagraph where the request for payment is submitted to the entity required or responsible under this subsection to pay with respect to the item or service (or any portion thereof) under a primary plan within the 3-year period beginning on the date on which the item or service was furnished.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished on or after the date of the enactment of this Act.

**SEC. 15713. PROHIBITING RETROACTIVE APPLICATION OF POLICY REGARDING ESRD BENEFICIARIES ENROLLED IN PRIMARY PLANS.**

For purposes of carrying out section 1862(b)(1)(C) of the Social Security Act, the Secretary of Health and Human Services shall apply the policy directive issued by the Administrator of the Health Care Financing Administration on April 24, 1995, only with respect to items and services furnished on or after such date.

## PART 3—FAILSAFE

**SEC. 15721. FAILSAFE BUDGET MECHANISM.**

(a) IN GENERAL.—Title XVIII, as amended by sections 15106(a) and 15701(a), is amended by adding at the end the following new section:

''FAILSAFE BUDGET MECHANISM

''SEC. 1895. (a) REQUIREMENT OF PAYMENT ADJUSTMENTS TO ACHIEVE MEDICARE BUDGET TARGETS.—If the Secretary determines under subsection (e)(3)(C) before a fiscal year (beginning with fiscal year 1998) that—

''(1) the fee-for-service expenditures (as defined in subsection (f)) for a sector of medicare services (as defined in subsection (b)) for the fiscal year, will exceed

''(2) the allotment specified under subsection (c)(2) for such fiscal year (taking into account any adjustment in the allotment under subsection (h) for that fiscal year),

then, notwithstanding any other provision of this title, there shall be an adjustment (consistent with subsection (d)) in applicable payment rates or payments for items and services included in the sector in the fiscal year so that such expenditures for the sector for the year will be reduced by 133⅓ percent of the amount of such excess.

''(b) SECTORS OF MEDICARE SERVICES DESCRIBED.—

''(1) IN GENERAL.—For purposes of this section, items and services included under each of the following subparagraphs shall be considered to be a separate 'sector' of medicare services:

''(A) Inpatient hospital services.

''(B) Home health services.

''(C) Extended care services (for inpatients of skilled nursing facilities).

''(D) Hospice care.

''(E) Physicians' services (including services and supplies described in section 1861(s)(2)(A)) and services of other health care professionals (including certified registered nurse anesthetists, nurse practitioners, physician assistants, and clinical psychologists) for which separate payment is made under this title.

''(F) Outpatient hospital services and ambulatory facility services.

''(G) Durable medical equipment and supplies, including prosthetic devices and orthotics.

''(H) Diagnostic tests (including clinical laboratory services and x-ray services).

''(I) Other items and services.

''(2) CLASSIFICATION OF ITEMS AND SERVICES.—The Secretary shall classify each type of items and services covered and paid for separately under this title into one of the sectors specified in paragraph (1). After publication of such classification under subsection (e)(1), the Secretary is not authorized to make substantive changes in such classification.

''(c) ALLOTMENT.—

''(1) ALLOTMENTS FOR EACH SECTOR.—For purposes of this section, subject to subsection (h)(1), the allotment for a sector of medicare services for a fiscal year is equal to the product of—

''(A) the total allotment for the fiscal year established under paragraph (2), and

''(B) the allotment proportion (specified under paragraph (3)) for the sector and fiscal year involved.

''(2) TOTAL ALLOTMENT.—

''(A) IN GENERAL.—For purposes of this section, the total allotment for a fiscal year is equal to—

''(i) the medicare benefit budget for the fiscal year (as specified under subparagraph (B)), reduced by

''(ii) the amount of payments the Secretary estimates will be made in the fiscal year under the MedicarePlus program under part C.

In making the estimate under clause (ii), the Secretary shall take into account estimated enrollment and demographic profile of individuals electing MedicarePlus products.

''(B) MEDICARE BENEFIT BUDGET.—For purposes of this subsection, subject to subparagraph (C), the 'medicare benefit budget'—

''(i) for fiscal year 1997 is $208.0 billion;

''(ii) for fiscal year 1998 is $217.1 billion;

''(iii) for fiscal year 1999 is $228.4 billion;

''(iv) for fiscal year 2000 is $246.4 billion;

''(v) for fiscal year 2001 is $265.5 billion;

''(vi) for fiscal year 2002 is $288.0 billion; and

''(vii) for a subsequent fiscal year is equal to the medicare benefit budget under this subparagraph for the preceding fiscal year increased by the product of (I) 1.05, and (II) 1 plus the annual percentage increase in the average number of medicare beneficiaries from the previous fiscal year to the fiscal year involved.

''(3) MEDICARE ALLOTMENT PROPORTION DEFINED.—

''(A) IN GENERAL.—For purposes of this section and with respect to a sector of medicare services for a fiscal year, the term 'medicare allotment proportion' means the ratio of—

''(i) the baseline-projected medicare expenditures (as determined under subparagraph (B)) for the sector for the fiscal year, to

''(ii) the sum of such baseline expenditures for all such sectors for the fiscal year.

''(B) BASELINE-PROJECTED MEDICARE EXPENDITURES.—In this paragraph, the 'baseline, projected medicare expenditures' for a sector of medicare services—

''(i) for fiscal year 1996 is equal to fee-for-service expenditures for such sector during fiscal year 1995, increased by the baseline annual growth rate for such sector of medicare services for fiscal year 1996 (as specified in table in subparagraph (C)); and

''(ii) for a subsequent fiscal year is equal to the baseline-projected medicare expenditures under this subparagraph for the sector for the previous fiscal year increased by the baseline annual growth rate for such sector for the fiscal year involved (as specified in such table).

''(C) BASELINE ANNUAL GROWTH RATES.—The following table specifies the baseline annual growth rates for each of the sectors for different fiscal years:

| ''For the following sector— | Baseline annual growth rates for fiscal year— | | | | | | |
|---|---|---|---|---|---|---|---|
| | 1996 | 1997 | 1998 | 1999 | 2000 | 2001 | 2002 and thereafter |
| (A) Inpatient hospital services | 5.7% | 5.6% | 6.0% | 6.1% | 5.7% | 5.5% | 5.2% |
| (B) Home health services | 17.2% | 15.1% | 11.7% | 9.1% | 8.4% | 8.1% | 7.9% |
| (C) Extended care services | 19.7% | 12.3% | 9.3% | 8.7% | 8.6% | 8.4% | 8.0% |
| (D) Hospice care | 32.0% | 24.0% | 18.0% | 15.0% | 12.0% | 10.0% | 9.0% |
| (E) Physicians' services | 12.4% | 9.7% | 8.7% | 9.0% | 9.3% | 9.6% | 10.1% |
| (F) Outpatient hospital services | 14.7% | 13.9% | 14.5% | 15.0% | 14.1% | 13.9% | 14.0% |
| (G) Durable medical equipment and supplies | 16.1% | 15.5% | 13.7% | 12.4% | 13.2% | 13.9% | 14.5% |
| (H) Diagnostic tests | 13.1% | 11.3% | 11.0% | 11.4% | 11.4% | 11.5% | 11.9% |
| (I) Other items and services | 11.2% | 10.2% | 10.9% | 12.0% | 11.6% | 11.6% | 11.8% |

''(d) MANNER OF PAYMENT ADJUSTMENT.—

''(1) IN GENERAL.—Subject to the succeeding provisions of this subsection, the Secretary shall apply a payment reduction for a sector for a fiscal year in such a manner as to—

''(A) make a change in payment rates (to the maximum extent practicable) at the time payment rates are otherwise changed or subject to change for that fiscal year; and

''(B) provide for the full appropriate adjustment so that the fee-for-service expenditures for the sector for the fiscal year will approximate (and not exceed) the allotment for the sector for the fiscal year.

''(2) TAKING INTO ACCOUNT VOLUME AND CASH FLOW.—In providing for an adjustment in payments under this subsection for a sector for a fiscal year, the Secretary shall take into account (in a manner consistent with actuarial projections)—

''(A) the impact of such an adjustment on the volume or type of services provided in such sector (and other sectors), and

''(B) the fact that an adjustment may apply to items and services furnished in a fiscal year (payment for which may occur in a subsequent fiscal year),

in a manner that is consistent with assuring that total fee-for-services expenditures for each sector for the fiscal year will not exceed the allotment under subsection (c)(1) for such sector for such year.

''(3) PROPORTIONALITY OF REDUCTIONS WITHIN A SECTOR.—In making adjustments under this subsection in payment for items and services included within a sector of medicare services for a fiscal year, the Secretary shall provide for such an adjustment that results (to the maximum extent feasible) in the

same percentage reductions in aggregate Federal payments under parts A and B for the different classes of items and services included within the sector for the fiscal year.

''(4) APPLICATION TO PAYMENTS MADE BASED ON PROSPECTIVE PAYMENT RATES DETERMINED ON A FISCAL YEAR BASIS.—

''(A) IN GENERAL.—In applying subsection (a) with respect to items and services for which payment is made under part A or B on the basis of rates that are established on a prospective basis for (and in advance of) a fiscal year, the Secretary shall provide for the payment adjustment under such subsection through an appropriate reduction in such rates established for items and services furnished (or, in the case of payment for operating costs of inpatient hospital services of subsection (d) hospitals and subsection (d) Puerto Rico hospitals (as defined in paragraphs (1)(B) and (9)(A) of section 1886(d)), discharges occurring) during such year.

''(B) DESCRIPTION OF APPLICATION TO SPECIFIC SERVICES.—The payment adjustment described in subparagraph (A) applies for a fiscal year to at least the following:

''(i) UPDATE FACTOR FOR PAYMENT FOR OPERATING COSTS OF INPATIENT HOSPITAL SERVICES OF PPS HOSPITALS.—To the computation of the applicable percentage increase specified in section 1886(d)(3)(B)(i) for discharges occurring in the fiscal year.

''(ii) HOME HEALTH SERVICES.—To the extent payment amounts for home health services are based on per visit payment rates under section 1894, to the computation of the increase in the national per visit payment rates established for the year under section 1894(b)(2)(B).

''(iii) HOSPICE CARE.—To the update of payment rates for hospice care under section 1814(i) for services furnished during the fiscal year.

''(iv) UPDATE FACTOR FOR PAYMENT OF OPERATING COSTS OF INPATIENT HOSPITAL SERVICES OF PPS-EXEMPT HOSPITALS.—To the computation of the target amount under section 1886(b)(3) for discharges occurring during the fiscal year.

''(v) COVERED NON-ROUTINE SERVICES OF SKILLED NURSING FACILITIES.—To the computation of the facility per stay limits for the year under section 1888A(d) for covered non-routine services of a skilled nursing facility (as described in such section).

''(5) APPLICATION TO PAYMENTS MADE BASED ON PROSPECTIVE PAYMENT RATES DETERMINED ON A CALENDAR YEAR BASIS.—

''(A) IN GENERAL.—In applying subsection (a) for a fiscal year with respect to items and services for which payment is made under part A or B on the basis of rates that are established on a prospective basis for (and in advance of) a calendar year, the Secretary shall provide for the payment adjustment under such subsection through an appropriate reduction in such rates established for items and services furnished at any time during such calendar year as follows:

''(i) For fiscal year 1997, the reduction shall be made for payment rates during calendar year 1997 in a manner so as to achieve the necessary payment reductions for such fiscal year for items and services furnished during the first 3 quarters of calendar year 1997.

''(ii) For a subsequent fiscal year, the reduction shall be made for payment rates during the calendar year in which the fiscal year ends in a manner so as to achieve the necessary payment reductions for such fiscal year for items and services furnished during the first 3 quarters of the calendar year, but also taking into account the payment reductions made in the first quarter of the fiscal year resulting from payment reductions made under this paragraph for the previous calendar year.

''(iii) Payment rate reductions effected under this subparagraph for a calendar year and applicable to the last 3 quarters of the fiscal year in which the calendar year ends shall continue to apply during the first quarter of the succeeding fiscal year.

''(B) APPLICATION IN SPECIFIC CASES.—The payment adjustment described in subparagraph (A) applies for a fiscal year to at least the following:

''(i) UPDATE IN CONVERSION FACTOR FOR PHYSICIANS' SERVICES.—To the computation of the conversion factor under subsection (d) of section 1848 used in the fee schedule established under subsection (b) of such section, for items and services furnished during the calendar year in which the fiscal year ends.

''(ii) PAYMENT RATES FOR OTHER HEALTH CARE PROFESSIONALS.—To the computation of payments for professional services of certified registered nurse anesthetists under section 1833(l), nurse midwives, physician assistants, nurse practitioners and clinical nurse specialists under section 1833(r), clinical psychologists, clinical social workers, physical or occupational therapists, and any other health professionals for which payment rates are based (in whole or in part) on payments for physicians' services, for services furnished during the calendar year in which the fiscal year ends.

''(iii) UPDATE IN LAB FEE SCHEDULE.—To the computation of the fee schedule amount under section 1833(h)(2) for clinical diagnostic laboratory services furnished during the calendar year in which the fiscal year ends.

''(iv) UPDATE IN REASONABLE CHARGES FOR VACCINES.—To the computation of the reasonable charge for vaccines described in section 1861(s)(10) for vaccines furnished during the calendar year in which the fiscal year ends.

''(v) DURABLE MEDICAL EQUIPMENT-RELATED ITEMS.—To the computation of the payment basis under section 1834(a)(1)(B) for covered items described in section 1834(a)(13), for items furnished during the calendar year in which the fiscal year ends.

''(vi) RADIOLOGIST SERVICES.—To the computation of conversion factors for radiologist services under section 1834(b), for services furnished during the calendar year in which the fiscal year ends.

''(vii) SCREENING MAMMOGRAPHY.—To the computation of payment rates for screening mammography under section 1834(c)(1)(C)(ii), for screening mammography performed during the calendar year in which the fiscal year ends.

''(viii) PROSTHETICS AND ORTHOTICS.—To the computation of the amount to be recognized under section 1834(h) for payment for prosthetic devices and orthotics and prosthetics, for items furnished during the calendar year in which the fiscal year ends.

''(ix) SURGICAL DRESSINGS.—To the computation of the payment amount referred to in section 1834(i)(1)(B) for surgical dressings, for items furnished during the calendar year in which the fiscal year ends.

''(x) PARENTERAL AND ENTERAL NUTRITION.—To the computation of reasonable charge screens for payment for parenteral and enteral nutrition under section 1834(h), for nutrients furnished during the calendar year in which the fiscal year ends.

''(xi) AMBULANCE SERVICES.—To the computation of limits on reasonable charges for ambulance services, for services furnished during the calendar year in which the fiscal year ends.

''(6) APPLICATION TO PAYMENTS MADE BASED ON COSTS DURING A COST REPORTING PERIOD.—

''(A) IN GENERAL.—In applying subsection (a) for a fiscal year with respect to items and services for which payment is made under part A or B on the basis of costs incurred for items and services in a cost reporting period, the Secretary shall provide for the payment adjustment under such subsection for a fiscal year through an appropriate proportional reduction in the payment for costs for such items and services incurred at any time during each cost reporting period any part of which occurs during the fiscal year involved, but only (for each such cost reporting period) in the same proportion as the fraction of the cost reporting period that occurs during the fiscal year involved.

''(B) APPLICATION IN SPECIFIC CASES.—The payment adjustment described in subparagraph (A) applies for a fiscal year to at least the following:

''(i) CAPITAL-RELATED COSTS OF HOSPITAL SERVICES.—To the computation of payment amounts for inpatient and outpatient hospital services under sections 1886(g) and 1861(v) for portions of cost reporting periods occurring during the fiscal year.

''(ii) OPERATING COSTS FOR PPS-EXEMPT HOSPITALS.—To the computation of payment amounts under section 1886(b) for operating costs of inpatient hospital services of PPS-exempt hospitals for portions of cost reporting periods occurring during the fiscal year.

''(iii) DIRECT GRADUATE MEDICAL EDUCATION.—To the computation of payment amounts under section 1886(h) for reasonable costs of direct graduate medical education costs for portions of cost reporting periods occurring during the fiscal year.

''(iv) INPATIENT RURAL PRIMARY CARE HOSPITAL SERVICES.—To the computation of payment amounts under section 1814(j) for inpatient rural primary care hospital services for portions of cost reporting periods occurring during the fiscal year.

''(v) EXTENDED CARE SERVICES OF A SKILLED NURSING FACILITY.—To the computation of payment amounts under section 1861(v) for post-hospital extended care services of a skilled nursing facility (other than covered non-routine services subject to section 1888A) for portions of cost reporting periods occurring during the fiscal year.

''(vi) REASONABLE COST CONTRACTS.—To the computation of payment amounts under section 1833(a)(1)(A) for organizations for portions of cost reporting periods occurring during the fiscal year.

''(vii) HOME HEALTH SERVICES.—Subject to paragraph (4)(B)(ii), for payment amounts for home health services, for portions of cost reporting periods occurring during such fiscal year.

''(7) OTHER.—In applying subsection (a) for a fiscal year with respect to items and services for which payment is made under part A or B on a basis not described in a previous paragraph of this subsection, the Secretary shall provide for the payment adjustment under such subsection through an appropriate proportional reduction in the payments (or payment bases for items and services furnished) during the fiscal year.

''(8) ADJUSTMENT OF PAYMENT LIMITS.—The Secretary shall provide for such proportional adjustment in any limits on payment established under part A or B for payment for items and services within a sector as may be appropriate based on (and in order to properly carry out) the adjustment on the amount of payment under this subsection in the sector.

''(9) REFERENCES TO PAYMENT RATES.—Except as the Secretary may provide, any reference in this title (other than this section) to a payment rate is deemed a reference to such a rate as adjusted under this subsection.

''(e) PUBLICATION OF DETERMINATIONS; JUDICIAL REVIEW.—

''(1) ONE-TIME PUBLICATION OF SECTORS AND GENERAL PAYMENT ADJUSTMENT METHODOLOGY.—Not later than October 1, 1996, the Secretary shall publish in the Federal Register the classification of medicare items and services into the sectors of medicare services under subsection (b) and the general methodology to be used in applying payment adjustments to the different classes of items and services within the sectors.

''(2) INCLUSION OF INFORMATION IN PRESIDENT'S BUDGET.—

''(A) IN GENERAL.—With respect to fiscal years beginning with fiscal year 1999, the President shall include in the budget submitted under section 1105 of title 31, United States Code, information on—

''(i) the fee-for-service expenditures, within each sector, for the second previous fiscal year, and how such expenditures compare to the adjusted sector allotment for that sector for that fiscal year; and

''(ii) actual annual growth rates for fee-for-service expenditures in the different sectors in the second previous fiscal year.

''(B) RECOMMENDATIONS REGARDING GROWTH FACTORS.—The President may include in such budget for a fiscal year (beginning with fiscal year 1998) recommendations regarding percentages that should be applied (for one or more fiscal years beginning with that fiscal year) instead of the baseline annual growth rates under subsection (c)(3)(C). Such recommendations shall take into account medically appropriate practice patterns.

''(3) DETERMINATIONS CONCERNING PAYMENT ADJUSTMENTS.—

''(A) RECOMMENDATIONS OF COMMISSION.—By not later than March 1 of each year (beginning with 1997), the Medicare Payment Review Commission shall submit to the Secretary and the Congress a report that analyzes the previous operation (if any) of this section and that includes recommendations concerning the manner in which this section should be applied for the following fiscal year.

''(B) PRELIMINARY NOTICE BY SECRETARY.—Not later than May 15 preceding the beginning of each fiscal year (beginning with fiscal year 1998), the Secretary shall publish in the Federal Register a notice containing the Secretary's preliminary determination, for each sector of medicare services, concerning the following:

''(i) The projected allotment under subsection (c) for such sector for the fiscal year.

''(ii) Whether there will be a payment adjustment for items and services included in such sector for the fiscal year under subsection (a).

''(iii) If there will be such an adjustment, the size of such adjustment and the methodology to be used in making such a payment adjustment for classes of items and services included in such sector.

''(iv) Beginning with fiscal year 1999, the fee-for-service expenditures for such sector for the second preceding fiscal year.

Such notice shall include an explanation of the basis for such determination. Determinations under this subparagraph and subparagraph (C) shall be based on the best data available at the time of such determinations.

''(C) FINAL DETERMINATION.—Not later than September 1 preceding the beginning of each fiscal year (beginning with fiscal year 1998), the Secretary shall publish in the Federal Register a final determination, for each sector of medicare services, concerning the matters described in subparagraph (B) and an explanation of the reasons for any differences between such determination and the preliminary determination for such fiscal year published under subparagraph (B).

''(4) LIMITATION ON ADMINISTRATIVE OR JUDICIAL REVIEW.—There shall be no administrative or judicial review under section 1878 or otherwise of—

''(A) the classification of items and services among the sectors of medicare services under subsection (b),

''(B) the determination of the amounts of allotments for the different sectors of medicare services under subsection (c),

''(C) the determination of the amount (or method of application) of any payment adjustment under subsection (d), or

''(D) any adjustment in an allotment effected under subsection (h).

''(f) FEE-FOR-SERVICE EXPENDITURES DEFINED.—In this section, the term 'fee-for-service expenditures', for items and services within a sector of medicare services in a fiscal year, means amounts payable for such items and services which are furnished during the fiscal year, and—

''(1) includes types of expenses otherwise reimbursable under parts A and B (including administrative costs incurred by organizations described in sections 1816 and 1842) with respect to such items and services, and

''(2) does not include amounts paid under part C.

''(g) EXPEDITED PROCESS FOR ADJUSTMENT OF SECTOR GROWTH RATES.—

''(1) OPTIONAL INCLUSION OF LEGISLATIVE PROPOSAL.—The President may include in recommendations under subsection (e)(2)(B) submitted with respect to a fiscal year a specific legislative proposal that provides only for the substitution of percentages specified in the proposal for one or more of the baseline annual growth rates (specified in the table in subsection (c)(3)(C) or in a previous legislative proposal under this subsection) for that fiscal year or any subsequent fiscal year.

''(2) CONGRESSIONAL CONSIDERATION.—

''(A) IN GENERAL.—The percentages contained in a legislative proposal submitted under paragraph (1) shall apply under this section if a joint resolution (described in subparagraph (B)) approving such proposal is enacted, in accordance with the provisions of subparagraph (C), before the end of the 60-day period beginning on the date on which such proposal was submitted. For purposes of applying the preceding sentence and subparagraphs (B) and (C), the days on which either House of Congress is not in session because of an adjournment of more than three days to a day certain shall be excluded in the computation of a period.

''(B) JOINT RESOLUTION OF APPROVAL.—A joint resolution described in this subparagraph means only a joint resolution which is introduced within the 10-day period beginning on the date on which the President submits a proposal under paragraph (1) and—

''(i) which does not have a preamble;

''(ii) the matter after the resolving clause of which is as follows: 'That Congress approves the proposal of the President providing for substitution of percentages for certain baseline annual growth rates under section 1895 of the Social Security Act, as submitted by the President on _____.', the blank space being filled in with the appropriate date; and

''(iii) the title of which is as follows: 'Joint resolution approving Presidential proposal to substitute certain specified percentages for baseline annual growth rates under section 1895 of the Social Security Act, as submitted by the President on _____.', the blank space being filled in with the appropriate date.

''(C) PROCEDURES FOR CONSIDERATION OF RESOLUTION OF APPROVAL.—Subject to subparagraph (D), the provisions of section 2908 (other than subsection (a)) of the Defense Base Closure and Realignment Act of 1990 shall apply to the consideration of a joint resolution described in subparagraph (B) in the same manner as such provisions apply to a joint resolution described in section 2908(a) of such Act.

''(D) SPECIAL RULES.—For purposes of applying subparagraph (C) with respect to such provisions—

''(i) any reference to the Committee on Armed Services of the House of Representatives shall be deemed a reference to an appropriate Committee of the House of Representatives (specified by the Speaker of the House of Representatives at the time of submission of a legislative proposal under paragraph (1)) and any reference to the Committee on Armed Services of the Senate shall be deemed a reference to the Committee on Finance of the Senate;

''(ii) any reference to a resolution of which a committee shall be discharged from further consideration shall be deemed to be a reference to the first such resolution introduced; and

''(iii) any reference to the date on which the President transmits a report shall be deemed a reference to the date on which the President submits the legislative proposal under paragraph (1).

''(h) LOOK-BACK ADJUSTMENT IN ALLOTMENTS TO REFLECT ACTUAL EXPENDITURES.—

''(1) IN GENERAL.—If the Secretary determines under subsection (e)(3)(B) with respect to a particular fiscal year (beginning with fiscal year 1999) that the fee-for-service expenditures for a sector of medicare services for the second preceding fiscal year—

''(A) exceeded the adjusted allotment for such sector for such year (as defined in paragraph (2)), then the allotment for the sector for the particular fiscal year shall be reduced by 133⅓ percent of the amount of such excess, or

''(B) was less than the adjusted allotment for such sector for such year, then the allotment for the sector for the particular fiscal year shall be increased by the amount of such deficit.

''(2) ADJUSTED ALLOTMENT.—The adjusted allotment under this paragraph for a sector for a fiscal year is—

''(A) the amount that would be computed as the allotment under subsection (c) for the sector for the fiscal year if the actual amount of payments made in the fiscal year under the MedicarePlus program under part C in the fiscal year were substituted for the amount described in subsection (c)(2)(A)(ii) for that fiscal year,

''(B) adjusted to take into account the amount of any adjustment under paragraph (1) for that fiscal year (based on expenditures in the second previous fiscal year).

''(i) PROSPECTIVE APPLICATION OF CERTAIN NATIONAL COVERAGE DETERMINATIONS.—In the case of a national coverage determination that the Secretary projects will result in significant additional expenditures under this title (taking into account any substitution for existing procedures or technologies), such determination shall not become effective before the beginning of the fiscal year that begins after the date of such determination and shall apply to contracts under part C entered into (or renewed) after the date of such determination.''.

(b) REPORT OF TRUSTEES ON GROWTH RATE IN PART A EXPENDITURES.—Section 1817 (42 U.S.C. 1395i) is amended by adding at the end the following new subsection:

''(k) Each annual report provided in subsection (b)(2) shall include information regarding the annual rate of growth in program expenditures that would be required to maintain the financial solvency of the Trust Fund and the extent to which the provisions of section 1895 restrain the rate of growth of expenditures under this part in order to achieve such solvency.''.

**PART 4—ADMINISTRATIVE SIMPLIFICATION**

**SEC. 15731. STANDARDS FOR MEDICARE INFORMATION TRANSACTIONS AND DATA ELEMENTS.**

Title XVIII, as amended by section 15031, is amended by inserting after section 1806 the following new section:

''STANDARDS FOR MEDICARE INFORMATION TRANSACTIONS AND DATA ELEMENTS

''SEC. 1807. (a) ADOPTION OF STANDARDS FOR DATA ELEMENTS.—

''(1) IN GENERAL.—Pursuant to subsection (b), the Secretary shall adopt standards for information transactions and data elements of medicare information and modifications to the standards under this section that are—

''(A) consistent with the objective of reducing the administrative costs of providing and paying for health care; and

''(B) developed or modified by a standard setting organization (as defined in subsection (h)(8)).

''(2) SPECIAL RULE RELATING TO DATA ELEMENTS.—The Secretary may adopt or modify a standard relating to data elements that is different from the standard developed by a standard setting organization, if—

''(A) the different standard or modification will substantially reduce administrative costs to health care providers and health plans compared to the alternative; and

''(B) the standard or modification is promulgated in accordance with the rulemaking procedures of subchapter III of chapter 5 of title 5, United States Code.

''(3) SECURITY STANDARDS FOR HEALTH INFORMATION NETWORK.—

''(A) IN GENERAL.—Each person, who maintains or transmits medicare information or data elements of medicare information and is subject to this section, shall maintain reasonable and appropriate administrative, technical, and physical safeguards—

''(i) to ensure the integrity and confidentiality of the information;

''(ii) to protect against any reasonably anticipated—

''(I) threats or hazards to the security or integrity of the information; and

''(II) unauthorized uses or disclosures of the information; and

''(iii) to otherwise ensure compliance with this section by the officers and employees of such person.

''(B) SECURITY STANDARDS.—The Secretary shall establish security standards and modifications to such standards with respect to medicare information network services, health plans, and health care providers that—

''(i) take into account—

''(I) the technical capabilities of record systems used to maintain medicare information;

''(II) the costs of security measures;

''(III) the need for training persons who have access to medicare information; and

''(IV) the value of audit trails in computerized record systems; and

''(ii) ensure that a medicare information network service, if it is part of a larger organization, has policies and security procedures which isolate the activities of such service with respect to processing information in a manner that prevents unauthorized access to such information by such larger organization.

The security standards established by the Secretary shall be based on the standards developed or modified by standard setting organizations. If such standards do not exist, the Secretary shall rely on the recommendations of the Medicare Information Advisory Committee (established under subsection (g)) and shall consult with appropriate government agencies and private organizations in accordance with paragraph (5).

''(4) IMPLEMENTATION SPECIFICATIONS.—The Secretary shall establish specifications for implementing each of the standards and the modifications to the standards adopted pursuant to paragraph (1) or (3).

''(5) ASSISTANCE TO THE SECRETARY.—In complying with the requirements of this section, the Secretary shall rely on recommendations of the Medicare Information Advisory Committee established under subsection (g) and shall consult with appropriate Federal and State agencies and private organizations. The Secretary shall publish in the Federal Register the recommendations of the Medicare Information Advisory Committee regarding the adoption of a standard under this section.

''(b) STANDARDS FOR INFORMATION TRANSACTIONS AND DATA ELEMENTS.—

''(1) IN GENERAL.—The Secretary shall adopt standards for transactions and data elements to make medicare information uniformly available to be exchanged electronically, that is—

''(A) appropriate for the following financial and administrative transactions: claims (including coordination of benefits) or equivalent encounter information, enrollment and disenrollment, eligibility, premium payments, and referral certification and authorization; and

''(B) related to other financial and administrative transactions determined appropriate by the Secretary consistent with the goals of improving the operation of the health care system and reducing administrative costs.

''(2) UNIQUE HEALTH IDENTIFIERS.—

''(A) ADOPTION OF STANDARDS.—The Secretary shall adopt standards providing for a standard unique health identifier for each individual, employer, health plan, and health care provider for use in the medicare information system. In developing unique health identifiers for each health plan and health care provider, the Secretary shall take into account multiple uses for identifiers and multiple locations and specialty classifications for health care providers.

''(B) PENALTY FOR IMPROPER DISCLOSURE.—A person who knowingly uses or causes to be used a unique health identifier under subparagraph (A) for a purpose that is not authorized by the Secretary shall—

''(i) be fined not more than $50,000, imprisoned not more than 1 year, or both; or

''(ii) if the offense is committed under false pretenses, be fined not more than $100,000, imprisoned not more than 5 years, or both.

''(3) CODE SETS.—

''(A) IN GENERAL.—The Secretary, in consultation with the Medicare Information Advisory Committee, experts from the private sector, and Federal and State agencies, shall—

''(i) select code sets for appropriate data elements from among the code sets that have been developed by private and public entities; or

''(ii) establish code sets for such data elements if no code sets for the data elements have been developed.

''(B) DISTRIBUTION.—The Secretary shall establish efficient and low-cost procedures for distribution (including electronic distribution) of code sets and modifications made to such code sets under subsection (c)(2).

''(4) ELECTRONIC SIGNATURE.—

''(A) IN GENERAL.—The Secretary, after consultation with the Medicare Information Advisory Committee, shall promulgate regulations specifying procedures for the electronic transmission and authentication of signatures, compliance with which will be deemed to satisfy Federal and State statutory requirements for written signatures with respect to information transactions required by this section and written signatures on enrollment and disenrollment forms.

''(B) PAYMENTS FOR SERVICES AND PREMIUMS.—Nothing in this section shall be construed to prohibit the payment of health care services or health plan premiums by debit, credit, payment card or numbers, or other electronic means.

''(5) TRANSFER OF INFORMATION BETWEEN HEALTH PLANS.—The Secretary shall develop rules and procedures—

''(A) for determining the financial liability of health plans when health care benefits are payable under two or more health plans; and

''(B) for transferring among health plans appropriate standard data elements needed for the coordination of benefits, the sequential processing of claims, and other data elements for individuals who have more than one health plan.

''(6) COORDINATION OF BENEFITS.—If, at the end of the 5-year period beginning on the date of the enactment of this section, the Secretary determines that additional transaction standards for coordinating benefits are necessary to reduce administrative costs or duplicative (or inappropriate) payment of claims, the Secretary shall establish further transaction standards for the coordination of benefits between health plans.

''(7) PROTECTION OF TRADE SECRETS.—Except as otherwise required by law, the standards adopted under this section shall not require disclosure of trade secrets or confidential commercial information by an entity operating a medicare information network.

''(c) TIMETABLES FOR ADOPTION OF STANDARDS.—

''(1) INITIAL STANDARDS.—Not later than 18 months after the date of the enactment of this section, the Secretary shall adopt standards relating to the information transactions, data elements of medicare information and security described in subsections (a) and (b).

''(2) ADDITIONS AND MODIFICATIONS TO STANDARDS.—

''(A) IN GENERAL.—The Secretary shall review the standards adopted under this section and shall adopt additional or modified standards, that have been developed or modified by a standard setting organization, as determined appropriate, but not more frequently than once every 12 months. Any addition or modification to such standards shall be completed in a manner which minimizes the disruption and cost of compliance.

''(B) ADDITIONS AND MODIFICATIONS TO CODE SETS.—

''(i) IN GENERAL.—The Secretary shall ensure that procedures exist for the routine maintenance, testing, enhancement, and expansion of code sets.

''(ii) ADDITIONAL RULES.—If a code set is modified under this paragraph, the modified code set shall include instructions on how data elements of medicare information that were encoded prior to the modification may be converted or translated so as to preserve the informational value of the data elements that existed before the modification. Any modification to a code set under this paragraph shall be implemented in a manner that minimizes the disruption and cost of complying with such modification.

''(d) REQUIREMENTS FOR HEALTH PLANS.—

''(1) IN GENERAL.—If a person desires to conduct any of the information transactions described in subsection (b)(1) with a health plan as a standard transaction, the health plan shall conduct such standard transaction in a timely manner and the information transmitted or received in connection with such transaction shall be in the form of standard data elements of medicare information.

''(2) SATISFACTION OF REQUIREMENTS.—A health plan may satisfy the requirement imposed on such plan under paragraph (1) by directly transmitting standard data elements of medicare information or submitting nonstandard data elements to a medicare information network service for processing into standard data elements and transmission.

''(3) TIMETABLES FOR COMPLIANCE WITH REQUIREMENTS.—Not later than 24 months after the date on which standards are adopted under subsections (a) and (b) with respect to any type of information transaction or data element of medicare information or with respect to security, a health plan shall comply with the requirements of this section with respect to such transaction or data element.

''(4) COMPLIANCE WITH MODIFIED STANDARDS.—If the Secretary adopts a modified standard under subsection (a) or (b), a health plan shall be required to comply with the modified standard at such time as the Secretary determines appropriate taking into account the time needed to comply due to the nature and extent of the modification. However, the time determined appropriate under the preceding sentence shall be not earlier than the last day of the 180-day period beginning on the date such modified standard is adopted. The Secretary may extend the time for compliance for small health plans, if the Secretary determines such extension is appropriate.

''(e) GENERAL PENALTY FOR FAILURE TO COMPLY WITH REQUIREMENTS AND STANDARDS.—

''(1) GENERAL PENALTY.—

''(A) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall impose on any person that violates a requirement or standard—

''(i) with respect to medicare information transactions, data elements of medicare information, or security imposed under subsection (a) or (b); or

''(ii) with respect to health plans imposed under subsection (d);

a penalty of not more than $100 for each such violation of a specific standard or requirement, but the total amount imposed for all such violations of a specific standard or requirement during the calendar year shall not exceed $25,000.

''(B) PROCEDURES.—The provisions of section 1128A (other than subsections (a) and (b) and the second sentence of subsection (f)) shall apply to the imposition of a civil money penalty under this paragraph in the same manner as such provisions apply to the imposition of a penalty under such section 1128A.

''(C) DENIAL OF PAYMENT.—Except as provided in paragraph (2), the Secretary may deny payment under this title for an item or service furnished by a person if the person fails to comply with an applicable requirement or standard for medicare information relating to that item or service.

''(2) LIMITATIONS.—

''(A) NONCOMPLIANCE NOT DISCOVERED.—A penalty may not be imposed under paragraph (1) if it is established to the satisfaction of the Secretary that the person liable for the penalty did not know, and by exercising reasonable diligence would not have known, that such person failed to comply with the requirement or standard described in paragraph (1).

''(B) FAILURES DUE TO REASONABLE CAUSE.—

''(i) IN GENERAL.—Except as provided in clause (ii), a penalty may not be imposed under paragraph (1) if—

''(I) the failure to comply was due to reasonable cause and not to willful neglect; and

''(II) the failure to comply is corrected during the 30-day period beginning on the first date the person liable for the penalty knew, or by exercising reasonable diligence would have known, that the failure to comply occurred.

''(ii) EXTENSION OF PERIOD.—

''(I) NO PENALTY.—The period referred to in clause (i)(II) may be extended as determined appropriate by the Secretary based on the nature and extent of the failure to comply.

''(II) ASSISTANCE.—If the Secretary determines that a health plan failed to comply because such plan was unable to comply, the Secretary may provide technical assistance to such plan during the period described in clause (i)(II). Such assistance shall be provided in any manner determined appropriate by the Secretary.

''(C) REDUCTION.—In the case of a failure to comply which is due to reasonable cause and not to willful neglect, any penalty under paragraph (1) that is not entirely waived under subparagraph (B) may be waived to the extent that the payment of such penalty would be excessive relative to the compliance failure involved.

''(f) EFFECT ON STATE LAW.—

''(1) GENERAL EFFECT.—

''(A) GENERAL RULE.—Except as provided in subparagraph (B), a provision, requirement, or standard under this section shall supersede any contrary provision of State law, including a provision of State law that requires medical or health plan records (including billing information) to be maintained or transmitted in written rather than electronic form.

''(B) EXCEPTIONS.—A provision, requirement, or standard under this section shall not supersede a contrary provision of State law if the Secretary determines that the provision of State law should be continued for any reason, including for reasons relating to prevention of fraud and abuse or regulation of controlled substances.

''(2) PUBLIC HEALTH REPORTING.—Nothing in this section shall be construed to invalidate or limit the authority, power, or procedures established under any law providing for the reporting of disease or injury, child abuse, birth, or death, public health surveillance, or public health investigation or intervention.

''(g) MEDICARE INFORMATION ADVISORY COMMITTEE.—

''(1) ESTABLISHMENT.—There is established a committee to be known as the Medicare Information Advisory Committee (in this subsection referred to as the 'committee').

''(2) DUTIES.—The committee shall—

''(A) advise the Secretary in the development of standards under this section; and

''(B) be generally responsible for advising the Secretary and the Congress on the status and the future of the medicare information network.

''(3) MEMBERSHIP.—

''(A) IN GENERAL.—The committee shall consist of 9 members of whom—

''(i) 3 shall be appointed by the President;

''(ii) 3 shall be appointed by the Speaker of the House of Representatives after consultation with the minority leader of the House of Representatives; and

''(iii) 3 shall be appointed by the President pro tempore of the Senate after consultation with the minority leader of the Senate.

The appointments of the members shall be made not later than 60 days after the date of the enactment of this section. The President shall designate 1 member as the Chair.

''(B) EXPERTISE.—The membership of the committee shall consist of individuals who are of recognized standing and distinction in the areas of information systems, information networking and integration, consumer health, or health care financial management, and who possess the demonstrated capacity to discharge the duties imposed on the committee.

''(C) TERMS.—Each member of the committee shall be appointed for a term of 5 years, except that the members first appointed shall serve staggered terms such that the terms of not more than 3 members expire at one time.

''(D) INITIAL MEETING.—Not later than 30 days after the date on which a majority of the members have been appointed, the committee shall hold its first meeting.

''(4) REPORTS.—Not later than 1 year after the date of the enactment of this section, and annually thereafter, the committee shall submit to Congress and the Secretary a report regarding—

''(A) the extent to which entities using the medicare information network are meeting the standards adopted under this section and working together to form an integrated network that meets the needs of its users;

''(B) the extent to which such entities are meeting the security standards established pursuant to this section and the types of penalties assessed for noncompliance with such standards;

''(C) any problems that exist with respect to implementation of the medicare information network; and

''(D) the extent to which timetables under this section are being met.

Reports made under this subsection shall be made available to health care providers, health plans, and other entities that use the medicare information network to exchange medicare information.

''(h) DEFINITIONS.—For purposes of this section:

''(1) CODE SET.—The term 'code set' means any set of codes used for encoding data elements, such as tables of terms, enrollment information, and encounter data.

''(2) COORDINATION OF BENEFITS.—The term 'coordination of benefits' means determining and coordinating the financial obligations of health plans when health care benefits are payable under such a plan and under this title (including under a MedicarePlus product).

''(3) MEDICARE INFORMATION.—The term 'medicare information' means any information that relates to the enrollment of individuals under this title (including information relating to elections of MedicarePlus products under section 1805) and the provision of health benefits (including benefits provided under such products) under this title.

''(4) MEDICARE INFORMATION NETWORK.—The term 'medicare information network' means the medicare information system that is formed through the application of the requirements and standards established under this section.

''(5) MEDICARE INFORMATION NETWORK SERVICE.—The term 'medicare information network service' means a public or private entity that—

''(A) processes or facilitates the processing of nonstandard data elements of medicare information into standard data elements;

''(B) provides the means by which persons may meet the requirements of this section; or

''(C) provides specific information processing services.

''(6) HEALTH PLAN.—The term 'health plan' means a plan which provides, or pays the cost of, health benefits. Such term includes the following, or any combination thereof:

''(A) Part A or part B of this title, and includes a MedicarePlus product.

''(B) The medicaid program under title XIX and the MediGrant program under title XXI.

''(C) A medicare supplemental policy (as defined in section 1882(g)(1)).

''(D) Worker's compensation or similar insurance.

''(E) Automobile or automobile medical-payment insurance.

''(F) A long-term care policy, other than a fixed indemnity policy.

''(G) The Federal Employees Health Benefit Plan under chapter 89 of title 5, United States Code.

''(H) An employee welfare benefit plan, as defined in section 3(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(1)), but only to the extent the plan is established or maintained for the purpose of providing health benefits.

''(7) INDIVIDUALLY IDENTIFIABLE MEDICARE INFORMATION.—The term 'individually identifiable medicare information' means medicare enrollment information, including demographic information collected from an individual, that—

''(A) is created or received by a health care provider, health plan, employer, or medicare information network service, and

''(B) identifies an individual.

''(8) STANDARD SETTING ORGANIZATION.—The term 'standard setting organization' means a standard setting organization accredited by the American National Standards Institute.

''(9) STANDARD TRANSACTION.—The term 'standard transaction' means, when referring to an information transaction or to data elements of medicare information, any transaction that meets the requirements and implementation specifications adopted by the Secretary under subsections (a) and (b).''.

## PART 5—OTHER PROVISIONS RELATING TO PARTS A AND B

### SEC. 15741. CLARIFICATION OF MEDICARE COVERAGE OF ITEMS AND SERVICES ASSOCIATED WITH CERTAIN MEDICAL DEVICES APPROVED FOR INVESTIGATIONAL USE.

(a) COVERAGE.—Nothing in title XVIII of the Social Security Act may be construed to prohibit coverage under part A or part B of the medicare program of items and services associated with the use of a medical device in the furnishing of inpatient hospital services (as defined for purposes of part A of the medicare program) solely on the grounds that the device is not an approved device, if—

(1) the device is an investigational device; and

(2) the device is used instead of an approved device.

(b) CLARIFICATION OF PAYMENT AMOUNT.—Notwithstanding any other provision of title XVIII of the Social Security Act, the amount of payment made under the medicare program for any item or service associated with the use of an investigational device in the furnishing of inpatient hospital services (as defined for purposes of part A of the medicare program) may not exceed the amount of the payment which would have been made under the program for the item or service if the item or service were associated with the use of an approved device.

(c) DEFINITIONS.—In this section—

(1) the term ''approved device'' means a medical device which has been approved for marketing under pre-market approval under the Federal Food, Drug, and Cosmetic Act or cleared for marketing under a 510(k) notice under such Act; and

(2) the term ''investigational device'' means a medical device (other than a device described in paragraph (1)) which is approved for investigational use under section 520(g) of the Federal Food, Drug, and Cosmetic Act.

### SEC. 15742. ADDITIONAL EXCLUSION FROM COVERAGE.

(a) IN GENERAL.—Section 1862(a) (42 U.S.C. 1395y(a)), as amended by section 15525(a)(2), section 15609B(a), and section 15701(c)(2)(C), is amended—

(1) by striking ''or'' at the end of paragraph (17),

(2) by striking the period at the end of paragraph (18) and inserting ''; or'', and

(3) by inserting after paragraph (18) the following new paragraph:

''(19) where such expenses are for items or services, or to assist in the purchase, in whole or in part, of health benefit coverage that includes items or services, for the purpose of causing, or assisting in causing, the death, suicide, euthanasia, or mercy killing of a person.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to payment for items and services furnished on or after the date of the enactment of this Act.

### SEC. 15743. COMPETITIVE BIDDING FOR CERTAIN ITEMS AND SERVICES.

(a) ESTABLISHMENT OF DEMONSTRATION.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services shall establish and operate over a 2-year period a demonstration project in 2 geographic regions selected by the Secretary under which (notwithstanding any provision of title XVIII of the Social Security Act to the contrary) the amount of payment made under the medicare program for a selected item or service (other than clinical diagnostic laboratory tests) furnished in the region shall be equal to the price determined pursuant to a competitive bidding process which meets the requirements of subsection (b).

(b) REQUIREMENTS FOR COMPETITIVE BIDDING PROCESS.—The competitive bidding process used under the demonstration project under this section shall meet such requirements as the Secretary may impose to ensure the cost-effective delivery to medicare beneficiaries in the project region of items and services of high quality.

(c) DETERMINATION OF SELECTED ITEMS OR SERVICES.—The Secretary shall select items and services to be subject to the demonstration project under this section if the Secretary determines that the use of competitive bidding with respect to the item or service under the project will be appropriate and cost-effective. In determining the items or services to be selected, the Secretary shall consult with an advisory taskforce which includes representatives of providers and suppliers of items and services (including small business providers and suppliers) in each geographic region in which the project will be effective.

### SEC. 15744. DISCLOSURE OF CRIMINAL CONVICTIONS RELATING TO PROVISION OF HOME HEALTH SERVICES.

(a) IN GENERAL.—Section 1891 (42 U.S.C. 1395bbb) is amended by adding at the end the following new subsection:

''(g) The Secretary, and each State or local survey agency or other State agency responsible for monitoring compliance of home health agencies with requirements, shall make available, upon request of any person, information the Secretary or agency has on individuals who have been convicted of felonies relating to the provision of home health services.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

### SEC. 15745. REQUIRING RENAL DIALYSIS FACILITIES TO MAKE SERVICES AVAILABLE ON A 24-HOUR BASIS.

(a) IN GENERAL.—Section 1881(b)(1) (42 U.S.C. 1395rr(b)(1)) is amended by striking the period at the end and inserting the following: '', together with a requirement (in the case of a renal dialysis facility) that the facility make institutional dialysis services and supplies available on a 24-hour basis (either directly or through arrangements with providers of services or other renal dialysis facilities that meet the requirements of such subparagraph) and that the facility provide notice informing its patients of the other providers of services or renal dialysis facilities (if any) with whom the facility has made such arrangements.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to items and services furnished on or after January 1, 1996.

## Subtitle I—Clinical Laboratories

### SEC. 15801. EXEMPTION OF PHYSICIAN OFFICE LABORATORIES.

Section 353(d) of the Public Health Service Act (42 U.S.C. 263a(d)) is amended—

(1) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5) and by adding after paragraph (1) the following:

''(2) EXEMPTION OF PHYSICIAN OFFICE LABORATORIES.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), a clinical laboratory in a physician's office (including an office of a group of physicians) which is directed by a physician and in which examinations and procedures are either performed by a physician or by individuals supervised by a physician solely as an adjunct to other services provided by the physician's office is exempt from this section.

''(B) EXCEPTION.—A clinical laboratory described in subparagraph (A) is not exempt from this section when it performs a pap smear (Papanicolaou Smear) analysis.

''(C) DEFINITION.—For purposes of subparagraph (A), the term 'physician' has the same meaning as is prescribed for such term by section 1861(r) of the Social Security Act (42 U.S.C. 1395x(r)).'';

(2) in paragraph (3) (as so redesignated) by striking ''(3)'' and inserting ''(4)''; and

(3) in paragraphs (4) and (5) (as so redesignated) by striking ''(2)'' and inserting ''(3)''.

## Subtitle J—Lock-Box Provisions for Medicare Part B Savings from Growth Reductions

### SEC. 15901. ESTABLISHMENT OF MEDICARE GROWTH REDUCTION TRUST FUND FOR PART B SAVINGS.

Part B of title XVIII is amended by inserting after section 1841 the following new section:

''MEDICARE GROWTH REDUCTION TRUST FUND

''SEC. 1841A. (a)(1) There is hereby created on the books of the Treasury of the United States a trust fund to be known as the 'Federal Medicare Growth Reduction Trust Fund' (in this section referred to as the 'Trust Fund'). The Trust Fund shall consist of such gifts and bequests as may be made as provided in section 201(i)(1) and amounts appropriated under paragraph (2).

''(2) There are hereby appropriated to the Trust Fund, out of any amounts in the Treasury not otherwise appropriated, amounts equivalent to 100 percent of the Secretary's estimate of the reductions in outlays under this part that are attributable to the Medicare Preservation Act of 1995. The amounts appropriated by the preceding sentence shall be transferred from time to time (not less frequently than monthly) from the general fund in the Treasury to the Trust Fund.

''(3)(A) Subject to subparagraph (B), with respect to monies transferred to the Trust Fund, no transfers, authorizations of appropriations, or appropriations are permitted.

''(B) Beginning with fiscal year 2003, the Secretary may expend funds in the Trust Fund to carry out this title, but only to the extent provided by Congress in advance through a specific amendment to this section.

''(b) The provisions of subsections (b) through (e) of section 1841 shall apply to the Trust Fund in the same manner as they apply to the Federal Supplementary Medical Insurance Trust Fund, except that the Board of Trustees and Managing Trustee of the

Trust Fund shall be composed of the members of the Board of Trustees and the Managing Trustee, respectively, of the Federal Supplementary Medical Insurance Trust Fund.''.

The CHAIRMAN. No further amendment is in order except the amendment in the nature of a substitute numbered 2 printed in the designated place in the CONGRESSIONAL RECORD, which may be offered only by the gentleman from Missouri [Mr. GEPHARDT] or his designee, is considered read, is debatable for 1 hour, equally divided and controlled by the proponent and an opponent of the amendment and is not subject to amendment.

Does the gentleman from Missouri [Mr. GEPHARDT] choose to control the time, or is he designating a Member to do so on his behalf?

Mr. GIBBONS. Mr. Chairman, I have been designated, along with the gentleman from Michigan [Mr. DINGELL].

The CHAIRMAN. Who seeks time in opposition?

Mr. ARCHER. Mr. Chairman, I seek time in opposition.

Mr. BLILEY. Mr. Chairman, I seek time in opposition as well.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. GIBBONS

Mr. GIBBONS. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. GIBBONS:

Strike all after the enacting clause and insert the following:

## TITLE XV—MEDICARE

**SEC. 15000. SHORT TITLE OF TITLE; AMENDMENTS AND REFERENCES TO OBRA; TABLE OF CONTENTS OF TITLE.**

(a) SHORT TITLE.—This title may be cited as the ''Medicare Enhancement Act of 1995''.

(b) AMENDMENTS TO SOCIAL SECURITY ACT.—Except as otherwise specifically provided, whenever in this title an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

(c) REFERENCES TO OBRA.—In this title, the terms ''OBRA–1986'', ''OBRA–1987'', ''OBRA–1989'', ''OBRA–1990'', and ''OBRA–1993'' refer to the Omnibus Budget Reconciliation Act of 1986 (Public Law 99–509), the Omnibus Budget Reconciliation Act of 1987 (Public Law 100–203), the Omnibus Budget Reconciliation Act of 1989 (Public Law 101–239), the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508), and the Omnibus Budget Reconciliation Act of 1993 (Public Law 103–66), respectively.

(d) TABLE OF CONTENTS OF TITLE.—The table of contents of this title is as follows:


**Subtitle A—Provisions Relating to Medicare Part A**

Sec. 15001. Reductions in inflation updates for inpatient hospital services.
Sec. 15002. Continuation of current reduction in payments for capital-related costs for inpatient hospital services.
Sec. 15003. Elimination of certain additional payments for outlier cases.
Sec. 15004. Clarification of treatment of transfers.
Sec. 15005. Prospective payment for skilled nursing facilities.
Sec. 15006. Maintaining savings resulting from temporary freeze on payment increases for skilled nursing facilities.

**Subtitle B—Provisions Relating to Medicare Part B**

Sec. 15101. Payment for physicians' services.
Sec. 15102. Freeze in updates to payment amounts for certain items and services.
Sec. 15103. Reduction in effective beneficiary coinsurance rate for certain hospital outpatient services.
Sec. 15104. Expanding coverage of preventive benefits.
Sec. 15105. Reduction in payment for capital-related costs of hospital outpatient services.
Sec. 15106. Part B premium.
Sec. 15107. Ensuring payment for physician and nurse for jointly furnished anesthesia services.

**Subtitle C—Provisions Relating to Parts A and B**

PART 1—MEDICARE SECONDARY PAYOR

Sec. 15201. Extension of existing secondary payer requirements.
Sec. 15202. Clarification of time and filing limitations.
Sec. 15203. Clarification of liability of third party–administrators.
Sec. 15204. Clarification of payment amounts to medicare.
Sec. 15205. Conditions for double damages.

PART 2—OTHER PROVISIONS RELATING TO PARTS A AND B

Sec. 15221. Making additional choices of health plans available to beneficiaries.
Sec. 15222. Teaching hospital and graduate medical education trust fund.
Sec. 15223. Revisions in determination of amount of payment for medical education.
Sec. 15224. Payments for home health services.
Sec. 15225. Requiring health maintenance organizations to cover appropriate range of services.
Sec. 15226. Clarification of medicare coverage of items and services associated with certain medical devices approved for investigational use.
Sec. 15227. Commission on the Future of Medicare and the Protection of the Health of the Nation's Senior Citizens.

**Subtitle D—Preventing Fraud and Abuse**

PART 1—AMENDMENTS TO ANTI-FRAUD AND ABUSE PROVISIONS APPLICABLE TO MEDICARE, MEDICAID, AND STATE HEALTH CARE PROGRAMS

Sec. 15301. Anti-kickback statutory provisions.
Sec. 15302. Civil money penalties.
Sec. 15303. Private right of action.
Sec. 15304. Amendments to exclusionary provisions in fraud and abuse program.
Sec. 15305. Sanctions against practitioners and persons for failure to comply with statutory obligations relating to quality of care.
Sec. 15306. Revisions to criminal penalties.
Sec. 15307. Definitions.
Sec. 15308. Effective date.

PART 2—INTERPRETIVE RULINGS ON KICKBACKS AND SELF-REFERRAL

Sec. 15311. Establishment of process for issuance of interpretive rulings.
Sec. 15312. Effect of issuance of interpretive ruling.
Sec. 15313. Imposition of fees.

PART 3—DIRECT SPENDING FOR ANTI-FRAUD ACTIVITIES UNDER MEDICARE

Sec. 15321. Direct spending for anti-fraud activities under medicare.

PART 4—PREEMPTION OF STATE CORPORATE PRACTICE LAWS UNDER MEDICARE

Sec. 15331. Preemption of State laws prohibiting corporate practice of medicine for purposes of medicare.

PART 5—MEDICARE ANTI-FRAUD AND ABUSE COMMISSION

Sec. 15341. Establishment of Medicare Anti-Fraud and Abuse Commission.
Sec. 15342. Functions of Commission.
Sec. 15343. Organization and compensation.
Sec. 15344. Staff of Commission.
Sec. 15345. Authority of Commission.
Sec. 15346. Termination.
Sec. 15347. Authorization of appropriations.


**Subtitle A—Provisions Relating to Medicare Part A**

**SEC. 15001. REDUCTIONS IN INFLATION UPDATES FOR INPATIENT HOSPITAL SERVICES.**

(a) PPS HOSPITALS.—Section 1886(b)(3)(B)(i) (42 U.S.C. 1395ww(b)(3)(B)(i)) is amended by striking subclauses (XI), (XII), and (XIII) and inserting the following:

''(XI) for each of the fiscal years 1996 through 2002, the market basket percentage increase minus 0.5 percentage point for hospitals located in a rural area and the market basket percentage increase minus 1.0 percentage point for all other hospitals, and

''(XII) for fiscal year 2003 and each subsequent fiscal year, the market basket percentage increase for hospitals in all areas.''.

(b) PPS-EXEMPT HOSPITALS.—Section 1886(b)(3)(B)(ii) (42 U.S.C. 1395ww(b)(3)(B)(ii)) is amended—

(1) in subclause (V)—

(A) by striking ''thorugh 1997'' and inserting ''through 1995'', and

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

(2) by redesignating subclause (VI) as subclause (VII); and

(3) by inserting after subclause (V) the following new subclause:

''(VI) fiscal years 1996 through 2002, is the market basket percentage increase minus 0.5 percentage point for hospitals located in a rural area and the market basket percentage increase minus 1.0 percentage point for all other hospitals, and''.

**SEC. 15002. CONTINUATION OF CURRENT REDUCTION IN PAYMENTS FOR CAPITAL-RELATED COSTS FOR INPATIENT HOSPITAL SERVICES.**

(a) REDUCTION IN PAYMENTS FOR PPS HOSPITALS.—Section 1886(g)(1)(A) (42 U.S.C. 1395ww(g)(1)(A)) is amended in the second sentence by striking ''through 1995'' and inserting ''through 2002''.

(b) REDUCTION IN PAYMENTS FOR PPS-EXEMPT HOSPITALS.—Section 1886(g) (42 U.S.C. 1395ww(g)) is amended by adding at the end the following new paragraph:

''(4)(A) Except as provided in subparagraph (B), in determining the amount of the payments that may be made under this title with respect to all the capital-related costs of inpatient hospital services furnished during fiscal years 1996 through 2002 of a hospital which is not a subsection (d) hospital or a subsection (d) Puerto Rico hospital, the Secretary shall reduce the amounts of such payments otherwise determined under this title by 10 percent.

''(B) Subparagraph (A) shall not apply to payments with respect to the capital-related costs of any hospital that is a sole community hospital (as defined in subsection (d)(5)(D)(iii) or a rural primary care hospital (as defined in section 1861(mm)(1)).''.

**SEC. 15003. ELIMINATION OF CERTAIN ADDITIONAL PAYMENTS FOR OUTLIER CASES.**

(a) INDIRECT MEDICAL EDUCATION.—Section 1886(d)(5)(B)(i)(I) (42 U.S.C. 1395ww(d)(5)(B)(i)(I)) is amended—

(1) by striking ''the sum of''; and

(2) by striking ''and the amount paid to the hospital under subparagraph (A)''.

(b) DISPROPORTIONATE SHARE ADJUSTMENTS.—Section 1886(d)(5)(F)(ii)(I) (42 U.S.C. 1395ww(d)(5)(F)(ii)(I)) is amended—

(1) by striking ''the sum of''; and

(2) by striking ''and the amount paid to the hospital under subparagraph (A) for that discharge''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to discharges occurring on or after October 1, 1995.

**SEC. 15004. CLARIFICATION OF TREATMENT OF TRANSFERS.**

(a) IN GENERAL.—Section 1886(d)(5)(I) (42 U.S.C. 1395ww(d)(5)(I)) is amended by adding at the end the following new clause:

''(iii) In making adjustments under clause (i) for transfer cases, the Secretary shall treat as a transfer any transfer to a hospital (without regard to whether or not the hospital is a subsection (d) hospital), a unit thereof, or a skilled nursing facility.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to discharges occurring on or after October 1, 1995.

**SEC. 15005. PROSPECTIVE PAYMENT FOR SKILLED NURSING FACILITIES.**

Section 1888 (42 U.S.C. 1395yy) is amended by adding at the end the following:

''(e) Notwithstanding any other provision of this title, the Secretary shall, for cost reporting periods beginning on or after October 1, 1996, provide for payment for routine costs of extended care services in accordance with a prospective payment system established by the Secretary, subject to the limitations in subsections (f) through (h).

''(f)(1) The amount of payment under subsection (e) shall be determined on a per diem basis.

''(2) The Secretary shall compute the routine costs per diem in a base year (determined by the Secretary) for each skilled nursing facility, and shall update the per diem rate on the basis of a market basket and other factors as the Secretary determines appropriate.

''(3) The per diem rate applicable to a skilled nursing facility may not exceed the following limits—

''(A) With respect to skilled nursing facilities located in rural areas, the limit shall be equal to 112 percent of the mean per diem routine costs in a base year (determined by the Secretary) for freestanding skilled nursing facilities located in rural areas within the same region, as updated by the same percentage determined under paragraph (2).

''(B) With respect to skilled nursing facilities located in urban areas, the limit shall be equal to 112 percent of the mean per diem routine costs in a base year (determined by the Secretary) for freestanding skilled nursing facilities located in urban areas within the same region, updated by the same percentage determined under paragraph (2).

''(g) In the case of a hospital-based skilled nursing facility or a skilled nursing facility receiving payment under subsection (d) as of the date of enactment of this provision, the amount of payment to the facility based on application of subsections (e) and (f) may not be less than the per diem rate applicable to the facility for routine costs on the date of enactment of this provision.

''(h) Notwithstanding any other provision of this title, the Secretary shall, for cost reporting periods beginning on or after October 1, 1998, provide for payment for all costs of extended care services (including routine service costs, ancillary costs, and capital-related costs) in accordance with a prospective payment system established by the Secretary. The Secretary shall adjust the payment amounts under this subsection in a manner to assure that the aggregate payments made under this subsection in a fiscal year result in a 5 percent reduction (as estimated by the Secretary) in the amount of payments that would otherwise have been made for such fiscal year.

''(i) The Secretary may provide for such exceptions as the Secretary determines appropriate to the amount of payment based on application of subsections (e) though (h).''

**SEC. 15006. MAINTAINING SAVINGS RESULTING FROM TEMPORARY FREEZE ON PAYMENT INCREASES FOR SKILLED NURSING FACILITIES.**

(a) BASING UPDATES TO PER DIEM COST LIMITS ON LIMITS FOR FISCAL YEAR 1993.—

(1) IN GENERAL.—The last sentence of section 1888(a) (42 U.S.C. 1395yy(a)) is amended by adding at the end the following: ''(except that such updates may not take into account any changes in the routine service costs of skilled nursing facilities occurring during cost reporting periods which began during fiscal year 1994 or fiscal year 1995).''.

(2) NO EXCEPTIONS PERMITTED BASED ON AMENDMENT.—The Secretary of Health and Human Services shall not consider the amendment made by paragraph (1) in making any adjustments pursuant to section 1888(c) of the Social Security Act.

(b) PAYMENTS DETERMINED ON PROSPECTIVE BASIS.—Any change made by the Secretary of Health and Human Services in the amount of any prospective payment paid to a skilled nursing facility under section 1888(d) of the Social Security Act for cost reporting periods beginning on or after October 1, 1995, may not take into account any changes in the costs of services occurring during cost reporting periods which began during fiscal year 1994 or fiscal year 1995.

## Subtitle B—Provisions Relating to Medicare Part B

**SEC. 15101. PAYMENT FOR PHYSICIANS' SERVICES.**

(a) REPLACEMENT OF VOLUME PERFORMANCE STANDARD WITH CUMULATIVE EXPENDITURE TARGET.—Section 1848(f)(2) (42 U.S.C. 1395w–4(f)(2)) is amended to read as follows:

''(f) CUMULATIVE EXPENDITURE TARGET.—

''(1) SPECIFICATION OF TARGET.—

''(A) FISCAL YEAR 1996.—The cumulative expenditure target for all physicians' services and for each category of such services for fiscal year 1996 shall be equal to the product of—

''(i) 1 plus the Secretary's estimate of the percentage change in the medicare economic index for 1996 (described in the fourth sentence of section 1842(b)(3)) (divided by 100),

''(ii) 1 plus the Secretary's estimate of the percentage change (divided by 100) in the average number of individuals enrolled under this part (other than private plan enrollees) from fiscal year 1995 to fiscal year 1996,

''(iii) 1 plus the Secretary's estimate of the projected percentage growth in real gross domestic product per capita (divided by 100) from fiscal year 1995 to fiscal year 1996, plus 2 percentage points, and

''(iv) 1 plus the Secretary's estimate of the percentage change (divided by 100) in expenditures for all physicians' services or of the category of physicians' services in fiscal year 1996 (compared with fiscal year 1995) which will result from changes in law, determined without taking into account estimated changes in expenditures due to changes in the volume and intensity of physicians' services or changes in expenditures resulting from changes in the update to the conversion factor under subsection (d),

minus 1 and multiplied by 100.

''(B) SUBSEQUENT FISCAL YEARS.—The cumulative expenditure target for all physicians' services and for each category of physicians' services for fiscal year 1997 and each subsequent fiscal year shall be equal to the cumulative expenditure target determined under this paragraph for the previous fiscal year, increased by the product of—

''(i) 1 plus the Secretary's estimate of the percentage change in the medicare economic index for the fiscal year involved (described in the fourth sentence of section 1842(b)(3)) (divided by 100),

''(ii) 1 plus the Secretary's estimate of the percentage change (divided by 100) in the average number of individuals enrolled under this part (other than private plan enrollees) from the previous fiscal year to the fiscal year involved,

''(iii) 1 plus the Secretary's estimate of the projected percentage growth in real gross domestic product per capita (divided by 100) from the previous fiscal year to the fiscal year involved, plus 2 percentage points, and

''(iv) 1 plus the Secretary's estimate of the percentage change (divided by 100) in expenditures for all physicians' services or of the category of physicians' services in the fiscal year (compared with the previous fiscal year) which will result from changes in law, determined without taking into account estimated changes in expenditures due to changes in the volume and intensity of physicians' services or changes in expenditures resulting from changes in the update to the conversion factor under subsection (d)(3),

minus 1 and multiplied by 100.''.

''(2) EXCLUSION OF SERVICES FURNISHED TO PRIVATE PLAN ENROLLEES.—In this subsection, the term 'physicians' services' with respect to a fiscal year does not include services furnished to an individual enrolled under this part who has elected to receive benefits under this title for the fiscal year through enrollment with an eligible organization with a risk-sharing contract under section 1876.''.

(b) ESTABLISHING UPDATE TO CONVERSION FACTOR TO MATCH SPENDING UNDER CUMULATIVE EXPENDITURE TARGET.—

(1) IN GENERAL.—Section 1848(d) (42 U.S.C. 1395w–4(d)(3)) is amended—

(A) by striking paragraph (2);

(B) by amending paragraph (3) to read as follows:

''(3) UPDATE.—

''(A) IN GENERAL.—Subject to subparagraph (E), for purposes of this section the update for a year (beginning with 1997) is equal to the product of—

''(i) 1 plus the Secretary's estimate of the percentage increase in the medicare economic index (described in the fourth sentence of section 1842(b)(3)) for the year (divided by 100), and

''(ii) 1 plus the Secretary's estimate of the update adjustment factor for the year (divided by 100),

minus 1 and multiplied by 100.

''(B) UPDATE ADJUSTMENT FACTOR.—The 'update adjustment factor' for a year for a category of physicians' services is equal to the quotient of—

''(i) the difference between (I) the sum of the allowed expenditures for physicians' services in such category furnished during each of the years 1995 through the year involved and (II) the sum of the amount of actual expenditures for physicians' services furnished in such category during each of the years 1995 through the previous year; divided by

''(ii) the Secretary's estimate of allowed expenditures for physicians' services in such category furnished during the year.

''(C) DETERMINATION OF ALLOWED EXPENDITURES.—For purposes of subparagraph (B),

allowed expenditures for physicians' services in a category of physicians' services shall be determined as follows (as estimated by the Secretary):

''(i) In the case of allowed expenditures for 1995, such expenditures shall be equal to actual expenditures for services furnished during the 12-month period ending with June of 1995.

''(ii) In the case of allowed expenditures for 1996 and each subsequent year, such expenditures shall be equal to allowed expenditures for the previous year, increased by the cumulative expenditure target under subsection (f) for the fiscal year which begins during the year.

''(D) DETERMINATION OF ACTUAL EXPENDITURES.—For purposes of subparagraph (B), the amount of actual expenditures for physicians' services in a category of physicians' services furnished during a year shall be equal to the amount of expenditures for such services during the 12-month period ending with June of the previous year.

''(E) RESTRICTION ON VARIATION FROM MEDICARE ECONOMIC INDEX.—Notwithstanding the amount of the update adjustment factor determined under subparagraph (B) for a year, the update in the conversion factor under this paragraph for the year may not be—

''(i) greater than 103 percent of the Secretary's estimate of the percentage increase in the medicare economic index (described in the fourth sentence of section 1842(b)(3)) for the year; or

''(ii) less than 92.5 percent of the Secretary's estimate of the percentage increase in the medicare economic index (described in the fourth sentence of section 1842(b)(3)) for the year.''; and

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

''(4) REPORTING REQUIREMENTS.—

''(A) IN GENERAL.—Not later than November 1 of each year (beginning with 1996), the Secretary shall transmit to the Congress a report that describes the update in the conversion factor for physicians' services (as defined in subsection (f)(3)(A)) in the following year.

''(B) COMMISSION REVIEW.—The Medicare Payment Review Commission shall review the report submitted under subparagraph (A) for a year and shall submit to the Congress, by not later than December 1 of the year, a report containing its analysis of the conversion factor for the following year.''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to physicians' services furnished on or after January 1, 1997.

(c) ESTABLISHMENT OF SINGLE CONVERSION FACTOR FOR 1996.—Section 1848(d)(1) (42 U.S.C. 1395w–4(d)(1)) is amended—

(1) by redesignating subparagraph (C) as subparagraph (D); and

(2) by inserting after subparagraph (B) the following new subparagraph:

''(C) SPECIAL RULE FOR 1996.—For 1996, the conversion factor under this subsection shall be $34.60 for all physicians' services.''.

**SEC. 15102. FREEZE IN UPDATES TO PAYMENT AMOUNTS FOR CERTAIN ITEMS AND SERVICES.**

(a) CLINICAL DIAGNOSTIC LABORATORY TESTS.—Section 1833(h)(2)(A)(ii)(IV) (42 U.S.C. 1395l(h)(2)(A)(ii)(IV)) is amended striking ''1994 and 1995'' and inserting ''1994, 1995, 1996, and 1997''.

(b) DURABLE MEDICAL EQUIPMENT.—

(1) COVERED ITEMS.—Section 1834(a)(14) (42 U.S.C. 1395m(a)(14)) is amended—

(A) by striking ''and'' at the end of subparagraph (A);

(B) in subparagraph (B)—

(i) by striking ''a subsequent year'' and inserting ''1993, 1994, and 1995'', and

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

(C) by adding at the end the following:

''(C) for 1996 and 1997, 0 percentage points; and

''(D) for a subsequent year, the percentage increase in the consumer price index for all urban consumers (U.S. urban average) for the 12-month period ending with June of the previous year.''.

(2) ORTHOTICS AND PROSTHETICS.—Section 1834(h)(4)(A)(iii) (42 U.S.C. 1395m(h)(4)(A)(iii)) is amended by striking ''1994 and 1995'' and inserting ''1994, 1995, 1996, and 1997''.

(c) AMBULATORY SURGICAL CENTER SERVICES.—The Secretary of Health and Human Services shall not provide for any inflation update in the payment amounts under subparagraphs (A) and (B) of section 1833(i)(2) of the Social Security Act for fiscal years 1996 and 1997.

**SEC. 15103. REDUCTION IN EFFECTIVE BENEFICIARY COINSURANCE RATE FOR CERTAIN HOSPITAL OUTPATIENT SERVICES.**

(a) IN GENERAL.—

(1) AMBULATORY SURGICAL CENTER PROCEDURES.—Section 1833(i)(3)(B)(i)(II) (42 U.S.C. 1395l(i)(3)(B)(i)(II)) is amended—

(A) by striking ''of 80 percent''; and

(B) by striking the period at the end and inserting the following: '', less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A).''.

(2) RADIOLOGY SERVICES AND DIAGNOSTIC PROCEDURES.—Section 1833(n)(1)(B)(i)(II) (42 U.S.C. 1395l(n)(1)(B)(i)(II)) is amended—

(A) by striking ''of 80 percent''; and

(B) by striking the period at the end and inserting the following: '', less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A).''.

(b) REDUCTION IN BENEFICIARY COINSURANCE RATE.—Section 1866(a)(2) (42 U.S.C. 1395cc(a)(2)) is amended by adding at the end the following new subparagraph:

''(E)(i) In the case of services furnished during a year for which the amount of payment under part B is determined under section 1833(i) or section 1833(n), clause (ii) of subparagraph (A) shall be applied by reducing '20 percent' by the percentage established for the year under clause (ii).

''(ii) The percentage established for a year under this clause shall be the percentage which, if applied for the year, will result in a reduction in projected total coinsurance payments under part B during the year in an amount equal to the Secretary's estimate of the reduction in expenditures under part B which would have occurred as a result of the enactment of section 15103(a) of the Medicare Enhancement Act of 1995 if this subparagraph were not in effect for the year.

''(iii) The Secretary shall establish and publish the percentage established for a year under this clause not later than October 1 preceding the year involved (or not later than December 1, 1995, in the case of the percentage established for 1996).''.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to services furnished during portions of cost reporting periods occurring on or after January 1, 1996.

**SEC. 15104. EXPANDING COVERAGE OF PREVENTIVE BENEFITS.**

(a) PROVIDING ANNUAL SCREENING MAMMOGRAPHY FOR WOMEN OVER AGE 49.—Section 1834(c)(2)(A) (42 U.S.C. 1395m(c)(2)(A)) is amended—

(1) in clause (iv), by striking ''but under 65 years of age,''; and

(2) by striking clause (v).

(b) COVERAGE OF SCREENING PAP SMEAR AND PELVIC EXAMS.—

(1) COVERAGE OF PELVIC EXAM; INCREASING FREQUENCY OF COVERAGE OF PAP SMEAR.—Section 1861(nn) (42 U.S.C. 1395x(nn)) is amended—

(A) in the heading, by striking ''Smear'' and inserting ''Smear; Screening Pelvic Exam'';

(B) by striking ''(nn)'' and inserting ''(nn)(1)'';

(C) by striking ''3 years'' and all that follows and inserting ''3 years, or during the preceding year in the case of a woman described in paragraph (3).''; and

(D) by adding at the end the following new paragraphs:

''(2) The term 'screening pelvic exam' means an pelvic examination provided to a woman if the woman involved has not had such an examination during the preceding 3 years, or during the preceding year in the case of a woman described in paragraph (3), and includes a clinical breast examination.

''(3) A woman described in this paragraph is a woman who—

''(A) is of childbearing age and has not had a test described in this subsection during each of the preceding 3 years that did not indicate the presence of cervical cancer; or

''(B) is at high risk of developing cervical cancer (as determined pursuant to factors identified by the Secretary).''.

(2) WAIVER OF DEDUCTIBLE.—The first sentence of section 1833(b) (42 U.S.C. 1395l(b)), as amended by subsection (a)(2), is amended—

(A) by striking ''and (5)'' and inserting ''(5)''; and

(B) by striking the period at the end and inserting the following: '', and (6) such deductible shall not apply with respect to screening pap smear and screening pelvic exam (as described in section 1861(nn)).''.

(3) CONFORMING AMENDMENTS.—(A) Section 1861(s)(14) (42 U.S.C. 1395x(s)(14)) is amended by inserting ''and screening pelvic exam'' after ''screening pap smear''.

(B) Section 1862(a)(1)(F) (42 U.S.C. 1395y(a)(1)(F)) is amended by inserting ''and screening pelvic exam'' after ''screening pap smear''.

(c) COVERAGE OF COLORECTAL SCREENING.—

(1) IN GENERAL.—Section 1834 (42 U.S.C. 1395m) is amended by inserting after subsection (c) the following new subsection:

''(d) FREQUENCY AND PAYMENT LIMITS FOR SCREENING FECAL-OCCULT BLOOD TESTS, SCREENING FLEXIBLE SIGMOIDOSCOPIES, AND SCREENING COLONOSCOPY.—

''(1) FREQUENCY LIMITS FOR SCREENING FECAL-OCCULT BLOOD TESTS.—Subject to revision by the Secretary under paragraph (4), no payment may be made under this part for a screening fecal-occult blood test provided to an individual for the purpose of early detection of colon cancer if the test is performed—

''(A) in the case of an individual under 65 years of age, more frequently than is provided in a periodicity schedule established by the Secretary for purposes of this subparagraph; or

''(B) in the case of any other individual, within the 11 months following the month in which a previous screening fecal-occult blood test was performed.

''(2) SCREENING FLEXIBLE SIGMOIDOSCOPIES.—

''(A) PAYMENT AMOUNT.—The Secretary shall establish a payment amount under section 1848 with respect to screening flexible sigmoidoscopies provided for the purpose of early detection of colon cancer that is consistent with payment amounts under such section for similar or related services, except that such payment amount shall be established without regard to subsection (a)(2)(A) of such section.

''(B) FREQUENCY LIMITS.—Subject to revision by the Secretary under paragraph (4), no payment may be made under this part for a screening flexible sigmoidoscopy provided to

an individual for the purpose of early detection of colon cancer if the procedure is performed—

''(i) in the case of an individual under 65 years of age, more frequently than is provided in a periodicity schedule established by the Secretary for purposes of this subparagraph; or

''(ii) in the case of any other individual, within the 59 months following the month in which a previous screening flexible sigmoidoscopy was performed.

''(3) SCREENING COLONOSCOPY FOR INDIVIDUALS AT HIGH RISK FOR COLORECTAL CANCER.—

''(A) PAYMENT AMOUNT.—The Secretary shall establish a payment amount under section 1848 with respect to screening colonoscopy for individuals at high risk for colorectal cancer (as determined in accordance with criteria established by the Secretary) provided for the purpose of early detection of colon cancer that is consistent with payment amounts under such section for similar or related services, except that such payment amount shall be established without regard to subsection (a)(2)(A) of such section.

''(B) FREQUENCY LIMIT.—Subject to revision by the Secretary under paragraph (4), no payment may be made under this part for a screening colonoscopy for individuals at high risk for colorectal cancer provided to an individual for the purpose of early detection of colon cancer if the procedure is performed within the 47 months following the month in which a previous screening colonoscopy was performed.

''(C) FACTORS CONSIDERED IN ESTABLISHING CRITERIA FOR DETERMINING INDIVIDUALS AT HIGH RISK.—In establishing criteria for determining whether an individual is at high risk for colorectal cancer for purposes of this paragraph, the Secretary shall take into consideration family history, prior experience of cancer, a history of chronic digestive disease condition, and the presence of any appropriate recognized gene markers for colorectal cancer.

''(4) REVISION OF FREQUENCY.—

''(A) REVIEW.—The Secretary shall review periodically the appropriate frequency for performing screening fecal-occult blood tests, screening flexible sigmoidoscopies, and screening colonoscopy based on age and such other factors as the Secretary believes to be pertinent.

''(B) REVISION OF FREQUENCY.—The Secretary, taking into consideration the review made under clause (i), may revise from time to time the frequency with which such tests and procedures may be paid for under this subsection.''.

(2) CONFORMING AMENDMENTS.—(A) Paragraphs (1)(D) and (2)(D) of section 1833(a) (42 U.S.C. 1395l(a)) are each amended by striking ''subsection (h)(1),'' and inserting ''subsection (h)(1) or section 1834(d)(1),''.

(B) Clauses (i) and (ii) of section 1848(a)(2)(A) (42 U.S.C. 1395w–4(a)(2)(A)) are each amended by striking ''a service'' and inserting ''a service (other than a screening flexible sigmoidoscopy provided to an individual for the purpose of early detection of colon cancer or a screening colonoscopy provided to an individual at high risk for colorectal cancer for the purpose of early detection of colon cancer)''.

(C) Section 1862(a) (42 U.S.C. 1395y(a)) is amended—

(i) in paragraph (1)—

(I) in subparagraph (E), by striking ''and'' at the end;

(II) in subparagraph (F), by striking the semicolon at the end and inserting '', and''; and

(III) by adding at the end the following new subparagraph:

''(G) in the case of screening fecal-occult blood tests, screening flexible sigmoidoscopies, and screening colonoscopy provided for the purpose of early detection of colon cancer, which are performed more frequently than is covered under section 1834(d);''; and

(ii) in paragraph (7), by striking ''paragraph (1)(B) or under paragraph (1)(F)'' and inserting ''subparagraphs (B), (F), or (G) of paragraph (1)''.

(d) PROSTATE CANCER SCREENING TESTS.—

(1) IN GENERAL.—Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)) is amended—

(A) by striking ''and'' at the end of subparagraph (N) and subparagraph (O); and

(B) by inserting after subparagraph (O) the following new subparagraph:

''(P) prostate cancer screening tests (as defined in subsection (oo)); and''.

(2) TESTS DESCRIBED.—Section 1861 (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:

''Prostate Cancer Screening Tests

''(oo) The term 'prostate cancer screening test' means a test that consists of a digital rectal examination or a prostate-specific antigen blood test (or both) provided for the purpose of early detection of prostate cancer to a man over 40 years of age who has not had such a test during the preceding year.''.

(3) PAYMENT FOR PROSTATE-SPECIFIC ANTIGEN BLOOD TEST UNDER CLINICAL DIAGNOSTIC LABORATORY TEST FEE SCHEDULES.—Section 1833(h)(1)(A) (42 U.S.C. 1395l(h)(1)(A)) is amended by inserting after ''laboratory tests'' the following: ''(including prostate cancer screening tests under section 1861(oo) consisting of prostate-specific antigen blood tests)''.

(4) CONFORMING AMENDMENT.—Section 1862(a) (42 U.S.C. 1395y(a)), as amended by subsection (c)(3)(C), is amended—

(A) in paragraph (1)—

(i) in subparagraph (F), by striking ''and'' at the end,

(ii) in subparagraph (G), by striking the semicolon at the end and inserting '', and'', and

(iii) by adding at the end the following new subparagraph:

''(H) in the case of prostate cancer screening test (as defined in section 1861(oo)) provided for the purpose of early detection of prostate cancer, which are performed more frequently than is covered under such section;''; and

(B) in paragraph (7), by striking ''or (G)'' and inserting ''(G), or (H)''.

(e) DIABETES SCREENING BENEFITS.—

(1) DIABETES OUTPATIENT SELF-MANAGEMENT TRAINING SERVICES.—

(A) IN GENERAL.—Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)), as amended by subsection (d)(1), is amended—

(i) by striking ''and'' at the end of subparagraph (N);

(ii) by striking ''and'' at the end of subparagraph (O); and

(iii) by inserting after subparagraph (O) the following new subparagraph:

''(P) diabetes outpatient self-management training services (as defined in subsection (pp)); and''.

(B) DEFINITION.—Section 1861 (42 U.S.C. 1395x), as amended by subsection (d)(2), is amended by adding at the end the following new subsection:

''DIABETES OUTPATIENT SELF-MANAGEMENT TRAINING SERVICES

''(pp)(1) The term 'diabetes outpatient self-management training services' means educational and training services furnished to an individual with diabetes by or under arrangements with a certified provider (as described in paragraph (2)(A)) in an outpatient setting by an individual or entity who meets the quality standards described in paragraph (2)(B), but only if the physician who is managing the individual's diabetic condition certifies that such services are needed under a comprehensive plan of care related to the individual's diabetic condition to provide the individual with necessary skills and knowledge (including skills related to the self-administration of injectable drugs) to participate in the management of the individual's condition.

''(2) In paragraph (1)—

''(A) a 'certified provider' is an individual or entity that, in addition to providing diabetes outpatient self-management training services, provides other items or services for which payment may be made under this title; and

''(B) an individual or entity meets the quality standards described in this paragraph if the individual or entity meets quality standards established by the Secretary, except that the individual or entity shall be deemed to have met such standards if the individual or entity meets applicable standards originally established by the National Diabetes Advisory Board and subsequently revised by organizations who participated in the establishment of standards by such Board, or is recognized by the American Diabetes Association as meeting standards for furnishing the services.''.

(C) CONSULTATION WITH ORGANIZATIONS IN ESTABLISHING PAYMENT AMOUNTS FOR SERVICES PROVIDED BY PHYSICIANS.—In establishing payment amounts under section 1848(a) of the Social Security Act for physicians' services consisting of diabetes outpatient self-management training services, the Secretary of Health and Human Services shall consult with appropriate organizations, including the American Diabetes Association, in determining the relative value for such services under section 1848(c)(2) of such Act.

(2) BLOOD-TESTING STRIPS FOR INDIVIDUALS WITH DIABETES.—

(A) INCLUDING STRIPS AS DURABLE MEDICAL EQUIPMENT.—Section 1861(n) (42 U.S.C. 1395x(n)) is amended by striking the semicolon in the first sentence and inserting the following: '', and includes blood-testing strips for individuals with diabetes without regard to whether the individual has Type I or Type II diabetes (as determined under standards established by the Secretary in consultation with the American Diabetes Association);''.

(2) PAYMENT FOR STRIPS BASED ON METHODOLOGY FOR INEXPENSIVE AND ROUTINELY PURCHASED EQUIPMENT.—Section 1834(a)(2)(A) (42 U.S.C. 1395m(a)(2)(A)) is amended—

(A) by striking ''or'' at the end of clause (ii);

(B) by adding ''or'' at the end of clause (iii); and

(C) by inserting after clause (iii) the following new clause:

''(iv) which is a blood-testing strip for an individual with diabetes,''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished on or after January 1, 1996.

**SEC. 15105. REDUCTION IN PAYMENT FOR CAPITAL-RELATED COSTS OF HOSPITAL OUTPATIENT SERVICES.**

Section 1861(v)(1)(S)(ii)(I) (42 U.S.C. 1395x(v)(1)(S)(ii)(I)) is amended by striking ''through 1998'' and inserting ''through 2002''.

**SEC. 15106. PART B PREMIUM.**

Section 1839(e)(1) (42 U.S.C. 1395r(e)(1)) is amended—

(1) in subparagraph (A), by striking ''1995'' and inserting ''1996'', and

(2) in subparagraph (B)(v), by inserting ''and 1996'' after ''1995''.

**SEC. 15107. ENSURING PAYMENT FOR PHYSICIAN AND NURSE FOR JOINTLY FURNISHED ANESTHESIA SERVICES.**

(a) PAYMENT FOR JOINTLY FURNISHED SINGLE CASE.—

(1) PAYMENT TO PHYSICIAN.—Section 1848(a)(4) (42 U.S.C. 1395w–4(a)(4)) is amended by adding at the end the following new subparagraph:

''(C) PAYMENT FOR SINGLE CASE.—Notwithstanding section 1862(a)(1)(A), with respect to physicians' services consisting of the furnishing of anesthesia services for a single case that are furnished jointly with a certified registered nurse anesthetist, if the carrier determines that the use of both the physician and the nurse anesthetist to furnish the anesthesia service was not medically necessary, the fee schedule amount for the physicians' services shall be equal to 50 percent (or 55 percent, in the case of services furnished during 1996 or 1997) of the fee schedule amount applicable under this section for anesthesia services personally performed by the physician alone (without regard to this subparagraph). Nothing in this subparagraph may be construed to affect the application of any provision of law regarding balance billing.''.

(2) PAYMENT TO CRNA.—Section 1833(l)(4)(B) (42 U.S.C. 1395l(l)(4)(B)) is amended by adding at the end the following new clause:

''(iv) Notwithstanding section 1862(a)(1)(A), in the case of services of a certified registered nurse anesthetist consisting of the furnishing of anesthesia services for a single case that are furnished jointly with a physician, if the carrier determines that the use of both the physician and the nurse anesthetist to furnish the anesthesia service was not medically necessary, the fee schedule amount for the services furnished by the certified registered nurse anesthetist shall be equal to 50 percent (or 40 percent, in the case of services furnished during 1996 or 1997) of the fee schedule amount applicable under section 1848 for anesthesia services personally performed by the physician alone (without regard to this clause).''.

(b) EFFECTIVE DATE.—The amendments made by subsections (a) shall apply to services furnished on or after July 1, 1996.

## Subtitle C—Provisions Relating to Parts A and B

## PART 1—MEDICARE SECONDARY PAYER

**SEC. 15201. EXTENSION OF EXISTING SECONDARY PAYER REQUIREMENTS.**

(a) DATA MATCH.—

(1) Section 1862(b)(5)(C) (42 U.S.C. 1395y(b)(5)(C)) is amended by striking clause (iii).

(2) Section 6103(l)(12) of the Internal Revenue Code of 1986 is amended by striking subparagraph (F).

(b) APPLICATION TO DISABLED INDIVIDUALS IN LARGE GROUP HEALTH PLANS.—

(1) IN GENERAL.—Section 1862(b)(1)(B) (42 U.S.C. 1395y(b)(1)(B)) is amended—

(A) in clause (i), by striking ''clause (iv)'' and inserting ''clause (iii)'',

(B) by striking clause (iii), and

(C) by redesignating clause (iv) as clause (iii).

(2) CONFORMING AMENDMENTS.—Paragraphs (1) through (3) of section 1837(i) (42 U.S.C. 1395p(i)) and the second sentence of section 1839(b) (42 U.S.C. 1395r(b)) are each amended by striking ''1862(b)(1)(B)(iv)'' each place it appears and inserting ''1862(b)(1)(B)(iii)''.

(c) PERIOD OF APPLICATION TO INDIVIDUALS WITH END STAGE RENAL DISEASE.—Section 1862(b)(1)(C) (42 U.S.C. 1395y(b)(1)(C)) is amended—

(1) in the first sentence, by striking ''12-month'' each place it appears and inserting ''18-month'', and

(2) by striking the second sentence.

**SEC. 15202. CLARIFICATION OF TIME AND FILING LIMITATIONS.**

(a) IN GENERAL.—Section 1862(b)(2)(B) (42 U.S.C. 1395y(b)(2)(B)) is amended by adding at the end the following new clause:

''(v) TIME, FILING, AND RELATED PROVISIONS UNDER PRIMARY PLAN.—Requirements under a primary plan as to the filing of a claim, time limitations for the filing of a claim, information not maintained by the Secretary, or notification or pre-admission review, shall not apply to a claim by the United States under clause (ii) or (iii).''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to items and services furnished after 1993.

**SEC. 15203. CLARIFICATION OF LIABILITY OF THIRD PARTY–ADMINISTRATORS.**

(a) IN GENERAL.—Section 1862(b)(2)(B)(ii) (42 U.S.C. 1395y(b)(2)(B)(ii)) is amended by inserting '', or which determines claims under the primary plan'' after ''primary plan''.

(b) CLAIMS BETWEEN PARTIES OTHER THAN THE UNITED STATES.— Section 1862(b)(2)(B) (42 U.S.C. 1395y(b)(2)(B)), (as amended by section 15201(a)) is further amended by adding at the end the following new clause:

''(vi) CLAIMS BETWEEN PARTIES OTHER THAN THE UNITED STATES.—A claim by the United States under clause (ii) or (iii) shall not preclude claims between other parties.''.

(c) EFFECTIVE DATE.—The amendments made by the previous subsections apply to items and services furnished after 1993.

**SEC. 15204. CLARIFICATION OF PAYMENT AMOUNTS TO MEDICARE.**

(a) IN GENERAL.—Section 1862(b)(2)(B)(i) (42 U.S.C. 1395y(b)(2)(B)(i)) is amended to read as follows:

''(i) REPAYMENT REQUIRED.—

''(I) Any payment under this title, with respect to any item or service for which payment by a primary plan is required under the preceding provisions of this subsection, shall be conditioned on reimbursement to the appropriate Trust Fund established by this title when notice or other information is received that payment for that item or service has been or should have been made under those provisions. If reimbursement is not made to the appropriate Trust Fund before the expiration of the 60-day period that begins on the date such notice or other information is received, the Secretary may charge interest (beginning with the date on which the notice or other information is received) on the amount of the reimbursement until reimbursement is made (at a rate determined by the Secretary in accordance with regulations of the Secretary of the Treasury applicable to charges for late payments).

''(II) The amount owed by a primary plan under the first sentence of subclause (I) is the lesser of the full primary payment required (if that amount is readily determinable) and the amount paid under this title for that item or service.''.

(b) CONFORMING AND TECHNICAL AMENDMENTS.—

(1) Subparagraphs (A)(i)(I) and (B)(i) of section 1862(b)(1) (42 U.S.C. 1395y(b)(1)) are each amended by inserting ''(or eligible to be covered)'' after ''covered''.

(2) Section 1862(b)(1)(C)(ii) (42 U.S.C. 1395y(b)(1)(C)(ii)) is amended by striking ''covered by such plan''.

(3) The matter in section 1861(b)(2)(A) (42 U.S.C. 1395x(b)(2)(A)) preceding clause (i) is amended by striking '', except as provided in subparagraph (B),''.

(c) EFFECTIVE DATE.—The amendments made by the previous subsections apply to items and services furnished after 1993.

**SEC. 15205. CONDITIONS FOR DOUBLE DAMAGES.**

(a) IN GENERAL.—Section 1862(b)(2)(B)(ii) (42 U.S.C. 1395y(b)(2)(B)(ii)) is amended—

(1) by striking '', in accordance with paragraph (3)(A)'', and

(2) by inserting '', unless the entity demonstrates that it did not know, and could not have known, of its obligation to pay'' after ''against that entity''.

(b) CONFORMING AMENDMENT.—Section 1862(b)(3)(A) (42 U.S.C. 1395y(b)(3)(A)) is amended by striking ''(or appropriate reimbursement)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished after 1993.

## PART 2—OTHER PROVISIONS RELATING TO PARTS A AND B

**SEC. 15221. MAKING ADDITIONAL CHOICES OF HEALTH PLANS AVAILABLE TO BENEFICIARIES.**

(a) DEFINITION OF PPO.—Section 1876 (42 U.S.C. 1395mm) is amended by adding at the end the following new subsection:

''(k)(1) A preferred provider organization (as defined in paragraph (2)) shall be considered to be an eligible organization under this section.

''(2) In this section, the term 'preferred provider organization' means an organization that—

''(A) would be an eligible organization (as defined in subsection (b)) if—

''(i) clauses (ii) through (iv) of subsection (b)(2)(A) did not apply,

''(ii) subsection (b)(2)(C) did not apply, and

''(iii) subsection (b)(2)(D) only applied (in the case of services not provided under this title) to the physicians' services the organization provides; and

''(B) permits enrollees to obtain benefits through any lawful provider.

Nothing in subparagraph (B) shall be construed as requiring that the benefits for services provided through providers that do not have a contract with the organization be the same as those for services provided through providers that have such contracts so long as an enrollee's liabilities do not exceed the liabilities that the enrollee would have under parts A and B if the individual were not enrolled under this section.''.

(b) PARTIAL RISK PAYMENT METHODS.—Section 1876 (42 U.S.C. 1395mm) is further amended by adding at the end the following new subsection:

''(l) Notwithstanding the previous provisions of this section, at the election of an eligible organization the Secretary may establish an alternative partial-risk-sharing mechanism for making payment to the organization under this section. Under such mechanism fee-for-service payments would be made to the organization for some services provided under the contract, under such conditions and subject to such restrictions as the Secretary may determine.''.

(c) CONFORMING AMENDMENT.—Section 1876 (42 U.S.C. 1395mm) is further amended—

(1) in the heading by striking ''ORGANIZATIONS AND COMPETITIVE MEDICAL PLANS'' and inserting ''ORGANIZATIONS, COMPETITIVE MEDICAL PLANS, AND PREFERRED PROVIDER ORGANIZATIONS'', and

(2) in subsection (c)(3)(E)(ii), by inserting ''(if any)'' after ''the restrictions''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to contract years beginning on or after January 1, 1996.

**SEC. 15222. TEACHING HOSPITAL AND GRADUATE MEDICAL EDUCATION TRUST FUND.**

(a) TEACHING HOSPITAL AND GRADUATE MEDICAL EDUCATION TRUST FUND.—The Social Security Act (42 U.S.C. 300 et seq.) is amended by adding at the end the following title:

''TITLE XXI—TEACHING HOSPITAL AND GRADUATE MEDICAL EDUCATION TRUST FUND

''PART A—ESTABLISHMENT OF FUND

**''SEC. 2101. ESTABLISHMENT OF FUND.**

''(a) IN GENERAL.—There is established in the Treasury of the United States a fund to be known as the Teaching Hospital and Graduate Medical Education Trust Fund (in this title referred to as the 'Fund'), consisting of amounts transferred to the Fund under subsection (c), amounts appropriated to the Fund pursuant to subsections (d) and (e)(3), and such gifts and bequests as may be deposited in the Fund pursuant to subsection (f). Amounts in the Fund are available until expended.

''(b) EXPENDITURES FROM FUND.—Amounts in the Fund are available to the Secretary for making payments under section 2111.

''(c) TRANSFERS TO FUND.—

''(1) IN GENERAL.—From the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund, the Secretary shall, for fiscal year 1996 and each subsequent fiscal year, transfer to the Fund an amount determined by the Secretary for the fiscal year involved in accordance with paragraph (2).

''(2) DETERMINATION OF AMOUNTS.—For purposes of paragraph (1), the amount determined under this paragraph for a fiscal year is an estimate by the Secretary of an amount equal to 75 percent of the difference between—

''(A) the nationwide total of the amounts that would have been paid under section 1876(a)(4) during the year but for the exclusion of medical education payments from the adjusted average per capita cost pursuant to section 1876(a)(4)(B)(ii); and

''(B) the nationwide total of the amounts paid under section 1876(a)(4) during the year.

''(3) ALLOCATION BETWEEN MEDICARE TRUST FUNDS.—In providing for a transfer under paragraph (1) for a fiscal year, the Secretary shall provide for an allocation of the amounts involved between part A and part B of title XVIII (and the trust funds established under the respective parts) as reasonably reflects the proportion of payments for the indirect costs of medical education and direct graduate medical education costs of hospitals associated with the provision of services under each respective part.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Fund such sums as may be necessary for each of the fiscal years 1996 through 2002.

''(e) INVESTMENT.—

''(1) IN GENERAL.—The Secretary of the Treasury shall invest such amounts of the Fund as such Secretary determines are not required to meet current withdrawals from the Fund. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired on original issue at the issue price, or by purchase of outstanding obligations at the market price.

''(2) SALE OF OBLIGATIONS.—Any obligation acquired by the Fund may be sold by the Secretary of the Treasury at the market price.

''(3) AVAILABILITY OF INCOME.—Any interest derived from obligations acquired by the Fund, and proceeds from any sale or redemption of such obligations, are hereby appropriated to the Fund.

''(f) ACCEPTANCE OF GIFTS AND BEQUESTS.—The Fund may accept on behalf of the United States money gifts and bequests made unconditionally to the Fund for the benefit of the Fund or any activity financed through the Fund.

''PART B—PAYMENTS TO TEACHING HOSPITALS

**''SEC. 2111. FORMULA PAYMENTS TO TEACHING HOSPITALS.**

''(a) IN GENERAL.—In the case of each teaching hospital that in accordance with subsection (b) submits to the Secretary a payment document for fiscal year 1996 or any subsequent fiscal year, the Secretary shall make payments for the year to the teaching hospital for the direct and indirect costs of operating approved medical residency training programs. Such payments shall be made from the Fund, and shall be made in accordance with a formula established by the Secretary.

''(b) PAYMENT DOCUMENT.—For purposes of subsection (a), a payment document is a document containing such information as may be necessary for the Secretary to make payments under such subsection to a teaching hospital for a fiscal year. The document is submitted in accordance with this subsection if the document is submitted not later than the date specified by the Secretary, and the document is in such form and is made in such manner as the Secretary may require. The Secretary may require that information under this subsection be submitted to the Secretary in periodic reports.''.

(b) NATIONAL ADVISORY COUNCIL ON POSTGRADUATE MEDICAL EDUCATION.—

(1) IN GENERAL.—There is established within the Department of Health and Human Services an advisory council to be known as the National Advisory Council on Postgraduate Medical Education (in this title referred to as the ''Council'').

(2) DUTIES.—The council shall provide advice to the Secretary on appropriate policies for making payments for the support of postgraduate medical education in order to assure an adequate supply of physicians trained in various specialities, consistent with the health care needs of the United States.

(3) COMPOSITION.—

(A) IN GENERAL.—The Secretary shall appoint to the Council 15 individuals who are not officers or employees of the United States. Such individuals shall include not less than 1 individual from each of the following categories of individuals or entities:

(i) Organizations representing consumers of health care services.

(ii) Physicians who are faculty members of medical schools, or who supervise approved physician training programs.

(iii) Physicians in private practice who are not physicians described in clause (ii).

(iv) Practitioners in public health.

(v) Advanced-practice nurses.

(vi) Other health professionals who are not physicians.

(vii) Medical schools.

(viii) Teaching hospitals.

(ix) The Accreditation Council on Graduate Medical Education.

(x) The American Board of Medical Specialities.

(xi) The Council on Postdoctoral Training of the American Osteopathic Association.

(xii) The Council on Podiatric Medical Education of the American Podiatric Medical Association.

(B) REQUIREMENTS REGARDING REPRESENTATIVE MEMBERSHIP.—To the greatest extent feasible, the membership of the Council shall represent the various geographic regions of the United States, shall reflect the racial, ethnic, and gender composition of the population of the United States, and shall be broadly representative of medical schools and teaching hospitals in the United States.

(C) EX OFFICIO MEMBERS; OTHER FEDERAL OFFICERS OR EMPLOYEES.—The membership of the Council shall include individuals designated by the Secretary to serve as members of the Council from among Federal officers or employees who are appointed by the President, or by the Secretary (or by other Federal officers who are appointed by the President with the advice and consent of the Senate). Individuals designated under the preceding sentence shall include each of the following officials (or a designee of the official):

(i) The Secretary of Health and Human Services.

(ii) The Secretary of Veterans Affairs.

(iii) The Secretary of Defense.

(4) CHAIR.—The Secretary shall, from among members of the council appointed under paragraph (3)(A), designate an individual to serve as the chair of the council.

(5) TERMINATION.—The Council terminates December 31, 1999.

(c) REMOVE MEDICAL EDUCATION AND DISPROPORTIONATE SHARE HOSPITAL PAYMENTS FROM CALCULATION OF ADJUSTED AVERAGE PER CAPITA COST.—

(1) IN GENERAL.—Section 1876(a)(4) (42 U.S.C. 1395mm(a)(4)) is amended—

(A) by striking ''(4)'' and inserting ''(4)(A)''; and

(B) by adding at the end the following new subparagraph:

''(B) In determining the adjusted average per capita cost for a contract year under subparagraph (A), the Secretary shall exclude any amounts which the Secretary estimates would be payable under this title during the year for—

''(i) payment adjustments under section 1886(d)(5)(F) for hospitals serving a disproportionate share of low-income patients; and

''(ii) the indirect costs of medical education under section 1886(d)(5)(B) or for direct graduate medical education costs under section 1886(h).''.

(2) PAYMENTS TO HOSPITALS OF AMOUNTS ATTRIBUTABLE TO DSH.—Section 1886 (42 U.S.C. 1395ww) is amended by adding at the end the following new subsection:

''(j)(1) In addition to amounts paid under subsection (d)(5)(F), the Secretary is authorized to pay hospitals which are eligible for such payments for a fiscal year supplemental amounts that do not exceed the limit provided for in paragraph (2).

''(2) The sum of the aggregate amounts paid pursuant to paragraph (1) for a fiscal year shall not exceed the Secretary's estimate of 75 percent of the amount excluded from the adjusted average per capita cost for the fiscal year pursuant to section 1876(a)(4)(B)(i).''.

**SEC. 15223. REVISIONS IN DETERMINATION OF AMOUNT OF PAYMENT FOR MEDICAL EDUCATION.**

(a) INDIRECT MEDICAL EDUCATION.—

(1) IN GENERAL.—Section 1886(d)(5)(B) (42 U.S.C. 1395ww(d)(5)(B)) is amended by adding at the end the following new clauses:

''(v) In determining such adjustment with respect to a hospital for discharges occurring on or after October 1, 1995, and on or before September 30, 2002—

''(I) the total number of interns and residents counted by the Secretary may not exceed the number of interns and residents counted with respect to the hospital as of August 1, 1995, and

''(II) the number of interns and residents counted by the Secretary who are not primary care residents (as defined in subsection (h)(5)(H)) may not exceed the number of such residents counted with respect to the hospital as of such date.

''(vi) In calculating the number of full-time-equivalent interns and residents of a hospital in determining such adjustment with respect to the hospital, the Secretary shall provide for a weighting factor of .50 with respect to each intern and resident who

is not in an initial residency period (as defined in subsection (h)(5)(F)).''.

(2) PAYMENT FOR INTERNS AND RESIDENTS PROVIDING OFF-SITE SERVICES.—Section 1886(d)(5)(B)(iv) (42 U.S.C. 1395ww(d)(5)(B)(iv)) is amended by striking ''any entity'' and all that follows through ''and residents)'' and inserting ''any other entity under an agreement with the hospital''.

(b) DIRECT MEDICAL EDUCATION.—

(1) LIMITATION ON NUMBER OF RESIDENTS.—Section 1886(h)(4) (42 U.S.C. 1395ww(h)(4)) is amended by adding at the end the following new subparagraph:

''(F) LIMITATION ON NUMBER OF RESIDENTS FOR CERTAIN FISCAL YEARS.—Such rules shall provide that for purposes of a cost reporting period beginning on or after October 1, 1995, and on or before September 30, 2002—

''(i) the total number of full-time-equivalent residents determined under this paragraph with respect to an approved medical residency training program may not exceed the number of full-time-equivalent residents with respect to the program as of August 1, 1995, and

''(ii) the number of full-time-equivalent residents determined under this paragraph with respect to the program who are not primary care residents (as defined in paragraph (5)(H)) may not exceed the number of such residents counted with respect to the program as of such date.''.

(2) CONTINUATION OF FREEZE ON UPDATES TO FTE RESIDENT AMOUNTS.—Section 1886(h)(2)(D)(ii) (42 U.S.C. 1395ww(h)(2)(D)(ii)) is amended by striking ''fiscal year 1994 or fiscal year 1995'' and inserting ''fiscal years 1994, 1995, 1996, or 1997''.

(3) PERMITTING PAYMENT TO NON-HOSPITAL PROVIDERS.—Section 1886 (42 U.S.C. 1395ww) is amended by adding at the end the following new subsection:

''(j) Beginning with cost reporting periods beginning on or after July 1, 1996, notwithstanding any other provision of this title, the Secretary may make payments (in such amounts and in such form as the Secretary considers appropriate) to entities other than hospitals for the direct costs of medical education, if such costs are incurred in the operation of an approved medical residency training program described in subsection (h).''.

(c) EXPANDING DEFINITION OF PRIMARY CARE RESIDENTS.—Section 1886(h)(5)(H) (42 U.S.C. 1395ww(h)(5)(H)) is amended by inserting ''obstetrics and gynecology,'' after ''geriatric medicine,''.

(d) EFFECTIVE DATE.—Except as provided otherwise in this section (or in the amendments made by this section), the amendments made by this section apply to hospital cost reporting periods beginning on or after October 1, 1995.

**SEC. 15224. PAYMENTS FOR HOME HEALTH SERVICES.**

(a) REDUCTIONS IN COST LIMITS.—Section 1861(v)(1)(L)(i) (42 U.S.C. 1395x(v)(1)(L)(i)) is amended—

(1) by inserting ''and before October 1, 1996,'' after ''July 1, 1987'' in subclause (III),

(2) by striking the period at the end of the matter following subclause (III), and inserting '', and'',

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

''(IV) October 1, 1996, 105 percent of the median of the labor-related and nonlabor per visit costs for free standing home health agencies.''.

(b) DELAY IN UPDATES.—Section 1861(v)(1)(L)(iii) (42 U.S.C. 1395x(v)(1)(L)(iii)) is amended by striking ''July 1, 1996'' and inserting ''October 1, 1996''.

(c) ADDITIONS TO COST LIMITS.—Section 1861(v)(1)(L) (42 U.S.C. 1395x(v)(1)(L)) is amended by adding at the end the following new clauses:

''(iv) For services furnished by home health agencies for cost reporting periods beginning on or after October 1, 1996, the Secretary shall provide for an interim system of limits. Payment shall be the lower of—

''(I) costs determined under the preceding provisions of this subparagraph, or

''(II) an agency-specific per beneficiary annual limit calculated from the agency's 12-month cost reporting period ending on or after January 1, 1994 and on or before December 31, 1994 based on reasonable costs (including non-routine medical supplies), updated by the home health market basket index. The per beneficiary limitation shall be multiplied by the agency's unduplicated census count of Medicare patients for the year subject to the limitation. The limitation shall represent total Medicare reasonable costs divided by the unduplicated census count of Medicare patients.

''(v) For services furnished by home health agencies for cost reporting periods beginning on or after October 1, 1996, the following rules shall apply:

''(I) For new providers and those providers without a 12-month cost reporting period ending in calendar year 1994, the per beneficiary limit shall be equal to the mean of these limits (or the Secretary's best estimates thereof) applied to home health agencies as determined by the Secretary. Home health agencies that have altered their corporate structure or name may not be considered new providers for payment purposes.

''(II) For beneficiaries who use services furnished by more than one home health agency, the per beneficiary limitation shall be pro-rated among agencies.

''(vi) Home health agencies whose cost or utilization experience is below 125 percent of the mean national or census region aggregate per beneficiary cost or utilization experience for 1994, or best estimates thereof, and whose year-end reasonable costs are below the agency-specific per beneficiary limit, shall receive payment equal to 50 percent of the difference between the agency's reasonable costs and its limit for fiscal years 1996, 1997, 1998, and 1999. Such payments may not exceed 5 percent of an agency's aggregate Medicare reasonable cost in a year.

''(vii) Effective January 1, 1997, or as soon as feasible, the Secretary shall modify the agency specific per beneficiary annual limit described in clause (iv) to provide for regional or national variations in utilization. For purposes of determining payment under clause (iv), the limit shall be calculated through a blend of 75 percent of the agency-specific cost or utilization experience in 1994 with 25 percent of the national or census region cost or utilization experience in 1994, or the Secretary's best estimates thereof.''.

(d) USE OF INTERIM FINAL REGULATIONS.—The Secretary shall implement the payment limits described in section 1861(v)(1)(L)(iv) of the Social Security Act by publishing in the Federal Register a notice of interim final payment limits by August 1, 1996 and allowing for a period of public comments thereon. Payments subject to these limits will be effective for cost reporting periods beginning on or after October 1, 1996, without the necessity for consideration of comments received, but the Secretary shall, by Federal Register notice, affirm or modify the limits after considering those comments.

(e) STUDIES.—The Secretary shall expand research on a prospective payment system for home health agencies that shall tie prospective payments to an episode of care, including an intensive effort to develop a reliable case mix adjuster that explains a significant amount of the variances in costs. The Secretary shall develop such a system for implementation in fiscal year 2000.

(f) PAYMENTS DETERMINED ON PROSPECTIVE BASIS.—Title XVIII is amended by adding at the end the following new section:

''PROSPECTIVE PAYMENT FOR HOME HEALTH SERVICES

''SEC. 1893. (a) Notwithstanding section 1861(v), the Secretary shall, for cost reporting periods beginning on or after fiscal year 2000, provide for payments for home health services in accordance with a prospective payment system, which pays home health agencies on a per episode basis, established by the Secretary.

''(b) Such a system shall include the following:

''(1) Per episode rates under the system shall be 15 percent less than those that would otherwise occur under fiscal year 2000 Medicare expenditures for home health services.

''(2) All services covered and paid on a reasonable cost basis under the Medicare home health benefit as of the date of the enactment of the Medicare Enhancement Act of 1995, including medical supplies, shall be subject to the per episode amount. In defining an episode of care, the Secretary shall consider an appropriate length of time for an episode the use of services and the number of visits provided within an episode, potential changes in the mix of services provided within an episode and their cost, and a general system design that will provide for continued access to quality services. The per episode amount shall be based on the most current audited cost report data available to the Secretary.

''(c) The Secretary shall employ an appropriate case mix adjuster that explains a significant amount of the variation in cost.

''(d) The episode payment amount shall be adjusted annually by the home health market basket index. The labor portion of the episode amount shall be adjusted for geographic differences in labor-related costs based on the most current hospital wage index.

''(e) The Secretary may designate a payment provision for outliers, recognizing the need to adjust payments due to unusual variations in the type or amount of medically necessary care.

''(f) A home health agency shall be responsible for coordinating all care for a beneficiary. If a beneficiary elects to transfer to, or receive services from, another home health agency within an episode period, the episode payment shall be pro-rated between home health agencies.''.

(g) LIMITATION ON PART A COVERAGE.—

(1) IN GENERAL.—Section 1812(a)(3) (42 U.S.C. 1395d(a)(3)) is amended by striking the semicolon and inserting ''for up to 160 visits during any spell of illness;''.

(2) CONFORMING AMENDMENT.—Section 1812(b) (42 U.S.C. 1395d(b)) is amended—

(A) by striking ''or'' at the end of paragraph (2),

(B) by striking the period at the end of paragraph (3) and inserting ''; or'', and

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

''(4) home health services furnished to the individual during such spell after such services have been furnished to the individual for 160 visits during such spell.''.

(3) EXCLUSION OF ADDITIONAL PART B COSTS FROM DETERMINATION OF PART B MONTHLY PREMIUM.—Section 1839(a) (42 U.S.C. 1395r(a)) is amended—

(A) in the second sentence of paragraph (1), by striking ''enrollees.'' and inserting ''enrollees (except as provided in paragraph (5)).''; and

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

''(5) In estimating the benefits and administrative costs which will be payable from the Federal Supplementary Medical Insurance Trust Fund for a year (beginning with 1996), the Secretary shall exclude an estimate of any benefits and costs attributable to home health services for which payment would have been made under part A during the year but for paragraph (4) of section 1812(b).''.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to spells of illness beginning on or after October 1, 1995.

(h) REQUIRING BILLING AND PAYMENT TO BE BASED ON SITE WHERE SERVICE FURNISHED.—Section 1891 (42 U.S.C. 1395bbb) is amended by adding at the end the following new subsection:

''(g) A home health agency shall submit claims for payment for home health services under this title only on the basis of the geographic location at which the service is furnished.''.

(i) MAINTAINING SAVINGS RESULTING FROM TEMPORARY FREEZE ON PAYMENT INCREASES.—

(1) BASING UPDATES TO PER VISIT COST LIMITS ON LIMITS FOR FISCAL YEAR 1993.—Section 1861(v)(1)(L)(iii) (42 U.S.C. 1395x(v)(1)(L)(iii)) is amended by adding at the end the following sentence: ''In establishing limits under this subparagraph, the Secretary may not take into account any changes in the costs of the provision of services furnished by home health agencies with respect to cost reporting periods which began on or after July 1, 1994, and before July 1, 1996.''.

(2) NO EXCEPTIONS PERMITTED BASED ON AMENDMENT.—The Secretary of Health and Human Services shall not consider the amendment made by paragraph (1) in making any exemptions and exceptions pursuant to section 1861(v)(1)(L)(ii) of the Social Security Act.

**SEC. 15225. REQUIRING HEALTH MAINTENANCE ORGANIZATIONS TO COVER APPROPRIATE RANGE OF SERVICES.**

(a) IN GENERAL.—Section 1876(c) (42 U.S.C. 1395mm(c)) is amended by adding at the end the following new paragraph:

''(9) The organization shall not deny any health care professionals, based solely on the license or certification as applicable under State law, the ability to participate in providing services covered under the contract under this section, or be reimbursed or indemnified or by a network plan for providing such services under the contract.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to risk-sharing contracts under section 1876 of the Social Security Act which entered into or renewed on or after January 1, 1996.

**SEC. 15226. CLARIFICATION OF MEDICARE COVERAGE OF ITEMS AND SERVICES ASSOCIATED WITH CERTAIN MEDICAL DEVICES APPROVED FOR INVESTIGATIONAL USE.**

(a) COVERAGE.—Nothing in title XVIII of the Social Security Act may be construed to prohibit coverage under part A or part B of the medicare program of items and services associated with the use of a medical device in the furnishing of inpatient or outpatient hospital services (including outpatient diagnostic imaging services) for which payment may be made under the program solely on the grounds that the device is not an approved device, if—

(1) the device is an investigational device; and

(2) the device is used instead of either an approved device or a covered procedure.

(b) CLARIFICATION OF PAYMENT AMOUNT.—Notwithstanding any other provision of title XVIII of the Social Security Act, the amount of payment made under the medicare program for any item or service associated with the use of an investigational device in the furnishing of inpatient or outpatient hospital services (including outpatient diagnostic imaging services) for which payment may be made under the program may not exceed the amount of the payment which would have been made under the program for the item or service if the item or service were associated with the use of an approved device or a covered procedure.

(c) DEFINITIONS.—In this section—

(1) the term ''approved device'' means a medical device (or devices) which has been approved for marketing under pre-market approval under the Federal Food, Drug, and Cosmetic Act or cleared for marketing under a 510(k) notice under such Act; and

(2) the term ''investigational device'' means—

(A) a medical device or devices (other than a device described in paragraph (1)) approved for investigational use under section 520(g) of the Federal Food, Drug, and Cosmetic Act, or

(B) an investigational combination product under section 503(g) of the Federal Food, Drug, and Cosmetic Act which includes a device (or devices) authorized for use under section 505(i) of such Act.

**SEC. 15227. COMMISSION ON THE FUTURE OF MEDICARE AND THE PROTECTION OF THE HEALTH OF THE NATION'S SENIOR CITIZENS.**

(a) ESTABLISHMENT.—There is established a commission to be known as the Commission on the Future of Medicare and the Protection of the Health of the Nation's Senior Citizens (in this section referred to as the ''Commission'').

(b) DUTIES.—

(1) IN GENERAL.—The Commission shall—

(A) analyze indicators of the health status of individuals in the United States who are eligible for benefits under the medicare program;

(B) make specific recommendations on actions which may be taken to improve the medicare program which would promote the health of medicare beneficiaries;

(C) analyze the effect of changes in the medicare program (including changes in medicare payments) on the access to and delivery of health care services to individuals who are not medicare beneficiaries;

(D) examine the financial impact on the medicare program of the significant increase in the number of medicare eligible individuals which will occur beginning approximately during 2010 and lasting for approximately 25 years, and

(E) make specific recommendations to the Congress respecting a comprehensive approach to preserve the medicare program for the period during which such individuals are eligible for medicare.

(2) CONSIDERATIONS IN MAKING RECOMMENDATIONS.—In making its recommendations, the Commission shall consider the following:

(A) The amount and sources of Federal funds to finance the medicare program.

(B) The most efficient and effective manner of administering the program.

(C) Methods used by other nations to finance the delivery of health care services to their citizens.

(D) The financial impact on the medicare program of increases in the number of individuals in the United States without health insurance coverage.

(c) MEMBERSHIP.—

(1) APPOINTMENT.—The Commission shall be composed of 15 members appointed as follows:

(A) The President shall appoint 3 members.

(B) The Majority Leader of the Senate shall appoint 3 members.

(C) The Minority Leader of the Senate shall appoint 3 members.

(D) The Speaker of the House of Representatives shall appoint 3 members.

(E) The Minority Leader of the House of Representatives shall appoint 3 members.

(2) CHAIRMAN AND VICE CHAIRMAN.—The Commission shall elect a Chairman and Vice Chairman from among its members.

(3) VACANCIES.—Any vacancy in the membership of the Commission shall be filled in the manner in which the original appointment was made and shall not affect the power of the remaining members to execute the duties of the Commission.

(4) QUORUM.—A quorum shall consist of 8 members of the Commission, except that 4 members may conduct a hearing under subsection (e).

(5) MEETINGS.—The Commission shall meet at the call of its Chairman or a majority of its members.

(6) COMPENSATION AND REIMBURSEMENT OF EXPENSES.—Members of the Commission are not entitled to receive compensation for service on the Commission. Members may be reimbursed for travel, subsistence, and other necessary expenses incurred in carrying out the duties of the Commission.

(d) STAFF AND CONSULTANTS.—

(1) STAFF.—The Commission may appoint and determine the compensation of such staff as may be necessary to carry out the duties of the Commission. Such appointments and compensation may be made without regard to the provisions of title 5, United States Code, that govern appointments in the competitive services, and the provisions of chapter 51 and subchapter III of chapter 53 of such title that relate to classifications and the General Schedule pay rates.

(2) CONSULTANTS.—The Commission may procure such temporary and intermittent services of consultants under section 3109(b) of title 5, United States Code, as the Commission determines to be necessary to carry out the duties of the Commission.

(e) POWERS.—

(1) HEARINGS AND OTHER ACTIVITIES.—For the purpose of carrying out its duties, the Commission may hold such hearings and undertake such other activities as the Commission determines to be necessary to carry out its duties.

(2) STUDIES BY GAO.—Upon the request of the Commission, the Comptroller General shall conduct such studies or investigations as the Commission determines to be necessary to carry out its duties.

(3) COST ESTIMATES BY CONGRESSIONAL BUDGET OFFICE.—

(A) Upon the request of the Commission, the Director of the Congressional Budget Office shall provide to the Commission such cost estimates as the Commission determines to be necessary to carry out its duties.

(B) The Commission shall reimburse the Director of the Congressional Budget Office for expenses relating to the employment in the office of the Director of such additional staff as may be necessary for the Director to comply with requests by the Commission under subparagraph (A).

(4) DETAIL OF FEDERAL EMPLOYEES.—Upon the request of the Commission, the head of any Federal agency is authorized to detail, without reimbursement, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties. Any such detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

(5) TECHNICAL ASSISTANCE.—Upon the request of the Commission, the head of a Federal agency shall provide such technical assistance to the Commission as the Commission determines to be necessary to carry out its duties.

(6) USE OF MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as Federal agencies and shall, for purposes of the frank, be considered a commission of Congress as described in section 3215 of title 39, United States Code.

(7) OBTAINING INFORMATION.—The Commission may secure directly from any Federal agency information necessary to enable it to carry out its duties, if the information may be disclosed under section 552 of title 5, United States Code. Upon request of the Chairman of the Commission, the head of such agency shall furnish such information to the Commission.

(8) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(9) ACCEPTANCE OF DONATIONS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(10) PRINTING.—For purposes of costs relating to printing and binding, including the cost of personnel detailed from the Government Printing Office, the Commission shall be deemed to be a committee of the Congress.

(f) REPORT.—Not later than May 1, 1997, the Commission shall submit to Congress a report containing its findings and recommendations regarding how to protect and preserve the medicare program in a financially solvent manner until 2030 (or, if later, throughout the period of projected solvency of the Federal Old-Age and Survivors Insurance Trust Fund). The report shall include detailed recommendations for appropriate legislative initiatives respecting how to accomplish this objective.

(g) TERMINATION.—The Commission shall terminate 60 days after the date of submission of the report required in subsection (f).

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $1,500,000 to carry out this section. Amounts appropriated to carry out this section shall remain available until expended.

## Subtitle D—Preventing Fraud and Abuse

## PART 1—AMENDMENTS TO ANTI-FRAUD AND ABUSE PROVISIONS APPLICABLE TO MEDICARE, MEDICAID, AND STATE HEALTH CARE PROGRAMS

### SEC. 15301. ANTI-KICKBACK STATUTORY PROVISIONS.

(a) REVISION TO PENALTIES.—

(1) PERMITTING SECRETARY TO IMPOSE CIVIL MONETARY PENALTY.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)) is amended—

(A) by striking ''or'' at the end of paragraphs (1) and (2);

(B) by striking the semicolon at the end of paragraph (3) and inserting ''; or''; and

(C) by inserting after paragraph (3) the following new paragraph:

''(4) carries out any activity in violation of paragraph (1) or (2) of section 1128B(b);''.

(2) DESCRIPTION OF CIVIL MONETARY PENALTY APPLICABLE.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)) is amended—

(A) by striking ''given).'' at the end of the first sentence and inserting the following: ''given or, in cases under paragraph (4), $50,000 for each such violation).''; and

(B) by striking ''claim.'' at the end of the second sentence and inserting the following: ''claim (or, in cases under paragraph (4), damages of not more than three times the total amount of remuneration offered, paid, solicited, or received.''.

(3) INCREASE IN CRIMINAL PENALTY.—Paragraphs (1) and (2) of section 1128B(b) (42 U.S.C. 1320a–7b(b)) are each amended—

(A) by striking ''$25,000'' and inserting ''$50,000''; and

(B) by striking the period at the end and inserting the following: '', and shall be subject to damages of not more than three times the total remuneration offered, paid, solicited, or received.''.

(b) REVISIONS TO EXCEPTIONS.—

(1) EXCEPTION FOR DISCOUNTS.—Section 1128B(b)(3)(A) (42 U.S.C. 1320a–7b(b)(3)(A)) is amended by striking ''program;'' and inserting ''program and is not in the form of a cash payment;''.

(2) EXCEPTION FOR PAYMENTS TO EMPLOYEES.—Section 1128B(b)(3)(B) (42 U.S.C. 1320a–7b(b)(3)(B)) is amended by inserting at the end ''if the amount of remuneration under the arrangement is consistent with the fair market value of the services and is not determined in a manner that takes into account (directly or indirectly) the volume or value of any referrals, except that such employee can be paid remuneration in the form of a productivity bonus based on services personally performed by the employee.''.

(3) EXCEPTION FOR WAIVER OF COINSURANCE BY CERTAIN PROVIDERS.—Section 1128B(b)(3)(D) (42 U.S.C. 1320a–7b(b)(3)(D)) is amended to read as follows:

''(D) a waiver or reduction of any coinsurance or other copayment if—

''(i) the waiver or reduction is made pursuant to a public schedule of discounts which the person is obligated as a matter of law to apply to certain individuals,

''(ii) the waiver or reduction is made pursuant to an established program and applies to a defined group of individuals whose incomes do not exceed 150 percent (or such higher percentage as the Secretary may permit) of the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved,

''(iii) the waiver or reduction of coinsurance is not offered as part of any advertisement or solicitation and the person offering the waiver or reduction determines in good faith that the individual is in financial need,

''(iv) the person offering the waiver or reduction fails to collect the coinsurance or other payment after making reasonable collection efforts, or

''(v) the waiver or reduction of coinsurance is in accordance with a cost sharing schedule or a supplemental benefit package which may be offered by a managed care plan (as defined in section 1128(j)); and''.

(4) NEW EXCEPTION FOR CAPITATED PAYMENTS.—Section 1128B(b)(3) (42 U.S.C. 1320a–7b(b)(3)) is amended—

(A) by striking ''and'' at the end of subparagraph (D);

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

(C) by adding at the end the following new subparagraphs:

''(F) any reduction in cost sharing or increased benefits given to an individual, any amounts paid to a provider for an item or service furnished to an individual, or any discount or reduction in price given by the provider for such an item or service, if the individual is enrolled with and such item or service is covered under any of the following:

''(i) A health plan which is furnishing items or services under a risk-sharing contract under section 1876 or section 1903(m).

''(ii) A health plan receiving payments on a prepaid basis, under a demonstration project under section 402(a) of the Social Security Amendments of 1967 or under section 222(a) of the Social Security Amendments of 1972; and

''(G) any amounts paid to a provider for an item or service furnished to an individual or any discount or reduction in price given by the provider for such an item or service, if the individual is enrolled with and such item or service is covered under a health plan under which the provider furnishing the item or service is paid by the health plan for furnishing the item or service only on a capitated basis pursuant to a written arrangement between the plan and the provider in which the provider assumes financial risk for furnishing the item or service.''.

(c) AUTHORIZATION FOR THE SECRETARY TO ISSUE REGULATIONS.—Section 1128B(b) (42 U.S.C. 1320a–7b(b)) is amended by adding at the end the following new paragraph:

''(4) The Secretary is authorized to impose by regulation such other requirements as needed to protect against program or patient abuse with respect to any of the exceptions described in paragraph (3).''.

(d) CLARIFICATION OF OTHER ELEMENTS OF OFFENSE.—Section 1128B(b) (42 U.S.C. 1320a–7b(b)) is amended—

(1) in paragraph (1)(A), by striking ''in return for referring'' and inserting ''to refer'';

(2) in paragraph (1)(B), by striking ''in return for purchasing, leasing, ordering, or arranging for or recommending'' and inserting ''to purchase, lease, order, or arrange for or recommend''; and

(3) by adding at the end of paragraphs (1) and (2) the following sentence: ''A violation exists under this paragraph if one or more purposes of the remuneration is unlawful under this paragraph.''.

### SEC. 15302. CIVIL MONEY PENALTIES.

(a) PROHIBITION AGAINST OFFERING INDUCEMENTS TO INDIVIDUALS ENROLLED UNDER PLANS.—

(1) OFFER OF REMUNERATION.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)), as amended by section 15301(a)(1), is amended—

(A) by striking ''; or'' at the end of paragraph (3) and inserting a semicolon;

(B) by striking the semicolon at the end of paragraph (4) and inserting ''; or''; and

(C) by inserting after paragraph (4) the following new paragraph:

''(5) offers, pays, or transfers remuneration to any individual eligible for benefits under title XVIII of this Act, or under a State health care program (as defined in section 1128(h)) that such person knows or should know is likely to influence such individual to order or receive from a particular provider, practitioner, or supplier any item or service for which payment may be made, in whole or in part, under title XVIII, or a State health care program, other than to influence an individual enrolled in a managed care plan or a point-of-service plan (as defined in section 1128(j)) to receive benefits under the plan in accordance with established practice patterns for the delivery of medically necessary services;''.

(2) REMUNERATION DEFINED.—Section 1128A(i) (42 U.S.C. 1320a–7a(i)) is amended by adding at the end the following new paragraph:

''(6) The term 'remuneration' includes the waiver or reduction of coinsurance amounts, and transfers of items or services for free or for other than fair market value, except that such term does not include the waiver or reduction of coinsurance amounts by a person or entity, if—

''(A) the waiver or reduction is made pursuant to a public schedule of discounts which the person is obligated as a matter of law to apply to certain individuals,

''(B) the waiver or reduction is made pursuant to an established program and applies to a defined group of individuals whose incomes do not exceed 150 percent (or such higher percentage as the Secretary may permit) of the official poverty line (as defined by the Office of Management and Budget,

and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved,

''(C) the waiver or reduction of coinsurance is not offered as part of any advertisement or solicitation and the person offering the waiver or reduction determines in good faith that the individual is in financial need,

''(D) the person offering the waiver or reduction fails to collect the coinsurance or other payment after making reasonable collection efforts, or

''(E) the waiver or reduction of coinsurance is in accordance with a cost sharing schedule or a supplemental benefit package which may be offered by a managed care plan under section 1128(j).''.

(b) ADDITIONAL OFFENSES.—Section 1128A(a) of such Act, as amended by section 15301(a)(1) and subsection (a)(1), is further amended—

(1) by striking ''or'' at the end of paragraph (4);

(2) by striking the semicolon at the end of paragraph (5) and inserting ''; or''; and

(3) by inserting after paragraph (5) the following new paragraphs:

''(6) engages in a practice which has the effect of limiting or discouraging (as compared to other plan enrollees) the utilization of medically necessary health care services covered by law or under the service contract by title XIX or other publicly subsidized patients, including but not limited to differential standards for the location and hours of service offered by providers participating in the plan;

''(7) substantially fails to cooperate with a quality assurance program or a utilization review activity; or

''(8) engaging in a pattern of failing substantially to provide or authorize medically necessary items and services that are required to be provided to an individual covered under a health plan (as defined in section 1128(j)) or public program for the delivery of or payment for health care items or services, if the failure has adversely affected (or had a substantial likelihood of adversely affecting) the individual;''.

''(9) submits false or fraudulent statements, data or information on claims to the Secretary, a State health care agency, or any other Federal, State or local agency charged with implementation or oversight of a health plan or a public program that the person knows or should know is fraudulent;''.

(c) MODIFICATIONS OF AMOUNTS OF PENALTIES AND ASSESSMENTS.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)), as amended by section 15301(a), subsection (a)(1), and subsection (b), is amended in the matter following paragraph (9)—

(1) by striking ''$2,000'' and inserting ''$10,000'';

(2) by inserting after ''under paragraph (4), $50,000 for each such violation'' the following: ''; in cases under paragraph (5), $10,000 for each such offer, payment, or transfer; in cases under paragraphs (6) through (9), an amount not to exceed $10,000 for each such determination by the Secretary''; and

(3) by striking ''twice the amount'' and inserting ''three times the amount''.

(d) INTEREST ON PENALTIES.—Section 1128A(f) (42 U.S.C. 1320a–7a(f)) is amended by adding after the first sentence the following: ''Interest shall accrue on the penalties and assessments imposed by a final determination of the Secretary in accordance with an annual rate established by the Secretary under the Federal Claims Collection Act. The rate of interest charged shall be the rate in effect on the date the determination becomes final and shall remain fixed at that rate until the entire amount due is paid. In addition, the Secretary is authorized to recover the costs of collection in any case where the penalties and assessments are not paid within 30 days after the determination becomes final, or in the case of a compromised amount, where payments are more than 90 days past due. In lieu of actual costs, the Secretary is authorized to impose a charge of up to 10 percent of the amount of penalties and assessments owed to cover the costs of collection.''.

(e) AUTHORIZATION TO ACT.—

(1) IN GENERAL.—The first sentence of section 1128A(c)(1) (42 U.S.C. 1320a–7a(c)(1)) is amended by striking all that follows ''(b)'' and inserting the following: ''unless, within one year after the date the Secretary presents a case to the Attorney General for consideration, the Attorney General brings an action in a district court of the United States.''.

(2) EFFECTIVE DATE.—The amendment made by this paragraph (1) shall apply to cases presented by the Secretary of Health and Human Services for consideration on or after the date of the enactment of this Act.

(f) CLARIFICATION OF PENALTY IMPOSED ON EXCLUDED PROVIDER FURNISHING SERVICES.—Section 1128A(a)(1)(D) (42 U.S.C. 1320a–7a(a)(1)(D)) is amended by inserting ''who furnished the service'' after ''in which the person''.

**SEC. 15303. PRIVATE RIGHT OF ACTION.**

Section 1128A (42 U.S.C. 1320a–7a) is amended by adding at the end the following new subsection:

''(m)(1) Subject to paragraphs (2) and (3), a carrier offering an insured health plan and the sponsor of a self-insured health plan that suffers financial harm as a direct result of the submission of claims by an individual or entity for payment for items and services furnished under the plan which makes the individual or entity subject to a civil monetary penalty under this section may, in a civil action against the individual or entity in the United States District Court, obtain damages against the individual or entity and such equitable relief as is appropriate.

''(2) A carrier or sponsor may bring a civil action under this subsection only if the carrier or sponsor provides the Secretary and the Attorney General with written notice of the intent to bring an action under this subsection, the identities of the individuals or entities the carrier or sponsor intends to name as defendants to the action, and all information the carrier or sponsor possesses regarding the activity that is the subject of the action that may materially affect the Secretary's decision to initiate a proceeding to impose a civil monetary penalty under this section against the defendants.

''(3) A carrier or sponsor may bring a civil action under this subsection only if any of the following conditions are met:

''(A) During the 60-day period that begins on the date the Secretary receives the written notice described in paragraph (2), the Secretary does not notify the carrier or sponsor that the Secretary intends to initiate a proceeding to impose a civil monetary penalty under this section against the defendants.

''(B) If the Secretary notifies the carrier or sponsor during the 60-day period described in subparagraph (A) that the Secretary intends to initiate a proceeding to impose a civil monetary penalty under this section against the defendants, the Secretary subsequently notifies the carrier or sponsor that the Secretary no longer intends to initiate such a proceeding against the defendants.

''(C) After the expiration of the 2-year period that begins on the date the Secretary notifies the carrier or sponsor that the Secretary intends to initiate a proceeding to impose a civil monetary penalty under this section against the defendants, the Secretary has not made a good faith effort to initiate such a proceeding against the defendants.

''(4) No action may be brought under this subsection more than 6 years after the date of the activity with respect to which the action is brought.''.

**SEC. 15304. AMENDMENTS TO EXCLUSIONARY PROVISIONS IN FRAUD AND ABUSE PROGRAM.**

(a) MANDATORY EXCLUSION OF INDIVIDUAL CONVICTED OF CRIMINAL OFFENSE RELATED TO HEALTH CARE FRAUD.—

(1) IN GENERAL.—Section 1128(a) (42 U.S.C. 1320a–7(a)) is amended by adding at the end the following new paragraph:

''(3) FELONY CONVICTION RELATING TO FRAUD.—Any individual or entity that has been convicted under Federal or State law, in connection with the delivery of a health care item or service on or after January 1, 1997, or with respect to any act or omission on or after such date in a program operated by or financed in whole or in part by any Federal, State, or local government agency, of a criminal offense consisting of a felony relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct.''.

(2) CONFORMING AMENDMENT.—Section 1128(b)(1) (42 U.S.C. 1320a–7(b)(1)) is amended—

(A) in the heading, by striking ''CONVICTION'' and inserting ''MISDEMEANOR CONVICTION''; and

(B) by striking ''criminal offense'' and inserting ''criminal offense consisting of a misdemeanor''.

(b) ESTABLISHMENT OF MINIMUM PERIOD OF EXCLUSION FOR CERTAIN INDIVIDUALS AND ENTITIES SUBJECT TO PERMISSIVE EXCLUSION FROM MEDICARE AND STATE HEALTH CARE PROGRAMS.—

(1) IN GENERAL.—Section 1128(c)(3) (42 U.S.C. 1320a–7(c)(3)) is amended by adding at the end the following new subparagraphs:

''(D) In the case of an exclusion of an individual or entity under paragraphs (1), (2), or (3) of subsection (b), the period of exclusion shall be a minimum of 3 years, unless the Secretary determines that an alternative period is appropriate because of aggravating or mitigating circumstances.

''(E) In the case of an exclusion of an individual or entity under paragraph (4) or (5) of subsection (b), the period of the exclusion shall not be less than the period during which the individual's or entity's license to provide health care is revoked, suspended, or surrendered, or the individual or the entity is excluded or suspended from a Federal or State health care program.

''(F) In the case of an exclusion of an individual or entity under subsection (b)(6)(B), the period of the exclusion shall be not less than 1 year.''.

(2) CONFORMING AMENDMENT.—Section 1128(c)(3)(A) (42 U.S.C. 1320a–7(c)(3)(A)) is amended by striking ''subsection (b)(12)'' and inserting ''paragraph (1), (2), (3), (4), (6)(B), or (12) of subsection (b)''.

**SEC. 15305. SANCTIONS AGAINST PRACTITIONERS AND PERSONS FOR FAILURE TO COMPLY WITH STATUTORY OBLIGATIONS RELATING TO QUALITY OF CARE.**

(a) MINIMUM PERIOD OF EXCLUSION FOR PRACTITIONERS AND PERSONS FAILING TO MEET STATUTORY OBLIGATIONS.—

(1) IN GENERAL.—The second sentence of section 1156(b)(1) (42 U.S.C. 1320c-5(b)(1)) is amended by striking ''may prescribe)'' and inserting ''may prescribe, except that such period may not be less than one year)''.

(2) CONFORMING AMENDMENT.—Section 1156(b)(2) (42 U.S.C. 1320c-5(b)(2)) is amended by striking ''shall remain'' and inserting

''shall (subject to the minimum period specified in the second sentence of paragraph (1)) remain''.

(b) AMOUNT OF CIVIL MONEY PENALTY.—Section 1156(b)(3) (42 U.S.C. 1320c-5(b)(3)) is amended by striking ''the actual or estimated cost'' and inserting the following: ''$10,000 for each instance''.

(c) REPEAL OF ''UNWILLING OR UNABLE'' CONDITION FOR IMPOSITION OF SANCTION.—Section 1156(b)(1) (42 U.S.C. 1320c-5(b)(1)) is amended—

(1) in the second sentence, by striking ''and determines'' and all that follows through ''such obligations,'' and

(2) by striking the third sentence.

**SEC. 15306. REVISIONS TO CRIMINAL PENALTIES.**

(a) TREBLE DAMAGES FOR CRIMINAL SANCTIONS.—Section 1128B (42 U.S.C. 1320a–7b) is amended by adding at the end the following new subsection:

''(f) In addition to the fines that may be imposed under subsection (a) or (c) any individual found to have violated the provisions of any of such subsections may be subject to treble damages.''.

(b) IDENTIFICATION OF COMMUNITY SERVICE OPPORTUNITIES.—Section 1128B (42 U.S.C. 1320a–7b), as amended by subsection (a), is further amended by adding at the end the following new subsection:

''(g) The Secretary shall—

''(1) in consultation with State and local health care officials, identify opportunities for the satisfaction of community service obligations that a court may impose upon the conviction of an offense under this section, and

''(2) make information concerning such opportunities available to Federal and State law enforcement officers and State and local health care officials.''.

**SEC. 15307. DEFINITIONS.**

Section 1128 (42 U.S.C. 1320a–7) is amended by adding at the end the following new subsection:

''(j) OTHER DEFINITIONS RELATING TO HEALTH PLANS.—

''(1) HEALTH PLAN.—The term 'health plan' means—

''(A) any contract of health insurance, including any hospital or medical service policy or certificate, hospital or medical service plan contract, or health maintenance organization group contract, that is provided by a carrier in a State; or

''(B) an employee welfare benefit plan or other arrangement insofar as the plan or arrangement provides health benefits in a State and is funded in a manner other than through the purchase of one or more policies or contracts described in subparagraph (A).

''(2) MANAGED CARE PLAN.—The term 'managed care plan' means a health plan that provides for items and services covered under the plan primarily through providers in the provider network of the plan.

''(3) POINT-OF-SERVICE PLAN.—The term 'point-of-service plan' means a health plan other than a managed care plan that permits an enrollee to receive benefits through a provider network.

''(4) PROVIDER NETWORK.—The term 'provider network' means, with respect to a health plan, providers who have entered into an agreement with the plan under which such providers are obligated to provide items and services covered under the plan to individuals enrolled in the plan.''.

**SEC. 15308. EFFECTIVE DATE.**

The amendments made by this part shall take effect January 1, 1997.

## PART 2—INTERPRETIVE RULINGS ON KICKBACKS AND SELF-REFERRAL

**SEC. 15311. ESTABLISHMENT OF PROCESS FOR ISSUANCE OF INTERPRETIVE RULINGS.**

(a) ESTABLISHMENT.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services (acting through the Inspector General of the Department of Health and Human Services) shall establish a process under which individuals and entities may submit a request to the Secretary for an interpretive ruling regarding the provisions of section 1128B(b) of the Social Security Act or part 3 which relate to kickbacks, bribes, and rebates, or the provisions of section 1877 of the Social Security Act.

(b) DEADLINE FOR REJECTION OF REQUEST.—If the Secretary of Health and Human Services rejects a request for an interpretive ruling submitted under this section, the Secretary shall notify the individual submitting the request of the rejection not later than 60 days after receiving the request.

**SEC. 15312. EFFECT OF ISSUANCE OF INTERPRETIVE RULING.**

(a) NO LEGAL EFFECT.—If the Secretary of Health and Human Services issues an interpretive ruling under section 15311, the ruling shall not be binding upon the Secretary, the party requesting the ruling, or any other party.

(b) PUBLICATION OF RULINGS.—The Secretary of Health and Human Services shall publish each interpretive ruling issued under section 15311 in the Federal Register.

**SEC. 15313. IMPOSITION OF FEES.**

(a) IN GENERAL.—The Secretary of Health and Human Services shall require an individual or entity requesting an interpretive ruling under section 15311 to submit a fee.

(b) AMOUNT.—The amount of the fee required under subsection (a) shall be equal to the costs incurred by the Secretary in responding to the request.

## PART 3—DIRECT SPENDING FOR ANTI-FRAUD ACTIVITIES UNDER MEDICARE

**SEC. 15321. DIRECT SPENDING FOR ANTI-FRAUD ACTIVITIES UNDER MEDICARE.**

Title XVIII (42 U.S.C. 1395 et seq.), as amended by section 15224(f), is amended by adding at the end the following new section:

''APPROPRIATIONS FOR COMBATING FRAUD AND ABUSE

''SEC. 1894. (a) DIRECT SPENDING FOR PAYMENT SAFEGUARD ACTIVITIES.—

''(1) IN GENERAL.—There are appropriated from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund for each fiscal year such amounts as are necessary to carry out the payment safeguard activities described in paragraph (2), subject to paragraph (3).

''(2) ACTIVITIES DESCRIBED.—The payment safeguard activities described in this paragraph are as follows:

''(A) Review of activities of providers of services or other individuals and entities furnishing items and services for which payment may be made under this title (including skilled nursing facilities and home health agencies), including medical and utilization review and fraud review.

''(B) Audit of cost reports.

''(C) Determinations as to whether payment should not be, or should not have been, made under this title by reason of section 1862(b), and recovery of payments that should not have been made.

''(D) Education of providers of services, beneficiaries, and other persons with respect to payment integrity and benefit quality assurance issues.

''(3) AMOUNTS SPECIFIED.—The amount appropriated under paragraph (1) for a fiscal year is as follows:

''(A) For fiscal year 1996, such amount shall be not less than $430,000,000 and not more than $440,000,000.

''(B) For fiscal year 1997, such amount shall be not less than $490,000,000 and not more than $500,000,000.

''(C) For fiscal year 1998, such amount shall be not less than $550,000,000 and not more than $560,000,000.

''(D) For fiscal year 1999, such amount shall be not less than $620,000,000 and not more than $630,000,000.

''(E) For fiscal year 2000, such amount shall be not less than $670,000,000 and not more than $680,000,000.

''(F) For fiscal year 2001, such amount shall be not less than $690,000,000 and not more than $700,000,000.

''(G) For fiscal year 2002, such amount shall be not less than $710,000,000 and not more than $720,000,000.

''(b) DIRECT SPENDING FOR MEDICARE-RELATED ACTIVITIES OF INSPECTOR GENERAL.—

''(1) IN GENERAL.—There are appropriated from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund to the Inspector General of the Department of Health and Human Services for each fiscal year such amounts as are necessary to enable the Inspector General to carry out activities relating to the medicare program (as described in paragraph (2)), subject to paragraph (3).

''(2) ACTIVITIES DESCRIBED.—The activities described in this paragraph are as follows:

''(A) Prosecuting medicare-related matters through criminal, civil, and administrative proceedings.

''(B) Conducting investigations relating to the medicare program.

''(C) Performing financial and performance audits of programs and operations relating to the medicare program.

''(D) Performing inspections and other evaluations relating to the medicare program.

''(E) Conducting provider and consumer education activities regarding the requirements of this title.

''(3) AMOUNTS SPECIFIED.—The amount appropriated under paragraph (1) for a fiscal year is as follows:

''(A) For fiscal year 1996, such amount shall be $130,000,000.

''(B) For fiscal year 1997, such amount shall be $181,000,000.

''(C) For fiscal year 1998, such amount shall be $204,000,000.

''(D) For each subsequent fiscal year, the amount appropriated for the previous fiscal year, increased by the percentage increase in aggregate expenditures under this title for the fiscal year involved over the previous fiscal year.

''(c) ALLOCATION OF PAYMENTS AMONG TRUST FUNDS.—The appropriations made under subsection (a) and subsection (b) shall be in an allocation as reasonably reflects the proportion of such expenditures associated with part A and part B.''.

## PART 4—PREEMPTION OF STATE CORPORATE PRACTICE LAWS UNDER MEDICARE

**SEC. 15331. PREEMPTION OF STATE LAWS PROHIBITING CORPORATE PRACTICE OF MEDICINE FOR PURPOSES OF MEDICARE.**

Title XVIII (42 U.S.C. 1395 et seq.) is amended by adding at the end the following new section:

''PERMITTING CORPORATIONS TO SERVE AS PROVIDERS

''SEC. 1893. The Secretary may not refuse to treat any individual or entity as a provider of services under this title or refuse to

make payment under this title to the individual or entity on the grounds that the individual or entity is prohibited from practicing medicine under a provision of State or local law which prohibits a corporation from practicing medicine.''.

**PART 5—MEDICARE ANTI-FRAUD AND ABUSE COMMISSION**

**SEC. 15341. ESTABLISHMENT OF MEDICARE ANTI-FRAUD AND ABUSE COMMISSION**

(a) IN GENERAL.—There is established a commission to be known as the ''Medicare Anti-Fraud and Abuse Commission'' (in this title referred to as the ''Commission'').

(b) COMPOSITION.—The Commission shall be composed of 8 members as follows:

(1) OFFICIALS.—

(A) The Secretary of Health and Human Services (or the Secretary's designee).

(B) The Inspector General of the Department of Health and Human Services (or the Inspector General's designee).

(C) The Administrator of the Health Care Financing Administration (or the Administrator's designee).

(2) PUBLIC MEMBERS.—Five members, appointed by the President, of which—

(A) one shall be a representative of physicians;

(B) one shall be a representative of hospital administrators;

(C) one shall be a representative of medicare carriers;

(D) one shall be a representative of medicare peer review organizations; and

(E) one shall be a representative of medicare beneficiaries.

In making appointments under this paragraph of an individual who is a representative of persons or organizations, the President shall consider the recommendations of national organizations that represent such persons or organizations. The President shall report to Congress, within 90 days after the date of the enactment of this Act, the names of the members appointed under this paragraph.

(c) TERMS.—Each member shall be appointed for the life of the Commission. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

**SEC. 15342. FUNCTIONS OF COMMISSION.**

(a) IN GENERAL.—The Commission shall—

(1) investigate the nature, magnitude, and cost of health care fraud and abuse in the medicare program, and

(2) identify and develop the most effective methods of preventing, detecting, and prosecuting or litigating such fraud and abuse, with particular emphasis on coordinating public and private prevention, detection, and enforcement efforts.

(b) PARTICULARS.—Among other items, the Commission shall examine at least the following:

(1) Mechanisms to provide greater standardization of claims administration in order to accommodate fraud prevention and detection.

(2) Mechanisms to allow more freedom of the medicare program to exchange information for coordinating case development and prosecution or litigation efforts, without undermining patient and provider privacy protections or violating anti-trust laws.

(3) Criteria for physician referrals to facilities in which they (or family members) have a financial interest.

(4) The availability of resources to the medicare program to combat fraud and abuse.

(c) REPORT.—After approval by a majority vote, a quorum being present, the Commission shall transmit to Congress a report on its activities. The report shall be transmitted not later than 18 months after the date that a majority of the public members of the Commission have been appointed. The report shall contain a detailed statement of the Commission's findings, together with such recommendations as the Commission considers appropriate.

**SEC. 15343. ORGANIZATION AND COMPENSATION.**

(a) ORGANIZATION.—

(1) QUORUM.—A majority of the members of the Commission shall constitute a quorum but a lesser number may hold hearings.

(2) CHAIRMAN.—The Commission shall elect one of its members to serve as chairman of the Commission.

(3) MEETINGS.—The Commission shall meet at the call of the chairman or a majority of its members. Meetings of the Commission are open to the public under section 10(a)(10) of the Federal Advisory Committee Act, except that the Commission may conduct meetings in executive session but only if a majority of the members of the Commission (a quorum being present) approve going into executive session.

(b) COMPENSATION OF MEMBERS.—Members of the Commission shall serve without compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of their duties as members of the Commission.

**SEC. 15344. STAFF OF COMMISSION.**

(a) IN GENERAL.—The Commission may appoint and fix the compensation of a staff director and such other additional personnel as may be necessary to enable the Commission to carry out its functions, without regard to the laws, rules, and regulations governing appointment and compensation and other conditions of service in the competitive service.

(b) DETAIL OF FEDERAL EMPLOYEES.—Upon request of the chairman, any Federal employee who is subject to such laws, rules, and regulations, may be detailed to the Commission to assist it in carrying out its functions under this title, and such detail shall be without interruption or loss of civil service status or privilege.

(c) EXPERTS AND CONSULTANTS.—The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of 120 percent of the maximum annual rate of basic pay payable for GS–15 of the General Schedule.

**SEC. 15345. AUTHORITY OF COMMISSION.**

(a) HEARINGS AND SESSIONS.—The Commission may, for the purpose of carrying out this title, hold hearings, sit and act at times and places, take testimony, and receive evidence as the Commission considers appropriate. The Commission may administer oaths or affirmations to witnesses appearing before it.

(b) OBTAINING OFFICIAL DATA.—

(1) IN GENERAL.—The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this title. Upon request of the chairman of the Commission, the head of that department or agency shall furnish that information to the Commission.

(2) ACCESS TO INFORMATION.—Information obtained by the Commission is available to the public in the same manner in which information may be made available under sections 552 and 552a of title 5, United States Code.

(c) GIFTS, BEQUESTS, AND DEVISES.—The Commission may accept, use, and dispose of gifts, bequests, or devises of services or property for the purpose of aiding or facilitating the work of the Commission.

(d) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(e) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this title.

(f) SUBPOENA POWER.—

(1) IN GENERAL.—The Commission may issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence relating to any matter which the Commission is authorized to investigate under this title. The attendance of witnesses and the production of evidence may be required from any place within the United States at any designated place of hearing within the United States.

(2) FAILURE TO OBEY A SUBPOENA.—If a person refuses to obey a subpoena issued under paragraph (1), the Commission may apply to a United States district court for an order requiring that person to appear before the Commission to give testimony, produce evidence, or both, relating to the matter under investigation. The application may be made within the judicial district where the hearing is conducted or where that person is found, resides, or transacts business. Any failure to obey the order of the court may be punished by the court as civil contempt.

(3) SERVICE OF SUBPOENAS.—The subpoenas of the Commission shall be served in the manner provided for subpoenas issued by a United States district court under the Federal Rules of Civil Procedure for the United States district courts.

(4) SERVICE OF PROCESS.—All process of any court to which application is to be made under paragraph (2) may be served in the judicial district in which the person required to be served resides or may be found.

**SEC. 15346. TERMINATION.**

The Commission shall terminate 90 days after the date the report is submitted under section 15342(c).

**SEC. 15347. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to the Commission such sums as are necessary to carry out its functions, to remain available until expended.

The CHAIRMAN. The Chair would point out that one opponent is all that the rule allows. The gentleman from Texas [Mr. ARCHER] will be recognized in opposition.

Mr. ARCHER. Mr. Chairman, I ask unanimous consent to yield half of my time to the gentleman from Virginia [Mr. BLILEY] so that he may control that time.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. GIBBONS. Mr. Chairman, I would ask unanimous consent that I may allocate half of my time to the gentleman from Michigan [Mr. DINGELL] so that he may control that time.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN. The gentleman from Florida [Mr. GIBBONS] is recognized for 15 minutes.

Mr. GIBBONS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we have completed an historic debate, 3 hours on probably

the biggest bill that has been considered by this body in my 33 years. Yesterday, we spent not 3 hours, but 4 hours on shrimp. So much for priorities. So much for Speaker GINGRICH's belief about what is important in America.

Mr. Chairman, we have a substitute. Now I am going to let everybody in on a secret. It is not going to be adopted. The Republicans knew that when they made it in order. They have all received their marching orders. If they vote for this, they get fired. But despite all of that, this substitute does the work.

Mr. Chairman, I yield 5 minutes to the gentleman from Maryland [Mr. CARDIN].

(Mr. CARDIN asked and was given permission to revise and extend his remarks.)

Mr. CARDIN. Mr. Chairman, first and foremost the substitute that is before us will deal with the solvency of the Medicare trust fund. It provides for $90 billion of savings to go into the Medicare trust fund providing for solvency to the year 2006. We have followed the suggestions of the trustees.

It is equivalent to the Republican bill in solvency. The Republican bill originally was advertised that it was going to go to the year 2014. They have later changed it to 2010. If we take away the magic wand of taking general funds into the trust fund, it is 2006.

Mr. Chairman, our bill is equivalent to the Republican bill on solvency for 10 years. Why do we have in the Republican bill three times more cuts in Medicare? It is not needed for the solvency. They do not use it for the solvency. It is used for a tax cut, paid for by the Medicare beneficiaries.

Mr. Chairman, they can use all the language they want about lock-boxes and that we have in the tax bill separate ways to pay for the tax bill, but I ask my colleagues to answer a simple question: If we do not pass this Medicare bill, the tax bill cannot go into effect, can it? Because we must have the savings from this bill in order to finance the tax cut.

Pure and simple, our seniors are being asked to pay for the tax cut. The substitute envisions no such thing. As a consequence of these draconian cuts, seniors are forced into plans that take away their choice. They have to pay more, $1,000 a year, just to maintain the same benefits. We have gone through that. If seniors have to pay more for the same benefits, it is a cut.

The Democratic substitute does not do that. The Democratic substitute provides for $90 billion of savings to go into the Medicare trust fund without jeopardizing our seniors' ability to have affordable health care.

There is no increase, no increase in the premium costs to our beneficiaries. Unlike the Republican bill that changes current law and allows the Medicare Part B premium to go up to $87 a month, the substitute that we are submitting, the premiums would be $30 a month less, $360 a year less.

For seniors who have limited income, who already have the highest out-of-pocket costs of any group of Americans, that is a large increase. Our substitute does not do that.

Mr. Chairman, let me talk for a moment to my friends who are part of the coalition budget. This substitute is better on deficit reduction, because we do not believe in the tax cut. If you add the revenue lost to the Treasury by the tax cut of $245 billion to the $90 billion of savings that we have in this bill, we get $335 billion in deficit reduction compared to $270 on the Republican side.

We are $65 billion better off, better off on deficit reduction, as a result of the substitute that is before you. I would encourage my coalition Members to take a look at that particular point.

We also provide for reform in our substitute. We move forward rather than backward on fraud and abuse. We strengthen, not weaken, fraud and abuse. We do not weaken the standards for civil penalties that is in the Republican bill. We provide additional protection, so that we can go after fraud and abuse.

Do not take the Democrats' word on it. Do not take the Republicans' word on it. The inspector general has said, an independent person, that the Republican bill threatens the ability to go after fraud and abuse. We move forward, not backward, in providing additional benefits to our seniors.

We provide for colorectal screening and annual mammography testing. Why? Because medical technology tells us that these tests are needed today. If we do not provide these tests, we are moving backward in providing seniors the care that they need. Our bill moves forward, not backward. Seniors already have too high out-of-pocket costs. They need these types of screenings.

Mr. Chairman, I say to Members that we have a choice before us. We do not have to vote for the extreme, mean-spirited Republican approach that would slash Medicare in order to pay for tax cuts. We have a substitute before us that provides for the solvency of the Medicare trust fund, provides for reform in the Medicare system, protects our seniors, protects the system, and deals with solvency.

Mr. Chairman, I urge Members to support the Democrat substitute.

□ 1530

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. HERGER], a respected member of the committee.

Mr. HERGER. Mr. Chairman, in April, the Medicare trustees stated that if nothing was done, Medicare would begin going broke next year, and become functionally bankrupt by the year 2002. Mr. Chairman, the Republican reforms proposed in the Medicare preservation act will preserve, will protect and will strengthen Medicare for future generations.

Mr. Chairman, there are clear and distinct differences between the Republican plan that guarantees Medicare's survival and the Democratic substitute. While the Republican plan saves Medicare for the next generation—the Democrat bill only saves Medicare through the next election.

While the Republican bill fixes Medicare for the long-term without increasing co-payments or deductibles, the Democrat substitute is nothing more than a band-aid, producing, at best, a short-term solution to this gaping problem. In fact, by the time the baby boomers retire, the Democrat alternative will have left Medicare with a projected deficit of over $300 billion.

Conversely, the Republican plan is specific and realistic and gives seniors the right to choose the Medicare plan that best suits their individual health care needs. Seniors will have the right to choose a HMO or a medisave account or they have the right to stay where they currently are, with their current doctor or hospital.

The Democrat plan, on the other hand, doesn't give seniors the right to choose—trapping them in the same one size fits all program.

Mr. Chairman, our choice is clear, we can either stay with our present broken-down 1965 model Medicare system or we can move ahead to a much improved 1995 model. I urge my colleagues to oppose this substitute and support the Republican Medicare preservation act.

Mr. DINGELL. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, my Republican colleagues have made it plain they have a low regard for the intellect of the American senior citizens. They accuse us of frightening the senior citizens and also the hospitals. The hard fact is that the hospitals and the senior citizens have had the daylights scared out of them by this Republican plan.

Because the people, contrary to what might be thought, understand what is going on. My Republican colleagues expect seniors to accept an absurd declaration that, unless we destroy the Medicare plan now, it will destroy itself. What is really very simple here is this: If you drop the tax cut for the rich, none of these Medicare cuts are necessary.

Do Democrats want to protect Medicare? Of course. Remember, we created it over united Republican opposition. When I was sitting in the chair 30 years ago and we passed that legislation, 93 percent of my Republican colleagues voted against Medicare.

Do we wish to protect trust fund soundness? Of course. Now, there is a difference. My Republican colleagues accomplish that goal by raising senior citizens' taxes through higher premiums, reducing Social Security checks from which premiums are deducted, kicking the seniors out of their own doctor's office, denying them choice, shoving them into HMos which senior citizens do not want, closing

local hospital emergency rooms, repealing nursing home standards that protect patients in nursing homes, allowing doctors to perform office tests in the office sink, and taking away the right of citizens to recover from malpractice.

They do this also by eliminating statutory protections against fraud and abuse. The Secretary of HHS, the Department of Justice and the Inspector General all warned that this is a direct consequence of the language in this bill.It is not necessary, as the Republicans do, to cut the budget of the Inspector General of HHS, who deals with waste, fraud and abuse. We Democrats think there is a better way. The gentleman from Florida, [Mr. GIBBONS], the gentleman from Washington [Mr. MCDERMOTT], and I offer this substitute to show the way.

It ensures the solvency of the Medicare part A trust fund for exactly the same length of time that the Republican claim for their bill, the year 2006. It saves the amount that the trustees tell us needs to be saved, $90 billion. It should not and it will not cost the seniors more.

How do we do it? Simple. We are not proposing a tax cut for the rich. If we take the tax cut off the table, it is not that difficult. The substitute is good. I urge that we follow this course, that we accept the leadership of the Democratic proposal on the solvency issue. I am happy to offer it with my colleagues, the gentleman from Washington [Mr. MCDERMOTT and the gentleman from Florida [Mr. GIBBONS] and I urge support of the amendment.

Mr. Chairman, the Republicans have made clear in this debate that they have a very low regard for the intellect of America's senior citizens. They expect seniors to accept without question their absurd declaration that unless we destroy the Medicare program now, it will destroy itself.

I say to my Republican colleagues, it's this simple: Drop your tax cut for the rich, and none of these Medicare cuts will be necessary.

Do we want to protect Medicare? Of course we do.

Do we want to ensure that the trust fund is sound, today, tomorrow, and for years to come. Of course we do.

The Republicans think that to accomplish that goal, they should raise seniors' taxes, reduce their Social Security checks, kick them out of their own doctors' offices, shove them into HMO's they don't want, close their local hospitals, repeal the nursing home standards that protect them, allow doctors to perform office tests in the kitchen sink, and then take away their right to recover when their doctor commits malpractice.

We think there is a better way.

Mr. GIBBONS, Mr. MCDERMOTT, and I are offering this substitute today to show the American people that there is a better way. it ensures the solvency of the Medicare part A trust fund. It does so for exactly the same length of time the Republicans claim for their bill, the year 2006. And it does so by saving the amount of money that the Medicare Trustees tell us needs to be saved: $90 billion. And it won't cost seniors more.

Specifically, this proposal includes: Only modest reductions in hospital payments—about half of what the Republican bill cuts—but protection for rural and urban hospitals that serve the uninsured; tough provisions to enhance prevention, detection, and prosecution of fraud and abuse; the nursing home quality standards in current law, which the Republicans would repeal.

Also, fair reductions in physician payments so that the AMA's members share the burden, rather than make out like bandits in a backroom holdup; reduced copayments for seniors; less than half the Republican cuts in home health care; and new preventive services, including more frequent mammography, colorectal screening, pap smears, and diabetes services.

How, you may ask, do we pay for this? The answer is simple: We aren't the ones proposing a $245 billion tax cut targeted to the rich. If you take the tax cut off the table, I say to my Republican colleagues, it's really not that difficult.

Mr. Chairman, this substitute is a good one. It is the right approach to the Medicare trust fund solvency issue. I am pleased to offer it with Mr. GIBBONS and Mr. MCDERMOTT. I urge support for the amendment.

Mr. Chairman, before I conclude, I want to express my thanks, and the thanks of all the Democratic members of the Commerce Committee, to the Democratic staff of the committee—Bridget Taylor, Kay Holcombe, Reid Stuntz, Chris Knauer, David Tittsworth, Nick Karamanos, Carla Hultberg, Elaine Sheets, Candy Butler, and Sharon Davis. I add our thanks to Karen Nelson from the Staff of Subcommittee ranking member HENRY WAXMAN, and to the staffs of all the Democratic members of the committee.

I also want to commend the excellent staff of the Ways and Means Committee Democrats, with whom we worked closely and cooperatively on this bill and this substitute. And of course, I want to thank the legislative counsels, Ed Grossman and Noah Wofsy, for their invaluable help.

Mr. BLILEY. Mr. Chairman, I yield myself 3 minutes.

Before we go too much further, I do want to recognize the long days and nights put in by the staff of both the Committee on Commerce and the Committee on Ways and Means. I would like to make note of my troops, Mary McGrane, Howard Cohen, Melody Harned, Bud Albright, Jon Cohrssen, David Lusk, Mike Collins, Eric Bergren and Margaret Daze. We could not have made it this far without them.

Mr. Chairman, my colleagues, including the ranking Member from Michigan, talk about being tough on fraud, waste and abuse. Well, I would say to the Inspector General or to the Justice Department, to HHS, read our bill. Let us compare. Our bill allows $250,000 in criminal fines for individuals and $500,000 for corporations. It outlaws fraud and provides for fines and prison terms up to life. Their bill sets criminal fines at $50,000 maximum. Our bill, false statements makes it a felony, 5-year prison term, up to $500,000 fine. Their bill, false statements, sets fines at $50,000.

Our bill, theft, embezzlement makes it a felony, 10-year prison term, $500,000 fine. Their bill, no mention.

Our bill, bribery, graft, 15-year prison term, $500,000 fine. Their bill, no mention.

Obstruction of criminal investigation of health care crime, 5-year prison term, $500,000 fine. Their bill, no mention.

Democrats talk about our bill going light on fraud, and it is just plain wrong. Our bill is tough, much tougher than theirs. Once again, the Republicans deal with facts. The Democrats' talk does not withstand scrutiny.

Mr. GIBBONS. Mr. Chairman, I yield 1 minute to the gentlewoman from Texas [Ms. JACKSON-LEE].

(Ms. JACKSON-LEE asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE. Mr. Chairman, I thank the gentleman from Florida for yielding time to me, and I thank the gentleman from Michigan [Mr. DINGELL].

I am gratified that we have come today to be realistic about Medicare. If I can briefly talk about the facts, this captures the Republican plan on Medicare, the locking up of innocent seniors who simply came to protest and oppose $270 billion in cuts. They opposed the $24 million that Houston-Harris County hospitals will lose over a 7-year period. They oppose the increase in premiums.

Maybe I need to tell Members a little story about Ms. McDougall and a third grade class. In the class was a group with sweat shirts with R, and in the class was a group with sweat shirts with D. A little round-faced boy looked at the board, and Mrs. McDougall had $270 billion in cuts, increased premiums, losing physicians and some of our most needed hospitals. She asked the little boy, what does that mean to you? He applauded and said, tax cuts for the wealthy. Then she turned and asked the little round-faced girl with bright eyes. And she said, it is a loss for all America, but, she said, you know what, Mrs. McDougall, we are going to fix it.

That is what the Democrats are going to do. We are going to fix it. Vote for the substitute and vote down a disastrous plan for seniors.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. ENGLISH], a valued member of the Committee on Ways and Means.

Mr. ENGLISH of Pennsylvania. Mr. Chairman, Mark Twain once said ''One of the most striking differences between a cat and a lie is that a cat only has nine lives.'' You have heard and will continue to hear that Republicans are cutting Medicare to pay for tax cuts. Members of this body who oppose saving Medicare have fabricated the Medicare tax-cut connection because it is useful politically.

Here are the facts: The tax bill approved by the House in April was financed on a pay-as-you-go basis. The

tax provisions were paid for before the debate on Medicare reform even began. The savings came from welfare reform, lowering discretionary spending, and interest savings. We cut spending as we cut taxes and everyone here knows it.

Even so, you will hear that Republicans are cutting Medicare to pay for tax cuts.

Even after the Ways and Means Committee adopted my amendment to establish a Medicare lock-box—a Medicare Preservation trust fund—to lock in savings from the bill into the Medicare Program. The bill now contains my language making it illegal to use Medicare savings for tax cuts. Under the English-Whitefield local-box, the savings in Medicare will be used only to save Medicare. Most of the Members on the other side voted for the similar lock-box Mr. CRAPO offered this spring. They liked it back then. Even so, you will hear them claim that Republicans are cutting Medicare to pay for tax cuts.

Writing in the Washington Post on October 11, Robert Samuelson noted, ''To listen to the Democrats, you'd think that every spending cut is needed to provide 'a tax break for the rich.' Medicare is being cut to help the wealthy; so is Medicaid, the school lunch program and welfare. The litany is endless. Maybe this makes good rhetoric, but it flunks first-grade arithmetic.''

Mr. Chairman, only one plan saves Medicare, and keeps the savings from reform in Medicare. Reject this empty, placebo Band-Aid substitute, which doesn't even contain our lock-box protections.

Mr. BLILEY. Mr. Chairman, I yield 2 minutes to the gentleman from Louisiana [Mr. TAUZIN].

(Mr. TAUZIN asked and was given permission to revise and extend his remarks.)

Mr. TAUZIN. Mr. Chairman, I first want to give you some good news. I just talked to mom again in her hospital room. She is up on her feet and doing much better. She apparently exerted herself too much to the senior Olympics last week where she won three medals in the Baton Rouge State competition. The third medal was bronze for javelin throwing. So do not mess with mom. She is doing fine.

Let me first of all make it clear that what we are debating now finally is their comparison of two alternative plans, which I would hope we would have debated all day instead of motives and intentions and everything else. We are finally looking at the two alternative plans. And the plan we are examining now is a plan that simply says, we are going to try to save about $90 billion of waste, fraud, abuse, inefficiencies in the Medicare program in order that it not be bankrupt as opposed to the plan offered that saves as much as $270 billion out of waste, fraud, abuse, and inefficiencies in the program. Why one not the other?

Well, if we only want to Band-Aid the Medicare Program through the next election cycle, we have an alternative now we can vote for. If we want to fix it permanently, structurally, not for just the election but for the generation to follow, if we want to make sure that working Americans are not, after this election, taxed by payroll deduction increases that could double the payroll tax deduction, if we want to avoid that, then we have offered a plan that produces savings for the program and solvency for the next generation. That is the choice.

Even the blue dog Democrats have offered a third alternative which unfortunately is not on the floor. They recommended $170 billion in savings. President Clinton recommended $192 billion in savings. At least we are getting down to it here.

What is the right number in order to fix the program temporarily or permanently?

We propose a permanent fix. We propose fixing the program so it does not go bankrupt, not just for the election but for the next generation.

Mr. DINGELL. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Michigan [Mr. STUPAK].

Mr. STUPAK. Mr. Chairman, just a speaker or two ago said that he had a plan that will cut down on fraud, waste, and abuse and then read a list of fines and costs and fines and costs and fines and costs that he prevails upon people.

The problem is, he never gets to the fines and costs because he has raised the legal standard that must be met in order to bring any kind of a case against someone who is ripping off the system. Having been a police officer for 13 years, you try to conduct an investigation, you keep putting a hurdle up higher and higher for law enforcement here to do their job.

□ 1545

But my colleagues' answer to fraud and abuse is, ''After you catch them we'll put more fines and costs.''

In the Democratic plans that have been presented, Mr. Chairman, we have asked our colleagues to look at things that do not raise the standard, but will make it easier to give law enforcement the tools they need to crack down on fraud, waste, and abuse; things such as putting civil penalties in the antikickback statute, giving subpoena power, something very simple. We do not have it under Medicare. Give us grand jury investigations; that was denied. Give us competitive bidding for durable medical equipment so we are not paying $28 for foam rubber mattresses that we can buy downtown for $19.95 or for the oxygen that will cost $280 under Medicare that only costs $123 for the VA. Let us competitively bid to cut down on the waste, and our colleagues said no. There is no provision against bundling. For every time there is a medical piece, they add another price to it and put it all together bundled up in one big package so they can charge more. That was what we saw happening in Medicare.

The way my colleagues can save this program is by cracking down on the fraud, waste, and abuse, but their answer is raise the standards for investigation, make it more difficult, make it harder on the seniors by putting all that money into fraud, waste, and abuse, and we have nothing to show for it.

Mr. BLILEY. Mr. Chairman, I yield 1½ minutes to the gentleman from Kentucky [Mr. WHITFIELD].

Mr. WHITFIELD. Mr. Chairman, as my colleagues know, the October 16 issue of the Wall Street Journal reported that New Yorker Henry Sheinkoph would be a key strategist for President Clinton and the Democrats in the 1996 election. In this article Mr. Sheinkoph boasts, ''I subscribe to terror. Terror works because it makes people hate.'' Scare tactics are also being used by the national Democratic Party to obstruct our efforts to save and strengthen the Medicare system.

The Democratic Party will not tell us that their part A tax has increased 23 times since the inception of this program. The part B premium has doubled in the last 8 years.

Four months ago this Congress passed a long-awaited and needed tax reduction for the American people. While it was not a tax reduction for the wealthy, it did provide a tax reduction for working men and women with children. While we do not apologize for that tax reduction, we will not allow savings in the Medicare plan over the next 7 years to be used to pay for our tax reductions.

This bill, the Republican bill, includes a lockbox provision which will establish a trust fund. All moneys saved under the plan will be appropriated to the trust fund. Money in the fund can only be used to provide care for the elderly, and cannot be used for any other purpose.

The Republican Medicare plan provides comprehensive change for a long-term solution. The Democratic plan is a Band-Aid approach that cannot and will not provide a long term solution.

Mr. ARCHER. Mr. Chairman, I yield 3 minutes to the gentleman from Connecticut [Mr. SHAYS], a member of the Committee on the Budget who has made a giant contribution over the years toward Medicare reform.

Mr. SHAYS. Mr. Chairman, I was asking some of my colleagues how are we doing. They said we are doing well, but it is tough when people are just throwing charges that are not true, and it is tough when the charges are not true, and they are not true. But it is easy when we have a bill like this to defend. Republicans, be proud of what has been done. Be proud of the fact that there are no increases in copayments. Be proud of the fact that there are no increases in deductibles. Be proud of the fact that you have not increased premiums. They will stay at 31½ percent. In fact, be proud of the fact that in one case we did increase

premiums for the most wealthy. The most wealthy are going to have to pay more for Medicare part B. If someone is single and making $100,000, they will have to pay more for Medicare part B. If someone is married and makes over $150,000, they will have to pay more for Medicare part B. We are telling the most affluent that they have a rule to play in this.

Mr. Chairman, their bill lets the wealthy get all the benefits the poor get. Give me a break.

When I look at this bill, I know we have three major goals. We are going to get our financial house in order. We are going to do that and balance our budget. We are going to save our trust funds. We are going to protect them, and we are going to preserve them, and we are going to strengthen them, and we are also going to change this social, and corporate, and farming welfare state into an opportunity society. but we are going to save our Medicare trust fund, and how are we going to save it? In part because of a strong criminal fraud that we have in our bill.

When my colleagues voted against the rule, they voted against making crime in health care a Federal offense because in our rule we make health care fraud a Federal offense. We make it a Federal offense not just in Government programs, but in private programs as well. Theft and embezzlement, a federal offense. False statements, a federal offense. Bribe and graft, a Federal offense. Illegal enumerations, Federal offense. Obstruction of justice, a Federal offense. My colleagues voted against it when they voted against the rule. In our bill, contrary to what the previous speaker said, we have injunctive relief, we have subpoena power, we have grand jury disclosure. It is in our bill. Read it. My colleagues and continually distorting the facts, and, when the American people know what we have done, they are going to like it, and when I speak to the American people and my constituents, they say why would I object to a plan that does not increase copayments, does not increase deductible, does not increase my premium, allows me to have private care? My colleagues are into the old system. They are not giving their constituents choice. We are going what the gentleman from Missouri [Mr. GEPHARDT] did in 1980. He said we should allow people in Medicare to get into a private-sector plan. The problem is he is 20 years later not in step.

Mr. DINGELL. Mr. Chairman, I yield myself 15 seconds to point out that my good friend's district would be cut $251 million between now and the year 2002 to give to the wealthy a large and unrequested tax cut.

Mr. Chairman, I yield 1 minute to the gentlewoman from North Carolina [Mrs. CLAYTON].

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. The Chair will take this opportunity to remind the gentlewoman that wearing of badges is against the House rules.

Mrs. CLAYTON. Mr. Chairman, I will observe that.

PARLIAMENTARY INQUIRIES

Mr. THOMAS. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. THOMAS. Mr. Chairman, are the wearing of buttons, or sloganeering, or communicative badges against the rules of the House?

The CHAIRMAN. The Chair has stated that on several occasions today.

Mr. THOMAS. Mr. Chairman, if someone is wearing that when addressing the House, they are violating the rules of the House?

The CHAIRMAN. The are indeed.

Mr. THOMAS. Mr. Chairman, if they have been informed of that, they are, therefore, willfully violating the rules of the House?

The CHAIRMAN. The Chair just reminds all Members that the rules are here to maintain a level of comity in the House and it would be proper for all Members to observe the rules.

Mrs. CLAYTON. Mr. Chairman, let me make a statement.

Did I not say I would be glad to observe that? Did the Chair not hear me? Did anyone else hear me? I said I will be glad to observe that rule, so it is not willful.

Mr. WILLIAMS. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. WILLIAMS. Mr. Chairman, would wearing a paper bag over one's head violate the same rule of the House?

The CHAIRMAN. The gentleman knows the answer to that. Let us move on.

Mr. WILLIAMS. No, the gentleman would not ask the question if he knew the answer.

The CHAIRMAN. The Chair's guess is that the gentleman does know.

Mr. WILLIAMS. Mr. Chairman, I am not asking for a guess. I am asking for a parliamentary ruling. Would wearing a paper bag over one's head, as has been done by some of our Republican colleagues in previous Congresses, violate the same rule of the House?

The CHAIRMAN. The Chair would respond by saying that the Chair was not here at the time, but the Chair's understanding was that that was ruled a breach of decorum at the time, and the Chair promises the gentleman that, if he sees anyone with a bag over their head today, he will ask them to remove it.

The Chair recognizes the gentlewoman from North Carolina [Mrs. CLAYTON].

Mrs. CLAYTON. Mr. Chairman, I have really risen to speak in behalf of the amendment, and I do want to say that the Democrats have provided, I think, a reasonable alternative, a reasonable plan, that addresses saving health care. It also reads for senior citizens. Medicare needs to be reformed. Why? Because the trustees said it needed to be reformed to make sure there was financial stability.

But also, since my colleague raised the concern of the badge I was wearing, let me tell him why I had worn that badge inadvertently into the House and really in error. It was not meant to affront the House. But I do want to say it so my colleague understands: ''Shame on you. No to the Republican plan.''

Mr. Chairman, I may not be able to wear that, but I can say it over and over again:

> Shame on you, balancing the budget on the most vulnerable people in society. No to any plan that is so atrocious it does not indicate what it would do to poor people, senior citizens, rural communities, and inner cities, and no rule removes that moral obligation for the shame on your conscience.

The CHAIRMAN. The Committee will rise informally in order that the House may receive a message.

## MESSAGE FROM THE PRESIDENT

The SPEAKER pro tempore (Mr. STEARNS) assumed the Chair.

The SPEAKER pro tempore. The Chair will receive a message.

## MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Edwin Thomas, one of his secretaries.

The SPEAKER pro tempore The committee will resume its sitting.

## MEDICARE PRESERVATION ACT OF 1995

The Committee resumed its sitting.

Mr. BLILEY. Mr. Chairman, I yield 1½ minutes to the gentleman from Florida [Mr. STEARNS], a member of the committee.

Mr. STEARNS. Mr. Chairman, to the gentleman from Florida [Mr. GIBBONS], my good friend, to the gentleman from Michigan [Mr. DINGELL], to the minority leader, the gentleman from Missouri [Mr. GEPHARDT], let me first of all say, Your argument about tax cuts for the rich is clearly false, but let's really look at this argument in two ways.

First of all, Mr. Chairman, all the tax cuts were paid for before we even started talking about Medicare. Confirmed by CBO, these tax cuts were paid for as follows: welfare reform is $90 billion in savings; FCC spectrum auction is $15 billion; Uranium Enrichment Corporation is $2 million; and appropriation reductions are $38 billion in savings. My friends in the House and to all Americans, you should realize that they were paid for—$245 billion—was saved even before we even started talking about saving Medicare.

So the point is that there is nothing about this tax cut that is coming from Medicare savings or going for the rich.

When we are going broke in a program like Medicare and spending less, we cannot put the savings into anything. That is math 101. There is not more cash by slowing of the growth in Medicare. There is less debt. Now the trust fund will be able to build up a reserve for those future generations. It is like reducing the principal on one's home mortgage. It does not mean that you have more cash. It means that you pay less obligation to the bank. By slowing the spending growth, we insure that the Medicare trust fund stays solvent. Solving this growth means the program will survive, and, Mr. Chairman, as mentioned before, the lockbox insures any savings from waste, fraud, and abuse goes to the trust fund.

Mr. GIBBONS. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. LEVIN].

(Mr. LEVIN asked and was given permission to revise and extend his remarks.)

□ 1600

Mr. LEVIN. Mr. Chairman, the majority likes to quote the Trustees. They never say this. Here is what they say. The majority is asking for $270 billion in Medicare cuts, almost three times what is necessary to guarantee the life of the hospital insurance trust fund. As this chart shows, our substitute extends it for the same period as they do.

Second, there is a critical fact: Without the Medicare cuts there is not the money for the tax break, period.

Third, they talk about Medicare fraud and abuse. They should not brag about increasing penalties when their bill makes it more difficult to convict anybody. We can have life imprisonment. In their bill, we cannot convict anybody.

Fourth, you talk about market-driven forces. Seventy percent of your savings comes from old-fashioned price controls, 17 percent comes from hitting seniors. In fact, the gentleman from California [Mr. THOMAS] likes to brag that he is a radical. I would say to the gentleman, he can have that label. We Democrats want reform, not radical change.

Mr. DINGELL. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Chairman, it is this amendment that has the arithmetic that the trustees say will keep Medicare fiscally solvent. The Republican proposal is nothing new for them. For half a century, congressional Republicans have harbored a subtle but sinister opposition to Social Security, and later, to Medicare.

When Social Security was first created in 1935, 99 percent of the Republican Members of Congress voted against it, and a third of a decade later, in 1965, when Medicare was created, 93 percent of Republicans in Congress voted against it.

What is different now? Because at last they have the majority, and they are determined that they will gut, today, Medicare, tomorrow Social Security, programs which they have always opposed and which they oppose here today with their new majority.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentlewoman from Connecticut [Mrs. JOHNSON], chairman of the Subcommittee on Oversight of the Committee on Ways and Means.

Mrs. JOHNSON of Connecticut. Mr. Chairman, it will not work. You cannot increase benefits, you cannot tell the American people you will increase benefits, cut premiums, and save Medicare. Medicare is insolvent next year. It is bankrupt 5 years thereafter. To get up here with a program that says ''We are going to do this for you, that for you, and add benefits, but we are going to cut premiums, folks, and we are going to save Medicare,'' the American people do not want those kinds of answers anymore.

Let us look at this premium issue. What do the Republicans do? We say listen, you seniors out there, you have to keep with the level of burden you are carrying now. You are carrying 31 percent, just the part B costs. You keep carrying it. Seniors with $75,000 retirement incomes are going to carry more. What is this rich-poor business? Not one word of support for raising premiums on seniors who have a retirement income of $75,000 or more.

All we say to seniors is to save this program, keep doing what you are doing, and if you can afford it, do a little more if you have over $75,000 in income. What the Democrats say, we are going to cut it to 25 percent. We are going to give you a break. We are going to give you more benefits and lower premiums. Do you know what that does? That makes people working hard day in, day out, earning $30,000, $35,000, and $40,000 pay more taxes.

Six of the last ten years they have increased Medicare taxes. This is a back-ended, under-the-ground, surreptitious tax increase, because they are going to make the taxpayers pay more of the part B costs than they are currently paying, as costs are rising.

The second deceptive aspect of the plan the Democrats are offering, and it is more of the same, they only fix part A. Part B is in just as much trouble. Mr. Chairman, we have to save Medicare, not part A of Medicare.

Mr. GIBBONS. Mr. Chairman, I yield 30 seconds to the gentleman from Maryland [Mr. CARDIN].

Mr. CARDIN. Let me just correct this, Mr. Chairman. The gentlewoman from Connecticut is not accurate when she says we are cutting premiums. We are not. We are sticking with current law. They are changing current law. By changing current law, they are increasing the burdens on our seniors by increasing the part B premium.

The Democratic substitute or the substitute that we are offering stays with existing law. The dollar amount is currently in law and it goes back to 25 percent and then goes back to a COLA increase. They are increasing it, we are keeping current law.

Mr. BLILEY. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. GREENWOOD].

Mr. GREENWOOD. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, just a little while ago I had a young man, a sophomore in high school, down here for a leadership council meeting. He was sitting in my office and we were having a little chat. He looked up at the screen and he heard one of the Members of the other party speaking. He said, ''Is that true?'' I said, ''No, that is not true. That is a lie.'' He said, ''Are they allowed to do that?'' I said, ''They are not supposed to, but they do.'' Half of our job today is to try to correct these misstatements. There have been an awful lot of statements about this bill, weakening the ability to crack down on waste, fraud, and abuse.

Here are the facts: Our bill creates a new criminal statute, outlaws fraud, provides for fines of up to $500,000. Their bill limits the penalty for that offense at $50,000. Our bill says if you make a false statement there is a 5-year prison term, up to a $500,000 fine. The substitute limits that fine to $50,000. We make a new crime of theft and embezzlement. We make it a felony that carries a 10-year prison term and a half million dollar fine. The minority's substitute makes no mention of this crime.

The same thing on bribery and graft. Our bill, there is a half million dollar fine, 15-year prison term. Nothing over there. Our bill, obstruction of criminal investigation of a health care crime, a prison term, a half million fine, and nothing from the other side. Our bill is the toughest bill in the history of the Medicare Program on waste, fraud, and abuse. We ought to support it for that reason, if for no other.

Mr. THOMAS. Mr. Chairman, will the gentleman yield?

Mr. GREENWOOD. I yield to the gentleman from California.

Mr. THOMAS. Mr. Chairman, the gentleman should have known the statements that were just made about how sound the Republican program is were false. They would have been punishable under current law under the should have known rule. We are sound until 2010. They are sound until 2006, I will give them the credit, but the difference is a $300 billion loss in 2010. When we are still solvent.

Mr. GIBBONS. Mr. Chairman, I yield 1 minute to the gentleman from South Carolina [Mr. SPRATT].

(Mr. SPRATT asked and was given permission to revise and extend his remarks.)

Mr. SPRATT. Mr. Chairman, the Republicans would have us believe that Medicare is standing on the brink of bankruptcy. Having told 37 million beneficiaries whose lives depend on Medicare, having told them that their security is becoming worthless, they

have the audacity to say the Democrats are scaring people.

In truth, the Medicare hospital insurance trust fund is not standing on the brink of bankruptcy, it is sitting on a surplus of $136 billion. That is not my definition of insolvency. It is true that this year Medicare will be drawing down that surplus, but even in 1999, the insurance trust fund will have assets of almost $100 billion. That is not my idea of a crisis.

Do we need to reduce the cost of Medicare? Sure we do, but the Democratic substitute lowers the cost by $90 billion over 7 years, and that end result—$90 billion of relief to the hospital insurance trust fund—is all the Republicans accomplish by $270 billion of savage cuts, because not only do they reduce the cost of Part A, but they also reduce the payroll taxes paid into it by $36 billion. I urge my colleagues to support the Democratic substitute.

Mr. BLILEY. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. DELAY], the distinguished whip.

Mr. DELAY. Mr. Chairman, for days, weeks, even months we have heard the rhetoric regarding the future of Medicare. We have heard all the scare tactics, we have seen the attack ads, we have read the newspapers, but beyond the hype, beyond the clouds of misinformation, some basic facts emerge.

First, Medicare is going broke, and it will be broke in 7 years.

Second, the Republicans are not cutting Medicare.

Third, Democrats do not have a serious alternative that will save Medicare for the next generation.

The American people can begin to understand the basic differences in the approaches to saving Medicare between the Republicans and the Democrats. Republicans want to reform the whole system. We want to make commonsense changes which will promote greater choices, give greater flexibility to seniors, crack down on fraud and abuse, and put reasonable limits on Medicare growth.

Democrats ignore reform. They lack the courage to make commonsense changes to the system. They would prefer to keep the current system, which, if unreformed, will bankrupt this country. To me, Mr. Chairman, the Democrat alternative is just a joke wrapped in fraud and shrouded by farce. They save Medicare only enough to save their own political hides. In fact, secretly, Democrats would rather do nothing than to reform Medicare.

Mr. Chairman, political cowardice is no substitute for responsible policy. If we do nothing to save Medicare, the country faces a stark choice: Either we forget about ever achieving fiscal responsibility, or the government will be forced to rapidly raise payroll taxes and income taxes. As we all know, even President Clinton now suffers from taxer's remorse over his last huge tax increase, so clearly, raising taxes is not a serious alternative.

Mr. Chairman, as Edmund Burke once said, ''For evil to succeed, good people simply need to do nothing.'' The Democrats are doing nothing to save Medicare, and their inaction is a fool's choice. I urge my colleagues to vote for a brighter future for this country. Vote to save Medicare and reject this half-hearted Democrat substitute.

Mr. DINGELL. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. FATTAH].

(Mr. FATTAH asked and was given permission to revise and extend his remarks.)

Mr. FATTAH. Mr. Chairman, I rise in support of the Democratic alternative and oppose the Republican plan.

Mr. DINGELL. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from California [Mr. WAXMAN].

Mr. WAXMAN. Mr. Chairman, I want the public that may be watching this debate to understand the depth of cynicism that the Republicans have in presenting their Medicare proposal. I am going to put into the RECORD a series of key words and phrases given to the Republicans to use in this debate. Members may well recognize some words like ''save, preserve, protect, proud to support.'' Then when they talk about the Democratic proposal they are supposed to say ''politics as usual, the politics of the past.'' Maybe an energetic reporter will look through these comments today to see how many of these phrases were dutifully used by the Republicans for their proposal and against ours.

The second level of cynicism, to talk about the insolvency of the Medicare trust fund, to use that as an excuse for their package, the Medicare trust fund was nine times out of sync, and each time it was, without fanfare and partisan propaganda, restored. Mr. Chairman, this amendment is notable for what it does not do. What it does not do, unlike the Gingrich bill, is make the elderly pay larger premiums just to keep their Medicare benefits. It does not destroy the fee-for-service Medicare system that people are already in, and that they like, and it does not offer them these phony choices that will be paid for by savaging the Medicare program fee-for-service.

This amendment does not do what the Republicans do, which leaves people unprotected if they are forced out of Medicare into these Medicare-plus plans for balanced budgets, and doctors will charge them extra bills for their services. Unlike the Gingrich bill, it does not take billions of dollars out of Medicare to finance tax cuts, or to finance deficit reduction. This substitute preserves Medicare without doing all these onerous things, and for that reason, Mr. Chairman, we ought to support it.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. THOMAS], chairman of the Subcommittee on Health of the Committee on Ways and Means.

Mr. THOMAS. Mr. Chairman, I would ask the gentleman from California, what is this reporter going to do? I just heard him use the word ''preserve.'' I guess there are only certain words people can use because there are only obviously clues and keys. My belief is, you think your program preserves Medicare. We believe our program preserves Medicare.

□ 1615

That word is going to be used on this floor back and forth. The difference is, how long and under what circumstances is Medicare preserved, and how do you preserve it? Yes, you preserved it nine times in the last 10 years. Six of those were increases in the payroll tax or lifting the lid on wages subject to the payroll tax.

What you have here is an honest representation of the difference in the plans. I know you do not like it, but it is the truth. If you will read the bill, I said read the bill, the Republican program stays sound through 2010. After 2010, yes, we have to find some money, but 2010 is when the baby boomers become eligible for Medicare. Our plan is solid. We do not have to look for new money until we fix it for the baby boomers.

The Democrats have said, they are sound at 2006. I agree, you are sound at 2006. What is the difference between 2006 and 2010? $300 billion. That is that red line. I know that is hard for you to envision. Red lines, $300 billion in the hole. At the time you are trying to work with the baby boomer commission, which you have in your bill as well, you are also going to have to find money to fill a $300 billion hole.

Mr. Chairman, we do not. Our program better preserves and protects Medicare. It strengthens it. We do not go to the well like you do in terms of increasing taxes. We do it through slowing the growth and allowing innovative programs using market-based techniques to save the system. That is the difference between our approach and yours.

Mr. GIBBONS. Mr. Chairman, I yield 1 minute to the gentlewoman from New York [Mrs. LOWEY].

(Mrs. LOWEY asked and was given permission to revise and extend her remarks.)

Mrs. LOWEY. Mr. Chairman, the Medicare cuts in the Republican bill will have a devastating impact on the quality of care New York seniors receive. It is very clear that the cuts will double the premiums, eliminate protections against higher medical fees, and make it harder for seniors to see their own doctor. For seniors living on fixed incomes, this Republican plan will mean real hardship.

The Republican Members know that, and that is why Speaker GINGRICH has been making back-room deals to win votes. Unfortunately, when NEWT GINGRICH plays ''Let's Make a Deal,'' America's seniors lose. Frankly, all this deal-making is absolutely shameful.

Let me just ask our Republican colleagues, if this is such a great bill, if it

is so good for seniors, why all the deals? You do not have to make deals to get votes for good bills, just bad ones.

Mr. DINGELL. Mr. Chairman, I yield 1 minute to the distinguished gentlewoman from Oregon [Ms. FURSE].

Ms. FURSE. Mr. Chairman, it is very simple. If we need to save $90 billion, do it. We can do it with the Democratic bill. The only difference is, the Democratic bill puts the savings in the trust fund, not into wealthy people's pockets. It does not cost seniors more, it protects the trust fund.

I believe that we can cure the Medicare system, but let us use a scalpel, not a meat ax. Let us vote for the Democratic alternative.

Mr. GIBBONS. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. MATSUI], a very fine member of our Committee on Ways and Means.

Mr. MATSUI. Mr. Chairman, I thank the gentleman from Florida [Mr. GIBBONS] for yielding time to me.

Mr. Chairman, I have to say that this notion that the bill, if in fact, it passes does not pay for tax cuts is nonsense. What the Republicans plan to do, if this bill passes today, is to bring it back and put it on the reconciliation bill, and that way, they will be able to use the $270 billion in savings on Medicare to pay for the $245 billion in tax cuts. If, in fact, this Medicare bill goes down today, they will not be able to do the $245 billion tax cut, because they will not be able to put it on reconciliation. So it is obvious what is really going on.

I might also further point out what this debate is really all about. Everybody says, well, this is really just slowing the growth of Medicare on the Republican side. That is right. It is slowing the growth of Medicare. In the year 2002, just 6 years, 7 years from now, the average Medicare recipient will have $6,500 spent on them per year. Per capita, $6,500.

Mr. Chairman, they do not tell you the growth in the private sector. The private sector growth will go up to $7,600, a gap of $1,100. So I and anybody 30, 40, 50 years old in the work force will get $7,600, but if you are 60, 70, 80, 90 years old, you are going to get $1,000 less.

Why do we have Medicare in the first place? Medicare was passed in 1964 because seniors were not in the workplace, because seniors could not have access to private health insurance. As a result of that, they were left uninsured. We had a 25 percent poverty rate in senior citizens in 1964. It is down to 11 percent now and we should be very proud of that.

What we are going to do is we are going to bankrupt the senior citizens of America. That poverty rate is going to go up. We are going to be doing major damage to the senior citizens of this country, and I think, as the minority leader said, this is really an issue of values.

Mr. Chairman, I ask my Republican colleagues, what are your values? What do you stand for? Why are you here? Do you believe in the future of this country, or do you want to play games with senior citizens, those people that supported you in the prime of your life?

Mr. DINGELL. Mr. Chairman, I yield 1 minute to the distinguished gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Chairman, I want to urge my colleagues to get behind this very rational Democratic substitute that cures the problems that will be created by the Republican Medicare plan. We will be saving Medicare with this $90 billion that the trustees say that is all that is necessary.

We do not need the tax cut for the wealthy. We will be eliminating the dramatic increases in the Part B premium, and there will be no forced choices for seniors under this. They do not have to go into HMOs, they can still choose their own doctors.

Even more important, it does not hurt the quality of health care. Hospitals will not have to close or cut back considerably. Payments to hospitals are reduced by less than one-half the amount in the Republican bill. Lastly, and just as important, this substitute deals with prevention.

If we can have more preventive care, which is provided in this substitute, we can save a lot of money and seniors will not have to be hospitalized, they will not have to be institutionalized.

Mr. Chairman, I urge support for the Democratic substitute.

Mr. DINGELL. Mr. Chairman, I yield 1 minute to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Chairman, in listening to the debate I must ask our Republican colleagues, who are you trying to convince? In listening to the defense of your Medicare cuts, methinks thou doth protest too much. But it is understandable, when it must be a bitter pill to swallow to cut senior citizens' benefits, increase their premiums to give a tax break to the wealthiest Americans. Indeed, as the Speaker calls the tax cut, the crown jewel of the contract.

America's senior citizens and disabled people depend on Medicare for their health and security. The choice before the House today is between the Republican plan, which would threaten their security, and the Democratic plan, which would protect health and security for America's seniors.

In summary, the Republican bill cuts $180 billion more than what is needed to make the trust fund solvent, inflicts excessive new premiums on beneficiaries, forces low-income seniors into managed care, repeals important Federal nursing home standards, decimates the safety net in teaching hospitals, and weaken protections.

Mr. Chairman, I urge my colleagues to support the Democratic alternative

Mr. DINGELL. Mr. Chairman, I yield myself three-quarters of a minute.

Mr. Chairman, I just received a copy of Congress Daily, and I want to call it to the particular attention of my dear friend, the gentleman from Virginia [Mr. BLILEY]. Under the subject ''Health'', it reads ''Bliley Hints At Compromise On $270 Billion Medicare Savings.''

''Even as President Clinton suggested he might be willing to meet Republican demands that the budget be balanced over 7 years rather than 10, a key House Republican today hinted the GOP might be willing to compromise on the previously inflexible $270 billion savings target for Medicare.''

It looks like my Republican colleagues are being asked to walk the plank. I think that is a fine idea. But my friends over there should be told what they are facing and that maybe a compromise is in the offing.

Mr. BLILEY. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I thank the gentleman from Michigan for his remarks, and I meant it sincerely. If the President comes forward with a plan that saves Medicare until 2010, I am willing to look at it. I am certainly willing to sit down and negotiate with him. There is nothing wrong with that. I just wish he would stop standing on the curb and throwing bricks and come to the table and negotiate. That is all I ask for.

Mr. Chairman, with that, I yield the balance of my time to the gentleman from Pennsylvania [Mr. GREENWOOD].

Mr. GREENWOOD. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, as has been so often the case in this long day's debate, Republicans have to come to the podium time and time again to correct some of the misapprehensions left by the other party.

My good friend, the gentleman from California talked about what a terrible thing it was that even though we keep the part B premium at 31.5 percent, it goes up a little bit in dollars. It goes up a little bit in dollars. Well, I think the gentleman needs to be reminded of something.

During the 30 years that the Democratic Party presided over Medicare, the part B premium increased 1,500 percent. It started out at $3. As the Democratic Party allowed the cost of this program to inflate and to inflate out of control, it has been they who have caused the part B premium to increase.

Another statement that I think needs to be made for the record: Repeatedly today the Democratic Party has tried to have it both ways. We are not paying doctors enough, they say. We are not paying doctors high enough fees, we will drive them out of fee-for-service and into managed care, and then 2 seconds later they turn around and say, we have made some sort of a deal with the doctors to pay them too much.

The fact of the matter is that the substitute before us treats physician fees almost precisely the way our bill

does. Physicians will make lower fees under the Republican bill than they would have otherwise, and that is consistent with what the Democrats have been trying to do.

Another inconsistency on fraud and abuse. Our plan makes false statements in health care a felony. The Democratic substitute leaves it as a misdemeanor, just like a speeding ticket. After listening to the Democratic debate today, I understand why they do not want to increase this penalty.

Mr. Chairman, this is a short-term game for the minority party, because the fact of the matter is that within a few short months the Republican leadership in the Congress and the President of the United States will resolve this issue through negotiations, and I guarantee you that the negotiated product will look very much like the bill that we have presented to the House today.

When that bill is signed, it will go into effect, and very early next year the senior citizens of America will live under this proposal, this reform that we have brought to the floor, and they will love it and they will thank us for it, and I think they will reelect us for it as well.

Mr. Chairman, I yield 30 seconds to the gentleman from Wisconsin [Mr. KLECZKA].

Mr. KLECZKA. Mr. Chairman, I have just heard through the grapevine here that there is a meeting going on with NEWT GINGRICH and Governor Wittman from New Jersey and a side deal is being cut for the New Jersey Delegation. However, prior to that old rumor, the old rumor was that the Republicans from New Jersey were voting against the plan, so we will see whether or not this compromise works.

Mr. Chairman, if in fact my Republican friends think it is a cut, why are the New Jersey Republicans voting against it because their hospitals, they contend, are cut too much? Something is inconsistent here. Maybe they should take the floor and explain their stand.

□ 1630

Mr. DINGELL. Mr. Chairman, I yield 1 minute to the distinguished gentlewoman from Michigan [Ms. RIVERS].

Ms. RIVERS. Mr. Chairman, I am a mom. I have got two kids, and I understand how handling money goes on. My older daughter says to me, ''Can I borrow a dollar?'' I say, ''You can borrow a dollar, but you can't spend it on candy.'' She says, ''I won't.'' Two hours later I come back, and there are candy wrappers everywhere. I say, ''I told you not to spend it on candy.'' She said, ''I didn't. I used another dollar I had.'' I said, ''Well, that was your lunch money.'' She said, ''I know, I used your dollar for lunch money.''

Well, everybody knows what happened; everybody knows what you are trying to do; and, seniors of America, the majority is trying to spend your money on candy. Do not let them.

The CHAIRMAN. The Chair would like to inquire from the gentleman from Florida and the gentleman from Michigan who seeks to use your last time?

Mr. GIBBONS. Mr. Chairman, I am down to my last speaker, the gentleman from Michigan [Mr. BONIOR]. I am going to yield him all my time.

Mr. DINGELL. Mr. Chairman, we have one last speaker that I share with the distinguished gentleman from Florida and that would be to close.

The CHAIRMAN. That would be the appropriate time to do that and that would give him 3½ minutes to close. The gentleman from Texas has 4 minutes remaining.

Mr. DINGELL. Mr. Chairman, I believe that since we are offering the amendment which is set forth in the rule, that the right to close is on this side. That would leave my colleagues on the other side to deal with that.

The CHAIRMAN. The gentleman from Texas has the right to close as the floor manager of the base bill.

Mr. DINGELL. Am I correct, Mr. Chairman, that we get to close on this side?

The CHAIRMAN. You can close on your side right now, and it will be followed by the gentleman from Texas.

PARLIAMENTARY INQUIRY

Mr. DINGELL. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. DINGELL. Is it not in the rules that where the offeror of the amendment is designated in the rule that it is the right of that individual to close?

The CHAIRMAN. The Chair is informed by the Parliamentarian that it is the manager of the bill who has the right to close.

Mr. DINGELL. I am sure that is true in the case of the debate on the bill. I note that this is not debate on the bill. This is the debate on the amendment.

I would note as a further parliamentary inquiry that the gentleman from Florida [Mr. GIBBONS] and I are essentially the managers of the bill as the managers of the amendment.

The CHAIRMAN. The Chair is informed that when the committee chairman is defending the committee position, the committee chairman has the right to close on an amendment.

Mr. DINGELL. Mr. Chairman, I think this is a novel ruling, but I will not challenge it.

Mr. Chairman, I make a point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No 728]

ANSWERED ''PRESENT''—419

Abercrombie
Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooley
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Fields (TX)
Filner
Flake
Flanagan
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E.B.
Johnson, Sam
Johnston
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Meyers
Mfume
Mica
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri

Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Roybal-Allard
Royce
Rush
Sabo
Salmon
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schroeder
Schumer
Scott
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Stockman
Stokes
Studds
Stump
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Torricelli
Towns
Traficant
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Waters
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (FL)
Zeliff
Zimmer

NOT VOTING—13

Berman
Chapman
Fields (LA)
Frank (MA)
Frost
Gekas
Hoyer
McCrery
Stupak
Tejeda
Tucker
Williams
Young (AK)

□ 1653

The CHAIRMAN. With 419 Members having answered to their names, a quorum is present, and the committee will resume its business.

PARLIAMENTARY INQUIRY

Mr. DINGELL. Mr. Chairman, I have a further parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. DINGELL. Mr. Chairman, as I recall the ruling of the Chair, it was that if the committee has a position on the amendment, it is the right of the committee to conclude the debate on that point. Is that correct?

The CHAIRMAN. The ruling was that the manager of the bill has the closing, and that is how the Chair is instructed by the Parliamentarian.

Mr. DINGELL. Mr. Chairman, is it possible for the Chair to inform us what is the committee position? I would note that the committee has taken no action on this particular proposal.

If I read the rule correctly, the amendment is offered by authority of the Committee on Rules, which has empowered the gentleman from Florida [Mr. GIBBONS] and I to offer this particular amendment. The amendment was never considered in the Committee on Commerce or in the Committee on Ways and Means. That being so, Mr. Chairman, if the Chair could help us greatly by informing us what is the position of the committee so we can understand if it qualifies under the Chair's prior ruling?

The CHAIRMAN. The gentleman from Texas [Mr. ARCHER] is still the manager of the bill under the terms of the rule.

Mr. DINGELL. Mr. Chairman, further parliamentary inquiry. I note H.R. 2485, in its current form, is not reported from either the Committee on Commerce or the Committee on Ways and Means, and the amendment which is offered by the gentleman from Florida [Mr. GIBBONS], and it is offered by authority of the Committee on Rules. We are, therefore, the managers of that particular amendment and not my good friends on the Republican side of the aisle.

The CHAIRMAN. The base bill is still the bill that came through the two committees and was joined in the Committee on Rules, the Chair is informed by the Parliamentarian. The gentleman from Texas [Mr. ARCHER] is still the manager of the base text.

Mr. DINGELL. Mr. Chairman, I yield the balance of my time to the gentleman from Michigan [Mr. BONIOR], the distinguished minority whip.

Mr. GIBBONS. Mr. Chairman, I yield the balance of my time to the gentleman from Michigan [Mr. BONIOR].

The CHAIRMAN. The gentleman from Michigan [Mr. BONIOR] will be recognized for 3½ minutes.

Mr. BONIOR. Mr. Chairman, indeed this is a historic debate, a historic vote.

Supporters of this plan that we will be voting on on final passage say that this will be a courageous vote, that somehow they are doing something on this floor that they will be proud of. But there is nothing courageous about cutting Medicare to pay for tax breaks for the wealthy, and there is no pride in asking our senior citizens to pay more and get less so the wealthiest Americans can have it all.

But there is one thing supporters of this bill are right about. This is a historic vote. With this vote, we turn back 30 years of progress, 30 years of trust, 30 years of hope that our parents and grandparents will always have the health care that they need.

Mr. Chairman, the seniors who stand with us against this plan do not have much money. They do not have expensive homes or fancy cars. But when Medicare premiums go up, these are the people who are going to have to choose between buying food and buying medicine. They do not want to be a burden on their kids, and they do not want a handout.

If these cuts go through, you are going to take away the one thing, the one thing that they thought they would never lose. You are going to take away their dignity, and that is unforgivable.

Now, today, the same people who kept their plan hidden for 9 months, who refused to allow more than 1 day of hearings, who actually had seniors arrested when they tried to speak out, are accusing us of trying to scare senior citizens. That is an insult to the seniors of America. The same Republicans who cut the backroom deals with the AMA, who promoted savings accounts that would benefit only the wealthy insurance companies, now want us to trust them to save Medicare.

It seems like my colleagues on the Republican side of the aisle hope that we forget history. For 30 years, the Republican Party has not lifted a finger to save Medicare, and for 30 years they have waited for this moment to dismantle the system, and we are not going to let them turn back the clock now.

The Gibbons-Dingell-McDermott substitute proves you do not need $270 billion to shore up the Medicare system until the year 2,000, and it proves that you can do it without increasing premiums, without forcing seniors into HMO's, without limiting the choice of doctors, and without the massive tax breaks for the wealthy.

We may be nearing the end of this debate on the floor today, and we just had a little skirmish here about who is going to close, but the debate in this country is just beginning. It is not closing, and it will continue around the kitchen tables of every home in America where sons and daughters will scrimp and save to care for their parents, and there will come a day when they face the tough choices between educating their kids and paying their parents' medical bills, and they are going to ask, ''Why, did you vote, why did you vote for tax breaks for people who did not even need them, instead of helping us?''

I urge my colleagues, Mr. Chairman, say ''no'' to these tax breaks. Say ''yes'' to this substitute and say ''yes'' to Medicare.

□ 1700

Mr. ARCHER. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN. The gentleman from Texas is recognized for 4 minutes.

Mr. ARCHER. Mr. Chairman, for a moment I must once again expose what many Democrats have repeated over and over today, that medical care savings will be used for tax cuts. They know it is not true. As the Washington Post said, it is medagoguery, political medagoguery.

They know that savings in the Medicare Trust Fund, under law, cannot be spent for anything other than health care benefits for our seniors. They know that. They know that in this bill itself there is lockbox language that prevents the use of these funds for anything other than paying medical bills. And, yes, finally, they know that in the budget reconciliation language, which will be before us next week, that Medicare has been taken completely out of pay-go under all of the budget considerations.

This is truly nothing but an effort to gain political advantage. They keep saying it because they hope that they will divert Americans from the real

Medicare problems. Yes, the political response, I say to my colleagues, would be to sidestep this issue. We have seen that happen over and over again in previous Congresses. But our new majority will not be typical Washington politicians. Throughout the debate, many Democrats spoke only of the past. We will make the tough decisions and speak to the future.

Our plan is a serious solution to a very real Medicare crisis. Their plan is politics of the past, temporary fixes and Band-aids. Our plan is a long-term solution, a vision, hopes and dreams for all Americans. Their plan bankrupts Medicare well before the baby boomers retire. Our plan saves Medicare through the eve of baby-boomer retirement.

The latest actuary estimate that has just been given to us, delayed because of the unavailability of the specific language of the substitute, is that their plan saves Medicare through the year 2005, and our plan saves Medicare through the year 2011. Six years longer.

When this bill passes in a few minutes, Republicans will differ from politicians who came before us, because we will have kept our word.

Mr. Chairman, I am proud of this bill. It has been called the Gingrich bill, but it is the product of the effort of many of us in this body. And, yes, he deserves credit for it.

We said that we would save Medicare. Today, we will. We said we would preserve Medicare. Today, we will. We said we would protect Medicare. Today, we will.

America is truly in a new world of responsibility on Capitol Hill; responsibility to seniors who have worked hard all their lives and deserve to know that their health care benefits will be there for them; responsibility to middle age Americans who today are working with the expectation that the benefits will be for them; and, yes, to our children and to their children, to show them that we will make the tough decisions in concern for them, and not leave it to them to simply have to pay higher taxes.

Mr. Chairman, I urge a ''no'' vote on the substitute and an ''aye'' vote on the bill.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from Florida [Mr. GIBBONS].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. GIBBONS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 149, noes 283, not voting 1, as follows:

[Roll No. 729]

AYES—149

Abercrombie
Ackerman
Andrews
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bishop
Bonior
Borski
Brown (CA)
Brown (FL)
Cardin
Clay
Clayton
Clement
Clyburn
Collins (IL)
Collins (MI)
Conyers
Costello
Coyne
Danner
de la Garza
DeLauro
Dellums
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hefner
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kaptur
Kennedy (MA)
Kennelly
Kleczka
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Moakley
Montgomery
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Pomeroy
Poshard
Rangel
Reed
Richardson
Rivers
Rose
Roybal-Allard
Sabo
Sawyer
Schroeder
Schumer
Scott
Skaggs
Spratt
Stark
Stokes
Studds
Tejeda
Thornton
Torricelli
Towns
Traficant
Velazquez
Vento
Ward
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wynn
Yates

NOES—283

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Boucher
Brewster
Browder
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Coleman
Collins (GA)
Combest
Condit
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeFazio
DeLay
Deutsch
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Filner
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gephardt
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hilliard
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kanjorski
Kasich
Kelly
Kennedy (RI)
Kildee
Kim
King
Kingston
Klink
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
Mascara
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Minge
Mink
Molinari
Mollohan
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Orton
Oxley
Packard
Parker
Pastor
Paxon
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Rush
Salmon
Sanders
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thurman
Tiahrt
Torkildsen
Torres
Upton
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Waters
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Wyden
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—1

Tucker

□ 1725

Mrs. SLAUGHTER and Messrs. SERRANO, WYDEN, MINGE, and VOLKMER changed their vote from ''aye'' to ''no.''

Mr. RUSH changed his vote from ''present'' to ''no.''

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. LAHOOD) having assumed the chair, Mr. LINDER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2425) to amend title XVIII of the Social Security Act to preserve and reform the Medicare Program, pursuant to House Resolution 238, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. GEPHARDT

Mr. GEPHARDT. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. GEPHARDT. I am opposed to the bill in its present form, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. GEPHARDT moves to recommit the bill H.R. 2425 to the Committees on Ways and Means and Commerce with instructions to report the same back to the House forthwith with the following amendment:

Strike section 15611 (and redesignate the succeeding provisions and conform the table of contents accordingly).

The SPEAKER pro tempore. The gentleman from Missouri [Mr. GEPHARDT] is recognized for 5 minutes.

Mr. GEPHARDT. Mr. Speaker, I would like to say to Members this motion is very simple. It knocks out the part B premium increases that our senior citizens will face if this measure passes. I think it is the least we can do before this measure passes.

Mr. Speaker, I yield to the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Speaker, we will, with this one amendment, the only amendment we are allowed to make, and it automatically goes into the bill, ensure that Medicare part B premiums will only go up what current law requires. Otherwise, of the 37 million seniors on Medicare, 11 million of them are widows living on under $8,000 a year. By the year 2000, by the year 2002, this is a $300 a year hidden tax on them in order to put together a pile of money which will give someone making $350,000 a year 60 of these widows' money each year for a $19,000 tax break.

Mr. Speaker, it is the only vote we can ask our colleagues to make, the only amendment we can make here today. We ask Republicans to give us a yes vote on this one page out of 900 pages that ensures that that premium increase is not unfairly used by 60 each of these elderly widows to provide for a tax cut of $19,000 a year in the year 2002 for those that do not need it, making over $350,000 in our society.

Mr. Speaker, they built our country. They sacrificed for our country. They would not mind sacrificing again, but to ask for this sacrifice from the most vulnerable elderly widow population, in my opinion, is beneath what this House of Representatives should do here today. We ask for only one yes vote in the course of this entire debate, and it is on this very simple amendment. On this issue there is one thing that separates the senior citizens from the Republican majority, on this issue the senior citizens are right and they are wrong.

□ 1730

Mr. GEPHARDT. Mr. Speaker, I yield such time as he may consume to the gentleman from Georgia [Mr. LEWIS].

Mr. LEWIS of Georgia. Mr. Speaker, I rise to urge my colleagues to support this motion to recommit.

Mr. Speaker, I said to my Republican colleagues, they should not raise premiums for our seniors, not when they can find money to give tax breaks to the rich. That is not right. That is not fair. That is not just.

How long? How long until they realize what they are doing to our seniors? Not long. Not long until our seniors know what they have done.

Mr. Speaker, on this day, let the word go forth from this place into every State, every city, every town, every village, every hamlet, that it was the Republicans who voted to cut Medicare in order to give a huge tax break to the rich.

The Republican plan is too radical, too extreme, it is too much. It is more than wrong. It is a shame and a disgrace. Do the right thing. Support the motion to recommit.

Mr. GEPHARDT. Mr. Speaker, the action that is being proposed today, and the action that is being proposed next week in Medicaid, together are really the beginning steps of dismantling these programs as we have known them.

Mr. Speaker, when these programs were born, they were born on a simple premise that there would be a national standard of benefits that everyone in these programs would enjoy. With these changes that are being called for in Medicare today, and Medicaid next week, that premise is being taken away.

In Medicare, the so-called new ideas on the other side mean that people can choose medical savings accounts, and if they decide that they are going to be well for the rest of their life, they can have money put into that account and have a high-deductible account.

Mr. Speaker, there are many other choices. The problem is the choices are for a different standard of benefits.

Then, Mr. Speaker, in Medicaid we are going to have a competition now in the State legislatures. The elderly are going to be there pleading for their cause. The children of our country are going to be there pleading for their cause, and the disabled Americans who now claim 15 percent of Medicaid will be there pleading for their cause.

Mr. Speaker, is this the kind of competition that we want to have go on around this country? These programs have worked because we have gotten everybody on a level playing field and the competition is not between the companies that can find the well people as opposed to the sick people. The competition should be between those competitors who can most efficiently organize the resources of our medical system.

In the name of human decency, vote for this motion to recommit and vote against this bill which is wrong for America and wrong for the American people.

Mr. GINGRICH. Mr. Speaker, I rise in opposition.

Mr. Speaker, I must say with some sadness that we are ending this debate in the same spirit of misinformation that has characterized our opponents consistently. The fact is there is a provision in the medigrant program which provides that senior citizens at the poverty level, and below, have all of their Part B premium paid for by the taxpayers, 100 percent.

So, the poorest of the widows that the gentleman from Massachusetts [Mr. MARKEY] spoke of will pay zero under our plan. Not one penny. My guess is the gentleman might even have known that, had he done any research, had he cared about the facts. This characterizes the whole plan.

Mr. Speaker, another colleague spoke about tax cuts. There are no tax cuts today. There is no budget today. This is about Medicare.

Now, we believe that saving Medicare matters; matters for the most human of reasons. Matters because of my mother-in-law, Virginia Ginther, who is 80 and on Medicare. It matters because of my mom and dad, Bob and Kit Gingrich, who are on Medicare.

But Medicare is not just about the elderly. Medicare matters to the children of those who have retired. To my wife Marianne; to her brother, John; to my sister, Rob and her husband Dave; to my sister, Susan and her husband, Jim; to my brother, Randy, an his wife, Jill; to my sister, Kathy, and her brother, Jesse; to my sister-in-law, Marilyn, and her brother, Ray.

They love their parents and they also know that someday they are going to retire. And they wish somebody had the guts in this city to start protecting the system, so it will not collapse when the baby boomers retire.

But it is not even just about the baby boomers. Medicare is also about our children's future. My daughter, Kathy, and her husband, Paul; my daughter, Jackie, and her husband, Mark; my sister Candace. My younger relatives, a number of them were here the day I became sworn in as Speaker. Young kids, Lauren and Kevin; Emily and Susan; my nephews, Mark and John, and my niece, Holly.

Do my colleagues know why it is important for them? Because if we continued to go down the irresponsible, unorganized, inefficient, bureaucratic, waste and fraud-filled system, the Health Care Financing Administration centralized bureaucracy, they would be crushed with taxes. They would be crushed with debt. They would pay higher interest on their student loans; higher interest on their house; higher interest on their car; they would be crushed in trying to open a business. And in the end, when their parents retired, the entire system would collapse and they would have to live through the mess.

Now, I am not going to abandon those children because of a bunch of 30-second commercials that are dishonest demagoguery.

Mr. Speaker, let me just say, and maybe this makes us different from the politicians who used to run this place, we want to solve problems for all Americans. We want no racial division. We want no class warfare. We want no conflicts between generations.

The only solutions worthy of America are solutions that try to help all Americans. That is why the Medicare Preservation Act takes the long view; not just a Band-Aid to get through one more election, and then have another Band-Aid for one more election and hope that for your career, we get by so the collapse will occur after you retire. That is not what we are for.

We want a solution to preserve and protect Medicare for the current seniors. We want a solution to set the stage for the baby boomers to retire with safety and security. We want a solution to protect younger Americans from higher taxes, higher interest rates, crushing debt, and a bankrupt Government.

Let me mention just one other thing about how we got here and what we did. The Medicare Preservation Act creates MedicarePlus. It was a team effort. We did things differently. We asked the chairman of the Committee on Ways and Means, the gentleman from Texas [Mr. ARCHER], and the chairman of the Committee on Commerce, the gentleman from Virginia [Mr. BLILEY], to form a joint task force, and also the subcommittee chairmen, the gentleman from California [Mr. THOMAS] and the gentleman from Florida [Mr. BILIRAKIS] to join that task force.

We had able help from a number of Members, and I particularly single out the gentleman from Illinois [Mr. HASTERT] who was originally chosen by Bob Michel and lead the health care project in 1993 and 1994, and the gentlewoman from Connecticut [Mrs. JOHNSON] who has expressed extraordinary skill in this area.

We met as a team. Not by committee jurisdiction, not by territorial boundaries, not driven by ego, but as a group working together.

Mr. Speaker, I have to say we could never have done this without the staffs. In particular, I want to mention Ed Kutler, Howard Cohen, Mary McGrane, Chip Kahn, and also the legislative counsels, Noah Wofsy and Ed Grossman, because the truth is we are a team. We could not get the job done without the expert staff, and at the same time we represent the legal authority of our people.

Mr. Speaker, we did one other thing that seems to truly confuse the press and shock our friends on the left. We did not ask one particular genius to hide in a room and design an entire thing. We did not have any Ira Magaziners on our side.

We actually practiced listen, learn, help, and lead. We met with everybody. We met with the hospitals. We met with senior citizens. We held over a thousand—I know it is hard for those who have always believed in a closed system to understand this—we held over a thousand town hall meetings.

We reached out to people who knew how to deliver health care. We listened to our Members. Frankly, we would have listened and worked with any Member, any Member willing to agree to the objective of saving this system for a generation. But we would not work with any Member whose only goal was to break up the structure and design an amendment which was pathetically incapable of saving this system.

That is why we worked the way we worked. And I will say to my friends over here now, when we start the next project, for those Members who truly want to help us get there, our door is open. For those Members who just want to oppose and distort, our door is closed.

Mr. Speaker, I will close with this line, because it goes back to the allegation of the gentleman from Massachusetts. The poverty line for single persons is $7,551. That means that virtually 90 percent of the widows that gentleman was referring to will, in fact, have 100 percent of their part B eligible for payment under medigrant, if they apply, and that is literally the way the system works.

That is why not a single one of those poor widows has to pay a penny more. I only wish the gentleman from Massachusetts had one his homework before making such an absurd allegation.

Mr. Speaker, I urge everyone to vote for the Medicare Preservation Act.

The SPEAKER pro tempore (Mr. LAHOOD). Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit offered by the gentleman from Missouri [Mr. GEPHARDT].

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. GEPHARDT. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 183, noes 249, not voting 1, as follows:

[Roll No. 730]

AYES—183

Abercrombie
Ackerman
Andrews
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mink
Moakley
Mollohan
Montgomery
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stokes
Studds
Stupak
Tanner
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Velazquez
Vento
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOES—249

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh

McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Minge
Molinari
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Orton
Oxley
Packard
Parker
Paxon
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Visclosky
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—1

Tucker

□ 1800

Mr. DOOLEY changed his vote from ''no'' to ''aye.''

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

(By unanimous consent, Mr. GEPHARDT was allowed to speak out of order.)

WELCOME BACK TO THE GENTLEMAN FROM TEXAS, FRANK TEJEDA

Mr. GEPHARDT. Mr. Speaker, I yield to the gentleman from Texas [Mr. DELAY].

Mr. DELAY. Mr. Speaker. I thank the distinguished minority leader for yielding to me. I just want the House to know that one of our colleagues has returned today because he felt this was a very important vote. He has been through a very serious operation and surgery, and he is just one of the neatest guys, and he understands how important this is. The gentleman from Texas [Mr. TEJEDA] has returned and is here today.

PARLIAMENTARY INQUIRY

Mr. MARKEY. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman will state his parliamentary inquiry.

Mr. MARKEY. Mr. Speaker, I am making an inquiry as to when the proper point would be to make a point of personal privilege on the privileges of the House to clarify a number of erroneous statements made about my statements in the well of the House before the recommittal vote.

The SPEAKER pro tempore. Personal privilege for that reason is not in order at this point.

Mr. MARKEY. I would ask the Speaker as to what the proper time would be.

The SPEAKER pro tempore. The gentleman will consult with the Chair at a later point.

The question is on the passage of the bill. Under the rule, the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 231, nays 201, not voting 1, as follows:

[Roll No. 731]

YEAS—231

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff

NAYS—201

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hayes
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lightfoot
Lincoln
Lipinski
LoBiondo
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Saxton
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Smith (NJ)
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates
Zimmer

NOT VOTING—1

Tucker

□ 1822

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2492, LEGISLATIVE BRANCH APPROPRIATIONS ACT, 1996

Mrs. WALDHOLTZ, from the Committee on Rules, submitted a privileged report (Rept. No. 104–283) on the resolution (H. Res. 239) providing for the consideration of the bill (H.R. 2492), making appropriations for the legislative branch for the fiscal year ending September 30, 1996, and for other purposes, which was referred to the House Calendar and ordered to be printed.

PERMISSION TO HAVE UNTIL FRIDAY, OCTOBER 20, 1995, TO FILE CONFERENCE REPORT ON H.R. 2002, DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1996

Mr. LIVINGSTON. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tomorrow, Friday, October 20, 1995, to file a conference report on the bill, H.R. 2002, making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1996, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

DEFERRALS OF BUDGETARY RESOURCES AFFECTING INTERNATIONAL SECURITY ASSISTANCE PROGRAM, AND THE DEPARTMENTS OF HEALTH AND HUMAN SERVICES AND STATE—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 104–125)

The SPEAKER pro tempore (Mr. CHAMBLISS) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Appropriations and ordered to be printed:

*To the Congress of the United States:*

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report three deferrals of budgetary resources, totaling $122.8 million.

These deferrals affect the International Security Assistance program, and the Departments of Health and Human Services and State.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *October 19, 1995.*

LEGISLATIVE PROGRAM

(Mr. BONIOR asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BONIOR. Mr. Speaker, I would inquire from the distinguished majority leader the schedule for next week.

Mr. ARMEY. Mr. Speaker, will the gentleman yield?

Mr. BONIOR. I yield to the gentleman from Texas.

Mr. ARMEY. Mr. Speaker, this is the last recorded vote of this week. We will not be in session tomorrow, except for pro forma.

On Tuesday, October 24, the House will meet at 12:30 p.m. for morning hour, and at 2 p.m. for business.

We plan to take up three bills under Corrections Day procedures: H.R. 782, the Federal Employee Representative Improvement Act of 1995; H.R. 117, the Senior Citizens Housing Safety Act of 1995, and H.R. 1114, the Paper Balers Act.

Once the corrections bills have been considered, we will turn to H.R. 716, a bill to amend the Fisherman's Protective Act, which will be considered under suspension of the rules. Members should be advised, Mr. Speaker, that any recorded votes ordered will be postponed until 5 p.m. on Tuesday next.

On Wednesday and Thursday, the House will meet at 10 a.m. to consider H.R. 2492, the Legislative Branch Appropriation Act for fiscal year 1996, which is subject to a rule.

We will then consider H.R. 2491, the fiscal year 1996 budget reconciliation, which is also subject to a rule. Members are also reminded that conference reports may be brought to the floor at any time.

Mr. Speaker, there will be no legislative business on Friday of next week.

I thank the gentleman for yielding.

Mr. BONIOR. Mr. Speaker, I thank my colleague for giving us the information.

Mr. Speaker, on the reconciliation bill for next week, to our knowledge it has not even been filed yet. We are wondering over here when we can expect it next week.

Mr. ARMEY. If the gentleman will continue to yield, Mr. Speaker, the gentleman from Ohio [Mr. KASICH], the chairman of the Committee on the Budget, will file that bill tomorrow during the pro forma session.

Mr. BONIOR. I assume the gentleman expects it to come up sometime in the latter part of next week, would that be relatively accurate?

Mr. ARMEY. We expect to take the rule up on the floor on Wednesday, and take up the bill on Thursday.

Mr. BONIOR. Mr. Speaker, since it is the only major bill that we will be taking up next week, I hope we can expect to have sufficient debate time on that. I would request that from my friend, the gentleman from Texas. It is, as he knows, one of the major bills of the legislative sessions, and it is far-reaching. We hope that we will be afforded a little bit more time than we had on this bill today. We think it was woefully inadequate to have debated this Medicare bill for just 3 hours. We hope the gentleman from Texas will find sufficient time for us to have a full and thorough debate on this.

The other question I had, just one other one for my friend, the gentleman from Texas, is an earlier version of the floor schedule indicated that we would be considering the Glass-Steagall banking bill. I notice it has disappeared. I am just wondering when we can expect to see that particular piece of legislation.

Mr. ARMEY. I thank the gentleman. The gentleman is absolutely correct, the budget reconciliation bill, which we will consider on Thursday, is an important piece of legislation. We wanted to be sure that in fact we had an opportunity to talk about it for a great deal of time, and in consideration of that interest, we did postpone Glass-Steagall until a date to be determined later.

Mr. BONIOR. Mr. Speaker, I thank my colleague for his remarks, and I wish him a very pleasant weekend in his district. I think we are all looking forward to going back home and explaining our actions today on Medicare. I thank the gentleman.

Mr. ARMEY. I thank the gentleman. I know I am excited about going home.

□ 1830

THE CLINTONS' PARTNERSHIP

(Mr. DORNAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN. Mr. Speaker, I have a 60 minute scheduled special order for later, but I am not sure that I will be able to make an airplane and do that, so I will put it off until next week.

Mr. Speaker, an amazing victory on the saving of Medicare for us senior citizens; I am 62.

I wanted to point out to my colleagues one of these occasional columns that comes along that has staying power. This is by one of the better writers at The New York Times, Maureen Dowd. She has the excellent columns from Clinton's photo ops on Normandy Beach.

She writes, and I think this one should be read by every Member of this body in the other chamber,

> Is Hillary Rodham Clinton playing the gender card from the bottom of the deck?

That is the way it starts, and she closes,

> Mrs. Clinton seems to feel that if she occasionally plays Pat Nixon, giving interviews to food writers, inviting gossip columnists to lunch, watching children dance, she might allay angst about her power. She thinks Americans fear the partnership with her husband. What they really fear is a bargain that ignores accountability. It is not about being a woman. It is about not being elected.

The body of it is ever better.

I will do that aforementioned 60 minutes special order next week about the breakdown of our judicial system and the fact that justice was not done in Los Angeles, and I will send $1,000 to Mr. Ron Goldman who said today that he wished his son had been able to play golf this week as O.J. Simpson has been playing golf in our face.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. CHAMBLISS). Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

## PROTECTING OUR IMPOVERISHED SENIORS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts [Mr. MARKEY] is recognized for 5 minutes.

Mr. MARKEY. Mr. Speaker, I thank you for recognizing me.

In my 19 years in Congress, Mr. Speaker, I have never taken a special order before. This is the first time I have ever done so. The reason that I do it is that unfortunately, the Speaker of the House, the gentleman from Georgia [Mr. GINGRICH], in making his final remarks for the Republicans to this great House on the historic Medicare bill, invoked my name several times and attributed to me a motive to deliberately mislead this House with regard to the fact of whether or not the 11 million widows in the United States who live on an income of under $8,000 a year have protection, to ensure that they will not have to shoulder the burden of the dramatic increase in their part B premiums that has been included in the Republican Medicare reform.

The Speaker stated that, in fact, I should have done my homework in order to know that they are covered, and that in fact it was misleading to say that they were not covered, and that all who are below the poverty level have their premiums covered under the law of the United States.

Well, technically speaking, the Speaker is correct. They are covered under existing law, and the Speaker will continue to be correct for at least 5 more days, or until next Tuesday when the Republican Medicaid bill comes on to the floor which strips out the protection and the extra subsidy which those below the poverty level receive for their Medicare part B premium. At that point at which the Medicaid bill of the Republicans hits the floor, there will be no protections for those widows across this country numbering 11 million who are on Medicare and who will see their premiums increase over the next 7 years by a traumatic amount in order to put aside a huge fund for the tax breaks for the wealthy.

Mr. HOYER. Mr. Chairman, will the gentleman yield?

Mr. MARKEY. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Speaker, I have been listening to the gentleman. Is the gentleman telling me when the Speaker got up on the floor and said that in their bill there was a guarantee that anybody under $7,900 would have there Medicare premium part B paid, that he was not accurate?

Mr. MARKEY. Mr. Speaker, he was not accurate because the Republican Medicaid bill, which will be out here on the floor next week, will strip out that guarantee. In the Republican Medicaid bill, as you know, they block-grant the Medicaid program, cut the whole program by 20 percent, send it back to the States, and in fact repeal every requirement that we in this Congress have put on the books to protect those elderly seniors.

Mr. HOYER. Mr. Speaker, if the gentleman will yield further, does the gentleman then mean that the only way to have ensured that seniors under $7,900 would not have their premium increased was to vote for the motion to recommit?

Mr. MARKEY. Mr. Speaker, the gentleman is correct. The only way to guarantee that they will be protected.

Now, let me add as well that in our committee we had a vote on an amendment made by the gentleman from New Jersey [Mr. PALLONE] to protect them. On a party line vote all Republicans voted not to protect the seniors. On the Medicare bill we did the same thing with an amendment by the gentleman from Illinois [Mr. RUSH] to protect the senior, more impoverished elderly, those widows, so that they would not have to pay the premium.

So I assume, to be quite frank with the gentleman, the Speaker is a busy man and he does not have time to peruse each and every piece of legislation. That is the only conclusion that I can reach and be, I think, noncontentious in terms of what he might have intended.

Mr. Speaker, next week the Medicaid bill goes before the Committee on Rules, and we intend on making this amendment, one that we request the Committee on Rules to put in order on the floor next week as part of the Medicaid bill. If the Speaker wants to ensure that every senior impoverished widow in America is protected, we will have an opportunity in the committee on Rules to have that amendment put in order, and every Member out here on the floor, if the Republicans put that amendment in order, will have a chance to make true what it was the Speaker said on the floor today. Otherwise, there will be no protection.

Mr. HOYER. Mr. Speaker, I thank the gentleman for clarifying that issue.

Mr. MARKEY. I thank the gentleman from Maryland very much.

## SPEAKER WILL DO HONORABLE THING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. WAXMAN] is recognized for 5 minutes.

Mr. WAXMAN. Mr. Speaker, it is obvious that the Speaker of the House, Mr. GINGRICH, did not understand the bill that the Republicans reported out of the Committee on Commerce; but since he made the claim that the bill would protect those individuals, low-income individuals, to help them pay for their Medicare out-of-pocket costs, I would expect that he will support the amendment that was offered in our committee by the gentleman from New Jersey [Mr. PALLONE].

The Pallone amendment would have given an assurance, an absolute guarantee, that if you are below the poverty line, your out-of-pocket Medicare costs, the premium, the co-insurance costs, will be picked up. If we do not have that kind of protection, a lot of people will not be able to buy part B. They will not be covered under Medicare. Low-income elderly just will not be part of the Medicare program that assures their physicians' fees.

Now, let me go through what their bill does. In their Medigrant bill, they repeal Medicaid completely. Their bill does not ensure people below the poverty line will have their Medicare premium paid.

What they say to the States is, spend some portion of your block grant funds to pay Medicare premiums for poor people. But the amount they are supposed to spend for that purpose, and let us be clear. There is no way to enforce even that requirement, there is not enough to cover people up to the poverty level, let alone to the 120 percent of poverty we require the States to pay now.

With the cuts in the growth of the funds for the Medigrant program, with the growth in the eligibles for Medicare, which is a growing elderly population in this Nation, with the big increases in premiums absolutely guaranteed by the passage of this Medicare bill, which will require more premiums, maybe even doubling of the premiums to be paid by the elderly, we will never be able to see the States cover the people who are below the poverty line.

I would like to give some numbers. The Republican Medicaid block grant repeals the requirement that States pay cost-sharing for low-income Medicare beneficiaries. However, the Republican proposal requires that States set aside 85 percent of what the States would have spent on premiums, not all cost-sharing, from 1992 to 1994. The premium for 1992 was $31.80; in 1993, $34.60; 1994, $41.10. NEWT GINGRICH himself estimates that the premium will be $88 in the year 2002.

With that kind of an increase in the premium, with a growing increase in the number of the elderly, the States are setting aside only 85 percent of the amount for the 1991–1992 levels. They are not going to be able to pay for the out-of-pocket costs for the elderly.

Furthermore, once they repeal Medicaid, which is what they seek to do next week and replace it with a Medigrant, a block grant bill, the States will get money. They can use it as they see fit. There will be a set-aside of money for this purpose, but it will be grossly inadequate, and the States will have to use that money as they see fit.

They could say to people, ''We will cover you if you are in line, but when we run out of money you will not get covered.'' They could say, ''We will only cover 10 percent of the costs instead of 100 percent of those premium and out-of-pocket costs.'' They can refuse to pay people for their out-of-pocket costs entirely.

There is no guarantee, if you are an individual below the poverty line, disabled or under Medicare because of your age, that you will be protected. There is no guarantee to the individual, only some money to the States, to do the best job they can, and whatever they do will be acceptable.

Now, the Speaker did incorrectly state what was in his bill. I believe that he genuinely did not understand his legislation. When he reads it, when he finds out what they did in the Committee on Commerce, well, I would not want to be the chairman of that committee since the Speaker now has decisionmaking power over who is chairman of the committee or not.

But I suspect what he will do, which is the only honorable thing to do, is to support the Pallone amendment when it is offered to the legislation.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. RIGGS] is recognized for 5 minutes.

[Mr. RIGGS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

## A BAD MEDICARE BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. DINGELL] is recognized for 5 minutes.

Mr. DINGELL. Mr. Speaker, there are some facts that are very clear now. Let me go over the situation. Under current law, Medicaid beneficiaries are guaranteed coverage for premiums and co-pays and deductibles. The House Republican bill repeals that law.

The Democratic amendment in the House Committee on Commerce offered by my colleague, the gentleman from New Jersey [Mr. PALLONE], to restore this current guarantee was rejected by a vote of 24 to 18. Every member of the committee on the Republican side of the aisle voted against it.

Under the Republican block grant, Federal payments are cut by 20 percent over the next 7 years. No State is required to cover any elderly. There are no requirements to provide anything to the current Medicaid eligibles. Only 7 percent of State dollars have to be spent on low-income seniors.

□ 1845

This is simply not enough, and there is no guarantee.

Now, the House has already found, regrettably, that no one here really understands the entirety of the bill. The Speaker in a rather powerful statement has been proven to be entirely in error. How many other Members who have talked about the wonders of this legislation we passed today or the legislation that we are going to pass to amend Medicaid are going to be wrong?

The process under which this was conducted was intolerable. The bill was put in the committee, hearings were requested, none were given. The matter was considered without any hearings whatsoever, without testimony from any agency of the Federal Government, without hearing from any governor, from any citizen, or without hearing from any Federal agency as to how this would impact the people of the country.

There is no understanding of what is in the bill, including whether or not the fraud provisions are in fact adequate, which in fact, by the way, they are not.

The bill was passed out of committee without being read. On at least three separate occasions, different versions of the legislation were presented to the House or to the committee. Last night, the third or fourth version of the bill was presented to the House. It again was not read. The Committee on Rules had no opportunity really to understand what was presented to them.

Today, we saw a discussion of the legislation in which there appeared to be great confusion and in point of fact there was, because no Member had had opportunity to know or understand what is in this bill.

The process could have been abated by the ordinary way in which legislation is considered. Hearings could have been held. Proper markups could have been held. This matter was reported to the House by our committee with minimum consideration of the legislation, and similar activities took place in the Committee on Ways and Means.

My colleagues on the Republican side will tell us how hearings were held on Medicare. Hearings are routinely held on Medicare and on Medicaid hereabouts in this body, but it must be observed that not one hearing was held on this bill. The only hearing which was held on this subject in connection with this particular process was to hold a hearing in the Committee on Ways and Means on a press release, hardly a matter which merits congressional consideration.

The result is that the House has acted upon this legislation in great confusion. The Speaker has been led into the unfortunate position where I am sure unknowingly he misrepresented the facts as regards the content of the legislation on a point which is extremely important to the American people. That is, that 11 million widows will not have their Medicare payments paid on their behalf on Part B because of the way the law is going to work out when the consideration of this matter is at conclusion.

I say this is a sad and intolerable event. I say it is an event which has been created by a deliberate determination on the part of the Republican leadership of this body to present this matter to the House without giving adequate opportunity for this body to be properly informed through the orderly and regular process of this body which go back to the earliest days of the Republic. I think that this is a shameful way to proceed on legislation. It results in intolerable surprises to the Members of this body, results in lack of proper information on how the legislation has been constructed or what will be its impact.

I think we need only to look forward now to see what fresh new surprises are going to plague this body, are going to plague the senior citizens, are going to plague the administrators on a State and Federal level and are going to plague the people who would be beneficiaries under Medicare who today would enjoy benefits which are going to be taken away from them tomorrow. I think that the surprises are going to be substantial.

It is regrettable that we have done this this way. It is to be hoped that we will at least learn from it, will not repeat this kind of abuse. But a greater hope is that we might take the time to scrutinize the evil that we have done today and set about trying to correct it.

The SPEAKER pro tempore (Mr. CHAMBLISS). Under a previous order of the House, the gentleman from California [Mr. HORN] is recognized for 5 minutes.

[Mr. HORN addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

## A DISASTROUS MEDICARE BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. BROWN] is recognized for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, today in this House many of us opposed a very bad bill, the Medicare ''reform'' bill that cut Medicare $270 billion to give tax breaks to the wealthiest Americans. It weakened fraud provisions in a series of back-room deals with the AMA and with other organizations to roll back a lot of fraud provisions that would have allowed us to more aggressively go after those people that cheat the system.

The Inspector General's office has said that 10 percent of Medicare expenditures go to fraud, waste and abuse. We need to aggressively go after that. Instead, this House today turned its back on that. So, at the same time as this House made Medicare cuts, it weakened fraud provisions. It gave $245 billion in tax breaks to the wealthiest individuals in this country and the largest corporations in this country.

Perhaps equally disturbing as the bill itself, which I think is a disaster, was the process that led up to this vote today right up until we actually cast our votes.

Some weeks ago, the Speaker and the Republican leadership simply said there were going to be no hearings on this issue, no hearings in committee on Medicare, no hearings on this issue on Medicaid. We tried over and over asking for hearings, requesting of my committee chairman, the gentleman from Virginia [Mr. BLILEY], in the Committee on Commerce. The same went on in

the Committee on Ways and Means. They simply turned a deaf ear not just to us, maybe we do not matter much, but turned a deaf ear to the American people, the people that wanted to come in and talk about what this Medicare bill was really about.

So while there were back-room deals, the American Medical Association and other groups got into the back room with the Republican leadership, the elderly were not even allowed in the hearing rooms to testify on this bill.

One lady in the Committee on Commerce a couple of weeks ago came in, tried to testify, was gaveled down. Eventually, within a few minutes, 15 elderly people, some in wheelchairs, some with canes, all of them I believe over 70 years old, were arrested and hustled out of the committee room, taken down into the basement. Several of them were handcuffed. All of them were taken to the police station in paddy wagons and fingerprinted and mug-shotted. It was a pretty amazing spectacle.

Then today, almost as disturbing, the Speaker of the House stood on this floor and said something, and I am sure he did not knowingly do this, but said something that clearly was not true about a provision in the bill that the gentleman from Massachusetts [Mr. MARKEY] had talked about, a provision in the bill that has been removed from the Medicaid bill that allowed elderly widows, some 11 million in this country that literally had their Medicare premiums paid for because they were so poor that they could not pay for them, and particularly when they go from $46 to $90 or $100, whatever the Gingrich Medicare bill ends up raising them to, that money was taken away from them.

The Speaker may have been confused or it may have been bad staff work. It may have simply been all the late-night deals that were cut as the bill was changed as late as last night in the middle of the night, and he was simply confused.

I have only been here 3 years, but there is this new arrogance to this place that I have never seen and heard of before, but it is particularly disturbing when those kinds of things are said on the floor because of either confusion or bad staff work, but the process has been so closed that people have not had a chance to really learn about what is in this bill.

Mr. Speaker, I yield to my friend, the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. I appreciate the gentleman yielding.

Mr. Speaker, there was obviously confusion in the Speaker's mind, but there really should be no confusion about this issue. Because, as the gentleman knows, I offered this amendment in our Committee on Commerce to make sure that in Medicaid these qualified Medicare beneficiaries were going to have their part B premiums covered.

The gentleman from Illinois [Mr. RUSH] offered the same amendment on the Medicare bill in the Committee on Commerce, the bad bill that we considered today; and I went before the Committee on Rules yesterday and asked that the amendment be considered as part of the bill today, had a dialogue with the members of the Committee on Rules, including the gentleman from Georgia [Mr. LINDER] who was there, and explained that we wanted to make sure that there was a guarantee in the Medicare bill for these widows and these low-income senior citizens for which the Federal Government now pays their part B premium.

It is true, it may very well be that the Speaker misunderstood, but there is no excuse for it. Because in fact on three different occasions we have asked for this to be considered, on two occasions in this bill. The Committee on Rules denied the opportunity to have that amendment considered. The bill that we had today did not have the guarantee that those Part B premiums for those low-income seniors would be paid.

I think what the gentleman from Massachusetts [Mr. MARKEY] said is absolutely correct. We should go back to the Committee on Rules next week, ask that it be considered again in concert with the Medicaid bill. But I am really outraged over the fact that the suggestion was made today that somehow this guarantee was in the bill. It is not in the bill; it is not in the Medicaid bill; and we, all of us collectively, have tried very hard to make sure the guarantee was there and it is not there.

Mr. BROWN of Ohio. None of this would have happened, I think, if we had had hearings. There were dozens of hearings on Waco and Randy Weaver and Whitewater but no hearings on Medicare and Medicaid which affect everybody in this country.

I think the Speaker misspoke and was probably confused but sort of attacked our friend from Massachusetts by name. Surely if we had had hearings and not had these late-night deals and really, as a country, really discussed Medicare, Medicaid and what it means to senior citizens, you do not cut $270 billion to give tax breaks to the rich.

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The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Colorado [Mr. MCINNIS] is recognized for 5 minutes.

[Mr. MCINNIS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

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The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Connecticut [Ms. DELAURO] is recognized for 5 minutes.

[Ms. DELAURO addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.]

H.R. 2259

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oklahoma [Mr. WATTS] is recognized for 5 minutes.

Mr. WATTS of Oklahoma. Mr. Speaker, as the son of a policeman and a fervent supporter of strong anticrime measures, I believe that we must attack the root problems that cause crime in America and that we must punish equal crimes with equal justice regardless of a person's color or economic class.

Last night we considered a well-intentioned bill, H.R. 2259, that sought to address one part of the Nation's crime problem, but unfortunately, it missed the mark by a mile and sent the wrong message to the Nation's drug traffickers and drug abusers.

The U.S. Sentencing Commission recently recommended that sentences for possessing and trafficking in crack cocaine should be the same as for possessing and trafficking in powder cocaine.

The Commission is right to seek to equalize punishment. It is essentially unjust to have one standard of justice for the type of cocaine that is abused in the expensive homes of our finest suburbs and a different standard of justice for the type of cocaine that is abused in the abandoned crack houses of our worst ghettos.

The Commission should have sought equalization by raising the sentences for powder cocaine. My view is that higher sentences, at equal levels, are needed in these cases.

Unfortunately, procedural rules did not allow that vote, so I voted to recommit H.R. 2259 with that goal in mind. When that failed, I had no choice but to vote against final passage.

We must punish the drug possessor, and work to rehabilitate him. But we must imprison the drug distributor and throw away the key. He haunts our Nation's schoolyards and makes his fortune off his poverty stricken and addicted buyer. He condemns his victims to a life of poverty and an early death. And his victims are disproportionately inner-city kids—young black Americans.

According to the Department of Health and Human Services [HHS], black Americans are being disproportionately affected by sentencing disparities. Only 4 percent of those sentenced for violating crack laws are white although 51 percent of crack users are white. In contrast, 88 percent of those sentenced for crack violations are black Americans, while only 38 percent of crack users are black, according to the HHS study.

I have said numerous times that this country's laws must deal with racial discrimination in as aggressive a manner as possible. I believe that implicit in that philosophy is a mandate to change any law that results in de factor racial discrimination.

As the father of young children, I am committed to passing the strongest

antidrug measures possible. H.R. 2259 did not meet that standard.

## MEDICARE BILL HAS WRONG PRIORITIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota [Mr. VENTO] is recognized for 5 minutes.

Mr. VENTO. Mr. Speaker, today, the process did not afford the opportunity for a very full discussion of the Medicare bill on the House floor, and so I wanted to take this opportunity to express my dismay and disappointment with the action of the House today, reneging on the basic health care protection that has existed for older Americans and for others that are the beneficiaries of Medicare for the past 30 years.

The fact is that Medicare is in trouble today, my colleagues. It is in trouble because the Republicans, this new majority that is in control, has not given the type of consideration, the type of deliberation, that has been the hallmark of much of what has been considered in the past in this Congress.

I think we are seeing a breakdown really of the committee system here, where the committees, even though this proposal has made some 8 months ago, 7 months ago, no proposal was forthcoming; and we end up with a 1,000 page bill on this floor that dramatically and drastically changes the policy.

I think, for starters, that the priorities are all wrong in terms of what is happening with the budget. The fact is that the $270 billion, it has been repeated today, that is saved in Medicare is not necessary for the Medicare trust fund. In fact, of course, much of it will be used for other Republican priorities that are in the budget. This is not a bipartisan budget, this is very much a partisan effort in this House, and I suspect the same reaction in the Senate.

There are 245 billion dollars' worth of tax breaks and not tax cuts, tax breaks that go specifically to some people in our society, taking away tax breaks from others. In fact, an article in the Wall Street Journal today indicates that those that have incomes less than $30,000 under the Republican tax plans will actually end up spending or actually end up paying more in taxes. Those under $30,000 will pay more in taxes under the tax plans that have been advanced by the House and by the Senate. That is wrong. I think these are the wrong priorities.

I think the right priorities are to deal with health. If anybody wants an example of what is wrong and where we are today as compared to some time ago, this last year we were talking about extending health care to those that did not have it. We found that there are 40 million Americans from working families that had no health care. Today, that number has risen by nearly 1.5 million. There are more families that do not have health care. They do not have Medicare. They do not have Medicaid. They do not have a private health insurance plan through their employer or through their own means. They are without.

What is happening today is we are not talking about meeting the needs of those 40 million plus in American working families. We are talking about reneging, pulling back on the Medicare system today to the tune of $270 billion today for tax breaks for the rich; and we are talking about next week taking $182 billion out of the Medicaid system. That is a system for the kids in this country, 16 million children, other millions of other people that would be denied the opportunity for dignity, for health care.

These are programs that are for the American family. These are the programs that were put together so that we could meet the needs of our families, for my parents, and for others that might be disabled, that have the fortune to have a good, long life.

The funny part about it is I keep talking about all the trust funds today, trust fund A and B, but the trust fund A has never been responsible for one dime of our deficit in this country, and the same is true of most of the Social Security programs, are not responsible for the deficits in this country. That is not what has created the deficit. Part B because of the health care costs is a contributor.

□ 1900

But the fact is that we cannot just, when the cuts are made, they are not just cuts. They are cuts that are made with no opportunity. You are not empowering senior citizens to challenge the system simply by giving them choice. You do not give them choice in this bill. They have choice today. They have HMO's, they have preferred physician options. They have those types of choices already today.

This offers nothing new. What you take is you are taking away the very tools they need to challenge the cost of what health care is today, taking away the ability to pursue fraud, taking away the legal system, the ability to challenge the medical doctor when in fact they make a mistake, when they do something wrong, taking away the accountability in this bill, taking away $270 billion and any ability or most of the ability for older Americans and for others in this health care system to really deal with that.

In other words, you are making them pay more, considerably more for the part B premiums and giving them less in benefits, capping the benefits. Read what is in your bill. Read what is in your particular proposals. You have not done so. You do not know what it is.

I think there are many Members in this body from what I can see that do not even understand what current funding means with regard to Social Security and Medicare, where the workers today are paying for the benefits of those that are receiving them and we are usually ahead about a year. That is what current funding is, but they do not understand it. They cannot predict it. But yet they are up here cutting $270 billion in Medicare benefits to give tax breaks to their wealthy contributors and their special interests. It is wrong and it should have been defeated today, not passed.

The SPEAKER pro tempore (Mr. CHAMBLISS). Under a previous order of the House, the gentleman from Florida [Mr. GOSS] is recognized for 5 minutes.

[Mr. GOSS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

## THE BILL WAS WRITTEN IN THE SPEAKER'S OFFICE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. DOGGETT] is recognized for 5 minutes.

Mr. DOGGETT. Mr. Speaker, the rules of debate here in the House are rather constrained at times, and they were constrained this evening as we had the opportunity to witness at the close of this great debate a bit of graceless gloating from the Speaker of the House, Mr. GINGRICH, about the victory that everyone on all sides knew was going to occur here today. They provided no opportunity, of course, to ask him a question, much less to respond immediately to his comments, but those comments deserve a response.

It is true that this Chamber is almost empty at this moment. Of course, our Republican friends are out popping the champagne corks, celebrating as is their right the fact that they really got those seniors. They are able to be out there saying, well, our buddies are going to really like that tax break we are able to provide now, and we taught those seniors a lesson when we took $270 billion out of Medicare so we could fund our tax break for the rich.

But Members will recall specifically, though they are celebrating now, that when the Speaker spoke he began by reading to us the names of the family members in his family and how much they were interested in what was occurring here today. Then he proclaimed with the greatest magnanimity there were so many who had contributed to the raiding of the Medicare system today, it is peculiar that omitted from that list of all those who helped was the Golden Rule Insurance Co. You will recall that it was only a week ago that CBS Evening News reported that Golden Rule, which had complied with the golden rule by contributing over a million dollars to the Republican party, stood to be one of the major beneficiaries of this so-called Medicare reform since they are the prime promoter of the so-called Medisave Program.

The truth of the matter is that this particular bill, not 10 Members of this House knew what was in it until about

the time the debate began. And all this hoopla about how we had everybody involved and there were task forces and so forth. The truth of the matter is this bill was written by one person, Speaker GINGRICH, sitting in his office with one special interest lobbyist after another coming in. These task forces that existed, they were just an excuse for democracy. Instead of having the normal committee process operate, little task forces would meet and go in and out of the Speaker's office, in secret, where the American people had no opportunity to observe what was happening.

Can you imagine raiding the Medicare trust fund to the extent of $270 billion and not allowing one senior citizens in this country to testify on the specifics of the bill that provided for that raid?

Yet, my colleagues, that is precisely what happened with this new spirit of democracy and all the task forces and all the inclusion. The bill was written in the Speaker's office. The committee process was basically eliminated. I understand they are even considering the possibility of eliminating committees and perhaps just substituting a committee of one to write all of the legislation in this House.

You know, I have discussed this morning a bit tongue in cheek the fact that there was a painting that kind of summarized what was happening to seniors today, a painting by a famous American artists of the last century called plucked clean. It seemed to me that it symbolized what was happening here as our seniors were plucked clean and having to face higher deductibles and higher premiums and higher costs for health care at the time they were stretched to the limits.

Well, really, I think this same painting is a little bit symbolic of what is happening to democracy in this House. Instead of a proud eagle of democracy, democracy is being plucked clean in this House, because next week we are about to have the same thing happen. We have got something called reconciliation that is coming up, not the kind of reconciliation that happens between husband and wife. This is not a divorce unless it is the divorce between the reality of the real lives of the middle-class families that are working to make ends meet in this country and the Republican rhetoric that we hear on this floor.

No, indeed, we are talking about a bill that is going to do all kind of mysterious things that have never received a hearing. It is going to rewrite laws that committees refuse to pass, and all of that is about to occur next week without the Members ever having seen the bill and without there ever having been even a final hearing.

What we should be talking about next week is a gift ban on the gifts that tie lobbyists and legislators and a reform of the lobby process. Apparently under this Speaker we are going to continue to write laws in secret that bind the American people, like was done today in secret working with various special interest lobbyists to get the law written their way. The American people deserve to have this out in the public. We need to reform this Congress and change business as usual as much as we need to protect the seniors of our Nation and prevent these kinds of Medicare raids.

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The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Louisiana [Mr. TAUZIN] is recognized for 5 minutes.

[Mr. TAUZIN addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

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The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. DEUTSCH] is recognized for 5 minutes.

[Mr. DEUTSCH addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

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The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 5 minutes.

[Mr. DORNAN addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

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The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. TOWNS] is recognized for 5 minutes.

[Mr. TOWNS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

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## POLITICAL APPOINTEES ABUSING THEIR POSITIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina [Mr. JONES] is recognized for 5 minutes.

Mr. JONES. Mr. Speaker, there is much talk throughout our Nation about reforming the way Washington, DC operates. The people are upset about the way politicians have been conducting business. One reason that people are upset is because they see political appointees abusing their position using tax dollars to work on reelection campaigns instead of doing the jobs they are paid to do.

Mr. Speaker, last week the people of eastern North Carolina got a firsthand example of that abuse. A Clinton political appointee in the Department of Agriculture was assigned to contact one of the newspapers in my district. He not only called to use the agricultural appropriations bill to campaign against Republicans, he also called to campaign against Medicare, student loans, and other issues.

What in the world is an Under Secretary of Agriculture doing campaigning about programs that have absolutely nothing to do with his job on taxpayers time?

The answer, Mr. Speaker, is that the Clinton administration talks about the need for reform but at the same time they are using taxpayers' dollars to campaign for reelection.

He called to talk about how much the Clinton administration cares about rural North Carolina, but at the same time the Clinton administration is recommending policies that would destroy the economy of rural eastern North Carolina.

As Gene Price, the editor of the Goldsboro News-Argus stated in an editorial, and I quote:

> Bill Clinton is the biggest enemy of the tobacco farmer ever to sit in the White House.
>
> Tobacco farmers aren't stupid. The man who has been going for their jugular ever since he has been in Washington now has the gall to send his emissary on a scare-the-hell-out-of-'em mission telling North Carolina farmers the Republicans are threatening their tobacco program.

I further quote Mr. Price:

> Republicans and conservative Democrats in Congress should not be fooled. Certainly the Third District's WALTER JONES, Jr. sees the President's campaign for what it is.

Mr. Speaker, the Goldsboro News-Argus is right. The President's campaign is exactly that, a political campaign paid for with your tax dollar. Every single Member of Congress from North Carolina, Republican and Democrat alike, voted for the agriculture appropriations bill. It is the Clinton administration, not Congress, that is trying to destroy the tobacco farmers.

Mr. Speaker, it is the Clinton administration that is now trying to classify nicotine as a drug. It is the Clinton administration that is trying to put families that have grown tobacco for generations into the same category as Asian poppy growers.

Now this same Clinton administration has the gall to have its political appointees call my district to say that he, Bill Clinton, is worried about what the Republicans might do to tobacco. The bad news, Mr. Speaker, is that this kind of hypocrisy only adds to the cynicism about all people in public life. The good news is that the people of eastern North Carolina have long ago figured out the Clinton crowd. The working people of eastern North Carolina who pay their taxes, go to church and play by the rules know that there is very little relationship between what this administration does and says and really what it does and says in reality.

Mr. Speaker, no matter how many Clinton political appointees call my district to say otherwise, the people of eastern North Carolina know that an administration that is trying to destroy the tobacco farmer does not care about rural North Carolina.

In the future, Mr. Speaker, I would advise the President to have his political appointees confine their campaigning to Hollywood or to San Francisco

or to some other place where the people have not yet figured out that this administration's word means very little.

But he is going to have his government employees do his campaigning for him. At least have them do it on their own time. That would be the beginning of real reform.

## MEDICAID

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from New Jersey [Mr. PALLONE] is recognized for 60 minutes as the designee of the minority leader.

Mr. PALLONE. Mr. Speaker, I wanted to start out this evening by going over and trying to explain a little better some of the statements that were made by my colleagues on the Committee on Commerce with regard to low income seniors who, under current law, under the Medicaid program, are guaranteed that the Medicaid program or the Federal Government will pay the full amount of their part B premium.

Part B is that part of Medicare which covers doctors' bills. And in the motion to recommit that we had today on the Medicare bill, the gentleman from Massachusetts [Mr. MARKEY] addressed the issue and pointed out that there will be no guarantee that widows and other seniors who are low income will receive coverage by the Federal Government of their part B premium in the future because of the repeal of that provision in Medicaid.

The Speaker, Speaker GINGRICH, later this evening spoke and basically criticized Mr. MARKEY because he suggested that that was not true, that somehow Medicare under the Republican proposal, under the Gingrich proposal, would continue to cover those recipients. Well, I do not know what the Speaker had in mind, but he clearly was misinformed. He clearly has not read the bill or had not followed what had been happening both in committee as well as in the Committee on Rules as well as on the floor of this House when the bill came up.

The reality is that that guarantee for low income seniors, including the widows, was struck from the Medicaid bill in the Republican proposal that came out of the Committee on Commerce as well as out of the Ways and Means Committee. And I had actually proposed an amendment to bring that provision back, to guarantee that those low income seniors would have their part B premium paid. I brought up the amendment not out of the sky but because when I went back to my district in central New Jersey, I had many senior citizens who were what we called qualified Medicaid beneficiaries who received this benefit who came to meetings and forums that I had and were seriously concerned about the fact that this was being repealed.

And so I went back to the Commerce Committee and offered that amendment, which was defeated on a partisan line, vote with the Republicans all voting against it.

When the Medicare bill came up in the Commerce Committee, my colleague, the gentleman from Illinois [Mr. RUSH], offered a similar amendment on Medicare on the theory that if it is no longer going to be covered under Medicaid, let us try to cover these poor seniors, these widows, these elderly under Medicare. And again, on a partisan line vote, that amendment was defeated, defeated by the Republicans, by the majority.

Yesterday I went before the Committee on Rules on the Medicare bill. I asked the Committee on Rules to consider an amendment on the floor today that would have guaranteed that those seniors would be covered. I had a dialog with the gentleman from Georgia [Mr. LINDER] and perhaps other members of the Committee on Rules where I explained what this was all about. And again, that request was denied.

So that in fact when the Medicare bill came up today for consideration, contrary to what the Speaker said, it does not guarantee that those widows and the people, those low income elderly, it does not have to just be widows, it is anyone who is 100 percent of the poverty line whether they are male or female, whatever their marital status, it does not guarantee, the bill that was passed today by the majority, that those poor and elderly people are covered for the part B premium.

□ 1915

What does this mean for these senior citizens? Well, essentially it means that they are going to go without physicians coverage. Part B pays for their doctor bills.

Now the other side said in committee, ''Well, you shouldn't worry about that, Congressman PALLONE, because we have included in the block grant that we are going to now give to the States, even though there is no entitlement, no guarantee that these senior citizens get their part B paid, we are going to send in a block grant to the State under Medicaid, and, as the States want to do that, they can cover them.'' Well, that is very nice, but the reality, as the gentleman from California [Mr. WAXMAN] said before, is the amount of money that is going to be available pursuant to that block grant is about 85 percent of what is going to be needed.

In addition, there is no guarantee or requirement that the State pay that part B premium, so they are going to get 85 percent of what they need, but, if they decide not to spend it, not to even cover those widows and elderly, they do not have to. They can decide to cover 10 percent of them, 50 percent of them, or none of them, and the disincentive for not having the money to do it is certainly going to be there, so it is likelihood that they will not be covered.

Another reason why they are not likely to be covered is because that figure about how much is being block-granted to the States is based on the current premium, and, as we know and as the gentleman from Massachusetts [Mr. MARKEY] pointed out, the premium under the Medicare under the Republican bill that was passed today doubles over the next 7 years, so instead of being 40-something dollars a month, it is going to be $90 a month by the year 2002. So what likelihood is there that those widows and those poor senior citizens are going to have the States covering them for their part B premium when the premium doubles, when the amount they are getting is based on current levels, and when they are getting only 85 percent of essentially what is necessary? I would maintain that the likelihood is almost nil.

This, what the Speaker said today, there is no question that he was misunderstood, but I have very little doubt that he intends to do anything to make sure that those people are covered. We are going to do something about it though. We are going to go to the Committee on Rules next week on the Medicaid bill on the reconciliation bill, which the gentleman from Texas [Mr. ARMEY] said is going to come up next Thursday on the floor, and when the Committee on Rules considers amendments next Tuesday or Wednesday, Mr. Speaker, myself and the others are going to be before it and ask that this amendment be considered to basically make it so that the Speaker has to announce whether he is going to include this provision or not for the widows and for the poor elderly. I doubt that we will see it, but we are certainly going to try.

I just wanted to point out again today when I went to the Committee on Rules yesterday many of us, many Members of this body, not only Democrats, but also some Republicans because I was there for a good deal of time, asked that amendments be considered today because they did not like the provisions of the Medicare bill that we considered, and I am sure it was noticed that the reality was that no amendments were considered. The only thing that was allowed was a substitute amendment, one substitute.

We also asked for at least a week's debate because, as you know, there have been no hearings on this bill in any committee. The Committee on Ways and Means had one day of hearings on the draft of the bill on a press release, but there were never any hearings on the actual bill that we voted on today, so we asked there be at least a week's worth of debate. What we were given today was 1 hour on the rule, which was a very closed rule, 3 hours' general debate on the bill, and one substitute amendment in which we were allowed 1 hour of debate. I would maintain that the biggest problem, or one of the biggest problems, that exists in this whole Medicare debate and with the whole Republican proposal is that most of my colleagues really do not even know what is in the bill because

there has not been the opportunity to have hearings or to have adequate debate.

Now, before I go into my concerns about how this bill is going to essentially eliminate and destroy the Medicare system, I wanted to introduce a few things into the RECORD, Mr. Speaker, that I did not have the opportunity to do in the Committee of the Whole today the way the rules are. You cannot do that in the Committee of the Whole. The first is a letter that was sent to me by three Republican State legislators in New Jersey from the Jersey shore who previously had sent a letter to all the New Jersey Members of this House indicating their opposition to the Republican leadership Medicare bill that we voted on today and who today, or earlier this week, sent another letter to all of my colleagues in the New Jersey delegation asking them to vote against the Republican Gingrich bill and also to vote for the Democratic substitute instead, and I just wanted to read part of this, or even all of it, because it is not that long, if I could, Mr. Speaker, because I think it says a lot about the debate and backs up what I have been saying today, but in this case this is coming from Republicans, Republican State legislators in New Jersey, and they write to the House Members, and they say:

STATE OF NEW JERSEY,
*October 13, 1995.*

Re: Medicare.

DEAR HOUSE MEMBERS: It is our understanding the House Ways and Means Committee has voted 22–14 to send the Medicare reform package to the House floor next week.

Our 9th District Delegation, which represents the largest Senior Citizen population in New Jersey in Ocean, Burlington and Atlantic counties, issued a letter on September 22, 1995 to House Speaker Newt Gingrich and Senate Majority Leader Bob Dole, urging them to scrap this plan.

Copies of our correspondence to Speaker Gingrich and Senator Dole were conveyed to New Jersey's Congressional Delegation. For your convenience, a second copy of this appeal is enclosed.

Please allow our Delegation this opportunity to reiterate our profound concerns about these cuts in Medicare services for our elderly.

As you are aware, alternative proposals have been offered that would maintain the solvency of the Part A and Part B trust funds until 2006. This $90 billion compromise package would provide a decade for Congress and the White House to achieve a well-planned and balanced proposal to resolve Medicare's financial problems. This compromise would also provide the opportunity for a bipartisan consensus.

Our Delegation is genuinely sensitive to the difficult decision you face and have had our own feet roasted by the hot coals of Leadership. We feel very strongly that a rush to judgment on this issue is bad public policy. America must never turn its back on our parents and grandparents.

We, respectfully, urge New Jersey's House Members to oppose this $270 billion Medicare cut. Your leadership, in targeting Medicare fraud, the staggering costs of health care and in building a bridge to the future with the alternative proposals set forth by Reps Sam Gibbons and Ben Cardin, will provide the chance for Congress to seek a consensus solution to preserve Medicare for our parents and grandparents.

Thank you for your thoughtful attention to this appeal on behalf of the Senior Citizens of Ocean, Burlington and Atlantic counties.

Sincerely,

LEONARD T. CONNORS, Jr.
*Senator—9th District.*
JEFFREY W. MORAN
*Assemblyman—9th District.*
CHRISTOPHER J. CONNORS
*Assemblyman—9th District.*

Now I point this out, Mr. Speaker, because that is the way I voted today. I voted against this terrible Medicare bill, and I voted for the Democratic substitute sponsored by the gentleman from Florida [Mr. GIBBONS] and also the gentleman from Michigan [Mr. DINGELL], and it just pleases me to see not only that there are three State legislators at the Jersey shore that agree with that position and clearly understand why my position is accurate, but also that I believe that they and others like them in New Jersey influenced four of my colleagues on the Republican side, half of our New Jersey Republican delegation in Congress, to cast votes against the Gingrich Medicare plan today, and I think that we have worked very hard and essentially the vote today against the Medicare plan, against the Gingrich plan, as far as New Jersey goes, was really on a bipartisan basis.

Mr. Speaker, I am very proud of that fact. I hope that in the future we will see more Republican Congressmen coming out against this proposal and also more State legislators coming out against the proposal.

I want to yield, if I could, some time to the gentleman from Texas [Mr. DOGGETT].

Mr. DOGGETT. Would it be appropriate at this time to touch on another subject? Have you concluded most of your remarks?

Mr. PALLONE. Yes.

Mr. DOGGETT. I note first in this great Medicare debate, as I pointed out earlier today, we are about to substitute for the Medicare card a giant maze that looks somewhat like the maze that our Republican colleagues criticized President Clinton on last year on health care for the company. We are about to have a maze of that type presented to senior citizens. I wonder if some of them are not going to need to go back for a little late life education to get and understand the full maze of this, and I know you are familiar with this from your work there on the Committee on Commerce, but there are new commissions set up under this bill; are there not?

Mr. PALLONE. Yes, I wanted to commend the gentleman because I think he has pointed out that this bill has created such a bureaucracy over and above what, you know, what we have already, and I am glad he is pointing it out.

Mr. DOGGETT. This is the organizational chart. We will now have at a time we have been told we need less government we are now going to have a new baby-boom commission set up. We will have a variety of other new commissions, and boards, and agencies, and our seniors of course will face a wide range of new choices.

What it all boils down to, of course, is the choice to pay more and get less, but the way it is spread out, it is an organizational chart that is really an organizational nightmare. The lines that seem to me to be the most important though are the taking from the two funds that the gentleman is familiar with, part A and part B of Medicare, the taking from those funds, and taking that money out and really giving it, as you have been saying, to a tax cut for the most privileged members of our society, and I wanted to add to this very important debate, but I also would like at this point to comment on another topic that really related to my district.

Mr. PALLONE. Sure, I yield to the gentleman.

Mr. DOGGETT. This is about that we have been involved in a great debate today about the Medicare system and many of the important public policy issues. It is about another great debate and another debator.

Like many of the Members of this body of Congress on both sides of the aisle, Republican and Democrat, I had an opportunity early in my life to participate in the forensic program, and I rise tonight with the unhappy task of calling attention to a recent tragedy that befell members of the Texas Forensic Union, an award-winning debate and speech team of my alma mater at the University of Texas, Austin.

On a single weekend students were participating from the University of Texas along with their colleagues at debate tournaments in Kentucky and in Nevada. Unfortunately as one group of these young Texas students were returning from Nevada, their van was involved in a terrible accident just outside of Las Cruces, NV. A young man was killed in that mishap, Jason G. Wilson of Boca Raton, FL.

Mr. Speaker, although I did not have the good fortune of knowing Justin personally, I know that the hearts of people in this body, as were my friends at the University of Texas, go out to his friends at the University of Texas, go out to his family, and to his friends, and to the entire University of Texas community.

This was from all of the reports that I get from my friends at the University of Texas an exceptional young man, an excellent student, well liked by his peers and a very noteworthy debater who one day might have been participating in the Halls of this Congress. Justin's life was tragically cut short.

Mr. Speaker, all too often these days we hear of slipping academic standards, of deterioration of education, and a

lack of caring by our colleges and universities. By contrast, the young people who are involved in this tragedy, and particularly Justin Wilson, embodied a real commitment to excellence. He should be honored, and I know that he will be missed.

Justin and his colleagues were returning from intercollegiate competition, and I can remember attending similar events at an earlier time that were really significant in my life and in the lives of many others.

□ 1930

I can remember the camaraderie, the mutual respect that characterizes these events, and the opportunity to compete and achieve excellence is really very important to the future of our democracy. Our sympathies go out to all of those who were involved in this tragedy. It is an event that reminds us that every year there are thousands of committed young students of all types of political philosophies and outlooks, and their coaches and their faculty members representing with pride their particular college or university, individuals like Justin Wilson that try to make a difference in the academic community and in the broader life of democracy in our country.

Ironically, in my year of debating, the subject was whether the United States should have a Medicare System. Today, we have been debating this same topic, as the other young debaters like Justin were participating in considering topics of important national interest this year.

These individuals make great sacrifices. They often go unnoticed, but their work is very important. Justin's too-short life is appropriately remembered here tonight in the halls of our Nation's Capitol. We strive to be more aware of the contribution that these unique students, and particularly Justin Wilson, have made to our country. I thank the gentleman for yielding.

Mr. PALLONE. I thank the gentleman.

Mr. Speaker, when I left off, I was talking about the letter I had received from the three Republican State legislators at the Jersey shore indicating opposition to the Medicare bill that was passed today, and asking all of our colleagues in New Jersey to vote against it, and to vote for the substitute.

I believe that those State legislators and others influenced, as I said, half, four of the eight Republican Members from New Jersey, to vote against the Gingrich Medicare bill today, because they realize it is not in the interests of the State of New Jersey.

Mr. Speaker, I also wanted to enter into the RECORD a letter from the National Conference of State Legislatures, in which they express serious concerns about certain provisions in the House Medicare legislation.

Mr. Speaker, I also wanted to point out that one of the reasons New Jersey Members opposed this Medicare bill, essentially on a bipartisan basis today, is because of concerns that were expressed in the State legislature in Trenton earlier this week about how much money the State would have to provide if we wanted to continue making sure that our senior citizens were to receive adequate health care.

If I could just read some excerpts from an article which appeared in the Asbury Park Press, which is my hometown daily, wherein the Democratic leaders in the State legislature, on October 18, basically pointed out that the Republican plan to slash Medicare and Medicaid funding ''* * * would force New Jerseyans to pay far more for health care.''

In the attack they made on the GOP proposals, assemble minority leader, Joseph Dorian, and Senate minority leader, John Lynch, Mr. Lynch happens to be from my district, ''* * * insisted that the cuts could force State taxes to soar because of New Jersey's commitment to offer health care for all residents.''

What Senator Lynch is essentially saying here, we have two choices in New Jersey if this bill becomes law. We either provide the services for the seniors at the level of care they have been accustomed to, and we pay more in State taxes to do so, or we do not offer the health care.

What Senator Lynch is saying, essentially, is that New Jersey, because of its tradition of wanting to provide quality health care to all its residents, is likely, and hopefully would opt to continue to provide the same level of care, but that is going to cost more in State taxes.

If I could just quote from Mr. Doria, the assembly minority leader, he says, ''The cuts as presented are unreasonable and irrational.'' He urged the State's congressional delegation to vote against the gentleman from Georgia, NEWT GINGRICH, and the madness, to vote against the mean-spiritedness. He even said New Jersey should not become ''Newt's Jersey,'' as I quoted.

Obviously, many of my Republican colleagues on the other side today felt strongly they did not want New Jersey to become Newt's Jersey, and thankfully, decided to vote against this very ill-advised piece of legislation.

Mr. Speaker, I just wanted to, if I could, in some of the time that I have here, to go over some of the reasons in a little more detail about why the Medicare bill that was passed today, the Republican bill, is so damaging to senior citizens and to the Medicare System, and to the health care system in general, and why the Democratic substitute, which I supported, would have corrected many of those problems that the Republican Medicare bill presents for the future of seniors' health care.

The biggest item, of course, and this is one of the things that my colleagues on the Democratic side have continued to stress, is that this leadership proposal, this Republican leadership proposal, essentially cuts $270 billion out of Medicare to pay for a $245 billion tax cut, mostly for the wealthy.

I know my colleagues on the other side have said, ''We are not really doing a tax cut. This is not budget-driven.'' It is simply not true. We know that the trustees that the Republican leadership cite often, the Medicare trustees, basically said that there was only a need to save about $90 billion in the Medicare program over the next 10 years in order to keep the Medicare program solvent. The trustees have basically indicated that repeatedly.

The substitute that the Democrats had would have saved $90 billion. The rest of the money, the rest of that $270 billion cut, is going for tax cuts, tax cuts mostly for the wealthy. Also, seniors are going to have to pay more under this bill. Essentially, they are going to be paying more to get less. The part B premiums will double without a penny of that increase going back into the part A Medicare hospital trust fund.

There are essentially two parts to Medicare: There is the hospital trust fund, which the trustees have said does face problems over the next few years unless something is done, and then there is the part B program, which pays for physicians or doctors' bills, which is not really in any trouble at this point.

Here we have the Speaker, the gentleman from Georgia [Mr. GINGRICH] and the Republicans redoubling the premiums on part B, which is not facing insolvency. The only reason they are doing that is so they have money left in order to pay for a tax cut.

The other thing that is extremely troubling about the bill is that seniors will ultimately be forced into HMO's and other managed-care systems, and that means in many cases they have to give up their own doctors. Again, my Republican colleagues have said, ''We are not telling the seniors they have to go into an HMO or a managed-care system,'' and that is true.

The law does not say that they have to choose the HMO, but the reality is that the amount of money that is being cut here is disproportionately hitting the traditional fee-for-service system, where people go to any doctor that they choose and the doctor gets reimbursed.

Therefore, this money that is being cut out of the system, this $270 billion, is being distributed in a way over the next 7 years, so that a significant amount of it goes to pay for HMO's and managed care, but less and less of it will go to pay for the traditional Medicare system, where you can choose your own doctor.

Therefore, even though the Republicans are not saying that you have to join an HMO, what you will find happening is that less and less seniors will find that their own doctors will stay in the traditional fee-for-service system, because they will not get reimbursed enough for it to be worth their while to continue to operate that way, so fewer

and fewer doctors will be available to seniors, and take Medicare, under the traditional fee-for-service system.

The Republican plan also essentially destroys the high quality of care that we have in America's hospitals, because so much of the savings is in cuts to the reimbursement rate for hospitals, hospitals in inner cities, hospitals in suburbia, hospitals in rural areas. It depends to what extent those hospitals are dependent upon Medicare and Medicaid.

In other words, if you have a hospital, as you do for most of the hospitals in my part of New Jersey, where the majority of the money that they receive comes from either Medicare or Medicaid, if they are heavily dependent on Medicare and Medicaid and they have to face severe cuts in their reimbursement rates, they are going to be squeezed so much that essentially many of them will close, we estimate about 25 percent, and the others are going to significantly cut back on services. That is how the quality of care will suffer. That is how what probably is, and I would say is, no doubt in my mind, the best health care system in the world, probably the best health care system that has ever existed on this planet, will all of a sudden see significant cutbacks in quality of care.

Again, none of this would be necessary if the Speaker was not insisting on this tax break, primarily for wealthy Americans. I wanted to point out, if I could, that the Democratic substitute, which I supported today, which unfortunately did not pass, basically cured these problems, and addressed each of the concerns that I just brought up tonight about the Republican Medicare bill, and still managed to keep Medicare solvent and whole for the next 10 years.

Basically, what the Democratic substitute says is that, ''We will cut $90 billion out of the Medicare Program and we will save $90 billion, instead of $270 billion,'' which is exactly the amount that the trustees say is needed to shore up the trust fund for the next 10 years, but a consequence of that is that much of the tax cut for the wealthy is eliminated.

The Democratic substitute, which I supported, again, also eliminates the dramatic increases in part B premiums that double under the Republican plan. This is the thing, this is the part of Medicare that is going to hurt seniors on fixed incomes, because they are going to have to pay twice as much as they pay now.

Under the Democratic substitute, the premiums for part B will actually increase less than the current law, and so there is an effort to really ease the problem for seniors on fixed incomes.

Mr. DOGGETT. Mr. Speaker, will the gentleman yield on that point?

Mr. PALLONE. I yield to the gentleman from Texas.

Mr. DOGGETT. Under that substitute, would the gentleman have essentially provided the same amount of security for the Medicare trust fund that the Republicans claim they were providing?

Mr. PALLONE. Absolutely, there is no question that not only Secretary Rubin, Secretary of Treasury, but also several other trustees, I think there were four that put out a letter saying that $90 billion was necessary to shore up the trust fund.

Mr. DOGGETT. How in the world could you do it for $90 billion when they said they would need $270 billion to assure that the Medicare trust fund was there? How is it that you are able to do it for one-third the cost that they say they need in billions of dollars from Medicare?

Mr. PALLONE. It is very simple. As the gentleman from Texas [Mr. DOGGETT] has pointed out, and previously, they are using that extra money for a tax cut. It is primarily going to the wealthy Americans.

Mr. DOGGETT. So you could secure the entire Medicare trust fund for a third as much of what they took out today?

Mr. PALLONE. Over the next 10 years, that is right.

Mr. DOGGETT. Under your plan, the substitute, would seniors have seen this rapid increase in their premiums, and when the Senate finishes, an increase in deductibles? Would they have had out-of-pocket costs if your $90 billion had been adopted today?

Mr. PALLONE. Absolutely not. The way the current law provides, I would estimate that the monthly part B premium by 2002 over 7 years would go up to about $60 a month. It is now about $46, I think.

Under the Gingrich plan, it goes to over $90 a month. Under the substitute, it would be less than the $60 under current law, so we would actually be providing for less of an increase in the premium than current law.

Mr. DOGGETT. You are advancing, then, a proposal that would cost less to seniors than they would be facing under existing law, and yet it would provide every bit of the security of the Medicare trust fund that we heard one person after another out here proclaiming that they were the defenders of, and that though these reports had come out year after year after year, they just discovered them this year, right after they raided the Medicare trust fund for millions of dollars, and added to its insecurity, but you have a way to secure it fully, to the extent the Republicans are securing it, at a third of the cost and without costing seniors any additional premium; in fact, less premium than they would face under existing law?

Mr. PALLONE. Exactly, and not only that, I would point out that the substitute also does not decrease the quality of health care from the point of view of the hospitals, which I talked about before, because even though that $90 billion is coming from the reimbursement rate to hospitals, the reduction in the reimbursement rate is less than half of what the Republican Gingrich bill proposed today. The hospital association and the various hospitals that I have talked to in my area have indicated that they could absorb that level of cut, unlike the level of cut in the Republican proposal.

Mr. DOGGETT. I know you have put in a long day and have been participating here on the floor all day during this debate, and I want to thank you for your efforts. I know with the kind of leadership that you have provided today, that New Jersey will never be Newt Jersey. In fact, it was interesting to see that even at least one of our Republican colleagues from the apparent Newt Jersey, who had voted in favor of the Newt plan in committee, apparently had a change of heart our here today, perhaps hearing the words of the many Republicans who have spoken out from New Jersey saying that they would exercise their independence and would stand up for seniors. If we can just get the Members of the Senate to do the same thing, there is yet hope, and if President Clinton will stand firm on this, there is yet hope that our seniors will not find themselves plucked clean.

Mr. PALLONE. I want to thank the gentleman. I think the gentleman also brings up an important point, which is that I think a lot of people think that today was the end of this process. In fact, today is the beginning of the process, because the Medicare bill, the Republican bill, still has to be addressed in the Senate. It will still go to conference. The President has already said that he intends to veto the bill. It will come back to the House, back to the Senate, and we will probably be here for several weeks, if not several months, continuing to debate this issue, and hopefully there will be an opportunity to persuade more Members from the other side of the aisle to either not support this, or change it, consistent with the Democratic substitute.

□ 1945

The other thing I wanted to point out about the substitute is that this whole shifting, if you will, of seniors into HMO's or into managed care where they do not have a choice of doctors is basically eliminated. There is no forced choice, because the system under the Democratic substitute is not changed in that there is no discrepancy in the reimbursement rate and the amount of money that is going to go, whether you are in an HMO or you are in the traditional fee-for-service system. So doctors will still be available under the traditional fee-for-service system and will continue to accept Medicare.

The other thing that I think is so important about the substitute, which has not really been debated a lot because so much of this debate on the Republican side has been subject-driven, is that the substitute seeks to include more of what I call preventive measures in Medicare.

I was hopeful, maybe I was naive, that when I took up Medicare reform this year that, rather than focus on the budget aspects and have a whole debate be driven by budget dynamics, that we would try to look to include in Medicare preventive measures which ultimately save money, because they prevent senior citizens from having to be hospitalized or institutionalized.

Now, just to give you an example, the Democratic substitute today makes a good start in that direction, because it includes programs like prostate screening. The whole idea is, let us do some things, whether it is prostate screening or it is other kinds of tests, so that we can detect problems that seniors might have at an early date so that they can have treatment on an outpatient basis, so that they can stay home and not have to be institutionalized.

So much of the cost, not only to the Medicare system but also to the Medicaid system, which we will be dealing with next week comes from having to institutionalize senior citizens in hospitals, nursing homes. Something like 70 percent of the money that the Federal Government spends on Medicaid in the State of New Jersey goes to pay for nursing home care.

If we could include preventive measures like this Democratic substitute that unfortunately was defeated today in our Medicare program, we could save a lot of money and come up with a better system without having to make the drastic changes and negative changes that the Republicans have proposed.

Mr. Speaker, I just wanted to bring up a couple of other points on the Republican bill today in the time that I have left, because oftentimes, obviously, since debate was limited to only 3 hours today and only half of that was on the Democratic side, there were several points that were made by Republican Members that I just thought were inaccurate or at least did not give a true picture of some of the things that are in this bill that the Republicans passed today.

One of the things that I thought needs to be addressed is this whole issue of fraud and abuse. In my committee, the Committee on Commerce, there was at least one day or perhaps several days of hearings not on this bill but just on the problem in general of fraud and abuse; and I know that I attended at least one of those hearings where a lot of attention was paid to the fact that tremendous amounts of money could be saved in the Medicare program and we would not have to cut other aspects of the program if we could weed out the fraud and abuse.

But, lo and behold, when the bill came up in the Committee on Commerce, we found that there were some provisions in the bill that, if anything, made it more difficult for the Federal Government, the prosecutors, the investigators, to go after fraud and abuse in the Medicare system. Specifically, we had testimony at an alternative hearing. Since we were not allowed to have a hearing before the Committee on Commerce, some of the Democrats got together and had their own hearing; and we had testimony from the inspector general, June Gibbs Brown of the Department of Health and Human Services, and she pointed out some major flaws in the bill in terms of the effort to weed out fraud and abuse.

Mr. Speaker, I just wanted to quote some of the things that she said that I thought were most important.

She said that we believe that H.R. 2425 contains several provisions which would seriously erode our ability to address Medicare and Medicaid fraud and abuse. Most notably, these troublesome proposals include the following:

One, the bill would make the existing civil monetary penalty and antikickback laws considerably more lenient.

Two, the bill would substantially increase the Government's burden of proof in cases under the Medicare-Medicaid antikickback statutes. For the vast majority of present-day kickback schemes the proposed legislation would place an insurmountable burden of proof on the Government.

Next, the bill would create new exemptions to the Medicare-Medicaid antikickback statute which would be readily exploited by those who wish to pay rewards or incentives to physicians for the referral of patients.

Finally, a fund was created directing moneys recovered from wrongdoers under the bill, but instead of the funding of that money going to fund law enforcement, the moneys could go to private contractors. No funds would be made available to enhance existing government law enforcement activities.

I know that on the other side today they tried to, and did, in fact, include some provisions to try to improve on the fraud and abuse, but not every one of these concerns that was addressed by the inspector general was addressed, and so the bill, in my opinion, continues to provide loopholes and make it more difficult for us to enforce fraud and abuse. I think that is totally unconscionable in the context of the fact that we are trying to squeeze so much money out of this Medicare Program in order to achieve a tax cut.

Mr. Speaker, the other thing that I wanted to point out is a lot of attention was paid by Republicans today to the medical savings accounts. It was termed by my colleagues on the other side that this was a new and innovative program that was going to sort of be the wave of the future. I forget all of the adjectives that were used to say how wonderful the Medicare savings accounts were going to be.

I would point out that there is no question in my mind, first of all, that these medical savings accounts are not going to be available to a lot of senior citizens, but also, that it essentially is going to cost more for the program. In other words, the Medicare savings accounts will not save the Medicare Program money, they are going to cost the program more money.

The CBO, the Congressional Budget Office, estimates show that medical savings accounts would essentially rob the program of $2.3 billion over 7 years. In other words, it would cost that much more to the Medicare Program to have these Medicare savings accounts in effect.

It says that under the MSA's, as they are called, under the medical savings accounts, the Medicare Plus voucher could be used to buy a catastrophic health insurance policy with a deductible as high as $10,000. Any difference between the cost of that policy and the voucher amount will be placed in a tax-deferred medical savings account. But only the wealthiest and healthiest seniors could afford to gamble with such a high-deductible policy. When these individuals buy MSAs, the average costs of those remaining in Medicare would increase.

So what essentially we are saying here is that the people that are going to take advantage of these medical savings accounts are the healthiest and wealthiest seniors, the ones that essentially we are not paying a lot of costs for under the current Medicare law in order to cover. If they are taken out of the system and the system has to pay out money into these medical savings accounts, what is going to happen is that the cost to Medicare is going to be more and not less, because the healthiest people that cost Medicare the least amount of money are the ones that are going to opt for it.

Mr. Speaker, the CBO says that. I mean it is not something that I am making up; it is something that is clearly indicated by the Congressional Budget Office.

The last thing I wanted to say, Mr. Speaker, because I think my time is almost up, is that there were many suggestions, most notably by Speaker GINGRICH this evening when he gave his speech on the floor, that this whole idea that Democrats were saying, and that I say, that this $270 billion in cuts to the Medicare Program is going to be used for a tax break for the wealthy, the Speaker said that that is simply not true. He said that we are not going to do that, that is not our intention, and so forth and so on.

Well, my contention, Mr. Speaker, is that if that were not true, if this whole debate was not budget-driven for the purpose of creating these tax cuts, then there was absolutely no reason for this Medicare reform, as it is termed, to be linked with the budget reconciliation, which it will be next week. Next week we are going to take up the budget reconciliation and we are told that the Medicare is going to be clearly linked to that. Although it was voted on separately today, that is essentially a ruse, because it will be included in the budget reconciliation.

If the Speaker and the Republican leadership were going to be honest with us and say that they are not going to

use this for a tax cut, then they would have supported some of the amendments that we made in the Committee on Commerce and also tried to get included in the Committee on Rules that would have not allowed the savings to be scored for budgetary purposes.

We had such an amendment in the Committee on Commerce, and again, it was defeated along partisan lines with the Republicans voting against it, because they do, indeed, intend to score these Medicare savings of $270 billion to pay for the $245 billion in tax cuts. Those tax cuts, again, will go mostly to wealthy Americans and other corporations.

Mr. Speaker, I think it is a very tragic day for America's seniors that this Medicare bill was passed, and that the Democrat substitute was defeated, but hopefully, there will be more debate, if not here, then certainly in America as a whole over the next few weeks and the next few months to bring to light how terrible and devastating this bill, this Republican bill is, and that we will eventually see changes so that it does ultimately make it possible to continue to have a quality health care program for the poor senior citizens in this country.

NATIONAL CONFERENCE OF STATE LEGISLATURES, NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS,

*October 18, 1995.*

Hon. NEWT GINGRICH,
*Speaker of the House, The Capitol, Washington, DC.*

DEAR MR. SPEAKER: On behalf of the National Conference of State Legislatures (NCSL), and the Special Committee on Health Care Reform of the National Association of Insurance Commissioners (NAIC), we are writing to express serious concerns about provisions in the House Medicare reform legislation currently under consideration. In particular, we urge you to reconsider provisions in the bill that exempt provider-based organizations (sometimes called provider-sponsored organizations (PSOs) or provider-sponsored networks (PSNs)) from the requirements of state regulation.

The proposal presents significant problems for the states and the current privately-based health insurance market in two fundamental respects. First, consumers could be harmed greatly by the loss of state-level protections resulting from the bill. Secondly, the proposal could eviscerate state regulation of health insurance overall.

By preempting state laws that otherwise apply to PSOs, in one fell swoop, the proposed legislation completely blocks the application of state insurance laws to these entities. These laws currently include financial and market conduct requirements, as well as other consumer protections, for many types of health plans which are similar to, if not identical in form and operation to, PSOs. Thus, state requirements—which have worked effectively for a substantial period of time—would be entirely eradicated for a growing and substantial segment of the health insurance market.

In order for the federal government to begin to provide the consumer protections deserved by all health care recipients, it must create a bigger and better Health Care Financing Administration to oversee these new organizations. This would result in bifurcated and potentially duplicative state and federal regulatory system. Further, consumers currently benefit from the necessary protections within current state law. It is highly unlikely that the proposed federal regulatory structure would come close to providing elderly consumers with the ability to lodge complaints currently available for enrollees in state licensed plans. Most significant of all, it is unlikely that a new federal bureaucracy could deal effectively with solvency problems, thus leaving the financial stability of the entire system at risk.

Contrary to the assertions of some, the requirements in state law are not a stumbling block to market innovation. Many provider-sponsored entities already operate and compete under the existing state regulatory structure. We question the viability and quality of those entities which could not withstand the test of state regulation.

Second, it is perplexing that the 104th Congress, which is to be commended for championing the states in so many respects, would intrude in this instance on states' rights—particularly in an area where the states clearly have superior expertise and experience: insurance regulation. The proposed legislation exempts association plans, as well as PSOs, from state regulation. Presently, both types of entities are largely subject to state law.

You must recognize the threat to the state insurance regulatory mechanism that this provision in the reform legislation presents. The proposed uneven regulatory playing field where PSOs are subject to different, and possibly less stringent, requirements is a discriminatory system. Once created, it will not be easily stopped. Every other type of organization in the health care delivery system will want the same treatment. Importantly, under the terms and definitions of the bill, this will be easy. All entities will reconfigure themselves or form subsidiaries to become PSOs. We urge you to avoid this prospect that could lead to the effective federalization of health insurance regulation.

In summary, we strongly object to any provisions in Medicare reform legislation which exempt PSOs from state regulatory authority. All Medicare beneficiaries deserve the same protections afforded other citizens of the states. The erosion of traditional state authority contained in the proposal is simply not justified and could worsen, rather than improve, the health care system.

Thank you for your consideration. Please contact us if you have any questions.

Sincerely,

BILL POUND,
*Executive Director, NCSL.*
LEE DOUGLAS,
*President, NAIC and Chair, Special Committee on Health Care Reform, Commissioner of Insurance, State of Arkansas.*

## REPUBLICANS PRESERVE MEDICARE FOR GENERATIONS TO COME

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Illinois [Mr. HASTERT] is recognized for 60 minutes as the designee of the majority leader.

Mr. HASTERT. Mr. Speaker, I thought we would take some time this evening to talk about the bill that we passed today, the Medicare bill where the Republican proposal to save and preserve Medicare for generations to come was passed in this House.

It was interesting to listen to some of the previous speakers and some of the shameless rhetoric that we have heard through the last hour or so about some of the proposals that were supposedly proposed in the Medicare bill, and in the next hour I would like to talk about some of those fallacies that were presented here and talk about why Republicans decided that we had to look at a system that has been in place for 25 years, or actually 30 years, since 1965.

Mr. Speaker, what happened last April, the President's Board of Trustees for Medicare came forward and said that Medicare is going to go broke, that we start going into arrears next year, in fiscal year 1996, and by the year 2003 or 2004 Medicare would be totally bankrupt. So we had a choice. Basically, Democrats and others today had a choice in this Chamber. You could vote for a program that was going to save Medicare, preserve Medicare and give seniors choices, or you could vote no and let Medicare go bankrupt so there would be no Medicare system in the next year or 2 years or 7 years, and let seniors down, take away a promise that has been there for a number of years.

In developing the Medicare plan that we had before us today, I would just like to take a minute and say that I think we went beyond the traditional square of how politicians think. We brought in health care recipients, organizations like AARP and other consumer organizations for seniors. We brought in management, risk managers of the Fortune 500 companies, we brought in hospital folks, we brought in nursing home folks, we brought in doctors and other providers to listen to what their problems were and how to design a Medicare system for the future.

We asked people to do one thing, and that was to think beyond either cutting down the benefits that have always been there to squeeze down the dollars that we spend on Medicare and hold back those benefits, or hold back the dollars that the providers got, or those types of traditional ways that the previous leadership in this House has behaved towards Medicare, or to try to think beyond the traditional square. How do you create a new system, how do you create a Medicare system that will reach into the future that will give people better services, better choices, and be a system that really starts to move towards the private sector?

Well, we decided that the fee-for-service system that has always been the traditional Medicare delivery system in this country was near and dear to many people. We did not want to upset seniors, and we wanted to make sure that that system was always there if people chose to take it. Also then, we wanted to offer an array of choices, and those choices, one of them is about 10 percent of our seniors in Medicare today already take the choice of managed care, or what we call HMO's, or Health Maintenance Organizations.

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Along with that, they do not have those choices today, but PPO's are also part of that choice system. In this system, a health maintenance organization may offer somebody prescription drug benefits, prepaid, and they offer to do away with copayments and they even offer to pick up part B premiums. So there is a real incentive to give people a better product at a lower price. Of course, that is the real market system starting to develop.

People also might want to develop what we call a provider service organization, where doctors and hospitals get together and offer a new system to health care recipients, to the Medicare recipients in this country. Of course, people may want to go to a medical savings account that we are going to talk about here tonight, where people can make choices of where they want to keep their traditional doctor, what kind of health care they want to buy, and if they do not spend a prescribed amount of money they get to keep it. That is certainly a unique idea in this country, especially when you deal with huge bureaucracies that formerly controlled the health care in this country.

Then, finally, the seamless coverage, that if you have had a health care insurance system where you worked for the last 30 years, you liked that system but all of a sudden you are reaching 65 years of age and, my gosh, you have to give up the insurance you have always known and try to find some other kind of a fee-for-service system in the Medicare system, that is a very traumatic experience to some folks. If your insurance company has agreed to stay within the system, now you can have that seamless coverage and stay with that traditional insurance that you have always had.

Those are the choices. But some of the things we want to talk about here tonight, talk about some of the fallacies that one friends on the other side of the aisle have brought up but also some of the positive things about those positive choices that people will enjoy and at the same time trying to squeeze out the fraud and abuse that we have in health care. We think up to 10 to 15 percent of the dollars that we spend in Medicare today are wasted in fraud and abuse under the present system. We need to change that. We have brought in tough new provisions to make that happen.

I would like to defer, first of all, to my friend, the gentleman from Connecticut [Mr. SHAYS], who has also been on the ground floor of putting this program together; and we are going to talk about the inception of the change, the new system of Medicare. Plus we have with us the gentleman from New Mexico [Mr. SCHIFF] and the gentleman from Oklahoma [Mr. COBURN]. It will be interesting to hear from these gentlemen as well.

Mr. SHAYS. I thank the gentleman for yielding and want to say that I have seen our conference work on this legislation for well over a year, because we started, in fact, when we were in the minority to deal with this very serious problem of reforming our health care system and making it a better system for all.

One of the first fallacies, and there are going to be a lot of fallacies that we have to deal with, is this whole concept that we are in fact cutting Medicare. You can look at it in three different ways. Each way it is a significant increase.

In the last 7 years, we spent $926 billion on Medicare. We expect to spend in the next 7 years $1.6 trillion. It is about a $675 billion increase in new money over the next 7 years. We are going to spend 73 percent more money in the next 7 years than we spent in the last 7 years. Only in this place, in Congress and in Washington, when you spend 73 percent more during the next 7 years do people call it a cut.

We could look at it in terms of how much we spend today on Medicare. We spend $178 billion. In the 7th year we are going to spend $274 billion, estimated. That is a 54 percent increase in the 7th year. So we are going to spend in the 7th year 54 percent more than we spend today. Only in Washington when you spend 54 percent more would people call it a cut.

But then people said, Well, wait a second. There are a lot more beneficiaries. So we said, Yeah, let us see the impact on each individual beneficiary. We put aside for every senior approximately $4,800 per beneficiary, per senior. In the 7th year, that is going to go up to $6,700. That is a 40 percent increase per beneficiary in the kind of money we are putting into the system.

Mr. HASTERT. So what the Democrats are saying, that we are cutting Medicare, actually, we are expanding Medicare 40 percent over the next 7 years, is that correct?

Mr. SHAYS. Per beneficiary. We are putting in 73 percent more money in the next 7 years over the past 7 years. We are spending 54 percent more in the 7th year than we are spending today. Any way you look at it, we are spending a colossal amount of increased funds in this program.

Mr. SCHIFF. If the gentleman would yield on the same point, I want to say that I voted against the tax cut when it was first proposed; and I did not vote against it because I do not agree with tax cuts. I did not buy the class warfare argument being offered by the other side. I do not believe the proposed tax cuts go primarily to the rich; and, in any event, I think people keeping the money they have earned is desirable.

I voted against it for one major reason. That is, that I simply felt that we should concentrate on deficit reduction first. I make that point because the argument that is being made from the other side is that everything we are doing is simply for a tax cut and a tax cut for the wealthy. Therefore, I think I am in a credible position to talk about that since I personally did not vote for the tax cut.

It is important to emphasize on the gentleman from Connecticut's use of the word cuts in explaining that, that our colleagues on the Democratic side are using the word cuts or have used the word cuts to mean spending less than a projected increase, even though you are still spending more.

Only in Washington, of course, is spending more called a cut. But here is what I want to emphasize. The original position of many of our colleagues on the Democratic side was that nothing needs to be done with Medicare, everything is fine, everything the Republicans are proposing is simply to fund a tax cut for the wealthy.

Now, this morning they changed that position. This morning, or this afternoon, I guess I should say, in their substitute that they offered here they are proposing to cut Medicare using the word cut as they use it. They themselves have proposed spending less than certain target figures that have existed in government projections.

Why would they propose cutting Medicare unless they now acknowledge there is a real problem here, that Medicare faces bankruptcy unless action is taken? That is something that they have largely denied through the past several months.

Mr. SHAYS. If the gentleman would yield, the President came in with this 10-year plan. In this 10-year plan, he said we needed to reduce the growth, which is the proper term, of Medicare, $127 billion. And what he did not acknowledge, though, that was scored by OMB. The President, in fact, I just want to add weight to it, was suggesting by reducing $190 billion the growth in Medicare.

Mr. SCHIFF. I wanted to make the point that on the House floor today the Democratic counterproposal called for a cut in Medicare as they have used the term cut for the last number of months, spending an increase but not as much of an increase as projected targets. I thinks that that is an important concession that Medicare indeed is in serious projected financial trouble, and somebody had to come forward and start taking the lead on this.

I am going to yield back to the gentleman, but at some point I would like to analyze their current argument which is the difference is now to fund a tax cut.

Mr. HASTERT. If the gentleman would yield, one of the interesting things when they are talking about a $270 billion cut, what they are talking about is they want the inflationary rate of over 10.5 percent to go on unfettered. Our good Democrat friends on the other side of the aisle, who just got done speaking, are saying, let us not try to hold in inflation. Of course, we know what inflation does, especially to seniors. But they want that inflation to go at 10.5 percent. That is how they get to $270 billion more spending.

Mr. SCHIFF. If the gentleman would yield for one moment, and I will not belabor this, but I want to make the point that, of course, more spending is not a cut. But to the extent that some of our colleagues on the other side have said we are cutting Medicare, they proposed today to cut Medicare, too. That is a concession that there really are Medicare problems that we have to address.

They now say, well, the difference between our cut and your cut would fund the tax reduction for the wealthy. That is not true, either. I hope to address that when I get the floor again.

I yield to the gentleman from Oklahoma [Mr. COBURN].

Mr. COBURN. I heard a wonderful example on how to explain this. I have three grown daughters. But I did have teenage daughters. If I gave one of them $20 a week allowance and we come to negotiate again the next year and she wants $40 a week and I say I will give you $25, then she comes to tell me that I have given her a cut? No, I have given her a $5 increase. When you put it in the terms, it is what it would be versus what it should be.

I want to go back to the real point of why we are doing what we need to do. We are not getting value for our dollars in Medicare today. If we are going to assume a 10.5-percent growth, then we are going to assume that we are going to continue to not get value for our dollars.

So we have to ask the question, do we have an obligation to the seniors that are on Medicare today, to those of us that are working, paying for Medicare through our payroll deductions and to the children that are going to have to pay for it in the future to get the best value for every dollar that we spend? If you look at this plan, that is an attempt to move in that direction.

We are giving an allowance. It is going up. It is not going up as much as it has in the past in terms of inflation.

Mr. SHAYS. Thank goodness it is not going up as much

Mr. HASTERT. It is interesting. When we talk about growing Medicare, and the gentleman from Connecticut [Mr. SHAYS] talked about how much more dollars that we are going to put in the system over the next seven years, we base that at about 5.5 percent, which is even less than what the private sector medical growth has been.

When you look at the rate of inflation that the Federal Employees Benefit Plan has had across the country, they have had an average under 5 percent in the last couple of years. We are giving the people the benefit of the doubt, and we are letting Medicare grow at about 5.5 to 6.3 percent.

But the amazing thing is when we say that, no, we are not going to hold in inflation completely, that we are going to let it go, our friends on the other side have said, ''Well, we will let it go, we will let inflation go up to 10 or 15 percent.'' That is where they get the $270 billion. That is wasted money. That is inflation. That is money that never was, never will be, but people would have to pay extra out of their pockets and not get any more in return.

Mr. COBURN. If the gentleman would yield, I think one other critical point, is it morally right to allow Medicare to grow faster than what it should, to be more inefficient than what we can make it? It is morally wrong to do that, and we should do everything in our power to make this an efficient system that delivers affordable quality health care with choice for our seniors.

We can do that. But we have to do that by being honest with what the problem is, being honest with what the numbers are, and then carrying that honesty out and say, yeah, we made the hard votes to do the right thing. To do anything else, we would be shirking our responsibility.

Mr. SHAYS. If the gentleman would yield, what we are really going to do is we are going to just take each of the points that were made by our colleagues on the other side of the aisle and just talk about how valid they were, if they had any validity.

I just make this point. Of the $270 billion of savings to the growth, $133 billion are going to go into the Medicare part A trust fund. That is the trust fund that individuals pay in their payroll tax, the 2.9-percent if you are self-employed, 1.45 percent that you pay if you have an employer; and the other $137 billion are going into the Medicare Part B trust fund. That is the fund that funds all the health services.

My colleague just brought up the issue of taxes; and since I serve on the Committee on the Budget, I would just like to respond to this issue and deal with this other issue that somehow they are linked. They are not linked at all.

When the tax cut passed, and this is a plan that I voted for, we paid for it through the fiscal dividend of getting our financial house in order. The Congressional Budget Office said we had a fiscal dividend of $170 billion by immediately getting our financial house in order. We saved the taxpayers $170 billion on unnecessary interest payments and so on.

Mr. HASTERT. If the gentleman would yield, we paid for those tax cuts.

Mr. SHAYS. That is the point I want to make. I want to say that before we even took up Medicare, we paid for each part of those tax cuts. We paid for them in cuts in discretionary spending, in slowing the growth of our entitlement programs that we specified and through our fiscal dividend. So it was paid for through very serious and in some cases difficult votes.

Our logic was, why have a program, for instance, a government program that is supposedly helping a family when 20 to 30 percent get taken off by the bureaucracy before it gets to the family, with all the bureaucratic requirements of the government program, and why not just get that family the money? A major part of it is the $500 tax credit, $500 for each child.

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Mr. HASTERT. Can I ask you a question and then let the gentleman from New Mexico ask, too? The Democrats are saying this is a tax break for the rich. You are saying tax breaks here are for families with children.

Mr. SHAYS. Anybody can just ask themselves, if you have a child that is under 18, you would get a $500 tax credit. If you are listening today and you feel you are rich, then you would qualify under their definition. And the Senate, on this $500 tax credit, has said it should only go, Republicans in the Senate said it should only go to families under $75,000. But 75 percent of all families make less than $75,000.

So the biggest part of our tax cut will go to individuals with families with children. If they have three children, they get $1,500. If they have four, they get $2,000.

I just would love to make this point, if I could. I would like to make the point that when my parents were raising me and my older brothers, they were able to take a deduction in today's dollars off their income of $8,000, and they could reduce their income. My family, in today's dollars, could reduce $32,000 from their income and not pay tax on that $32,000. You have seen what was then equated to today.

And my family, when they were having to, my mom and dad were raising us, they had to pay less than 20 percent in taxes to Federal, State, and local governments. A family today pays approximately 40 percent in Federal, State, and local. So what we are trying to do is focus the bulk of that tax on families and families that need it.

Mr. HASTERT. The other part of the tax cuts for the wealthy that our friends on the other side talk about, and it is somewhat laughable, because part of those tax cuts are for senior citizens who want to work that earn under $30,000 a year and ones who do not have all the income coming in and rents or interest rates or dividends from stocks or people who have to really go out and work for a living and people who have done that their whole life. But if you earn under $30,000, you do not have to pay that extra income tax or that deduction that you get on your Social Security.

Mr. SHAYS. Even taking into account the capital gains exemption, which we have to score as a loss in revenue, which most economists say will actually generate revenue, this is how Democrats equate it to a wealthy man. If you make $40,000 and you have a one-time capital gain of say 100,000 on the sale of a home or something else and you, therefore, have earned $40,000 in income and then you have this capital gains of 100,000, they say, see, you are a wealthy person, you made $140,000. And they put you on that equation of $140,000.

Mr. SCHIFF. I want to stay on the subject of the relation of our Medicare bill to the tax cuts. As I indicated, I did not support the tax cut only because I would like to see some real time history of budget savings rather than go on a plan. But the point is, for the purpose of this debate, on Medicare, I very strongly argue that the accusation made that this is to fund any tax cut for any purpose is simply incorrect.

I would just like to say that we start at the same place now. We have proposed reducing the rate of growth of Medicare, which they have called a cut. They now propose reducing the rate of growth in Medicare, which they call a cut. So we are now heading in the same direction.

They have conceded the fact that Medicare is heading towards insolvency. The argument that we heard for the last hour was the difference between the two figures, the amount of additional reduced growth, which we say is necessary for the long-term fiscal health of Medicare, they say is to fund the tax cut. I want to take a couple moments to say to my colleagues why that is just not true and why in fact the tax cut in the plan is funded in other ways.

In the first place, part A of Medicare, the hospital trust fund, which is the larger portion of Medicare spending, is funded by a payroll tax. That payroll tax is not affected by other taxes. In other words, other taxes can be raised or other taxes can be lowered. The fact of the matter is, the Medicare trust fund has the exact same source of income which is the payroll tax. So nothing we do in lowering or in fact raising taxes elsewhere has anything to do with part A.

Part B of Medicare that deals with funding physician and other services is paid for, approximately 31 percent, by beneficiaries and approximately 69 percent is subsidized by the general treasury. So the argument can be made, well, the tax cut is being funded by reduced spending in part B, because that is general funds.

The problem with that argument is that every Medicare beneficiary knows that part B regularly, I think annually, goes up in cost as the cost of the program goes up.

The current system is projected to raise the part B premiums for beneficiaries for the general fund in the next several years. The President's proposal will raise the contribution of beneficiaries and the general fund for part B in the future.

The point is, as I have seen the figures, the final figures projected to exist in 7 years for part B for beneficiaries are very close together. I think the widest range difference I have seen projected is that the Republican plan will, in seven years, not for seven years but in seven years would be $7 a month higher per beneficiary than the President of the United States. The point is, you do not fund a multibillion dollar tax cut out of a $7 a month difference.

Mr. HASTERT. One of the things that when we looked at our system and what we have tried to do, the rate today is 31.5 percent. And we keep that tax rate in place.

Now, there is a proposal or under law that this would drop to 25 percent. And if it did, indeed, drop to 25 percent, then taxpayers would have to pick up that extra amount and taxpayers would be subsidizing the part B premium about 75 percent. So the other side of the story, as some people use that terminology, our friends on the other side would actually have a tax increase for those people.

Mr. SCHIFF. It is my understanding that explains the difference between the Republican plan and the President's plan. We would keep the subsidy level of part B the same and not increase it out of the Treasury. But the difference is still too small, is still too small for anyone to say that is funding a multibillion dollar tax cut. It is just not correct.

Mr. SHAYS. I just would love to make sure that we just establish the arguments that are being made and whether they are credible.

First, we are not cutting Medicare. We are allowing it to grow significantly per beneficiary over 40 percent a year. The second argument is that somehow the tax cut is related to what we are looking to do to save, strengthen Medicare. There is absolutely no relationship.

The next argument they make is they say we are increasingly co-payments, which simply is not true. Co-payments remain the same. They say we increased deductibles. That simply is not true. The deductible remains the same.

Then their argument is that we increase premiums. We are keeping premiums in fact at 31.5 percent, and 7 years from now they will stay at 31.5 percent. As health care costs grow, that 31.5 percent will cost slightly more as it has during the last 7 years. There has been that growth.

So what gets us into this is the exciting fact that we have an option beyond, you can say, in this fee-for-service program. You are not being forced out. No new co-payment, no new deductible, no increase in premium, no relationship between our effort to slow the growth in spending in the tax cut. In fact, no cut in this program, an increase. And it gets into this extraordinary opportunity we have with Medicare-plus.

Mr. COBURN. I just wanted to add, 7 years ago the part B premium was about $26. And it is $46 and 10 now. It is going to rise. It is going to rise a small amount each year for the next 7 years. But it is still going to stay at 31.5 percent of the total cost for the part B program. I think it is important for people to realize that the rate of rise is not going to be significantly different than what the rate of rise has been in the past.

Mr. SCHIFF. The gentleman has just made an extremely important point, that the part B program has been costing more every year and the amount that beneficiaries pay has gone up every year. What the other side argued was the entire projected increase in the part B premium was a result of the Republican bill and for tax reduction. The point is, the increases are coming anyway. The increases are posed in the President's budget. The difference is very small, and the difference is the result of do you want, in this season, in this time frame of deficits, do we want to be increasing the amount of subsidy from the general Treasury.

Mr. HASTERT. I think one of the most important things that we want to get to and I think we should walk through the choices that people have. traditional fee-for-service and the other choices are there, part of this Medicare Program.

Mr. SHAYS. Is it true that you will be forced to get out of your fee-for-service program?

Mr. HASTERT. Absolutely not. The fee-for-service, we believe that our CBO tells us about 75 percent of seniors will stay in the traditional fee-for-service. We think that there is too good an opportunity out there for seniors and seniors who really look at the opportunities they have will move from fee-for-service.

Mr. SHAYS. But they do not have to.

Mr. HASTERT. It is their choice if they want to.

Mr. COBURN. There is 9 percent already in a managed care option who are very satisfied.

Mr. HASTERT. Nine to ten percent are there and looking at that. When those folks get involved, they have options of getting prescription pharmaceuticals paid for. They get co-payments paid for in many of those plans, and we talked about part B premiums. These options are that the system can even pick up the part B premium for the Medicare recipients. So there are some real pluses there.

Mr. COBURN. Mr. Speaker, one of the advantages that I have had in dealing with Medicare is I am a practicing physician. I continue to practice on the weekends. I know Medicare both from a patient perspective and as well as a provider perspective. It is unique to be able to understand; it is very, very complicated. That is one of the reasons our seniors are so concerned, not only because of the rhetoric but because it is very difficult to understand. As we have changed Medicare, we really are going to give four very simple options.

Mr. HASTERT. I would like the gentleman as a physician and a practitioner, a person who deals with both patients and the system, one of our options is a medical savings account. Why do you not talk about that medical savings account and how that can affect patients and the system itself.

Mr. COBURN. I would be happy to. First of all, I think we need to correct what we heard a minute ago, that there

was a $20,000 deductible. That is not even allowed under this plan. So it is not going to be one of the options, and the information stated was incorrect.

A medical savings account is an account like I presently have as a physician. I have a deductible, and I pay a premium each year for that deductible. It is a high dollar deductible. It is $10,000 for my entire family. I am fortunate enough to be able to have that kind of deductible. I am responsible for the bills in between it.

Under the Medicare Program, we will have deductibles, high deductible medical savings account available, which the Government will place into that account, the average payment for that area to purchase a high deductible policy; and what is left over can be used for medical care for that person for that period of time.

Mr. HASTERT. So basically, let us say that next year the Federal Government, and we are just using numbers generally, but next year the Government will pay 5,000, average payment per person will be about $5000 in the next fiscal year. So a person could buy a $3000 deductible catastrophic health care policy for about $2,000. Then the Government would put the balance of that $3000, the balance of 2000 from 5000 average, into their medical IRA. That money would be there.

They would choose where they want to go for health care. They would choose their doctor, what kind of care they wanted. They would also be pretty responsible then for looking at what the cost of that health care is. They actually would go out and shop because, if they do not spend it, they get to keep it. That is one of the things that would rolL over in that medical IRA account. Then eventually, if they want to use that for long-term care insurance or some other type of health care, they could. But the thing is, it is their money. What a unique situation. All of a sudden, people are protective of those dollars and looking into that when it is their money.

I know we have been joined by one of our colleagues who has been a leader in health care for many, many years here, the gentlewoman from Connecticut.

Mr. SHAYS. The distinguished gentlewoman from Connecticut is an expert on this issue.

Mr. HASTERT. I would like to yield to the gentlewoman at this time.

Mrs. JOHNSON of Connecticut. I thank the gentleman for the opportunity to join him at this special order to discuss the Republicans' approach to reforming Medicare in order to secure for current seniors and to ensure that it is going to be there for future retirees.

I wanted to pick up on what the gentleman is talking about. One of the things that was very distressing about the debate this afternoon was the claims by opponents that we could not fund a premium that would buy a good plan in the market.

When we look at what is really happening out there right now already, the Medicare premium that seniors are paying would buy much more for them than Medicare is giving them. In the Boston area, there were two HMO's. Seniors have the right to choose to join an HMO. Not everybody wants to be in an HMO. If you do not like the staff or the doctors in the HMO, you cannot go outside.

□ 2030

I personally am not high on joining an HMO, but they had two very good HMO's in the market in Boston. One of them was the Harvard Health Plan, and the other was the Fallon Plan. Each of those HMO's had developed quite large senior participation, but they were not growing.

Well, into the market came three new managed-care plans offering not only all Medicare services, but additional services, for a zero premium. That is just the Medicare premium. Now thousands of seniors every month are joining one of these five plans because what did the Harvard plan do? They dropped their premium from $89 a month to $15 a month. What did the other plan do? Its premium was over $50. They dropped their premium to zero. Now the seniors in the Boston area have the choice of four plans, four zero-premium plans, the Harvard $15-a-month plan, and for that they get all Medicare services plus copayments and deductibles plus some other, in some cases, prescription drugs, in some cases preventive-care coverage.

Mr. HASTERT. So you are saying that deductibles, this is something plus. I mean before a traditional fee-for-service health care and Medicare seniors have to pick up a copayment; is that right?

Mrs. JOHNSON of Connecticut. Right.

Mr. HASTERT. They would have to pay, pick up a deductible; is that right?

Mrs. JOHNSON of Connecticut. Right.

Mr. HASTERT. They have to pay for their own prescription drugs; is that right?

Mrs. JOHNSON of Connecticut. Correct.

Mr. HASTERT. And sometimes pay for their own eyeglasses?

Mrs. JOHNSON of Connecticut. Correct.

Mr. HASTERT. And under these programs you are saying that they are more efficient, a better system of delivery, and that the can pick up these costs so seniors really save.

Mrs. JOHNSON of Connecticut. Absolutely. Not only do seniors really save, but they choose these plans, they choose to go to a system that they believe serves their needs better, and they are choosing at such a rapid rate that while Medicare managed care used to be 5 percent of that market, it is now 10 percent

Now what does that tell you about our plan? Some people have been concerned, including some of our colleagues, that if our plan does not save as much as we think it will, we will have to make deeper cuts later on.

Well, our Budget Office thinks that over 7 years only 15 percent more seniors will choose MedicarePlus plans like this. Ten percent are in HMO's now, and they think that, when we offer them all these choices, Medicare-plus plans, medical savings accounts, that only 15 percent more over 7 years will join.

In Boston they have already increased it in 2 years by 5 percent. I mean the Budget Office cannot take into account human choice and human motivation, and so they use old data to make old projections, and then they try to force us to make irrational decisions.

Mr. SHAYS. If the gentlewoman would yield, I would just love to emphasize again because we just continually, I think, need to based on what was said on the other side of the aisle. Any senior who wants to can stay in their traditional fee-for-service and have the same doctors they have presently, and I want to continue to make the point that they are never taken out unless they choose to be transferred to a private plan.

Now I just think there is one cautionary element that we need to make, especially coming from our area. It is probably going to be easier for people in the Boston, and New York, and Miami area to see greater opportunities in private health care plans. I suspect in an area like Oklahoma they may not see all the same ability to get some of those plans because we are dealing with high-cost areas and low-cost areas, and we have not yet fully resolved that issue, but I think we are on the way to doing that.

Mr. HASTERT. The gentleman from Oklahoma, if I could yield to him for a minute, I would like him to talk about that difference and also one of the new innovations we have called provider service organizations.

Mr. COBURN. Thank you. I would like to make one point so that seniors know a provision of this bill is that, if you would decide you wanted to go into an HMO and did not like it for the first 2 years, you can get out any time you want. So what we have also done is increased——

Mrs. JOHNSON of Connecticut. Beyond that, every single year you can get out, every single year you get a new choice, and you can stay in the plan you are in, you can change plans, or you can go back to Medicare, and in every single market there are medigap insurance plans that do not discriminate so you can always go back to that combination of Medicare and medigap if you prefer it.

So this is a totally voluntary choice plan that we are providing, and we do have overwhelming actual experience that shows that the Medicare-plus plans will be able to provide a lot more benefits for the same dollar, and if I could just add one thing before unfortunately I have to catch a plane, it is

that, you know, both for the people who stay in Medicare and for the people who choose MedicarePlus, we are going to increase funding for both the premiums and for the fee-for-service system by $2,000 per recipient in the next 7 years. That is exactly as much as we increased it in the preceding 7 years.

So we are planning a healthy, reasonable, responsible, practical increase in spending in Medicare. We are simply not going to overpay for fraud and abuse. We are not going to overpay for unnecessary care. We are not going to overpay because, if we overpay in Medicare, then people who are working have higher taxes.

Mr. HASTERT. I certainly appreciate the gentlewoman from Connecticut joining us for a few minutes. Your work and contribution to health care reform in this country has been legend, and we certainly appreciate you spending a few minutes with us.

Mrs. JOHNSON of Connecticut. Thank you. It is interesting for the people who are watching to see the gentleman from Illinois [Mr. HASTERT] is a member of the Committee on Commerce, I am a member of the Committee on Ways and Means, two committees that have direct responsibility for Medicare and Medicaid. The gentleman from Oklahoma [Mr. COBURN] is also a member of the Committee on Commerce, but he is a physician. He brings a special perspective. The gentleman from New Mexico [Mr. SCHIFF] is a member of the Committee on the Judiciary. He brings special knowledge of the fraud and abuse problems. And my colleague, the gentleman from Connecticut [Mr. SHAYS], is from the Budget Committee, and he has the responsibility to look at these issues in the context of America's future and how do we get to a balanced budget in 7 years, and he, of course, is on the Health Subcommittee of the Committee on the Budget and, therefore, is a special part of our team.

This is the first time in Congress' history that there has been this level of integrated committee cooperation and action to solve a major problem that we face, and right here amongst the five of us you can see that whole body of the Congress, and how it has come together to think about this problem and produce an answer that we know is going to serve our seniors. So I am proud to have joined you for a few minutes and regret I have to leave.

Mr. HASTERT. I yield to the gentleman from New Mexico [Mr. SCHIFF].

Mr. SCHIFF. Mr. Speaker, I just think it is important to emphasize the main purpose of that last entire discussion. We have been talking about the fact that both parties recognize that we have to reduce the rate of growth of Medicare. If we do not, there will not be a Medicare. The costs would not be sustainable.

What the last discussion has meant is the fact that reducing the rate of growth does not have to mean reducing the level of services, that the projected rate of growth that we are talking about and that we have to avoid assumes that it is business as usual without change year after year, and we can explore ideas that might through alternative approaches, through just competition, reduce the rate of growth and still keep the level of service at at least what it is today.

Mr. HASTERT. I thank the gentleman.

I yield to the gentleman from Oklahoma.

Mr. COBURN. I was going to discuss another one of the options, Medicareplus, and that is the opportunity. Heretofore physicians as groups have not been allowed to get together and offer their services as a group in hopes to lowering the costs and attracting more patients, and one of the options under the Medicare Preservation Act is to allow us in conjunction with inpatient hospital facilities and outpatient hospital facilities to offer a provider services network program where we go and offer our services for a fee which would be paid through the Medicare program where we can vastly expand the benefits and also lower the costs.

Doctors for years were saying, ''Let use compete, let us go in. We'll show you that we can deliver the service.'' And now it is time for the doctors to show that in fact they do that, and I believe that they will. It will allow you to keep your doctor and still go into a Medicare-plus, if that is fact is what you want to do.

Mr. SCHIFF. I believe the gentleman is talking about proposals to relax the antitrust laws as it refers to physicians.

Mr. COBURN. That is true.

Mr. SCHIFF. And as a member of the Committee on the Judiciary, I very much support that.

The fact of the matter is for the system to operate there has to be a balance of competition, and we have seen the rise of HMO's health maintenance organizations, which essentially are conglomerates of offering services from an unified place. Many citizens like HMO's and they enroll in them. Other citizens do not want to enroll in HMO's, but the point is, given their existence, there is now a justification to allow physicians with each other and physicians with hospitals and other health care institutions to unite to offer a group-practice kind of policy to citizens that would compete with HMO's to give the citizens choices on an equal playing field.

So, I very much support that change in the antitrust laws.

Mr. COBURN. I think we might just talk about fraud and abuse for a minute.

Mr. HASTERT. Let us make it perfectly clear for everybody here so we can understand a little bit about our provider service organizations.

For instance, if you had 25 or 30 doctor in a large community, all specialists and general practitioners who you chose of the highest quality that you think are good practitioners of health care, and then you found one of the hospitals that was the best orthopedic hospital and another hospital that maybe is the best cardiac hospital, if you join together to provide those services to seniors, then you can give the seniors the best service at the lowest costs.

Is that the whole idea behind this?

Mr. COBURN. That is right, and do that in a unified package that we would know up front what their costs are, know what to expect, and know that they had quality and service.

Mr. SHAYS. What I think is exciting is that, you know, we are affecting the hospitals and doctors, and we are asking them to deal with lesser payments in some instances, but on the other hand we are also allowing them to compete directly with HMO's, directly with insurance companies, and provide their own organization of health care, and I have heard from so many doctors and hospitals that they feel they can reduce costs significantly and provide extra benefits to attract people into that system, and I think it is very exciting that we are allowing that to happen.

Mr. SCHIFF. If the gentleman would yield for just a moment, the point that our colleague from Oklahoma is making is that under existing antitrust laws physicians talking to each other and talking about joining together in the providing of services and offering joint rates is very restricted under the antitrust laws, but given the fact that the HMO's represent a group kind of practice which do exactly that, it makes very good sense to me to allow other groups to form together to offer their packages and then let the beneficiaries in Medicare, and other patients, make their own selection.

Mr. HASTERT. One of the things that we talked about as well as the choices that seniors have, and we talked about a couple of those choices out here, medical savings accounts, HMO's and PPO's, and then now the provider service organizations that we just got done talking about, we always thought also that there is a huge and historically huge amount of dollars, of Federal tax dollars, that go into Medicare that are wasted because of fraud and abuse. We estimate between 10 and 15 percent. That is a huge amount of money when you are talking about hundreds of billions of dollars.

Now we have two experts here on fraud and abuse, certainly the gentleman from New Mexico [Mr. SCHIFF] from the Committee on the Judiciary who looks at that type of issue all the time, and our friend from Oklahoma is an expert on that, but let us talk, talk to us a little bit about the provisions in this bill and how we start to curtail fraud and abuse.

I am happy to yield to the gentleman.

Mr. COBURN. I think the first thing we do is realize we have a problem, and

every Federal Government agency that has testified before the House Committee on Commerce admitted that we had significant problems. Anywhere from 5 to 15 percent was common, with most saying 10 to 11 percent. We have to ask ourself the question why have we not been able to attack the fraud and abuse that is there. I mean why for the last 15 years have we allowed 10 percent of the dollars for Medicare to go to fraud? I mean it is inexcusable. It is also inexcusable for us to now when we start to change it for the Attorney General's office and the Inspector General's office to say, ''Oh, wait, wait, don't change it,'' because obviously we have not put into effect what we need to put into effect to correct the problem.

□ 2045

Our goal is to eliminate fraud and abuse. The way we do that is to make sure we change the expectation of those who are defrauding and abusing; that we, in fact, will catch them. If we change that expectation, then we will limit greatly the amount of people, and number of people, who attempt to defraud.

That requires two main things: First, you have to clarify the rules; and second, you have to have an aggressive fraud and abuse program. I think this program that is in this bill is a very aggressive program.

Mr. HASTERT. We hear stories all the time, Mr. Speaker, that a senior will get a bill, they usually do not get the bills from Medicare, hospital bills, but when they do get those bills and they look through there and they see that they have been charged a great deal of amount. Some of those dollars are cost-shifting, but actually, of course, the story that is going around the Capitol is the lady who looks at her bill and sees that she has been charged for an autopsy, and obviously, she did not receive the autopsy.

She calls in and says, ''I did not receive this autopsy.'' And the person on the other end of the line says, ''It must have been for your quadruple heart bypass.'' She said, ''I did not receive one of those, either.'' What would a senior do under this bill when he gets into a situation like that?

Mr. COBURN. The program is designed to allow the senior to, first, be involved, to encourage them to report it, and also to benefit, if in fact they benefit——

Mr. HASTERT. How do they benefit?

Mr. COBURN. They benefit in that if the savings, I believe, are above $1,000, they share in the savings. They also benefit because they put on notice providers that are not honorable, that they are going to be caught, and it will not take long for the people who are presently abusing this system to recognize that we are going to have 36 million people out there helping us help them do the right thing.

Mr. HASTERT. Is it not a fact, too, that HCFA, the huge Health Care Financing Agency of the Federal Government, a huge bureaucracy that has grown in the last 40 years here in Washington, they have not been very effective in weeding out fraud and abuse, have they?

Mr. COBURN. No, they have not. I think the important thing, everybody that has a credit card, whether it is a BankAmericard or Visa card, when they use that today their bank knows it tonight. If they use it in Japan, they know it tonight. If they use it in South America, they know it tonight.

Our Medicare computer system, we do not know it and we will never know it if it is between two different divisions. It will never be tracked together, so in fact, we have in the past, through this bureaucracy, not even kept up the pace with 1970's computer knowledge and placement. We have spent the last 9 years trying to get a tracking system that will not be available for 3 or 4 more years.

Mr. HASTERT. That is one of the reasons in this bill, instead of throwing billions of dollars, again, at a huge Federal bureaucracy that is not very effective and certainly not efficient, that we have been going out in the private sector and finding those private CPA's who do a good job, who make a living doing that day in, and day out, and have to produce in order to be part of the system, to go out and do that job in fact also; is that correct?

Mr. COBURN. That is correct.

Mr. SHAYS. If the gentleman will yield, and then I would like to yield to the expert on this very issue, my committee and the Committee on Government Reform and Oversight, the Subcommittee on Human Resources and Intergovernmental Relations, has conducted a number of hearings on health care fraud.

We have learned incredible misuses, finding people who have been kicked out of the system, but they continue to be able to do business with the government. We know of agencies that have been fined $150 million because they have been so crooked, different organizations, but they are still allowed to participate. That is one of the things we are pressing our government to start to put an end to.

More importantly, we are learning the incredible fraud that exists and the failure to really get at it with some strong laws.

One of our efforts has been that the gentleman from New Mexico [Mr. SCHIFF] and I have introduced legislation that was incorporated into our Medicare bill. I thought the gentleman from New Mexico could describe that a bit.

Mr. SCHIFF. If the gentleman will yield, I want to say first, though, Mr. Speaker, that the term ''fraud and abuse'' in this context is used as a broad umbrella for many things. It, of course, includes criminal conduct, which I would like to talk about in a moment, but it includes many other things which might be recorded as inefficiencies. It does not mean there is less of a loss to the system, but the gentleman from Oklahoma [Mr. COBURN] was right on point when he said that the system that Medicare uses just to check billings is antiquated compared to private industry doing the same thing, as I understand it.

In fact, the number one complaint I heard from senior citizens meeting in my district on this subject is many of them would spot something wrong in a bill, a service was listed that was not provided to them, and this may not be fraud in a criminal sense, it could simply be an error in billing, but they would contact the Medicare Program through whichever contractor was administering it and tell them about it, and the contractor would simply say, ''It is not enough to bother about.''

Yet, I heard citizen, after citizen, after citizen, enunciate this kind of problem that they encountered with the system. If we can set up a beneficiary reward program where any kind of overbillings, assume the most accidental and inadvertent, if identified, results in a reward to that beneficiary, then that will force the system to respond.

Mr. SHAYS. I think the gentleman really needs to get into the whole criminal side. We have only about 5 minutes left before we lose our time.

Mr. SCHIFF. Time goes fast, as they say.

I want to say that included in the bill through the Committee on Rules was a provision in the bill that I and the gentleman from Connecticut [Mr. SHAYS] wrote, which contains a number of criminal provisions.

We are talking about, here, that small group, but nevertheless, a group that causes a lot of damage that deliberately and fraudulently overbills the system. The essence of these provisions are to make health care fraud a crime.

Right now health care fraud is not a crime under Federal law. If the U.S. attorneys want to prosecute, they have to prosecute under wire fraud, mail fraud, or any other type of statute. This requires a kind of a circular means of prosecuting.

Included in the bill now, based upon our bill, are provisions that make theft, fraud, kickbacks related to health care, a Federal offense, and further, it does not matter who the provider of the health care is, whether it is a government program or a private insurance company, because that small group that engages in really criminal fraud will defraud anybody. As soon as we can convict them, as soon as we can take them off the street, the better we all are.

Since we are winding down, I will yield to the gentleman from Oklahoma.

Mr. COBURN. Mr. Speaker, first of all, I want to thank the gentleman for the criminal provisions put in there. I also would add that we doubled the money penalties, we put mandatory sanctions on providers so they could

not continue to participate in the Medicare system, and we are trying to straighten out the computer problem as well.

I just want to say, as a practicing physician, although physicians will, in fact, get less money than what they would have, which is a cut, or a slowdown in growth, as we hear from the other side, that to act irresponsibly and not save this program is wrong.

This bill has lots of things that I do not agree with in it in terms of detail, but the underlying bill is a good bill, to do what the American people want done; that is, control the growth and make sure a quality health care program for our seniors that has choice and is affordable is there. I think this bill does it.

I can say to all providers, not just doctors, but hospitals and others, that we will have to work harder to be more efficient, to do the right thing, to be careful and to work in a constructive manner to change the system, to make it more efficient, but we can do it. We owe it to our children and our grandchildren to make sure we do that.

Mr. HASTERT. Just the provisions that you gentlemen put in the bill on fraud and abuse, if you can squeeze $10 billion or $12 billion out of fraud and abuse every year and put that back into health care for seniors, what a positive thing this is, just in that one small aspect.

Mr. SHAYS. That is $50 billion of your 270.

I would love just to weigh in and say that we as a Republican majority have three basic desires to accomplish during the course of the next 2 years: We want to get our financial house in order and balance the budget. We want to save our trust funds, particularly Medicare, and we want to transform the social and corporate welfare state into an opportunity society.

Today, we began that journey very significantly in our effort to save and strengthen and preserve our Medicare trust fund, and we did it by allowing this program to continue to grow. We are going to put $1.6 trillion in in the next 7 years, and spend $73 billion more than in the past 7 years. I will turn to my colleague, if he could just conclude.

Mr. HASTERT. I certainly appreciate my colleagues joining me tonight to talk about this, Mr. Speaker. I think the bottom line is that we have our parents and grandparents, and we want to make sure Medicare is there for them, a good Medicare Program that could go beyond the bounds of what has traditionally been there and give them some choices, but most of all, to give them quality health care and give them the assurance that that health care is going to be there for the rest of their lives.

Then on the other side, we have out children and our grandchildren, that we want to make sure that we are not wasting their dollars. That is why we are cutting that inflationary $270 billion that the Democrats just want to leave there, so that they do not have to pay those extra dollars out of what money they have to earn.

It is estimated that a child that is born today has about $186,000 of debt that he has to work off or she has to work off in her adult lifetime. Let us hold that down. Let us be prudent in how we spend the taxpayers' money.

I think this bill gives seniors choices. It secures health care and Medicare for their decision-making process for the rest of their lifetime, and it establishes and holds firm a principle of Medicare, something that seniors have had in this country for years to come. I certainly appreciate your participation in this special order tonight, and I know that the seniors of this country will join me in thanking you very much.

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MARKEY) to revise and extend their remarks and include extraneous material:)

Mr. MARKEY, for 5 minutes, today.
Mr. WAXMAN, for 5 minutes, today.
Mr. DINGELL, for 5 minutes, today.
Mr. BROWN of Ohio, for 5 minutes, today.
Ms. DELAURO, for 5 minutes, today.
Mr. VENTO, for 5 minutes, today.
Mr. DOGGETT, for 5 minutes, today.
Mr. DEUTSCH, for 5 minutes, today.
Mr. TOWNS, for 5 minutes, today.
Mr. PALLONE, for 60 minutes, today.
Mr. OWENS, for 60 minutes, today.

(The following Members (at the request of Mr. CHRYSLER) to revise and extend their remarks and include extraneous material:)

Mr. RIGGS, for 5 minutes, today.
Mr. HORN, for 5 minutes, on October 19, 20, and 23.
Mr. MCINNIS, for 5 minutes, today.
Mr. WATTS of Oklahoma, for 5 minutes, today.
Mr. GOSS, for 5 minutes, today.
Mr. TAUZIN, for 5 minutes, today.
Mr. DORNAN, for 5 minutes, today.

## EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. MARKEY) and to include extraneous matter:)

Mr. LEVIN.
Mr. LAFALCE.
Ms. WOOLSEY.
Mr. JOHNSON of South Dakota.
Mr. KLECZKA.
Mr. HAMILTON.
Mr. STUDDS.
Mr. ROEMER.
Mr. SKELTON in two instances.
Mr. ACKERMAN.
Mr. FAZIO of California.
Mr. MFUME.
Mr. WARD in four instances.
Ms. VELÁZQUEZ.
Mr. BROWN of California.
Mr. LANTOS in two instances.
Mr. MENENDEZ.
Mrs. SCHROEDER.
Mr. REED.
Mr. STOKES.

(The following Members (at the request of Mr. CHRYSLER) and to include extraneous matter:)

Mr. GALLEGLY.
Mr. DUNCAN.
Mrs. ROUKEMA.
Mr. GILMAN in two instances.
Mr. CRAPO.
Mr. BUNNING of Kentucky.
Mr. STUMP.
Mr. SMITH of New Jersey.
Mr. SMITH of Texas.
Mrs. MORELLA.
Mr. BOEHNER.
Mr. ZIMMER.
Mr. PORTMAN.
Mr. CASTLE.
Mrs. VUCANOVICH in two instances.

(The following Members (at the request of Mr. SCHIFF) and to include extraneous matter:)

Mr. ROTH.
Mr. FRELINGHUYSEN.
Mr. MATSUI.
Mr. SKAGGS.
Mr. ALLARD.
Mr. MORAN.
Mr. EDWARDS.
Mr. ABERCROMBI.
Mr. HALL of Ohio.
Mr. VISCLOSKY.
Mr. STENHOLM.
Ms. DANNER.
Mr. MCGINNIS.
Mr. EVANS.
Mr. RICHARDSON.
Mrs. FOWLER.
Mr. ORTON.

## SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 268. An act to authorize the collection of fees for expenses for triploid grass carp certification inspections, and for other purposes.

S. 1111. An act to amend title 35, United States Code, with respect to patents on biotechnological processes.

S. 227. An act to amend title 17, United States Code, to provide an exclusive right to perform sound recordings publicly by means of digital transmissions, and for other purposes.

## BILLS PRESENTED TO THE PRESIDENT

Mr. THOMAS, from the Committee on House Oversight, reported that that committee did on this day present to the President, for his approval, bills of the House of the following title:

H.R. 1976. An act making appropriations for Agriculture, rural development, Food and Drug Administration, and related agencies programs for the fiscal year ending September 30, 1996, and for other purposes.

## ADJOURNMENT

Mr. SHAYS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 56 minutes p.m.) the House adjourned until tomorrow, Friday, October 20, 1995, at 10 a.m.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1538. A letter from the Secretary of Energy, transmitting the Department's eighth annual report to Congress summarizing the Department's progress during fiscal year 1994 in implementing the requirements of the Comprehensive Environmental Response, Compensation, and Liability Act, pursuant to Public Law 99–499, section 120(e)(5) (100 Stat. 1669); to the Committee on Commerce.

1539. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance [LOA] to Italy for defense articles and services (Transmittal No. 96–04), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

1540. A letter from the Administrator, Environmental Protection Agency, transmitting the Agency's annual report summarizing actions taken under the Program Fraud Civil Remedies Act [PFCRA] for the year ending September 30, 1995, pursuant to 31 U.S.C. 3801–3812; to the Committee on Government Reform and Oversight.

1541. A letter from the Administrator, General Services Administration, transmitting a draft of proposed legislation to amend title 31, United States Code, to require executive agencies to verify for correctness of transportation charges prior to payment, and for other purposes; to the Committee on Government Reform and Oversight.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DIAZ-BALART: Committee on Rules. House Resolution 239. Resolution providing for consideration of the bill (H.R. 2492) making appropriations for the legislative branch for the fiscal year ending September 30, 1996, and for other purposes (Rept. 104–283). Referred to the House Calendar.

Mr. CLINGER. Committee on Government Reform and Oversight. H.R. 994. A bill to require the periodic review and automatic termination of Federal regulations; with an amendment (Rept. 104–284 Pt. 1). Ordered to be printed.

## SUBSEQUENT ACTION ON A REPORTED BILL SEQUENTIALLY REFERRED

Under clause 5 of rule X the following action was taken by the Speaker:

H.R. 1020. Referral to the Committees on Resources and the Budget extended for a period ending not later than October 24, 1995.

## TIME LIMITATION ON REFERRED BILL

Pursuant to clause 5 of rule X the following action was taken by the Speaker:

H.R. 994. Referral to the Committee on the Judiciary extended for a period ending not later than November 3, 1995.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BUNN of Oregon:

H.R. 2507. A bill to disapprove amendment No. 8 of the ''Amendments to the Sentencing Guidelines, Policy Statements, and Official Commentary,'' submitted by the U.S. Sentencing Commission to Congress on May 1, 1995; to the Committee on the Judiciary.

By Mr. ALLARD (for himself, Mr. KLUG, Mr. STENHOLM, Mr. DINGELL, Mr. GANSKE, Mr. BARRETT of Nebraska, Mr. BEREUTER, Mr. BOEHNER, Mr. BROWN of California, Mr. BRYANT of Texas, Mr. BURTON of Indiana, Mr. BUYER, Mr. CHAMBLISS, Mrs. CHENOWETH, Mr. COBLE, Mr. COMBEST, Mr. CONDIT, Mr. COOLEY, Mr. COSTELLO, Mr. CRAPO, Mrs. CUBIN, Mr. DE LA GARZA, Mr. DOOLEY, Mr. EHLERS, Mr. EMERSON, Mr. ENSIGN, Mr. EWING, Mr. GOODLATTE, Mr. GORDON, Mr. GUNDERSON, Mr. HAMILTON, Mr. HEFLEY, Mr. HOLDEN, Mr. HOSTETTLER, Mr. JOHNSON of South Dakota, Mr. KLECZKA, Mr. LAHOOD, Mrs. LINCOLN, Mr. LARGENT, Mr. LATHAM, Mr. LEACH, Mr. LEWIS of Kentucky, Mr. LIGHTFOOT, Mr. LUCAS, Mr. MCINNIS, Mr. MCINTOSH, Ms. MCKINNEY, Mr. MILLER of Florida, Mr. MINGE, Ms. MOLINARI, Mr. MYERS of Indiana, Mr. NORWOOD, Mr. PASTOR, Mr. PAXON, Mr. PETERSON of Minnesota, Mr. POMBO, Mr. POMEROY, Mr. POSHARD, Mr. ROBERTS, Mr. ROEMER, Mr. ROSE, Mr. SCHAEFER, Mr. SKEEN, Mr. SOUDER, Mr. STUMP, Mr. TAYLOR of North Carolina, Mr. THORNBERRY, Mr. THORNTON, Mrs. THURMAN, Mr. WALSH, Mr. WATTS of Oklahoma, and Mr. WHITFIELD):

H.R. 2508. A bill to amend the Federal Food, Drug, and Cosmetic Act to provide for improvements in the process of approving and using animal drugs, and for other purposes; to the Committee on Commerce.

By Mr. CRAPO (for himself, Mr. POMEROY, Mrs CHENOWETH, and Mr. BROWN of California):

H.R. 2509. A bill to finance and implement a program of research, promotion, market development, and industry and consumer information to enhance demand for and increase the profitability of canola and rapeseed products in the United States, and for other purposes; to the Committee on Agriculture.

By Mr. FOX (for himself, Mr. SMITH of New Jersey, Mr. SOLOMON, Mr. MONTGOMERY, Mr. FRAZER, Mrs KELLY, Mr. WELLER, Ms. RIVERS, Ms. FURSE, Mr. UNDERWOOD, Mr. KING, Mr. PETERSON of Minnesota, Mr. BUNN of Oregon, Mr. WATTS of Oklahoma, Mr. ACKERMAN, Mr. SERRANO, Mr. FROST, Mr. LIPINSKI, Mr. WELDON of Pennsylvania, Mr. DORNAN, and Mr. HOKE):

H.R. 2510. A bill to amend title 5, United States Code, to provide veterans' preference status to certain individuals who served on active duty in the Armed Forces in connection with Operation Desert Shield or Operation Desert Storm, and for other purposes; to the Committee on Government Reform and Oversight.

By Mr. GOODLATTE (for himself, Mr. HYDE, Mr. CONYERS, Mr. MOORHEAD, Mr. MCCOLLUM, Mr. FRANK of Massachusetts, Mr. GEKAS, Mr. SMITH of Texas, Mr. COBLE, Mr. CANADY, Mr. BONO, Mr. HEINEMAN, Mr. FLANAGAN, and Mr. DAVIS):

H.R. 2511. A bill to control and prevent commercial counterfeiting, and for other purposes; to the Committee on the Judiciary.

By Mr. JOHNSON of South Dakota:

H.R. 2512. A bill to provide for certain benefits of the Missouri River basin Pick-Sloan project to the Crow Creek Sioux Tribe, and for other purposes; to the Committee on Resources.

By Mr. STUMP (for himself, Mr. MONTGOMERY, Mr. EVERETT, and Mr. EVANS):

H.R. 2513. A bill to amend title 38, United States Code, to expand eligibility for burial benefits to include certain veterans who die in State nursing homes; to the Committee on Veterans' Affairs.

By Mr. ZIMMER (for himself, Mr. LEVIN, and Mr. CAMP):

H.R. 2514. A bill to amend the Internal Revenue Code of 1986 to make the research credit permanent and to allow such credit for expenses attributable to certain collaborative research consortia; to the Committee on Ways and Means.

By Mr. SCHUMER:

H. Res. 240. Resolution providing for the consideration of the bill (H.R. 1710) to combat terrorism; to the Committee on Rules.

## PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BRYANT of Tennessee:

H.R. 2515. A bill for the relief of Florence Barrett Cox; to the Committee on the Judiciary.

By Mr. UNDERWOOD:

H.R. 2516. A bill for the relief of Vincente Babauta Jesus and Rita Rios Jesus; to the Committee on the Judiciary.

## ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 42: Mrs. MALONEY, Ms. EDDIE BERNICE JOHNSON of Texas, and Mr. FILNER.

H.R. 65: Mr. PICKETT.

H.R. 72: Mr. DIAZ-BALART.

H.R. 103: Mr. CONDIT.

H.R. 303: Mr. STUDDS.

H.R. 356: Mr. HORN and Mr. POSHARD.

H.R. 528: Mrs. FOWLER, Mrs. MEYERS of Kansas, Mr. VOLKMER, Mr. JOHNSON of South Dakota, Mr. WICKER, Mr. ZIMMER, Ms. WOOLSEY, Mr. BOUCHER, and Ms. MCKINNEY.

H.R. 585: Mr. PASTOR, Mr. BEVILL, Mr. ZIMMER, Mr. PETRI, and Mr. TANNER.

H.R. 773: Mr. BENTSEN.

H.R. 784: Mr. PACKARD and Mr. RAHALL.

H.R. 838: Mr. KILDEE.

H.R. 862: Mr. CRANE.

H.R. 903: Mr. JACOBS, Mr. SENSENBRENNER, and Mr. DOYLE.

H.R. 931: Mr. PAYNE of Virginia and Mr. ENGLISH of Pennsylvania.

H.R. 1024: Mr. CRAPO.

H.R. 1090: Mr. EHRLICH.

H.R. 1131: Mr. CRAPO.

H.R. 1251: Mr. MCCRERY.

H.R. 1329: Ms. WOOLSEY.

H.R. 1353: Mr. ZIMMER.

H.R. 1462: Mr. DOYLE, Mr. GOODLING, Mr. FOGLIETTA, Mr. TORRES, and Mr. RICHARDSON.

H.R. 1464: Mr. CUNNINGHAM, Ms. LOFGREN, Mr. MCCOLLUM, Mr. PACKARD, and Mr. STUMP.

H.R. 1499: Mr. DEFAZIO and Ms. ROYBAL-ALLARD.

H.R. 1513: Ms. LOFGREN and Mr. PASTOR.

H.R. 1535: Mr. OLVER.

H.R. 1627: Mr. PETRI and Mr. HANSEN.

H.R. 1711: Mr. CANADY of Florida.

H.R. 1713: Mrs. SEASTRAND.

H.R. 1846: Mrs. MALONEY.

H.R. 1856: Mr. HALL of Ohio, Mr. SABO, Mr. HANCOCK, Mr. JOHNSON of South Dakota, Mr. FATTAH, and Mr. BARTON of Texas.

H.R. 1882: Mr. JOHNSON of South Dakota and Mr. PETERSON of Florida.

H.R. 1883: Mr. MCKEON and Mr. STEARNS.

H.R. 1909: Mr. BARTLETT of Maryland.

H.R. 1933: Mr. PALLONE, Mr. BEVILL, and Mr. ROMERO-BARCELO.

H.R. 1960: Mr. PAXON, Mr. HUTCHINSON, Mr. WELLER, Mr. GENE GREEN of Texas, Mrs. KELLY, and Mr. SMITH of New Jersey.

H.R. 2071: Miss COLLINS of Michigan.

H.R. 2089: Mrs. SMITH of Washington, Mr. EHLERS, Mr. THORNBERRY, Mr. HALL of Ohio, Mr. HUTCHINSON, Mr. WHITFIELD, and Mr. CALVERT.

H.R. 2090: Mr. RAMSTAD.

H.R. 2143: Mr. SHAW.

H.R. 2167: Mr. KENNEDY of Massachusetts, Mr. FILNER, Miss COLLINS of Michigan, Mr. PAYNE of Virginia, Mr. TRAFICANT, Mr. WYNN, Ms. KAPTUR, Mr. RAHALL, Mr. BONIOR, Mr. COLEMAN, Mrs. MINK of Hawaii, Mr. HINCHEY, and Mr. OWENS.

H.R. 2181: Ms. FURSE.

H.R. 2190: Mrs. SEASTRAND, Mr. PACKARD, and Mr. RAMSTAD.

H.R. 2202: Mr. FRANKS of Connecticut.

H.R. 2211: Miss COLLINS of Michigan, Mr. LIPINSKI, Ms. NORTON, Ms. ROYBAL-ALLARD, and Ms. WATERS.

H.R. 2223: Mr. FRANK of Massachusetts, Miss COLLINS of Michigan, and Mr. KENNEDY of Massachusetts.

H.R. 2224: Ms. KAPTUR.

H.R. 2244: Mr. FUNDERBURK, Mr. CHRYSLER, Mr. GANSKE, Ms. LOFGREN, Mr. FOX, and Mr. PACKARD.

H.R. 2245: Miss COLLINS of Michigan.

H.R. 2247: Mr. ACKERMAN, Mr. ANDREWS, Ms. BROWN of Florida, Mr. GUTIERREZ, Mr. HINCHEY, Mrs. MINK of Hawaii, Ms. PELOSI, Mr. RANGEL, Mr. SANDERS, Ms. VELAZQUEZ, and Mr. WARD.

H.R. 2264: Mr. OBERSTAR, Mr. DUNCAN, Ms. RIVERS, Mr. JACOBS, Mr. DEFAZIO, Mr. BARRETT of Wisconsin, and Ms. BROWN of Florida.

H.R. 2276: Miss COLLINS of Michigan, Mr. LAHOOD, Mr. HASTERT, Mr. SKEEN, Mr. PETE GEREN of Texas, Mr. KLECZKA, Mr. HANCOCK, Mr. WAMP, Mr. HAYES, Mr. PETRI, Mr. ZELIFF, Mr. MARTINI, Mr. YOUNG of Alaska, Mr. POSHARD, and Mr. QUINN.

H.R. 2280: Mr. DURBIN, Mr. DEUTSCH, and Mr. TOWNS.

H.R. 2320: Mr. FRAZER, Mr. BARRETT of Wisconsin, Mr. HANCOCK, Mr. TAYLOR of North Carolina, Mr. SOUDER, Mr. INGLIS of South Carolina, Mr. LUTHER, Mrs. CHENOWITH, Mr. LAHOOD, Mr. HOEKSTRA, Mr. PETE GEREN of Texas, Mrs. LINCOLN, Mr. BACHUS, Mr. RIGGS, Mr. MCCRERY, Mrs. THURMAN, Mr. PETERSON of Florida, Mr. POSHARD, Mr. PAYNE of Virginia, Mr. TANNER, Mr. UNDERWOOD, Mr. LIPINSKI, Mr. BREWSTER, Mr. WAMP, Mr. GENE GREEN of Texas, Mr. KNOLLENBERG, Mr. FOLEY, Mr. SKEEN, Mr. BALDACCI, and Mr. HASTERT.

H.R. 2326: Mr. KLUG, Mr. GOSS, Miss COLLINS of Michigan, and Mr. CHABOT.

H.R. 2338: Mr. LIPINSKI and Mr. TORRES.

H.R. 2351: Mr. COBURN and Mr. RADANOVICH.

H.R. 2357: Mr. POMEROY.

H.R. 2372: Mr. HOSTETTLER and Mr. WHITFIELD.

H.R 2396: Miss COLLINS of Michigan, Mrs. CUBIN, Mr. FALEOMAVAEGA, Mr. FILNER, Mr. FOLEY, Mr. FOX, Mr. FROST, Mr. GENE GREEN of Texas, Mr. LIPINSKI, Mrs. MINK of Hawaii, Mr. OWENS, Mr. PALLONE, Mr. SAXTON, Mr. THOMPSON, Mr. TORRES, Mr. UNDERWOOD, and Mr. WATT of North Carolina.

H.R. 2416: Mr. GREENWOOD.

H.R. 2433: Mr. RAHALL, Mr. GENE GREEN of Texas, Mr. MILLER of California, Mr. HORN, Mr. MORAN, Mr. SOLOMON, Mr. LANTOS, Mr. ACKERMAN, Mr. JACOBS, Ms. FURSE, Mr. BROWN of California, Mr. SPENCE, Mr. NEY, Mr. ROSE, Mr. DEUTSCH, Mr. MANTON, Mr. CLYBURN, and Mr. ABERCROMBIE.

H. Con. Res. 36: Mr. SCHIFF.

H. Con. Res. 37: Mr. SCHIFF.

H. Con. Res. 50: Mr. DEFAZIO and Mrs. THURMAN.

H. Con. Res. 51: Mr. KIM, Mr. STEARNS, and Mr. FRANK of Massachusetts.

H. Res. 36: Mr. MCCOLLUM.

United States of America

# Congressional Record

PROCEEDINGS AND DEBATES OF THE 104th CONGRESS, FIRST SESSION

Vol. 141 WASHINGTON, THURSDAY, OCTOBER 19, 1995 No. 162

# Senate

*(Legislative day of Wednesday, October 18, 1995)*

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

## PRAYER

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

Almighty God, Sovereign of this Nation and Lord of our lives, our purpose is to glorify You by serving our Nation. We want to express an energetic earnestness about our work today. Help us to know what You want and then want what we know; to say what we mean, and mean what we say. Give us resoluteness and intentionality. Free us to listen to You so intently that we can speak with intrepidness. Keep us in the battle for truth rather than ego-skirmishes over secondary issues. Make us party to Your plans so we can give leadership to our parties and then help our parties to work together to accomplish Your purposes. Make us one in the earnestness of our patriotism.

Thank You for calling this Senate family to be a caring community in which we share each other's joys and sorrows. Today, we ask for Your strength and comfort for Senator CHARLES ROBB now at the time of the death of his father. Help us all to live today with an assurance that this life is but an inch on the limitless measurement of eternity. In the name of the Resurrection and the Life. Amen.

## RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able Senator from Kansas is recognized.

## SCHEDULE

Mrs. KASSEBAUM. Mr. President, today, there will be a period for morning business until the hour of 10:30 a.m. At 10:30, the Senate will resume consideration of H.R. 927, the Cuba sanctions bill, with Senator DODD to be recognized to offer his two amendments. The only remaining amendment in order to the bill is the Simon amendment No. 2934, which has a 20-minute time limitation.

Therefore, it is expected that the Senate will complete action on the bill early this afternoon.

## MORNING BUSINESS

The PRESIDING OFFICER (Mr. COATS). Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10:30 a.m., with Senators permitted to speak therein for up to 5 minutes each.

Under that previous order, the Senator from Kansas [Mrs. KASSEBAUM] is recognized to speak for up to 10 minutes.

Mr. WELLSTONE. Will the Senator yield for a moment?

Mrs. KASSEBAUM. Yes.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that I might be granted 10 minutes to speak as in morning business.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Kansas is recognized.

## STUDENT LOANS AND BUDGET RECONCILIATION

Mrs. KASSEBAUM. Mr. President, the other evening, the majority leader, Senator DOLE, spoke about the opportunities which the GI bill provided to thousands of Americans following World War II. Enactment of the GI bill in 1944 marked the beginning of Federal efforts to open the door to postsecondary education for individuals who would otherwise be unable to attend. Over the past 50 years, the scope and variety of Federal student aid programs have expanded considerably. Today, any student in need of financial help can obtain it.

My reason for addressing the Senate now is to dispel the notion that, somehow, all this will change if Congress enacts student loan changes as part of the budget reconciliation bill. Unfortunately, misconceptions about this legislation are widespread, and I believe it is important to set the record straight.

A few weeks ago, the Senate Committee on Labor and Human Resources reported its portion of this legislation, providing Federal student loan savings of $10.85 billion over 7 years. Because the Federal student loan program is one of the few mandatory spending programs under the jurisdiction of the Labor and Human Resources Committee, it was the only place we had to turn in order to comply with our instruction.

Granted, $10.85 billion is a substantial sum over 7 years. However, to hear some describe our package, one would assume that it spells the end of higher education as we know it. Mr. President, that is simply not the case.

Federal student loan programs were established to assist students and their parents in financing postsecondary education. These programs have been successful in achieving that goal. Approximately $26 billion in loan funds have been made available this year. The figure will grow next year. Even if the Labor Committee package is approved intact, that volume will grow.

The reason is that the savings in this package were achieved without restricting a student's ability to borrow. In short, there is nothing in the package which limits the amount of loan funds available. Loans will continue to be available to all who qualify. There is nothing in the package which limits the ability of a student to qualify for a

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



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Federal loan. The rules are exactly the same as they have been.

There is nothing in the package which increases the cost of the loan to a student who is in school. The only direct cost to students included in the package applies to new borrowers after they leave school. At that point, they will continue to be able to defer loan payments for 6 months—the so-called grace period—but the Federal Government will no longer subsidize interest payments during that period of time.

That, I believe, Mr. President, is reasonable. This package was developed with the clear intention of minimizing costs to students. I believe that purpose was accomplished. It is, therefore, particularly disturbing to me that students and their families are being intentionally misled about the impact of the proposed changes. I fear that this misinformation will discourage some students from even exploring postsecondary education, and that, I believe, would be a real tragedy.

I would like to explain briefly how the $10.85 billion in savings is achieved. First of all, about $4 billion of the savings comes from reductions to entities involved in the guaranteed loan program, such as banks and guaranty agencies.

The elimination for new borrowers of the interest subsidy during the 6-month grace period achieves about $2.7 billion in savings over that 7-year period. This change would mean an extra $1.89 a month for an undergraduate who borrows $5,500 in 1 year. At most, it would mean an additional $22.50 a month for a graduate student who has borrowed the $65,000 maximum through his or her college career.

Capping the direct loan program at 20 percent of loan volume produces about $1.5 billion in savings. Additional savings are achieved through the elimination of fees paid to schools and alternative originators for direct loan administration. Whatever one may believe about the merits or demerits of direct lending, the fact remains that the way a loan is delivered has absolutely nothing to do with the ability of students to borrow or with the amounts they may borrow. The terms and conditions of direct loans are identical to those of guaranteed loans. There is no difference to the students at that juncture. To suggest that paring back the direct loan program will deprive students of loan funds or make those funds more expensive is plainly inaccurate. The one advantage, at this point, of direct loans and direct lending is that it makes a loan available immediately.

It does expedite the process of obtaining a loan by a student. As far as any difference in the loans being more expensive, that is certainly not the case.

The package also calls upon postsecondary education institutions to participate in achieving savings by imposing a fee equal to 0.85 percent of the amount of Federal loans made available to their students. This proposal produces about $1.9 billion over 7 years.

Some have argued that these costs will be passed directly on to the students rather than being absorbed through the efficiencies in other school operations. Perhaps that will be the case. Even if the entire cost is passed on to the student, it would amount to an average of $20 to $25 per student per year. That is at the high end. Others would be about $11 to $12 to $13 per year.

Finally, approximately $700 million in savings is achieved by increasing the interest rate and the interest rate cap on parent loans.

When one looks beyond the hype to see the facts, Mr. President, it is clear that this reconciliation package does not spell disaster for secondary education in this country. Blaming a Republican Congress for reducing access to postsecondary education by increasing its costs may be convenient, but it does not explain away the fact that college tuitions have been growing at a rate surpassing inflation for well over a decade. That is what has caused such enormous problems for students and their families, is the escalating cost of college education due to increased tuition.

Figures recently released by the college board show an average tuition increase this year of 6 percent, more than double the inflation rate. Average tuition in fees at a 4-year public institution are $2,860. For a 4-year private institution, these costs average $12,432.

Mr. President, another 6-percent increase in those amounts next year would mean an additional per-student cost ranging from $171 to $745, presenting far more serious problems for students and their families than anything in this reconciliation package.

Federal student aid is simply not going to be able to pick up the slack in such an environment, nor is that a role for which it was intended. That is what I think we need to understand, Mr. President.

There is not anything in the reconciliation package regarding student loans that I suppose we would be comfortable with. On the other hand, it is not the tragedy that is being portrayed. I think it is very important that students and their families understand that.

No one relishes the task of cutting back. It is much easier to build upon the expensive policies that have brought us to our current budget problems in the first place. However, one can prune the branches without killing the tree. It is a disservice to the American taxpayers to suggest otherwise.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Under the previous unanimous consent, the Senator from Minnesota is recognized.

Mrs. KASSEBAUM. I wonder if the Senator from Minnesota would yield for a few moments for some unanimous-consent requests.

Mr. WELLSTONE. I am happy to yield to the Senator.

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION APPROPRIATIONS AUTHORIZATION, FISCAL YEAR 1996

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar 204, S. 1048.

The PRESIDING OFFICER. The clerk will report. The legislative clerk read as follows:

A bill (S. 1048) to authorize appropriations for fiscal year 1996 to the National Aeronautics and Space Administration for human space flight; science, aeronautics, and technology; mission support; and inspector general; and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Commerce, Science, and Transportation, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

***SECTION 1. SHORT TITLE.***

*This Act may be cited as the ''National Aeronautics and Space Administration Authorization Act, Fiscal Year 1996''.*

***SEC. 2. DEFINITIONS.***

*For the purposes of this Act—*

*(1) the term ''Administrator'' means the Administrator of the National Aeronautics and Space Administration;*

*(2) the term ''NASA'' means the National Aeronautics and Space Administration; and*

*(3) the term ''institution of higher education'' has the meaning given such term in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).*

*TITLE I—AUTHORIZATION OF APPROPRIATIONS*

***SEC. 101. HUMAN SPACE FLIGHT.***

*There are authorized to be appropriated to the National Aeronautics and Space Administration for Human Space Flight the following amounts, to become available October 1, 1995:*

*(1) Space Station, $1,818,800,000.*

*(2) Russian Cooperation, $129,200,000.*

*(3) Space Shuttle, $3,031,800,000.*

*(4) Payload and Utilization Operations, $293,000,000.*

***SEC. 102. SCIENCE, AERONAUTICS, AND TECHNOLOGY.***

*There are authorized to be appropriated to the National Aeronautics and Space Administration for Science, Aeronautics, and Technology the following amounts, to become available October 1, 1995:*

*(1) Space Science, $1,958,900,000, of which $48,700,000 shall be allocated to the Stratospheric Observatory for Infrared Astronomy, $15,000,000 shall be allocated to the Space Infrared Telescope Facility, and $30,000,000 shall be allocated to the New Millennium initiative.*

*(2) Life and Microgravity Sciences and Applications, $507,000,000, of which $3,000,000 shall be allocated for the construction of an addition to the Microgravity Development Laboratory, Marshall Space Flight Center.*

*(3) Mission to Planet Earth, $1,360,100,000, of which $17,000,000 shall be allocated to the construction of the Earth Systems Science Building, Goddard Space Flight Center.*

*(4) Aeronautical Research and Technology, $891,300,000, of which $5,400,000 shall be allocated to the modernization of the Unitary Plan Wind Tunnel Complex, Ames Research Center.*

*(5) Space Access and Technology, $766,600,000, of which at least $70,000,000 shall be allocated to support a shuttle flight for the Shuttle Imaging*

*Radar-C, of which $5,000,000 shall be used to establish a Rural Technology Transfer and Commercialization Center for the Rocky Mountains and Upper Plains States region, and of which $159,000,000 shall be allocated to the Reusable Launch Vehicle program.*

*(6) Mission Communications Services, $461,300,000.*

*(7) Academic Programs, $104,700,000, of which $3,000,000 shall be allocated to support the establishment of an Upper Plains States regional science education and outreach center and of which $1,000,000 shall be allocated to establish a Rural Teacher Resource Center.*

***SEC. 103. MISSION SUPPORT.***

*There are authorized to be appropriated to the National Aeronautics and Space Administration for Mission Support the following amounts, to become available October 1, 1995:*

*(1) Safety, Reliability, and Quality Assurance, $37,600,000.*

*(2) Space Communications Services, $219,400,000.*

*(3) Research and Program Management, including personnel and related costs, travel, and research operations support, $2,047,800,000.*

*(4) Construction of Facilities, including land acquisition, $135,000,000, including the following:*

*(A) Restoration of Flight Systems Research Laboratory, Ames Research Center;*

*(B) Restoration of chilled water distribution system, Goddard Space Flight Center;*

*(C) Replace chillers, various buildings, Jet Propulsion Laboratory;*

*(D) Rehabilitation of electrical distribution system, White Sands Test Facility, Johnson Space Center;*

*(E) Replace main substation switchgear and circuit breakers, Johnson Space Center;*

*(F) Replace 15kv load break switches, Kennedy Space Center;*

*(G) Rehabilitation of Central Air Equipment Building, Lewis Research Center;*

*(H) Restoration of high pressure air compressor system, Marshall Space Flight Center;*

*(I) Restoration of Information and Electronic Systems Laboratory, Marshall Space Flight Center;*

*(J) Restoration of canal lock, Stennis Space Center;*

*(K) Restoration of primary electrical distribution system, Wallops Flight Facility;*

*(L) Repair of facilities at various locations, not in excess of $1,500,000 per project;*

*(M) Rehabilitation and modification of facilities at various locations, not in excess of $1,500,000 per project;*

*(N) Minor construction of new facilities and additions to existing facilities at various locations, not in excess of $1,500,000 per project;*

*(O) Facility planning and design, not otherwise provided for; and*

*(P) Environmental compliance and restoration.*

***SEC. 104. INSPECTOR GENERAL.***

*There are authorized to be appropriated to the National Aeronautics and Space Administration for Inspector General $17,300,000, to become available October 1, 1995.*

***SEC. 105. OFFICE OF COMMERCIAL SPACE TRANSPORTATION.***

*There are authorized to be appropriated to the Office of Commercial Space Transportation of the Department of Transportation $7,000,000, to become available October 1, 1995.*

*TITLE II—LIMITATIONS AND GENERAL PROVISIONS*

***SEC. 201. SPACE STATION LIMITATION.***

*The aggregate amount authorized to be appropriated for Space Station and related activities under sections 101, 102, and 103 shall not exceed $2,100,000,000.*

***SEC. 202. EXPERIMENTAL PROGRAM TO STIMULATE COMPETITIVE RESEARCH.***

*Of the amounts appropriated under sections 101 and 102, $6,900,000 are authorized for the Experimental Program to Stimulate Competitive Research in accordance with title III of the National Aeronautics and Space Administration Act, Fiscal Year 1993 (Public Law 102–588; 106 Stat. 5119).*

***SEC. 203. SPECIAL TECHNOLOGY ENHANCEMENT GRANTS.***

*(a) IN GENERAL.—*

*(1) GRANTS.—The Administrator shall make up to 4 special technology enhancement grants to areas or States that have not participated fully in the Administration's aeronautical and space programs in order to enable such areas or States to increase their capabilities in technology development, utilization, and transfer in aeronautics, space science, and related areas. At least one such grant shall be made available to a consortium of States, each one of which has an average population density of less than 12.3 persons per square mile, based on data for 1993 from the Bureau of the Census.*

*(2) ACTIVITIES.—Grants made under this section shall be available for—*

*(A) assessment of resources and needs;*

*(B) development of infrastructure, including incubators and prototype demonstration facilities;*

*(C) collaborations with industry;*

*(D) expansion of capabilities in procurement;*

*(E) development of technology transfer and commercialization support capabilities;*

*(F) activities to increase participation in the Small Business Innovation Research program and other NASA research, development, and technology utilization and transfer programs;*

*(G) relevant research of interest to NASA; and*

*(H) such other activities as the Administrator shall deem appropriate.*

*(3) SPECIAL CONSIDERATION.—In making grants under this section, the Administrator shall give special consideration to proposals that—*

*(A) will build upon and expand a developing research and technology base, and*

*(B) will insure a lasting research and development and technology development and transfer capability.*

*(b) ELIGIBLE ENTITIES.—Grants under subsection (a)(1) may be made to—*

*(1) State and local governments;*

*(2) institutions of higher education; and*

*(3) organizations with expertise in research and development, technology development, and technology transfer in areas of interest to NASA.*

*(c) FUNDING OF PROGRAM.—Of the amounts authorized in section 102 for the Space Access and Technology account, $15,000,000 are authorized to be used for grants under subsection (a).*

***SEC. 204. CLEAR LAKE DEVELOPMENT FACILITY.***

*The Administrator is authorized to acquire, for no more than $35,000,000, a certain parcel of land, together with existing facilities, located on the site of the property referred to as the Clear Lake Development Facility, Clear Lake, Texas, comprising approximately 13 acres and including a light manufacturing facility, an avionics development facility, and an assembly and test building which shall be modified for use as a neutral buoyancy laboratory in support of human space flight activities.*

***SEC. 205. YELLOW CREEK FACILITY.***

*Notwithstanding any other provision of law or regulation, the National Aeronautics and Space Administration (NASA) is authorized to convey, without reimbursement, to the State of Mississippi, all rights, title, and interest of the United States of the United States in the property known as the Yellow Creek Facility and consisting of approximately 1,200 acres near the city of Iuka, Mississippi, including all improvements thereon and any personal property owned by NASA that is currently located on-site and which the State of Mississippi requires to facilitate the transfer: Provided, That appropriated funds shall be used to effect this conveyance: Provided further, That $10,000,000 in appropriated funds otherwise available to NASA shall be transferred to the State of Mississippi to be used in the transition of the facility: Provided further, That each Federal agency with prior contact to the site shall remain responsible for any and all environmental remediation made necessary as a result of its activities on the site: Provided further, That in consideration of this conveyance, NASA may require such other terms and conditions as the Administrator deems appropriate to protect the interests of the United States: Provided further, That the conveyance of the site and the transfer of the funds to the State of Mississippi shall occur not later than 30 days after the date of enactment of this Act.*

***SEC. 206. RADAR REMOTE SENSING SATELLITES.***

*(a) FINDINGS.—The Congress finds that—*

*(1) radar satellites represent one of the most important developments in remote sensing satellite technology in recent years;*

*(2) the ability of radar satellites to provide high-quality Earth imagery regardless of cloud cover and to provide three-dimensional pictures of the Earth's surface when the satellites are flown in combination dramatically enhance conventional optical remote sensing satellite capabilities and usefulness;*

*(3) the National Aeronautics and Space Administration has developed a unique background and expertise in developing and operating radar satellites as a result of their activities connected with its radar satellites, Shuttle Imaging Radar (SIR)-A, SIR-B, and SIR-C, which has flown twice on the Space Shuttle;*

*(4) other nations currently have operational radar satellite systems, including Japan and Western Europe, with other spacefaring nations expected to develop such systems in the near future; and*

*(5) the development of an operational radar satellite program at NASA featuring free-flying satellites and a related ground system is critical to maintain United States leadership in remote sensing satellite technology and is important to our national security and international competitiveness.*

*(b) POLICY.—It is the policy of the United States that—*

*(1) NASA should develop and operate a radar satellite program as soon as practicable;*

*(2) NASA should build on the experience and knowledge gained from its previous radar endeavors;*

*(3) NASA should work with other Federal agencies and, as appropriate, with other spacefaring nations, in its radar satellite activities; and*

*(4) NASA should make maximum use of existing National remote sensing assets such as the Landsat system, activities connected with the Mission to Planet Earth, and the data management facilities of the Department of the Interior in all of its radar satellite activities.*

*(c) PROGRAM REQUIREMENTS.—NASA shall initiate a program to develop and operate a radar satellite program. The program shall employ the most advanced radar satellite technology currently available. To the maximum extent possible, all of the data processing, dissemination, and archiving functions shall be performed by the Department of the Interior. The program should be planned in such a way that the data from the radar satellite system are converted into a broad range of informational products with research, commercial, and government applications and any other applications that are in the public interest and that such products are distributed over the widest user community that is practicable, including industry, academia, research institutions, local and State governments, and other Federal agencies. The program should coordinate with, and make appropriate use of, other remote sensing satellite programs, such as the Landsat program.*

*(d) PLAN.—Within 90 days after the enactment of this Act, the Administrator shall submit a detailed plan for implementation of the radar satellite program to the Committee on Commerce,*

*Science, and Transportation of the Senate and the Committee on Science of the House of Representatives. The plan should include—*

*(1) the goals and mission of the program;*

*(2) planned activities for the next 5 years to achieve such goals and mission;*

*(3) strategies for maximizing the usefulness of the satellite data to the scientific and academic communities, the private sector, all levels of government, and the general public;*

*(4) concepts for integrating the program with other related NASA activities (such as Mission to Planet Earth), the Landsat program, and other current and emerging remote sensing satellite programs and activities in the Federal government and all other public and private sectors so that the program complements and strengthens such programs and activities and is not duplicative of these efforts;*

*(5) concepts developed in consultation with Department of the Interior, for processing, archiving, and disseminating the satellite data using, to the maximum extent possible, existing Federal government programs and assets at the Department of the Interior and other Federal agencies;*

*(6) targets and timetables for undertaking specific activities and actions within the program;*

*(7) a 5-year budget profile for the program; and*

*(8) a comparison between the program and the radar satellite programs of other spacefaring nations, addressing their respective costs, capabilities, and other relevant features.*

*(e) AUTHORIZATION.—Of the funds authorized in section 102 for the Earth Probes account, the Administrator shall allocate at least $15,000,000 to the radar satellite program to conduct Phase A and Phase B studies.*

***SEC. 207. STUDY OF THE HYDROLOGY OF THE UPPER MISSOURI RIVER BASIN.***

*The Administrator shall initiate a project to conduct research on the hydrology of the Upper Missouri River Basin. The project shall be part of the Mission to Planet Earth program and shall employ satellite observations, surface-based radar data, and ground-based hydrological and other scientific measurements to develop quantitative models that address complex atmospheric and surface hydrological processes. The project shall be incorporated into NASA's activities connected with the multi-agency Global Energy and Water Cycle Experiment to understand the interactions between the atmosphere and land surfaces. In implementing the project, NASA shall coordinate and consult with other appropriate federal agencies, including the Department of Commerce, the Department of the Interior, and the National Science Foundation. To the maximum extent possible, NASA shall employ the assistance of universities, local and State governments, industry, and any other appropriate entities from the Upper Missouri River Basin region to carry out this program and the Administrator is authorized to support the project-related work of such entities with grants, technical advice, equipment, in-kind help, and any other type of appropriate assistance. Within 90 days after the enactment of this Act, the Administrator shall submit a plan for the implementation of this project, which shall set forth the goals, project costs, planned activities, and overall strategies for the project, to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science of the House of Representatives. Of the funds authorized in section 102 for Mission to Planet Earth, at least $10,000,000 shall be allocated by the Administrator to the Upper Missouri River Basin project.*

***SEC. 208. SHUTTLE PRIVATIZATION.***

*(a) The Administrator is hereby directed to conduct a study of the feasibility of implementing the recommendation of the Independent Shuttle Management Review Team that NASA transition towards the privatization of the Shuttle. The study shall identify, discuss, and, where possible, present options for resolving, the major policy and legal issues that must be addressed before the Shuttle is privatized, including, but not limited to, the following issues—*

*(1) whether the government or the Shuttle contractor should own the Shuttle orbiters and Shuttle ground facilities;*

*(2) whether the federal government should indemnify the contractor for any third party liability arising from Shuttle operations, and, if so, under what terms and conditions;*

*(3) whether commercial payloads should be allowed to be launched on the Shuttle and whether any classes of payloads should be made ineligible for launch consideration;*

*(4) whether NASA and federal government payloads should have priority over non-federal government payloads in the Shuttle launch assignments and what policies should be developed to prioritize among payloads generally;*

*(5) whether the public interest requires that certain Shuttle functions continue to be performed by the federal government; and*

*(6) whether privatization of the Shuttle would produce any significant cost savings and, if so, how much cost savings.*

*(b) Within 60 days of the enactment of this Act, NASA shall complete the study and shall submit a report on that study to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science of the House of Representatives.*

*(c) As a transitional step towards Shuttle privatization, NASA shall take all necessary and appropriate actions to consolidate Shuttle contractor activities under one prime contractor and, within 180 days of the enactment of this Act, report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science of the House of Representatives on those actions. If NASA has failed to complete such consolidation by the expiration of the 180-day period, the report shall explain the reasons for that failure and describe the steps being taken by NASA to finalize the consolidation as expeditiously as possible.*

***SEC. 209. USE OF FUNDS FOR CONSTRUCTION.***

*(a) AUTHORIZED USES.—The Administrator may use funds appropriate for purposes other than those appropriated for—*

*(1) construction of facilities;*

*(2) research and program management, excluding research operations support; and*

*(3) Inspector General,*

*for the construction of new facilities and additions to, repair of, rehabilitation of, or modification of, existing facilities at any location in support of the purposes for which such funds are appropriated.*

*(b) LIMITATION.—None of the funds used pursuant to subsection (a) may be expended for a project, the estimated cost of which to the National Aeronautics and Space Administration, including collateral equipment, exceeds $750,000, until 30 days have passed after the Administrator has notified the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate of the nature, location, and estimated cost to the National Aeronautics and Space Administration of such project.*

***SEC. 210. CONSTRUCTION OF FACILITIES.***

*(a) REPROGRAMMING FOR CONSTRUCTION OF FACILITIES.—If the Administrator determines that—*

*(1) new developments in the national program of aeronautical and space activities have occurred;*

*(2) such developments require the use of additional funds for the purpose of construction, expansion, or modification of facilities at any location; and*

*(3) deferral of such action until the enactment of the next National Aeronautics and Space Administration authorization Act would be inconsistent with the interest of the Nation in aeronautical and space sciences;*

*the Administrator may use the amounts authorized for construction of facilities pursuant to this Act or previous National Aeronautics and Space Administration authorization Acts for such purposes. The amounts may be used to acquire, construct, convert, rehabilitate, or install temporary or permanent public works, including land acquisition, site preparation, appurtenances, utilities, and equipment. The Administrator may use such amounts for facility consolidations, closures, and demolition required to downsize the NASA physical plant to improve operations and reduce costs.*

*(c) LIMITATIONS.—*

*(1) Amounts appropriated for a construction-of-facilities project—*

*(A) may be varied upward by 10 percent at the discretion of the Administrator; or*

*(B) may be varied upward by 25 percent to meet unusual cost variations after the expiration of 30 days following a report on the circumstances of such action by the Administrator to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science of the House of Representatives. The aggregate amount authorized to be appropriated for construction of facilities shall not be increased as a result of actions authorized under this section.*

*(2) No amounts may be obligated for a construction-of-facilities project until a period of 30 days has passed after the Administrator or the Administrator's designee has transmitted to the Committee on Science of the House of Representatives, and to the Committee on Commerce, Science, and Transportation of the Senate, a written report describing the nature of the acquisition, construction, conversion, rehabilitation, or installation, its cost, and the reasons therefor.*

*(d) TITLE TO FACILITIES.—If funds are used pursuant to subsection (a) for grants to institutions of higher education, or to nonprofit organizations whose primary purpose is the conduct of scientific research, for purchase or construction of additional research facilities, title to such facilities shall be vested in the United States unless the Administrator determines that the national program of aeronautical and space activities will best be served by vesting title in the grantee institution or organization. Each such grant shall be made under such conditions as the Administrator shall determine to be required to ensure that the United States will receive therefrom benefits adequate to justify the making of that grant.*

***SEC. 211. AVAILABILITY OF APPROPRIATED AMOUNTS.***

*To the extent provided in appropriations Acts, appropriations authorized under this Act may remain available without fiscal year limitation.*

***SEC. 212. CONSIDERATION BY COMMITTEES.***

*Notwithstanding any other provision of this Act—*

*(1) no amount appropriated pursuant to this Act may be used for any program deleted by the Congress from requests as originally made to either the Committee on Science of the House of Representatives or the Committee on Commerce, Science, and Transportation of the Senate; and*

*(2) no amount appropriated pursuant to the Act may be used for any program in excess of the amount actually authorized for that particular program, excluding construction-of-facility projects,*

*unless a period of 30 days has passed after the receipt by such Committee of notice given by the Administrator or the Administrator's designee containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of the proposed action. NASA shall keep those Committees fully and currently informed with respect to all activities and responsibilities within their jurisdiction. Except as otherwise provided by law, any Federal department, agency, or independent establishment shall furnish any information*

requested by either such Committee relating to any activity or responsibility.

**SEC. 213. USE OF FUNDS FOR SCIENTIFIC CONSULTATIONS OR EXTRAORDINARY EXPENSES.**

Funds appropriated under section 103 may be used for scientific consultations or extraordinary expenses upon the authority of the Administrator, but not to exceed $35,000 .

**SEC. 214. REPORTING REQUIREMENTS.**

(a) REPORTING PERIOD.—Section 206(a) of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2476(a)) is amended—

(1) by striking ''January'' and inserting ''May''; and

(2) by striking ''calendar'' and inserting ''fiscal''.

(b) PROTECTION OF COMMERCIALLY VALUABLE INFORMATION.—Section 303 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2454) is amended by adding at the end the following:

''(c)(1) The Administrator may delay, for a period not to exceed 5 years, the unrestricted public disclosure of technical data, related to a competitively sensitive technology, in the possession of, or under the control of, the Administration that has been generated in the performance of experimental, developmental, or research activities or programs conducted by, or funded in whole or in part by, the Administration, if the technical data has significant value in maintaining leadership or competitiveness, in civil and governmental aeronautical and space activities by the United States industrial base.

''(2) The Administrator shall publish biannually in the Federal Register a list of all competitively sensitive technology areas which it believes have a significant value in maintaining the United States leadership or competitiveness in civil and governmental aeronautical and space activities. The list shall be generated after consultation with appropriate Government agencies and a diverse cross section of companies—

''(A) that conduct a significant level of research, development, engineering, and manufacturing in the United States; and

''(B) the majority ownership or control of which is held by United States citizens.

''(3) The Administrator shall provide an opportunity for written objections to the list within a 60-day period after it is published. After the expiration of that 60-day period, and after consideration of all written objections received by the Administrator during that period, NASA shall issue a final list of competitively sensitive technology areas.

''(4) For purposes of this subsection, the term 'technical data' means any recorded information, including computer software, that is or may be directly applicable to the design, engineering, development, production, manufacture, or operation of products or processes that may have significant value in maintaining leadership or competitiveness in civil and governmental aeronautical and space activities by the United States industrial base.''.

**SEC. 215. INDEPENDENT RESEARCH AND DEVELOPMENT.**

The Congress finds that it is appropriate for costs contributed by a contractor under a cooperative agreement with the National Aeronautics and Space Administration to be considered as allowable independent research and development costs, for purposes of section 31.205–18 of the Federal Acquisition Regulations if the work performed would have been allowable as contractor independent research and development costs had there been no cooperative agreement. The Administration shall seek a revision to that section of the Federal Acquisition Regulations to reflect the intent of the Congress expressed in the preceding sentence.

**SEC. 216. RESTRUCTURING OF THE EARTH OBSERVING SYSTEM DATA AND INFORMATION SYSTEM.**

The Administrator is prohibited from restructuring or downscaling the baseline plan for the Earth Observing System Data and Information System in place at the time of the President's budget submission for NASA for fiscal year 1996 unless, 60 days before undertaking such action, the Administrator has submitted to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science of the House of Representatives a written report containing—

(1) a detailed description of the planned agency action;

(2) the reasons and justifications for such action;

(3) an analysis of the cost impact of such action;

(4) an analysis of the impact of the action on the scientific benefits of the program and the effect of the action on the expected applications of the satellite data from the System in such areas as global climate research, land-use planning, state and local government management, mineral exploration, agriculture, forestry, national security, and any other areas that the Administrator deems appropriate;

(5) an analysis of the impact of the action on the United States Global Climate Change Research program and international global climate change research activities; and

(6) an explanation of what measures, if any, are planned by NASA to compensate for any likely reductions in the scientific value and data collection, processing, and distribution capabilities of the System as a result of the action.

## TITLE III—COMMERCIAL SPACE LAUNCH ACT AMENDMENTS

**SEC. 301. AMENDMENT OF TITLE 49.**

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

**SEC. 302. AMENDMENT OF SECTION 70101.**

Section 70101 (relating to findings and purposes) is amended—

(1) by inserting ''microgravity research,'' after ''information services,'' in subsection (a)(3);

(2) by inserting ''commercial space transportation services, including in-space transportation activities and'' after ''providing'' in subsection (a)(4);

(3) by striking ''commercial launch vehicles'' in subsection (a)(5) and inserting ''commercial space transportation including commercial launch vehicles, in-space transportation activities, reentry vehicles,'';

(4) by striking ''launch'' in subsection (a)(6) and inserting ''launch, in-space transportation, and reentry'';

(5) by striking ''launches'' each place it appears in subsection (a)(7) and inserting ''launches, in-space transportation activities, reentries'' after ;

(6) by striking ''sites and complementary facilities, the providing of launch'' in subsection (a)(8) and inserting ''sites, in-space transportation control sites, reentry sites, and complementary facilities, the providing of launch, in-space transportation, and reentry'';

(7) by inserting ''in-space transportation control sites, reentry sites,'' after ''launch sites,'' in subsection (a)(9);

(8) by striking ''launch vehicles'' in subsection (b)(2) and inserting ''commercial space transportation services, including launch vehicles, in-space transportation activities, reentry vehicles,'';

(9) by striking ''launch'' the first place it appears in subsection (b)(3) and inserting ''launch, in-space transportation vehicle, and reentry'';

(10) by striking ''commercial launch'' the second place it appears in subsection (b)(3); and

(11) by inserting ''in-space transportation vehicle control facilities, and development of reentry sites'' after ''facilities,'' in subsection (b)(4).

**SEC. 303. AMENDMENT OF SECTION 70102.**

Section 70102 (relating to definitions) is amended—

(1) by inserting ''from Earth, including a reentry vehicle and its payload, if any'' after ''and any payload'' in paragraph (3);

(2) by striking ''object'' the first place it appears in paragraph (8) and inserting ''object, including a reentry vehicle and its payload, if any,'';

(3) by redesignating paragraphs (9) through (12) as paragraphs (16) through (19), respectively;

(4) by inserting after paragraph (8) the following:

''(9) 'in-space transportation vehicle' means any vehicle designed to operate in space and designed to transport any payload or object substantially intact from one orbit to another orbit.

''(10) 'in-space transportation services' means—

''(A) those activities involved in the direct transportation or attempted transportation of a payload or object from one orbit to another;

''(B) the procedures, actions, and activities necessary for conduct of those transportation services; and

''(C) the conduct of transportation services.

''(11) 'in-space transportation control site' means a location from which an in-space transportation vehicle is controlled or operated (as such terms may be defined in any license the Secretary issues or transfers under this chapter).

''(12) 'reenter' and 'reentry' mean to return purposefully, or attempt to return, a reentry vehicle and payload, if any, from Earth orbit or outer space to Earth.

''(13) 'reentry services' means—

''(A) activities involved in the preparation of a reentry vehicle and its payload, if any, for reentry; and

''(B) the conduct of a reentry.

''(14) 'reentry site' means the location on Earth to which a reentry vehicle is intended to return (as defined in a license the Secretary issues or transfers under this chapter).

''(15) 'reentry vehicle' means any vehicle designed to return substantially intact from Earth orbit or outer space to Earth.'';

(5) by striking ''launch'' each place it appears in paragraph (18), as redesignated and inserting ''launch services, in-space transportation activities, or reentry''.

**SEC. 304. AMENDMENT OF SECTION 70103.**

Section 70103(b) (relating to facilitating commercial launches) is amended—

(1) by striking ''LAUNCHES'' in the caption and inserting ''SPACE ACTIVITIES'';

(2) by striking ''commercial space launches'' in paragraph (1) and inserting ''commercial space transportation services''; and

(3) by striking ''a space launch'' in subsection (b)(2) and inserting ''space transportation''.

**SEC. 305. AMENDMENT OF SECTION 70104.**

Section 70104 (relating to restrictions on launches and operations) is amended—

(1) by striking the section caption and inserting the following:

**''Restrictions on launches, in-space transportation activities, operations, and reentries'';**

(2) by striking ''site'' each place it appears in subsection (a) and inserting ''site, an in-space transportation operations site, reentry site, or reenter a reentry vehicle,'';

(3) by striking ''launch or operation'' in subsections (a) (3) and (4) and inserting ''launch, in-space transportation activity, or reentry operation'';

(4) by striking subsection (b) and inserting the following:

''(b) COMPLIANCE WITH PAYLOAD REQUIREMENTS.—The holder of a license under this chapter may launch a payload, operate an in-space transportation vehicle, or reenter a payload only if the payload or vehicle complies with all requirements of the laws of the United States

*related to launching a payload, operating an in-space transportation vehicle, or reentering a payload.'';*

*(5) by striking the caption of subsection (c) and inserting the following: ''(c) PREVENTING LAUNCHES, IN-SPACE TRANSPORTATION ACTIVITIES, OR REENTRIES.—''; and*

*(6) by striking ''launch'' each place it appears in subsection (c) and inserting ''launch, in-space transportation activity, or reentry''.*

***SEC. 306. AMENDMENT OF SECTION 70105.***

*Section 70105 (relating to license applications and requirements) is amended—*

*(1) by striking ''site'' in subsection (b)(1) and inserting ''site, an in-space transportation control site, or a reentry site or the reentry of a reentry vehicle,''; and*

*(2) by striking ''or operation'' and inserting in lieu thereof '', in-space transportation activity, operation, or reentry'' in subsection (b)(2)(A).*

***SEC. 307. AMENDMENT OF SECTION 70106.***

*Section 70106(a) (relating to monitoring activities general requirements) is amended—*

*(1) by striking ''launch site'' and inserting ''launch site, in-space transportation control site, or reentry site'';*

*(2) by inserting ''in-space transportation vehicle, or reentry vehicle,'' after ''launch vehicle,'' and*

*(3) by striking ''vehicle.'' and inserting ''vehicle, in-space transportation vehicle, or reentry vehicle.''.*

***SEC. 308. AMENDMENT OF SECTION 70108.***

*Section 70108 (relating to prohibition, suspension, and end of launches and operation of launch sites) is amended—*

*(1) by striking the section caption and inserting the following:*

***''Prohibition, suspension, and end of launches, in-space transportation activities, reentries, or operation of launch sites, in-space transportation control sites, or reentry sites'';***

*and*

*(2) by striking ''site'' in subsection (a) and inserting ''site, in-space transportation control site, in-space transportation activity, or reentry site, or reentry of a reentry vehicle,''; and*

*(3) by striking ''launch or operation'' in subsection (a) and inserting ''launch, in-space transportation activity, operation, or reentry''.*

***SEC. 309. AMENDMENT OF SECTION 70109.***

*(a) CAPTION.—The section caption of section 70109 (relating to preemption of scheduled launches) is amended to read as follows:*

***''Preemption of scheduled launches, in-space transportation activities, or reentries''.***

*(b) AMENDMENT OF SUBSECTION (a).—Subsection (a) is amended—*

*(1) by inserting ''or reentry'' after ''ensure that a launch'';*

*(2) by striking ''site'' in the first sentence and inserting ''site, reentry site,'';*

*(3) by inserting ''nor shall an in-space transportation activity or operation be preempted,'' after ''launch property,'' in the first sentence;*

*(4) by inserting ''or reentry date commitment'' after ''launch date commitment'';*

*(5) by inserting ''or reentry'' after ''obtained for a launch'';*

*(6) by striking ''site'' in the second sentence and inserting ''site, reentry site,'';*

*(7) by striking ''services'' in the second sentence and inserting ''services, or services related to a reentry,'';*

*(8) by inserting ''or reentry'' after ''the scheduled launch''; and*

*(9) by adding at the end thereof the following: ''A licensee or transferee preempted from access to a reentry site does not have to pay the Government agency responsible for the preemption any amount for reentry services attributable only to the scheduled reentry prevented by the preemption.''.*

*(c) AMENDMENT OF SUBSECTION (c).—Subsection (c) is amended by inserting ''or reentry'' after ''prompt launching'' in subsection (c).*

***SEC. 310. AMENDMENT OF SECTION 70110.***

*Section 70110 (relating to administrative hearings and judicial review) is amended—*

*(1) by striking ''launch'' in subsection (a)(2) and inserting ''launch, in-space transportation activity, or reentry''; and*

*(2) by striking ''site'' in subsection (a)(3)(B) and inserting ''site, in-space transportation control site, in-space transportation activity, reentry site, or reentry of a reentry vehicle,''.*

***SEC. 311. AMENDMENT OF SECTION 70111.***

*Section 70111 (relating to acquiring United States Government property and services) is amended—*

*(1) by inserting ''in-space transportation activities, or reentry services'' after ''launch services,'' in subsection (a)(1)(B);*

*(2) by striking ''services'' in subsection (a)(2) and inserting ''services, in-space transportation activities, or reentry services'';*

*(3) by inserting ''or reentry'' after ''launch'' in subsection (a)(2)(A);*

*(4) by inserting ''or reentry'' after ''launch'' the first place it appears in subsection (a)(2)(B);*

*(5) by striking ''launch'' each place it appears in subsection (b)(1) and inserting ''launch, in-space transportation activity, or reentry'';*

*(6) by striking ''services'' the first place it appears in subsection (b)(2)(C) and inserting ''services, in-space transportation activities or services, or reentry services''; and*

*(7) by striking subsection (d) and inserting the following:*

*''(d) COLLECTION BY OTHER GOVERNMENTAL HEADS.—The head of a department, agency, or instrumentality of the Government may collect a payment for any activity involved in producing a launch vehicle, in-space transportation vehicle, or reentry vehicle or its payload for launch, in-space transportation activity, or reentry if the activity was agreed to by the owner or manufacturer of the launch vehicle, in-space transportation vehicle, reentry vehicle, or payload.''.*

***SEC. 312. AMENDMENT OF SECTION 70112.***

*Section 70112 (relating to liability insurance and financial responsibility requirements) is amended—*

*(1) by inserting ''one reentry, or to the operations of each in-space transportation vehicle'' after ''launch,'' in subsection (a)(3);*

*(2) by inserting ''in-space transportation activities, or reentry services,'' after ''launch services,'' each place it appears in subsections (a)(4) and (b)(2);*

*(3) by striking ''services'' in subsection (b)(1) and the third place it appears in subsection (b)(2) and inserting ''services, in-space transportation activities, or reentry services,'';*

*(4) by inserting ''applicable'' after ''carried out under the'' in subsections (b)(1) and (2);*

*(5) by striking ''Science, Space, and Technology'' in subsection (d) and inserting ''Science'';*

*(6) by striking ''LAUNCHES'' in the caption of subsection (e) and inserting ''LAUNCHES, IN-SPACE TRANSPORTATION ACTIVITIES, OR REENTRIES''; AND*

*(7) by striking ''site'' in subsection (e) and inserting ''site, in-space transportation control site, or control of an in-space transportation vehicle or activity, or reentry site or a reentry''.*

***SEC. 313. AMENDMENT OF SECTION 70113.***

*Section 70113 (relating to paying claims exceeding liability insurance and financial responsibility requirements) is amended by striking ''launch'' each place it appears in subsections (a)(1), (d)(1), and (d)(2) and inserting ''launch, operation of one in-space transportation vehicle, or one reentry''.*

***SEC. 314. AMENDMENT OF SECTION 70115.***

*Section 70115(b)(1)(D)(i) (relating to enforcement and penalty general authority) is amended—*

*(1) by inserting ''in-space transportation control site, or reentry site,'' after ''launch site,'';*

*(2) by inserting ''in-space transportation vehicle, or reentry vehicle'' after ''launch vehicle,''; and*

*(3) by striking ''vehicle'' the second place it appears and inserting ''vehicle, in-space transportation vehicle, or reentry vehicle''.*

***SEC. 315. AMENDMENT OF SECTION 70117.***

*Section 70117 (relating to relationship to other executive agencies, laws, and international obligations) is amended—*

*(1) by striking ''vehicle or operate a launch site.'' in subsection (a) and inserting ''vehicle, operate a launch site, perform in-space transportation activities or operate an in-space transportation control site or reentry site, or reenter a reentry vehicle.'';*

*(2) by striking ''launch'' in subsection (d) and inserting ''launch, perform an in-space transportation activity, or reentry'';*

*(3) by striking subsections (f) and (g), and inserting the following:*

*''(f) LAUNCH NOT AN EXPORT OR IMPORT.—A launch vehicle, reentry vehicle, or payload that is launched or reentered is not, because of the launch or reentry, an export or import for purposes of a law controlling exports or imports.*

*''(g) NONAPPLICATION.—This chapter does not apply to—*

*''(1) a launch, in-space transportation activity, reentry, operation of a launch vehicle, in-space transportation vehicle, or reentry vehicle, or of a launch site, in-space transportation control site, or reentry site, or other space activity the Government carries out for the Government; or*

*''(2) planning or policies related to the launch, in-space transportation activity, reentry, or operation.''.*

***SEC. 316. REPORT TO CONGRESS.***

*Chapter 701 is amended by adding at the end thereof the following new section:*

***''§ 70120. Report to Congress***

*''The Secretary of Transportation shall submit to Congress an annual report to accompany the President's budget request that—*

*''(1) describes all activities undertaken under this chapter, including a description of the process for the application for and approval of licenses under this chapter and recommendations for legislation that may further commercial launches and reentries; and*

*''(2) reviews the performance of the regulatory activities and the effectiveness of the Office of Commercial Space Transportation.''.*

***SEC. 317. AMENDMENT OF TABLE OF SECTIONS.***

*The table of sections for chapter 701 of title 49, United States Code, is amended—*

*(1) by amending the item relating to section 70104 to read as follows:*

*''70104. Restrictions on launches, in-space transportation activities, operations, and reentries'';*

*(2) by amending the item relating to section 70108 to read as follows:*

*''70108. Prohibition, suspension, and end of launches, in-space transportation activities, reentries, or operation of launch sites, in-space transportation control sites, or reentry sites'';*

*(3) by amending the item relating to section 70109 to read as follows:*

*''70109. Preemption of scheduled launches, in-space transportation activities, or reentries'';*

*and*

*(4) by adding at the end the following new item:*

*''70120. Report to Congress''.*

***SEC. 318. REGULATIONS.***

*The Secretary of Transportation shall issue regulations under chapter 701 of title 49, United States Code, that include—*

*(1) guidelines for industry to obtain sufficient insurance coverage for potential damages to third parties;*

*(2) procedures for requesting and obtaining licenses to operate a commercial launch vehicle and reentry vehicle;*

*(3) procedures for requesting and obtaining operator licenses for launch and reentry; and*

*(4) procedures for the application of government indemnification.*

***SEC. 319. SPACE ADVERTISING.***

*(a) DEFINITION.—Section 70102, as amended by section 303, is amended by redesignating paragraphs (12) through (19) as (13) through (20), respectively, and by inserting after paragraph (11) the following new paragraph:*

*''(12) 'obtrusive space advertising' means advertising in outer space that is capable of being recognized by a human being on the surface of the earth without the aid of a telescope or other technological device;''.*

*(b) PROHIBITION.—Chapter 701 is amended by inserting after section 70109 the following new section:*

***''§ 70109a. Space advertising***

*''(a) LICENSING.—Notwithstanding the provisions of this chapter or any other provision of law, the Secretary shall not—*

*''(1) issue or transfer a license under this chapter; or*

*''(2) waive the license requirements of this chapter;*

*for the launch of a payload containing any material to be used for the purposes of obtrusive space advertising.*

*''(b) LAUNCHING.—No holder of a license under this chapter may launch a payload containing any material to be used for purposes of obtrusive space advertising on or after the date of enactment of the National Aeronautics and Space Administration Authorization Act, Fiscal Year 1996.*

*''(c) COMMERCIAL SPACE ADVERTISING.—Nothing in this section shall apply to nonobtrusive commercial space advertising, including advertising on commercial space transportation vehicles, space infrastructure, payloads, space launch facilities, and launch support facilities.''.*

*(c) NEGOTIATION WITH FOREIGN LAUNCHING NATIONS.—*

*(1) The President is requested to negotiate with foreign launching nations for the purpose of reaching an agreement or agreements that prohibit the use of outer space for obtrusive space advertising purposes.*

*(2) It is the sense of Congress that the President should take such action as is appropriate and feasible to enforce the terms of any agreement to prohibit the use of outer space for obtrusive space advertising purposes.*

*(3) As used in this subsection, the term ''foreign launching nation'' means a nation—*

*(A) which launches, or procures the launching of, a payload into outer space; or*

*(B) from whose territory or facility a payload is launched into outer space.*

*(d) CLERICAL AMENDMENT.—The table of sections for chapter 701 is amended by inserting the following after the item relating to section 70109:*

*''70109a. Space advertising''.*

AMENDMENT NO. 2939

(Purpose: To authorize funds for operation of the Upper Midwest Aerospace Consortium, and to clarify authorization)

Mrs. KASSEBAUM. Mr. President, I send an amendment to the desk on behalf of Senator PRESSLER.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mrs. KASSEBAUM], for Mr. PRESSLER, proposed an amendment numbered 2939.

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 46, line 2, after ''Center'' insert a comma and the following: ''and of which $2,000,000 shall be allocated in fiscal year 1996, and such sums as are necessary thereafter, for the operation of the Upper Midwest Aerospace Consortium (UMAC) of institutions in the Upper Great Plains Region for the purpose of making information derived from Mission to Planet Earth data available to the general public''.

On page 57, line 18, strike ''shall'' and insert ''is authorized to''.

On page 57, line 25, strike ''The'' and insert ''If initiated, the''.

On page 58, line 15, strike ''Within'' and insert ''If this project is initiated, then within''.

Mr. PRESSLER. Mr. President, I am pleased that today the Senate is considering S. 1048, the NASA Authorization Act for fiscal year 1996, which I introduced as chairman of the Senate Committee on Commerce, Science, and Transportation. Let me also take this opportunity to thank Senator BURNS, who is chairman of our Space Subcommittee, for his fine contributions to this bill and his leadership in space policy matters.

NASA faces two challenges. The first is maintaining America's leadership in aeronautics and space. The second is accomplishing these leadership goals within the confines of a balanced Federal budget. This authorization bill allows NASA to meet both of these challenges.

NASA started out this year with a plan to cut $5 billion over 5 years from its budget. Then, the Senate and House developed budget plans requiring even deeper cuts. In keeping with this new fiscal reality, our bill authorizes a total of $13.8 billion for NASA in Fiscal Year 1996, a 3-percent decrease from the current funding level of $14.26 billion.

Despite the funding cut, the bill manages to support a diverse and forward-looking space program. It authorizes all of NASA's major current programs such as Mission to Planet Earth, space station, space science, and aeronautics and, in almost all cases, at their requested funding levels. At the same time, it prepares NASA for the future by authorizing a number of new starts—including the new reusable launch vehicle technology development program aimed at providing private industry the technology to eventually build a shuttle replacement, and a new radar satellite program to develop and make use of the latest advances in satellite remote sensing technology.

Mr. President, I would now like to make special mention of certain portions of the bill.

I believe Mission to Planet Earth may be NASA's most important and relevant program. The satellite data from Mission to Planet Earth will deliver direct benefits to the taxpayer in contrast to the speculative spinoffs promised by other space activities. For this reason, the bill fully funds this activity at $1.36 billion. Using the latest satellite technology, Mission to Planet Earth will help researchers understand and predict the global climate trends that affect our lives. As a Senator representing a State whose economy is dependent upon agriculture, I have a keen interest in this program's potential to provide detailed data on soil conditions, topography, crops, and other information critical to the farming and ranching community. I also take great pride in the selection of the EROS Data Center in Sioux Falls, SD, as one of the regional data centers that will collect and distribute this satellite data.

If Mission to Planet Earth is to realize its full potential, we must ensure its satellite data are converted to useful information that can be applied to real life problems. Reflecting that thinking, our bill authorizes $10 million for an Upper Missouri River Basin project to support hydrology studies of that flood-plagued region. This project will enable a consortium of regional institutions led by the South Dakota School of Mines and Technology to apply NASA's space-age technology to develop better systems for managing and investigating floods and other natural disasters. I am hopeful NASA will undertake more projects of this type in order to put our country's wealth of scientific knowledge and talent to work for the taxpayers' benefit.

I am pleased with the current direction of the Mission to Planet Earth Program, but, equally significant, so is the scientific community. In September, the National Academy of Sciences released its long-awaited report on the program. The report, which was based on a 10-day workshop featuring the Nation's finest scientists, strongly endorsed the program's goals, missions, and activities. In short, the scientific community formally declared that Mission to Planet Earth is indeed good science.

It is because this program is on the right track that I am deeply concerned about the possibility of NASA taking any imprudent and unnecessary efforts to further restructure the program. Mission to Planet Earth has just completed a restructuring exercise. In my view, further redesigns to the program would only add costs, produce schedule delays, and reduce scientific capabilities. To guard against this occurrence, the bill specifically prohibits NASA from changing the data management component of the program, unless, 60 days before such action, NASA has reported to Congress on the nature and overall impact of the planned changes.

Mr. President, the bill also provides the full $2.1 billion requested funding for space station. However, this authorization should not be interpreted as a ringing endorsement of that program. I am a longstanding supporter of the program, but, in recent years, I have become concerned that it has become too expensive, too complex, and too dependent on the contributions of Russia, the latest station partner.

In a June 1995 report, the General Accounting Office [GAO] estimated the total cost of the design, launch, and operation of the space station will be $94 billion. That is almost seven times the entire annual budget for NASA. Given the history of past missions, it is fair to assume the $94 billion price tag for the program will increase over time. If that happens, we may wake up to find the enormous space station budget has crowded out every other NASA program to become NASA's only mission. Earlier this year, I voted for space station funding, but I may well reconsider my support in the future if the program starts to threaten the balance in our space program.

As important as current space programs are, we also have an obligation to prepare NASA for the future. To that end, the bill supports several new initiatives at NASA to extend its vision into the next century. The bill authorizes a reusable launch vehicle program, which will support NASA's X–33 and X–34 activities to pave the way for the later development by the private sector of a replacement for the shuttle in the next decade.

Employing 1970's technologies and costing $400 million per flight, the shuttle may have outlived its usefulness. However, within today's budget constraints, the Government cannot afford to foot the entire bill for a new multibillion-dollar spacecraft development program. That is why the reusable launch vehicle program—with its emphasis on sharing development costs with industry and its goal of moving our national space transportation system toward privatization—seems a viable concept worth pursuing.

The bill also authorizes the New Millennium initiative to develop new microminiature technologies aimed at reducing the cost and development times for satellites, and provides funding for two infrared astronomy programs to help us better understand the vast universe in which we live.

Mr. President, radar satellites are one of the most important new technologies in satellite remote sensing. In recognition of that, S. 1048 authorizes a new radar satellite program and a third shuttle flight for the shuttle imaging radar ''C'' satellite. Because radar satellites have the ability to ''see'' through cloud cover, they will dramatically enhance the capability of America's existing optical-based satellite systems such as Landsat. Japan and Europe already operate radar satellite systems, and Canada is set to deploy one later this year. To maintain our scientific leadership as well as protect our national security, the United States must not get left behind in this critical technology.

In my role as chairman of the Senate Commerce Committee, it has become apparent to me that small city, rural States like my home State of South Dakota are often forgotten in our vast $70 billion Federal science and technology enterprise. That part of America wants to be part of the technological revolution. More importantly, it wants to contribute.

It is in the national interest to strengthen the scientific talent, resources, and infrastructure in our rural States through appropriate research, education, and outreach activities. The bill attempts to accomplish this in several ways. It increases funding for the Experimental Program to Stimulate Competitive Research Program [EPSCoR] from its current level of $4.9 to $6.9 million. NASA's EPSCoR Program, as well as similar programs in six other science agencies, have been instrumental in providing Federal funding for quality academic research in rural States. Our bill also funds a rural teacher resource center, a rural technology transfer and commercialization center, and a regional science education and outreach center for the Plains States region.

Mr. President, I believe NASA is up to the challenge of keeping America preeminent in aeronautics and space despite the intense budget pressure and despite the increasing competition from other spacefaring nations. It is my belief this authorization bill provides NASA with the support it needs to meet that challenge.

I wish to thank my colleagues for their contributions and support and I urge the Senate to pass S. 1048 as amended.

Mr. ROCKEFELLER. Mr. President, I rise today in support of S. 1048, the National Aeronautics and Space Administration Authorization Act, fiscal year 1996. While both the administration and I have some concerns with this bill, it is in general a ringing endorsement of the bipartisan space and aeronautics programs and a strong statement in support of our Nation's future in space.

The bill strongly supports the space station and funds NASA's most important new satellite initiative, Mission to Planet Earth. It authorizes full funding for research on reusable launch vehicles, and supports the important Cassini and Mars Surveyor projects. It also fully authorizes the President's requested funding for aeronautical research and technology, thus continuing the industry-government partnership that is so vital to the long-term strength of our vital aircraft industry.

In addition, the bill requires the NASA Administrator to conduct a study of the feasibility of privatizing the space shuttle—an important step in the on-going debate about how to reduce shuttle costs and bureaucracy without jeopardizing safety or Government requirements. And I am proud that the bill continues the small but very valuable NASA Experimental Program to Stimulate Competitive Research [EPSCOR]. I also support the bill's authorization for the Office of Commercial Space Transportation at the Transportation Department, and the title III amendments that will update the important Commercial Space Launch Act.

Mr. President, the administration does have several concerns about the NASA portions of this bill. The most important concerns the bill's proposed $200 million reduction in shuttle funding. NASA is committed to reducing shuttle costs over time, but the agency is concerned that the assumption that $200 million can be cut in 1 year is unrealistic. The second is the administration's concern about several other cuts the bill makes, including funding cuts for the gravity probe-B satellite project, high-performance computing in the aeronautical program, and a $100 million reduction in the Tracking and Data Relay Satellite System Replenishment Program. Third, the administration also objects to the $123 million in new, unrequested projects authorized by the bill. I believe that these are all important issues, and I will discuss them further with Chairman PRESSLER and Chairman BURNS as S. 1048 moves through the legislative process.

Overall, however, there is much to commend in this bill. I commend Chairman PRESSLER and Chairman BURNS for their dedication to NASA issues and for working with us on this legislation. I support S. 1048 and its strong endorsement of our Nation's space and aeronautical objectives, and I urge our colleagues to join me in voting for it.

Mr. BURNS. Mr. President, today I stand in support of bill, S. 1048, the NASA authorization bill for fiscal year 1996 which I have enthusiastically cosponsored. The bill authorizes a total of $13.8 billion for the agency, a 3-percent decrease from the requested level of $14.26 billion. That funding should allow NASA to continue the important missions already underway such as space station, mission to planet Earth, and the aeronautics and space science programs. It should also prepare NASA for the future by authorizing several new missions, such as an effort to develop a shuttle replacement and a new radar satellite program.

Mr. President, as you know, we are in a budget crisis and NASA deserves a great deal of credit as one of few Federal agencies to respond to it early and responsibly. In 3 years, NASA cut the space shuttle budget from $4 billion to $3.1 billion. It developed a redesign of space station that was $5 billion less expensive than the earlier space station *Freedom* concept. Mission to planet Earth has been reduced from a $17 billion armada of satellites to a $7 billion focused satellite system. Earlier this year, faced with the prospect of deep congressional budget cuts across Government, NASA took the initiative and developed a plan to cut $5 billion in 5 years, without reducing program content.

But NASA did not stop there. This year, it conducted a comprehensive zero-based review of all of its activities and programs to achieve even greater savings. That review looked at a broad

range of money-saving measures such as workforce reductions, elimination of redundant activities, consolidation of functions, and operating more efficiently. I understand that, within the administration, NASA's efforts are often cited as the model for reinventing Government.

After 3 consecutive years of substantial budget cuts, NASA is now down to the bone. To require additional reductions would force NASA to cancel important space programs, close vital facilities, or layoff essential skilled personnel. That would decimate the Nation's science and technology base. Equally important, it would decimate the morale of the good men and women who have made our space program the subject of movies like ''Apollo 13'' and inspired thousands of scientists, engineers, and schoolchildren across our country.

It is time to give NASA the support it needs to face the challenges of the future. This NASA authorization bill is designed to do just that.

The bill provides the full $2.1 billion requested level for space station. This program is NASA's most costly, complex, and controversial activity and we are all aware of the many criticisms leveled against it. However, space station is precisely the kind of bold vision that NASA was created to pursue. Space station will enable the United States and the international science community to conduct unique microgravity research and expand our knowledge about humans' ability to live and work in space. If past missions are any indication, the space station will undoubtedly yield breakthroughs in biomedicine and advanced materials. We can probably also expect exciting spinoffs just as past space missions have spawned microelectronics, pacemakers, advance water filtration systems, communications, and many other products and services we now take for granted.

I am a strong station supporter and the funding provided in the bill will keep the program on track for a first element launch in 1997.

The bill also provides full funding for Mission to Planet Earth. Mission to Planet Earth is NASA's $7 billion satellite program aimed at studying how the oceans, land, and atmosphere work as a system in order to understand and predict global climate change. For those of us representing farm States, weather and water are our lifeblood. Mission to Planet Earth promises dramatic improvements in our ability to predict climate change and manage our scarce water resources. If those expectations are met, the program will easily pay for itself in lives and property saved and improved water management.

Mr. President, in my view, one of the most important areas within NASA is aeronautics—the first ''A'' in NASA. For many years, aeronautics seemed to be reduced to a small ''a'' status. It always seemed to take a back seat to the higher profile space missions. However, under Dan Goldin's leadership, that is beginning to change and NASA is giving aeronautics the backing it deserves.

To me, the aeronautics research is critical to maintaining U.S. technological leadership and aerospace competitiveness. For instance, the High-Speed Research Program is developing precompetitive technologies in support of supersonic aircraft. It is estimated that the first country to market such an aircraft stands to gain $200 billion in sales and 140,000 new jobs. Similarly, the Advanced Subsonic Technology Program funds research in support of subsonic airplanes—a market that generates 1 million jobs and contributes over $25 billion annually to the U.S. trade balance. These programs are moneymakers and it is in the national interest to give them the support they need. Accordingly, our NASA bill authorizes aeronautics research at the requested level of $891 million for fiscal year 1996.

As a final point, Mr. President, I note that the bill also authorizes a collection of activities and initiatives designed to extend NASA's vision to include our rural States. Our rural States can make an enormous contribution to the civilian space program if only given the chance. For example, in May, Prof. Steve Running of the University of Montana testified before the Science Subcommittee about his efforts to use remote sensing satellite data in forest and crop management. To embrace our rural States in our space program, the bill contains a $2 million increase for the EPSCoR Program, which funds important research in our rural States. It also funds another rural teacher resource center to the existing nine centers, as well as an additional rural technology transfer and commercialization center, to fill in coverage gaps in those two programs.

Mr. President, I believe that this bill provides NASA with the support it requires to continue and build on its important work in space and aeronautics and I urge my colleagues to support this legislation.

Mr. LEVIN. Mr. President, my colleague from Michigan, Senator ABRAHAM and I would like to engage the chairman of the Senate Committee on Commerce, Science, and Transportation in a brief colloquy concerning the treatment of the Consortium for International Earth Sciences Information Network [CIESIN] is S. 1048.

The committee's report suggests that funding for CIESIN should be eliminated since it is,

> . . . an activity which was deemed largely irrelevant to NASA's goals and missions and which has been severely criticized in the past by NASA's Inspector General.

Unfortunately, the committee report's assertion is based on the draft inspector general's [IG] report. The final version of the IG's report states:

> By rescoping CIESIN's mission to include only SEDAC-related activities, NASA now possesses the necessary expertise to manage CIESIN. Because the context within which SEDAC will operate is data management and integration, NASA is more uniquely qualified for this role than any other federal agency.

Further, NASA itself, in a letter from the Associate Administrator for Mission to Planet Earth to the president of CIESIN (July 6, 1995), states:

> The contribution CIESIN has made toward information technology and access to environmental data are highly beneficial to NASA and to society.

There are many more examples which I can provide that directly and factually challenge the committee report's assertion. We would appreciate the chairman's clarification of these statements.

Mr. PRESSLER. I appreciate the remarks of the senior Senator from Michigan and the information he has provided. I understand that the NASA IG's final report does not make any recommendation regarding termination of CIESIN's EOS related activities and finds CIESIN's SEDAC activity well within the goals of the EOS and EOSDIS programs.

Mr. ABRAHAM. Mr. President, I would like to touch on a related subject. During consideration of H.R. 2099, the VA, HUD, and independent agencies appropriations bill for fiscal year 1996, I provided to the distinguished subcommittee chairman, Senator BOND, a brief summary of the value of CIESIN's work for NASA.

CIESIN is one of NASA's nine Distributed Active Archive Centers [DAAC's] supporting the Earth Observing System Data and Information System. CIESIN is the only one that provides integrated socioeconomic data access for the study of the affect society has upon the environment. This is a unique capability and one that NASA officials consider vital to EOS. As the distinguished manager of the bill may know, the Senate's version of H.R. 2099 advises NASA to integrate CIESIN into the EOS plan for 1996.

Obviously, CIESIN's SEDAC activity is hardly irrelevant to NASA's mission and should not be eliminated, as proposed in the committee's report. And, CIESIN's valuable skills and expertise may be of use to NASA in non-SEDAC ares or to other Federal agencies. The House's NASA authorization bill explicitly provides that CIESIN will not be precluded from receiving contracts awarded following a full and open competition and that the rights of any parties under existing contracts shall not be affected. This language would allow CIESIN to compete for NASA or any other Federal agency grants or contracts.

Would the chairman be able to support this non-controversial language?

Mr. PRESSLER. I understand the Senator's point and will certainly work in conference to obtain similar language in the final bill regarding CIESIN's ability to bid on contracts.

Mr. ABRAHAM. I appreciate the Senator's assistance.

Mr. LEVIN. I would also like to add my thanks for the manager's consideration.

Mr. GLENN. Mr. President, I rise to express my serious reservations concerning section 205 of the NASA authorization bill S. 1048. This provision authorizes the conveyance of approximately 1,200 acres of Federal property, including all improvements and any personal property located there to the State of Mississippi. Additionally this provision provides $10 million in transition assistance to the State of Mississippi. Would the distinguished chairman of the Committee, Senator PRESSLER, care to discuss this issue with me?

Mr. PRESSLER. I would be pleased to discuss this issue with my friend from Ohio.

Mr. GLENN. I thank my friend. This provision concerns me because it skirts existing law, namely the Federal Property Act, which governs the process by which the Federal Government disposes of excess property. The Federal Property Act sets up a process designed to ensure that taxpayers—who footed the bill to acquire the property as well as the buildings and personal property associated with it—get the best return on their investment.

Mr. PRESSLER. I agree with the Senator that the Federal Property Act helps ensure that the taxpayers interest are protected.

Mr. GLENN. In particular, the Property Act helps to ensure that we avoid the situation of one agency of Government giving property away, while another agency, unbeknownst to the first, may be trying to acquire similar property. Now, Mr. President, I cannot say that such a situation is happening in this case. We simply cannot say for sure because no screening has taken place. However, we have encountered such situations in the past, and I can assure my colleagues, that in such circumstances, the taxpayer ends up on the short end of the stick.

One of the main purposes of the Federal Property Act is to ensure that, before Federal property is determined to be excess, a screening period occur during which time other Federal agencies have an opportunity to show that they have a compelling need for the property. The General Services Administration, the property management experts in the Federal Government, coordinate this screening. If no Federal agency speaks up during the screening process, then the property is made available to the States and other eligible nonprofit organizations. Can my friend from South Dakota tell me whether or not the Yellow Creek property has undergone my formal, or even informal, screening? If so, what have been the results?

Mr. PRESSLER. No formal screening has occurred. However, NASA contacted the following agencies which it believed could make use of the Yellow Creek facilities: the Department of the Air Force, the Department of the Navy, the Department of the Army, the Department of Energy, and the Environmental Protection Agency. After much discussion between NASA and these parties, none of these agencies indicated that it could make use of this facility.

Mr. GLENN. Would the Senator agree that it is in the best interest of the United States and the taxpayer that some form of informal Federal screening by the General Services Administration be conducted—in an expedited fashion, no more than 30 days—to assure us that other Federal agencies cannot make use of this facility?

Mr. PRESSLER. I agree that such action would be in the best interests of all taxpayers.

Mr. GLENN. Finally I would ask my colleague whether he has an estimate of the market value of the real and personal property which is covered in this section?

Mr. PRESSLER. It is my understanding, based on information from NASA that the breakdown of the market value of the real and personal property at the site is: Land—$3.8 million based on a recent appraisal; fixed assets, buildings—about $10 million in market value because of their uniqueness to rocket manufacture, their completion status, and location; personal property—about $10 to $15 million in market value, some of which is so unique to rocket manufacture that it can only be sold as scrap.

However because of the limited purposes for which the property can be used, these figures may somewhat overestimate the real market value of the property.

Mr. GLENN. I thank my colleague and look forward to working with him to address this issue as this bill moves into conference with the other body.

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that the amendment be agreed to, the committee substitute, as amended, be agreed to, the bill be deemed to have been read a third time and passed, and the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed in the appropriate place in the RECORD.

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

The amendment (No. 2939) was agreed to.

The committee substitute, as amended, was agreed to.

The bill (S. 1048) was deemed read for a third time and passed; as follows:

S. 1048

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''National Aeronautics and Space Administration Authorization Act, Fiscal Year 1996''.

**SEC. 2. DEFINITIONS.**

For the purposes of this Act—

(1) the term ''Administrator'' means the Administrator of the National Aeronautics and Space Administration;

(2) the term ''NASA'' means the National Aeronautics and Space Administration; and

(3) the term ''institution of higher education'' has the meaning given such term in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

TITLE I—AUTHORIZATION OF APPROPRIATIONS

**SEC. 101. HUMAN SPACE FLIGHT.**

There are authorized to be appropriated to the National Aeronautics and Space Administration for Human Space Flight the following amounts, to become available October 1, 1995:

(1) Space Station, $1,818,800,000.

(2) Russian Cooperation, $129,200,000.

(3) Space Shuttle, $3,031,800,000.

(4) Payload and Utilization Operations, $293,000,000.

**SEC. 102. SCIENCE, AERONAUTICS, AND TECHNOLOGY.**

There are authorized to be appropriated to the National Aeronautics and Space Administration for Science, Aeronautics, and Technology the following amounts, to become available October 1, 1995:

(1) Space Science, $1,958,900,000, of which $48,700,000 shall be allocated to the Stratospheric Observatory for Infrared Astronomy, $15,000,000 shall be allocated to the Space Infrared Telescope Facility, and $30,000,000 shall be allocated to the New Millennium initiative.

(2) Life and Microgravity Sciences and Applications, $507,000,000, of which $3,000,000 shall be allocated for the construction of an addition to the Microgravity Development Laboratory, Marshall Space Flight Center.

(3) Mission to Planet Earth, $1,360,100,000, of which $17,000,000 shall be allocated to the construction of the Earth Systems Science Building, Goddard Space Flight Center, and of which $2,000,000 shall be allocated in fiscal year 1996, and such sums as are necessary thereafter, for the operation of the Upper Midwest Aerospace Consortium (UMAC) of institutions in the Upper Great Plains Region for the purpose of making information derived from Mission to Planet Earth data available to the general public.

(4) Aeronautical Research and Technology, $891,300,000, of which $5,400,000 shall be allocated to the modernization of the Unitary Plan Wind Tunnel Complex, Ames Research Center.

(5) Space Access and Technology, $766,600,000, of which at least $70,000,000 shall be allocated to support a shuttle flight for the Shuttle Imaging Radar-C, of which $5,000,000 shall be used to establish a Rural Technology Transfer and Commercialization Center for the Rocky Mountains and Upper Plains States region, and of which $159,000,000 shall be allocated to the Reusable Launch Vehicle program.

(6) Mission Communications Services, $461,300,000.

(7) Academic Programs, $104,700,000, of which $3,000,000 shall be allocated to support the establishment of an Upper Plains States regional science education and outreach center and of which $1,000,000 shall be allocated to establish a Rural Teacher Resource Center.

**SEC. 103. MISSION SUPPORT.**

There are authorized to be appropriated to the National Aeronautics and Space Administration for Mission Support the following amounts, to become available October 1, 1995:

(1) Safety, Reliability, and Quality Assurance, $37,600,000.

(2) Space Communications Services, $219,400,000.

(3) Research and Program Management, including personnel and related costs, travel, and research operations support, $2,047,800,000.

(4) Construction of Facilities, including land acquisition, $135,000,000, including the following:

(A) Restoration of Flight Systems Research Laboratory, Ames Research Center;

(B) Restoration of chilled water distribution system, Goddard Space Flight Center;

(C) Replace chillers, various buildings, Jet Propulsion Laboratory;

(D) Rehabilitation of electrical distribution system, White Sands Test Facility, Johnson Space Center;

(E) Replace main substation switchgear and circuit breakers, Johnson Space Center;

(F) Replace 15kv load break switches, Kennedy Space Center;

(G) Rehabilitation of Central Air Equipment Building, Lewis Research Center;

(H) Restoration of high pressure air compressor system, Marshall Space Flight Center;

(I) Restoration of Information and Electronic Systems Laboratory, Marshall Space Flight Center;

(J) Restoration of canal lock, Stennis Space Center;

(K) Restoration of primary electrical distribution system, Wallops Flight Facility;

(L) Repair of facilities at various locations, not in excess of $1,500,000 per project;

(M) Rehabilitation and modification of facilities at various locations, not in excess of $1,500,000 per project;

(N) Minor construction of new facilities and additions to existing facilities at various locations, not in excess of $1,500,000 per project;

(O) Facility planning and design, not otherwise provided for; and

(P) Environmental compliance and restoration.

**SEC. 104. INSPECTOR GENERAL.**

There are authorized to be appropriated to the National Aeronautics and Space Administration for Inspector General $17,300,000, to become available October 1, 1995.

**SEC. 105. OFFICE OF COMMERCIAL SPACE TRANSPORTATION.**

There are authorized to be appropriated to the Office of Commercial Space Transportation of the Department of Transportation $7,000,000, to become available October 1, 1995.

TITLE II—LIMITATIONS AND GENERAL PROVISIONS

**SEC. 201. SPACE STATION LIMITATION.**

The aggregate amount authorized to be appropriated for Space Station and related activities under sections 101, 102, and 103 shall not exceed $2,100,000,000.

**SEC. 202. EXPERIMENTAL PROGRAM TO STIMULATE COMPETITIVE RESEARCH.**

Of the amounts appropriated under sections 101 and 102, $6,900,000 are authorized for the Experimental Program to Stimulate Competitive Research in accordance with title III of the National Aeronautics and Space Administration Act, Fiscal Year 1993 (Public Law 102–588; 106 Stat. 5119).

**SEC. 203. SPECIAL TECHNOLOGY ENHANCEMENT GRANTS.**

(a) IN GENERAL.—

(1) GRANTS.—The Administrator shall make up to 4 special technology enhancement grants to areas or States that have not participated fully in the Administration's aeronautical and space programs in order to enable such areas or States to increase their capabilities in technology development, utilization, and transfer in aeronautics, space science, and related areas. At least one such grant shall be made available to a consortium of States, each one of which has an average population density of less than 12.3 persons per square mile, based on data for 1993 from the Bureau of the Census.

(2) ACTIVITIES.—Grants made under this section shall be available for—

(A) assessment of resources and needs;

(B) development of infrastructure, including incubators and prototype demonstration facilities;

(C) collaborations with industry;

(D) expansion of capabilities in procurement;

(E) development of technology transfer and commercialization support capabilities;

(F) activities to increase participation in the Small Business Innovation Research program and other NASA research, development, and technology utilization and transfer programs;

(G) relevant research of interest to NASA; and

(H) such other activities as the Administrator shall deem appropriate.

(3) SPECIAL CONSIDERATION.—In making grants under this section, the Administrator shall give special consideration to proposals that—

(A) will build upon and expand a developing research and technology base, and

(B) will insure a lasting research and development and technology development and transfer capability.

(b) ELIGIBLE ENTITIES.—Grants under subsection (a)(1) may be made to—

(1) State and local governments;

(2) institutions of higher education; and

(3) organizations with expertise in research and development, technology development, and technology transfer in areas of interest to NASA.

(c) FUNDING OF PROGRAM.—Of the amounts authorized in section 102 for the Space Access and Technology account, $15,000,000 are authorized to be used for grants under subsection (a).

**SEC. 204. CLEAR LAKE DEVELOPMENT FACILITY.**

The Administrator is authorized to acquire, for no more than $35,000,000, a certain parcel of land, together with existing facilities, located on the site of the property referred to as the Clear Lake Development Facility, Clear Lake, Texas, comprising approximately 13 acres and including a light manufacturing facility, an avionics development facility, and an assembly and test building which shall be modified for use as a neutral buoyancy laboratory in support of human space flight activities.

**SEC. 205. YELLOW CREEK FACILITY.**

Notwithstanding any other provision of law or regulation, the National Aeronautics and Space Administration (NASA) is authorized to convey, without reimbursement, to the State of Mississippi, all rights, title, and interest of the United States of the United States in the property known as the Yellow Creek Facility and consisting of approximately 1,200 acres near the city of Iuka, Mississippi, including all improvements thereon and any personal property owned by NASA that is currently located on-site and which the State of Mississippi requires to facilitate the transfer: *Provided*, That appropriated funds shall be used to effect this conveyance: *Provided further*, That $10,000,000 in appropriated funds otherwise available to NASA shall be transferred to the State of Mississippi to be used in the transition of the facility: *Provided further*, That each Federal agency with prior contact to the site shall remain responsible for any and all environmental remediation made necessary as a result of its activities on the site: *Provided further*, That in consideration of this conveyance, NASA may require such other terms and conditions as the Administrator deems appropriate to protect the interests of the United States: *Provided further*, That the conveyance of the site and the transfer of the funds to the State of Mississippi shall occur not later than 30 days after the date of enactment of this Act.

**SEC. 206. RADAR REMOTE SENSING SATELLITES.**

(a) FINDINGS.—The Congress finds that—

(1) radar satellites represent one of the most important developments in remote sensing satellite technology in recent years;

(2) the ability of radar satellites to provide high-quality Earth imagery regardless of cloud cover and to provide three-dimensional pictures of the Earth's surface when the satellites are flown in combination dramatically enhance conventional optical remote sensing satellite capabilities and usefulness;

(3) the National Aeronautics and Space Administration has developed a unique background and expertise in developing and operating radar satellites as a result of their activities connected with its radar satellites, Shuttle Imaging Radar (SIR)-A, SIR-B, and SIR-C, which has flown twice on the Space Shuttle;

(4) other nations currently have operational radar satellite systems, including Japan and Western Europe, with other spacefaring nations expected to develop such systems in the near future; and

(5) the development of an operational radar satellite program at NASA featuring free-flying satellites and a related ground system is critical to maintain United States leadership in remote sensing satellite technology and is important to our national security and international competitiveness.

(b) POLICY.—It is the policy of the United States that—

(1) NASA should develop and operate a radar satellite program as soon as practicable;

(2) NASA should build on the experience and knowledge gained from its previous radar endeavors;

(3) NASA should work with other Federal agencies and, as appropriate, with other spacefaring nations, in its radar satellite activities; and

(4) NASA should make maximum use of existing National remote sensing assets such as the Landsat system, activities connected with the Mission to Planet Earth, and the data management facilities of the Department of the Interior in all of its radar satellite activities.

(c) PROGRAM REQUIREMENTS.—NASA shall initiate a program to develop and operate a radar satellite program. The program shall employ the most advanced radar satellite technology currently available. To the maximum extent possible, all of the data processing, dissemination, and archiving functions shall be performed by the Department of the Interior. The program should be planned in such a way that the data from the radar satellite system are converted into a broad range of informational products with research, commercial, and government applications and any other applications that are in the public interest and that such products are distributed over the widest user community that is practicable, including industry, academia, research institutions, local and State governments, and other Federal agencies. The program should coordinate with, and make appropriate use of, other remote sensing satellite programs, such as the Landsat program.

(d) PLAN.—Within 90 days after the enactment of this Act, the Administrator shall submit a detailed plan for implementation of the radar satellite program to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science of the House of Representatives. The plan should include—

(1) the goals and mission of the program;

(2) planned activities for the next 5 years to achieve such goals and mission;

(3) strategies for maximizing the usefulness of the satellite data to the scientific and academic communities, the private sector, all levels of government, and the general public;

(4) concepts for integrating the program with other related NASA activities (such as Mission to Planet Earth), the Landsat program, and other current and emerging remote sensing satellite programs and activities in the Federal government and all other public and private sectors so that the program complements and strengthens such programs and activities and is not duplicative of these efforts;

(5) concepts developed in consultation with Department of the Interior, for processing, archiving, and disseminating the satellite data using, to the maximum extent possible, existing Federal government programs and assets at the Department of the Interior and other Federal agencies;

(6) targets and timetables for undertaking specific activities and actions within the program;

(7) a 5-year budget profile for the program; and

(8) a comparison between the program and the radar satellite programs of other spacefaring nations, addressing their respective costs, capabilities, and other relevant features.

(e) AUTHORIZATION.—Of the funds authorized in section 102 for the Earth Probes account, the Administrator shall allocate at least $15,000,000 to the radar satellite program to conduct Phase A and Phase B studies.

**SEC. 207. STUDY OF THE HYDROLOGY OF THE UPPER MISSOURI RIVER BASIN.**

The Administrator is authorized to initiate a project to conduct research on the hydrology of the Upper Missouri River Basin. The project shall be part of the Mission to Planet Earth program and shall employ satellite observations, surface-based radar data, and ground-based hydrological and other scientific measurements to develop quantitative models that address complex atmospheric and surface hydrological processes. If initiated, the project shall be incorporated into NASA's activities connected with the multiagency Global Energy and Water Cycle Experiment to understand the interactions between the atmosphere and land surfaces. In implementing the project, NASA shall coordinate and consult with other appropriate federal agencies, including the Department of Commerce, the Department of the Interior, and the National Science Foundation. To the maximum extent possible, NASA shall employ the assistance of universities, local and State governments, industry, and any other appropriate entities from the Upper Missouri River Basin region to carry out this program and the Administrator is authorized to support the project-related work of such entities with grants, technical advice, equipment, in-kind help, and any other type of appropriate assistance. If this project is initiated, then within 90 days after the enactment of this Act, the Administrator shall submit a plan for the implementation of this project, which shall set forth the goals, project costs, planned activities, and overall strategies for the project, to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science of the House of Representatives. Of the funds authorized in section 102 for Mission to Planet Earth, at least $10,000,000 shall be allocated by the Administrator to the Upper Missouri River Basin project.

**SEC. 208. SHUTTLE PRIVATIZATION.**

(a) The Administrator is hereby directed to conduct a study of the feasibility of implementing the recommendation of the Independent Shuttle Management Review Team that NASA transition towards the privatization of the Shuttle. The study shall identify, discuss, and, where possible, present options for resolving, the major policy and legal issues that must be addressed before the Shuttle is privatized, including, but not limited to, the following issues—

(1) whether the government or the Shuttle contractor should own the Shuttle orbiters and Shuttle ground facilities;

(2) whether the federal government should indemnify the contractor for any third party liability arising from Shuttle operations, and, if so, under what terms and conditions;

(3) whether commercial payloads should be allowed to be launched on the Shuttle and whether any classes of payloads should be made ineligible for launch consideration;

(4) whether NASA and federal government payloads should have priority over non-federal government payloads in the Shuttle launch assignments and what policies should be developed to prioritize among payloads generally;

(5) whether the public interest requires that certain Shuttle functions continue to be performed by the federal government; and

(6) whether privatization of the Shuttle would produce any significant cost savings and, if so, how much cost savings.

(b) Within 60 days of the enactment of this Act, NASA shall complete the study and shall submit a report on that study to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science of the House of Representatives.

(c) As a transitional step towards Shuttle privatization, NASA shall take all necessary and appropriate actions to consolidate Shuttle contractor activities under one prime contractor and, within 180 days of the enactment of this Act, report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science of the House of Representatives on those actions. If NASA has failed to complete such consolidation by the expiration of the 180-day period, the report shall explain the reasons for that failure and describe the steps being taken by NASA to finalize the consolidation as expeditiously as possible.

**SEC. 209. USE OF FUNDS FOR CONSTRUCTION.**

(a) AUTHORIZED USES.—The Administrator may use funds appropriate for purposes other than those appropriated for—

(1) construction of facilities;

(2) research and program management, excluding research operations support; and

(3) Inspector General,

for the construction of new facilities and additions to, repair of, rehabilitation of, or modification of, existing facilities at any location in support of the purposes for which such funds are appropriated.

(b) LIMITATION.—None of the funds used pursuant to subsection (a) may be expended for a project, the estimated cost of which to the National Aeronautics and Space Administration, including collateral equipment, exceeds $750,000, until 30 days have passed after the Administrator has notified the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate of the nature, location, and estimated cost to the National Aeronautics and Space Administration of such project.

**SEC. 210. CONSTRUCTION OF FACILITIES.**

(a) REPROGRAMMING FOR CONSTRUCTION OF FACILITIES.—If the Administrator determines that—

(1) new developments in the national program of aeronautical and space activities have occurred;

(2) such developments require the use of additional funds for the purpose of construction, expansion, or modification of facilities at any location; and

(3) deferral of such action until the enactment of the next National Aeronautics and Space Administration authorization Act would be inconsistent with the interest of the Nation in aeronautical and space sciences;

the Administrator may use the amounts authorized for construction of facilities pursuant to this Act or previous National Aeronautics and Space Administration authorization Acts for such purposes. The amounts may be used to acquire, construct, convert, rehabilitate, or install temporary or permanent public works, including land acquisition, site preparation, appurtenances, utilities, and equipment. The Administrator may use such amounts for facility consolidations, closures, and demolition required to downsize the NASA physical plant to improve operations and reduce costs.

(c) LIMITATIONS.—

(1) Amounts appropriated for a construction-of-facilities project—

(A) may be varied upward by 10 percent at the discretion of the Administrator; or

(B) may be varied upward by 25 percent to meet unusual cost variations after the expiration of 30 days following a report on the circumstances of such action by the Administrator to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science of the House of Representatives. The aggregate amount authorized to be appropriated for construction of facilities shall not be increased as a result of actions authorized under this section.

(2) No amounts may be obligated for a construction-of-facilities project until a period of 30 days has passed after the Administrator or the Administrator's designee has transmitted to the Committee on Science of the House of Representatives, and to the Committee on Commerce, Science, and Transportation of the Senate, a written report describing the nature of the acquisition, construction, conversion, rehabilitation, or installation, its cost, and the reasons therefor.

(d) TITLE TO FACILITIES.—If funds are used pursuant to subsection (a) for grants to institutions of higher education, or to nonprofit organizations whose primary purpose is the conduct of scientific research, for purchase or construction of additional research facilities, title to such facilities shall be vested in the United States unless the Administrator determines that the national program of aeronautical and space activities will best be served by vesting title in the grantee institution or organization. Each such grant shall be made under such conditions as the Administrator shall determine to be required to ensure that the United States will receive therefrom benefits adequate to justify the making of that grant.

**SEC. 211. AVAILABILITY OF APPROPRIATED AMOUNTS.**

To the extent provided in appropriations Acts, appropriations authorized under this Act may remain available without fiscal year limitation.

**SEC. 212. CONSIDERATION BY COMMITTEES.**

Notwithstanding any other provision of this Act—

(1) no amount appropriated pursuant to this Act may be used for any program deleted by the Congress from requests as originally made to either the Committee on Science of the House of Representatives or the Committee on Commerce, Science, and Transportation of the Senate; and

(2) no amount appropriated pursuant to the Act may be used for any program in excess of

the amount actually authorized for that particular program, excluding construction-of-facility projects,

unless a period of 30 days has passed after the receipt by such Committee of notice given by the Administrator or the Administrator's designee containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of the proposed action. NASA shall keep those Committees fully and currently informed with respect to all activities and responsibilities within their jurisdiction. Except as otherwise provided by law, any Federal department, agency, or independent establishment shall furnish any information requested by either such Committee relating to any activity or responsibility.

**SEC. 213. USE OF FUNDS FOR SCIENTIFIC CONSULTATIONS OR EXTRAORDINARY EXPENSES.**

Funds appropriated under section 103 may be used for scientific consultations or extraordinary expenses upon the authority of the Administrator, but not to exceed $35,000.

**SEC. 214. REPORTING REQUIREMENTS.**

(a) REPORTING PERIOD.—Section 206(a) of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2476(a)) is amended—

(1) by striking ''January'' and inserting ''May''; and

(2) by striking ''calendar'' and inserting ''fiscal''.

(b) PROTECTION OF COMMERCIALLY VALUABLE INFORMATION.—Section 303 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2454) is amended by adding at the end the following:

''(c)(1) The Administrator may delay, for a period not to exceed 5 years, the unrestricted public disclosure of technical data, related to a competitively sensitive technology, in the possession of, or under the control of, the Administration that has been generated in the performance of experimental, developmental, or research activities or programs conducted by, or funded in whole or in part by, the Administration, if the technical data has significant value in maintaining leadership or competitiveness, in civil and governmental aeronautical and space activities by the United States industrial base.

''(2) The Administrator shall publish biannually in the Federal Register a list of all competitively sensitive technology areas which it believes have a significant value in maintaining the United States leadership or competitiveness in civil and governmental aeronautical and space activities. The list shall be generated after consultation with appropriate Government agencies and a diverse cross section of companies—

''(A) that conduct a significant level of research, development, engineering, and manufacturing in the United States; and

''(B) the majority ownership or control of which is held by United States citizens.

''(3) The Administrator shall provide an opportunity for written objections to the list within a 60-day period after it is published. After the expiration of that 60-day period, and after consideration of all written objections received by the Administrator during that period, NASA shall issue a final list of competitively sensitive technology areas.

''(4) For purposes of this subsection, the term 'technical data' means any recorded information, including computer software, that is or may be directly applicable to the design, engineering, development, production, manufacture, or operation of products or processes that may have significant value in maintaining leadership or competitiveness in civil and governmental aeronautical and space activities by the United States industrial base.''.

**SEC. 215. INDEPENDENT RESEARCH AND DEVELOPMENT.**

The Congress finds that it is appropriate for costs contributed by a contractor under a cooperative agreement with the National Aeronautics and Space Administration to be considered as allowable independent research and development costs, for purposes of section 31.205–18 of the Federal Acquisition Regulations if the work performed would have been allowable as contractor independent research and development costs had there been no cooperative agreement. The Administration shall seek a revision to that section of the Federal Acquisition Regulations to reflect the intent of the Congress expressed in the preceding sentence.

**SEC. 216. RESTRUCTURING OF THE EARTH OBSERVING SYSTEM DATA AND INFORMATION SYSTEM.**

The Administrator is prohibited from restructuring or downscaling the baseline plan for the Earth Observing System Data and Information System in place at the time of the President's budget submission for NASA for fiscal year 1996 unless, 60 days before undertaking such action, the Administrator has submitted to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science of the House of Representatives a written report containing—

(1) a detailed description of the planned agency action;

(2) the reasons and justifications for such action;

(3) an analysis of the cost impact of such action;

(4) an analysis of the impact of the action on the scientific benefits of the program and the effect of the action on the expected applications of the satellite data from the System in such areas as global climate research, land-use planning, state and local government management, mineral exploration, agriculture, forestry, national security, and any other areas that the Administrator deems appropriate;

(5) an analysis of the impact of the action on the United States Global Climate Change Research program and international global climate change research activities; and

(6) an explanation of what measures, if any, are planned by NASA to compensate for any likely reductions in the scientific value and data collection, processing, and distribution capabilities of the System as a result of the action.

## TITLE III—COMMERCIAL SPACE LAUNCH ACT AMENDMENTS

**SEC. 301. AMENDMENT OF TITLE 49.**

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

**SEC. 302. AMENDMENT OF SECTION 70101.**

Section 70101 (relating to findings and purposes) is amended—

(1) by inserting ''microgravity research,'' after ''information services,'' in subsection (a)(3);

(2) by inserting ''commercial space transportation services, including in-space transportation activities and'' after ''providing'' in subsection (a)(4);

(3) by striking ''commercial launch vehicles'' in subsection (a)(5) and inserting ''commercial space transportation including commercial launch vehicles, in-space transportation activities, reentry vehicles,'';

(4) by striking ''launch'' in subsection (a)(6) and inserting ''launch, in-space transportation, and reentry'';

(5) by striking ''launches'' each place it appears in subsection (a)(7) and inserting ''launches, in-space transportation activities, reentries'' after ;

(6) by striking ''sites and complementary facilities, the providing of launch'' in subsection (a)(8) and inserting ''sites, in-space transportation control sites, reentry sites, and complementary facilities, the providing of launch, in-space transportation, and reentry'';

(7) by inserting ''in-space transportation control sites, reentry sites,'' after ''launch sites,'' in subsection (a)(9);

(8) by striking ''launch vehicles'' in subsection (b)(2) and inserting ''commercial space transportation services, including launch vehicles, in-space transportation activities, reentry vehicles,'';

(9) by striking ''launch'' the first place it appears in subsection (b)(3) and inserting ''launch, in-space transportation vehicle, and reentry'';

(10) by striking ''commercial launch'' the second place it appears in subsection (b)(3); and

(11) by inserting ''in-space transportation vehicle control facilities, and development of reentry sites'' after ''facilities,'' in subsection (b)(4).

**SEC. 303. AMENDMENT OF SECTION 70102.**

Section 70102 (relating to definitions) is amended—

(1) by inserting ''from Earth, including a reentry vehicle and its payload, if any'' after ''and any payload'' in paragraph (3);

(2) by striking ''object'' the first place it appears in paragraph (8) and inserting ''object, including a reentry vehicle and its payload, if any,'';

(3) by redesignating paragraphs (9) through (12) as paragraphs (16) through (19), respectively;

(4) by inserting after paragraph (8) the following:

''(9) 'in-space transportation vehicle' means any vehicle designed to operate in space and designed to transport any payload or object substantially intact from one orbit to another orbit.

''(10) 'in-space transportation services' means—

''(A) those activities involved in the direct transportation or attempted transportation of a payload or object from one orbit to another;

''(B) the procedures, actions, and activities necessary for conduct of those transportation services; and

''(C) the conduct of transportation services.

''(11) 'in-space transportation control site' means a location from which an in-space transportation vehicle is controlled or operated (as such terms may be defined in any license the Secretary issues or transfers under this chapter).

''(12) 'reenter' and 'reentry' mean to return purposefully, or attempt to return, a reentry vehicle and payload, if any, from Earth orbit or outer space to Earth.

''(13) 'reentry services' means—

''(A) activities involved in the preparation of a reentry vehicle and its payload, if any, for reentry; and

''(B) the conduct of a reentry.

''(14) 'reentry site' means the location on Earth to which a reentry vehicle is intended to return (as defined in a license the Secretary issues or transfers under this chapter).

''(15) 'reentry vehicle' means any vehicle designed to return substantially intact from Earth orbit or outer space to Earth.'';

(5) by striking ''launch'' each place it appears in paragraph (18), as redesignated and inserting ''launch services, in-space transportation activities, or reentry''.

**SEC. 304. AMENDMENT OF SECTION 70103.**

Section 70103(b) (relating to facilitating commercial launches) is amended—

(1) by striking ''LAUNCHES'' in the caption and inserting ''SPACE ACTIVITIES'';

(2) by striking ''commercial space launches'' in paragraph (1) and inserting ''commercial space transportation services''; and

(3) by striking ''a space launch'' in subsection (b)(2) and inserting ''space transportation''.

**SEC. 305. AMENDMENT OF SECTION 70104.**

Section 70104 (relating to restrictions on launches and operations) is amended—

(1) by striking the section caption and inserting the following:

**''Restrictions on launches, in-space transportation activities, operations, and reentries'';**

(2) by striking ''site'' each place it appears in subsection (a) and inserting ''site, an in-space transportation operations site, reentry site, or reenter a reentry vehicle,'';

(3) by striking ''launch or operation'' in subsections (a) (3) and (4) and inserting ''launch, in-space transportation activity, or reentry operation'';

(4) by striking subsection (b) and inserting the following:

''(b) COMPLIANCE WITH PAYLOAD REQUIREMENTS.—The holder of a license under this chapter may launch a payload, operate an in-space transportation vehicle, or reenter a payload only if the payload or vehicle complies with all requirements of the laws of the United States related to launching a payload, operating an in-space transportation vehicle, or reentering a payload.'';

(5) by striking the caption of subsection (c) and inserting the following: ''(c) PREVENTING LAUNCHES, IN-SPACE TRANSPORTATION ACTIVITIES, OR REENTRIES.—''; and

(6) by striking ''launch'' each place it appears in subsection (c) and inserting ''launch, in-space transportation activity, or reentry''.

**SEC. 306. AMENDMENT OF SECTION 70105.**

Section 70105 (relating to license applications and requirements) is amended—

(1) by striking ''site'' in subsection (b)(1) and inserting ''site, an in-space transportation control site, or a reentry site or the reentry of a reentry vehicle,''; and

(2) by striking ''or operation'' and inserting in lieu thereof '', in-space transportation activity, operation, or reentry'' in subsection (b)(2)(A).

**SEC. 307. AMENDMENT OF SECTION 70106.**

Section 70106(a) (relating to monitoring activities general requirements) is amended—

(1) by striking ''launch site'' and inserting ''launch site, in-space transportation control site, or reentry site'';

(2) by inserting ''in-space transportation vehicle, or reentry vehicle,'' after ''launch vehicle,'' and

(3) by striking ''vehicle.'' and inserting ''vehicle, in-space transportation vehicle, or reentry vehicle.''.

**SEC. 308. AMENDMENT OF SECTION 70108.**

Section 70108 (relating to prohibition, suspension, and end of launches and operation of launch sites) is amended—

(1) by striking the section caption and inserting the following:

**''Prohibition, suspension, and end of launches, in-space transportation activities, reentries, or operation of launch sites, in-space transportation control sites, or reentry sites'';**

and

(2) by striking ''site'' in subsection (a) and inserting ''site, in-space transportation control site, in-space transportation activity, or reentry site, or reentry of a reentry vehicle,''; and

(3) by striking ''launch or operation'' in subsection (a) and inserting ''launch, in-space transportation activity, operation, or reentry''.

**SEC. 309. AMENDMENT OF SECTION 70109.**

(a) CAPTION.—The section caption of section 70109 (relating to preemption of scheduled launches) is amended to read as follows:

**''Preemption of scheduled launches, in-space transportation activities, or reentries''.**

(b) AMENDMENT OF SUBSECTION (a).—Subsection (a) is amended—

(1) by inserting ''or reentry'' after ''ensure that a launch'';

(2) by striking ''site'' in the first sentence and inserting ''site, reentry site,'';

(3) by inserting ''nor shall an in-space transportation activity or operation be preempted,'' after ''launch property,'' in the first sentence;

(4) by inserting ''or reentry date commitment'' after ''launch date commitment'';

(5) by inserting ''or reentry'' after ''obtained for a launch'';

(6) by striking ''site'' in the second sentence and inserting ''site, reentry site,'';

(7) by striking ''services'' in the second sentence and inserting ''services, or services related to a reentry,'';

(8) by inserting ''or reentry'' after ''the scheduled launch''; and

(9) by adding at the end thereof the following: ''A licensee or transferee preempted from access to a reentry site does not have to pay the Government agency responsible for the preemption any amount for reentry services attributable only to the scheduled reentry prevented by the preemption.''.

(c) AMENDMENT OF SUBSECTION (c).—Subsection (c) is amended by inserting ''or reentry'' after ''prompt launching'' in subsection (c).

**SEC. 310. AMENDMENT OF SECTION 70110.**

Section 70110 (relating to administrative hearings and judicial review) is amended—

(1) by striking ''launch'' in subsection (a)(2) and inserting ''launch, in-space transportation activity, or reentry''; and

(2) by striking ''site'' in subsection (a)(3)(B) and inserting ''site, in-space transportation control site, in-space transportation activity, reentry site, or reentry of a reentry vehicle,''.

**SEC. 311. AMENDMENT OF SECTION 70111.**

Section 70111 (relating to acquiring United States Government property and services) is amended—

(1) by inserting ''in-space transportation activities, or reentry services'' after ''launch services,'' in subsection (a)(1)(B);

(2) by striking ''services'' in subsection (a)(2) and inserting ''services, in-space transportation activities, or reentry services'';

(3) by inserting ''or reentry'' after ''launch'' in subsection (a)(2)(A);

(4) by inserting ''or reentry'' after ''launch'' the first place it appears in subsection (a)(2)(B);

(5) by striking ''launch'' each place it appears in subsection (b)(1) and inserting ''launch, in-space transportation activity, or reentry'';

(6) by striking ''services'' the first place it appears in subsection (b)(2)(C) and inserting ''services, in-space transportation activities or services, or reentry services''; and

(7) by striking subsection (d) and inserting the following:

''(d) COLLECTION BY OTHER GOVERNMENTAL HEADS.—The head of a department, agency, or instrumentality of the Government may collect a payment for any activity involved in producing a launch vehicle, in-space transportation vehicle, or reentry vehicle or its payload for launch, in-space transportation activity, or reentry if the activity was agreed to by the owner or manufacturer of the launch vehicle, in-space transportation vehicle, reentry vehicle, or payload.''.

**SEC. 312. AMENDMENT OF SECTION 70112.**

Section 70112 (relating to liability insurance and financial responsibility requirements) is amended—

(1) by inserting ''one reentry, or to the operations of each in-space transportation vehicle'' after ''launch,'' in subsection (a)(3);

(2) by inserting ''in-space transportation activities, or reentry services,'' after ''launch services,'' each place it appears in subsections (a)(4) and (b)(2);

(3) by striking ''services'' in subsection (b)(1) and the third place it appears in subsection (b)(2) and inserting ''services, in-space transportation activities, or reentry services,'';

(4) by inserting ''applicable'' after ''carried out under the'' in subsections (b)(1) and (2);

(5) by striking ''Science, Space, and Technology'' in subsection (d) and inserting ''Science'';

(6) by striking ''LAUNCHES'' in the caption of subsection (e) and inserting ''LAUNCHES, IN-SPACE TRANSPORTATION ACTIVITIES, OR REENTRIES''; and

(7) by striking ''site'' in subsection (e) and inserting ''site, in-space transportation control site, or control of an in-space transportation vehicle or activity, or reentry site or a reentry''.

**SEC. 313. AMENDMENT OF SECTION 70113.**

Section 70113 (relating to paying claims exceeding liability insurance and financial responsibility requirements) is amended by striking ''launch'' each place it appears in subsections (a)(1), (d)(1), and (d)(2) and inserting ''launch, operation of one in-space transportation vehicle, or one reentry''.

**SEC. 314. AMENDMENT OF SECTION 70115.**

Section 70115(b)(1)(D)(i) (relating to enforcement and penalty general authority) is amended—

(1) by inserting ''in-space transportation control site, or reentry site,'' after ''launch site,'';

(2) by inserting ''in-space transportation vehicle, or reentry vehicle'' after ''launch vehicle,''; and

(3) by striking ''vehicle'' the second place it appears and inserting ''vehicle, in-space transportation vehicle, or reentry vehicle''.

**SEC. 315. AMENDMENT OF SECTION 70117.**

Section 70117 (relating to relationship to other executive agencies, laws, and international obligations) is amended—

(1) by striking ''vehicle or operate a launch site.'' in subsection (a) and inserting ''vehicle, operate a launch site, perform in-space transportation activities or operate an in-space transportation control site or reentry site, or reenter a reentry vehicle.'';

(2) by striking ''launch'' in subsection (d) and inserting ''launch, perform an in-space transportation activity, or reentry'';

(3) by striking subsections (f) and (g), and inserting the following:

''(f) LAUNCH NOT AN EXPORT OR IMPORT.—A launch vehicle, reentry vehicle, or payload that is launched or reentered is not, because of the launch or reentry, an export or import for purposes of a law controlling exports or imports.

''(g) NONAPPLICATION.—This chapter does not apply to—

''(1) a launch, in-space transportation activity, reentry, operation of a launch vehicle, in-space transportation vehicle, or reentry vehicle, or of a launch site, in-space transportation control site, or reentry site, or other space activity the Government carries out for the Government; or

''(2) planning or policies related to the launch, in-space transportation activity, reentry, or operation.''.

**SEC. 316. REPORT TO CONGRESS.**

Chapter 701 is amended by adding at the end thereof the following new section:

**"§ 70120. Report to Congress**

''The Secretary of Transportation shall submit to Congress an annual report to accompany the President's budget request that—

''(1) describes all activities undertaken under this chapter, including a description of the process for the application for and approval of licenses under this chapter and recommendations for legislation that may further commercial launches and reentries; and

''(2) reviews the performance of the regulatory activities and the effectiveness of the Office of Commercial Space Transportation.''.

**SEC. 317. AMENDMENT OF TABLE OF SECTIONS.**

The table of sections for chapter 701 of title 49, United States Code, is amended—

(1) by amending the item relating to section 70104 to read as follows:

''70104. Restrictions on launches, in-space transportation activities, operations, and reentries.'';

(2) by amending the item relating to section 70108 to read as follows:

''70108. Prohibition, suspension, and end of launches, in-space transportation activities, reentries, or operation of launch sites, in-space transportation control sites, or reentry sites.'';

(3) by amending the item relating to section 70109 to read as follows:

''70109. Preemption of scheduled launches, in-space transportation activities, or reentries.'';

and

(4) by adding at the end the following new item:

''70120. Report to Congress.''.

**SEC. 318. REGULATIONS.**

The Secretary of Transportation shall issue regulations under chapter 701 of title 49, United States Code, that include—

(1) guidelines for industry to obtain sufficient insurance coverage for potential damages to third parties;

(2) procedures for requesting and obtaining licenses to operate a commercial launch vehicle and reentry vehicle;

(3) procedures for requesting and obtaining operator licenses for launch and reentry; and

(4) procedures for the application of government indemnification.

**SEC. 319. SPACE ADVERTISING.**

(a) DEFINITION.—Section 70102, as amended by section 303, is amended by redesignating paragraphs (12) through (19) as (13) through (20), respectively, and by inserting after paragraph (11) the following new paragraph:

''(12) 'obtrusive space advertising' means advertising in outer space that is capable of being recognized by a human being on the surface of the earth without the aid of a telescope or other technological device;''.

(b) PROHIBITION.—Chapter 701 is amended by inserting after section 70109 the following new section:

**"§ 70109a. Space advertising**

''(a) LICENSING.—Notwithstanding the provisions of this chapter or any other provision of law, the Secretary shall not—

''(1) issue or transfer a license under this chapter; or

''(2) waive the license requirements of this chapter;

for the launch of a payload containing any material to be used for the purposes of obtrusive space advertising.

''(b) LAUNCHING.—No holder of a license under this chapter may launch a payload containing any material to be used for purposes of obtrusive space advertising on or after the date of enactment of the National Aeronautics and Space Administration Authorization Act, Fiscal Year 1996.

''(c) COMMERCIAL SPACE ADVERTISING.—Nothing in this section shall apply to nonobtrusive commercial space advertising, including advertising on commercial space transportation vehicles, space infrastructure, payloads, space launch facilities, and launch support facilities.''.

(c) NEGOTIATION WITH FOREIGN LAUNCHING NATIONS.—

(1) The President is requested to negotiate with foreign launching nations for the purpose of reaching an agreement or agreements that prohibit the use of outer space for obtrusive space advertising purposes.

(2) It is the sense of Congress that the President should take such action as is appropriate and feasible to enforce the terms of any agreement to prohibit the use of outer space for obtrusive space advertising purposes.

(3) As used in this subsection, the term ''foreign launching nation'' means a nation—

(A) which launches, or procures the launching of, a payload into outer space; or

(B) from whose territory or facility a payload is launched into outer space.

(d) CLERICAL AMENDMENT.—The table of sections for chapter 701 is amended by inserting the following after the item relating to section 70109:

''70109a. Space advertising.''.

## NATIONAL MAMMOGRAPHY DAY

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 177, reported today by the Judiciary Committee.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 177) to designate October 19, 1995, National Mammography Day.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

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

Mrs. MURRAY. Mr. President, I am proud to join my colleagues in offering this important resolution to designate October 19, 1995 as ''National Mammography Day.'' I am pleased to support this effort to set aside 1 day in the midst of National Breast Cancer Awareness Month to increase awareness about the best method of reducing the breast cancer mortality rate—early detection by mammography.

This frightening disease has taken the lives of far too many women, including many of my own friends. It is one of the leading killers of women—claiming the lives of more than 46,000 women each year. Breast cancer is a growing public health problem in this Nation, and a great threat to women's health.

We can all agree that more must be done to educate us about the risks, prevention and treatment of breast cancer. I also believe we must be vigilant in supporting continued research on breast cancer, and clear up the mixed messages that women receive about ways to protect themselves from this disease.

But, there is one indisputable fact that is very clear: early detection by mammography saves women's lives. Mammograms can detect 90 to 95 percent of all breast cancers and is the most reliable method of detection. In addition, and perhaps the most tragic feature of this disease—9 out of 10 women could survive breast cancer if detected early and treated properly.

Mr. President, there is no question that education and awareness are some of our best tools for fighting this disease; combined with continued research and treatment breakthroughs. This day is critical in our efforts to win the battle against breast cancer. We owe it to our mothers; our daughters; our sisters; our neighbors and our friends to get the word out—early detection can save your life. And we must not let our efforts diminish; every month should be Breast Cancer Awareness Month.

I would like to thank my colleagues for expressing their commitment to saving women's lives, and for paying particular attention to raising awareness about the importance of mammography. I encourage all of you to support this resolution, and help us protect women from the tragedy of breast cancer.

Mr. BRADLEY. Mr. President, I am very pleased to join my colleagues in recognizing today, October 19, as National Mammography Day.

Today, 500 women will be diagnosed with breast cancer. Most likely, each will be frightened, uncertain about her future, and in search of a treatment that, if it cannot cure her, will at least prolong her life. Each woman's family and friends, co-workers and caregivers, will worry deeply about her.

Today, 150 women will die of breast cancer. Their lives will be ended prematurely. Their families and friends, coworkers and caregivers will be grief-stricken.

Tragically, today's numbers are every day's numbers in our Nation. Listen to the enormity of this disease: one out of nine women will get breast cancer; since 1960 nearly 1 million women have died from this disease. With their deaths, millions of their loved ones, including children and aging parents dependent on them, have suffered as well. We stagger under these numbers, as we search for the causes and the cure.

All women are at risk for breast cancer, with the incidence increasing among older women and the mortality rate higher for African-American women. While other factors that may put women at risk are being thoroughly investigated, we are still ourselves at risk for feeling helpless in the face of this killer.

However, we do have one sure thing to offer to women and today we bring that to national attention. With mammography, we offer the possibility of

early detection. Along with breast self-examination, this is one of the best steps women can take for themselves in the fight against breast cancer. And it is the single best service our health care system can make available to all women in this struggle. Offering this service is not enough. We must also assure the quality of the service, especially the equipment used.

Early detection made possible by mammography is wise health care. With early detection we can reduce the mortality rate by one-third. Furthermore, early discovery of the disease allows for less radical and less costly treatments. Equally important, with the provision of mammography, we say to American women that we understand the trauma of this disease and will persist in efforts to triumph over it.

Remembering that these women are our wives, sisters, mothers, daughters, and friends, I am proud to add my voice in recognition of National Mammography Day.

## NATIONAL MAMMOGRAPHY DAY

Ms. SNOWE. Mr. President, today, I would like to call attention to a day of critical importance to women across this Nation—National Mammography Day.

America's women are facing a devastating crisis, and its name is breast cancer.

It is a devastating crisis that targets women's lives, their confidence in health care, their work, their friends and their families.

It is a crisis that results in approximately 182,000 new cases of breast cancer being diagnosed each year, and 46,000 deaths.

Breast cancer is a crisis that has become the most common form of cancer and the second leading cause of cancer deaths among American women—an estimated 2.6 million in the United States are living with breast cancer, 1.6 million have been diagnosed, and an estimated 1 million women do not yet know they have breast cancer.

It is a crisis in which one out of eight women in our country will come to develop breast cancer in their lifetimes—a risk that was one out of 14 in 1960. In fact, this year, a new case of breast cancer will be diagnosed every 3 minutes, and a woman will die from breast cancer every 11 minutes.

It is a crisis that has tragically claimed the lives of almost 1 million women of all ages and backgrounds since 1960. This is more than two times the number of all Americans who have died in World War I, World War II, the Korean war, the Vietnam war, and the Persian Gulf war, and 48 percent of these deaths occurred in the past 10 years alone.

Finally, it is a crisis that has become the leading cause of death for women aged 40 to 44, and the leading cause of cancer death in women aged 25 to 54.

But what really hits home for this Senator is the fact that my mother died of breast cancer when I was only 9 years old, as well as the fact that 900 Maine women were diagnosed with breast cancer last year.

This is the most commonly diagnosed cancer among Maine women, and this represents more than 30 percent of all new cancers among women in Maine.

We all know these statistics, we live with them every day of our lives and face them with a growing concern and deepening sorrow, and they are a constant reminder of the work that remains to be done.

But we know that they represent more than just numbers—each number represents the life of a mother, sister, grandmother, aunt, daughter, wife, friend, or co-worker. They are the fabric of our families, our communities, our States and our Nation.

As a former co-chair of the Congressional Caucus for Women's Issues, I have joined other members of that caucus in working diligently to bring the respect and action that is needed to the struggle against breast cancer.

In past years, we have introduced and passed vital legislation to help us win this struggle—and that has included the Women's Health Equity Act, which in 1993 included the National Breast Cancer Strategy Act, which established a National Breast Cancer Commission—an interagency office on breast cancer—and authorizes $300 million for increased breast cancer research at NIH.

The WHEA also contained the Breast and Cervical Cancer Mortality Prevention Act Reauthorization, which provides much-needed grants to States for mammograms and pap-smears for low-income women and was passed by Congress and signed into law in late 1993.

And we also passed the NIH Revitalization Act, which authorized increased funding for clinical research on breast, cervical and other reproductive cancers in women.

But these are just the first steps in our crusade to find a cure for breast cancer and to bring relief and comfort to its victims and their families.

Our fight goes on. We need more funding. We need more research. We need more education and awareness of breast cancer and its causes. We need more understanding. We need more compassion. And we need a cure.

Yet despite these frightening statistics, we know that with early detection and regular screening, a survival rate of over 90 percent can be achieved. Unfortunately, these statistics reveal that not enough women are taking advantage of preventive measures with proven benefits—such as mammograms. In fact, the Director of the National Cancer Institute announced yesterday that ''one of the biggest barriers to reducing breast cancer mortality is lack of information.''

Given that such a promising survival rate is associated with early detection and treatment, it is essential that we be relentless in our efforts to increase public awareness of this terrible disease. The lives of our mothers, daughters, sisters and friends may well depend on our ability to educate them about the importance of mammograms.

This year, I submitted Senate Concurrent Resolution 8, expressing the sense of Congress on the need for accurate guidelines for breast cancer screening for women ages 40–49. However, on this day, National Mammography Day, there are things we can all do to ensure there are no more victims of breast cancer, but only survivors. Talk to the women in your family and your home States about the importance of breast cancer screening. Tell them to arrange for a physical, including a clinical breast exam. Tell them to schedule a mammogram for themselves or a loved one. Talk to them. Talk to them today. Tell them not to wait.

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table, and that any statements relating to the resolution appear in the appropriate place in the RECORD.

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

The resolution (S. Res. 177) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 177

Whereas, according to the American Cancer Society, one hundred eighty-two thousand women will be diagnosed with breast cancer in 1995, and forty-six thousand women will die from this disease;

Whereas, in the decade of the 1990's, it is estimated that about two million women will be diagnosed with breast cancer, resulting in nearly five hundred thousand deaths;

Whereas the risk of breast cancer increases with age, with a woman at age seventy having twice as much of a chance of developing the disease than a woman at age fifty.

Whereas 80 percent of the women who get breast cancer have no family history of the disease;

Whereas mammograms, when operated professionally at a certified facility, can provide a safe and quick diagnosis;

Whereas experts agree that mammography is the best method of early detection of breast cancer, and early detection is the key to saving lives; and

Whereas mammograms can reveal the presence of small cancers of up to two years or more before regular clinical breast examination or breast self-examination (BSE), saving as many as one-third more lives: Now, therefore, be it

*Resolved*, That the Senate designate October 19, 1995 as ''National Mammography Day.'' The Senate requests that the President issue a proclamation calling upon the people of the United States to observe such day with appropriate programs and activities.

## REFERRAL OF AMTRAK APPROPRIATIONS AUTHORIZATION

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that Calendar 206, S. 1318, the Amtrak and Local Rail

Revitalization Act of 1995, be referred to the Finance Committee solely for the consideration of title 10 of the bill, for not to exceed 15 calendar days; and further, that if the bill has not been reported from the committee after the 15 days, it automatically be discharged and placed on the calendar.

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

## CLOSE TAX BREAK LOOPHOLES

Mr. WELLSTONE. Mr. President, today I rise before the Senate to comment on some of the provisions of the legislation to be reported out of the Senate Finance Committee.

I want to start out by asking a simple question: Why are we reducing revenue and investment in Medicare and medical assistance and higher education and other programs, which are critical to communities and people in Minnesota and all across the country, before going after some of the tax breaks for special interests that have been embedded in the tax code for decades?

If we are serious about deficit reduction, it seems to me that all these loopholes and deductions and giveaways ought to also be on the table.

Mr. President, what kind of priorities are these that are reflected in this bill? They are certainly not the priorities of the people I represent, who understand the value of having funding available to take care of elderly people, understand the value of taking care of vulnerable people who are in nursing homes, of boosting kids' chances to go to college, of helping struggling families enter the middle class, of ensuring that elderly people can afford health care, of making sure that children have adequate nutrition. It makes no sense at all, Mr. President.

After days of closed-door meetings, this week Republicans on the committee announced their proposal for a $245 billion tax cut. Taken as a whole, this proposal includes serious reductions and cuts in Medicare and Medicaid and, in addition, includes some enormous new tax breaks for wealthy corporations and others, further worsening our budget crisis.

Mr. President, instead of scaling back billions of dollars in tax breaks, it provides billions for firms with high-powered tax lobbyists and almost nothing for working families.

In fact, by slashing the earned income tax credit for working families by over $42 billion, this legislation will greatly increase the tax burden on millions of citizens throughout the country.

In my State of Minnesota, there will be an increase of taxes for 172,740 Minnesota taxpayers. Mr. President, these are low- and moderate-income families that are trying to work their way into the middle class.

At the same time, the bill makes only a tiny, token effort to partially scale back a few loopholes in the Tax Code. And the proceeds from these modest changes are, in turn, used to subsidize new and much bigger tax breaks precisely for those taxpayers in the Nation who least need them.

For example, it relaxes the alternative minimum tax that was established in 1986. What was the idea back then? The idea was that large and profitable corporations, often multinational corporations, after taking a variety of different deductions and credits and exclusions, still are going to have to pay some minimum tax. It is a part of fairness. Now what we have is a provision to scale that back. That provision ought to be struck from this piece of legislation. It is truly outrageous.

If you ask people in the country, ''Do you believe that tax cuts should be a priority while at the same time we are trying to reduce the deficit?'' most would say—and the polls bear this out—''No.'' If you ask people, ''Do you believe that tax breaks for large, profitable corporations ought to be expanded rather than scaled back?'' virtually every single Minnesotan would say, ''No.'' Even so, that is exactly what the Finance Committee is about the business of doing.

I offered an amendment on the budget resolution earlier this year to require that the Senate Finance Committee close $70 billion of tax loopholes over the next several years. That amendment was defeated. Next week, or the following week when we take up the reconciliation bill, I intend to have specific proposals and amendments on the floor to close tax loopholes, with up-or-down votes.

If we are going to have the deficit reduction, if we are going to pay the interest on the debt—all of which we agree on—there ought to be a standard of fairness. And rather than focusing so much on the cuts in Medicare and medical assistance, rather than focusing on cuts in benefits for veterans, rather than causing great pain for children and the most vulnerable in our country, it seems to me it is not too much to ask that large corporations, wealthy corporations, pay their fair share. That is why we ought to plug some of these narrowly focused tax breaks and loopholes which allow the privileged few to escape paying their fair share, focusing on other people and forcing other people to pay higher taxes to make up the difference. This is a question of fairness. If you are going to have sacrifice, it ought to be equitable sacrifice.

Let me make a point here that is often overlooked. We can spend money just as easily through the Tax Code, through tax breaks, as we can through the normal appropriations process. Spending is spending, whether it comes in the form of a Government check or whether it is a tax break for some special purpose like a subsidy, a credit, a deduction, accelerated depreciation—you name it. Some of these tax expenditures are justified, they ought to be kept. But it does seem to me that, in a time of tight budgets, in a time when we are focusing on deficit reduction, in a time when we are cutting into nutritional programs for children and higher education and health care and environmental protection, why in the world are not the tax subsidies for the large pharmaceutical companies and oil companies and tobacco companies and insurance companies and you name it, why are they not on the table?

Various groups, from all ideological perspectives, from the National Taxpayers Union to the Cato Institute to the Progressive Policy Institute to Citizens for Tax Justice, have prepared a list of tax loopholes and other subsidies which they believe should be eliminated. But, despite the logic of their approach, which is a Minnesota standard of fairness, my colleagues on the other side of the aisle have chosen the path of least political resistance: Slash the programs for the vulnerable elderly, slash the programs for the vulnerable poor, slash the earned-income tax credit, slash the programs for child care, slash the programs for middle-income people. But when it comes to these large, multinational corporate interests who march on Washington every day, the big players, the heavy hitters, people who have the lobbyists, for some reason, we do not ask them to tighten their belts at all.

It is only fair that this be a part of the agenda. So I want to just outline very briefly some of the areas on which I want to focus the attention of my colleagues next week. Let me give but a few examples.

I already talked about the minimum tax. The effort is to scale that back for certain corporations. That's wrong. Everybody ought to pay some minimum tax.

Second, let me talk about expensing for the oil and gas industry. This has been a special break for this industry. They get to expense their oil and gas exploration costs, instead of depreciating them over time. It is an expensive tax benefit for this industry. Why should the oil and gas industry receive special treatment in the Tax Code which is not generally available to other companies and industries? It is a simple question. If we are about the business of deficit reduction, we ought to close this loophole.

Or take section 936, the Puerto Rico tax credit that has been debated in some detail in recent years. The Finance Committee has finally acknowledged there ought to be some change. But what it does is it repeals this over a fairly long period of time, 7 years or so, with generous transition benefits for corporations in the interim period. If we are going to repeal it, I think what we have to do is move as quickly as possible. It simply makes no sense. For those who support a flatter tax or a fairer tax or tax justice and think we ought to make the cuts and ought to do the belt tightening, this ought to be on the table.

Or consider the special exclusion for foreign-earned income that has been in this code for decades. This little gem will cost taxpayers between $8 and $9 billion over the next 5 years. If you are a U.S. citizen living abroad, you get an exclusion of taxation for the first $70,000 you make. You get an exclusion of taxation on the first $70,000 you make. So, if you make $170,000, you do not pay anything on $70,000 of that. Again, let us talk about a standard of fairness and let us make some of these cuts, not just based upon the path of least political resistance, but on the basis of a path of some fairness.

The PRESIDING OFFICER. The Chair will advise the Senator from Minnesota that his 10 minutes have expired.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that I have 3 more minutes to conclude my remarks.

The PRESIDING OFFICER. The Senator is recognized for 3 additional minutes.

Mr. WELLSTONE. Mr. President, there is a provision right now on some of the corporate-owned life insurance that has generated some opposition from the insurance industry and large employers. Frankly, it had been abused. I refer my colleagues to an article by Allan Sloan, ''Companies Find a Premium Way To Take an Unjustified Tax Break.'' He talks about Wal-Mart taking out this insurance on virtually all their employees. The money does not go to their employees as beneficiaries, but Wal-Mart gets to take a deduction on whatever money they put into the insurance for every single employee. Again, we are talking about losing billions of dollars over the years. I am going to be talking about this at some great length when we finally get down to the debate on this reconciliation bill and when we finally get down to the point where the rubber meets the road.

These are about four or five examples. I intend to come to the floor with at least some of these specific provisions. What I am going to be saying to my colleagues is: Look, eliminate them. Because what happens is, when these companies or these citizens who do not need this assistance get these kind of breaks, other citizens end up having to pay more taxes. It is not fair. It is not tax fairness. And, in addition, it is an expenditure of Government money that we can no longer afford. That is what it amounts to.

If we are going to do the deficit reduction, we ought to do it on the basis of a standard of fairness. I ask the question one more time, by way of conclusion today. How come we are focusing so much on the elderly? How come we are focusing so much on the children? How come we are focusing so much on health care? How come we are focusing so much on working families, low- and moderate-income families? How come we are stripping away environmental protection? How come we are stripping away some basic consumer safety provisions that are important to all of the citizens of this country, but at the same time, when it comes to some of this corporate welfare, some of these outrageous breaks that go to some of the largest corporations in America and throughout the world that are just doing fine and can afford to tighten their belts, they are not asked to be a part of the sacrifice?

These votes next week will be a litmus test of whether or not Democrats and Republicans are serious about deficit reduction based upon a standard of fairness. I look forward to the debate.

Mr. President, in the absence of any colleagues here, I ask unanimous consent that morning business be extended for an additional 7 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. Without objection, morning business is extended for an additional 7 minutes.

Mr. WELLSTONE. Mr. President, I also want to speak on one other matter that I think is very important to the country.

The PRESIDING OFFICER. The Chair will advise the Senator that his previously granted time has expired. Does the Senator wish additional time?

Mr. WELLSTONE. Mr. President, I ask unanimous consent for an additional 7 minutes to speak as in morning business.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for an additional 7 minutes.

Mr. WELLSTONE. Mr. President, I also rise today to strongly oppose drilling in the Arctic National Wildlife Refuge [ANWR]. This has been an issue that I have been involved in from the time I first came to the Senate. There was a filibuster over ANWR that I led when I was here just a short period of time and now ANWR is back again. The Energy Committee has voted, over the objections of a large bipartisan group of Senators, to open up ANWR for drilling and to use the revenue to meet reconciliation instructions. I note a letter from former President Bush to my distinguished colleague from Alaska, that is on everybody's desk, supporting this.

I am both aware of and respectful of the need to balance the budget. That is why I have stood here on the Senate floor and voted for many spending cuts.

But there are other ways and measures that do not balance the budget at the expense of our natural resources. Unfortunately, though, all I see is big industry, oil companies included, winning big, and our natural resources losing big.

This is poor energy policy, poor environmental policy, and it is politics that in many ways I think is profoundly wrongheaded and even cynical.

First, let me talk about energy policy. The argument is that drilling in ANWR will lessen our reliance on foreign oil, but we do not really know whether there even is oil in ANWR. And if there is, we do not know how much. The latest numbers from the U.S. Geological Survey suggest that it is, at best, 4 million to 5 million barrels. This is equal to 1 year's worth of U.S. oil consumption. That is no long-term solution to energy dependence, and dependence on foreign oil.

Furthermore, there is a mixed message. At the same time proponents of ANWR say that we ought to lessen our dependence on foreign oil, they are pushing to lift the North Slope oil export ban and selling off oil reserves in the Strategic Petroleum Reserve.

I do not see how it is possible to make the argument for drilling in ANWR, at the same time that we are exporting some of our oil. It is just inconsistent, and it is bad energy policy.

The discussion about ANWR supplying jobs is also way off the mark. If you just look at some statistics from the American Council for an Energy Efficient Economy, they estimate that by the year 2010, we could generate 1.1 million jobs, by getting serious about saved energy and efficient energy use, which makes far more sense.

Now, let me talk about environmental policy. The Arctic National Wildlife Refuge is one of this country's greatest treasures. The preservation of this land and its plants and its animals and the way of life they support is vital. ANWR contains the Nation's most significant polar bear denning habitat on land, supports 300,000 snow geese, migratory birds from six continents, and a concentrated porcupine caribou calving ground.

Given all that ANWR has to offer, I am appalled that many of my colleagues are willing to drill in ANWR without the usual procedure of an Environmental Impact Statement as required by current law. I pushed in committee to have such an environmental impact statement but my amendment was defeated. When it was being considered, my colleagues asked me how it would affect scoring. This points to exactly what is going on here: We are selling important environmental protections, and we are mortgaging the environment for a momentary short-run budgetary gain.

Mr. President, finally, let me just make a concluding point. For thousands of years, the Gwich'in people have relied on the porcupine caribou to provide their food and meet their spiritual needs. I have heard them speak very eloquently and directly about what oil drilling in ANWR would do to their way of life. In fact, many of them may have to leave a way of life they have practiced for thousands of years if drilling in ANWR happens.

This is a one-sided battle. People like the Gwich'in want to save the environment. But they are not the big oil companies. They do not have the money. They do not have the lobbyists, and they do not have the lawyers here every day.

I believe, once again, to open up ANWR to oil drilling through the back door of the budgetary process is profoundly mistaken. It is not the basis on

which we should make this decision, and I think it would be a huge mistake for this Nation.

Our natural resources are among the most important things we can leave to future generations. Those resources are in our care. Our children and our grandchildren—we keep talking about our children and our grandchildren—deserve more than what this bad energy policy, bad environmental policy, and shortsighted politicking would leave them.

I urge my colleagues to support an amendment to the reconciliation bill to strike the provision opening ANWR to drilling. It is time to get our priorities right, and if we are serious about doing well for our children and our grandchildren, we will make the protection of the environment and the protection of ANWR our very highest priority.

Mr. President, I yield the floor.

## SUPPORTING DAY OF CONFRONTING VIOLENCE AGAINST WOMEN

e will make the protection of the environment and the protection of ANWR our very highest priority.

Mr. COVERDELL. Mr. President, I rise in support of observing a Day of Confronting Violence Against Women and this week as a Week Without Violence.

Widely publicized media reports, especially those most recent, have literally seized the attention of the American public and brought to the forefront alarming instances of violence against women. When I learn that three out of four women will be victims of violence at some time in their life, it makes me angry, as it should every Member of the U.S. Senate.

This issue should strike each of us at the heart of our homes and families. Why? Because we are not just talking about numbers and statistics here, we are talking about our mothers, our sisters, and our daughters. We may even be talking about some of our colleagues. When you consider that every 15 seconds a women is battered in America, four women have been cruelly beaten since I began my statement only a minute ago. When every 5 minutes a women is sexually attacked, sadly enough, one woman's life is forever destroyed by the time I conclude my remarks.

In our country, one in every four relationships involve physical abuse. In my home State, I am sad to say, 250,000 women are abused each year. This is why violence against women is an issue very important to me. One of my first acts as Senator was to sign onto Senator DOLE's Violence Against Women Act. Last year two antistalking amendments I offered were adopted by the Senate. They provided for training of criminal justice officials and victims' service providers as well as funding for further research.

Most recently, I am proud to have been a cosponsor of an amendment to the fiscal year 1996 Commerce, State, Justice appropriations bill to target an additional $75 million funding to prevent violence against women—an amendment that was unanimously adopted. It included support of counseling and assistance to victims and witnesses to support them throughout the prosecution process of offenders, funding for safe homes for victims of violence, and improving the database that collects nationwide information on stalkers.

In closing, let me applaud the tireless work of Majority Leader DOLE, Senators HATCH, BIDEN, and SNOWE and many others to bring an end to violence against women in this country. Even though there have been some tragic setbacks recently, we cannot give up hope. We need to continue to support these efforts in the Senate and to support women who are victims of violence.

Mr. President, I yield the floor.

## CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is now closed.

## CUBAN LIBERTY AND DEMOCRATIC SOLIDARITY [LIBERTAD] ACT OF 1995

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of H.R. 927, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 927) to seek international sanctions against the Castro government in Cuba, to plan for support of a transition government leading to a democratically elected government in Cuba, and for other purposes.

Pending:

Dole amendment No. 2898, in the nature of a substitute.

Helms amendment No. 2936 (to amendment No. 2898), to strengthen international sanctions against the Castro government and to support for a free and independent Cuba.

Simon modified amendment No. 2934 (to Amendment No. 2936), to protect the constitutional right of Americans to travel to Cuba.

The Senate resumed consideration of the bill.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

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

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

Mr. DODD. Mr. President, I have a couple of amendments that I would like to offer to the pending legislation. I point out we have already spent, I guess, 4 or 5 days on this bill, and I think people might suggest probably more time than the legislation deserves, but nonetheless it is taking a great deal of time.

What I would like to do, if my colleague and chairman of the Foreign Relations Committee would agree, rather than having separate debates on amendments, I will try to confine my remarks to both amendments—they are related, I would say to my colleague from North Carolina—and then either have back-to-back votes on them or, if he prefers, I could ask unanimous consent that these two amendments be considered as one amendment for the purpose of a single rollcall vote. Either way is fine with me, and I will yield to my colleague for any particular comment he may have on procedurally how we handle it.

Mr. HELMS. Mr. President, I am perfectly willing to have the two amendments voted en bloc. And I would further ask the distinguished Senator from Connecticut if he would be willing to enter into a time agreement?

Mr. DODD. I am happy to, if he wants. I know some of our colleagues have—there is one other amendment pending, the Simon amendment.

Mr. HELMS. Yes.

Mr. DODD. I believe he needs 20 minutes.

Mr. HELMS. There is a time agreement.

Mr. DODD. Of 20 minutes. I would say 40 minutes, and it may not even be that amount of time necessarily.

Mr. HELMS. Forty minutes equally?

Mr. DODD. Yes.

Mr. HELMS. I ask unanimous consent that the time agreement be 40 minutes equally divided—on the two amendments?

Mr. DODD. That is fine.

Mr. HELMS. Very well.

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

Mr. HELMS. I thank the Chair. I thank the Senator.

The PRESIDING OFFICER. Without objection, the amendments will be considered en bloc.

Mr. DODD. Fine. Mr. President, I will wait to ask for the yeas and nays.

AMENDMENTS NOS. 2906 AND 2908 TO AMENDMENT NO. 2936

Mr. DODD. Mr. President, the amendments are at the desk. They are numbered 2906 and 2908. I ask for their immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendments.

The legislative clerk read as follows:

The Senator from Connecticut [Mr. DODD] proposes amendments numbered 2906 and 2908 to amendment No. 2936:

The amendments are as follows:

AMENDMENT NO. 2906

On page 23 of the pending amendment beginning with line 18, strike all through line 21 on page 24.

AMENDMENT NO. 2908

On page 28 of the pending amendment beginning with line 42, strike all through line 32 on page 32.

Mr. DODD. Mr. President, let me explain, both of these amendments are related to title II of this bill.

Let me explain both of these amendments. I should begin by thanking my colleague from North Carolina that we have gotten to this point and that we are considering the bill, having dropped title III of the bill.

I should, before discussing these two amendments, make clear, having read the comments of the distinguished majority leader and others, that title III of the bill will come back in the bill, I guess, or at least there are threats of that when the House and the Senate go to their conference on this legislation. On the assumption that the bill is passed out of the Senate, I would just notify my colleagues that if that is the case and it comes back, we will be back in the same position we were in earlier this week where I strongly objected to title III of the bill and would take appropriate actions if that is the case.

I certainly understand and respect the right of the conferees to have and decide what they are going to decide, but I would have to also put my colleagues on notice that I would use whatever procedural vehicles are available to me as a Member of this body to stop consideration of the legislation if that were to occur.

Mr. President, these two amendments, as I mentioned a moment ago, strike portions of title II of the bill that I think unduly hamper the ability of our country to provide assistance—and let me emphasize this—to a post-Castro government. Title II does not talk about Fidel Castro's government in Cuba today. Title II exclusively talks about the government that comes after Fidel Castro.

So my colleagues who are worried here that they may in some way, if they were to adopt these amendments I am proposing, do something to support Fidel Castro, they have nothing to do with Fidel Castro. The language specifically refers to the post-Castro government. And I want to emphasize that point because I think it sets new ground, that is, the language in the bill, that I think is dangerous, in my view, and precedent setting.

The restrictions, of course, I mentioned are not restrictions on how we relate to the existing government. Rather, they are restrictions on a relationship with a future Cuban Government, a government in transition from dictatorship to democracy. And, Mr. President, this does not make any sense at all to me. Title II of this legislation relates in large measure to what the United States' policy should be toward a post-Castro government.

It states, among other things—I am quoting here:

> It is the policy of the United States to support the self-determination of the Cuban people and to be impartial toward any individual or entity in the selection by the Cuban people of their future government.

That is a beautiful statement. I endorse it 1000 percent. It is exactly the position we ought to have. Let me repeat it again.

> It is the policy of the United States to support the self-determination of the Cuban people and to be impartial toward any individual or entity in the selection by the Cuban people of their future government.

That is exactly the position we ought to have. In fact, if it ended right there I would be standing up here urging all my colleagues to support this. But unfortunately, Mr. President, if you read further on in here, we seem to then contradict the very statement that I have just read to you. And I suspect that many of my colleagues—most would endorse the first statement. However, key provisions of title II belie that statement.

I would urge my colleagues to take a look, if they would, at sections 205, 206, and 207 of title II which set forth a laundry list of conditions and requirements that either must or should be met before the President, our President, the President of the United States, can provide even very limited assistance to help the Cuban people make the very difficult transition from dictatorship to democracy.

These conditions, Mr. President, go on for four pages here, laying out, in some cases, ''shall,'' and what we ''must'' do.

Section 205:

> (a) A determination . . . that a transition government in Cuba is in power shall not be made unless that government has taken the following actions—(1) legalized all political activity; (2) released all political prisoners . . .

Most of the list I do not have any problem with whatsoever except that it gets to micromanagement in a sense and lays out in great specificity exactly what we are going to require before we provide any assistance to the people of that new government.

Again, I go back, Mr. President, to read, if you will, the statement I read a moment ago when we started talking about it. ''The policy of the United States to support the self-determination of the Cuban people and to be impartial toward any individual or entity.'' Again, we are talking about a post-Castro government here. Presumably, they are getting rid of the dictatorship and moving in the right direction.

Now, I am not suggesting we ought to say we are going to provide help to anybody that becomes a transition government or becomes the new government after Castro. I would oppose just as strongly any suggestion in legislation that we automatically ought to be providing assistance. But I also think it gets rather ridiculous if we lay out four pages, Mr. President, of conditionality here that a government must meet absolutely in many ways if we are going to provide any assistance at all. I am talking about humanitarian assistance to people in transition.

And, in fact, these standards that we have here, as much as I think they have value, and although I think some of the language is a little less than precise, I do not—''legalizing all political activity''—I do not know what ''all political activity'' means. I do not know what we mean about that in this country. But I am not going to quibble about the individual wording in it, Mr. President. I think there is value in each one of these statements.

But my point is, if we applied these standards to the New Independent States that emerged after the collapse of the Soviet Union, we still would not be providing any assistance to them, and we would not be allowed to under this, if adopted. We need to provide Presidents and Congresses in the future with the flexibility to respond to a transition in Cuba. And to sit down and have a four-page minutia detail by detail by detail, steps that they have to go through before we can help them, I think just is wrong, wrong headed.

Again, this has nothing to do with Fidel Castro. This title II works on the presumption he is gone, he is out of there. Now, we are talking about a new government.

Mr. President, I just think it is a mistake to be passing legislation that micromanages and goes into such detail. It is not just this President. Maybe people are talking about this administration somehow. No one can say with certainty when the transition is going to occur in Cuba. We all hope it occurs peacefully and occurs soon. But it may very well not be for a year or 2 or 3 or 4 for 5. Who can say?

We have listened to nine Presidents since Dwight Eisenhower talk about the change coming in Cuba. It has not happened yet. Now, again, all of us here, I presume, would like to see it happen quickly. But if it does not happen during this administration but some future administration, including the administration of some of our colleagues who are in this Chamber today, they could face four pages we adopt into law setting out in detail what that government must look like before we can provide assistance to them, despite the fact that we said earlier in the bill that it is the policy of our Government to support the self-determination of the Cuban people and to be impartial, impartial toward any individual or entity in the election by the Cuban people of their future government.

Again, I would not suggest in any way whatsoever, Mr. President, that we ought to write a bill that would say no matter what happens, no matter who follows Fidel Castro, we ought to provide aid to them.

Imagine if I wrote a bill that said that, that whoever comes after Fidel Castro automatically qualifies for U.S. assistance. I would be laughed off the floor of the Senate if I suggested a bill that proposed that idea. And yet, what we are doing here today, in a sense, is just like that. We are saying in effect that ''no matter who comes after Fidel Castro, unless you meet these detailed standards, we cannot provide any help to you at all.''

I thought the idea was to encourage a transition, to move to democracy, and to then provide the kind of nurturing

support to see that that transition occurs. Now, it may not occur exactly as we like.

One of the provisions says you must have free elections within 2 years. I wish it was 6 months. I wish it were the next day. What happens if it is 2½ years and not 2 years, or 2 years, 2 months? It is that kind of detail that is in this bill, Mr. President. That is not smart. That is not wise. That is not prudent. I do not know of any other place where we provided this kind of language.

Imagine the Philippines if we tried that. Imagine if we tried it, as I said, in all of these New Independent Republics that have emerged. Our ability to weigh in and create that kind of transition would have been severely hampered had we been required to meet the standards we are going to be adopting in this legislation if my amendment is not approved.

Now, I do not know, again, how this will come out politically. But I hope my colleagues would look and just read the sections 205, 206, and 207. They go on for some pages. Some require ''shall,'' others ''should,'' in the transition.

Last, and it gets into this same area, the settlement of outstanding U.S. claims. And here the language, Mr. President, is pretty emphatic in the bill.

No assistance may be provided under the authority of this act to a transition government in Cuba.

And then it goes on for a page or two here talking about how we resolve these outstanding claims.

Mr. President, I hope that happens. I do not think any U.S. citizen who has property confiscated anywhere in the world ought not to be compensated. But we have now 38 countries in the world, including Cuba, where United States citizens' property has been expropriated, and we are in the process of trying to get those individuals compensated for that property.

Some of the countries where that occurs are very strong allies of ours. Germany is one, I point out. We now have diplomatic relations with Vietnam. The list is lengthy, 38 countries.

We never said before we cannot provide any assistance to those countries until those claims and matters are all settled, and yet that is what we do with this legislation. We are saying we cannot provide under this—the language very specifically in section 207, ''Settlement of Outstanding U.S. Claims to Confiscated Property in Cuba,'' section (A), paragraph 1:

No assistance may be provided—

The assumption is that you are going to set up a mechanism to resolve these claims, again no matter how meritorious they may be, and have that control our foreign policy interests, which would be, I presume, to support the transition to get aid to people to try to establish a presence there and assist that process. To have it totally linked to claims issues, where we do not do that even among our allies around the globe, seems to me to be going too far. It just goes too far.

Again, I realize with everything else going on around here that the attention on something like this may not seem like much to people. I just think it is bad policy, Mr. President, to have this kind of detailed step-by-step requirement that you have to meet and then absolutely hamstring not just this administration, but future administrations, from being able to move intelligently and rapidly to try to shore up a government that will follow Fidel Castro.

Again, I emphasize to my colleagues, none of these provisions has anything to do with the present government in Cuba—not one thing to do with it. It is all about the government that comes afterward. It seems to me we ought to be trying to figure out a way how we can play the most creative role in that transition, to try to move that process toward a democratically elected government as quickly as we can—as quickly as we can. And yet, before we can do that, we now have to go through a series of hoops that will make it very, very difficult for us to respond creatively and imaginatively to a situation that has gone on far too long.

So, Mr. President, I will not dwell on this any longer. I made the point, I hope, and I urge my colleagues to look at these sections of the bill. Some, as I said, are more advisory. Others absolutely demand certain things occur. They can go through and read which is which. It seems to me we ought to stick with the paragraph I read earlier on in my statement, and that is that we provide the kind of flexibility in allowing the Cuban people to determine for themselves what it is that they would like to have as that new government.

We may not decide to support it. It may not meet our standards and we will act accordingly, but the best policy is the one that is included as a preamble to this section, and the preamble to this section is one that every single person in this country, let alone in this body, can support, and that is the policy of the United States to support the self-determination of the Cuban people and be impartial to any selection of the Cuban people as to their government. It is their choice. If they want to make a bad choice, that is their right. We do not have to support it, but that is their right if they so desire.

The idea, then, that we are going to detail in painful minutiae every step that must be met, I think is a mistake. Again, I am not quarreling myself with any provisions here necessarily. There are things I support and I believe make sense. But to spell out as a roadmap what they have to follow in great detail before we can provide any kind of help down there is a mistake, and I urge the adoption of the amendment.

Mr. President, I withhold the remainder of my time.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina [Mr. HELMS], is recognized for 20 minutes.

ORDER OF PROCEDURE

Mr. HELMS. Mr. President, the distinguished President of Estonia waits without in the Vice President's Office. I desire to present him to the Senate, and I shall do so, and I shall go and invite him to come in. In the meantime, I suggest the absence of a quorum, the time to be charged to neither side.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

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

## VISIT TO THE SENATE BY THE PRESIDENT OF ESTONIA, LENNART MERI

Mr. HELMS. Mr. President, I am honored to present to the Senate the President of Estonia, the distinguished Lennart Meri.

## RECESS

Mr. HELMS. Mr. President, I ask unanimous consent that the Senate stand in recess for 5 minutes, so that Senators and staff can greet our distinguished guest.

There being no objection, the Senate, at 11:06 a.m., recessed until 11:13 a.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. CAMPBELL).

## CUBAN LIBERTY AND DEMOCRATIC SOLIDARITY [LIBERTAD] ACT OF 1995

The Senate continued with the consideration of the bill.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. HELMS. As I understand it, I have 20 minutes.

The PRESIDING OFFICER. The Senator is correct.

Mr. HELMS. On the two amendments.

The PRESIDING OFFICER. The Senator is correct.

Mr. HELMS. Mr. President, I will not use all that time. I will reserve some. When the Senator from Connecticut is willing, we will yield back what remains of our time.

Mr. President, Senator DODD's amendment proposes to delete from the pending bill any guidance and recommendations to the President from the Congress of the United States as to what constitutes a transition or democratic government in Cuba. I am a little surprised at the thrust of the amendment. But I respect the Senator, although I disagree with him.

The administration has maintained that the President should retain flexibility to deal with the situation in

Cuba once a transition begins. So the beginning trouble with this amendment is that it is in conflict not only with the bill itself but with the administration itself.

As the Libertad bill was drafted, we took the administration's concerns into account, and we agreed that any parameters not be ''overly rigid,'' to quote from an administration statement on the House bill. But we also agreed that Congress should speak as to what constitutes sufficient change in Cuba to merit any support or aid from the United States.

So the result is that the pending bill gives the President of the United States, whomever he may be, a great deal of latitude in making the determination required before—before—any United States aid can begin to flow to a new Cuban Government.

I am not aware that the administration has any problems with the way the pending legislation is drafted. But let me be clear about what is in the Libertad bill. The only specific requirement, Mr. President, that a transition government must meet before United States aid is released is that the Government has legalized political activity, released all political prisoners and allowed for access to Cuban prisons by international human rights organizations. It also stipulates that the Cuban Government must have dissolved the state security and secret police apparatus, and agreed to hold elections within 2 years of taking power and has publicly committed, and is taking steps, to resolve American property claims.

The pending bill contains several additional factors that the President is asked—not required, but asked—to take into account when determining whether a transition or democratic government is in power in Cuba.

Mr. President, Congress offers this type of guidance to the President all the time on various matters. This is not out of the ordinary, nor is it some legislative straitjacket. So that is why I have a little bit of difficulty understanding how anybody could oppose asking, before we give away the United States taxpayers' dollars, that a Cuban Government allow political activity, free political prisoners, dissolve the secret police, and agree to take care of American citizens' property claims. I must ask, what is wrong with that?

As for the property requirements, the President can waive them if he determines that it is in the vital national interest of the United States to do so. This is consistent with existing restrictions on aid to Cuba in section 620(a) of the Foreign Assistance Act.

Now, I find it ironic that Senators would come to the floor, expressing concerns about the Libertad bill, ostensibly in the name of certified property claimants, and then turn around and want to strike a provision that reaffirms the need for Cuba to remedy past wrongs. Whose interest is really being protected by removing this Libertad section? It doesn't appear to be the interests of the property claimants.

It is clearly within Congress' power to set out conditions on providing aid to other nations—we do it all the time. However, the Libertad bill acknowledges that the President will need flexibility in responding to Cuba's political evolution. The language in the Libertad bill represents a balance between these interests and should be retained, and that is why I will move to table the Senator's amendment.

Mr. President, I reserve the remainder of my time, pending Senator DODD's discussion of his other amendment.

I am advised, Mr. President, that Senator DODD has no further comment on his amendments. Is it fair for me to assume that he yields back the remainder of his time? If staff would please inquire of Senator DODD.

Mr. President, while we are waiting, on occasions like this, when important legislation is being considered, I wonder what the reaction of those who come to visit the Senate is with respect to so few Senators being on the floor. The answer to that is that Senators are tied up in committee meetings all over this complex. I, myself, had to get away from a committee meeting to be here to manage this bill and to discuss Senator DODD's amendment.

So I say to our guests that not only do we welcome them, but we beg their understanding that Senators are working; they are just not working here at the moment.

Mr. President, I suggest the absence of a quorum, the time not being charged to either side.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. 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. HELMS. Mr. President, I have been advised—Senator DODD has conveyed to me his desire that his remaining time be yielded back if I yield mine back. I so do.

The PRESIDING OFFICER. All time is yielded back.

Mr. HELMS. Mr. President, I want the Chair to correct me if I am wrong, but there will be one vote on the two Dodd amendments; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. HELMS. I ask unanimous consent that it be in order for me to ask for the yeas and nays en bloc.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. Now, Mr. President, that leaves Senator SIMON's amendment on which a time agreement is already in place.

The PRESIDING OFFICER. The Senator is correct.

EXPLANATION OF CHANGE OF VOTE ON CLOTURE

Mr. HEFLIN. Mr. President, when the Senate first voted October 12 on the cloture petition relative to H.R. 927, the Dole-Helms Cuba sanctions bill, I voted no. Like most of my Democratic colleagues and some Republicans, I strongly opposed title III of the bill as written because of its detrimental effect on U.S. Federal courts. Indeed most of our debate over the last few days on the bill has focused on title III's provisions allowing suits to be filed against companies that acquired property confiscated by the Castro regime after it took power in 1959.

This provision of the measure flouted international law, threatened already severely overburdened courts with costly new litigation, and jeopardized our relations with major trading partners who do business with Cuba. If adopted, this provision would have exponentially expanded the pool of persons in the United States seeking compensation from the Cuban Government for their claims. There could be tens or even hundreds of thousands of persons who would be eligible to file such lawsuits.

While no one knows for certain how many lawsuits could have been filed under title III, if even a fraction of those newly eligible did so, it would prove costly to the Federal courts and greatly complicate the tasks of resolving claims and assisting Cuba's economic recovery once the Castro regime is gone.

After that first cloture vote, I discussed these issues during private conversations with several of my colleagues who supported the measure, including Senator HELMS, and by the time of the second vote on October 17, I had obtained assurances that title III would be substantially modified or eliminated entirely. Therefore, I was able to support cloture when the second vote occurred.

I am happy that we were able to reach a compromise on this legislation which allowed the third cloture vote to succeed on a solid bipartisan vote of 98 to 0 after the announcement that title III would be stricken from the bill.

Mr. PELL. Mr. President, I believe all my colleagues agree on the goals of United States policy toward Cuba—promoting a peaceful transition to democracy, economic liberalization, and greater respect for human rights while controlling immigration from Cuba. Where some of us clearly differ, however, is on how we get there. Despite the changes that have been made to the pending legislation, I believe that it continues to take us further away from achieving these goals. I believe, therefore, that this legislation is contrary to U.S. national interests.

We should undertake policy measures to enhance contact with the Cuban people, because that will serve United States national interests; namely, the fostering of the peaceful transition to democracy on that island.

In my view, greater contact with the Cuban people will plant the seeds of

change and advance the cause of democracy just as greater exchange with the West helped hasten the fall of communism in Eastern Europe.

I think it is naive to think that the measure before us today is going to succeed in forcing Castro to step aside, where all other pressures have not. However, the measures proposed in this bill do have the serious potential of further worsening the living conditions of the Cuban people and once again making a mass exodus for Miami an attractive option. Taken to its most extreme, this bill could even provoke serious violence on the island.

This legislation is even more problematic than earlier efforts to tighten the screws on Castro. I say this because its implications go well beyond United States-Cuban relations. It alienates our allies and tie the administration's foreign policy hands.

Contact and dialog between Havana and Washington will bring about democracy on the island of Cuba, not isolation and impoverishment. Perhaps if we took that approach, our allies would be more likely to support our policy with respect to Cuba. Today we are virtually alone.

The Helms-Burton bill has gone through a number of changes since it was first introduced. In fact, Senator HELMS' substitute amendment differs in a number of areas from the House-passed bill. However, no version to date resolves the fundamental problem I have with the direction it takes U.S. policy. For these reasons I will vote against this bill and urge my colleagues to do so as well.

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

The PRESIDING OFFICER. The clerk will call the roll. The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. 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. HELMS. Mr. President, in order to save a little time, my distinguished colleague from North Carolina desires to address the Senate, and he understands that Senator SIMON is on his way to discuss his pending amendment.

I ask that the Senator from North Carolina [Mr. FAIRCLOTH] be recognized for the purpose of addressing the Senate.

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

The Senator from North Carolina [Mr. FAIRCLOTH] is recognized.

Mr. FAIRCLOTH. Mr. President, I ask unanimous consent to speak in morning business for 15 minutes.

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

## PROMISES TO VOTERS

Mr. FAIRCLOTH. Mr. President, in the closing months of the first session of this 104th Congress, I rise to remind my colleagues of some promises which were made to voters last November.

You may ask why I should be addressing this issue when we have so much work that remains to be done on the budget, but I do so because I am surprised that we have forgotten some fundamental principles about economic growth which we so clearly articulated last year.

Those who embrace these basic truths are now in the majority. The consequence of abandoning that message of hope and opportunity could be profound for the American people.

Many of our colleagues are hard at work trying to balance the Federal budget. This is a necessary and a difficult job. The American people rightly expect us to balance the budget and we must not disappoint them.

In our zeal to put our financial house in order we must not forget why we are doing this in the first place.

I offer this reminder: We are balancing the budget because deficits are a tax on the American people. Today's debt is a tax levied not only on taxpayers, but it is levied on future generations.

We do not usually speak of budget deficits as taxes, but they are. That is very simply what they are. Deficits are taxes.

Who among us would support imposing taxes on our children and grandchildren? Yet every time we vote for deficit spending, we do very simply that.

If the deficit is a tax, then the solution is not an additional tax. The problem is that we are spending money that we do not have on programs we do not need.

The answer is simple. That is, to stop the spending.

Who among us is really convinced that we need to raise taxes to balance a budget? None of us. President Clinton supported the largest tax increase in American history and he now admits that it was wrong.

Yet our national debt continues to grow out of control. While President Clinton has been focused on new ways to take hard-earned money away from the American taxpayers, I believe that we in Congress should focus on ways to drastically decrease spending and allow taxpayers to keep more of their money. The answer is to cut spending.

I regret that I have begun to hear some of my colleagues in both bodies and on both sides of the aisle talk about raising taxes. I regret even more the manner in which they talk about raising them. Just as the deficit is a tax which we do not dare call a tax, a new term, a new euphemism has been invented to hide a new tax increase. The new tax is hiding behind the call to end corporate welfare, a term whose meaning has been distorted.

When the Government levies a tax and then uses that revenue to subsidize certain industries or such activities, it is accurately described as corporate welfare.

Unfortunately, we are now using the term ''corporate welfare'' to describe instances where we have simply chosen not to levy a tax. In other words, a tax we have not voted on. The corporations of this country are now being called corporate welfare simply because we have not levied the tax.

Have we been here in Washington so long that we have forgotten the difference between a subsidy and a tax? It is not a subsidy to allow a corporation to keep more of the money it has earned so that it can reinvest that money, which creates jobs, pays dividends to all shareholders, including large institutional investors responsible for protecting the pension funds of America.

The Federal Government does not own the American people's money. It does not own their land, their homes or their income. Failure to tax is not corporate welfare.

For us to say we are doing the American people some sort of favor by not taxing some aspect of their livelihood is the very height of political and governmental arrogance. We should not hide behind Washington doublespeak and call it corporate welfare.

It we decide to raise the tax, let us call it what it is—a plain and simple tax increase. Let us not say that we are ending corporate welfare when we are, in fact, raising the taxes on the corporations of America.

I find nothing noble in raising taxes. It misses the point of what we are trying to do in the first place.

I campaigned on spending cuts and tax cuts. Closing certain corporate tax breaks certainly increases taxes. The time to address these tax breaks is when we are engaged in comprehensive tax reform such as a flat tax. Now is not the time to rewrite the corporate Tax Code. Now is not the time to impose an arbitrary retroactive tax increase on companies and, more importantly, on their employees who participate in a corporate-owned life insurance policy purchased after 1987.

The only reason some are discussing tax increases now is because we failed to make serious cuts in Government spending and in corporate subsidies. We failed to downsize, eliminate, or privatize boondoggles such as the Export-Import Bank, the International Trade Administration, and the Overseas Private Investment Corporation.

The CATO Institute has identified more than 125 corporate welfare subsidy programs which cost taxpayers over $85 billion in subsidies this year alone. This is true corporate welfare. These are subsidies which we should be attacking. We need to make clear and distinct the difference between a subsidy and a tax increase. We should not be talking about tax increases until we have eliminated indefensible corporate cash subsidies.

As you know, I strongly support dramatic reform in our Social Security social welfare programs. The worst of these programs simply uses tax dollars

to subsidize and promote self-destructive behavior.

In the same way, I oppose corporate welfare which uses tax dollars to subsidize companies in a manner inconsistent with free market principles. Taking money away from individual taxpayers and giving it to businesses is simply wrong, and I support my colleagues on both sides of the aisle who call for an end to that practice.

As we continue our effort to balance the budget, I would hope that we not forget the following:

The deficit is a tax on the American people and on future generations.

To end this tax, we must balance the budget.

Our problem is that we have been spending money that we do not have on programs we do not need.

We need not and should not raise taxes to balance the budget. Raising taxes will not balance the budget. It never has. It only leads to increased spending.

I will not vote for a tax increase, no matter what it is ultimately called.

In ending deficit spending, we are doing the right thing—the honest thing. Let us not stray back into hidden taxes and double-talk about Medicare before we reach our goal of a balanced budget. Let us not give in to the defenders of the status quo whose political bankruptcy has led them to frighten our youth and senior citizens with false and negative rhetoric. I implore my colleagues to abandon the rhetoric of tax increases and embrace spending cuts and tax cuts—to embrace smaller Government and greater individual freedom. As this Congress changes the size and cost of the Federal Government, it is only right that taxpayers share in the dividends. That is why spending cuts, deficit reduction and tax cuts must go hand in hand.

I am a proud cosponsor of legislation to provide tax relief to America's families in the form of a $500 per child credit. I am also a sponsor of a bipartisan bill to provide a capital gains tax cut which we all know is essential and necessary for economic growth and new job creation.

Tax cuts and spending cuts are two ways of putting more money into the hands of America's taxpayers who will invest that money in our children and in our economy and in our country as a whole. Both investments contribute to long-term fiscal responsibility. This is the path to real and sustained deficit reduction. It is what the voters expect and deserve. And, it is what we in Congress owe them.

I yield the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois [Mr. SIMON] is recognized.

## CUBAN LIBERTY AND DEMOCRATIC SOLIDARITY [LIBERTAD] ACT OF 1995

The Senate continued with the consideration of the bill.

### AMENDMENT NO. 2934

Mr. SIMON. Mr. President, I see my distinguished colleague and friend, Senator HELMS, on the floor. I think we each have 10 minutes to speak for our sides, in terms of the travel to Cuba debate. If the Parliamentarian gives us his OK, I will be pleased to move ahead and take part of my 10 minutes at this point.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Illinois [Mr. SIMON] proposes an amendment numbered 2934 to amendment No. 2936.

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

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

(The text of the amendment is printed in the RECORD of October 18, 1995.)

Mr. SIMON addressed the Chair.

Mr. HELMS. Will the distinguished Senator yield about 30 seconds for a little housekeeping item?

Mr. SIMON. I will always yield to my colleague from North Carolina.

### UNANIMOUS-CONSENT AGREEMENT

Mr. HELMS. Mr. President, I ask unanimous consent that when the Senate resumes consideration of the Simon amendment, which it has just done, No. 2934, under the previous 20-minute time limitation, that following the expiration of that debate, the Senate then proceeded to a vote on or in relation to the Simon amendment, No. 2934; and, further, immediately following that vote, there be 4 minutes of debate, equally divided in the usual form, on the Dodd amendments 2906 and 2908, en bloc; and following that debate, the Senate vote on or in relation to the Dodd amendments, 2906 and 2908, en bloc; and, further, that following that vote, there be 10 minutes of debate equally divided in the usual form, to be immediately followed by a vote on the substitute amendment, to be followed by a vote on passage of H.R. 927, as amended, all without any other intervening debate or action.

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

Mr. HELMS. I thank the Senator from Illinois.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator is recognized for 10 minutes.

### AMENDMENT NO. 2934

Mr. SIMON. Mr. President, this amendment says simply that Americans can use what I think is a constitutional right to travel. We should not restrict travel to any country unless security is threatened, so that American citizens are not subject to simply propaganda from one side or from our Government.

It is interesting that every other country in the world, so far as I know, permits its citizens to travel to Cuba. Only the United States of America does not.

Listen to what President Eisenhower said: ''Any limitation on the right to travel can only be tolerated in terms of overriding requirements of our national security.''

President Eisenhower was right. The reality is Americans can travel to Cuba, but you have to go to Canada or Mexico or some other country to do it. We do not have the freedom the citizens of every other country in the world have, to travel to Cuba. It just does not make sense.

I will add, the American Association for the Advancement of Science testified before the Senate Judiciary Committee on this question and pointed out that there have been scientific meetings, international scientific meetings held in Cuba, where our scientists have not been able to attend. It just does not make sense.

In one case they were able to attend, but listen to this. In order to attend a meeting of the World Federation of Engineering Organizations, in Havana, beginning on October 17, 1993, they were first denied licenses, and then, ''Finally, members were granted licenses but not without long delays and the necessity of submitting themselves to a detailed screening process by Treasury Department officials.'' All kinds of needless paperwork. And not an American citizen who has gone to Canada or Mexico and traveled to Cuba has been prosecuted, sentenced to prison, or fined. It is just ridiculous, and we look ridiculous in the eyes of the rest of the world.

This limitation on Americans to travel to Cuba does not do one thing in terms of pulling down the Castro regime. There is not a Member of the United States Senate who believes that Castro is doing what he should be doing for the people of Cuba. We do not like his human rights record. But I do not want to impose human rights restrictions on American citizens because he does it in Cuba. So my amendment simply would give American citizens the clear right to travel to Cuba.

Mr. DODD. Mr. President, will my colleague yield?

Mr. SIMON. I yield 2 minutes to the Senator.

Mr. DODD. Just to engage my colleague, I want to commend him for his amendment. What is underlying in this amendment is the notion here that we have to start to get back to the conduct of foreign policy. We are dealing with Cuba as if this were a domestic issue and not a foreign policy issue. If someone can explain to me why it is that we allow unlimited travel to the People's Republic of China, and we allow unlimited travel to Vietnam—even in the case of North Korea, the North Koreans impose restrictions, but we do not impose restrictions. Yet here for the island nation of Cuba, as much

as all of us find the Government there reprehensible, I think most of us believe that access and contact between peoples, particularly free people with the people who are living under a dictatorship, has a tremendous impact, or can have a tremendous impact, to say that no one in this country to the one place throughout the entire globe could travel makes no sense at all.

Again, this is not as if we are talking about any other country. Imagine if we offered an amendment here that included the People's Republic of China, just add that one Communist country that engages in human rights violations—I would argue probably far more egregious than what occurs in Cuba, as bad as that may be—if I would offer that amendment to this, it would be resoundingly defeated if we stopped people going to the People's Republic of China today. And people would argue not just in terms of our own financial interests, but I think most realize there is probably a greater likelihood of achieving change there because there are those contacts. Others will argue with that. But here we are singling out one country 90 miles off our shore where an influx of Americans down there might have a very positive impact on encouraging people to engage in the legitimate, political kind of activity that would create the kind of change we would like to see there.

What my colleague is offering here makes eminently good sense. It is the direction we ought to be going in. It is the most effective way to change the Government there. I commend him for this amendment, and I ask him whether or not he would agree with me, if he knows of any other case anywhere else in the world where we apply this.

Mr. SIMON. Absolutely not. It is interesting that it is the same debate that we went through when we had the Soviet Union. Should we let Americans travel there? We finally made the decision that it might open up the Soviet Union if we would let people travel. And that was the right decision, and that is what we are asking for here. Let us make the right decision on Cuba.

Mr. DODD. I point out as well that it is not just that. But Cuban-Americans themselves—first of all, I have said this before, Mr. President. This notion that we are dealing with a monolithic community here is insulting to many Cuban-Americans. They do not like having people stand up here and suggest that every American of Cuban descent or heritage is of totally like mind on these issues. Many feel that they would like to be able to go back and start meeting with their families, working with their families. To go through the charade of traveling to Canada, going to Mexico, engaging in all kinds of subterfuge in order to make contact with their families and support them is not healthy.

I would suggest that if we could make it possible for Cuban-Americans to go back and be with their old neighbors, friends, and family members, that kind of involvement, that kind of contact, that kind of interchange is probably something Fidel Castro worries more about than the adoption of this kind of language. I suspect he may support the language in this bill because it is that kind of contact which he would most worry about jeopardizing the foundations of his dictatorship.

So, again, I applaud my colleague from Illinois for his proposal. I suspect we may not win in these amendments, regretfully, because this is about domestic policy. It is not about foreign policy.

Mr. SIMON. I will simply add that we should make policy based on the national interest, not national passion. With what we are doing, our present policy is the opposite.

I reserve the remainder of my time.

Mr. HELMS. Mr. President, I suggest the absence of a quorum, and I suggest that the time be charged equally.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

ORDER FOR RECESS

Mr. HELMS. Mr. President, I ask unanimous consent that the Senate stand in recess at 12 noon today until 4 p.m. and that at 4 p.m. the Senate proceed to the votes under the previous order.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. HELMS. Mr. President, I again suggest the absence of a quorum on the same basis as the first request was made.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. 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. HELMS. Mr. President, would the Chair state the time situation?

The PRESIDING OFFICER. The Senator from North Carolina has 8 minutes, and the Senator from Illinois has 2 minutes.

Mr. HELMS. I thank the Chair.

Mr. President, what I am about to say may indicate the widest legislative wing span in history, but the State Department and JESSE HELMS agree on something. Both the State Department and JESSE HELMS oppose the Simon amendment. I do so respectfully—and PAUL SIMON is my friend. We do not agree on everything, but that does not matter. He operates in good faith, and I try to.

Let me say very briefly that during the tenure or parts thereof of eight American Presidents, the United States has pursued a bipartisan policy of isolating Fidel Castro, including restrictions on travel to Cuba. Obviously, the Simon amendment would enthusiastically do away with that restriction.

I mentioned yesterday, and I guess I shall reiterate today, that there are good intentions behind anything that PAUL SIMON does. He is a gentleman. I regret the fact on a personal basis that he has announced that he will not seek reelection next year. But having said that, I just cannot support his amendment. And I cannot fail to urge Senators to vote against it because the result of the Simon amendment will not be the free exchange of ideas that they talk about. The result will be to give Fidel Castro access to new and desperately needed hard currency. On this, the State Department and I absolutely agree.

What Castro has to offer is Cuban beaches. That is it. And allowing Americans to sit on Cuban beach does not do anything for the Cuban people who are oppressed and from whom we hear daily pleas to enact the Libertad bill. The Cuban people inside of Cuba—and also the Cuban people in exile in the United States and elsewhere—unanimously, as far as I know, favor the pending bill. Tourism, of course, is one of Fidel Castro's most important sources of hard currency, and for years and years Castro has lured foreigners to Cuba. This has not resulted in any liberalizing of his regime. It has instead resulted in less freedom and worse living circumstances for the Cuban people. Old Fidel, he is ugly, and he is blunt, and he is rough, and he is cruel, but he is not dumb. He knows the value of tourism for his regime. As a matter of fact, if he does not get hard cash from tourism and other aspects of operations, down he goes. And that is the point. We want him to go down. We want to be rid of him. We want the Cuban people to be rid of him so that they can establish a democratic government there that they have not had in a long, long time.

Now, back in June, Castro began imposing a 100 percent tariff on all new articles brought into Cuba with a value between $100 and $1,000. And that means, Mr. President, if Castro officials, his cronies, determine that an item being brought into Cuba by a tourist is new, or if it is something that will be left behind when the tourist departs, then Cuba can charge 100 percent of the cost of that item. The tax on tourists benefits nobody but Fidel Castro and his cronies.

Critics of the travel restrictions argue that we should remove them since they are not fully enforced. I recognize that the Treasury Department has encountered some problems in enforcing travel regulations. They probably encounter some problems in enforcing a lot of regulations. The reason for any problem they have in this regard is that currently only criminal penalties can be imposed for violations.

The administration supports the enactment of civil penalties as the best means of enforcing existing restrictions, and that is exactly what we do in the Libertad bill. So there goes that wide wingspread again from left to right.

Mr. President, I am going to reserve the remainder of my time because I have one or two other points that I may want to make, but I want there to be enough time for Senator SIMON to make whatever rebuttal he wishes to make.

Mr. SIMON. Mr. President, I think if we can, before we vote—I understand we are going to vote at 4 o'clock.

Mr. HELMS. Yes.

Mr. SIMON. If each of us can have 2 minutes, if that is satisfactory to the Senator from North Carolina, that is satisfactory to me.

Mr. HELMS. Mr. President, that is certainly a fair and reasonable request. I ask unanimous consent that 4 minutes equally divided be provided at 4 o'clock on the Simon amendment.

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

Mr. SIMON. I would yield back the remainder of my time.

Mr. HELMS. And I yield back the remainder of my time. I see the distinguished majority leader. I am glad to yield to the majority leader.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. DOLE. I understand the chairman has gotten the consent that we stand in recess at noon until 4 p.m.

I might explain to my colleagues, the purpose of this is so that the Finance Committee can complete action on the tax cut package. They agreed yesterday to have 7 hours and then they would vote. They started at 9 o'clock this morning. We cannot get consent for the Finance Committee to meet while the Senate is in session, so we have no recourse but to let the Finance Committee meet all afternoon. But right now they are moving along at a pretty rapid pace, and they would like to complete action. Hopefully, at 4 o'clock, they could finish and the Senate could come in and, as I understand, there will be three votes and then final passage.

Then after that we will hopefully take up the Labor, HHS appropriations bill or, if there has been any progress, State Department reorganization. I understand there is another meeting, the chairman has another meeting this afternoon at 2 o'clock. So hopefully we can finish action this afternoon on the tax cut package. Chairman ROTH and the ranking member, Senator MOYNIHAN, are trying to get that done by 4 o'clock. That would go to the Budget Committee. It is our hope that next Wednesday we will take up the reconciliation package on the Senate floor, Wednesday and Thursday. In the meantime, we have a number of items on which we hope to complete action.

I would also indicate that we will have, hopefully, next week a Transportation conference report; legislative branch appropriations, a new bill, but it is identical to the one vetoed by the President. That will be available early to midweek; energy and water conference report. That conference is going to convene next Tuesday at 9 o'clock. We hope to finish that day and then take that up. We are trying to get more and more of the appropriations bills to the President. We hope that he would indicate he will sign the bills.

## BALANCING THE BUDGET

Mr. DOLE. Mr. President, before we recess, I would like to take a moment to discuss President Clinton's appearance before reporters at the White House this morning.

Republicans have been willing to work with the President in our efforts to finally balance the budget. Regrettably, the President's veto threat today makes us wonder whether he is serious about working with the congressional majority to fulfill the mandate the American people gave us. If anyone needs to think again, in my view it is President Clinton. Rather than continuing his cynical reelection campaign designed to scare the American people, particularly senior citizens, he should show some leadership and work with us to balance the budget, cut taxes for American families, protect Medicare from bankruptcy, and overhaul welfare.

If any plan puts America's elderly at risk, it is the President's plan, which fails to offer any long-term reforms, any choices for seniors, and any real solutions, just sort of a Band-Aid to get us beyond the next election in 1996.

I think it is interesting that the President confessed this week he raised taxes too much in 1993. I think a $265 billion tax increase is a bit too much. It affected senior citizens, people who drive automobiles, subchapter S corporations, a lot of Americans who did not consider themselves rich until the President announced that only the rich pay taxes. But he has learned since 1993 that other people pay these increased taxes, too, who are not rich, when he increased taxes on Social Security, when he increased taxes on gasoline, when he increased taxes on subchapter S corporations, and a number of other people who were not rich.

So I think now that he has confessed he made a mistake on raising taxes, he ought to confess he has made a mistake on not wanting to adopt a balanced budget. He fought us in an effort to pass a constitutional amendment to balance the budget. He convinced six Democrats who voted for a balanced budget last year to vote no this year. We lost by one vote. We had 66. We needed 67.

So it seems to me the President is now saying, well, I raised taxes too much but it was not my fault; Republicans are responsible. Not a single Republican in the House or the Senate voted for the tax increase. I do not understand how he can blame us for that. It was the biggest tax increase in American history. In fact, I think the Senator from New York [Mr. MOYNIHAN] said, no, it was the biggest tax increase in world history, and it probably was.

So I would ask the President today, now that he is feeling in a mood to say he has made mistakes—and we all make mistakes from time to time—we would be happy to have him join us in this budget debate in balancing the budget by the year 2002 and protecting, preserving, strengthening Medicare and overhauling welfare and providing tax cuts for families with children, the very thing that the President proposed, I might add.

About 70 percent of our total tax credit goes to families. They are not rich. On the Senate side we have capped what your total income could be if you are going to be eligible for the tax credit for your children.

So, Mr. President, we agree you raised taxes too much. We agree it hurt the economy. We agree it probably cost a lot of jobs in America. We agree it cost a lot of dislocation, a lot of pain, a lot of suffering. But now that you have confessed to making that mistake, let us not make another mistake. Let us work together. Let us try to balance the budget, Mr. President. Let us try to save Medicare, Mr. President, and try to have a good tax cut for families with children and stimulate the economy with the capital gains rate reduction, and then reform welfare, which the President indicates he supports.

We are prepared. I know the Speaker is prepared. I hope that we might have some cooperation.

I yield the floor. And I think it is 12 o'clock.

## RECESS UNTIL 4 P.M.

The PRESIDING OFFICER. The hour of 12 o'clock having arrived, the Senate stands in recess until 4 p.m.

Thereupon, at 12 noon, the Senate recessed until 4 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. THOMPSON).

## CUBAN LIBERTY AND DEMOCRATIC SOLIDARITY [LIBERTAD] ACT OF 1995

The Senate continued with consideration of the bill.

AMENDMENT NO. 2934

The PRESIDING OFFICER. The pending business is the Simon amendment numbered 2934. There are 4 minutes of debate equally divided.

Mr. HELMS. 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. SIMON. 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. SIMON. Mr. President, our parliamentary situation now I believe is that I have 2 minutes to speak on behalf of my amendment and my colleague from North Carolina has 2 minutes to speak in opposition.

The PRESIDING OFFICER. The Senator is correct.

Mr. SIMON. Mr. President, this is a fairly clear and simple issue: Do we follow the advice of people like President Eisenhower who said, ''Any limitation on the right to travel can only be tolerated in terms of overriding requirements of our national security.''

Americans can travel to North Korea and China. Name the dictatorship anywhere, we can travel there. The one country we cannot: Cuba. Citizens of every other country in the world can travel to Cuba, but Americans cannot do it legally.

Now, we can go by way of Mexico or Canada and violate the law and do it, but that should not be the way we do things around here.

It is very interesting that in the Soviet Union we had this same question: Should we cut them off and isolate them, or should we have American visitors who go there and help to ameliorate their policy? We, fortunately, made the right decision that Americans could travel there. That should be what we do today.

Americans ought to have the right to travel anywhere where there is not a security risk for Americans. That ought to be part of the freedom that every American has.

Mr. President, I know there will be a motion to table. I hope, despite that motion, the amendment will be agreed to.

Mr. HELMS. Mr. President, I said earlier this morning when Senator SIMON and I were on the floor together that this amendment has prompted the widest political legislative extremes in history: The State Department and JESSE HELMS agree it is a very bad amendment.

I believe the distinguished Senator from Florida [Mr. GRAHAM] will move to table.

This amendment undercuts the embargo that has been in effect for eight Presidents. It does not help the Cuban people. Tourism will not change Castro. In fact, it will merely contribute to Castro's economic status a little bit.

I hope that the Senate will vote to table the amendment. I say that with all due respect to my friend and neighbor, PAUL SIMON.

I yield back the balance of my time.

Mr. GRAHAM. If I could use the remaining time of Senator HELMS for the purpose of a couple of points. First, the current Cuban Democracy Act provides for limited travel under controlled circumstances to Cuba by three groups of Americans: those who are traveling for educational, religious, or humanitarian purposes. The President, within the last 2 weeks, has given greater definition to who will fall within those three categories and will receive authorization to travel to Cuba.

The basic prohibition on general travel is a cornerstone of the United States' effort to isolate the dictatorship in Cuba while we were attempting to reach out to the people of Cuba with a hand of friendship. If we were to eliminate this prohibition on travel, we would be pouring dollars into Castro's thin coffers, dollars which would allow him to continue to operate the most repressive state security apparatus left in the world, one which has set new standards for human rights abuses. We would also prop up his regime against the inexorable forces which are leading toward its downfall.

Mr. President, I urge the defeat of this amendment by adopting the motion that I will offer to table the Simon amendment.

The PRESIDING OFFICER. Does the Senator from Illinois wish to use his remaining 25 seconds?

Mr. SIMON. Mr. President, the assistance to Castro in terms of economic terms is almost nil. What this amendment does is give Americans the freedom that citizens in every other country in the world have: To travel to Cuba. I think that ought to be a basic right of Americans—to travel to any country where there is not a security threat.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, I move to table the Simon 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 table the SIMON amendment.

The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Delaware [Mr. BIDEN] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 73, nays 25, as follows:

[Rollcall Vote No. 492 Leg.]

YEAS—73

| | | |
|---|---|---|
| Abraham | DeWine | Kassebaum |
| Ashcroft | Dole | Kempthorne |
| Bennett | Domenici | Kerry |
| Bond | Exon | Kohl |
| Bradley | Faircloth | Kyl |
| Breaux | Ford | Lautenberg |
| Brown | Frist | Lieberman |
| Bryan | Glenn | Lott |
| Burns | Gorton | Lugar |
| Byrd | Graham | Mack |
| Campbell | Gramm | McCain |
| Chafee | Grams | McConnell |
| Coats | Grassley | Mikulski |
| Cochran | Gregg | Murkowski |
| Cohen | Hatch | Nickles |
| Conrad | Heflin | Nunn |
| Coverdell | Helms | Pressler |
| Craig | Hollings | Reid |
| D'Amato | Hutchison | Robb |
| Daschle | Inhofe | Rockefeller |
| Roth | Smith | Thompson |
| Santorum | Snowe | Thurmond |
| Sarbanes | Specter | Warner |
| Shelby | Stevens | |
| Simpson | Thomas | |

NAYS—25

| | | |
|---|---|---|
| Akaka | Harkin | Moseley-Braun |
| Baucus | Hatfield | Moynihan |
| Bingaman | Inouye | Murray |
| Boxer | Jeffords | Pell |
| Bumpers | Johnston | Pryor |
| Dodd | Kennedy | Simon |
| Dorgan | Kerrey | Wellstone |
| Feingold | Leahy | |
| Feinstein | Levin | |

NOT VOTING—1

Biden

So the motion to lay on the table the amendment (No. 2934) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENTS NOS. 2906 AND 2908

The PRESIDING OFFICER. Under the previous order, the question now occurs on the en bloc consideration of amendments numbered 2906 and 2908 offered by the Senator from Connecticut [Mr. DODD]. Debate is limited to 4 minutes equally divided in the usual form.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, very briefly, the amendments we are about to vote on, or two amendments which were combined en bloc, deal with the issue of title II of this bill.

Regardless of how anyone feels about the present government in Cuba, title II of this bill does not deal with the Castro government in Cuba. It deals with the next government in Cuba. It says that the next government in Cuba must meet a set of four pages of criteria before we can provide even transitional assistance to the next government in Cuba.

Mr. President, I do not know what the next government in Cuba is going to look like. Hopefully, it will be a democratic government. But it seems to me that we ought not to be conditioning our assistance on some future government in Cuba in this piece of legislation.

Whatever else we may want to do to the Castro government, why would we want to tie the hands of this administration or future administrations when you have a change in Cuba? If we applied the same rules and the same criteria that are located in title II of this bill, we would not be able to provide the transitional assistance to many of the New Independent States that have emerged after the collapse of the Soviet Union.

I urge my colleagues in the next few minutes to just read sections 205 through 208 of this bill. They are four pages of criteria. Whatever else you may feel about Fidel Castro, however you want to change the government in Cuba, do not make it impossible for this administration or the next one to

deal effectively with that new government. This amendment strikes those sections of the bill, and I urge adoption of the amendment.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I yield 30 seconds to the distinguished Senator from New Jersey.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. Mr. President, I rise in opposition to the amendment by the Senator from Connecticut. Title II is authored by the only Cuban-American Democrat in the Congress, BOB MENENDEZ of New Jersey. For once, we should be ready when the commander of a Communist dictatorship falls. All this says is when the dictatorship falls, we should have in place emergency relief measures and assistance that will effect the transition from a command economy to a market economy, from a totalitarian state to a democracy. It says for once let us be ready when a Communist dictator falls.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. In that connection, let me read one paragraph from a letter dated today by Congressman MENENDEZ to the distinguished minority leader, Mr. DASCHLE:

> Dear Mr. DASCHLE. As the author of title II of the Helms-Burton Libertad legislation and the only Cuban American Democrat in the Congress, I am writing to urge you to vote against the Dodd amendments which seek to gut title II of the legislation.

I yield the remainder of my time to the distinguished Senator from Florida.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER (Mr. BURNS). The Senator from Florida.

Mr. GRAHAM. Mr. President, I, too, rise in opposition to the amendments offered by our colleague from Connecticut. This proposal lays out a rational transition from the current authoritarian Communist regime to what we hope will soon be a democratic and marketplace political and economic system in Cuba. It is consistent with the provisions that were contained in the Cuban Democracy Act which was passed by this body by an overwhelming vote in 1993, but it continues the dual track of the United States providing pressure against the regime in Cuba while it opens up to the people of Cuba, including opening up with a clear statement of how we will assist the transition to democracy.

Mr. President, I move to table the amendments of the Senator from Connecticut.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The time has expired under the control of the Senator from North Carolina. The Senator from Connecticut has 21 seconds.

Mr. DODD. I yield back my time.

The PRESIDING OFFICER. The time has been yielded back.

The question now occurs on agreeing to the motion to table the amendments numbered 2906 and 2908, en bloc. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senate from Delaware [Mr. BIDEN] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 64, nays 34, as follows:

[Rollcall Vote No. 493 Leg.]

YEAS—64

| | | |
|---|---|---|
| Abraham | Ford | McCain |
| Ashcroft | Frist | McConnell |
| Bennett | Gorton | Murkowski |
| Bond | Graham | Nickles |
| Bradley | Gramm | Pressler |
| Breaux | Grams | Reid |
| Brown | Grassley | Robb |
| Bryan | Gregg | Rockefeller |
| Burns | Hatch | Roth |
| Campbell | Helms | Santorum |
| Coats | Hollings | Shelby |
| Cochran | Hutchison | Simpson |
| Cohen | Inhofe | Smith |
| Conrad | Kassebaum | Snowe |
| Coverdell | Kempthorne | Specter |
| Craig | Kerry | Stevens |
| D'Amato | Kyl | Thomas |
| DeWine | Lautenberg | Thompson |
| Dole | Lieberman | Thurmond |
| Domenici | Lott | Warner |
| Dorgan | Lugar | |
| Faircloth | Mack | |

NAYS—34

| | | |
|---|---|---|
| Akaka | Glenn | Mikulski |
| Baucus | Harkin | Moseley-Braun |
| Bingaman | Hatfield | Moynihan |
| Boxer | Heflin | Murray |
| Bumpers | Inouye | Nunn |
| Byrd | Jeffords | Pell |
| Chafee | Johnston | Pryor |
| Daschle | Kennedy | Sarbanes |
| Dodd | Kerrey | Simon |
| Exon | Kohl | Wellstone |
| Feingold | Leahy | |
| Feinstein | Levin | |

NOT VOTING—1

Biden

So the motion to lay on the table the amendments (Nos. 2906 and 2908) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, what is the pending business?

The PRESIDING OFFICER. Pending is the Helms amendment.

Mr. DOLE. I ask that the yeas and nays be vitiated.

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

Mr. DOLE. Have the yeas and nays been ordered on final passage?

The PRESIDING OFFICER. They have not.

Mr. DOLE. I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DOLE. How much time is left on the Helms amendment?

The PRESIDING OFFICER. There are 10 minutes of debate on the Helms amendment.

Mr. DOLE. Mr. President, we are about to conclude action on the Cuban Liberty and Democratic Solidarity Act. The Senate has spent a week on this bill. We had three cloture votes. A sustained lobbying campaign by the White House forced Chairman HELMS to delete a significant section of the bill. The Senate will pass the bill today, and the conference will certainly address the issue of stolen property.

I am confident that the House-Senate conference will be able to find a way to prevent Fidel Castro from using foreign investment to prolong his tyranny. That is the issue—do we want to allow the hemisphere's last dictator to replace his lost aid from the Soviet empire with western investment? The Senate will have another chance to address this issue when the conference report comes back.

We should be clear on what is still in this bill. Title I strengthens the international embargo on Cuba. It requires the United States to oppose Cuban membership in international financial institutions. It conditions aid to Russia on an end to support for Cuba. It tightens the restrictions against the importation of Cuban sugar. And it authorizes assistance to the real victims of Castro's repression—the Cuban people.

In the debate, some of the advocates of lifting the embargo have said this bill looks backward, that this bill does not respond to current conditions. Nothing could be further from the truth. Title II of the bill requires the President to look ahead—to look at the inevitable post-Castro period. Title II provides for support for a free and independent Cuba and authorizes suspension for the embargo and other restrictions once a transitional government is in place. Title II also provides incentives for a truly democratic government in Cuba.

So I think the President, the Senate is going to speak loudly today—in support of the Cuban people and in opposition to Fidel Castro. He should know that as he prepares to come to New York for whatever he is going to do at the United Nations. The White House has made its views known. By allowing Fidel Castro to enter the United States, and by vigorously lobbying against this bill, there is no doubt where they stand. Today, the Senate can make its views known, and I urge my colleagues to support the bill.

I thank Senator HELMS for his outstanding work on this issue.

Mr. DODD. Mr. President, I said at the very outset of this debate that when we consider legislation aimed at a foreign country, we ought to ask ourselves two basic questions. Is what is being proposed in the best interest of our Nation, and is it likely to achieve the desired results in the country in question—in this case, Cuba?

I have had grave concerns, Mr. President, about title III of this bill. That

section has been taken out. I thank my colleagues for supporting us in that effort. Notwithstanding, however, Mr. President, this changed. The two basic questions I raised at the outset of these remarks remain. In my view, the answer to both of those questions, if one reads this bill carefully, is ''no.''

It is not in our interest to complicate our relations with the governments of Russia or other New Independent State countries. Yet, provisions of this bill would do just that by linking our assistance to these countries, to their policies toward Cuba. We provide, Mr. President, assistance to Russia, and other of the New Independent States, because we want to see them carry out the kinds of programs that we are funding, because we want to continue to strengthen their still fragile democratic institutions. Conditioning, Mr. President, that assistance on what is going on in Cuba, I think, is counterproductive.

Provisions of this bill ultimately hinge on our arms control treaties with Russia, specifically, on Russian verification of United States compliance. While it is certainly legitimate for the United States to discuss the types of activities that appropriately fall within the scope of verification of arms control treaties, that should be done bilaterally with the Government of Russia, not unilaterally imposed by the Congress in the context of a debate about Cuba.

Other provisions of this bill bar Cuban participation in international financial institutions until after democracy has been established in that country. We all know, Mr. President, the critical roles played by the World Bank and International Monetary Fund in the early days of Russia's transition to democracy. It is foolhardy, Mr. President, to prohibit the IMF and the World Bank from offering their assistance and expertise to a post-Castro government as it grapples with the complicated task of dismantling a command economy.

Mr. President, I have already mentioned those provisions of the bill which my amendment would have sought to strike, provisions that severely limit the flexibility of the United States to respond to the change in Cuba when it comes. This bill could also have the United States spend more money on TV Marti, this time converting from VHF to UHF broadcasting. We all know that TV Marti has been a complete failure. GAO report after GAO report after GAO report has found that it is totally ineffective, that virtually nobody watches it, and that it is a total waste of taxpayer money.

More than just the individual provisions of the bill, Mr. President, the entire thrust of this legislation makes no sense whatsoever. Calling Castro names does not get Cuba any closer to democracy. We have spent a week debating this. It is too long.

Perhaps the only individual who will truly benefit from this debate is Fidel Castro. Once again, we have managed to make him larger than life. Once again, we have given him excuses on why his government has failed and why the Cuban economy is in a shambles. Once again, we will force our allies to come to his defense because they profoundly disagree with our tactics. None of this, Mr. President, makes any sense whatsoever. We all know that to be the case, but frankly, to state it bluntly, because of domestic political considerations, we continue to take actions counterproductive to our own self-interest. I urge defeat of this amendment.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. HELMS. What is the time situation, Mr. President?

The PRESIDING OFFICER. The Senator from North Carolina has 3 minutes 34 seconds. The Senator from Connecticut has a minute 26 seconds.

Mr. HELMS. Mr. President, passage of the Libertad bill will send a message that Congress wants a tightening of the screws on Fidel Castro.

Castro knows that this bill will expedite his departure from power. Why on Earth would Castro have launched such a huge campaign against this bill if it wasn't harmful to his rule? He knows that the Libertad Act will help set the Cuban people free—free from oppression, free from communism, free from Castro's dictatorship.

As several principal cosponsors of this bill have already stated on this floor, including Senators DOLE and GRAMM, we are going to fight hard—and I mean very hard—to keep the pressure on Castro—and on this administration to work for Castro's removal.

Mr. President, let me say this: Fidel Castro is going to come to New York City this weekend to address the United Nations. Since the State Department has just given Mr. Castro a visa to enter this country, I want to give Mr. Castro an early Christmas gift to be delivered to the people of Cuba—a gift called the Libertad Act, on which we will vote final passage in a moment.

I yield the remainder of my time.

Mr. DODD. Mr. President, I point out that Richard Nixon also gave Fidel Castro a visa to come to this country. That kind of political rhetoric does not advance our cause. He is going to be larger than life when he comes to the United Nations. What we do here today is going to make him a hero when he comes to the United Nations. I regret that. I yield back my time.

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to amendment No. 2936 by the Senator from North Carolina [Mr. HELMS].

The amendment (No. 2936) was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the substitute amendment No. 2898, as amended, offered by the Senator from Kansas [Mr. DOLE].

The amendment (No. 2898), as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and third reading of the bill.

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

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Delaware [Mr. BIDEN] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 74, nays 24, as follows:

[Rollcall Vote No. 494 Leg.]

YEAS—74

| | | |
|---|---|---|
| Abraham | Faircloth | Lugar |
| Ashcroft | Ford | Mack |
| Baucus | Frist | McCain |
| Bennett | Glenn | McConnell |
| Bond | Gorton | Mikulski |
| Bradley | Graham | Murkowski |
| Breaux | Gramm | Nickles |
| Brown | Grams | Pressler |
| Bryan | Grassley | Reid |
| Burns | Gregg | Robb |
| Campbell | Hatch | Rockefeller |
| Chafee | Heflin | Roth |
| Coats | Helms | Santorum |
| Cochran | Hollings | Sarbanes |
| Cohen | Hutchison | Shelby |
| Conrad | Inhofe | Simpson |
| Coverdell | Kassebaum | Smith |
| Craig | Kempthorne | Snowe |
| D'Amato | Kerrey | Specter |
| Daschle | Kerry | Stevens |
| DeWine | Kohl | Thomas |
| Dole | Kyl | Thompson |
| Domenici | Lautenberg | Thurmond |
| Dorgan | Lieberman | Warner |
| Exon | Lott | |

NAYS—24

| | | |
|---|---|---|
| Akaka | Harkin | Moseley-Braun |
| Bingaman | Hatfield | Moynihan |
| Boxer | Inouye | Murray |
| Bumpers | Jeffords | Nunn |
| Byrd | Johnston | Pell |
| Dodd | Kennedy | Pryor |
| Feingold | Leahy | Simon |
| Feinstein | Levin | Wellstone |

NOT VOTING—1

Biden

So the bill (H.R. 927), as amended, was passed.

[The text of the bill will appear in a future edition of the RECORD.]

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

(At the request of Mr. FORD, the following statement was ordered to be printed in the RECORD.)

● Mr. BIDEN. Mr. President, a serious family emergency in Pennsylvania has required me to leave this afternoon on the spur of the moment. Had I been present, I would have voted against the amendments offered by Senator SIMON and Senator DODD, and in favor of final passage of the bill.●

Mr. KERRY. Mr. President, I do not want my vote for final passage of H.R. 927, the Cuban Liberty and Democratic Solidarity Act to be misunderstood. I was strongly opposed to the centerpiece of the legislation—title III. This title would have altered 45 years of international and domestic law and practice with respect to the resolution of claims resulting from the expropriation of U.S. property abroad. I supported efforts to ensure that that title was deleted from the bill.

I will oppose any conference report that restores this title or adds draconian provisions. I will join with my colleagues in utilizing all parliamentary procedures to ensure that a conference report containing what was title III is not enacted into law.

## MORNING BUSINESS

Mr. COCHRAN. Mr. President, I ask, at the request of the Republican leader, unanimous consent that there now be a period for the transaction of routine morning business during which Senators may speak for up to 10 minutes each.

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

## THE BUDGET RECONCILIATION

Mr. COCHRAN. Mr. President, I was just looking at a letter that was given to me by the chairman of the Budget Committee, the Honorable Senator from New Mexico [Mr. DOMENICI], advising that the Congressional Budget Office has had an opportunity to review the budget reconciliation package that has been assembled and will be presented to the Senate, we assume during next week. The good news is that the Congressional Budget Office's analysis of the bill as assembled at this point, assuming that the tax bill being reported in the Finance Committee is within the budget reconciliation targets, not only will achieve a balanced budget by the year 2002 but will actually result in a small surplus.

The letter from the Director of the Congressional Budget Office goes into more detail with the analysis that she and her staff have made of this reconciliation package. But I hope that between now and next week, when the Senate will have an opportunity to take up and debate the reconciliation bill, Senators will review these documents and the analysis that has been done, because this is the centerpiece of the effort to achieve the balanced budget by the target that was set in the budget resolution that has passed both Houses and is reflected in the conference report that earlier passed the Congress.

This is the centerpiece, this is the heart and soul of the effort to achieve a balanced budget. And we are about to embark upon a very historic debate for the first time in anybody's memory on a plan to actually achieve an annual operating budget that is in balance, that changes entitlement programs as well as the appropriated bills that have passed the Congress which is about to take place. I hope that we will have an opportunity as we approach that period to talk about some of the changes that we foresee and the resulting influence that it is going to have for good on the fiscal policies of the country, as well as the effect on interest rates, the effect on the general overall economic environment for job creation and business activity, which will be positive and continue to move us in the right direction in terms of economic growth and economic well-being as a nation.

But I congratulate the distinguished chairman of the Budget Committee, Senator DOMENICI, for his good work and his strong leadership in bringing us to this point. We look forward to the debate on the resolution.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

## RECONCILIATION LEGISLATION

Mr. DORGAN. Thank you, Mr. President. It is a timely opportunity to take the floor to follow my friend from Mississippi.

My friend from Mississippi was quoting from a letter dated October 18 from the CBO signed by Director June O'Neill. It is a letter that says that based on those estimates—referring to estimates in the letter—using the economic and technical assumptions underlying the budget resolution and assuming—this is the way economists talk—the level of discretionary spending specified in that resolution, the CBO projects that enactment of the reconciliation legislation submitted to the Budget Committee would produce a small budget surplus in the year 2002.

The Senator is quite correct about what this letter said. That is dated yesterday.

Let me, however, read a letter dated today signed by the same person, the Director of the Congressional Budget Office, June O'Neill. This is in response to a letter that Senator CONRAD and I wrote to her yesterday saying:

> This is a curious letter you have sent to Congress, saying it is going to produce a surplus. Would you please tell us what the impact of the reconciliation bill will be on this country's fiscal policy? In other words, what kind of surplus or deficit will we have if you follow the law that exists in this country, in fact, the law written by the Senator from South Carolina, Senator Hollings, that says you cannot use Social Security trust funds as revenues to balance the budget?

So we sent the letter to Director O'Neill of the Congressional Budget Office, and here is the letter we received today from the Congressional Budget Office, this afternoon. The letter says in the first paragraph—the same kind of language from economists—''Excluding an estimated off-budget surplus of $108 billion''—translated, it means by and large excluding the Social Security trust fund surplus in 2001 from the calculation—''the CBO would project an on-budget deficit of $98 billion in the year 2002.''

Now, I have an 8-year-old son who, when we last went to Toys 'R Us, was fascinated by vanishing ink. We passed this little thing. They sell vanishing ink. He said, ''Daddy, how do they do that?'' I said

> I do not really know. I know it is simple. It does not cost very much. We could buy it and take it home. But I do not know how they do vanishing ink.

I could tell my son that we do not have to stop at Toys 'R Us. We have folks who have Ph.D.'s that know how to deal with vanishing ink.

Here we have an October 18 letter that says: ''You Republicans have asked me, an appointee of the Republicans, how has our plan fared in your eyes?'' And you said, ''Well, we think you are doing real good. In fact, you have produced a surplus.''

We sent a letter to the same person who said:

> But if you do this the right way, if you calculate this the right way and do not take the Social Security trust funds, because you cannot misuse those, those are Social Security trust funds, do not bring them over here in the operating budget, that that is the way you do it, that is the way the law requires that you do it.

Then what happens is the same person 1 day later says, ''By the way, in the year 2002 there is not a balanced budget. There is a $98 billion deficit.''

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

Mr. DORGAN. I would be happy to yield.

Mr. BUMPERS. The thing even more perplexing on the point which the Senator from North Dakota raises is this. This is the conference report of the budget bill. Let me read it. It says:

> Section 205 of the conference agreement requires the chairman of the Budget Committee to submit the committee's responses to the first reconciliation instruction to the Congressional Budget Office.

So the committee has to send all of these things to the Congressional Budget Office.

Next sentence, if the Congressional Budget Office ''certifies''—this is the operative word—if the Congressional Budget Office certifies that these legislative recommendations will reduce spending by an amount that will lead to a balanced budget by the year 2002, the second reconciliation instruction is triggered.

If you read the letter from the Congressional Budget Office, she does not certify anything; she projects a balanced budget.

Mr. DORGAN. Only yesterday. Today, there is a deficit.

Mr. BUMPERS. But the point is, certification is a certification. You look in the dictionary. It says: ''certifies: to be accurate.'' I could project a balanced budget. But certification and projection are two entirely different words.

I wrote her a letter, and I think the Senator from North Dakota, my colleague, and several others of us sent a letter to her saying:

When you send this letter over, you should be very careful to make sure that you are absolutely certain that all of this is going to lead to a balanced budget, because you have been instructed not to project but to certify.

Mr. DORGAN. I wonder if the Senator might let me reclaim my time.

Mr. BUMPERS. I would be happy to.

Mr. DORGAN. That is a great point.

I want to say Harry Truman—you know, a fine-spoken guy from Independence, MO, could not always follow all of the logic, or at least the presumed logic, by the Congress. He finally says in exasperation

For God's sake, give me a one-armed economist. I am so tired of hearing economists saying ''on the one hand'' and ''on the other hand.'' Give me a one-armed economist.

Here it is. If Harry Truman were here, he would say, This is, on the one hand, yesterday. This plan produces a surplus. But, on the other hand, today, when asked by Senator CONRAD and myself, if you really do it right, the way the law requires, then how does it add up?

Well, on the other hand, this produces a $98 billion deficit in the year 2002.

My son tonight is going to be real excited to hear that you can get this right in the Senate without paying for it—vanishing ink, 24 hours, a new letter, a new projection. This is not a balanced budget. It is a $100 billion deficit in the year 2002.

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

Mr. DORGAN. I will be happy to yield.

Mr. CONRAD. Is it not amazing what a day makes?

Yesterday, the American people were told, you enact the Republican plan, you have a balanced budget. You even have a little bit of a surplus. But when we asked the question, yes, but what if you obey the law of the United States, which says you cannot count Social Security surpluses—and, of course, the reason you cannot count Social Security surpluses is because no accountant anywhere would allow you to take the reserve funds, the retirement funds of your people, and throw those into the pot and call it a balanced budget. That is why we have a law that says you cannot count the Social Security surplus. And when you ask the question, what do you do if you obey the law? then the head of the Budget Office comes back and says, including an estimated off-budget surplus of $180 billion, which is the Social Security surpluses, CBO would project an on-budget deficit of $98 billion in 2002—$98 billion. In fact, the Republican plan, in order to balance, takes every penny of Social Security surpluses over the next 7 years—$650 billion. It takes all those Social Security surpluses, throws those into the pot and says, hallelujah, we have a balanced budget.

Well, of course, they do not have a balanced budget. They do not have a balanced budget by the law of the United States. They do not have a balanced budget that any accountant would anywhere certify to in America.

I say to my colleague, is it not interesting the difference a day makes, from a surplus to a massive deficit in the year 2002 under the Republican plan? There is no balanced budget here, just a big fraud.

Mr. HOLLINGS addressed the Chair.

Mr. DORGAN. Mr. President, let me just make one additional comment and yield the floor.

Mr. HOLLINGS. I am sorry.

Mr. DORGAN. We will talk a little bit more about this next week. The only reason we bothered to do this is because some of us yesterday found it not believable, those who held up with great pride this missive from the CBO. We felt if you are going to misuse the Social Security trust funds to the tune of $100 billion in the year 2002, there is a law on the books—and the law was written, incidentally, by the Senator who will speak now, the Senator who is now standing—which says you cannot use the Social Security trust fund.

Why would we do that? Because Social Security trust funds come out of people's paychecks and they are dedicated to go into a trust fund to be used only for one purpose and no other purpose, Social Security. We are creating a surplus because we need it for the future. It is one of the few responsible things we have done in the last 15 years. That surplus under today's budget scheme is now being used as revenue in the operating budget, and that is the basis on which yesterday's letter was issued improperly. Today we say issue it properly and then tell us what the impact is.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The time of the Senator from North Dakota has expired.

The Senator from South Carolina.

Mr. HOLLINGS. I thank the Chair.

## NO BALANCED BUDGET

Mr. HOLLINGS. Mr. President, let me first congratulate the distinguished Senator from North Dakota, Senator DORGAN, and the distinguished Senator from North Dakota, Senator CONRAD. These two gentlemen have been persistent on this issue, and this particular Senator from South Carolina is most grateful because for a long time I have felt a little like a Johnny One Note. I took the floor 2 days ago and now again today to reiterate what Senator DORGAN just said—namely, that the Republican budget is not balanced. A couple weeks ago, when we were passing the State, Justice, Commerce Appropriations bill I said that if there were a way to balance the budget without increasing revenues as well as holding the line on spending, I would jump off the Capitol dome.

Let me turn, Mr. President, to the subject raised by these two gentlemen and the response given to their inquiry by the Director of the Congressional Budget Office.

While my distinguished colleague from Mississippi congratulated the chairman of the Budget Committee, I was sorry that I could not join in those congratulations, and I wish to explain in a very dignified way just exactly why.

On July 10, 1990, we voted in the Budget Committee by a vote of 20 to 1 to put the Social Security trust fund off budget—20 yeas, 1 nay. The one nay was the distinguished Senator from Texas, Mr. GRAMM, but the distinguished present chairman of the Budget Committee, Senator DOMENICI, voted for my Social Security preservation amendment.

I ask unanimous consent to include the committee rollcall in the RECORD.

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

JULY 10, 1990—HOLLINGS MOTION TO REPORT THE SOCIAL SECURITY PRESERVATION ACT

The Committee agreed to the Hollings motion to report the Social Security Preservation Act by a vote of 20 yeas to 1 nay:

| Yeas | Nays |
|---|---|
| Mr. Sasser | Mr. Gramm |
| Mr. Hollings | |
| Mr. Johnston | |
| Mr. Riegle | |
| Mr. Exon | |
| Mr. Lautenberg | |
| Mr. Simon | |
| Mr. Sanford | |
| Mr. Wirth | |
| Mr. Fowler | |
| Mr. Conrad | |
| Mr. Dodd | |
| Mr. Robb | |
| Mr. Domenici | |
| Mr. Boschwitz | |
| Mr. Symms | |
| Mr. Grassley | |
| Mr. Kasten | |
| Mr. Nickles | |
| Mr. Bond | |

Mr. HOLLINGS. I thank the Chair. On October 18, 1990, I toiled alongside the distinguished Senator from Pennsylvania, our late, wonderful Senator and friend, John Heinz. He had been working diligently on this issue as well. He was not on the Budget Committee, but I said to John, if you can get the votes on the Republican side, I think we can really finally fix this problem. It needed fixing because everyone had been playing games.

The truth of the matter is, Mr. President, that beyond using the surpluses in the Social Security trust fund, another $12 billion comes from other trust funds. They use the highway trust fund. They use the airport and airways trust fund, the civil service retirement, the military retirement trust fund. You can go right on down the list. Back in 1990, you could not get anybody's attention talking about these other trust funds, but I said on Social Security I think we have got them.

Mr. President, the vote on October 18, 1990, was 98 to 2.

I ask unanimous consent to have printed in the RECORD the Senate vote on the Hollings-Heinz amendment putting Social Security off budget.

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

Subject.—Hollings-Heinz, et al., amendment which excludes the Social Security Trust Funds from the budget deficit calculation, BEGINNING in FY 1991.

YEAS (98)

Democrats (55 or 100%)—Adams, Akaka, Baucus, Bentsen, Biden, Bingaman, Boren, Bradley, Breaux, Bryan, Bumpers, Burdick, Byrd, Conrad, Cranston, Daschle, DeConcini, Dixon, Dodd, Exon, Ford, Fowler, Glenn, Gore, Graham, Harkin, Heflin, Hollings, Inouye, Johnston, Kennedy, Kerrey, Kerry, Kohl, Lautenberg, Leahy, Levin, Lieberman, Metzenbaum, Mikulski, Mitchell, Moynihan, Nunn, Pell, Pryor, Reid, Riegle, Robb, Rockefeller, Sanford, Sarbanes, Sasser, Shelby, Simon, Wirth.

Republicans (43 or 96%)—Bond, Boschwitz, Burns, Chafee, Coats, Cochran, Cohen, D'Amato, Danforth, Dole, Domenici, Durenberger, Garn, Gorton, Gramm, Grassley, Hatch, Hatfield, Heinz, Helms, Humphrey, Jeffords, Kassebaum, Kasten, Lott, Lugar, Mack, McCain, McClure, McConnell, Murkowski, Nickles, Packwood, Pressler, Roth, Rudman, Simpson, Specter, Stevens, Symms, Thurmond, Warner, Wilson.

NAYS (2)

Democrats (0 or 0%).

Republicans (2 or 4%)—Armstrong, Wallop.

NOT VOTING (0)

Democrats (0).

Republicans (0).

Mr. HOLLINGS. I thank the distinguished Chair.

And then on November 5, Mr. President, George Bush, President George Bush, signed into law, Public Law 101–508, saying here:

Section 301(a) of the Congressional Budget Act of 1974 is amended by adding at the end the following: The concurrent resolution shall not include the outlays and revenue totals of the old age, survivors and disability insurance program established under title II of the Social Security Act or the related provisions of the Internal Revenue Code of 1986 in the surplus or deficit totals required by this subsection or in any other surplus or deficit totals required by this title.

I ask unanimous consent to include in the RECORD at this particular point section 13301 of Public Law 101–508 of the United States.

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

Subtitle C—Social Security

**SEC. 13301. OFF-BUDGET STATUS OF OASDI TRUST FUNDS.**

(a) EXCLUSION OF SOCIAL SECURITY FROM ALL BUDGETS.—Notwithstanding any other provision of law, the receipts and disbursements of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund shall not be counted as new budget authority, outlays, receipt, or deficit or surplus for purposes of—

(1) the budget of the United States Government as submitted by the President,

(2) the congressional budget, or

(3) the Balanced Budget and Emergency Deficit Control Act of 1985.

(b) EXCLUSION OF SOCIAL SECURITY FROM CONGRESSIONAL BUDGET.—Section 301(a) of the Congressional Budget Act of 1974 is amended by adding at the end the following: ''The concurrent resolution shall not include the outlays and revenue totals of the old age, survivors, and disability insurance program established under title II of the Social Security Act or the related provisions of the Internal Revenue Code of 1986 in the surplus or deficit totals required by this subsection or in any other surplus or deficit totals required by this title.''.

Mr. HOLLINGS. I thank the distinguished Chair.

Mr. President, my friends on the other side are well rehearsed in repeating their little drumbeat—balanced budget, balanced budget, balanced budget, balanced budget. But like they say back home: no matter how many times you say it, it doesn't make it so.

Chairman KASICH filed a conference report on June 26, 1995, and on page 3 you will see the word ''deficit''—not ''balance''—for fiscal 2002, $108.4 billion.

We need to open our eyes. When we started the budget process at the beginning of the year, the distinguished chairman of the committee said that we were going to provide the American people with a down payment. We were not going to balance the budget.

As we marked up the budget, the distinguished chairman of the Budget Committee said, ''Now, we require that the reconciliation bill be passed into law before we do any tax cut.''

That has been changed, Mr. President. Now we have a different process where we give CBO certain assumptions. We send them over one day and they say we have a $10 billion surplus. We come back the next day and they say you have a $100 billion deficit.

In the Commerce Committee, where I am the ranking member, we are charged with saving $15 billion. Mr. President, $8 billion of our allotment has already been spent on the telecommunications bill. Half of our assigned savings in the Commerce Committee is absolutely false. The same may be true in other committees as well.

It is like Cato's famous couplet, ''The politician makes his own little laws and sits attentive to his own applause.'' Why, heavens above, you will probably be able to say something else tomorrow.

What we are trying to do is to level with the American people. What we are trying to do is cut spending, freeze spending, close loopholes. But you cannot balance the budget, Mr. President, you cannot do it without also increasing revenues. Nobody around here wants to say that, but that is the truth.

I was put to the metal when the distinguished chairman of the Budget Committee, and others, appeared on December 18. Mr. KASICH, Senator DOMENICI, and others, said, ''We are going to have three budgets. We don't care what the President has got. We are going to balance the budget without taxes.'' I went to the budget staff and said, ''I'm missing something.''

I had worked with Senator Baker on a freeze and back in 1981. Then I got together with Senator GRAMM and Senator Rudman, and we had a freeze and cuts across the board. In 1986 we closed the loopholes with tax reform. Then in 1989 and in 1990 we appeared before the Finance Committee and in the Budget Committee proposing a value-added tax.

We got eight votes in the Budget Committee on that proposal. We got Senator Danforth, Senator Boschwitz and others to work as part of a bipartisan group with truth-in-budgeting.

But now we have a big act going on now. Pressure is being exerted by the House leadership over there, pressuring my friend, the distinguished chairman of the Budget Committee. He should know better than anybody else that this budget we are talking about has no idea of being balanced by the year 2002.

Mr. President, I ask unanimous consent to have printed in the RECORD a budget table compiled by my staff using CBO figures at this particular point.

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

BUDGET TABLES

[Outlays in billions]

| Year | Government budget | Turst funds | Unified deficit | Real deficit | Grosss federal debt | Gross interest |
|---|---|---|---|---|---|---|
| 1968 | 178.1 | 3.1 | −25.2 | −28.3 | 368.7 | 14.6 |
| 1969 | 183.6 | −0.3 | +3.2 | +2.9 | 365.8 | 16.6 |
| 1970 | 195.6 | 12.3 | −2.8 | −15.1 | 380.9 | 19.3 |
| 1971 | 210.2 | 4.3 | −23.0 | −27.3 | 408.2 | 21.0 |
| 1972 | 230.7 | 4.3 | −23.4 | −27.7 | 435.9 | 21.8 |
| 1973 | 245.7 | 15.5 | −14.9 | −30.4 | 466.3 | 24.2 |
| 1974 | 269.4 | 11.5 | −6.1 | −17.6 | 483.9 | 29.3 |
| 1975 | 332.3 | 4.8 | −53.2 | −58.0 | 541.9 | 32.7 |
| 1976 | 371.8 | 13.4 | −73.7 | −87.1 | 629.0 | 37.1 |
| 1977 | 409.2 | 23.7 | −53.7 | −77.4 | 706.4 | 41.9 |
| 1978 | 458.7 | 11.0 | −59.2 | −70.2 | 776.6 | 48.7 |
| 1979 | 504.0 | 12.2 | −40.7 | −52.9 | 829.5 | 59.9 |
| 1980 | 590.9 | 5.8 | −73.8 | −79.6 | 909.1 | 74.8 |

BUDGET TABLES—Continued

[Outlays in billions]

| Year | Government budget | Turst funds | Unified deficit | Real deficit | Grosss federal debt | Gross interest |
|---|---|---|---|---|---|---|
| 1981 | 678.2 | 6.7 | −79.0 | −85.7 | 994.8 | 95.5 |
| 1982 | 745.8 | 14.5 | −128.0 | −142.5 | 1,137.3 | 117.2 |
| 1983 | 808.4 | 26.6 | −207.8 | −234.4 | 1,371.7 | 128.7 |
| 1984 | 851.8 | 7.6 | −185.4 | −193.0 | 1,564.7 | 153.9 |
| 1985 | 946.4 | 40.6 | −212.3 | −252.9 | 1,817.6 | 178.9 |
| 1986 | 990.3 | 81.8 | −221.2 | −303.0 | 2,120.6 | 190.3 |
| 1987 | 1,003.0 | 75.7 | −149.8 | −225.5 | 2,346.1 | 195.3 |
| 1988 | 1.064.1 | 100.0 | −155.2 | −255.2 | 2,601.3 | 214.1 |
| 1989 | 1,143.2 | 114.2 | −152.5 | −266.7 | 2,868.0 | 240.9 |
| 1990 | 1,252.7 | 117.2 | −221.4 | −338.6 | 3,206.6 | 264.7 |
| 1991 | 1,323.8 | 122.7 | −269.2 | −391.9 | 3,598.5 | 285.5 |
| 1992 | 1.380.9 | 113.2 | −290.4 | −403.6 | 4,002.1 | 292.3 |
| 1993 | 1,408.2 | 94.2 | −255.1 | −349.3 | 4,351.4 | 292.5 |
| 1994 | 1,460.6 | 89.1 | −203.2 | −292.3 | 4,643.7 | 296.3 |
| 1995 | 1,518.0 | 121.9 | −161.4 | −283.3 | 4,927.0 | 336.0 |
| 1996 estimated | 1,583.0 | 121.8 | −189.3 | −311.1 | 5,238.0 | 348.0 |

Source: CBO's 1995 Economic and Budget Outlook: An Update, August 1995.

| | *Year 2002 (billion)* |
|---|---|
| 1996 Budget: Kasich Conf. Report, p. 3 (deficit) | −$108 |
| 1996 Budget Outlays (CBO est.) | 1,583 |
| 1995 Budget Outlays | 1,518 |
| Increase spending | +65 |
| CBO Baseline Assuming Budget Resolution: | |
| Outlays | $1,874 |
| Revenues | 1,884 |
| This Assumes: | |
| (1) Discretionary Freeze Plus Additional Cuts (in 2002) | −121 |
| (2) Other Spending Cuts (in 2002) | −226 |
| (3) Using SS Trust Fund (in 2002) | −109 |
| Total reductions (in 2002) | −456 |

Mr. HOLLINGS. Since my time is limited here, let me just point out one thing. The interest costs are growing faster than the cuts. The interest costs on the gross debt are scheduled to total $348 billion for this fiscal year. That is almost $1 billion a day. In addition, over the 7-year period you know how much we use of Social Security, $636 billion. It is not a balanced budget, Mr. President, and it's high time we recognize this fact.

The PRESIDING OFFICER. The Senator from South Carolina's time has expired.

Mr. HOLLINGS. I thank the Chair.

Mr. INHOFE addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

## BALANCING THE BUDGET

Mr. INHOFE. I hope that everyone is watching what is going on right now. I cannot tell you how long many of us have been working on the problem of the deficits in this country. And we are finally to a point where we can do something about it.

It is hard for Americans to understand the obstacles that we are facing. There are those of us who really want to do something, really want to balance the budget, with the obstacles we face, and not just the things that are said that are not true, but the fact that I cannot help but believe there are some people who really do not care that much about balancing the budget.

This goes back a long, long time. I can remember, Mr. President, U.S. Senator Carl Curtis from Nebraska. I saw the Senator from Nebraska a moment ago. I was hoping he would still be here when I talked about his home State. He came up with an idea way back in 1972. Carl Curtis said the only way we are ever going to get a balanced budget amendment to the Constitution is to get something ratified in advance from the States to show that there is enough grassroots support to pass it.

And so he devised this plan. He said, we are going to have the State senates and State legislatures throughout America pass and preratify an amendment to the Constitution so that will give us the power that is necessary and influence necessary to get this thing passed. He came to Oklahoma. I was in the State senate at that time.

I remember back in 1972 the total national debt was something like $200 billion. And I remember a TV ad that they had to try to impress upon people to quantify how much money this really was. They had $100 bills that they stacked up and then finally it was up to the height of the Empire State Building, which was a tall building at that time. That was $200 billion. That was 1972. Well, anyway, I passed a resolution in the State senate of the State of Oklahoma to preratify it even though technically we know that would not work. And so he came in and we talked about it. That is how long we have been working on this.

Now since that time in my own personal life we have had four children. Now they are all grown. Now we have grandchildren.

We talked on the floor of this Senate as to the significance of the discussion that has taken place right now of the fact that we really have an opportunity to make a vote, to take a step that the CBO and everybody else says is going to balance the budget, is going to eliminate the deficit by the year 2002. Many of us would like to do it earlier than that. But we are satisfied in knowing that we cannot continue on the course that we are on.

During the national prayer breakfast that took place in February of this year I had the honor of participating in that and of talking to many groups that came in from foreign countries. One was a gentleman who came in from one of the former Soviet Republics. I cannot recall the name of which one it was at this time. But they just recently found their freedoms in that country.

He asked me a question in front of a group. This is during a national prayer breakfast discussion. He said, ''Senator Inhofe, in your country, how much can you keep?''

I said, ''No. I don't understand what you are saying.''

He said, ''How much money can you keep?''

Then after a little while I figured out what he was talking about.

What he was really saying is how much do you have to give the Government in America? He was very proud to announce to us that under their new democracy, under their new freedom, that they are able to keep 20 percent. In other words, in that particular country, they turned around and had to give the government 80 percent of everything they earned on a periodic basis like every month or every 2 months. I do not remember the exact timeframe.

And I thought, my goodness, he is so proud of this freedom. Then we looked at a study that no one has refuted, and no one in this Chamber today will refute it, that if we do not do something to change the course that we are on, that by the time someone who is born today, like my three grandchildren, during the course of their lifetimes, they will have to pay, not 80 percent, but 82 percent of their lifetime income just to support the Federal Government.

Now, that is what we are looking at right now. That is why this is significant. That is why we are at a point we cannot say that we are just going to be business as usual. The elections of 1994 were very specific. They had mandates in those elections. All of the post-election surveys have indicated there are about four areas that people want in this country. First, they want less Government involvement in their lives; second, a stronger national defense; third, punishing criminals; and fourth, which actually came out first, they want to do something about eliminating the deficit, about starting to cut into reducing the debt.

Now, obviously you cannot do that until you stop increasing the deficits. We have a program now, that will accomplish that by the year 2002.

I yesterday took to the floor and talked about some of the new allies that those of us who really want to do something constructive about eliminating the deficit have, some new allies that are coming along. We are seeing right now responsible but liberal editorial boards throughout America are now saying, ''Look. We have heard enough of this lie that is being perpetrated by the leadership of the Democrats in both the House and the Senate, trying to draw a connection between tax relief and balancing the budget.''

And I suggest to you that the choice is not taking that amount of money that is going to be coming out in tax relief and putting it toward the deficit because we know if we are going to be honest with ourselves all that would do is go to more social programs which this administration wants. They do not want cuts. They do not want freezes. They do not want to control growth. They want to increase the social programs. They want business as usual.

Mr. President, the times are changed now. This is not the way it would have been 2 years ago or 4 years ago or 6 years ago.

Mr. FORD. Mr. President, will the distinguished Senator yield?

Mr. INHOFE. I will not yield yet. We are on a timeframe. There are a couple things I want to cover first. The Senator will have an opportunity to have his 10 minutes.

Mr. FORD. I just want to ask a question.

Mr. INHOFE. With this timeframe we are looking at now, it is so critical that we ignore the demagogs and those who are trying to ignore this problem.

I suggest, as I did yesterday, that one of these newspapers which has always been pro-Democrat, as opposed to Republican, which has been liberal in their editorial policy, the Washington Post, had an editorial just the other day, September 15. This editorial is called ''Medagogues.'' In this editorial, they talk about how the Democrats are trying to draw a relationship between tax relief and balancing the budget.

I suggest that anyone—and it has been suggested in some of these editorials, not this particular one, that if anyone was opposed to the tax increase of the Clinton administration of 1993—this is back when the Democrats controlled the House and the Senate and this was characterized as the largest single tax increase in the history of public finance in America or anyplace in the world, and that was not JIM INHOFE, a conservative Republican talking, that happened to be a Democrat on the floor of the Senate talking, that that was the largest single tax increase in 1993.

What did they do? It was a tax increase on, among other people, the senior citizens, a 50-percent tax increase in Social Security, raising it from 50 to 80 percent. This is something the American people did not want.

So I suggest to you, Mr. President, that if there is anyone out there, including Democrats or Republicans, who opposed that tax increase, they should be for tax relief now. Essentially all we are trying to do is repeal the damage that was done to the American people back in 1993.

''Medagogues'' is the name of the editorial:

> What the Democrats have instead is a lot of expostulation, TV ads and scare talk.

They go on and on.

> But there isn't any evidence that they would ''lose their Medicare'' or lose their choice of doctor under the Republican plan.

This is something that is very critical, because this is an important part of the bill that will be considered.

Ten days later, they came out again, and I think this is the first time probably in the history of the Washington Post that they came out twice on the same subject taking the conservative side of an issue. The last two sentences of this editorial are:

> The Democrats have fabricated the Medicare-tax cut connection because it is useful politically. It allows them to attack and to duck responsibility, both at the same time. We think it's wrong.

I want to conclude, because my time is almost up. I have to be very critical of the Democratic Senatorial Campaign Committee. They are flooding the airwaves throughout America with propaganda such as this one that says: ''Inhofe Feasts on Tax Cut for the Privileged While Children Go to Bed Hungry.''

Just the other day this was sent out to every newspaper in Oklahoma characterizing me as some kind of monster abusing the children, abusing the elderly. All we are trying to do is protect America for the next generation, my grandchildren, which, if we do not do it, will have to spend 82 percent of their lifetime income just to support this monstrous Government.

So, Mr. President, this is what conservatives are going up against. This is the ridicule we have been subjected to. These are the slings and arrows that are happening to us.

I can tell you right now, the American people understand the same as they understood they did not want our health care delivery system turned over to Government, they understand this is the last opportunity we are going to have in America to actually bring this budget under control and, in this case, to eliminate the deficit by the year 2002.

I will conclude by quoting one of my favorite people, Churchill, who said: ''Truth is incontrovertible. Panic may rescind it, ignorance may deride it, malice may destroy it, but there it is.'' And the truth is going to come through. We are going to succeed in this effort. Thank you, Mr. President.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER (Mr. BENNETT). The Senator from Arkansas.

## A TAX INCREASE FOR 50 PERCENT OF AMERICAN PEOPLE

Mr. BUMPERS. Mr. President, I never will forget in 1981 how the wind swept through this Senate and accepted Ronald Reagan's promise that if we just pass this massive tax cut, it would generate so much economic activity and so many taxes that we would balance the budget in 3 years, no more than 4 years. That was $4 trillion ago.

I am happy to report I was 1 of 11 Senators that did not buy that for one instant. And, Mr. President, we are getting the same snake oil with this bill.

I applaud a lot of people on both sides of the aisle who have committed themselves to dealing with the problem the American people have said is No. 1. But there is a time to pass tax cuts, and the time to do it is after we balance the budget, not before.

But having said that, Mr. President, let me add that I would not vote for this tax bill if we had a $300 billion surplus this year. I would not vote for this tax bill if you held a gun to my head, because it betrays every value I hold dear about this Nation. The budget resolution that we passed in June said CBO will certify, not project, certify a balanced budget by the year 2002. And that once they certify it, then the Finance Committee can report out a $245 billion tax cut. The problem with that is not only has CBO not certified, they have only projected, but once this tax bill passes—and it is going to pass, Mr. President, make no mistake about that—but once it passes, the money will be gone and unavailable to help meet unexpected obligations like recessions, wars, trade wars, earthquakes, hurricanes, or floods.

A flood 3 years ago cost somewhere between $10 and $20 billion. We are still paying for Hurricane Hugo, which also cost billions.

But here is the reason I would not vote for the tax bill. Look what it does. It has a capital gains provision: 76.3 percent—think of that, 76.3 percent of the capital gains tax cut which costs almost $50 billion goes to people who make over $100,000 or more. That is about 7 percent of the American people, including every single Member of the U.S. Congress.

You think I am going to vote for a bill that gives 6.4 percent to people who make less than $30,000 a year; 4.6 percent if you make $30,000 to $50,000; 6.1 percent if you make $75,000 to $100,000; and 76 percent to people who make over $100,000? I would not vote for that under any circumstances. Those people do not need a tax cut.

I might also say, my friends in the business community in my State say, ''Senator, we don't need a tax cut, we need to get the deficit under control. Balance the budget and then talk about taxes.''

What is even worse—talk about betraying our values—CBO said this bill represents a tax increase on 51 percent of the American people. That is how

many people in America make less than $30,000 a year—51 percent. They get a tax increase out of this when you consider the cuts in the EITC, student loans, and all the others. At the same time, the richest 1 percent of the people in the country get $20,000 in tax cuts. Think of that, 50 percent of the people on the lowest rung of the ladder get a tax increase, and people making $200,000 a year or more get $20,000.

What has happened to the country? Why do we do things like that? It betrays everything I believe in. During the Depression when I was growing up in a family poor as Job's turkey, we looked to the Government to help us, not hurt us. It was the Government we turned to for sewer systems and water systems and paved streets and rural electrification. Today, we are saying, let them eat cake.

Who wants the tax cut? Seventy percent of the people in this country, in a USA Today poll, said reduce the deficit. One-third as many, 24 percent, said give me a tax cut. There is no clamor for it.

On the earned income tax credit, President Reagan, Majority Leader DOLE, Senator DOMENICI, and many others on the Republican side of the aisle have said that is a wonderful program. So what are we going to do? We are going to cut it.

Mr. President, it is not just the tax bill that is so horrendous about this thing. There are all kinds of things in there. We continue to give away western lands to the biggest corporations in America, the mining corporations. And there is $18 million, over a 7-year period, in here against the mining companies. They get off scot-free—essentially scot-free.

And then there is ANWR. Open up ANWR up on the north slope. That is going to be a tough one, Mr. President. That is going to be debated heavily here, because that is the same thing as an asset sale. When you sell an asset—as any businessman will tell you—that is a one-time bonanza for you. If you put that one-time bonanza into your operating budget, you will be in big trouble the next year.

Mr. President, we are selling our petroleum reserve in Elk Hills, our naval petroleum reserves. We are selling 40 million barrels of oil out of our strategic petroleum reserve. We are selling everything in the world we can lay our hands on, with no thought of what you do for an encore, once you sell those assets. Until a few months ago, Congress could not count the sale of an asset as a revenue raiser. Why? Because counting the revenue from an asset sale fails to show the loss of value of the asset. It was only this year that Congress changed the budget law to allow asset scoring and count it toward balancing the budget. Now that we have changed the scoring process, we are selling everything we can get our hands on and counting that against the deficit.

Let me go back to the earned income tax credit for a moment. The EITC helps reduce the poverty rate. Look at this chart. In 1993, 15.1 percent of the people lived in poverty. By 1994, the poverty rate had dropped to 14.5 percent. And if you consider the actual number of persons living in poverty, it was down almost one million people. So what are we going to do? Cut the earned-income tax credit, even as the program is working. There is the proof.

The other day at this Million Man March, the point was made over and over again that fewer and fewer black people are enrolling in college. So what are we going to do? We are going to cut education funds by 30 percent—the most massive cut in the history of the country in education. It is going to make it much more difficult to get a loan, and then more difficult to pay it off.

We are torpedoing all the programs that are working. Mind you, there are some programs that we need to torpedo, but the EITC and educational loans are not among them. I stood on this floor and I fought the B–2 bomber, I fought the space station, and I fought the super collider. I fought so many fights trying to save money to get spending under control here, and I lost most of them. Do you know why? Because the companies who make those big-ticket items dominate. We are not going to solve our spending problems until we reform campaign financing. The space station is made in 36 States, and that guarantees that it will continue. It is the most horrendous, outrageous waste of money in the history of man, and you cannot stop it. But you can sure stop payments to old people, who depend on Medicare for their health care.

You think of it. A $270 billion cut in Medicare. A $182 billion cut in Medicaid, health care for the poorest of the poor. I ask for 1 additional minute.

Mr. THOMAS. Mr. President, I object. We were set up for 10 minutes.

The PRESIDING OFFICER. Objection has been heard. The Senator has spoken for 10 minutes.

Mr. BUMPERS. I yield the floor.

Mr. THOMAS addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

## BALANCING THE BUDGET

Mr. THOMAS. Mr. President, when we have an arrangement to speak for 10 minutes, it seems to me that is what we should do.

I want to talk a little bit about the opportunity and the time that we now have to come to a decision. We have been talking this whole year about budgets, about balanced budgets. We started out in the beginning of the year with a vote on balanced budgets, which lost by one vote. We have worked the whole year long, and now we are down to the place where it begins to count. We are down to where we are going to make a decision as to what we do.

Mr. President, I listened to my colleague on the other side, and I have heard that speech for 25 years. For 25 years, we have not balanced the budget in this place. Every year we have the same litany of reasons why we cannot do that. For the first time in that period of time, we have a dedication to doing it. For the first time, we have a pattern to do that. We can balance the budget.

The real question is, is it reasonable, is it morally and fiscally responsible to go for 25 years without balancing the amount of money you take in with the amount of money you take out? How long could you do that in your family or in your business? We are beginning to have the same repercussions that you would have there—the repercussion being that we have a $5 trillion debt, and we will have to vote on that this month, or early next month; that the interest on that debt will now amount to probably the largest single-line item in the budget. So we hear, year after year, the same litany of reasons why we cannot do this, basically, frankly, from the same people who have been here for 25 years. I do not mean to be critical. It is a tough decision. But people sent us here, this year particularly, to deal with that issue. It is time to do that. We hear the talk about the Reagan years, when we reduced taxes and the promise that it would increase the economy. It did in fact increase the economy markedly. The problem was, we did not reduce or hold down spending. The constitutional responsibility for doing that lies right here in this Congress. Right here. It is our responsibility to do that.

We hear about capital gains tax cuts. These are tax cuts that provide an opportunity for investment to create jobs, that give us a prosperous economy and give us a chance for people to work and take care of their families. That is what that is about. The earned income tax credit. That will continue to grow. It has been the fastest growing program in the entire budget. It started out, I believe, at about $1.5 billion. It has gone to $25 billion in less than 10 years and is scheduled to go to $32 billion. That is a cut? Give me a break. It is not a cut. It is also one of the programs that has been most filled with inconsistencies, and indeed fraud in many cases, payments going to people that did not qualify for them.

So, Mr. President, it is really time that we take a little look at what we are doing here. If we do not balance the budget, what happens? If we do not do something about Medicare, what happens? Medicare in the trust fund, in part A, goes broke in 2002. That is the way it is. So we have to do something about it. A child born today owes $187,000 in interest on the Federal debt. That is where we are. That is why we have to do something about it. By the year 2015, all of our spending will be on entitlements and the national debt interest. All of our tax revenues will be taken for that reason.

So what do we need to do? Obviously, we need to balance the budget. We need to preserve, protect and strengthen Medicare. We need to reform welfare. And we need to—to the extent that we can do it after the budget is balanced—reduce the taxes on American families so they can spend more of their own money.

In this proposition, the tax cutting comes after the balanced budget is certified. That is the system. That is the plan that we have here. The benefits include lower interest rates for businesses, for families, and less expensive homes, cars, and student loans. The Senator talked about education. Student loans will be at a lower interest rate. There will be a higher standard of living. Some estimate there will be as many as 6 million more jobs. So we have to do this.

The best opportunity that we have had will be before us in the next 2 weeks. That is what the voters said to us last November. That is their expectation. That is our expectation—those of us, particularly, who have just come this year. We came with the commitment to fundamentally change the direction in which we are going. We came with a commitment to change the things the Senator was talking about—deficits for 25 years. The administration does not have a budget that will give us a balanced budget. The first budget was defeated 99–0. The second was not voted on. By CBO's own estimates, at the end of 10 years, it will still have a $200 billion deficit.

So we can talk about the same things we have talked about forever. We can talk about all the reasons why this cannot be done. We can make excuses. But the real question is, is it fiscally and morally responsible to move toward a balanced budget in 7 years? If the answer is yes, then the opportunity arises before us in this next 2-week period.

Mr. President, I hope that my colleagues will take advantage of this opportunity and that, for the first time in a very long time, we will have changed the course of irresponsible spending and moved into a time of a responsible balanced budget.

I yield the floor.

Mr. GRAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

## WHY AMERICANS NEED TAX REFORM

Mr. GRAMS. Mr. President, I have been sitting here listening earlier tonight to some of my colleagues on the other side of the aisle talking about the numbers and problems associated with trying to balance this budget over the next 7 years, and while they have been laughing and telling jokes, not just tonight, but for the last 30 years, they have buried the American taxpayer $5 trillion in debt. It would be funny, maybe, if it were not so serious.

They talk about the Social Security trust fund and that Republicans are spending every dime to balance this budget over the next 7 years. But what they fail to tell you is that they have endorsed this same practice for years. In fact, this year alone, the budget that the President of the United States that they passed in 1993 spent every dime of the surplus out of the Social Security trust fund, which, by the way, under law, can only be invested in U.S. securities, backed by the Federal Government. So that money goes to the Treasury, and it has been spent by the Congress ahead of us, by the Democratic majority. It has been spent away. So when they talk about the Republicans using every dime from the Social Security trust fund, they should look at their votes in 1993, as their President tried to mask the deficit in the budget by using those trust fund dollars.

In fact, the deficit touted today by this President of $170 billion actually is using $68 billion of Social Security trust fund money from this year. Otherwise, he would have to report a deficit of about $240 billion. This Congress has inherited the troubles created over the last 30 years. It would have been a lot easier, especially politically, if we could have just continued this huge giveaway. But it would have been at the expense of the next generation. It was time to stand up and look this problem in the face and make some of those tough decisions.

The Democrats talked about the drastic cuts. Just a few moments ago, my good friend from Arkansas talked about fewer dollars for education. Well, these are the first signs of the problems we are facing today because of the last 30 years and the spending spree that this Congress has been on.

The Democrats have pre-spent those dollars that could be used today for education, and if we do not get this budget under control today, next year those problems are even going to be worse, and we are going to be talking about other programs that are not going to have the dollars because they are going to pay interest and other expenses.

So we do have to make some very serious decisions, Mr. President. Otherwise, our next generation, and the generation after, are going to have to pay for the mistakes we have made, and we should not leave them, financially or morally, that way. It is wrong to do that. This is the first good attempt to put a balanced budget in place that is going to make sure that we do not leave our children with our debts.

Mr. President, as we begin debating the tax policy, including a $245 billion tax cut, I believe that the time has come to also begin some serious discussions about how best to reform our badly outdated Tax Code itself.

Since 1913, when Congress first gained the power to impose taxes on income, the Tax Code has been manipulated and expanded so many times by Congress that it has become the greatest barrier between the American people and their Government.

Every segment of society has a reason to complain about the Tax Code. For individuals and families, the cost of complying with the Tax Code too often becomes the difference between making it in America, and just making do.

I have spoken several times on the Senate floor about a young Minnesota family, the Wolstads, who represent the very frustrations felt by millions of Americans when it comes to the topic of taxes.

Natalie Wolstad wrote to me about the enormous tax burden her family is forced to bear, a burden she and her husband did not fully appreciate until they met 1 day with their realtor, and learned they simply could not afford to purchase a new home on their own.

Countless other Minnesota families have sent me letters sharing similar stories of their own.

They were trying to decide, ''Where are we spending our money foolishly?'' When they finally looked at their pay stubs, they were seeing how much money was being taken from them in taxes.

Yes, the Tax Code is tough on families, and it is equally hard on America's job providers—small businesses and large.

When nearly 2,000 entrepreneurs gathered in Washington this summer for the third White House Conference on Small Business, they came with hundreds of ideas on how to make Government more responsive to the people who create the jobs on Main Street.

Although their suggestions covered an enormous range of concerns, one point generated near-universal agreement: something must be done about the complex and costly Federal tax system.

If Congress is truly serious about answering the calls of help from the American people and reforming the tax system, there are three distinct problems which must be addressed.

First, taxes are too high. That is something President Clinton acknowledged this week, when he admitted that the recordbreaking tax increase he pushed through Congress in 1993 was too much for the American people.

Under the headline in the paper ''Tax Rise,'' ''too much,'' President Clinton concedes. But he did take time to blame the Republicans for it. That is at a time when the Democrats controlled every branch of Government—the House, the Senate, and the White House. I welcome the President's realization, but I wish it had come before he signed the $255 billion tax hike into law.

The first step toward building a better Tax Code is to look at the role of the Federal Government and let the people start keeping more of their own money, which they work for.

After all, it does not belong to the Government in the first place. And who

is in a better position to make a family's spending decisions and set their financial priorities—Washington, or the family itself?

Clearly, that responsibility belongs with the family.

We have the opportunity to take that first step in the next few weeks, by passing a $245 billion tax cut which includes the $500 per child tax credit I authored and have fought for over the last 3 years.

I welcome President Clinton's support for tax relief, and urge him to join our efforts. By letting taxpayers keep what is rightfully theirs. we send a strong message that our efforts to balance the budget will always make taxpayers the first priority—not the last.

The second area we must address when discussing reform of the Tax Code is simplification—and simplification must be at the heart of any plan Congress considers.

There is nothing simple about our tax system anymore.

The IRS manages a library of 437 separate tax forms and mails out 8 billion pages of tax instructions every year.

The distinguished House majority leader, Representative ARMEY of Texas, points out that American workers and businesses spent 5.4 billion hours in 1990 just preparing their taxes—more time than it takes to build every car, truck and van manufactured in the United States each year.

This Congress has made shrinkage and simplification its primary goals, and there is nothing that needs it more than our current tax system.

Today's Tax Code may be good business for tax lawyers and accountants, but it is not good policy for the average American taxpayer.

Tax reform must include tax simplification.

The final consideration in building a better Tax Code is making it fairer and more equitable for the taxpayers. Far too often, the current system is not.

The Government continually manipulates the Tax Code—not just to fund Government objectives, but to micromanage the economy and the activities of the taxpayers.

If the Government wants to encourage a particular behavior, it offers a tax benefit.

If it wants to discourage a particular behavior, it sets a tax penalty.

The social engineers have had a field day with the Tax Code. Fairness seems to have been left by the wayside, and families are paying the price.

Look how they have been manipulated through the tax system.

Families, who in 1947 paid just 22 percent of their personal income in the form of taxes, today send nearly 50 cents of every dollar they earn to Federal, State, or local government.

As someone who ran for Congress because of high taxes and what they are doing to this Nation, I am incensed that middle-class American families are being asked to bear the brunt of our enormous tax burden, and then listen to some Senators say that we have to increase taxes more.

In fact, families with children are now the lowest income group in America—below elderly households, below single persons, below couples without children.

In 1950, the average American family sent $1 out of every $50 it earned to Washington—today, the average family sends $1 out of every $4 to feed the Federal Government.

The marriage penalty targets families by taxing them at a higher rate than it does single filers.

And if the dependent exemption had kept up with inflation, it would be more than $8,000 today instead of just over $2,000.

The message we're sending through our tax policy is that families are just not as important today as they were in 1950.

That message must change.

We have the opportunity and responsibility in this Congress to repair the fractured relationship between the Government and its owners—the taxpayers.

It is time we started to talk seriously about cutting taxes, simplifying the system, and making it more equitable.

A recent Forbes magazine cover story called tax reform a ''broad political movement, gaining in popularity the way a hurricane gathers force as it heads for land.''

The questions we should be asking ourselves are not will we ever break form the past and will we ever have a Tax Code that treats all Americans equitably, but rather when.

Mr. President, the answer to that question is now, and the Senate Finance Committee has taken an enormous step toward reaching that goal with its $245 billion tax cut package.

By cutting taxes for families and job-providers, simplifying the way those taxes are collected, and ensuring a process that's fair, reforming the tax system will go a long way toward making government more accountable to the people.

Washington needs to be reminded that the money it collects is not theirs by right—it is collected for use at the will of the taxpayers. And Congress needs to be reminded daily that it represents the taxpayers.

The success of our efforts to reform the tax system won't be measured solely by how much of their own dollars Congress allows families and job providers to keep. It will also be measured by how equitable the system is, and how the taxpayers fare under it.

If we can successfully accomplish all of that, then we will have heard the message of last November and delivered on the solemn promises we made to the American people.

Mr. President, it is time that we get behind this effort. It is time that we balance the budget and stop passing our deficits on to our children and grandchildren.

Thank you very much. I yield the floor.

Mr. KYL addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

## BUDGET FANTASY VERSUS REALITY

Mr. KYL. Mr. President, I would like to continue discussing the same subject that the Senator from Wyoming and the Senator from Minnesota have been discussing, and to do so by, first of all, focusing on some of the myths that have been created by the President and by some of his supporters here in the Senate. I am talking about the difference between the budget fantasy and the reality that faces us here today. It is almost an ''Alice in Wonderland'' exercise where words take on meanings that are only in the eye of the beholder and have no relationship to actual reality.

Frankly, they are the last desperate attempts by proponents of big Government to cling to the status quo, which means more spending, higher taxes, and greater regulation. That is really what this exercise in opposition to a balanced budget and tax cuts is all about.

Many of the Democrats cannot believe, let alone accept, that the American people overwhelmingly rejected their approach to governing in that way in last fall's election. Rather than attempting to fulfill the mandate which the American people gave us, they are now cynically pandering to the mandates while doing everything they can to undermine it.

In this topsy-turvy ''Alice in Wonderland'' change, the meaning-of-words situation they have created, spending cuts are increases; spending increases are cuts. For example, claiming that a Medicare spending increase of $2,000 per person over the next 7 years is actually a cut when, in fact, it is a $2,000 increase.

Tax cuts, they say, are spending increases. Tax relief for families become tax cuts for the rich. A volunteer in AmeriCorps is actually paid by the taxpayers $20,000, $30,000, or $40,000 a year. Tax payments, the President says, are contributions. Preserving Medicare is slashing Medicare. And, of course, bankrupting Medicare is saving it.

President Clinton is even now so bold as to blame Republicans, not a single one of whom supported his budget in 1993, for forcing him to raise taxes. It is like ''the old devil made me do it'' skit that we used to see on TV. He says he wishes he had not increased the taxes. I, too, wish he had not increased taxes. But at least our attempt to reduce taxes by $245 billion is a beginning, a partial rollback of this tax increase which he now wishes he had not imposed upon the American people.

Here are some examples of increases that the Democrats claim are cuts.

The Republican Party has said all year that we would not balance the budget at the expense of Social Security. The budget reconciliation bill will

not touch Social Security retirement benefits or cost-of-living adjustments, COLA's. Social Security will increase 43 percent, from $336 billion this year to $482 billion 7 years from now.

Medicare—we are going to increase Medicare spending, not cut it. Medicare will grow from $178 billion in 1995 to $274 billion in 2002, a 54-percent increase. Spending per beneficiary will rise from an average of $4,800 today to more than $6,700 in the year 2002, almost a $2,000 increase, as I said before.

Student loans—we have heard a lot about that. Student loan volume will grow from $24 billion in 1995 to $36 billion in the year 2002, a 50-percent increase. The maximum Pell grant will be raised to $2,440 next year, the highest level it has ever been.

By the way, we could send a whole lot more needy kids to school with Pell grants, eight or nine for every single AmeriCorps volunteer that we pay a salary to.

Here are some examples of cuts that the Democrats claim are actually increases.

Defense spending declines from $270 billion in 1995 to $264 billion in 1996. That is $6 billion less. Defense spending is not going up. It is going down.

Here is an example of spending increases that many of the Democrats not only call cuts but claim are tax increases as well. Only in Washington can such distorted logic have any semblance of credibility.

Talking first about the earned income tax credit, we will spend more on the EITC program every year between now and the year 2002. Spending will rise from $19.8 billion in 1995 to $22.8 billion in the year 2002. The maximum credit for families with one child will rise from $2,094 in 1995 to $2,615 in the year 2002. For families with two children, it rises from $3,100 next year to $3,888 in the near 2002, and the examples go on.

The Democrats not only call that a cut, but a tax increase on low-income families. If you are eligible, you get a check from the Government to offset any income tax liability you might have under that program, plus any excess to which you are entitled. Eighty-four percent of the program costs are cash grants. The program is run through the Tax Code because it is more efficient. It requires less bureaucracy. But it is just not possible that you can be hit by a tax increase if you get back all of your tax payments plus more. It cannot be a tax increase.

Here are some examples of tax cuts that they claim are spending increases. They claim that allowing individuals and businesses to keep more of what they earn is a subsidy that is equivalent to direct spending. But as Llewellyn Rockwell, Jr., pointed out in a column in the Washington Times on September 18 of this year, I am quoting:

> A subsidy means the Government is giving money to you that originally belonged to somebody else. Dairy farmers, for example, are subsidized. That means they get money that the tax man extracted from the taxpayers.
>
> ''Next word: deduction. That's when you were allowed to count some of your income as off limits to the tax man. You can take a deduction for mortgage interest. A portion of your own money stays in the bank.''

Democrats claim the tax relief for families is a tax cut for the rich. The fact is over 70 percent of the tax cuts included in the Finance Committee bill go to families with incomes of less than $75,000 a year.

Let us talk about the AmeriCorps for a moment. The GAO estimated that the program cost nearly $27,000 for each ''volunteer,'' and I put quotation marks around that word ''volunteer'' since they are paid that salary. In fact, that salary is more than the average American earns in a year. Paying people makes them employees, in my view, not volunteers.

For the average of $20,000 to $30,000 cost per year for each student in AmeriCorps, as I said, eight needy students could get Pell grants at $2,400 apiece. The fact is Americans aged 18 and up volunteer 19.5 billion hours of their time, which is a 50-percent increase in the number of hours since 1981. We do not need to pay people to be volunteers under AmeriCorps.

Another one of these Alice in Wonderland meaning changes is calling taxes contributions. Referring to tax increases he would be proposing, President Clinton, in an address to the public from the Oval Office on February 15, 1993, said:

> We just have to face the fact that to make the changes our country needs more Americans must contribute today so that all Americans can do better tomorrow.

I have an idea, Mr. President. Let us just call these contributions voluntary and we will see how much in the way of contributions are received. There is nothing voluntary about the income tax.

On Medicare, President Clinton says, ''The Republican plan would dismantle Medicare as we know it''—the Washington Post, September 16, 1995—despite the fact that six Medicare Board of Trustees, five of whom are Clinton administration appointees, issued a report in April, with which we are all familiar, which stated that ''The Medicare Program is clearly unsustainable in its present form and will become insolvent within the next 6 to 11 years.''

Mr. President, the reality is clear. Medicare benefits will be cut off completely unless we act now. If Medicare goes bankrupt, which could happen as early as the year 2002, according to the trustees, by law no payments could be made to Medicare beneficiaries for hospital care, doctor services, or any other covered benefit.

Even the Washington Post has condemned the duplicity of those who would oppose solving this Medicare problem. In a lead editorial on September 25, 1995, the Post wrote:

> The Democrats have fabricated the Medicare tax connection because it's useful politically. It allows them to attack and duck responsibility, both at the same time. We think it's wrong.

The editorial, by the way, was entitled, ''Medagogues, Cont'd.''

It is no wonder, Mr. President, that the American people are frustrated and angry. We need to keep the promise we made to the American people to balance the budget by the year 2002.

The Congressional Budget Office has certified that our budget will do just that. We have abided by the Congressional Budget Office, the agency that the President praised for its accuracy in budget forecasting in 1993. But while we have abided by the CBO's scorekeeping, the same entity the President praised 2 years ago, the President himself has changed the numbers to make his alternative budget balance by the year 2005. He has used the numbers from his own office rather than the Congressional Budget Office. As former CBO Director Robert Reischauer put it, ''He lowered the bar and then gracefully jumped over it.''

Let me close by saying that it is unfortunate that the President would change the numbers in order to get his budget balanced rather than face the tough realities we have had to face in putting together a budget which we know will balance by the year 2002. I think we owe it to our children and grandchildren to do that, not to hand them the debt that we have accumulated over the years we have been here.

We have a historic opportunity this year. Not since 1969 has Congress had a chance to vote on a balanced budget. And I do not think we can miss this opportunity. It is not just because of the politics of it. It is because of the children and grandchildren who are going to follow us and who do not deserve to have to pay off the debts that we have accumulated.

So I am very hopeful that we can support the budget that will be presented, the reconciliation bill that will be before us next week. I think if we do that the American people will say thank you for keeping the commitment that you made to us in 1994.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

## COMMENDATION OF SENATORS

Mr. COCHRAN. Mr. President, let me commend the distinguished Senator from Arizona for his excellent statement and the other Senators who have spoken on our side of the aisle tonight on the subject of the balanced budget process, the reconciliation bill which will be coming before the Senate next week, and the effort that has been made to put together a plan to achieve a balanced budget by the year 2002. This is a plan that is workable. It is defensible in every respect. It shows a new awareness and sense of responsibility for managing the fiscal policy of

this country in a more commonsense fashion, getting us to a point where on an annual basis we can operate the Federal Government within a budget that is in balance; that we do not overspend; that our projections are sound and based on reality and facts, not fiction.

So I think the statements that have been made this evening are very persuasive as we approach this point when we will be taking up the reconciliation bill. We have already considered a number of appropriations bills that have reduced spending from last year's levels in accordance with the directions of the budget resolution. So we are well on our way to achieving success in this very ambitious undertaking and very important undertaking.

I thank the Senators who have participated in this special order and am convinced that the American people are going to support our efforts, not just because of the speeches made here but because we are doing the right thing.

## THE BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, more than 3 years ago I began these daily reports to the Senate to make a matter of record the exact Federal debt as of close of business the previous day.

As of the close of business yesterday, Wednesday, October 18, the Federal debt stood at exactly $4,970,326,555,499.77. On a per capita basis, every man, woman, and child in America owes $18,867.44 as his or her share of the Federal debt.

It is important to recall, Mr. President, that the Senate this year missed an opportunity to implement a balanced budget amendment to the U.S. Constitution. Regrettably, the Senate failed by one vote in that first attempt to bring the Federal debt under control.

There will be another opportunity in the months ahead to approve such a constitutional amendment.

## THE ART OF MANAGEMENT IN A NONPROFIT WORLD

Mr. PRESSLER. Mr. President, the global marketplace changes constantly as the economy and consumer preferences fluctuate. To be competitive, businesses must keep pace with marketplace trends. As a result, prestigious business schools across the Nation continuously develop and update new curricula in response to our changing world.

Management practices, in particular, are beginning to depart from traditional business school teachings. After years of educating future business leaders about the art of managing businesses to maximize profits, professional schools are beginning to direct attention toward the management of not-for-profit organizations. Nonprofit groups are growing rapidly, becoming larger and more influential. Consequently, emphasis on the unique skills associated with nonprofit management is becoming increasingly important.

John Whitehead, former U.S. Deputy Secretary of State, renowned entrepreneur, philanthropist, and expert in the world of nonprofit management, is paving the way for scholars to study the art of managing nonprofit organizations. Mr. Whitehead is founder of the John C. Whitehead Fund for Not-for-Profit Management at Harvard Business School. He is dedicated to teaching students about the important role not-for-profit organizations play in a traditionally for-profit business world.

A recent article appeared in the New York Times describing Mr. Whitehead's achievements and his devotion to teaching nonprofit management. This article details Mr. Whitehead's recent contributions to the Harvard Business School and offers a fascinating account of his entrepreneurial ventures. I ask unanimous consent that the text of 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. PRESSLER. Mr. President, John Whitehead is a skilled businessman and a generous philanthropist. His contributions to the study of nonprofit management will help those currently running nonprofit organizations and future managers maximize efficiency and attain group goals. Not-for-profit management strategies deserve greater attention both in the academic and business world. I applaud Mr. Whitehead for his dedication to the mission of nonprofit groups and wish him well as he continues to promote better, more-effectively managed nonprofit organizations.

EXHIBIT 1

HOW TO SUCCEED IN NONPROFITS BY REALLY TRYING—HARVARD IS GIVEN $10 MILLION TO TEACH MANAGEMENT SKILLS

(By Karen W. Arenson)

When John Whitehead was co-chairman of Goldman Sachs from 1976 to 1984, it was held up as the epitome of the well-managed Wall Street firm. It made money and it ran smoothly.

Now Mr. Whitehead is trying to bring some of those same management skills to the nonprofit world. In what he calls the third stage of his life, after Goldman Sachs and service as Deputy Secretary of State, he has presided as chairman or president over several venerable institutions, from Harvard-University's Board of Overseers and the Brookings Institution, to the Trustees Council of the National Gallery of Art and the Greater New York Councils/Boy Scouts of America.

But he is not content simply to bring his own management counsel to the boardrooms of a Rolodex of nonprofit organizations. He has a broader aim: to improve the whole art of managing nonprofit organizations. To that end, he is giving $10 million to the Harvard Business School to endow the John C. Whitehead Fund for Not-for-Profit Management.

His goal is to encourage several developments: research in nonprofit management techniques, teaching of these techniques, and more emphasis on training business school students and managers of nonprofit groups.

''I became fascinated by nonprofits,'' Mr. Whitehead said. ''Their reach is much bigger than I realized. One out of every 10 workers in the United States works for a nonprofit. And if you add in the volunteer time, it's even greater.''

''But I came to realize that while people who run nonprofits are fully committed, they are not very good managers, and nonprofits are not very well run,'' Mr. Whitehead said.

Sometimes they are not on the up-and-up either, as Mr. Whitehead has learned the hard way. Earlier this year, after he had planned his gift to Harvard, he and other prominent businessmen were embarrassed to learn that they had foolishly lent their names to the New Era for Philanthropy, a charity based near Philadelphia that was essentially a giant Ponzi scheme. New Era for Philanthropy filed for bankruptcy protection in May, and it and its president, John G. Bennett Jr., have been charged with fraud.

But the more common problem, one he has seen much of since he became involved in the nonprofit world during his years at Goldman Sachs, is a lack of management expertise. That is something he can offer, although he is quick to add: ''Just to show that I don't know everything. I went on the board of a regional theater that went out of business.'' He declines to name the theater.

He describes himself as a sucker for getting involved in nonprofit groups, and said he has a particular affinity for the ones that need help, ''not just the big prestigious ones, but some of the little, weak ones.'' The list, he says in an embarrassed tone, is too long to enumerate, because someone might think he does not have time for so much.

But he is disciplined in his approach, spending the first hour of each day in his Park Avenue office working on business for AEA Investors Inc., a private investment company of which he is chairman. The rest of the day, sometimes starting with a 7:30 breakfast meeting and going through a late dinner, is devoted to his menagerie of nonprofit institutions.

''He does so many things, but the remarkable thing is that he does it all so effectively,'' said William Boardman Jr., director of university capital giving at Harvard. ''His very special capacity is to focus and not to waste time, and he's very insightful.''

Mr. Whitehead has given one other $10 million gift, to Haverford College, ''my other first love,'' where he was an undergraduate and other nonprofit groups say he has been generous.

He described his own philosophy that good citizens need to be generous in both time and money. Having had the ''good fortune to make all this money,'' he said, ''I say somewhat facetiously that by giving it back, it will come out even at the end.''

When he started discussions with John H. McArthur, dean of the Harvard Business School, a couple of years ago, he discovered that several faculty members there had been talking about doing more on nonprofit management. Mr. Whitehead held out the prospect of a large gift if they could develop a productive plan.

The group did more than plan. Research has begun to build. Courses have been added (elective courses on Social Entrepreneurship and on Field Studies in Social Enterprise). Case studies are being written. An eight-day advanced management program for executives who run nonproit programs attracted 50 participants last spring (at a subsidized price of $3,000), and another session will be held next year.

Satisfied that the commitment was there, Mr. Whitehead told the school he was ready

to make the gift. Even though Mr. McArthur is stepping down today, to be succeeded as dean by Kim Clark, Mr. McArthur has promised the nonprofit initiative would remain a priority, and that he will stay involved with it.

Despite the new attention, it is unlikely that nonprofit management will ever be a main theme for the school. The M.B.A. class of 1996, for example, has only 40 students out of 807 who came out of government, education or nonprofit jobs. Even though 10 percent of the class of 1995 cited working with a nonprofit group as their career goal after graduation, the school sent only 11 students into those fields. ''The financial pressures are very high,'' Mr. Whitehead said.

But Mr. Whitehead said he did not worry that nonprofit management would be a stepchild at the business school. He said the new course on social entrepreneurship was oversubscribed last spring, when more than 10 percent of the second year class signed up for it, instead of the 60 that had originally been set as the limit.

''Usually elective courses start small and build their reputations,'' Mr. Whitehead said, ''But this was very successful. I was just delighted.''

He spoke of the growing interest among business students, who know they are likely to serve as directors of nonprofit groups, as he and so many other business executives do now; and the growing recognition that they should know more when they do.

''I believe more of this kind of program, and more scholarship, will help,'' he said.

That is not to say that Mr. Whitehead sees such programs as curing all ills. He does not think that better education would have stopped the scandal involving the Foundation for New Era Philanthropy.

New Era persuaded sophisticated executives like Mr. Whitehead to funnel money they wanted to contribute to other charities through New Era, saying that it would be matched after six months. The participation of top business leaders like Mr. Whitehead helped attract other donors.

''New Era was a real tragedy,'' said Mr. Whitehead, who stands to lose up to $1 million in the bankruptcy. ''I doubt that a program like this would have lessened the problem. If you have a dishonest guy, there is not much you can do. I hope we will all be able to put it behind us.''

Although the management of nonprofit institutions is a relatively new academic specialty, Harvard is by no means the first university to turn its attention to the subject. There are now more than three dozen centers for the study of nonprofit enterprises at universities around the country, from Yale and Duke to the New School for Social Research and the University of San Francisco, and at least a dozen offer some focus on management.

In addition, there is already one other school at Harvard, the John F. Kennedy School of Government, that focuses on nonprofit enterprise, and sends about a third of its graduates into jobs in nonprofit institutions. It even offers the only course on nonprofit management at Harvard.

While the two schools talked about the possibility of a joint program, Mr. Whitehead's money was ultimately directed to the business school.

''They both have a role to play,'' he said, ''My interest is in teaching managers business skills. The Kennedy School teaches them about the policy issues. There is a different kind of emphasis, and there is room for both.''

Those connected with the business school program, the Initiative on Social Enterprise, which was established in 1993, concede that there is much to learn before there is a discipline that offers the depth and breadth of business management. They talk of the overlap between the two fields—and the differences. And they talk about building new intellectual capital.

V. Kasturi Rangan, a business school professor who is one of the leaders of the social enterprise initiative, talked about the crossover in his own field of marketing:

''Nonprofit management offers its own challenges, but the trick is to bring the core disciplines into these challenges,'' he said. ''We don't have Marketing 1 for toothpaste, and marketing 2 for computers. marketing is marketing.''

He added, however, that nonprofit groups face a dual customer problem that is unique to them, because they need to concern themselves both with the clients who receive their services, and with the donors who pay for the services with their charitable contributions. The usual marketing discipline, coming out of consumers' choices that weigh benefits against costs, doesn't apply when consumers and payers are separate, he said. So a nonprofit group needs to develop special internal measures to know whether its products are appropriate.

It is analysis like this that excites Mr. Whitehead and makes him feel that his money will be well spent.

''This is fun,'' Mr. Whitehead said. ''This is what keeps me going.''

JOHN C. WHITEHEAD

Born April 2, 1922, Evanston, Illinois.

Education:

Haverford College, 1943.

M.B.A. with distinction, Harvard Business School, 1947.

Professional life:

Goldman, Sachs & Co., 1947–1984. Securities Industry Association, chairman, 1972–1973. New York Stock Exchange, director, 1982–1984. Deputy Secretary of State, 1985–1989, Harvard University, President of the Board of Overseers, 1989–1991.

Current leadership in these organizations:

AEA Investors Inc. International Rescue Committee. United Nations Association of the U.S.A. Andrew W. Mellon Foundation. International House, Youth for Understanding, The Brookings Institution, and Asia Society. Greater New York Councils/Boy Scouts of America. J. Paul Getty Trust, Rockefeller University, Lincoln Center Theater, and Outward Bound.

## TRIBUTE TO SUSAN HOFFMANN

Mr. DOLE. Mr. President, I would like to take a moment to recognize a staffer who has recently left my Topeka, KS office, Susan Hoffmann. Susie was a dedicated member of my staff for almost 8 years and has recently moved on to pursue her career with the Community Bankers Association in Topeka.

Susie is a graduate of my alma mater, Washburn University, and has worked for several years helping the Young Republicans in the State. She was committed to assisting constituents with their concerns about government and they knew Susie was always there to lend a helping hand to a Kansan in need. She made a difference in hundreds of people's lives, because she cared.

Mr. President, I know my staff joins me in wishing Susan Hoffmann the best of luck in her future endeavors.

## MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

## EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting a nomination which was referred to the Committee on Armed Services.

(The nominations received today are printed at the end of the Senate proceedings.)

## REPORT OF DEFERRALS OF BUDGETARY RESOURCES—MESSAGE FROM THE PRESIDENT—PM 88

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred jointly, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, to the Committee on Appropriations, to the Committee on the Budget, to the Committee on Foreign Relations, to the Committee on Labor and Human Resources, and to the Committee on Finance.

*To the Congress of the United States:*

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report three deferrals of budgetary resources, totaling $122.8 million.

These deferrals affect the International Security Assistance program, and the Departments of Health and Human Services and State.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *October 19, 1995.*

## MESSAGES FROM THE HOUSE

At 10:59 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has agreed to the following the concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 108. Concurrent resolution to correct technical errors in the enrollment of the bill H.R. 1594.

The message also announced that the House disagrees to the amendment of the Senate to the bill (H.R. 2076) making appropriations for the Departments of Commerce, Justice, and the judiciary, and related agencies for the fiscal year ending September 30, 1996, and for other purposes, and agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. ROGERS, Mr. KOLBE, Mr. TAYLOR of North Carolina, Mr. REGULA, Mr. FORBES, Mr. LIVINGSTON, Mr. MOLLOHAN, Mr. SKAGGS, Mr. DIXON, and Mr. OBEY as managers of the conference on the part of the House.

The message further announced that the House disagrees to the amendment of the Senate to the bill (H.R. 2126) making appropriations for the Department of Defense for the fiscal year ending September 30, 1996, and for other purposes, and asks a further conference with the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. YOUNG of Florida, Mr. MCDADE, Mr. LIVINGSTON, Mr. LEWIS of California, Mr. SKEEN, Mr. HOBSON, Mr. BONILLA, Mr. NETHERCUTT, Mr. ISTOOK, Mr. MURTHA, Mr. DICKS, Mr. WILSON, Mr. HEFNER, Mr. SABO, and Mr. OBEY as managers of the conference on the part of the House.

At 4:13 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 1254. An act to disapprove of amendments to the Federal Sentencing Guidelines relating to lowering of crack sentences and sentences for money laundering and transactions in property derived from unlawful activity.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 39. An act to amend the Magnuson Fishery Conservation and Management Act to improve fisheries management.

## ENROLLED BILLS

At 6:46 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 227. An Act to amend title 17, United States Code, to provide an exclusive right to perform sound recordings publicly by means of digital transmissions and for other purposes.

S. 268. An Act to authorize the collection of fees for expenses for triploid grass carp certification inspections, and for other purposes.

## MEASURES REFERRED

Pursuant to the order of October 19, 1995, the following bill was referred to the Committee on Finance:

S. 1318. A bill to reform the statutes relating to Amtrak, to authorize appropriations for Amtrak, and for other purposes.

The following bill was read the first and second times by unanimous consent and referred as indicated:

H.R. 39. An act to amend the Magnuson Fishery Conservation and Management Act to improve fisheries management; to the Committee on Commerce, Science, and Transportation.

## EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–1521. A communication from the Director of Communications and Legislative Affairs, U.S. Equal Employment Opportunity Commission, transmitting, pursuant to law, the annual report for fiscal year 1993; to the Committee on Labor and Human Resources.

EC–1522. A communication from the Director of Communications and Legislative Affairs, U.S. Equal Employment Opportunity Commission, transmitting, pursuant to law, the federal sector report on complaints and appeals, and the annual report on the employment of minorities, women, and people with disabilities for fiscal year 1993; to the Committee on Labor and Human Resources.

EC–1523. A communication from the Secretary of the Department of Health and Human Services, transmitting, pursuant to law, the report on out-of-wedlock childbearing; to the Committee on Labor and Human Resources.

EC–1524. A communication from the Secretary of Labor, transmitting, pursuant to law, the report on the Employment Retirement Income Security Act (ERISA) during calendar year 1993; to the Committee on Labor and Human Resources.

EC–1525. A communication from the Secretary of Labor, transmitting, pursuant to law, the annual report on the Office of Workers' Compensation Programs for fiscal year 1994; to the Committee on Labor and Human Resources.

EC–1526. A communication from the Director of the Office of Management and Budget, the Executive Office of the President, transmitting, pursuant to law, the report on appropriations legislation within five days of enactment; to the Committee on the Budget.

EC–1527. A communication from the Secretary of Transportation, transmitting, pursuant to law, the annual report entitled, ''Relative Cost of Shipbuilding'' for 1994; to the Committee on Commerce, Science, and Transportation.

EC–1528. A communication from the Secretary of Energy, transmitting, a draft of proposed legislation to amend the Energy Policy and Conservation Act to manage the Stretegic Petroleum Reserve more effectively and for other purposes; to the Committee on Energy and Natural Resources.

EC–1529. A communication from the Assistant Secretary of State for Legislative Affairs, transmitting, pursuant to law, notice of a Presidential determination relative to Military Financing Funds to the Economic Support Fund for El Salvador; to the Committee on Foreign Relations.

EC–1530. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, the report of the texts of international agreements, other than treaties, and background statements; to the Committee on Foreign Relations.

EC–1531. A communication from the Chairperson of the U.S. Commission on Civil Rights, transmitting, puruant to law, the report entitled, ''Racial and Ethnic Tensions in American Communities: Poverty, Inequality, and Discrimination''; to the Committee on the Judiciary.

EC–1532. A communication from the Chairman of the Federal Elections Commission, transmitting, pursuant to law, communications disclaimer requirements; to the Committee on Rules and Administration.

EC–1533. A communication from the Secretary of Veterans Affairs, transmitting, a draft of proposed legislation to amend title 38, sections 810(2) and 8109(h)(3)(B), United States Code, to delete the references therein to ''working drawings'' and substitute therefor the words ''construction documents,'' and to further delete the references therein to ''preliminary plans'' and to substitute therefor the words ''design development''; to the Committee on Veterans' Affairs.

EC–1534. A communication from the Secretary of Veterans Affairs, transmitting, a draft of proposed legislation to amend title 38, United States Code, to modify disbursement agreement authority to include residents and interns serving in any Department facility providing hospital care or medical services''; to the Committee on Veterans' Affairs.

EC–1535. A communication from the Secretary of Veterans Affairs, transmitting, a draft of proposed legislation to amend title 38, United States Code, to revise the procedures for providing claimants and their representatives with copies of Board of Veterans' Appeals (Board) decisions and to protect the right of claimants to appoint veterans service organizations as their representative in claims before the Department of Veterans Affairs; to the Committee on Veterans' Affairs.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PRESSLER, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 187. A bill to provide for the safety of journeymen boxers, and for other purposes (Rept. No. 104–159).

By Mr. PRESSLER, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 1004. A bill to authorize appropriations for the United States Coast Guard, and for other purposes (Rept. No. 104–160).

By Mrs. KASSEBAUM, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 673. A bill to establish a youth development grant program, and for other purposes (Rept. No. 104–161).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, without amendment:

S. 1012. A bill to extend the time for construction of certain FERC licensed hydro projects (Rept. No. 104–162).

H.R. 1266. A bill to provide for the exchange of lands within Admiralty Island National Monument, and for other purposes (Rept. No. 104–163).

By Mr. HATCH, from the Committee on the Judiciary, without amendment and with a preamble:

S. Res. 177. A resolution to designate October 19, 1995, as ''National Mammography Day.''

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. MCCONNELL (for himself, Mr. BENNETT, and Mr. DORGAN):

S. 1335. A bill to provide for the protection of the flag of the United States and free speech, and for other purposes; to the Committee on the Judiciary.

By Mr. LUGAR:

S. 1336. A bill to enable processors of popcorn to develop, finance, and carry out a nationally coordinated program for popcorn promotion, research, consumer information, and industry information, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. BROWN:

S. 1337. A bill to amend the Legal Services Corporation Act to limit frivolous lawsuits,

and for other purposes; to the Committee on Labor and Human Resources.

S. 1338. A bill to improve the United States Marshals Service, and for other purposes; to the Committee on the Judiciary.

By Mrs. FEINSTEIN:

S. 1339. A bill to amend title 18, United States Code, to restrict the mail-order sale of body armor; to the Committee on the Judiciary.

By Mr. DASCHLE (for himself, Mr. HARKIN, Mr. BAUCUS, Mr. WELLSTONE, Mr. KERREY, Mr. CONRAD, Mr. GRASSLEY, Mr. CRAIG, Mr. LEAHY, Mr. DORGAN, Mr. BOND, Mr. PRESSLER, Mrs. MURRAY, Mr. FEINGOLD, Mr. KOHL, Mr. BURNS, and Mr. EXON):

S. 1340. A bill to require the President to appoint a Commission on Concentration in the Livestock Industry; to the Committee on the Judiciary.

By Mr. MCCAIN (for himself and Mr. KYL):

S. 1341. A bill to provide for the transfer of certain lands to the Salt River Pima-Maricopa Indian Community and the city of Scottsdale, Arizona, and for other purposes; to the Committee on Indian Affairs.

By Mr. AKAKA (for himself, Mr. ROCKEFELLER, Mr. INOUYE, Mr. WELLSTONE, and Mr. SIMON):

S. 1342. A bill to amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to make loans to refinance loans made to veterans under the Native American Veterans Direct Loan Program; to the Committee on Veterans' Affairs.

By Mr. HELMS:

S. 1343. A bill to amend title XVIII of the Social Security Act to provide that eligible organizations assure out-of-network access; to the Committee on Finance.

By Mr. HEFLIN:

S. 1344. A bill to repeal the requirement relating to specific statutory authorization for increases in judicial salaries, to provide for automatic annual increases for judicial salaries, and for other purposes; to the Committee on the Judiciary.

By Mr. SIMPSON (by request):

S. 1345. A bill to amend title 38, United States Code, and various other statutes, to reform eligibility for Department of Veterans Affairs health-care benefits, improve the operation of the Department, and improve the processes and procedures the Department uses to administer various benefit programs for veterans; and for other purposes; to the Committee on Veterans' Affairs.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. FAIRCLOTH:

S. Res. 185. A resolution to express the sense of the Senate regarding repayment of loans to Mexico; to the Committee on Foreign Relations.

By Mr. DOLE (for himself and Mr. DASCHLE):

S. Res. 186. A resolution to authorize testimony by Senate employees and representation by Senate Legal Counsel; considered and agreed to.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MCCONNELL (for himself, Mr. BENNETT, and Mr. DORGAN):

S. 1335. A bill to provide for the protection of the flag of the United States and free speech, and for other purposes; to the Committee on the Judiciary.

THE FLAG PROTECTION AND FREE SPEECH ACT OF 1995

● Mr. MCCONNELL. Mr. President, on behalf of myself, Senator BENNETT and Senator DORGAN, I am introducing a bill to outlaw the desecration of the American flag.

Flag burning is a despicable act. And we should have zero tolerance for those who deface our flag. Make no mistake about it—I am disgusted by those who desecrate our symbol of freedom, under which so many men and women, including my father, have gone into battle in order to preserve our way of life.

Many patriotic Americans believe that we need a Constitutional amendment to ban flag burning. The Supreme Court has rejected laws which have attempted to ban flag burning, finding such laws to be in conflict with the first amendment's protection of free speech. So, the supporters of the Constitutional amendment argue that the only way to get it done right is to change the Constitution.

Flag burners must be punished for their vile behavior. But the precedent of amending the Bill of Rights is a dangerous one. I fear that if we amend the first amendment this year, soon the fifth amendment's protection of private property rights or the second amendment's protection of the right to bear arms, will be under assault.

So, I have been searching for an alternative which will result in the swift and certain punishment for those who commit the contemptible act of defacing the flag, but leave the first amendment untouched.

This bill achieves those purposes. The deviants who burn the flag do so to provoked or incite patriotic Americans. And, it is well established that fighting words or speech which incites lawlessness is not protected by the first amendment. My bill provides for imprisoning and fining those who damage a flag intending to incite a breach of the peace. It also punishes anyone who steals a flag belonging to the Federal Government or a flag displayed on Federal property.

This bill will get the job done without tampering with the first amendment. There have been well-respected conservative voices who have cautioned against amending the first amendment to ban flag burning, including George Will, Charles Krauthammer, Cal Thomas, Bruce Fein. But perhaps the most compelling words have come from Jim Warner, a patriot and hero who fought in Vietnam and survived more than 5 years of torture and brutality as a prisoner of war:

We don't need to amend the Constitution in order to punish those who burn our flag. They burn the flag because they hate America and they are afraid of freedom. What better way to hurt them than with the subversive idea of freedom? Spread freedom. [When a] flag in Dallas was burned to protest the nomination of Ronald Reagan, . . . he told us how to spread the idea of freedom when he said that we should turn America into a ''city shining on a hill, a light to all nations.'' Don't be afraid of freedom, it is the best weapon wee have.

I hope my colleagues will study this bill and consider it, as we approach the significant debate on a Constitutional amendment to ban flag desecration.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1335

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Flag Protection and Free Speech Act of 1995''.

**SEC. 2. FINDINGS AND PURPOSE.**

(a) FINDINGS.—The Congress finds that—

(1) the Flag of the United States is a unique symbol of national unity and represents the values of liberty, justice, and equality that make this Nation an example of freedom unmatched throughout the world;

(2) the Bill of Rights is a guarantee of those freedoms and should not be amended in a manner that could be interpreted to restrict freedom, a course that is regularly resorted to by authoritarian governments which fear freedom and not by free and democratic nations;

(3) abuse of the flag of the United States causes more than pain and distress to the overwhelming majority of the American people and may amount to fighting words or a direct threat to the physical and emotional well-being of individuals at whom the threat is targeted; and

(4) destruction of the flag of the United States can be intended to incite a violent response rather than make a political statement and such conduct is outside the protections afforded by the first amendment to the Unites States Constitution.

(b) PURPOSE.—It is the purpose of this Act to provide the maximum protection against the use of the flag of the United States to promote violence while respecting the liberties that it symbolizes.

**SEC. 3. PROTECTION OF THE FLAG OF THE UNITED STATES AGAINST USE FOR PROMOTING VIOLENCE.**

(a) IN GENERAL.—Section 700 of title 18, United States Code, is amended to read as follows:

**''§ 700. Incitement; damage or destruction of property involving the flag of the United States**

''(a) ACTIONS PROMOTING VIOLENCE.—Any person who destroys or damages a flag of the United States with the primary purpose and intent to incite or produce imminent violence or a breach of the peace, and in circumstances where the person knows it is reasonably likely to produce imminent violence or a breach of the peace, shall be fined not more than $100,000 or imprisoned not more than 1 year, or both.

''(b) DAMAGING A FLAG BELONGING TO THE UNITED STATES.—Any person who steals or knowingly converts to his or her use, or to the use of another, a flag of the United States belonging to the United States and intentionally destroys or damages that flag shall be fined not more than $250,000 or imprisoned not more than 2 years, or both.

''(c) DAMAGING A FLAG OF ANOTHER ON FEDERAL LAND.—Any person who, within any lands reserved for the use of the United States, or under the exclusive or concurrent jurisdiction of the United States, steals or

knowingly converts to his or her use, or to the use of another, a flag of the United States belonging to another person, and intentionally destroys or damages that flag shall be fined not more than $250,000 or imprisoned not more than 2 years, or both.

''(d) CONSTRUCTION.—Nothing in this section shall be construed to indicate an intent on the part of Congress to deprive any State, territory or possession of the United States, or the Commonwealth of Puerto Rico of jurisdiction over any offense over which it would have jurisdiction in the absence of this section.

''(e) DEFINITION.—As used in this section, the term 'flag of the United States' means any flag of the United States, or any part thereof, made of any substance, in any size, in a form that is commonly displayed as a flag and would be taken to be a flag by the reasonable observer.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 33 of title 18, United States Code, is amended by striking the item relating to section 700 and inserting the following new item:

''700. Incitement; damage or destruction of property involving the flag of the United States.''.●

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By Mr. LUGAR:

S. 1336. A bill to enable processors of popcorn to develop, finance, and carry out a nationally coordinated program for popcorn promotion, research, consumer information, and industry information, and for other purposes.

THE POPCORN PROMOTION, RESEARCH, AND CONSUMER INFORMATION ACT

● Mr. LUGAR. Mr. President, today I am introducing the Popcorn Research, Promotion and Consumer Information Act which will allow the U.S. Department of Agriculture to issue an order establishing a popcorn promotion program. This will be similar to other agricultural promotion programs for dairy, beef, pork, eggs, and potatoes, to name a few.

Americans consume 17.3 billion quarts of popped popcorn annually, or 68 quarts per person. It is one of the most wholesome and economical foods available to the consumer. My home State of Indiana leads all States in popcorn production, with more than 77,000 acres harvested last year. Following Indiana, major popcorn producing States are Illinois, Nebraska, Ohio, Kansas, Iowa, Missouri, Kentucky, and Michigan.

In the past, the popcorn industry has united to promote and market its product. Total popcorn sales, as a result of these efforts, have grown throughout the past several years, but great potential exists to accelerate this trend with a larger, industry-wide, cooperative effort.

Under a popcorn promotion program, popcorn processors would pay a small assessment on each pound of popcorn marketed. The Secretary of Agriculture would then select a Popcorn Board, made up of representatives from the industry to administer the program, with oversight by USDA. The funds collected would be used for research, promotion and consumer information projects with the goal of increasing consumption of popcorn.

The entire popcorn industry would benefit from a popcorn promotion program. These programs have been extremely successful for other commodities. Furthermore, they operate at no cost to the Federal Government, because all Government expenses are reimbursed from the programs funds. I urge my colleagues to support this self-help agricultural initiative.

Mr. President, I ask unanimous consent that a copy of the bill be printed in the RECORD.

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

S. 1336

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Popcorn Promotion, Research, and Consumer Information Act''.

**SEC. 2. FINDINGS AND DECLARATION OF POLICY.**

(a) FINDINGS.—Congress finds that—

(1) popcorn is an important food that is a valuable part of the human diet;

(2) the production and processing of popcorn plays a significant role in the economy of the United States in that popcorn is processed by several popcorn processors, distributed through wholesale and retail outlets, and consumed by millions of people throughout the United States and foreign countries;

(3) popcorn must be of high quality, readily available, handled properly, and marketed efficiently to ensure that the benefits of popcorn are available to the people of the United States;

(4) the maintenance and expansion of existing markets and uses and the development of new markets and uses for popcorn are vital to the welfare of processors and persons concerned with marketing, using, and producing popcorn for the market, as well as to the agricultural economy of the United States;

(5) the cooperative development, financing, and implementation of a coordinated program of popcorn promotion, research, consumer information, and industry information is necessary to maintain and expand markets for popcorn; and

(6) popcorn moves in interstate and foreign commerce, and popcorn that does not move in those channels of commerce directly burdens or affects interstate commerce in popcorn.

(b) POLICY.—It is the policy of Congress that it is in the public interest to authorize the establishment, through the exercise of the powers provided in this Act, of an orderly procedure for developing, financing (through adequate assessments on unpopped popcorn processed domestically), and carrying out an effective, continuous, and coordinated program of promotion, research, consumer information, and industry information designed to—

(1) strengthen the position of the popcorn industry in the marketplace; and

(2) maintain and expand domestic and foreign markets and uses for popcorn.

(c) PURPOSES.—The purposes of this Act are to—

(1) maintain and expand the markets for all popcorn products in a manner that—

(A) is not designed to maintain or expand any individual share of a producer or processor of the market;

(B) does not compete with or replace individual advertising or promotion efforts designed to promote individual brand name or trade name popcorn products; and

(C) authorizes and funds programs that result in government speech promoting government objectives; and

(2) establish a nationally coordinated program for popcorn promotion, research, consumer information, and industry information.

(d) STATUTORY CONSTRUCTION.—This Act treats processors equitably. Nothing in this Act—

(1) provides for the imposition of a trade barrier to the entry into the United States of imported popcorn for the domestic market; or

(2) provides for the control of production or otherwise limits the right of any individual processor to produce popcorn.

**SEC. 3. DEFINITIONS.**

In this Act (except as otherwise specifically provided):

(1) BOARD.—The term ''Board'' means the Popcorn Board established under section 5(b).

(2) COMMERCE.—The term ''commerce'' means interstate, foreign, or intrastate commerce.

(3) CONSUMER INFORMATION.—The term ''consumer information'' means information and programs that will assist consumers and other persons in making evaluations and decisions regarding the purchase, preparation, and use of popcorn.

(4) DEPARTMENT.—The term ''Department'' means the Department of Agriculture.

(5) INDUSTRY INFORMATION.—The term ''industry information'' means information and programs that will lead to the development of—

(A) new markets, new marketing strategies, or increased efficiency for the popcorn industry; or

(B) activities to enhance the image of the popcorn industry.

(6) MARKETING.—The term ''marketing'' means the sale or other disposition of unpopped popcorn for human consumption in a channel of commerce, but does not include a sale or disposition to or between processors.

(7) ORDER.—The term ''order'' means an order issued under section 4.

(8) PERSON.—The term ''person'' means an individual, group of individuals, partnership, corporation, association, or cooperative, or any other legal entity.

(9) POPCORN.—The term ''popcorn'' means unpopped popcorn (Zea Mays L), commercially grown in the United States, processed by shelling, cleaning, or drying and introduced into a channel of commerce.

(10) PROCESS.—The term ''process'' means to shell, clean, dry, and prepare popcorn for the market, but does not include packaging popcorn for the market without also engaging in another activity described in this paragraph.

(11) PROCESSOR.—The term ''processor'' means a person engaged in the preparation of unpopped popcorn for the market who owns or shares the ownership and risk of loss of the popcorn and who processes and distributes over 4,000,000 pounds of popcorn in the market per year.

(12) PROMOTION.—The term ''promotion'' means an action, including paid advertising, to enhance the image or desirability of popcorn.

(13) RESEARCH.—The term ''research'' means any type of study to advance the image, desirability, marketability, production, product development, quality, or nutritional value of popcorn.

(14) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

(15) STATE.—The term ''State'' means each of the 50 States and the District of Columbia.

(16) UNITED STATES.—The term ''United States'' means all of the States.

**SEC. 4. ISSUANCE OF ORDERS.**

(a) IN GENERAL.—To effectuate the policy described in section 2(b), the Secretary, subject to subsection (b), shall issue 1 or more orders applicable to processors. An order shall be applicable to all popcorn production and marketing areas in the United States. Not more than 1 order shall be in effect under this Act at any 1 time.

(b) PROCEDURE.—

(1) PROPOSAL OR REQUEST FOR ISSUANCE.—The Secretary may propose the issuance of an order, or an association of processors or any other person that would be affected by an order may request the issuance of, and submit a proposal for, an order.

(2) NOTICE AND COMMENT CONCERNING PROPOSED ORDER.—Not later than 30 days after the receipt of a request and proposal for an order under paragraph (1), or at such time as the Secretary determines to propose an order, the Secretary shall publish a proposed order and give due notice and opportunity for public comment on the proposed order.

(3) ISSUANCE OF ORDER.—After notice and opportunity for public comment under paragraph (2), the Secretary shall issue an order, taking into consideration the comments received and including in the order such provisions as are necessary to ensure that the order conforms to this Act. The order shall be issued and become effective not later than 150 days after the date of publication of the proposed order.

(c) AMENDMENTS.—The Secretary, as appropriate, may amend an order. The provisions of this Act applicable to an order shall be applicable to any amendment to an order, except that an amendment to an order may not require a referendum to become effective.

**SEC. 5. REQUIRED TERMS IN ORDERS.**

(a) IN GENERAL.—An order shall contain the terms and conditions specified in this section.

(b) ESTABLISHMENT AND MEMBERSHIP OF POPCORN BOARD.—

(1) IN GENERAL.—The order shall provide for the establishment of, and appointment of members to, a Popcorn Board that shall consist of not fewer than 4 members and not more than 9 members.

(2) NOMINATIONS.—The members of the Board shall be processors appointed by the Secretary from nominations submitted by processors in a manner authorized by the Secretary, subject to paragraph (3). Not more than 1 member may be appointed to the Board from nominations submitted by any 1 processor.

(3) GEOGRAPHICAL DIVERSITY.—In making appointments, the Secretary shall take into account, to the extent practicable, the geographical distribution of popcorn production throughout the United States.

(4) TERMS.—The term of appointment of each member of the Board shall be 3 years, except that the members appointed to the initial Board shall serve, proportionately, for terms of 2, 3, and 4 years, as determined by the Secretary.

(5) COMPENSATION AND EXPENSES.—A member of the Board shall serve without compensation, but shall be reimbursed for the expenses of the member incurred in the performance of duties for the Board.

(c) POWERS AND DUTIES OF BOARD.—The order shall define the powers and duties of the Board, which shall include the power and duty—

(1) to administer the order in accordance with the terms and provisions of the order;

(2) to make regulations to effectuate the terms and provisions of the order;

(3) to appoint members of the Board to serve on an executive committee;

(4) to propose, receive, evaluate, and approve budgets, plans, and projects of promotion, research, consumer information, and industry information, and to contract with appropriate persons to implement the plans or projects;

(5) to accept and receive voluntary contributions, gifts, and market promotion or similar funds;

(6) to invest, pending disbursement under a plan or project, funds collected through assessments authorized under subsection (f), only in—

(A) obligations of the United States or an agency of the United States;

(B) general obligations of a State or a political subdivision of a State;

(C) an interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System; or

(D) obligations fully guaranteed as to principal and interest by the United States;

(7) to receive, investigate, and report to the Secretary complaints of violations of the order; and

(8) to recommend to the Secretary amendments to the order.

(d) PLANS AND BUDGETS.—

(1) IN GENERAL.—The order shall provide that the Board shall submit to the Secretary for approval any plan or project of promotion, research, consumer information, or industry information.

(2) BUDGETS.—The order shall require the Board to submit to the Secretary for approval budgets on a fiscal year basis of the anticipated expenses and disbursements of the Board in the implementation of the order, including projected costs of plans and projects of promotion, research, consumer information, and industry information.

(e) CONTRACTS AND AGREEMENTS.—

(1) IN GENERAL.—The order shall provide that the Board may enter into contracts or agreements for the implementation and carrying out of plans or projects of promotion, research, consumer information, or industry information, including contracts with a processor organization, and for the payment of the cost of the plans or projects with funds collected by the Board under the order.

(2) REQUIREMENTS.—A contract or agreement under paragraph (1) shall provide that—

(A) the contracting party shall develop and submit to the Board a plan or project, together with a budget that shows the estimated costs to be incurred for the plan or project;

(B) the plan or project shall become effective on the approval of the Secretary; and

(C) the contracting party shall keep accurate records of each transaction of the party, account for funds received and expended, make periodic reports to the Board of activities conducted, and make such other reports as the Board or the Secretary may require.

(3) PROCESSOR ORGANIZATIONS.—The order shall provide that the Board may contract with processor organizations for any other services. The contract shall include provisions comparable to the provisions required by paragraph (2).

(f) ASSESSMENTS.—

(1) PROCESSORS.—The order shall provide that each processor marketing popcorn in the United States or for export shall, in the manner prescribed in the order, pay assessments and remit the assessments to the Board.

(2) DIRECT MARKETERS.—A processor that markets popcorn produced by the processor directly to consumers shall pay and remit the assessments on the popcorn directly to the Board in the manner prescribed in the order.

(3) RATE.—

(A) IN GENERAL.—The rate of assessment prescribed in the order shall be a rate established by the Board but not more than $.08 per hundredweight of popcorn.

(B) ADJUSTMENT OF RATE.—The order shall provide that the Board, with the approval of the Secretary, may raise or lower the rate of assessment annually up to a maximum of $.08 per hundredweight of popcorn.

(4) USE OF ASSESSMENTS.—

(A) IN GENERAL.—Subject to subparagraph (B), the order shall provide that the assessments collected shall be used by the Board—

(i) to pay the expenses incurred in implementing and administering the order, with provision for a reasonable reserve; and

(ii) to cover such administrative costs as are incurred by the Secretary except that the costs incurred by the Secretary that may be reimbursed by the Board may not exceed 5 percent of the projected annual revenues of the Board.

(B) EXPENDITURES BASED ON SOURCE OF ASSESSMENTS.—In implementing plans and projects of promotion, research, consumer information, and industry information, the Board shall expend funds on—

(i) plans and projects for domestic popcorn (including Canadian popcorn) in proportion to the amount of assessments collected on popcorn marketed domestically (including Canada); and

(ii) plans and projects for exported popcorn in proportion to the amount of assessments collected on exported popcorn.

(g) PROHIBITION ON USE OF FUNDS.—The order shall prohibit any funds collected by the Board under the order from being used to influence government action or policy, other than the use of funds by the Board for the development and recommendation to the Secretary of amendments to the order.

(h) BOOKS AND RECORDS OF THE BOARD.—The order shall require the Board to—

(1) maintain such books and records (which shall be available to the Secretary for inspection and audit) as the Secretary may prescribe;

(2) prepare and submit to the Secretary, from time to time, such reports as the Secretary may prescribe; and

(3) account for the receipt and disbursement of all funds entrusted to the Board.

(i) BOOKS AND RECORDS OF PROCESSORS.—

(1) MAINTENANCE AND REPORTING OF INFORMATION.—The order shall require that each processor of popcorn for the market shall—

(A) maintain, and make available for inspection, such books and records as are required by the order; and

(B) file reports at such time, in such manner, and having such content as is prescribed in the order.

(2) USE OF INFORMATION.—The Secretary shall authorize the use of information regarding processors that may be accumulated under a law or regulation other than this Act or a regulation issued under this Act. The information shall be made available to the Secretary as appropriate for the administration or enforcement of this Act, the order, or any regulation issued under this Act.

(3) CONFIDENTIALITY.—

(A) IN GENERAL.—Subject to subparagraphs (B), (C), and (D), all information obtained by the Secretary under paragraphs (1) and (2) shall be kept confidential by all officers, employees, and agents of the Board and the Department.

(B) DISCLOSURE BY SECRETARY.—Information referred to in subparagraph (A) may be disclosed if—

(i) the Secretary considers the information relevant;

(ii) the information is revealed in a suit or administrative hearing brought at the request of the Secretary, or to which the Secretary or any officer of the United States is a party; and

(iii) the information relates to the order.

(C) DISCLOSURE TO OTHER AGENCY OF FEDERAL GOVERNMENT.—

(i) IN GENERAL.—No information obtained under the authority of this Act may be made available to another agency or officer of the Federal Government for any purpose other than the implementation of this Act and any investigatory or enforcement activity necessary for the implementation of this Act.

(ii) PENALTY.—A person who violates this subparagraph shall, on conviction, be subject to a fine of not more than $1,000 or to imprisonment for not more than 1 year, or both, and if an officer, employee, or agent of the Board or the Department, shall be removed from office or terminated from employment, as applicable.

(D) GENERAL STATEMENTS.—Nothing in this paragraph prohibits—

(i) the issuance of general statements, based on the reports, of the number of persons subject to the order or statistical data collected from the reports, if the statements do not identify the information provided by any person; or

(ii) the publication, by direction of the Secretary, of the name of a person violating the order, together with a statement of the particular provisions of the order violated by the person.

(j) OTHER TERMS AND CONDITIONS.—The order shall contain such terms and conditions, consistent with this Act, as are necessary to effectuate this Act, including regulations relating to the assessment of late payment charges.

**SEC. 6. REFERENDA.**

(a) INITIAL REFERENDUM.—

(1) IN GENERAL.—Within the 60-day period immediately preceding the effective date of an order, as provided in section 4(b)(3), the Secretary shall conduct a referendum among processors who, during a representative period as determined by the Secretary, have been engaged in processing, for the purpose of ascertaining whether the order shall go into effect.

(2) APPROVAL OF ORDER.—The order shall become effective, as provided in section 4(b), only if the Secretary determines that the order has been approved by not less than a majority of the processors voting in the referendum and if the majority processed more than 50 percent of the popcorn certified as having been processed, during the representative period, by the processors voting.

(b) ADDITIONAL REFERENDA.—

(1) IN GENERAL.—Not earlier than 3 years after the effective date of an order approved under subsection (a), on the request of the Board or a representative group of processors, as described in paragraph (2), the Secretary may conduct an additional referendum to determine whether processors favor the termination or suspension of the order.

(2) REPRESENTATIVE GROUP OF PROCESSORS.—An additional referendum on an order shall be conducted if the referendum is requested by 40 percent or more of the number of processors who, during a representative period as determined by the Secretary, have been engaged in processing.

(3) DISAPPROVAL OF ORDER.—If the Secretary determines, in a referendum conducted under paragraph (1), that suspension or termination of the order is favored by at least ⅔ of the processors voting in the referendum, the Secretary shall—

(A) suspend or terminate, as appropriate, collection of assessments under the order not later than 180 days after the date of determination; and

(B) suspend or terminate the order, as appropriate, in an orderly manner as soon as practicable after the date of determination.

(c) COSTS OF REFERENDUM.—The Secretary shall be reimbursed from assessments collected by the Board for any expenses incurred by the Secretary in connection with the conduct of any referendum under this section, except for the salaries of Government employees associated with conducting a referendum.

(d) METHOD OF CONDUCTING REFERENDUM.—Subject to this section, a referendum conducted under this section shall be conducted in such manner as is determined by the Secretary.

(e) CONFIDENTIALITY OF BALLOTS AND OTHER INFORMATION.—

(1) IN GENERAL.—The ballots and other information or reports that reveal or tend to reveal the vote of any processor, or any business operation of a processor, shall be considered to be strictly confidential and shall not be disclosed.

(2) PENALTY FOR VIOLATIONS.—An officer or employee of the Department who violates paragraph (1) shall be subject to the penalties described in section 5(i)(3)(C)(ii).

**SEC. 7. PETITION AND REVIEW.**

(a) PETITION.—

(1) IN GENERAL.—A person subject to an order may file with the Secretary a petition—

(A) stating that the order, a provision of the order, or an obligation imposed in connection with the order is not established in accordance with law; and

(B) requesting a modification of the order or obligation or an exemption from the order or obligation.

(2) HEARINGS.—The petitioner shall be given the opportunity for a hearing on a petition filed under paragraph (1), in accordance with regulations issued by the Secretary.

(3) RULING.—After a hearing under paragraph (2), the Secretary shall issue a ruling on the petition that is the subject of the hearing, which shall be final if the ruling is in accordance with applicable law.

(b) REVIEW.—

(1) COMMENCEMENT OF ACTION.—The district court of the United States for any district in which a person who is a petitioner under subsection (a) resides or carries on business shall have jurisdiction to review a ruling on the petition, if the person files a complaint not later than 20 days after the date of issuance of the ruling under subsection (a)(3).

(2) PROCESS.—Service of process in a proceeding under paragraph (1) may be made on the Secretary by delivering a copy of the complaint to the Secretary.

(3) REMANDS.—If the court determines, under paragraph (1), that a ruling issued under subsection (a)(3) is not in accordance with applicable law, the court shall remand the matter to the Secretary with directions—

(A) to make such ruling as the court shall determine to be in accordance with law; or

(B) to take such further proceedings as, in the opinion of the court, the law requires.

(c) ENFORCEMENT.—The pendency of proceedings instituted under subsection (a) may not impede, hinder, or delay the Secretary or the Attorney General from taking action under section 8.

**SEC. 8. ENFORCEMENT.**

(a) IN GENERAL.—The Secretary may issue an enforcement order to restrain or prevent any person from violating an order or regulation issued under this Act and may assess a civil penalty of not more than $1,000 for each violation of the enforcement order, after an opportunity for an administrative hearing, if the Secretary determines that the administration and enforcement of the order and this Act would be adequately served by such a procedure.

(b) JURISDICTION.—The district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating, an order or regulation issued under this Act.

(c) REFERRAL TO ATTORNEY GENERAL.—A civil action authorized to be brought under this section shall be referred to the Attorney General for appropriate action.

**SEC. 9. INVESTIGATIONS AND POWER TO SUBPOENA.**

(a) INVESTIGATIONS.—The Secretary may make such investigations as the Secretary considers necessary—

(1) for the effective administration of this Act; and

(2) to determine whether any person subject to this Act has engaged, or is about to engage, in an act that constitutes or will constitute a violation of this Act or of an order or regulation issued under this Act.

(b) OATHS, AFFIRMATIONS, AND SUBPOENAS.—For the purpose of an investigation under subsection (a), the Secretary may administer oaths and affirmations, subpoena witnesses, compel the attendance of witnesses, take evidence, and require the production of any records that are relevant to the inquiry. The attendance of witnesses and the production of records may be required from any place in the United States.

(c) AID OF COURTS.—

(1) REQUEST.—In the case of contumacy by, or refusal to obey a subpoena issued to, any person, the Secretary may request the aid of any court of the United States within the jurisdiction of which the investigation or proceeding is carried on, or where the person resides or carries on business, in requiring the attendance and testimony of the person and the production of records.

(2) ENFORCEMENT ORDER OF THE COURT.—The court may issue an enforcement order requiring the person to appear before the Secretary to produce records or to give testimony concerning the matter under investigation.

(3) CONTEMPT.—A failure to obey an enforcement order of the court under paragraph (2) may be punished by the court as a contempt of the court.

(4) PROCESS.—Process in a case under this subsection may be served in the judicial district in which the person resides or conducts business or wherever the person may be found.

**SEC. 10. RELATION TO OTHER PROGRAMS.**

Nothing in this Act preempts or supersedes any other program relating to popcorn promotion organized and operated under the laws of the United States or any State.

**SEC. 11. REGULATIONS.**

The Secretary may issue such regulations as are necessary to carry out this Act.

**SEC. 12. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated such sums as are necessary to carry out this Act. Amounts made available under this section may not be used to pay any expense of the Board in administering any provision of an order.●

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By Mr. BROWN:

S. 1337. A bill to amend the Legal Services Corporation Act to limit frivolous lawsuits, and for other purposes; to the Committee on Labor and Human Resources.

THE LEGAL SERVICES CORPORATION ACT AMENDMENT ACT OF 1995

● Mr. BROWN. Mr. President, I introduce a bill to bring the Legal Services Corporation in line with the obligations of every other attorney in America; that is, to allow the Legal Services Corporation to be sanctioned when its attorneys bring frivolous or meritless cases.

The Legal Services Corporation was created to provide for the everyday legal needs of the poor. Unfortunately, the LSC has digressed from its original function. Rather than taking care of the day to day needs of American families, the LSC has used its resources to challenge Federal programs, lobby government, and pursue costly class action lawsuits.

In 1974, President Nixon cited three major objectives when he signed legislation to create the Legal Services Corporation. One was ''that the lawyers in the program have full freedom to protect the best interests of their clients in keeping with the Canon of Ethics and the high standards of the legal professions.'' Achieving that goal is precisely what this bill intends to do.

The high standards of the legal professions include adhering to the Federal Rules of Civil Procedure. Rule 11, which applies to all attorneys, allows for sanctions against an attorney for any action designed to cause unnecessary delay or needlessly increase the cost of litigation, or when the plaintiff's action is frivolous or without legal foundation. If the LSC is providing legal services with Federal funds, one would assume it would be subject to these basic rules.

Under current law, however, the Legal Services Corporation is protected from the rule 11 standard. The LSC can only be sanctioned if it is proven that an action was brought solely to harass another party, or that it maliciously abused the legal system. This standard is virtually impossible to prove and therefore lacks any deterrent effect. Furthermore, only actions are sanctionable—the LSC is completely protected from sanctions for baseless motions, pleadings, or other documents.

If the Legal Services Corporation is going to provide federally funded legal services, it should live under the same laws as every other attorney in the United States. When an attorney enters any courtroom in the Nation, advocating a case without merit, he can be sanctioned by the court. It should not be any different for the Legal Services Corporation.

The language of this bill would alter the Legal Services Corporation Act so that it parallels the Federal Rules of Civil Procedure. Specifically, it would allow courts to sanction the LSC according to the standards set forth in rule 11. Under the bill, sanctions would be allowed for any action, motion, pleading or other document that: First, is brought for improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; or second, is frivolous or not warranted by existing law.

This new standard is not designed to preclude or replace rule 11 sanctions against attorneys. Rather, it would provide an additional source of funds to compensate those parties forced to defend against baseless legal actions.

in a society where litigation too often takes the place of negotiation, where the cost of a defense determines the outcome of a case, and where one lawsuit can bankrupt a law-abiding citizen, it is imperative that all parties play on the same legal field, including the Legal Services Corporation.●

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By Mr. BROWN:

S. 1338. A bill to improve the U.S. Marshals Service, and for other purposes; to the Committee on the Judiciary.

UNITED STATES MARSHALS SERVICE LEGISLATION

● Mr. BROWN. Mr. President, I introduce a bill to improve the U.S. Marshals Service by eliminating the political appointment of U.S. Marshals.

Since 1789, U.S. Marshals have been appointed by the President and confirmed by the Senate. For nearly 150 years this political appointment process served as the only control Washington had over its primary law enforcers. The distance between the bureaucracy of Washington and the ever expanding Territories of the United States gave U.S. Marshals such as Wyatt Earp and Lloyd Garrison, nearly autonomous control in their jurisdictions.

But the days of the gun-slinging Federal Marshal are long past. Today the executive office of the Marshals Service in Washington calls the shots, trains, and promotes the deputies, and operates under the watchful eye of the Department of Justice and Congress. The one area in which the Service does not have control is over the appointment of U.S. Marshals.

Under the current system, U.S. Marshals are appointed to 4-year terms by the President. Appointees need not have served in the U.S. Marshals Service or even have had previous professional law enforcement experience. In fact, of the 94 U.S. Marshals, only 30 have previously served in the Marshals Service.

According to a 1994 U.S. Marshals Service Reinvention Proposal reported by the Department of Justice, the appointment process has become a burden upon the operations of the Marshals Service. The proposal states that:

> Disagreement between Marshals and headquarters often put career deputies and staff in conflicting situations. The Marshals controlled day-to-day assignments while headquarters controlled the deputies' career advancement and duty stations. The traditional independence of the Marshals clashed with the growing central control of headquarters. Headquarters began bypassing the Marshals by establishing program units in the field to oversee witness security, fugitive investigations, asset forfeiture programs, and high level judicial protection activities.

Mr. President, my bill would eliminate some of these problems by putting experienced law enforcement personnel into the office of U.S. Marshal. The bill would require the Attorney General to select U.S. Marshals from the ranks of the Marshals Service rather than from a political party. The U.S. Marshals Service already has an extensive and complex merit based promotion system to evaluate, select and promote the most qualified individuals for positions in every level of service. This bill would extend that type of merit based selection to the office of the U.S. Marshal, so that the most qualified and experienced personnel are in a position to contribute to the U.S. Marshals Service rather than hinder its operations.

Removing the political appointment process from the Marshals Service is not a new idea. The reform debate first began in 1955 when the Commission on Organization of the Executive Branch of the Government recommended an end to the political appointment of U.S. Marshals. During the 104th Congress, the idea took hold in the House of Representatives. Both the House Balanced Budget Task Force and the Budget Committee recommended ending the political appointments. Vice President GORE's National Performance Review also recommended selecting Marshals by merit and estimated a savings of over $36 million.

With such broad based support why are we waiting? The answer lies in the Senate. For the past 150 years the Executive branch has allowed the Senators affiliated with the President's party to select the U.S. Marshals for the judicial districts within their States. Each time the idea of appointing Marshals based on merit was raised, it was quashed in the Senate by those unwilling to relinquish the power of appointment.

Mr. President, if we really are for a leaner, less intrusive, and more effective government, we must begin by promoting the most qualified personnel to the most important positions. Let us take a real step to improve the way government works—let us end the political appointment process for the U.S. Marshals.●

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By Mrs. FEINSTEIN:

S. 1339. A bill to amend title 18, United States Code, to restrict the mail-order sale of body armor; to the Committee on the Judiciary.

THE JAMES GUELFF BODY ARMOR ACT OF 1995

● Mrs. FEINSTEIN. Mr. President, I introduce the James Guelff Body Armor Act which would ban the mail order sale of bullet-proof vests to all individuals except law enforcement or public safety officers including paramedics. This legislation would require that the sale, transfer, and receipt of bullet-proof vests to anyone other than a law enforcement or public safety officers be conducted in person. This Act will make it more difficult for criminals to obtain this body armor which hinders law enforcement's ability to disarm and capture them.

For those who may not have heard the story of Officer James Guelff, I would like to provide just a few details about this tragic story.

On November 13, 1994, Officer James Guelff, a 10-year veteran of the San Francisco Police Department, was shot to death in a fire-fight by a heavily

armed gunman wearing a bullet-proof vest on a major street corner in the middle of San Francisco.

Captain Richard Cairns was the commanding officer on the scene. Earlier this year, Captain Cairns participated in a roundtable discussion with me about the violence of assault weapons.

This is how Captain Cairns described the scene:

(The assailant) was firing as fast as you could pull the trigger. He had semi-automatic assault weapons. He had an AK 223 rifle, with 30 round clips. He had a Steyr AUG which is a sophisticated weapon, that he didn't get to. The officers managed to keep him away from that. He had an uzi that jammed, and he had two other semi-automatic pistols, and he had thousands of rounds of ammunition that were in magazines. And they were all in 30-round magazines already. He didn't have to stop and load magazines. We ended up having 104 officers at the scene and he probably had more ammunition than all 104 officers put together. And our officers did run out of ammunition and they got more ammunition from other responding units to try and keep him down. He was finally killed by the SWAT teams that got there, who got above him . . .

Captain Cairns continued:

He had a bullet proof vest, he had a Kevlar Helmet on and he was hit by our officers twice in the helmet and six times in the vest. He was finally killed by a shot that came through his shoulder and into his chest and killed him. Officer Guelff was hit several times and then killed with a bullet through the left eye out of the assault rifle. Officer Guelff fired off six of his rounds and when he went to re-load—the suspect fired on him and killed him.

That story, simply put, is the reason this legislation is being put forward today.

California is not the only State to experience assailants—including heavily-armed gang members—who are wearing bullet proof vests and other body armor.

In Colorado, a man entered a grocery store where his wife worked, killed her, the store's manager, shot a bystander and then fatally shot a sheriff's sergeant before being physically tackled from behind and brought to the ground. Gunfire from law enforcement was to no avail because of his body armor.

In Long Island, NY, an armed high school student after being pushed out of his girlfriend's house by her father, shot 12 rounds into the house before a sheriff's investigator shot the young man in the shoulder, just avoiding his bullet-proof vest, killing him. The sheriff who shot the gunman commented after the incident that the bullet-proof vest the young man was wearing was '' * * * better than anything we've got now, other than what's in the SWAT locker.''

How are law enforcement officers to protect the public when the criminals have better body armor than do the police?

States and localities have already begun the effort to control the sale of body armor. The State of Michigan, for instance, has a law which increases the sentence of a criminal who wears body armor during the commission of a crime. And, in Baltimore, MD, the city council reacted quickly and severely to a billboard advertising the sale of bullet-proof vests as ''Life Insurance for the 90's'' with a 1–800 number printed at the bottom by introducing a city ordinance which bans the sale of bullet-proof vests to anyone unless they have the permission of the police commissioner.

Not only have States and localities begun to control the sale of body armor, at least three Nation-wide stores have already pulled bullet-proof vests from their shelves. Those stores that responded to the requests of law enforcement officials to cease the sale of body armor are The Sharper Image, Wall-mart and Sam's Club.

There were over 200 rounds of ammunition fired by the gunman that killed Officer James Guelff before other police officers were able to injure the assailant. I cannot say that Officer Guelff would still be alive if this criminal had not been wearing a bullet-proof vest. I imagine, however, that law enforcement would have more easily shot and disabled this gunman if he had not been protected by body armor. I attended Officer Guelff's funeral. Maybe, if these bullet-proof vests were not so accessible, Officer Guelff would be entering his 15th year of service.

At this time, I wish to acknowledge the leadership of Representatives STUPAK and PELOSI who have introduced similar legislation, H.R. 2192, in the House of Representatives. I also ask that following my remarks, my legislation be printed in the RECORD .

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

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''James Guelff Body Armor Act of 1995''.

**SEC. 2. UNLAWFUL MAIL-ORDER SALE OF BODY ARMOR.**

Title 18, United States Code, is amended by adding at the end the following new chapter:

''CHAPTER 44A—BODY ARMOR

''Sec.
''941. Unlawful act.

**''S. 941. Unlawful acts**

''(a) Except as provided in subsection (b) of this section, it shall be unlawful for a person to sell or deliver body armor unless the transferee meets in person with the transferor to accomplish the sale, delivery, and receipt of the matter.

''(b) Subsection (a) does not apply to body armor used by law enforcement officers.

''(c) As used in this section—

''(1) the term 'body armor' means any product sold or offered for sale as personal protective body covering whether the product is to be worn alone or is sold as a complement to other products or garments; and

''(2) the term 'law enforcement officer' means any officer, agent, or employee of the United States, a State, or a political subdivision of a State, authorized by law or by a government agency to engage in or supervise the prevention, detection, investigation, or prosecution of any violation of criminal law.

''(d) Whoever knowingly violates this section shall be fined under this title or imprisoned not more than two years, or both.''.●

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By Mr. DASCHLE (for himself, Mr. HARKIN, Mr. BAUCUS, Mr. WELLSTONE, Mr. KERREY, Mr. CONRAD, Mr. GRASSLEY, Mr. CRAIG, Mr. LEAHY, Mr. DORGAN, Mr. BOND, Mr. PRESSLER, Mrs. MURRAY, Mr. FEINGOLD, Mr. KOHL, Mr. BURNS, and Mr. EXON):

S. 1340. A bill to require the President to appoint a Commission on Concentration in the Livestock Industry; to the Committee on the Judiciary.

THE LIVESTOCK MARKET REPORT ACT OF 1995

Mr. DASCHLE. Mr. President, today several colleagues and I will introduce the Livestock Concentration Report Act of 1995. This legislation addresses the deep concern of cattle, hog and sheep producers from across the nation that the livestock industry does not operate in a free and open market. The bipartisan support from colleagues from Vermont to Washington is indicative of the importance of this issue.

Livestock producers, especially cattle producers, are receiving the lowest prices in recent memory. Producers can barely make ends meet, let alone make a profit. The farmer's share of the retail beef dollar has also plunged from 63 percent in 1980 to only 40 percent today. Producers face economic ruin at a time when the four largest meat packers in the country control 87 percent of the cattle slaughtered and enjoy record profits.

Our legislation calls for a thorough examination of the livestock markets to ensure they operate in a free and competitive manner. We ask the President to establish a Commission on Concentration in the Livestock Industry. This body will consist of six producers, two antitrust experts, two economists, two corporate financial officers, and two corporate procurement experts. The members will be appointed by the President, and the Commission will be chaired by the Secretary of Agriculture.

The Commission will review the ongoing USDA Study on Concentration in the Red Meat Packing Industry to ensure the results are representative of current market conditions. Producers are concerned that the data in the study is out-of-date and will not provide insight into today's market. Additionally, the Commission will review the adequacy of price discovery in the livestock markets to ensure forward contracting and formula pricing practices do not unduly bias livestock markets. The causes of the wide farm-to-retail price spread will also be examined. The Commission will report its findings within 90 days of the release of the USDA study.

I am very appreciative of Secretary Glickman's support throughout this process. USDA is currently pursuing a case against IBP, Inc., the largest meat packer for alleged anti-competitive

procurement practices. The Secretary has made this issue a top priority, and I look forward to working with him on the implementation of this Commission.

This action is crucial for our Nation's livestock producers. Free and open markets are one of the foundations of our Nation and our economy. We as consumers all suffer if markets, especially food markets, do not operate freely. I hope this commission can get to the bottom of the problems that exist in the livestock market and provide answers for us in Congress about the steps we can take to ensure a fair shake for hard-working livestock producers and the Nation's consumers.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1340

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Livestock Concentration Report Act of 1995''.

**SEC. 2. APPOINTMENT OF COMMISSION.**

Not later than 30 days after the date of the enactment of this Act, the President shall appoint a Commission on Concentration in the Livestock Industry which shall be composed of the Secretary of Agriculture, who shall be the chairperson of the Commission, and 2 members appointed from among individuals in each of the following categories:

(1) Cattle producers.
(2) Hog producers.
(3) Lamb producers.
(4) Experts in antitrust laws.
(5) Economists.
(6) Corporate chief financial officers.
(7) Corporate procurement experts.

**SEC. 3. DUTIES OF COMMISSION.**

(a) DUTIES.—The Commission on Concentration in the Livestock Industry shall—

(1) determine whether the study of concentration in the red meat packing industry adequately—

(A) examined and identified regional procurement markets for slaughter cattle in the continental United States,

(B) analyzed the effects that slaughter cattle procurement practices, and concentration in the procurement of slaughter cattle, have on the purchasing and pricing of slaughter cattle by beef packers,

(C) examined the use of captive cattle supply arrangements by beef packers and the effects of such arrangements on slaughter cattle markets,

(D) examined the economics of vertical integration and of coordination arrangements in the hog slaughtering and processing industry,

(E) examined the pricing and procurement by hog slaughtering plants operating in the eastern corn belt,

(F) reviewed the pertinent research literature on issues relating to the structure and operation of the meat packing industry, and

(G) represents, for the matters described in subparagraphs (A) through (F), the current situation in the livestock industry compared to the situation of such industry reflected in the data on which such study is based,

(2) review the application of the antitrust laws, and the operation of other Federal laws applicable, with respect to concentration and vertical integration in the procurement and pricing of slaughter cattle and of slaughter hogs by meat packers,

(3) make recommendations regarding whether the laws relating to the operation of the meat packing industry should be modified regarding the concentration, vertical integration, and vertical coordination in such industry,

(4) review the farm-to-retail price spread for livestock during the period beginning on January 1, 1993, and ending on the date the report is submitted under section 4,

(5) review the adequacy of price data obtained by the Department of Agriculture under section 203 of the Agricultural Marketing Act of 1946 (7 U.S.C. 1622),

(6) make recommendations regarding the adequacy of price discovery in the livestock industry for animals held for market, and

(7) review the lamb industry study completed by the Department of Justice in 1993.

(b) SOLICITATION OF INFORMATION.—For purposes of complying with the requirements of paragraphs (2), (3), and (4) of subsection (a), the Commission on Concentration in the Livestock Industry shall solicit information from all parts of the livestock industry, including livestock producers, livestock marketers, meat packers, meat processors, and retailers.

**SEC. 4. REPORT.**

(a) SUBMISSION OF REPORT TO THE PRESIDENT.—Not later than 90 days after the study of concentration in the red meat packing industry is submitted to the Congress, the Commission on Concentration in the Livestock Industry shall submit to the President a report summarizing the results of the duties carried out under section 3. Not later than 30 days after the President receives such report, the President shall terminate the Commission.

(b) TRANSMISSION OF REPORT TO THE CONGRESS.—The President shall promptly transmit, to the Speaker of the House of Representatives and the President pro tempore of the Senate, a copy of the report the President receives under subsection (a).

**SEC. 5. DEFINITIONS.**

For purposes of this Act—

(1) the term ''antitrust laws'' has the meaning given it in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)), except that such term includes section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent such section applies to unfair methods of competition, and

(2) the term ''study of concentration in the red meat packing industry'' means the study of concentration in the red meat packing industry proposed by the Department of Agriculture in the Federal Register on January 9, 1992 (57 Fed. Reg. 875), and for which funds were appropriated by Public Law 102–142.

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By Mr. AKAKA (for himself, Mr. ROCKEFELLER, Mr. INOUYE, Mr. WELLSTONE, and Mr. SIMON):

S. 1342. A bill to amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to make loans to refinance loans made to veterans under the Native American Veterans Direct Loan Program; to the Committee on Veterans' Affairs.

THE NATIVE AMERICAN VETERANS DIRECT LOAN PROGRAM

• Mr. AKAKA. Mr. President, today I am introducing legislation to amend section 3762 of title 38, United States Code. Section 3762 was established under the Veterans Home Loan Program Amendments of 1992 and authorizes a 5-year pilot program to provide direct home loans to native American veterans who live on U.S. trust lands. I am pleased that Senators ROCKEFELLER, INOUYE, WELLSTONE, and SIMON are cosponsors of this measure.

My bill would allow the Department of Veterans Affairs [VA] to refinance direct loans made under this unique initiative, known as the Native American Direct Home Loan Program. Under my bill, credit standards for underwriting direct loans to Native American veterans would be the same as those for VA guaranteed loans. The underwriting would be performed by the VA and would allow qualified veterans to refinance existing loans.

The Native American Direct Loan Program was established to ensure that veterans who reside on reservations or other trust lands would have the same access to VA loan benefits enjoyed by other veterans. Under the 5-year pilot program, VA is authorized to provide direct loans of up to $80,000 for most areas of the United States, although higher limits were established for certain high-cost regions.

Until the program was adopted 3 years ago, Native American veterans who lived on trust lands were denied access to traditional VA guaranteed loans. The inability to take title to trust lands in the event of default, cultural misunderstandings, and the generally poor economic conditions that exist on reservations, dissuaded potential lenders from approving mortgages for housing on such lands.

During the guaranty program's half-century of existence, not a single Native American veteran was able to utilize his or her home loan entitlement for housing on trust lands. In contrast, over 13 million other veterans received more than $350 billion in VA guaranties during that period. It was to redress this inequity that Congress enacted Public Law 102–547.

Despite the complexities of creating a program that must address the needs of hundreds of different tribal entities, each with its own cultural, political, and legal systems, VA has successfully entered into agreements to provide direct VA loans to members of 30 tribes and Pacific Island groups, and negotiations are ongoing with approximately 20 more tribes. To date, approximately 45 loans have been closed, 3 of them with American Indians, the balance with Hawaiian Natives and Pacific Islanders. In addition, the VA has a commitment to close 36 more loans, including American Indians residing on allotted lands.

Although the VA has made significant progress in implementing the program, a serious, unanticipated shortcoming has come to light. According to the VA, the Department has no statutory authority to offer refinancing to veterans receiving loans under the program. Thus, native Americans who receive loans under the program cannot take advantage of interest rate reductions to ease their financial burden.

This is in stark contrast to other veterans who use the regular guaranty program. In the period between October 1993 and August 1995, for example, the VA refinanced over 25,000 interest reduction loans with a face value of more than $2 billion.

Mr. President, this situation runs contrary to the intent of Congress in enacting the Native American Direct Home Loan Program three years ago. In creating the program, Congress intended to ensure that, to the maximum extent possible, Native American veterans would have the same opportunity as other veterans to achieve the American dream of home ownership. Insofar as refinancing is an important element of other VA home loan programs, it is just and reasonable that veterans who receive benefits under the direct loan program be accorded an opportunity to refinance.

Mr. President, the legislation I am offering today would correct this oversight by providing VA with specific refinancing authority under the direct loan program. My bill also includes a provision for a special fee that would cover all refinancing costs thus making the bill revenue neutral.

Mr. President, I believe this legislation will significantly enhance VA's ability to provide native American veterans with equal access to services and benefits available to other veterans. It would reduce the costs of home ownership for those presently receiving benefits under the program, possibly reducing the risk of default and the costs associated with foreclosure. Perhaps most importantly, it would encourage eligible Native American to come forward to take advantage of the program's benefits.

Thank you, Mr. President. I hope that the measure I am offering today will be supported by colleagues from both sides of the aisle.●

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By Mr. HELMS:

S. 1343. A bill to amend title XVIII of the Social Security Act to provide that eligible organizations assure out-of-network access; to the Committee on Finance.

OUT-OF-NETWORK ACCESS LEGISLATION

Mr. HELMS. Mr. President, three summers ago I had a close but fortunate encounter with some remarkable medical doctors in my home town of Raleigh. My heart surgery and the very effective subsequent rehabilitation made it clear that I had been cared for by some of the most capable people in the medical profession.

I was free to choose the surgeon who performed the operation. Senior citizens enrolled in Medicare should have the same choice, and the bill I'm introducing today will enable senior citizens who join HMO's to preserve their right to choose their doctor.

Mr. President most Americans, whether their health is insured by private firms or by Medicare, enjoy their freedom to decide which medical professional will provide their care and treatment. In reforming Medicare, Congress must make sure that senior citizens can choose their doctors and other medical providers.

One of the many reasons for my having opposed the Clinton health plan was the well founded fear that the American people would have been denied their right to chose their medical care. The enormous bureaucracy of the Clinton plan made that apprehension a certainty—which is why the American people rejected it.

Now, Mr. President, the Senate is considering major reforms to save Medicare, and prevent its being pushed over the cliff. Medicare must be reformed before it goes bankrupt—otherwise the Medicare trust fund will be flat broke when the 21st century rolls around a few years hence.

Americas's senior citizens depend on the health care coverage provided by the Medicare system, and those of us in Congress have a duty to make sure they will not be forced to give up their right to choose their doctors.

It is vital to their future security that our senior citizens retain this right to choose. The power to choose will place citizens firmly in control of their health care. Their right to choose will encourage efficiency and cut costs without sacrificing quality care and treatment.

Mr. President, all of us know full well that reform of the present Medicare System is imperative. The provisions of the legislation allowing senior citizens to join health maintenance organizations, and other types of managed care plans, will surely lower the costs of operating the vast Medicare System. And citizens who belong to a Medicare-supported HMO may gain coverage for prescription drugs, eyeglasses and hearing aids—coverages not presently provided by Medicare.

Without some moderating legislation, however, senior citizens could very well find themselves locked into coverage that limits them to services provided by HMO-affiliated doctors, other professionals and hospitals. No longer would senior citizens have the freedom to choose their own doctor.

So, Mr. President, these are the reasons why I am today introducing the Senior Citizens' Health Freedom Act to guarantee all Medicare-eligible Americans who choose to enroll in an HMO the same freedom to choose their doctors that every member of Congress enjoys.

As much as I support the Republican Medicare plan now under discussion, I cannot dismiss my reservations about the absence of doctor choice in the plan as it presently stands.

Mr. President, consider if you will the predicament of a patient who requires heart surgery, and whose HMO will not approve the cardiologist with whom the senior has built up a longstanding relationship. Should the patient be required to wait for a year's time to change to a plan that will cover the cardiologist that the patient knows and trusts? My bill will enable women being treated for breast cancer to rest assured that they can continue to see the specialists familiar with them and their conditions. For this reason, more than a hundred patient advocacy groups have voiced their support for this bill.

We must provide a safety valve to protect seniors who find themselves in that position. A point of service option would enable patients to see physicians and specialists inside and outside the managed care network. If senior citizens are satisfied with the care they receive within the network, they will feel no need to choose outside doctors and specialists. Without such options, however, these senior citizens will be locked into a rigid system which may or may not give them the health care they need from people they most trust to provide it.

Mr. President, we heard from the CBO last February that a built-in point of service feature would not increase the cost of Medicare. In testimony before the Senate Budget Committee, CBO stated that ''the point of service option would permit Medicare enrollees to go to providers outside the HMO's panel when they wanted to, and yet it need not increase the benefit cost to HMO's or to * * *''

The fastest growing health insurance product is a managed care plan that includes the point of service feature. The marketplace has responded to patient's demand. Requiring HMO's to include point of service is not intrusive, but rather advances a developing trend. In fact, in 1993, 61 percent of all HMO's offered a point of service option.

Building a point of service option into all health plans under Medicare will not interfere with the plan's ability to contain cost, nor will it limit their efforts to encourage providers and patients to use their health care resources wisely. It simply will ensure that health plans put the patient's interest first.

Moreover, the actuarial firm of Milliman and Robertson concluded that depending on the terms of the plan and a reasonable cost sharing schedule, there would be no increase in cost to the HMO. In fact, there could actually be a savings.

Mr. President, according to polls I have seen, patients are willing to pay a little more for the ability to go out of network to be assured of seeing the doctors of their choice. As many as 70 percent of Americans over 50 years old declared in one poll that they would be unwilling to join a Medicare managed plan that denied them the freedom to choose their own physicians.

So the best incentive to get senior citizens to join HMO's is to make sure they can choose their own doctors.

As we prepare to enact this historic revision of the Medicare Program, let us not overlook the steps that are necessary to protect the security of our senior citizens. Let us never deny them the right to take an active part in their health care and treatment.

We can save Medicare. We can extend its benefits while lowering the towering costs that beset us today. And with the legislation I introduce today, we can also preserve a basic American freedom to choose.

Mr. President, I ask unanimous consent that the list of patient advocacy groups supporting this bill be printed in the RECORD.

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

ORGANIZATIONS SUPPORTING PATIENT ACCESS TO SPECIALIZED MEDICAL SERVICES UNDER HEALTH CARE REFORM

Allergy and Asthma Network Mothers of Asthmatics, Inc.
American Academy of Allergy and Immunology.
American Academy of Child and Adolescent Pyschiatry.
American Academy of Dermatology.
American Academy of Facial Plastic and Reconstructive Surgery.
American Academy of Neurology.
American Academy of Ophthalmology.
American Academy of Orthopaedic Surgeons.
American Academy of Otolaryngology-Head and Neck Surgery.
American Academy of Pain Medicine.
American Academy of Physical Medicine & Rehabilitation.
American Association for Hand Surgery
American Association for the Study of Headache
American Association of Clinical Endocrinologist.
American Association of Clinical Urologists.
American Association of Hip and Knee Surgeons.
American Association of Neurological Surgeons.
American College of Cardiology.
American College of Foot and Ankle Surgeons.
American College of Gastroenterology.
American College of Nuclear Physicians.
American College of Obstetricians & Gynecologists.
American College of Osteopathic Surgeons.
American College of Radiation Oncology.
American College of Radiology.
American College of Rheumatology.
American Diabetes Association.
American EEG Society.
American Gastroenterological Association.
American Lung Association.
American Orthopedic Society for Sports Medicine.
American Pain Society.
American Pediatric Medical Association.
American Psychiatric Association.
American Sleep Disorders Association.
American Society for Dermatologic Surgery.
American Society for Gastrointestinal Endoscopy.
American Society for Surgery of the Hand.
American Society for Anesthesiologists.
American Society for Cataract and Refractive Surgery.
American Society for Clinical Pathologists.
American Society for Dermatology.
American Society for Echocardiography.
American Society for General Surgeons.
American Society for Hematology.
American Society for Nephrology.
American Society for Pediatric Nephrology.
American Society for Plastic and Reconstructive Surgeons, Inc.
American Society for Transplant Physicians.
American Thoracic Society.
American Urological Association.
Amputee Coalition of America.
Arthritis Foundation.
Arthroscopy Association of North America.
Association of Subspecialty Professors.
Asthma & Allergy Foundation of America.
California Access to Specialty Care Coalition.
California Congress of Dermatological Societies.
Congress of Neurological Surgeons.
Cooley's Anemia Foundation.
Cystic Fibrosis Foundation.
Eye Bank Association of America.
Federated Ambulatory Surgery Association.
Joint Council of Allergy and Immunology.
Lupus Foundation of America, Inc.
National Association for the Advancement of Orthotics and Prosthetics.
National Association of Epilepsy Centers.
National Association of Medical Directors of Respiratory Care.
National Foundation for Ectodermal Dysplasias.
National Hemophilia Foundation.
National Kidney Foundation.
National Multiple Sclerosis Society.
National Osteoporosis Foundation.
National Psoriasis Foundation.
Orthopaedic Trauma Association.
Pediatric Orthopedic Society of North America.
Pediatrix Medical Group? Neonatology and Pediatric Intensive Care Specialists.
Renal Physicians Association.
Scoliosis Research Society.
Society for Vascular Surgery.
Society of Cardiovascular & Interventional Radiology.
Society of Gynecologic Oncologists.
Society of Nuclear Medicine.
Society of Thoracic Surgeons.
The Alexander Graham Bell Association for the Deaf, Inc.
The American Society of Dermatophathology.
The Endocrine Society.
The Paget Foundation For Paget's Disease of Bone and Related Disorders.
The TMJ Association, Ltd.
National Committee to Preserve Social Security and Medicare.

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By Mr. HEFLIN:

S. 1344. A bill to repeal the requirement relating to specific statutory authorization for increases in judicial salaries, to provide for automatic annual increases for judicial salaries, and for other purposes; to the Committee on the Judiciary.

JUDICIAL COST-OF-LIVING INCREASES LEGISLATION

Mr. HEFLIN. Mr. President, I am today introducing legislation to address the need of providing annual, automatic cost-of-living increases for the Federal Judiciary. This legislation would achieve two goals. First, it would repeal Section 140 of Public Law 97–42 (28 U.S.C. Sec. 461 note) a provision which was enacted in a continuing appropriation resolution in 1981. Second, it would delink Federal judges from Members of Congress and executive schedule employees of the executive branch with respect to receiving cost of living adjustments and would guarantee that Federal judges would automatically receive such annual adjustments, assuming economic conditions so justified.

Let me share with my colleagues some of the history relating to Section 140, and the reasons why I think it should be repealed. The Federal Salary Act of 1967 established a commission on executive, legislative and judicial salaries, which was popularly referred to as the ''Quadrennial Commission.'' The purpose of this commission was to review executive schedule positions (federal judges, Members of congress, and high ranking officials in all branches) and to make recommendations on how salaries should be adjusted.

In 1975 Congress enacted the Executive Salary Cost-of-Living Adjustment Act, which provided, for the first time, for annual cost-of-living adjustments for executive schedule officials. This statute was designed to give Federal judges, Members of Congress, and other high ranking officials the same annual adjustment that was given to other Federal employees. In October 1975, these executive schedule officials received a cost-of-living adjustment; however, from 1977–1981, Congress withheld cost-of-living adjustments for these officials. In the case of *United States v. Will*, 449 US 200 (1980), the Supreme Court issued a ruling which resulted in an increase in the salaries for Federal judges.

Two years later, Congress adopted an appropriation for Fiscal Year 1982, which provided in Section 140 that judges would not automatically receive an increase under the Executive Salary Cost-of-Living Adjustment Act, ''except as specifically authorized by act of Congress.'' The Ethics Reform Act of 1989 restored cost-of-living adjustments and amended the Adjustment Act, to provide for a method of computing annual pay adjustments for Federal judges and other executive schedule employees.

Cost-of-living adjustments were provided for Federal judges in calendar years 1990, 1991, 1992, and 1993. There have been no cost-of-living adjustments for Federal judges in 1994, 1995, nor it would appear in 1996. With regard to 1996, it appears that the Treasury, Postal Service and General Government Appropriations bill will again deny a cost-of-living adjustment for Federal judges since we are proposing to deny ourselves such an adjustment and under current law, adjustments for Federal judges are linked to adjustments for Members of Congress.

Having reviewed this history, it is my belief that Congress should take action to not only repeal Section 140, which currently bars cost-of-living adjustments in pay for Federal judges, except as specifically authorized by Congress, but to also delink such adjustments from those of Members of Congress and other executive schedule employees of the executive branch.

Delinkage will remove Federal judges from the highly charged political atmosphere surrounding cost-of-living adjustments. This legislation does not seek to raise judicial pay, but is in an

attempt to avoid a diminution in judicial compensation by allowing salaries to keep pace with increases in the cost of living.

Remember, judges are not like Members of Congress or high ranking executive schedule employees of the executive branch of the Federal Government. Members of Congress come and go, and likewise, executive schedule employees are high ranking political employees such as Cabinet secretaries, deputy secretaries, assistant secretaries, and deputy assistant secretaries, etc. They, too, being short-term employees, come and go from the private sector to the public sector.

Federal judges are different in this regard. They make a lifetime commitment to public service as Federal judges. They should be able to plan their financial futures based on the reasonable expectation that their compensation will at least keep even with annual cost-of-living increases.

I think it is imperative to remove the judicial pay process from the political arena. In the middle of the 1980's, this issue was widely discussed on television talk shows and various news programs, and it was very damaging to attracting top quality individuals to serve as Federal judges. We also know that there were a number of resignations in the Federal judiciary in the 1980's, because it was becoming very difficult to attract top individuals to serve on the Federal bench.

I believe that we must continue to attract and retain judges from all walks of life who have demonstrated superior legal skills whether they have served as State judges, private practitioners, academicians, prosecutors, or public defenders. If we fail to deal with this matter, we will soon attract only those judges who are independently wealthy and do not have to worry about providing for their families on a Federal judiciary salary.

I think this is unwise, and I hope that Congress will have the courage to repeal section 140 of Public Law 97–92 and further delink their cost-of-living adjustments from Members of Congress and executive schedule employees, thereby removing this matter from the political process once and for all.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1344

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. JUDICIAL COST-OF-LIVING INCREASES.**

(a) REPEAL OF STATUTORY REQUIREMENT RELATING TO JUDICIAL SALARIES.—Section 140 of the resolution entitled ''A Joint Resolution making further continuing appropriations for the fiscal year 1982, and for other purposes.'', approved December 15, 1981 (Public Law 97–92; 95 Stat. 1200; 28 U.S.C. 461 note) is repealed.

(b) AUTOMATIC ANNUAL INCREASES.—Section 461(a) of title 28, United States Code, is amended to read as follows:

''(a) Effective on the first day of the first applicable pay period beginning on or after January 1 of each calendar year, each salary rate which is subject to adjustment under this section shall be adjusted by an amount, rounded to the nearest multiple of $100 (or if midway between multiples of $100, to the next higher multiple of $100) equal to the percentage of such salary rate which corresponds to the most recent percentage change in the Employment Cost Index, as determined under section 704(a)(1) of the Ethics Reform Act of 1989.''.

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By Mr. SIMPSON (by request):

S. 1345. A bill to amend title 38, United States Code, and various other statues, to reform eligibility for Department of Veterans Affairs health care benefits, improve the operation of the Department, and improve the processes and procedures the Department uses to administer various benefits programs for veterans; and for other purposes; to the Committee on Veterans' Affairs.

THE DEPARTMENT OF VETERANS AFFAIRS IMPROVEMENT AND REINVENTION ACT OF 1995

• Mr. SIMPSON. Mr. President, as chairman of the Veterans' Affairs Committee, I have today introduced, at the request of the Secretary of Veterans Affairs, S. 1345, a bill to reform eligibility for Department of Veterans Affairs health care benefits, improve the operation of the Department, and improve the processes and procedures the Department uses to administer various benefit programs for veterans; and for other purposes. The Secretary of Veterans Affairs submitted this legislation to the President of the Senate by letter dated September 12, 1995.

My introduction of this measure is in keeping with the policy which I have adopted of generally introducing—so that there will be specific bills to which my colleagues and others may direct their attention and comments—all administration-proposed draft legislation referred to the Veterans' Affairs Committee. Thus, I reserve the right to support or oppose the provisions of, as well as any amendment to, this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this point, together with the transmittal letter and the enclosed section-by-section analysis of the draft legislation.

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

S. 1345

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

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

(a) SHORT TITLE.—This Act may be cited as the ''Department of Veterans Affairs Improvement and Reinvention Act of 1995''.

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

Sec. 1. Short title; table of contents.
Sec. 2. References to title 38, United States Code.

TITLE I—VETERANS HEALTH-CARE PROGRAMS

PART A—REFORM OF THE HEALTH-CARE ELIGIBILITY SYSTEM

Sec. 101. Definitions.
Sec. 102. Eligibility for health care.
Sec. 103. Exposure related treatment authorities.
Sec. 104. Mental health services and bereavement counseling for family members.
Sec. 105. Consolidation of special authorities pertaining to prosthetic devices, and aids for the blind and aids for the hearing impaired.
Sec. 106. Dental care.
Sec. 107. Home improvements and structural alterations.
Sec. 108. Furnishing medications prescribed by non-VA physicians.
Sec. 109. Furnishing care in community nursing homes.
Sec. 110. Furnishing residential care.
Sec. 111. Expansion of authority to share health-care resources.
Sec. 112. Authorization of Appropriations.
Sec. 113. Conforming amendments.

PART B—ADMINISTRATION OF HEALTH-CARE BENEFITS

Sec. 120. Means test reform.
Sec. 121. VA retention of funds collected from third parties.

TITLE II—BENEFIT PROGRAMS

PART A—LOAN GUARANTY PROGRAM

Sec. 201. Termination of the manufactured housing loan program.
Sec. 202. Loan fees.
Sec. 203. Contracting for portfolio loan services.

PART B—EDUCATION PROGRAMS

Sec. 210. Electronic signatures on documents concerning education benefits for veterans.
Sec. 211. Electronic funds transfer for education benefits payments.

**SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.**

Except as otherwise expressly provided, whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—VETERANS HEALTH-CARE PROGRAMS

PART A—REFORM OF THE HEALTH CARE ELIGIBILITY SYSTEM

**SEC. 101. DEFINITIONS.**

Section 1701 is amended by striking out paragraphs numbered (5), (6), (7), (8), and (9) and inserting in lieu thereof the following:

''(5) Then term 'health care' means the most appropriate care and treatment for the patient furnished in the most appropriate setting, as determined by the Secretary, including the provision of such pharmaceuticals, supplies, equipment, devices, appliances and other materials as the Secretary determines to be necessary, and including hospital care, nursing home care, domiciliary care, outpatient care, rehabilitative care, home care, respite care, preventive care, and dental care.

''(6) The term 'hospital care' means care and treatment for a disability furnished to an individual who has been admitted to a hospital as a patient.

''(7) The term 'nursing home care' means care and treatment for a disability furnished to an individual who has been admitted to a nursing home as a resident.

''(8) The term 'domiciliary care' means the furnishing of shelter and food, and includes

necessary care and treatment for a disability furnished to a veteran with no adequate means of support, who has been admitted as a resident to a domiciliary facility under the direct jurisdiction of the Secretary.

''(9) The term 'outpatient care' means care and treatment for a disability, and preventive health services, furnished to an individual other than hospital, nursing home, or domiciliary care.

''(10) The term 'rehabilitative care' means such professional, counseling, and guidance services and treatment programs (other than those types of vocational rehabilitation services provides under chapter 31 of this title) as are necessary to restore, to the maximum extent possible, the physical, mental, and psychological functioning of an ill or disabled person.

''(11) The term 'home care' means outpatient care, rehabilitative care, and preventive health services furnished to an individual in the individual's home or other place of residence but may not include care or services that any other person or entity has a contractual or legal obligation to provide.

''(12) The term 'residential care' means the provision of room and board and such limited personal care for and supervision of residents as the Secretary determines, in accordance with regulations, are necessary for the health, safety, and welfare of residents, and the term 'community residential-care' means the provision of residential-care in a non-VA facility.

''(13) The term 'respite care' means care furnished on an intermittent basis in a department facility for a limited period to a veteran suffering from a chronic illness, who resides primarily in a private residence when such care will help the veteran to continue residing in such private residence.

''(14) The term 'preventive health services' remans care and treatment furnished to prevent disease or illness including periodic examinations, immunization, patient health education, and such other services as the Secretary determines are necessary to provide effective and economical preventive health care.''.

**SEC. 102. ELIGIBILITY FOR HEALTH CARE.**

Section 1710 is amended to read as follows:

**''§1710. Eligibility for health care**

''(a)(1) The Secretary shall, to the extent and in the amount provided in advance in appropriations acts for these purposes, furnish health care which the Secretary determines is needed to any veteran described in clauses (A), (C), and (D) of subsection (c)(1), subject to the priorities set forth in subsection (c) and to section 1715 and excluding care described in subsection (b).

''(2) The Secretary may furnish health care which the Secretary determines is needed to any veteran not described in clauses (A) through (D) of subsection (c)(1).

''(b) Subject to the priorities set forth in subsection (c), the Secretary may furnish nursing home care, respite care, home care, and domiciliary care which the Secretary determines is needed to any veteran.

''(c)(1) To the extent and in the amount provided in advance in appropriations acts for these purposes, the Secretary shall furnish health care under subsections (a) and (b) and sections 1712, 1712A, 1712B, 1714, 1717, 1718, 1719, 1720B, and 1751, in accordance with the following order of priority:

''(A) Veterans (i) who have compensable service-connected disabilities, (ii) who are former prisoners of war, (iii) whose discharge or release from the active military, naval or air service was for a disability incurred or aggravated in line of duty, and (iv) who are in receipt of, or who, but for a suspension pursuant to section 1151 (or both such a suspension and the receipt of retired pay), would be entitled to disability compensation, but only to the extent that the veterans' continuing eligibility for such care is provided for in the judgment or settlement described in section 1151.

''(B) Veterans receiving care under sections 1712, 1712A, 1719, and 1720B.

''(C) Veterans with noncompensable service-connected disabilities, veterans of the Mexican Border period or World War I, and veterans receiving increased pension or additional compensation or allowances based on the need of regular aid and attendance or by reason of being permanently housebound.

''(D) Veterans with attributable income less than the threshold amount specified in section 1722 which is applicable to those veterans, provided they sign a declaration that their net worth, together with that of their spouse and dependent children, if any, does not exceed $50,000, and veterans receiving care under section 1751.

''(E) Veterans with attributable income greater than the threshold amount specified in section 1722 which is applicable to those veterans and veterans who do not sign the declaration described in clause (D).

''(2) The Secretary may, by regulation, establish additional priorities within each priority group established in paragraph (1) of this subsection, as the Secretary determines necessary.

''(d) Nothing in this section requires the Secretary to furnish care to a veteran to whom another agency of Federal, State, or local government has a duty under law to provide care in an institution of such government.

''(e)(1) The Secretary may furnish health care under subsections (a) and (b) of this section to any veteran described in subsection (c)(1)(E) who has attributable income greater than the amount specified in section 1722(a) which is applicable to that veteran, only if the veteran agrees to pay the United States the applicable amount determined under paragraph (2) of this subsection.

''(2) A veteran who is required under paragraph (1) of this subsection to agree to pay an amount to the United States in order to be furnished such care shall be liable to the United States for an amount equal to—

''(A) for hospital care—

''(i) the lesser of the cost of furnishing such care, as determined by the Secretary, or the amount determined under paragraph (3) of this subsection; and

''(ii) $10 for every day the veteran receives hospital care.

''(B) for nursing home care—

''(i) the lesser of the cost of furnishing such care, as determined by the Secretary, or the amount determined under paragraph (3) of this subsection; and

''(ii) $5 for every day the veteran receives nursing home care; and

''(C) for outpatient care, an amount equal to 20 percent of the estimated cost of care, as determined by the Secretary.

''(3)(A) In the case of hospital care furnished during any 365-day period, the amount referred to in paragraph (2)(A)(i) of this subsection is—

''(i) the amount of the inpatient Medicare deductible, plus

''(ii) one-half of such amount for each 90 days of care (or fraction thereof) after the first 90 days of such care during such 365-day period.

''(B) In the case of nursing home care furnished during any 365-day period, the amount referred to in paragraph (2)(B)(i) of this subsection is the amount of the inpatient Medicare deductible for each 90 days of such care (or fraction thereof) during such 365-day period.

''(C)(i) Except as provided in clause (ii) of this subparagraph, in the case of a veteran who is admitted for nursing home care under this section after being furnished, during the preceding 365-day period, hospital care for which the veteran has paid the amount of the inpatient Medicare deductible under this subsection and who has not been furnished 90 days of hospital care in connection with such payment, the veteran shall not incur any liability under paragraph (2)(B)(i) of this subsection with respect to such nursing home care until—

''(I) the veteran has been furnished, beginning with the first day of such hospital care furnished in connection with such payment, a total of 90 days of hospital care and nursing home care; or

''(II) the end of the 365-day period applicable to the hospital care for which payment was made,

whichever occurs first.

''(ii) In the case of a veteran who is admitted for nursing home care under this section after being furnished, during any 365-day period, hospital care for which the veteran has paid an amount under subparagraph (A)(ii) of this paragraph and who has not been furnished 90 days of hospital care in connection with such payment, the amount of the liability of the veteran under paragraph (2)(B)(i) of this subsection with respect to the number of days of such nursing home care which, when added to the number of days of such hospital care, is 90 or less, is the difference between the inpatient Medicare deductible and the amount paid under such subparagraph until—

''(I) the veteran has been furnished, beginning with the first day of such hospital care furnished in connection with such payment, a total of 90 days of hospital care and nursing home care; or

''(II) the end of the 365-day period applicable to the hospital care for which payment was made,

whichever occurs first.

''(D) In the case of a veteran who is admitted for hospital care under this section after having been furnished, during the preceding 365-day period, nursing home care for which the veteran has paid the amount of the inpatient Medicare deductible under this subsection and who has not been furnished 90 days of nursing home care in connection with such payment, the veteran shall not incure any liability under paragraph (2) of this subsection with respect to such hospital care until—

''(i) the veteran has been furnished, beginning with the first day of such nursing home care furnished in connection with such payment, a total of 90 days of nursing home care and hospital care; or

''(ii) the end of the 365-day period applicable to the nursing home care for which payment was made.

whichever occurs first.

''(E) A veteran may not be required to make a payment under paragraph (2)(A)(i) or paragraph (2)(B)(i) of this subsection for any days of care in excess of 360 days of care during any 365-calendar-day period.

''(4) Amounts collected or received on behalf of the United States under this subsection shall be deposited in the Treasury as miscellaneous receipts.

''(5) For the purposes of this subsection, the term 'inpatient Medicare deductible' means the amount of the inpatient hospital deductible in effect under section 1813(b) of the Social Security Act (42 U.S.C. 1395(b)) on the first day of the 365-day period applicable under paragraph (3) of this subsection.''.

**SEC. 103. EXPOSURE-RELATED TREATMENT AUTHORITIES.**

Section 1712 is amended to read as follows:

**"§ 1712. Treatment for veterans exposed to certain toxic substances or hazards**

''(a) Subject to subsections (b) and (c), and to the extent and in the amount provided in advance in appropriations acts for these purposes, the Secretary shall furnish hospital care and may furnish other health care to—

''(1) a veteran—

''(A) who served on active duty in the Republic of Vietnam during the Vietnam era, and

''(B) who the Secretary finds may have been exposed during such service to dioxin or was exposed during such service to a toxic substance found in a herbicide or defoliant used in connection with military purposes during such era,

for any disability, notwithstanding that there is insufficient medical evidence to conclude that such disability may be associated with such exposure;

''(2) a veteran who the Secretary finds was exposed while serving on active duty to ionizing radiation from the detonation of a nuclear device in connection with such veteran's participation in the test of such a device or with the American occupation of Hiroshima and Nagasaki, Japan, during the period beginning on September 11, 1945, and ending on July 1, 1946, for any disability, notwithstanding that there is insufficient medical evidence to conclude that such disability may be associated with such exposure; and

''(3) a veteran who the Secretary finds may have been exposed while serving on active duty in the Southwest Asia theater of operations during the Persian Gulf War to a toxic substance or environmental hazard for any disability, notwithstanding that there is insufficient medical evidence to conclude that such disability may be associated with such exposure.

''(b) Hospital and health care may not be provided under subsection (a) with respect to a disability that is found, in accordance with guidelines issued by the Under Secretary for Health, to have resulted from a cause other than an exposure described in paragraph (1), (2), or (3) of subsection (a) in the case of a veteran described in the applicable paragraph.

''(c) Hospital and health care may not be provided—

''(1) after December 31, 1996, in the case of a veteran described in paragraph (1) of subsection (a); and

''(2) after September 30, 1997, in the case of a veteran described in paragraph (3) of subsection (a).''.

**SEC. 104. MENTAL HEALTH SERVICES AND BEREAVEMENT COUNSELING FOR FAMILY MEMBERS.**

Chapter 17 is amended by adding the following new section:

**"§ 1712C. Mental health services and bereavement counseling for family members**

''(a) If necessary for the effective treatment and rehabilitation of a patient who is either a veteran or a dependent or survivor receiving care under the last sentence of section 1713(b), the Secretary may furnish the services described in subsection (b) to members of the immediate family of the patient, the patient's legal guardian, or the individual in whose household such patient certifies an intention to live.

''(b) The services referred to in subsection (a) are—

''(1) consultation, professional counseling, and training as necessary in connection with the treatment of any disability of a patient receiving outpatient care for a physical condition;

''(2) mental health services, consultation, professional counseling, and training as necessary in connection with the treatment of a patient receiving hospital care for any disability, or receiving outpatient care for a service-connected mental health condition;

''(3) mental health services, consultation, professional counseling, and training as necessary in connection with the treatment of a patient receiving outpatient care for a nonservice-connected mental health condition, but only if the patient's treatment for the mental health condition was begun during a period of hospitalization and the services to the family member, guardian, or other person were commenced prior to the patient's discharge from such period of hospital care.

''(c) The Secretary may furnish counseling services for a limited period to any individual who was a recipient of services under subsection (a) of this section at the time of—

''(1) the unexpected death of the veteran; or

''(2) the death of the veteran while the veteran was participating in a hospice program (or a similar program) conducted by the Secretary,

if the Secretary determines that furnishing such services would be reasonable and necessary to assist such individual with the emotional and psychological stress accompanying the veteran's death.''.

**SEC. 105. CONSOLIDATION OF SPECIAL AUTHORITIES PERTAINING TO PROSTHETIC DEVICES, AIDS FOR THE BLIND, AND AIDS FOR THE HEARING IMPAIRED.**

Section 1714 is amended—

(1) by amending the heading to read as follows:

**"§ 1714. Prosthetic devices and aids for the blind and hearing impaired";**

(2) by designating subsection (b) as subsection (d) and inserting after subsection (a) the following new subsections (b) and (c):

''(b) The Secretary may procure medical equipment, prosthetic devices and similar appliances furnished under section 1710 or subsections (d) and (e) of this section by purchase or by manufacture, whichever the Secretary determines may be advantageous and reasonably necessary.

''(c) The Secretary may repair or replace any prosthetic or orthotic device or similar appliance (not including dental appliances) reasonably necessary to a veteran and belonging to such veteran which was damaged or destroyed by a fall or other accident caused by a service-connected disability for which such veteran is in receipt of, or but for the receipt of retirement pay would be entitled to, disability compensation.''; and

(3) by adding at the end the following new subsection (e):

''(e) The Secretary may furnish devices for assisting in overcoming the handicap of deafness (including telecaptioning television decoders) to any veteran who is profoundly deaf and is entitled to compensation on account of hearing impairment.''.

**SEC. 106. DENTAL CARE.**

Section 1715 is amended to read as follows:

**"§ 1715. Dental care**

''(a) The Secretary may, within the limits of Department facilities, furnish a veteran receiving hospital, nursing home, or domiciliary care in a Department facility with—

''(1) any dental services and treatment, and related dental appliances necessary for continued safe and effective treatment of other disabilities for which the veteran is receiving care in the VA facility; and

''(2) any dental services and treatment for which the veteran is eligible under subsection (b) of this section.

''(b)(1) The Secretary may furnish outpatient dental services and treatment, and related dental appliances under this chapter only for a dental condition or disability—

''(A) which is service-connected and compensable in degree;

''(B) which is service-connected, but not compensable in degree, but only if—

''(i) the dental condition or disability is shown to have been in existence at the time of the veteran's discharge or release from active military, naval, or air service;

''(ii) the veteran had served on active duty for a period of not less than 180 days or, in the case of a veteran who served on active duty during the Persian Gulf War, 90 days immediately before such discharge or release;

''(iii) application for treatment is made within 90 days after such discharge or release, except that (I) in the case of a veteran who reentered active military, naval, or air service within 90 days after the date of such veteran's prior discharge or release from such service, application may be made within 90 days from the date of such veteran's subsequent discharge or release from such service, and (II) if a disqualifying discharge or release has been corrected by competent authority, application may be made within 90 days after the date of correction; and

''(iv) the veteran's certificate of discharge or release from active duty does not bear a certification that the veteran was provided, within the 90-day period immediately before the date of such discharge or release, a complete dental examination (including dental X-rays) and all appropriate dental services and treatment indicated by the examination to be needed.

''(C) which is a service-connected dental condition or disability due to combat wounds or other service trauma, or of a former prisoner of war;

''(D) which is associated with and is aggravating a disability resulting from some other disease or injury which was incurred in or aggravated by active military, naval, or air service;

''(E) which is a nonservice-connected condition or disability of a veteran for which treatment was begun while such veteran was receiving hospital care under this chapter and such services and treatment are reasonably necessary to complete such treatment;

''(F) from which a veteran who is a former prisoner of war and who was detained or interned for a period of not less than 90 days is suffering;

''(G) from which a veteran who has a service-connected disability rated as total is suffering; or

''(H) the treatment of which is medically necessary (i) in preparation for hospital admission, or (ii) for a veteran otherwise receiving care or services under this chapter.

''(2) The Secretary concerned shall at the time a member of the Armed Forces is discharged or released from a period of active military, naval, or air service of not less than 180 days or, in the case of a veteran who served on active duty during the Persian Gulf War, 90 days provide to such member a written explanation of the provisions of clause (B) of paragraph (1) of this section and enter in the service records of the member a statement signed by the member acknowledging receipt of such explanation (or, if the member refuses to sign such statement, a certification from an officer designated for such purpose by the Secretary concerned that the member was provided such explanation).

''(3) The total amount which the Secretary may expend for furnishing, during any twelve-month period, outpatient dental services, treatment, or related dental appliances to a veteran under this section through private facilities for which the Secretary has contracted under clause (1), (2), or (5) of section 1703(a) of this title may not exceed $1,000 unless the Secretary determines, prior

to the furnishing of such services, treatment, or appliances and based on an examination of the veteran by a dentist employed by the Department (or, in an area where no such dentist is available, by a dentist conducting such examination under a contract or fee arrangement), that the furnishing of such services, treatment, or appliances at such cost is reasonably necessary.

''(4)(A) Except as provided in subparagraph (B) of this subsection, in any year in which the President's Budget for the fiscal year beginning October 1 of such year includes an amount for expenditures for contract dental care under the provisions of section 1710(a) of this title (other than care for a veteran of the Mexican border period or of World War I, and a veteran who is in receipt of increased pension or additional compensation or allowances based on the need of regular aid and attendance or by reason of being permanently housebound (or who, but for the receipt of retired pay, would be in receipt of such pension, compensation or allowance)) and section 1703 of this title during such fiscal year in excess of the level of expenditures made for such purpose during fiscal year 1978, the Secretary shall, not later than February 15 of such year, submit a report to the appropriate committees of the Congress justifying the requested level of expenditures for contract dental care and explaining why the application of the criteria prescribed in section 1703 of this title for contracting with private facilities and in section 1715(a) of this title for furnishing incidental dental care to hospitalized veterans will not preclude the need for expenditures for contract dental care in excess of the fiscal year 1978 level of expenditures for such purpose. In any case in which the amount included in the President's Budget for any fiscal year for expenditures for contract dental care under such provisions is not in excess of the level of expenditures made for such purpose during fiscal year 1978 and the Secretary determines after the date of submission of such budget and before the end of such fiscal year that the level of expenditures for such contract dental care during such fiscal year will exceed the fiscal year 1978 level of expenditures, the Secretary shall submit a report to the appropriate committees of the Congress containing both a justification (with respect to the projected level of expenditures for such fiscal year) and an explanation as required in the preceding sentence in the case of a report submitted pursuant to such sentence. Any report submitted pursuant to this paragraph shall include a comment by the Secretary on the effect of the application of the criteria prescribed in section 1715(a) of this title for furnishing incidental dental care to hospitalized veterans.

''(B) A report under subparagraph (A) of this paragraph with respect to a fiscal year is not required if, in the documents submitted by the Secretary to the Congress in justification for the amounts included for Department programs in the President's Budget, the Secretary specifies with respect to contract dental care described in such subparagraph—

''(i) the actual level of expenditures for such care in the fiscal year preceding the fiscal year in which such Budget is submitted;

''(ii) a current estimate of the level of expenditures for such care in the fiscal year in which such Budget is submitted; and

''(iii) the amount included in such Budget for such care.

''(c) Dental services and related appliances for a dental condition or disability described in paragraph (1)(B) of subsection (b) of this section shall be furnished on a one-time completion basis, unless the services rendered on a one-time completion basis are found unacceptable within the limitations of good professional standards, in which event such additional services may be afforded as are required to complete professionally acceptable treatment.

''(d) Dental appliances, to be furnished by the Secretary under this section may be procured by the Secretary either by purchase or by manufacture, whichever the Secretary determines may be advantageous and reasonably necessary.''.

**SEC. 107. HOME IMPROVEMENTS AND STRUCTURAL ALTERATIONS.**

Section 1717 is amended to read as follows:

**''§ 1717. Home improvements and structural alterations**

''(a) The Secretary may furnish improvements and structural alterations to the home of a veteran if necessary for the effective and economical treatment of a disability of the veteran, but only if the improvements or alterations are necessary to assure the continuation of treatment or to provide the veteran access to the home or to essential lavatory and sanitary facilities.

''(b) The cost of improvements and structural alterations (or the amount of reimbursement therefor) furnished under subsection (a) may not exceed—

''(1) $4,100 if needed—

''(A) for treatment of a service-connected disability (including a disability that was incurred or aggravated in line of duty and for which the veteran was discharged or released from the active military, naval, or air service);

''(B) for any disability of a veteran who has a service-connected disability rated at 50 percent or more; and

''(C) to any veteran for a disability for which the veteran is in receipt of compensation under section 1151 of this title or for which the veteran would be entitled to compensation under that section but for a suspension pursuant to that section (but in the case of such a suspension, such medical services may be furnished only to the extent that such person's continuing eligibility for medical services is provided for in the judgment or settlement described in that section); and

''(2) $1,200 in all other cases.''.

**SEC. 108. FURNISHING MEDICATIONS PRESCRIBED BY NON-VA PHYSICIANS.**

Section 1719 is amended to read as follows:

**''§ 1719. Medications prescribed by non-VA physicians; immunization programs**

''(a) The Secretary shall, to the extent and in the amount provided in advance in appropriation acts for these purposes, furnish to each veteran who is receiving additional compensation or allowance under chapter 11 of this title, or increased pension as a veteran of a period of war, by reason of being permanently housebound or in need of regular aid and attendance, such drugs and medicines as may be ordered on prescription of a duly licensed physician as specific therapy in the treatment of any illness or injury suffered by such veteran: provided, that the Secretary shall continue to furnish such drugs and medicines so ordered to any such veteran in need of regular aid and attendance whose pension payments have been discontinued solely because such veteran's annual income is greater than the applicable maximum annual income limitation, but only so long as such veteran's annual income does not exceed such maximum annual income limitation by more than $1,000.

''(b) In order to assist the Secretary of Health and Human Services in carrying out national immunization programs under other provisions of law, the Secretary may authorize the administration of immunizations to eligible veterans who voluntarily request such immunizations in connection with the provision of care for a disability under this chapter in any Department health care facility. Any such immunization shall be made using vaccine furnished by the Secretary of Health and Human Services at no cost to the Department. For such purpose, notwithstanding any other provision of law, the Secretary of Health and Human Services may provide such vaccine to the Department at no cost. Section 7316 of this title shall apply to claims alleging negligence or malpractice on the part of Department personnel granted immunity under such section.''.

**SEC. 109. FURNISHING CARE IN COMMUNITY NURSING HOMES.**

Section 1720 is amended—

(1) in the heading by striking out the semicolon and all that follows;

(2) in subsection (a)(1)(A)(i), by striking out ''hospital care, nursing home care, or domiciliary'' and inserting in lieu thereof ''health'';

(3) by striking out subsection (a) and redesignating subsection (e) as subsection (d); and

(4) by striking out subsection (f).

**SEC. 110. FURNISHING RESIDENTIAL CARE.**

Section 1730 is amended—

(1) by redesignating subsections (a), (b), (c), (d), and (e) as subsections (b), (c), (d), (e), and (f), respectively;

(2) by inserting the following new subsection (a):

''(a)(1) The Secretary may furnish residential care to a veteran in receipt of hospital care in a VA facility when such care would be an alternative to continued hospital care.

''(2) The Secretary may only furnish care under paragraph (1) of this subsection through contracts with community residential-care facilities—

''(A) when the veteran has no resources to pay for the care, as determined by the Secretary in regulations; and

''(B) for a period not to exceed 90 days during any 12-month period.''.

(3) by amending subsection (b), as so redesignated, to read as follows:

''(b) Subject to this section and regulations to be prescribed by the Secretary under this section, the Secretary may assist a veteran who does not meet the requirement set forth in subsection (a)(2)(A) of this section by referring the veteran for placement in, and aiding the veteran in obtaining placement in, a community residential-care facility if—

''(1) at the time of initiating the assistance, the Secretary—

''(A) is furnishing the veteran hospital, domiciliary, nursing home, or outpatient care; or

''(B) has furnished the veteran such care or services within the preceding 12 months; and

''(2) placement of the veteran in a community residential-care facility is appropriate.''.

(4) in subsection (c), as so redesignated, by striking out ''subsection (a) of'' in paragraph (1), and by inserting ''community residential-care'' before ''facility'' the first time it appears in paragraph (2);

(5) in subsection (d), as so redesignated, by striking out ''(b)'' and inserting in lieu thereof ''(c)'';

(6) in subsection (e), as so redesignated, by striking out ''(b)'' and inserting in lieu thereof ''(c)'';

(7) in subsection (f), as so redesignated, by striking out ''(b)(2) or (c)(1)'' and ''(d)'' and inserting in lieu thereof ''(c)(2) or (d)(1)'' and ''(e)'';

(8) by striking subsection (g)

**SEC. 111. EXPANSION OF AUTHORITY TO SHARE HEALTH-CARE RESOURCES.**

(a) The text of section 8151 is amended to read as follows:

''It is the purpose of this subchapter to improve the quality of health care provided veterans under this title, by authorizing the Secretary to enter into agreements with

health-care providers in order to share health-care resources with, and receive health-care resources from those health care providers, provided there is no diminution of services to veterans. Among other things, it is intended by these means to strengthen the medical programs at Department facilities located in small cities or rural areas that are remote from major medical centers.''

(b) Section 8152 is amended—

(1) by striking out paragraphs (1) and (2) and redesignating paragraphs (3) and (4) as paragraphs (1) and (2), respectively; and

(2) by amending paragraph (1), as so redesignated, to read as follows:

''(1) The term 'health-care resource' includes health care as that term is defined in paragraph (5) of section 1701, any other health-care service, and any health-care support or administrative resource.''.

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

''(3) The term 'health-care providers' includes health-care plans, insurers, organizations, institutions, or any other entity or individual who furnishes any health-care resource.''.

(c) Section 8153 is amended—

(1) by amending the heading to read as follows:

**''§ 8153. Health-care resource sharing'';**

(2) by amending paragraph (1) of subsection (a) to read as follows:

''(a)(1) The Secretary may, when the Secretary determines it to be necessary in order to secure health-care resources which otherwise might not be feasibly available, or to effectively utilize health-care resources, make arrangements, by contract or other form of agreement, without regard to any law or regulation pertaining to competitive procedures, for the mutual use, or exchange of use, of health-care resources between Department health-care facilities and non-Department health-care providers.'';

(3) in subsection (c), by striking out ''hospital care and medical services'' and ''hospital care or medical services'' and inserting in lieu thereof ''health care'' in both places; and

(4) in subsection (d), by striking out ''hospital care and health services'' and inserting in lieu thereof ''health care''.

(5) by striking out subsection (e).

(d) The table of sections at the beginning of chapter 81 is amended by striking out the item relating to section 8153 and inserting in lieu thereof the following:

''8153. Health care resource sharing''.

**SEC. 112. AUTHORIZATION OF APPROPRIATIONS.**

Subchapter II of chapter 17 is amended by adding at the end the following new section:

**''§ 1720D. Authorization of appropriations**

There are authorized to be appropriated such sums as are necessary to carry out this subchapter.

**SEC. 113. CONFORMING AMENDMENTS.**

(a) Section 1703 is amended—

(1) by amending the section heading to read as follows:

**''§ 1703. Contracts for hospital and outpatient care'';**

(2) by striking out the words ''medical services'' wherever they appear and inserting in lieu thereof ''outpatient care'';

(3) in the first sentence of subsection (a), by striking out ''or services'' and ''or 1712'';

(4) by amending paragraph (2) of subsection (a) to read as follows:

''(2) Outpatient care for the treatment of any disability of—

''(A) a veteran with a service-connected disability rated at 50 percent or more;

''(B) a veteran who has been furnished hospital care, nursing home care, or domiciliary care, when reasonably necessary to complete treatment incident to such care for a period up to 12 months after discharge from such care unless the Secretary authorizes a longer period of care after finding that a longer period is required by reason of the disability being treated; or

''(C) a veteran of the Mexican border period or World War I, or a veteran who is in receipt of increased pension or additional compensation or allowances based on the need of regular aid and attendance or by reason of being permanently housebound (or who, but for the receipt of retired pay, would be in receipt of such pension, compensation, or allowance) if the Secretary has determined, based on an examination by a physician employed by the Department (or, in areas where no such physician is available, by a physician carrying out such function under a contract or fee arrangement), that the medical condition of such veteran precludes appropriate treatment in Department facilities.''; and

(5) by amending paragraph (5) of subsection (a) to read as follows:

''(5) Hospital care, or outpatient care for veterans in a State (other than the Commonwealth of Puerto Rico) not contiguous to the contiguous States.''.

(6) in paragraph (6) of subsection (a), by striking out ''to obviate the need for hospital admission''; and

(7) in paragraph (7) of subsection (a), by striking out ''1712(b)(1)(F)'' and inserting in lieu thereof ''1715(b)(1)(F)''.

(b) Section 1704 is repealed.

(c) Section 1711 is amended by striking ''medical services'' wherever it appears and inserting in lieu thereof ''outpatient care''.

(d) Section 1712A is amended—

(1) in subsection (b)(1), by striking ''1712(a)(5)(B)'' and inserting in lieu thereof ''1710'';

(2) in subsection (b)(2), by striking ''1701(6)(B)'' and inserting in lieu thereof ''1712C''; and

(3) in subsection (e)(1), by striking ''sections 1712(a)(1)(B) and'' and inserting in lieu thereof ''section'';

(e) Section 1713 is amended by striking out ''medical care'' each place it appears and inserting in lieu thereof ''health care''.

(f) Section 1718 is amended in subsection (e), by striking out ''1712(i) of this title'' and inserting ''1710(c)'' in lieu thereof.

(g) Section 1720A is amended—

(1) by striking out ''hospital, nursing home, and domiciliary care and medical rehabilitative services'' and inserting in lieu thereof ''health care''; and

(2) by striking out ''1995'' and inserting in lieu thereof ''1997''.

(h) Section 1720B is repealed.

(i) Section 1720D is redesignated as section 1720B.

(j) Section 1724 is amended—

(1) by amending the heading to read as follows:

**''§ 1724. Health care abroad'';**

and

(2) by striking out ''medical services'' wherever it appears and inserting in lieu thereof ''outpatient care''.

(k) Section 1727 is amended by striking out ''medical services'' and inserting in lieu thereof ''outpatient care''.

(l) Section 1728 is amended by striking out ''medical services'' and inserting in lieu thereof ''outpatient care''.

(m) Section 1734 is amended—

(1) by amending the heading to read as follows:

**''§ 1734. Health care in the United States'';**

and

(2) by striking ''hospital and nursing home care and medical services'' and inserting in lieu thereof ''health care''.

(n) The table of sections for subchapters I, II, and III and IV at the beginning of chapter 17 is amended to read as follows:

''Subchapter I—General

''Sec.
''1701. Definitions.
''1702. Presumption relating to psychosis.
''1703. Contracts for hospital and outpatient care.

''Subchapter II—Hospital, Nursing Home, or Domiciliary Care and Medical Treatment

''1710. Eligibility for health care.
''1711. Care during examinations and in emergencies.
''1712. Treatment for veterans exposed to certain toxic substances or hazards.
''1712A. Eligibility for readjustment counseling and related mental health services.
''1712B. Counseling for former prisoners of war.
''1712C. Mental health services and bereavement counseling for family members.
''1713. Medical care for survivors and dependents of certain veterans.
''1714. Prosthetic devices and aids for the blind and hearing impaired.
''1715. Dental care.
''1716. Hospital care by other agencies of the United States.
''1717. Home improvements and structural alterations.
''1718. Therapeutic and rehabilitative activities.
''1719. Medications prescribed by non-VA physicians; immunization programs.
''1720. Transfers for nursing home care.
''1720A. Treatment and rehabilitation for alcohol or drug dependence or abuse disabilities.
''1720B. Counseling and treatment for sexual trauma.
''1720C. Noninstitutional alternatives to nursing home care: pilot program.
''1720D. Authorization of Appropriations.

''Subchapter III—Miscellaneous Provisions Relating to Hospital and Nursing Home Care and Medical Treatment of Veterans

''1721. Power to make rules and regulations.
''1722. Income thresholds.
''1722A. Copayment for medications.
''1723. Furnishing of clothing.
''1724. Hospital care, medical services, and nursing home care abroad.
''1726. Reimbursement for loss of personal effects by natural disaster.
''1727. Persons eligible under prior law.
''1728. Reimbursement of certain medical expenses.
''1729. Recovery by the United States of the cost of certain care and services.
''1730. Community residential care.

''Subchapter IV—Hospital Care and Medical Treatment for Veterans in the Republic of the Philippines

''1731. Assistance to the Republic of the Philippines.
''1732. Contracts and grants to provide for the care and treatment of United States veterans by the Veterans Memorial Medical Center.
''1733. Supervision of program by the President.
''1734. Health care in the United States.
''1735. Definitions.''.

PART B—GENERAL PROGRAM ADMINISTRATION IMPROVEMENTS

**SEC. 120. MEANS TEST REFORM.**

(a) Section 1722 is amended to read as follows:

**''§ 1722. Income thresholds**

''(a)(1) For purposes of section 1710(c)(1)(D), section 1710(c)(1)(E) and section 1710(e), the

income threshold for the calendar year beginning on January 1, 1995, is—

''(A) $20,469 in case of a veteran with no dependents; and

''(B) $24,585 in the case of a veteran with one dependent; plus $1,368 for each additional dependent.

''(2) Effective on January 1, of each year after 1995, the amounts specified in paragraph (1) shall be increased by the percentage by which the maximum rates of pension were increased under section 5312(a) during the preceding calendar year.

''(b) For purposes of this chapter, the term 'attributable income of a veteran' means the income of a veteran for the previous year determined in the same manner as the manner in which a determination is made of the total amount of income by which the rate of pension for such veteran under section 1521 of this title would be reduced if such veteran were eligible for pension under that section.

''(c) If a veteran has attributable income greater than the applicable amount specified in subsection (a), but projections of the veteran's income for the current year are that it will be substantially below that amount, then to avoid a hardship to the veteran, the Secretary may deem the veteran to have an attributable income less than the applicable amount specified in subsection (a).

''(d) For the purposes of section 1724(c) of this title, the fact that a veteran is—

''(1) eligible to receive medical assistance under a State plan approved under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.);

''(2) a veteran with a service-connected disability; or

''(3) in receipt of pension under any law administered by the Secretary,

''shall be accepted as sufficient evidence of such veteran's inability to defray necessary expenses.''.

(b) Section 1722A(a)(3)(B) is amended by inserting ''attributable'' before ''income''.

**SEC. 121. VA RETENTION OF FUNDS COLLECTED FROM THIRD PARTIES.**

(a) Section 1729(g) is amended—

(1) in paragraph (3)(A) by striking ''1710(f) of this title for hospital care or nursing home care, under section 1712(f) of this title for medical services'' and inserting in lieu thereof ''1710(e) of this title for health care''.

(2) by amending paragraph (4) to read as follows:

''(4) Not later than January 1 if each year, there shall be deposited into the Treasury as miscellaneous receipts an amount equal to the amount of the unobligated balance remaining in the Fund at the close of business on September 30, the preceding year—

''(A) minus any part of such balance that the Secretary determines is necessary in order to enable the Secretary to defray, during the fiscal year in which the deposit is made, the expenses, payments, and costs described in paragraph (3); and

''(B) minus twenty-five percent of that part of such balance that exceeds the baseline in the President's Budget for third party deposits in that fund for that fiscal year, which shall be retained by VA and distributed to VA health care facilities for use in improving the quality of health care provided by those facilities.''.

TITLE II—BENEFIT PROGRAMS

PART A—LOAN GUARANTY PROGRAM

**SEC. 201. TERMINATION OF MANUFACTURED HOUSING LOAN PROGRAM.**

Section 3712 is amended—

(1) by striking out subsection (l) in its entirety;

(2) by redesignating subsection (m) as subsection (l); and

(3) by inserting after subsection (l), as so redesignated, the following new subsection:

''(m)(1) Except as provided in paragraph (2) of this subsection, no loan closed after September 30, 1995, may be guaranteed under this section.

''(2) Paragraph (1) of this subsection shall not apply to a loan described in subsection (a)(1)(F) of this section.''.

**SEC. 202. LOAN FEES.**

(a) Section 3729(a)(2) is amended—

(1) by striking out in subparagraph (A) ''or for any purpose specified in section 3712 (other than section 3712(a)(1)(F)) of this title'';

(2) by striking out in subparagraphs (B) and (C) ''(except for a purchase referred to in section 3712(a) of this title)'' each place it appears;

(3) by inserting ''or'' at the end of clause (i) of subparagraph (D);

(4) by striking out clause (ii) of subparagraph (D);

(5) by striking out in clause (iii) of subparagraph (D) ''(other than a purchase referred to in section 3712 of this title)''; and

(6) by redesignating clause (iii) of subparagraph (D) as clause (ii).

(b) The amendments made by this section shall take effect October 1, 1995.

**SEC. 203. CONTRACTING FOR PORTFOLIO LOAN SERVICES.**

(a) Subchapter III of chapter 37 is amended by inserting after section 3735 the following new section:

**''§ 3736. Portfolio loan servicing**

''(a) Notwithstanding the provisions of any other law, the Secretary is authorized to contract with a private entity for the servicing of loans made or acquired by the Secretary under this chapter. The contract may provide for the contractor to retain, as compensation for the work performed under such contract, a portion of the interest collected on such loans. A contract under this subsection may be for a term not in excess of 15 years.

''(b) For purposes of the Federal Credit Reform Act of 1990, the deduction from interest retained by a contractor as authorized by subsection (a) of this section shall be deemed to be a cost of a direct loan or the cost of a loan guarantee, and not an administrative expense.''.

(b) The table of sections at the beginning of such chapter is amended by inserting below the item relating to section 3735 the following new item:

**''3736. Portfolio loan servicing.''.**

PART B—EDUCATION PROGRAMS

**SEC. 210. ELECTRONIC SIGNATURES ON DOCUMENTS CONCERNING EDUCATION BENEFITS FOR VETERANS.**

(a) Section 3674(a)(3) is amended by inserting ''(A)'' before ''Each'' and by adding at the end the following new subparagraph (B):

''(B) The Secretary may require that any report or certification required by this subsection be submitted to the Department electronically by such means and in such format as the Secretary may prescribe, including a requirement for the use of a digital signature or other individually identified electronic designation of the reporting or certifying party on the electronic reports and certifications submitted. Such a digital signature or other electronic designation will be deemed to be the original signature of the reporting or certifying party.''.

(b) Section 3680(g) amended—

(1) by inserting ''(1)'' after the ''(g)'' at the beginning; and

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

''(2) The Secretary may require that any report or certification required under this section be submitted to the Department electronically by such means and in such format as the Secretary may prescribe, including a requirement for the use of a digital signature or other individually identified electronic designation of the reporting or certifying party on the electronic reports and certifications submitted. Such a digital signature or other electronic designation will be deemed to be the original signature of the reporting or certifying party.''.

(c) Section 3684 is amended by adding at the end the following new subsection:

''(d) For purposes of this section, the Secretary may require that any report or certification required by this section is to be submitted to the Department electronically by such means and in such format as the Secretary may prescribe, including a requirement for the use of a digital signature or other individually identified electronic designation of the reporting or certifying party on the electronic reports and certifications submitted. Such a digital signature or other electronic designation will be deemed to be the original signature of the reporting or certifying party.''.

(d) Section 5101 (a) is amended—

(1) by inserting ''(1)'' after the ''(a)'' at the beginning; and

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

''(2) The secretary is authorized to provide that a claim for education benefits under laws administered by the Department may be submitted to the Department electronically through an electronic terminal, telephone, computer or other electronic means in such manner as the Secretary may prescribe, including a requirement for the use of a digital signature or other individually identified electronic designation of the claimant on the electronic claim submitted by the claimant. Such a digital signature or other electronic designation will be deemed to be the individual claimant's original signature.''.

(e) Chapter 53 is amended—

(1) by adding at the end the following new section:

**''§ 5320. Verification of education benefits information**

''(a) The Department may utilize data electronically provided to the Department by any individual in initially establishing or verifying eligibility or continued eligibility of an individual for education benefits under laws administered by the Department. The data will be in the form prescribed by the Secretary.

''(b) Notwithstanding section 552a(o) and (p) of title 5, the Secretary may suspend, terminate, or reduce payments based on the data described in subsection (a) once the Secretary (1) informs the individual of the data provided electronically, (2) gives the individual an explanation of the procedures to contest such data, and (3) gives notice of the individual's right to appeal the decision in the same manner as applies to other information and findings relating to eligibility for or entitlement to the payment of such benefits.''; and

''(2) by amending the table of sections for such chapter by adding at the end the following new item:

**''§ 5320. Verification of education benefits information''.**

**SEC. 211. ELECTRONIC FUNDS TRANSFER FOR EDUCATION BENEFITS PAYMENTS.**

Section 5120(d) is amended—

(a) by striking out ''Notwithstanding'' and inserting in lieu thereof ''(1) Except as provided in paragraph (2) of this subsection, and notwithstanding''; and

(b) by adding a the end thereof the following new paragraph:

''(2)(A) Notwithstanding the provisions of section 3680(d)(4) of this title and subsection

(a) of this section, the Secretary is authorized to require, pursuant to an agreement with the Secretary of the Treasury under which the Secretary certifies such benefits for payment, that education benefits provided under laws administered by the Department be paid through electronic funds transfer, to include a program combining use of vouchers and federally established electronic benefit transfer accounts or any other electronic funds transfer program designated by the Secretary.

''(B) For purpose of this paragraph, the term ''electronic funds transfer'' means any transfer of funds, other than a transaction originated by cash, check or similar paper instrument, that is initiated through an electronic terminal, telephone, computer, or magnetic tape, for the purpose of ordering, instructing, or authorizing a financial institution to debit or credit an account.''.

SECTION BY SECTION ANALYSIS

SECTION 101—DEFINITIONS

Section 101 of the draft bill would amend 38 U.S.C. §1701, which defines a number of terms that are important for administering VA health care eligibility laws. The definitions of several terms are revised to make them simpler. In addition to revising definitions, the bill would add definitions of the terms ''health care'' and ''residential care'' to section 1701, and transfer definitions of terms into section 1701. For example, the definition of the term respite care is moved from section 1720B.

*Definition of health care*

The term ''health care'' is at the heart of the reformed eligibility system established by other provisions of the draft bill. The definition of the term first states that it means the most appropriate care and treatment of the patient, furnished in the most appropriate setting. The definition further states that the term ''health care'' includes all of the generally accepted modes of health care that VA furnishes to veterans. Thus, the term is defined as including hospital care, nursing home care, domiciliary care, outpatient care, rehabilitative care, home care, respite care, preventive care, and dental care. The definition also states that health care includes pharmaceuticals, supplies, equipment, devices, appliances and other necessary materials. The intent of that language is to include all of the different types of medical equipment, prosthetic and orthotic devices, and other supplies the Department now furnishes to veterans, many of which are included in the current definition of the term ''medical services.''

*Definition of hospital care, nursing home care and outpatient care*

Section 1701 would also include specific definitions of the various terms used in the definition of health care. Included are definitions of hospital care, nursing home care, and outpatient care. Each of those three terms are defined simply and it is intended that they carry the same meanings that are commonly understood in the medical community.

*Definition of domiciliary care*

A new definition of the term ''domiciliary care'' is added to section 1701. It provides that such care is applicable only to veterans with no adequate means of support. That language is intended to continue in effect one of the eligibility requirements for domiciliary care that is now included in 38 U.S.C. §1710(b).

*Definition of rehabilitative care*

The definition of the term ''rehabilitative care'' remains unchanged from existing law.

*Definition of home care*

The bill would add a definition of the term ''home care'' to section 1701. The definition intentionally limits home care to health services and does not include health-related services such as homemaker or social support services. The definition also includes language stating that the term does not include care or services that any other person or entity has a contractual or legal obligation to furnish. The purpose of that language is to ensure that VA not be required to furnish home care to a veteran who resides in a board and care facility, a residential care facility, a nursing home, or other institution where the institution has a legal or contractual responsibility to provide the type of care included in home care.

*Definition of residential care*

The bill would add a definition of the term residential care to section 1701 referring to the new type of residential care which would be authorized in section 1730. The definition is patterned on the definition of the term ''community residential-care'' that is now included in 38 U.S.C.§1730(f). The term would be defined as the provision of room and board and such limited personal care and supervision of residents as the Secretary determines, in regulations, is needed for the health, safety and welfare of residents. The definition of ''community residential-care'' now in 1730 would be deleted. In lieu of that, the new definition would provide that community residential care is simply residential care furnished in a non-VA facility.

*Definition of respite care and preventive health services*

Section 101 would add a definition of the term ''respite care'' to section 1701 that is essentially the same as the definition of that term now included in 38 U.S.C. §1720B. Section 101 would also revise the definition of preventive health services to make it somewhat shorter and more concise then the existing definition.

SECTION 102—BASIC HEALTH CARE ELIGIBILITY

Section 102 of the draft bill would completely revise 38 U.S.C. §1710. The revised section 1710 would become the basic eligibility provision for most of the conventional health care benefits VA furnishes, including hospital, nursing home, domiciliary, and outpatient care.

*Authority to furnish health care*

Subsection (a) of the revised section 1710 would provide that the Secretary ''shall'' furnish certain veterans with needed health care, subject to specified conditions and limitations, and ''may'' furnish such care to other veterans. Those veterans to whom the Secretary ''shall'' furnish care, those with so-called mandatory eligibility, would generally be the same as those who currently have mandatory eligibility for VA hospital care under the current 38 U.S.C. §1710(a)(1). Those veterans are commonly referred to as category A veterans, and include veterans having service-connected disabilities, former prisoners of war, World War I veterans, and nonservice-connected veterans with incomes below the statutorily established income threshold commonly referred to as the means test threshold. Subsection (a)(1) of the revised section 1710 specifically provides that the requirement that the Secretary ''shall'' furnish health care would not apply to dental care, nursing home care, home care, respite care and domiciliary care. Those veterans to whom the Secretary ''may'' furnish health care under the bill would be the so-called category C veterans, generally those having no service-connected disabilities who have incomes above the means test income threshold.

Because ''health care'' is defined in section 1701 as including outpatient care, the revised section 1710 would have the effect of completely eliminating the currently existing requirements that VA furnish outpatient care to many veterans only if it is needed as pre-hospital care, post-hospital care, or to obviate the need for hospital care. Additionally, the changes would permit the Department to furnish needed prosthetic and orthotic devices to any veteran eligible for health care regardless of whether care is furnished on an inpatient or outpatient basis.

Subsection (a) of the revised section 1710 would also make the provision of all health care subject to the prioritization scheme described in subsection (d) of the revised section 1710. Finally, subsection (a) would include language explicitly providing that the Department shall furnish care only to the extent that Congress appropriates funds for that purpose in advance of delivering the care.

*Authority to furnish nursing home, domiciliary, respite and home care*

Subsection (b) of the revised section 1710 would provide that the Secretary ''may'' furnish needed nursing home care, home care, respite care, and domiciliary care to any veteran, subject to the limits of available resources, and subject to the same priority scheme described in subsection (d). Under current law, all veterans have so-called discretionary eligibility for nursing home care, and that is unchanged. However, the language making the provision of nursing home, domiciliary, respite and home care subject to available resources, and subject to a priority scheme is new.

*Priorities for the purpose of furnishing health care*

Subsection (c) of the revised section 1710 would require the Secretary to furnish health care benefits in accordance with specified priorities. The provision would apply to nearly all health-care benefits VA furnishes. Subsection (c) would set up five priority groups. It further provides that the Secretary could, by regulation, establish additional priorities within each statutory priority group.

*Priority group one*

The first priority group includes veterans with compensable service-connected disabilities and former prisoners of war. In addition, this group includes two smaller categories of veterans, those discharged from the military for a service-related disability, but who for various reasons have not sought service-connection, and those injured as a result of care rendered by VA who are receiving benefits under 38 U.S.C. §1151.

*Priority group two*

The second priority group includes veterans who receive certain specialty care under one of the following four special treatment authorities.

1. Veterans receiving care for disabilities which may possibly be associated with exposure to herbicides (such as Agent Orange) in Vietnam, to radiation during nuclear weapons testing, or as a result of the bombing of Hiroshima and Nagasaki, Japan, or to environmental hazards or other toxins in the Persian Gulf. A revised section 1712 would be the basic authority for this care.

2. Veterans receiving readjustment counseling. Section 1712A is the basic authority for this care.

3. Veterans receiving increased pension or compensation benefits because they are housebound or in need of aid and attendance, who obtain medication from VA based on prescriptions written by their private physicians. A revised section 1719 would be the authority for the Department to furnish the medication.

4. Veterans receiving sexual trauma counseling. A revised section 1720 would provide authority for this counseling.

*Priority group three*

The third priority group includes veterans with service-connected disabilities rated 0%, veterans of the Mexican Border period, veterans of World War I, and veterans receiving increased pension based on the need of regular aid and attendance or by reason of being permanently housebound.

*Priority group four*

The fourth priority group includes nonservice-connected veterans with incomes below the current means test income thresholds who also sign a declaration that their family net worth does not exceed $50,000. The income thresholds are the same as those now in effect, which are set forth in 38 U.S.C. §1722. For calendar year 1995, they are $20,469 for a single veteran, $24,585 for a veteran with one dependent, and $1,368 for each additional dependent. If the veteran's net worth exceeds $50,000, or the veteran refuses to sign a declaration that it is less than that amount, the veteran is included in priority group five described below. This fourth priority group also includes veterans receiving screening, counseling, and treatment for sickle cell anemia under 38 U.S.C. §1751.

*Priority group five*

The fifth priority group includes nonservice-connected veterans with incomes above the current means test income thresholds. It also includes nonservice-connected veterans with incomes below that level, but who have family net worth in excess of $50,000, or who refuse to sign a declaration that net worth is less than that amount.

*Care furnished by other Government entities*

Subsection (d) of the revised section 1710 is identical to subsection (g) in the current section 1710, which provides that VA is not obligated to provide care to veterans, such as those who are incarcerated, to whom another governmental entity is legally obligated to furnish care.

*Copayments*

Subsection (e) of the revised section 1710 retains the currently existing copayment structure with one substantive change. Generally, veterans with incomes above the means test income thresholds must agree to pay copayments amounting to the Medicare deductible for each 90 days of care, and must pay per diem amounts of $10 for each day of hospital care and $5 for each day of nursing home care. The first substantive change has to do with the outpatient care copayment. Currently, veterans required to pay a copayment must pay 20% of the average cost of an outpatient visit. Subsection (e) would change that to provide that veterans pay 20% of the estimated cost of the care. The change would be made to bring copayments more in line with the actual cost of furnishing care.

*Furnishing inpatients with dental and outpatient care*

Two provisions now included in section 1710(c) would be deleted from the revised section 1710. The first provision permits the Department to furnish dental care to inpatients when needed to continue safe and effective treatment of other disabilities for which the veteran is receiving care. That provision has been simplified and included as subsection (a) of the revised section 1715, which is the section concerned with dental care. The second provision pertains to furnishing outpatient care to inpatients. It has been deleted because it would be unnecessary with the other changes in law the bill would make it simplify eligibility for outpatient care.

SECTION 103—AGENT ORANGE, RADIATION, AND PERSIAN GULF TREATMENT AUTHORITIES

Section 103 would completely revise the current 38 U.S.C. §1712, which now provides the Department with authority to furnish outpatient care. Much of the language in the current section 1712 is unnecessary given the changes in basic eligibility for outpatient care and would be deleted. Language in the current section that must be retained is transferred to other sections in chapter 17. Finally, the so-called Agent Orange, Radiation, and Persian Gulf treatment authorities would be moved from the current section 1710(e) to the revised section 1712.

*Deletion of current outpatient eligibility rules*

Subsection (a) of the current section 1712 now includes all of the eligibility requirements that pertain to outpatient medical services. Under the proposed eligibility scheme, encompassed in the revised section 1710, which would authorize the Secretary to furnish all needed health care, including outpatient care, there is no need for any of those existing requirements. Accordingly, section 103 of the bill would delete them. The rules in question are those which provide that the Secretary shall furnish outpatient medical services to certain veterans, and may furnish such services to other veterans. They are also the requirements which limit outpatient care in certain cases to that needed as pre-hospital care, post-hospital care, or to obviate the need for hospital care. A priority scheme now set forth in subsection (i) of section 1712 would also be deleted as unnecessary because the proposed new section 1710 includes priority provisions. Finally, the copayment provisions applicable to VA's furnishing outpatient care, now set forth in subsection (f) of section 1712, have been moved to the proposed new subsection (e) of section 1710.

*Outpatient dental care requirements*

The current section 1712 also includes eligibility requirements which pertain to VA provision of outpatient dental services. The draft bill would make no changes in those requirements. However, the bill would move all of the dental provisions now included in section 1712(b), (c), (d), and (e) to a new section 1715, which would be entitled ''Dental care.''

*Privately prescribed medications and immunizations*

Two other provisions included in the current section 1712 would also be retained, but moved to another section. First, subsection (h) of the existing 1712 authorizes the Secretary to fill prescriptions written by non-VA physicians for veterans who are receiving increased pension or compensation benefits because they are housebound or in need of aid and attendance. Second, subsection (j) of the current section 1712 authorizes the Secretary to provide immunizations to veterans as part of national immunization programs administered by the Department of Health and Human Services. The provisions of subsections (h) and (j) would be moved to a new section 1719, which would be entitled ''Medications prescribed by non-VA physicians; immunization programs.''

*Agent Orange, radiation, and Persian Gulf*

In place of other provisions deleted or transferred from section 1712, the draft bill would insert in section 1712 provisions now set forth in subsection (e) of section 1710. The provisions provide authority for VA to treat disabilities which may possibly be associated with exposure to herbicides, such as Agent Orange, during service in Vietnam, exposure to ionizing radiation from nuclear testing or in post-War Japan, and exposure to environmental hazards and contaminants in the Persian Gulf area. The provisions would be transferred from the current section 1710, generally without substantive legal change.

The revised section 1712 would, however, extend the time period during which VA would have authority to provide the treatment under that section. Under current law, the Department's authority to provide care for those exposed to herbicides in Vietnam or to ionizing radiation expires on June 30, 1995. The draft bill would extend the herbicide treatment authority through December 31, 1996, and would make the ionizing radiation authority permanent. The Department currently may provide care for those exposed to toxic substances or environmental hazards in the Persian Gulf through December 31, 1995. The draft bill would extend that authority through September 30, 1997.

SECTION 104—MENTAL HEALTH SERVICES AND BEREAVEMENT COUNSELING FOR FAMILIES

Section 104 would add a new section 1712C entitled ''Mental health services and bereavement counseling for family members.'' Under current law, those services are authorized via the definition of medical services. All of the details and limits on the Department's furnishing the services are presently contained in the definitions of ''hospital care'' and ''medical services'' in the current section 1701. Those definitions would be revised under this bill, as discussed above, and written much more simply. The content of the old definitions related to mental health services and bereavement counseling for family members is being transferred to the new section. The counseling and other services would be furnished under the new section 1712B, not as a form of health care under the proposed new section 1710. However, there would be no substantive change in existing authority to furnish the services.

SECTION 105—SPECIAL AUTHORITIES RELATED TO FURNISHING PROSTHETIC DEVICES, AND AIDS FOR THE BLIND AND HEARING IMPAIRED

Section 105 would amend 38 U.S.C. §1714, which currently authorizes VA to furnish veterans who receive a prosthetic appliance from VA with proper fitting of the device, and training in it use. It further authorizes guide dogs and devices and appliances for the blind. Section 105 would retain those existing provisions in section 1714, and add other provisions, now located in other parts of chapter 17, to the section. The proposed new section 1714 would not include any authority that does not already exist in chapter 17 of title 38.

*Devices for the hearing impaired*

Section 1717(c) currently contains authority for VA to furnish devices to assist veterans in overcoming the handicap of deafness. Section 105 would transfer that language to section 1714, where it more logically belongs.

*Repair of prosthetic devices*

Section 1719 currently authorizes VA to repair or replace prosthetic appliances and other medical equipment and devices damaged by a fall or accident caused by a service-connected disability. Section 105 would transfer that language to section 1714.

*Acquisition of prosthetic devices*

Language now included in 38 U.S.C. §1712(d), which authorizes the Secretary to purchase or manufacture medical equipment, prosthetic devices, and similar appliances, would be transferred to section 1714.

SECTION 106—DENTAL CARE

*Abolition of authority to furnish tobacco*

Section 106 would completely revise 38 U.S.C. §1715. Currently, that section authorizes the Secretary to furnish tobacco to veterans receiving hospital or domiciliary care. Because it is Departmental policy that tobacco ordinarily not be used in health-care facilities, section 106 would repeal the authority to furnish tobacco. In its place, section 106 would place in section 1715 all of the

eligibility requirements governing VA's provision of dental care, which are now contained in subsection (c) of section 1710, and subsections (b), (c), and (d) of section 1712.

*Inpatient dental care*

Language currently in subsection (c) of section 1710 permits the Department to furnish dental care to inpatients when needed to continue safe and effective treatment of other disabilities for which the veteran is receiving care. That provision has been simplified and included as subsection (a) of the revised section 1715. Additionally, subsection (a) would authorize the Secretary to furnish inpatients with any other dental care for which they would be eligible to receive on an outpatient basis.

*Outpatient dental care*

Currently, VA has very detailed eligibility requirements governing the provision of dental care on an outpatient basis. Those requirements are set forth in subsections (b), (c), and (d) of section 1712. Section 106 of this bill would transfer the language now in section 1712 into section 1715, virtually unchanged. No substantive legal changes in the eligibility requirements for outpatient dental care are intended.

SECTION 107—HOME IMPROVEMENTS AND STRUCTURAL ALTERATIONS

*Deletion of home care provisions*

Section 107 would revise 38 U.S.C. §1717. Section 1717 currently authorizes the Department to furnish home health services as a form of outpatient medical services. The section further provides that the department may furnish certain veterans home improvements and structural alterations as a form of home health services. Section 107 would delete the references to home health services. The language is unnecessary because home health care is included in the new definition of ''health care'' in the revised section 1701, and such care would be furnished pursuant to section 1710. However, the language regarding the furnishing of home improvements and structural alterations would be retained in section 1717.

*Home improvements and structural alterations*

The current language in section 1717 pertaining to home improvements and structural alterations would be revised somewhat so that it provides stand alone authority for the improvements and alterations. The improvements and alterations would not be a form of outpatient care, as is now the case. Rather, section 1717 would be the authority for the benefit. All of the existing limits on furnishing home improvements and structural alteration would be retained without change.

*Invalid lifts and therapeutic and rehabilitative devices*

Section 1717 currently contains authority for furnishing certain veterans with invalid lifts and therapeutic and rehabilitative devices. That authority is now largely duplicative of other authority to furnish the items as a form of medical services. Section 107 would delete the authority as it is unnecessary. The definition of ''health care'' in the revised section 1701 would include the lifts and devices, and the Secretary's authority to furnish health care would provide authority to furnish such items.

*Aids for the hearing impaired*

Section 1717(c) currently contains authority to furnish devices to assist veterans in overcoming the handicap of deafness. Section 105 of the draft bill would transfer that authority without change to the proposed new section 1714.

SECTION 108—PRIVATELY PRESCRIBED MEDICATIONS AND IMMUNIZATIONS

Section 108 would completely revise 38 U.S.C. §1719. That section currently authorizes VA to repair or replace prosthetic appliances and other medical equipment and devices damaged by a fall or accident caused by a service-connected disability. Section 105 of the draft bill would transfer that authority to section 1714. In its place, section 108 would insert two authorities now included in section 1712. The first is authority for the Secretary to fill prescriptions written by non-VA physicians for veterans who are receiving increased pension or compensation benefits because they are housebound or in need of aid and attendance. The second is authority for the Secretary to provide immunizations to veterans as part of national immunization programs administered by the Department of Health and Human Services. Those two authorities are currently included in subsections (h) and (j) of section 1712.

SECTION 109—COMMUNITY NURSING HOME CARE

Section 109 would amend 38 U.S.C. §1720, VA's authority to contract for nursing home care. The changes would permit VA to directly admit a nonservice-connected veteran to a contract community nursing home. Under current law, only service-connected veterans may be admitted directly. Additionally, section 109 would delete obsolete language in section 1720 which authorizes VA to furnish veterans with adult day health care. That special authority to furnish adult day health care expired in 1991. More importantly, the definition of the term ''health care'' which would be added to section 1701 would include adult day health care.

SECTION 110—RESIDENTIAL CARE

Section 110 would revise 38 U.S.C. §1730, which now authorizes a community residential care program under which VA refers veterans to board and care homes that the veterans pay for with their own resources, often VA monetary benefits such as compensation or pension. The draft bill would add a new subsection (a) to section 1730 to authorize VA to furnish such care to certain veterans. The authority to provide the care would be completely discretionary, and quite limited. The Secretary could authorize transfer of a veteran into such care only if the veteran is actually receiving VA hospital care in a VA facility, and the residential care is an alternative to continued hospital care. Moreover, such a transfer could be authorized only when the veteran has no resources to pay for the services. During the period of time that a veteran is receiving residential care, VA officials would be undertaking efforts to assist the veteran in securing alternative funding, such as public assistance, for the care of the veteran. Care would be furnished on a contract basis, and could continue for no more than 90 days in any year.

The amendments made by section 110 would not alter the existing community residential care referral program. Veterans who qualify for that program could not qualify for the proposed new program under which VA pays for the care because they would have alternative arrangements for payment for the care. Thus, they could not meet the eligibility requirements of the new program.

SECTION 111—SHARING HEALTH CARE RESOURCES

Section 111 would amend three sections in chapter 81 of title 38 that authorize VA's program to share health-care resources. The provisions would expand VA's ability to obtain health-care resources to serve the needs of veterans in the changing health care environment. Changes to these sections would facilitate the successful implementation of the reformed eligibility system that other sections of the draft bill would establish. The amendments would allow VA to more easily acquire services for veterans, and would permit VA to provide health care services to other providers in the community when it would be beneficial to both parties, and when there would be no diminution of services to veterans.

*Basic sharing authority*

Subsection (b) of section 111 would amend 38 U.S.C. §8153, VA's basic sharing authority, to allow VA to share a wider array of resources with a wider array of other care providers than is now the case. It would delete language in that section which lists the different types of providers with whom the Department may share, and in lieu thereof, would authorize sharing with ''health care providers.'' It would also allow VA to share any ''health care resource.''

*Definitions*

Section 111(c) would add to 38 U.S.C. §8152, a definition of the term ''health-care providers'' which would include insurers, health care plans, and any organization, entity, or individual that furnishes health care resources. VA currently lacks authority to share with insurers and with individuals such as physicians or other solo providers. It would also add a definition of ''health-care resources.'' The term would be defined to include health care as defined in section 1701, as well as any other health-care service, and any other health-care support or administrative resource. Under existing law VA is limited to sharing ''specialized medical resources.''

Finally, section 111(a) would amend 38 U.S.C. §8151, which states the purpose of VA's sharing program, so that it conforms with the changes which would be made by subsections (b) and (c).

SECTION 112—AUTHORIZATION OF APPROPRIATIONS

Section 112 would add a new section 1720D to subchapter II of chapter 17 of title 38, United States Code, authorizing appropriations of such sums as are necessary to carry out the subchapter.

SECTION 113—CONFORMING AMENDMENTS

Section 113 would amend fourteen different sections in chapter 17 to make conforming changes needed as a result of other amendments made by the bill. The section would repeal two currently existing sections. Section 1720B, which authorizes respite care, would be repealed. Respite care would be provided as a form of health care. The bill would also repeal section 1704, which requires VA to submit an annual report on the provision of preventive health services. Finally, the current section 1720D, which authorizes a sexual trauma counseling program, would be redesignated as section 1720B.

SECTION 120—MEANS TEST REFORM

Section 120 would amend 38 U.S.C. §1722 to simplify administration of VA's health care benefits ''means test.'' VA uses the means test to determine both a veteran's priority for receiving VA health care and whether a veteran must agree to pay certain copayments in exchange for care.

*Income thresholds*

The draft bill would first amend subsection (a) of section 1722. It would abolish use of the term ''unable to defray the expenses of necessary care.'' The subsection would simply state that for purposes of the eligibility provisions and priority provisions of section 1710, certain income thresholds shall apply. The thresholds would be unchanged from those currently in effect for distinguishing between category A (higher priority veterans) and category C (lower priority veterans) veterans. As under existing law, the thresholds would be increased each year by the

same percentage that rates of pension are increased.

*Net worth*

Section 120 of the bill would strike language in the currently existing section 1722(d) which provides for consideration of net worth in making the determination of whether a veteran is unable to defray the cost of care. That language is unnecessary due to language included in the proposed new section 1710(c)(1)(D), and its elimination will make administration of the means test much easier and less costly. The language in section 1710(c)(1)(D) would provide that a nonservice-connected veteran eligible for health care on the basis of low income must sign a declaration that family net worth does not exceed $50,000. If the veteran does not sign such a declaration, that veteran would have lower priority, and would be required to make copayments. The $50,000 figure is used because that is the figure VA now uses under the existing net worth test to trigger a review of a veterans net worth to determine whether a part of net worth should be used to help defray the costs of care.

SECTION 121—VA RETENTION OF THIRD PARTY COLLECTIONS

*Third party collections*

Section 121 would amend 38 U.S.C. §1729, the section which allows VA to recover the cost of care it provides to veterans from third parties, particularly insurance companies. Under current law, VA returns to the Treasury all amounts that it collects from third parties, less the costs of collection. Each year, the President's Budget anticipates that VA will collect a certain amount, referred to as the baseline. As an incentive to collect even more, section 121 would amend subsection (g) of section 1729 to permit VA to retain 25 percent of the amounts it collects over and above the baseline amount. The provision further provides that VA must use the additional amounts it would retain for improving the quality of health care furnished by VA facilities.

SECTION 201—MANUFACTURED HOUSING LOAN PROGRAM

Section 201 would terminate VA's authority to guarantee a loan for the purchase of a manufactured home. Any such loan closed after September 30, 1995, would not be eligible for guaranty. An exception would be made for a loan to refinance an existing VA guaranteed manufactured loan with a new loan at a lower interest rate. Under existing law, which remains unchanged a veteran may not receive cash under an interest rate reduction refinancing loan.

Section 201 would also repeal the requirement that the Secretary's annual report to the Congress contain information about VA manufactured home loans, and make other technical and conforming amendments.

SECTION 202—LOAN FEES

Section 202 would make technical and conforming amendments, consistent with the termination of the manufactured housing loan program as proposed by section 201 of this bill, to Section 3729 of title 38, United States Code, relating to the fee veterans and other borrowers and assumers pay to VA for housing loans. No change would be made in the amount of existing fees.

These amendments would take effect October 1, 1995.

SECTION 203—CONTRACTING FOR PORTFOLIO LOAN SERVICES

Section 203(a) would add a new section 3736 to title 38, United States Code, which would authorize VA to contract with a private firm to service VA portfolio loans. The term ''portfolio loans'' includes loans made by VA *e.g.*, in connection with the sale of VA acquired properties, known as ''vendee loans,'' and direct loans to Native American veterans. It also includes guaranteed loans of which VA took an assignment, a procedure commonly referred to as ''refunding.'' VA would permit the contractor to retain a portion of the interest collected on the loans as payment for services rendered. This would permit VA to have the contract bid for ''basis points'' in a manner similar to servicing contracts used in the private sector.

VA would be permitted to let a servicing contract for up to 15 years. Current Federal contract law generally limits contracts to a 5-year term.

This section would also provide that, for budgeting purposes under the Federal Credit Reform Act of 1990, the cost of a servicing contract authorized by this section would be treated as a cost of the loan or loan guaranty, and not as an administrative expense.

Section 203(b) would make a conforming amendment to the table of sections for chapter 37 of title 38.

SECTION 210—ELECTRONIC SIGNATURES FOR EDUCATION BENEFITS

Section 210 would amend several provisions of title 38, United States Code, to clarify that claimants for VA education benefits, State approving agencies, and schools may transmit documents with their signature electronically to permit VA to award benefits. These electronic documents, submitted in the regular course of business, would be accepted as the legal equivalent of a signed, written, paper document. As such, they could be used to make benefits determinations in an expedited manner with reduced errors.

SECTION 211—ELECTRONIC FUNDS TRANSFER FOR EDUCATION BENEFITS PAYMENTS

Section 211 would amend section 5120(d) of title 38, United States Code, to authorize VA to implement, under an agreement with the Treasury, a system requiring that payment of educational assistance allowances under all education benefits programs administered by VA would be made by electronic funds transfer. The amendment defines ''electronic funds transfer'' (EFT) to include the various electronic systems and devices prevalent today for such purposes, as distinguished from transactions originated by cash, check, or other paper instrument.

VA would be required to develop a plan for phasing in the conversion from a paper instrument to an EFT system for education benefits payments, and would be given discretionary authority to prescribe regulations needed to implement the EFT system. Such regulations may include authority to modify any provision of the EFT system designated by the Secretary, as well as to waive or modify the system's application in circumstances where it would be impractical.

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SECRETARY OF VETERANS AFFAIRS,
*Washington, DC, September 12, 1995.*

Hon. AL GORE,
*President of the Senate,*
*Washington, DC.*

DEAR MR. PRESIDENT: We are transmitting a draft bill, ''To amend title 38, United States Code, and various other statutes, to reform eligibility for Department of Veterans Affairs health-care benefits, improve the operation of the Department, and improve the processes and procedures the Department uses to administer various benefit programs for veterans; and for other purposes.''

In 1993, the Administration, led by Vice President Gore, launched its effort to improve Federal Government operations through the ''reinventing government'' program. This year, in phase II of that effort, VA examined its basic missions, reviewed its major programs, and developed several exciting initiatives to enable the Department to better serve veterans, and serve them in a cost-effective manner. Several of those initiatives can be implemented only through enactment of legislation. This draft bill would provide the needed changes in law.

HEALTH-CARE ELIGIBILITY REFORM

Perhaps the single most important need in the VA health-care system at this time is the need for reform of the eligibility system. Currently, the process required for a veteran to receive care from VA can be confusing and frustrating. Complicated and irrational statutory eligibility rules sometimes cause absurd outcomes. Existing law discourages VA from effectively managing care, and often promotes the use of expensive and unnecessary inpatient care.

VA designed the eligibility reform proposal in the draft bill to achieve several important objectives.

First, the eligibility system should be one that both the persons seeking care and those providing the care are able to understand.

Second, the eligibility system should ensure that VA is able to furnish patients the most appropriate care and treatment that is medically needed, cost effectively and in the most appropriate setting.

Third, veterans should retain eligibility for those benefits they are now eligible to receive.

Fourth, VA management should gain the flexibility needed to manage the system effectively.

Fifth, the proposal should be budget neutral.

Sixth, the proposal should not create any new and unnecessary bureaucracy.

The draft bill would provide that the Department ''shall'' furnish a specified core group of veterans with needed ''health care.'' This would include hospital care, outpatient care, disease prevention services, pharmaceuticals, medical equipment, and prosthetic equipment and devices. Persons in the core group would generally be those veterans now commonly referred to as category A veterans: those with service-connected disabilities, former prisoners of war, World War I veterans, and nonservice-connected veterans with incomes below the current means test income threshold. The Department would retain authority to furnish the core group veterans with other types of health care, including nursing home care. VA would also retain authority to furnish all health care to veterans not included in the core group. The Department would furnish all care in accordance with five priority groups set forth in the bill. Finally, the bill would continue in place the current copayment structure, and would retain, essentially unchanged, the so-called Agent Orange, Radiation, and Persian Gulf treatment authorities.

The most significant change in the proposal would be the complete elimination of the complicated and archaic eligibility rules governing the provision of outpatient care. The bill would also permit wider use of cost-effective preventive health measures, and use of residential care when that would alleviate the need for hospital care. These key features will allow VA to provide the right care at the right place and the right time for the right price.

HEALTH-CARE SHARING

Today's competitive health-care environment demands that all types of service providers cooperate and work together for each to survive. The VA health-care system is an integral part of the larger health-care industry and must be able to work with partners in both the private and public sectors. However, current law imposes undue limitations on VA's ability to obtain needed health-care

resources to serve veterans. Similarly, VA is unable to fully share, even when it is mutually advantageous to do so, its resources with others in the community who could benefit from the Department's expertise. To remedy that situation, the draft bill includes provisions to expand VA's ability to share resources with other community health-care providers.

The draft bill would amend existing law to permit the Department to share all types of health-care resources with all types of health-care providers in the community. It would define ''health care resource'' to include conventional health-care services such as hospital care, nursing home care, outpatient care, rehabilitative care, and preventive care. Additionally, it would include other health-care support or administrative services essential to the operation of a health-care system. The draft bill would also more broadly define the term ''health care provider'' to include insurers, health-care plans, and health-care management organizations, as well as individuals such as physicians or other solo providers. The expanded sharing authority is essential for the reform of the entire VA health-care system.

VA RETENTION OF INCREASED MEDICAL COLLECTIONS

Current law permits the VA to recover the cost of care it provides to veterans from third parties, particularly insurance companies. Funds collected are turned over to the Treasury. The Department currently does an excellent job of collecting these funds. However, as an additional incentive to VA medical centers to increase collections, the draft bill would authorize the Department to retain a portion of amounts it collects over the amounts anticipated in the budget each year. Providing an incentive such as this is a classic example of how to ''reinvent'' Government.

TERMINATION OF MANUFACTURED HOME LOAN PROGRAM

The draft bill would repeal the authority for VA to guarantee loans to purchase manufactured homes. The number of veterans obtaining manufactured home loans has declined significantly over the years, from a high of 13,502 in fiscal Year 1983 to only 24 in Fiscal Year 1994. Manufactured home loan foreclosure rates are significantly higher than those for site-built homes. The cumulative foreclosure rate for manufactured home loans is 38.7 percent compared to 5.58 percent for site-built homes. The high foreclosure rates in the manufactured home loan program have adversely affected the financial solvency of the loan guaranty program, and resulted in substantial debts being established against veterans whose loans were liquidated and homes repossessed. Due to this low volume, there is virtually no lender interest in using the VA manufactured home loan program. However, VA is required to maintain expertise in consumer installment finance, which differs in many respect from real estate finance.

This provision will not affect the ability of veterans to obtain VA guaranteed loans to purchase, construct, or improve conventionally-built homes, or refinance existing liens on such homes.

CONTRACTING FOR PORTFOLIO LOAN SERVICING

The draft bill would permit VA to contract for servicing of its loan portfolio in a manner which is consistent with private sector loan servicing. VA believes it is in the best interests of the Government to contract out this function. Several provisions of existing law, however, preclude VA from privatizing this function in the most effective manner.

Current law limits Federal contracts to a term of 5 years. This is too short a term for the servicing of loans that bear a 30-year maturity. The draft bill would permit the servicing contract to have a 15-year term. Second, current law requires a contract servicer to remit immediately to the Government all money collected. The bill would allow the contractor to retain a portion of the loan payments collected as its fee as is customary in the private sector. Finally, the draft bill would clarify the budget treatment of the cost of this contract under the Federal Credit Reform Act of 1990 as a cost of the loan rather than as administrative overhead, which more accurately reflects private sector accounting practices.

ELECTRONIC SIGNATURES AND ELECTRONIC FUNDS TRANSFERS—EDUCATION BENEFITS

In the modern world, information is commonly transmitted electronically. Yet statutes are often slow to catch up with technology. This draft bill would amend various laws to modernize administration of VA's education benefit programs. The bill would clarify that claimants for VA education benefits, State approving agencies, and schools may transmit documents with their signature electronically to permit VA to award benefits. The bill would also authorize VA to implement, under an agreement with the Treasury, a system requiring that payment of educational assistance allowances under all education benefits programs administered by VA would be made by electronic funds transfer.

The Omnibus Budget Reconciliation Act (OBRA) requires that all revenue and direct spending legislation meet a pay-as-you-go requirement. That is, no such bill should result in an increase in the deficit; and if it does, it will trigger a sequester if it is not fully offset. Outlay savings in this bill would equal its increase in direct spending, resulting in a net zero PAYGO effect. Thus, considered alone, this bill meets the pay-as-you-go requirement of OBRA.

We are advised by the Office of Management and Budget that there is no objection to the transmittal of this draft bill to the Congress and its enactment would be in accord with the program of the President.

Sincerely,

JESSE BROWN.●

## ADDITIONAL COSPONSORS

S. 704

At the request of Mr. SIMON, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 704, a bill to establish the Gambling Impact Study Commission.

S. 743

At the request of Mrs. HUTCHISON, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of S. 743, a bill to amend the Internal Revenue Code of 1986 to provide a tax credit for investment necessary to revitalize communities within the United States, and for other purposes.

S. 837

At the request of Mr. WARNER, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 837, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 250th anniversary of the birth of James Madison.

S. 881

At the request of Mr. THURMOND, his name was added as a cosponsor of S. 881, a bill to amend the Internal Revenue Code of 1986 to clarify provisions relating to church pension benefit plans, to modify certain provisions relating to participants in such plans, to reduce the complexity of and to bring workable consistency to the applicable rules, to promote retirement savings and benefits, and for other purposes.

S. 969

At the request of Mr. BRADLEY, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 969, a bill to require that health plans provide coverage for a minimum hospital stay for a mother and child following the birth of the child, and for other purposes.

S. 984

At the request of Mr. GRASSLEY, the name of the Senator from North Carolina [Mr. FAIRCLOTH] was added as a cosponsor of S. 984, a bill to protect the fundamental right of a parent to direct the upbringing of a child, and for other purposes.

S. 1043

At the request of Mr. STEVENS, the names of the Senator from Rhode Island [Mr. CHAFEE] and the Senator from North Dakota [Mr. DORGAN] were added as cosponsors of S. 1043, a bill to amend the Earthquake Hazards Reduction Act of 1977 to provide for an expanded Federal program of hazard mitigation, relief, and insurance against the risk of catastrophic natural disasters, such as hurricanes, earthquakes, and volcanic eruptions, and for other purposes.

S. 1150

At the request of Mr. SANTORUM, the names of the Senator from North Dakota [Mr. CONRAD] and the Senator from Pennsylvania [Mr. SPECTER] were added as cosponsors of S. 1150, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the Marshall Plan and George Catlett Marshall.

S. 1163

At the request of Mr. LEAHY, the names of the Senator from New York [Mr. MOYNIHAN], the Senator from New Hampshire [Mr. SMITH], the Senator from Massachusetts [Mr. KENNEDY], and the Senator from Massachusetts [Mr. KERRY] were added as cosponsors of S. 1163, a bill to implement the recommendations of the Northern Stewardship Lands Council.

S. 1228

At the request of Mr. SMITH, his name was added as a cosponsor of S. 1228, a bill to impose sanctions on foreign persons exporting petroleum products, natural gas, or related technology to Iran.

At the request of Mr. D'AMATO, the names of the Senator from Florida [Mr. MACK], the Senator from Utah [Mr. HATCH], the Senator from Iowa [Mr. GRASSLEY], the Senator from Mississippi [Mr. COCHRAN], the Senator from Alaska [Mr. STEVENS], the Senator from Ohio [Mr. DEWINE], the Senator from Virginia [Mr. WARNER], the Senator from Colorado [Mr. BROWN],

the Senator from Alabama [Mr. SHELBY], the Senator from Kansas [Mr. DOLE], the Senator from Colorado [Mr. CAMPBELL], the Senator from Oklahoma [Mr. INHOFE], the Senator from Pennsylvania [Mr. SANTORUM], the Senator from Texas [Mr. GRAMM], the Senator from Utah [Mr. BENNETT], the Senator from Georgia [Mr. COVERDELL], the Senator from Wyoming [Mr. THOMAS], the Senator from Idaho [Mr. KEMPTHORNE], and the Senator from Kentucky [Mr. MCCONNELL] were added as cosponsors of S. 1228, supra.

S. 1280

At the request of Mr. MACK, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 1280, a bill to amend the Internal Revenue Code of 1986 to provide all taxpayers with a 50-percent deduction for capital gains, to index the basis of certain assets, and to allow the capital loss deduction for losses on the sale or exchange of an individual's principal residence.

S. 1322

At the request of Mr. DOLE, the names of the Senator from Massachusetts [Mr. KERRY], the Senator from Arizona [Mr. MCCAIN], and the Senator from Maryland [Ms. MIKULSKI] were added as cosponsors of S. 1322, a bill to provide for the relocation of the U.S. Embassy in Israel to Jerusalem, and for other purposes.

S. 1323

At the request of Mr. DOLE, the names of the Senator from Massachusetts [Mr. KERRY], the Senator from Arizona [Mr. MCCAIN], and the Senator from Maryland [Ms. MIKULSKI] were added as cosponsors of S. 1323, a bill to provide for the relocation of the U.S. Embassy in Israel to Jerusalem, and for other purposes.

SENATE RESOLUTION 146

At the request of Mr. JOHNSTON, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of Senate Resolution 146, A resolution designating the week beginning November 19, 1995, and the week beginning on November 24, 1996, as ''National Family Week,'' and for other purposes.

## SENATE RESOLUTION 185—TO EXPRESS THE SENSE OF THE SENATE REGARDING REPAYMENT OF LOANS TO MEXICO

Mr. FAIRCLOTH submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 185

Whereas the United States has provided Mexico with approximately $12,500,000,000 in loans to Mexico;

Whereas these loans were not authorized by the United States Congress;

Whereas the taxpayers of the United States should not be responsible for any losses incurred from these loans; and

Whereas certain loans to Mexico will become due and payable on October 30, 1995: Now, therefore, be it

*Resolved*, That, it is the sense of the Senate that no further loans should be made to Mexico without specific authorization from the United States Congress, and that, all loans made to Mexico should be repaid in full and on time, and that such debts should not be extended, rescheduled, or reduced in any manner.

Mr. FAIRCLOTH. Mr. President, today I am submitting a sense of the Senate regarding Mexico.

From day 1, I have been opposed to the Mexican bailout. It was never the sole responsibility of the United States to help Mexico pay its debtors.

These economic problems were of Mexico's own making, driven by politics, corruption, and poor economic policy.

Nevertheless, the President, without the approval of the Congress, went ahead and loaned $12.5 billion to Mexico.

This was a terrible mistake. We cannot continue to be the world's banker. We cannot continue to loan money to countries that have no intention of repaying it.

I might add that the Clinton administration has proposed the creation of an international bailout fund to deal with future problems like Mexico. I cannot think of a worse idea. Once the Congress establishes a fund—any fund—it will be used. Has money ever been appropriated by the Congress and not used? The answer is no. That is why I have introduced a bill, S. 1222, to stop the creation of this new international bailout fund.

Mr. President, returning to the Mexico issue, I would suggest that the first priority of this Congress and administration should be getting our own economic house in order before we can afford to engage in international bailouts, like Mexico.

This means getting Federal spending under control. I have to wonder if we keep putting ourselves deeper and deeper in debt—who will bail us out.

Mr. President, I firmly believe that the loans to Mexico will never be repaid. The American taxpayer will bear the burden of the Mexico bailout.

I think this is very wrong—and I intended to do everything I can to stop it—starting today.

Mr. President, last week, Mexico repaid $700 million of the nearly $12.5 billion in loans that they owe to the United States. This was a great public relations move for Mexico—but for those that read between the headlines there was something very troubling.

Mexico owes the United States $2 billion on October 30, 1995. Mexico was making payment of $700 million towards that loan.

Instead of paying that loan off in full, however, Mexico apparently intends to have the balance of what is owed by October 30—$1.3 billion—rolled over past that deadline.

This short term swap of $2 billion was extended to Mexico on February 2, 1995. It came due in May, but was rolled over in May for 90 days. It was rolled over in August for another 90 days. Now, its falling due again for a third time.

I think it is time that Mexico pays up—and on time.

Mr. President, for this reason, I am introducing a sense of the Senate that loans to Mexico be paid on time and in full.

The principle needs to be established early on in this relationship that these loans should be repaid in full and repaid on time.

If not, these so called loans will quickly become foreign aid. The Congress did not vote for foreign aid. The American taxpayer cannot afford more foreign aid. And the loans to Mexico shouldn't become foreign aid.

Further, if Mexico can't make this small repayment in full and on time—only $2 billion of the $12.5 billion—how will it ever repay the remaining balance.

The bulk of the United States loans to Mexico don't come due until 1997. They won't be fully repaid until the year 2000. But if Mexico can't repay its short term loans on time—then I do not have any hope that the loans coming due in 1997 through 2000 will ever be repaid.

Mr. President, in conclusion, Mexico made a great public relations move by repaying some of its loans last week. But the real story may be that they will never pay anymore. The real test will come shortly, by October 30 when Mexico should pay the United States $1.3 billion.

We need to be firm. We need to stand our ground now. Mexico must pay the United States back. This is what this sense of the Senate calls for.

## SENATE RESOLUTION 186—RELATIVE TO THE SENATE LEGAL COUNSEL

Mr. DOLE (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 186

Whereas, the defendant in Triangle MLP United Partnership v. United States, No. 95–430C, a civil action pending in the United States Court of Federal Claims, is seeking testimony at a deposition from Charles Stek and Rebecca Wagner, employees of the Senate who are on the staff of Senator Paul S. Sarbanes;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate is needed for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent employees of the Senate with respect to subpoenas or requests for testimony issued or made to them in their official capacities: Now, therefore, be it

*Resolved*, That Charles Stek, Rebecca Wagner, and any other employee of the Senate

from whom testimony may be required are authorized to testify and to produce documents in the case of Triangle MLP United Partnership v. United States, except concerning matters for which a privilege should be asserted.

Sec. 2. That the Senate Legal Counsel is authorized to represent Charles Stek, Rebecca Wagner, and any other employee of the Senate in connection with the testimony authorized by this resolution.

## AMENDMENTS SUBMITTED

### THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION ACT FOR FISCAL YEAR 1996

### PRESSLER AMENDMENT NO. 2939

Mrs. KASSEBAUM (for Mr. PRESSLER) proposed an amendment to the bill (S. 1048) to authorize appropriations for fiscal year 1996 to the National Aeronautics and Space Administration for human space flight; science, aeronautics, and technology; mission support; and inspector general; and other purposes.

On page 46, line 2, after ''Center'' insert a comma and the following: ''and of which $2,000,000 shall be allocated in fiscal year 1996, and such sums as are necessary thereafter, for the operation of the Upper Midwest Aerospace Consortium (UMAC) of institutions in the Upper Great Plains Region for the purpose of making information derived from Mission to Planet Earth data available to the general public''.

On page 57, line 18, strike ''shall'' and insert ''is authorized to''.

On page 57, line 25, strike ''The'' and insert ''If initiated, the''.

On page 58, line 15, strike ''Within'' and insert ''If this project is initiated, then within''.

## NOTICE OF HEARINGS

COMMITTEE ON SMALL BUSINESS

Mr. BOND. Mr. President, I wish to announce that the Senate Committee on Small Business will held a joint hearing with the House Committee on Small Business on ''the report of SBA's Chief Counsel of Advocacy on the Cost of Regulations on Small Business'' on Tuesday, October 24, 1995, at 10 a.m., in room G50 of the Dirksen Senate Office Building.

For further information, please contact Keith Cole at 224–5175.

SPECIAL COMMITTEE ON AGING

Mr. COHEN. Mr. President, I wish to announce that the Special Committee on Aging will hold a hearing on Thursday, October 26, 1995, at 9:30 a.m., in room 628 of the Dirksen Senate Office Building. The hearing will discuss quality of care in nursing homes.

## AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. HELMS. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be allowed to meet during the session of the Senate on Thursday, October 19, 15 9:00 a.m., in SR–332, to consider the nomination of Mr. Michael V. Dunn to be assistant secretary for marketing and regulatory programs and to be a member of the board of directors for the Commodity Credit Corporation, and Mr. John David Carlin to be assistant secretary for congressional relations.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. HELMS. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be granted permission to conduct a hearing Thursday, October 19, 1995, at 9:00 a.m. on S. 1316, the Safe Drinking Water Act Amendment of 1995.

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

COMMITTEE ON SMALL BUSINESS

Mr. HELMS. Mr. President, I ask unanimous consent that the Committee on Small Business be authorized to meet during the session of the Senate on Thursday, October 19, 1995, at 9:30 a.m., in room 428A Russell Senate Office Building, to conduct a hearing focusing on revitalizing America's rural and urban communities.

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

SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS

Mr. HELMS. Mr. President, I ask unanimous consent that the Subcommittee on Oversight and Investigations of the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, October 19, 1995, for purpose of conducting a subcommittee hearing which is scheduled to begin at 9:30 a.m. The purpose of this hearing is to examine the role of the council on environmental quality in the decision-making and management processes of agencies under the committee's jurisdiction—Department of the Interior, Department of Energy, and U.S. Forest Service.

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

SUBCOMMITTEE ON TERRORISM, TECHNOLOGY, AND GOVERNMENT INFORMATION

Mr. HELMS. Mr. President, I ask unanimous consent that the Subcommittee on Terrorism, Technology and Government Information of the Senate Committee on the Judiciary, be authorized to meet during a session of the Senate on Thursday, October 19, 1995, at 10:00 a.m., in Senate Hart room 216, on Ruby Ridge incident.

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

## ADDITIONAL STATEMENTS

### HEALTH CARE ANTIFRAUD AND ABUSE EFFORTS

● Mr. COHEN. Mr. President, over the last week there has been substantial criticism levied against the health care fraud and abuse provisions contained in the House Medicare and Medicaid reform proposals. Unfortunately, some of the headlines and attacks imply that all Republican Budget Reconciliation legislation is soft on fraud and abuse.

Headlines such as ''GOP Medicare Bill Seen to Favor Fraud,'' and ''GOP Plan to Ease Medicare Fraud Rules 'Terrible,' May Go,'' and ''Beneath Surface, Health Care Plan Is Offering Boons'' are leading the public to believe that all Republican Medicare proposals are going light on those who are ripping off Medicare while honest Medicare providers and some beneficiaries are being asked to make sacrifices to save Medicare.

As the author of fraud and abuse provisions in the Senate reconciliation bill that was recently marked up by the Finance Committee, I feel that I must set the record straight, at least as it concerns the Senate version.

I commend the Senate Finance Committee and the Senate leadership for its strong commitment to tough antifraud measures. Many law enforcement officials have indicated to me that the Senate bill contains the toughest and most comprehensive—but fair—health care antifraud bills to come out in decades. It pains me to see headlines stating that Republican efforts on health care fraud fall short.

Let me tell you about what my Senate colleagues and I have incorporated in the Senate budget reconciliation bill. My legislation:

Creates an antifraud program to coordinate Federal, State, and local law enforcement efforts to combat fraud and abuse;

Appropriates a mandatory $200 million in fiscal year 1996 for antifraud investigators and auditors with a 15-percent increase every year thereafter for 7 years;

Makes it mandatory for the Secretary of Health and Human Services to exclude individuals from receiving payment from Medicare and Medicaid when convicted of felonies relating to health care fraud and allows the Secretary to exclude individuals convicted of a criminal misdemeanor related to a health care offense;

Sets minimum periods of exclusion from Medicare and Medicaid payments;

Allows the Secretary to exclude individuals who have direct or indirect ownership or control interest of 5 percent or more in an entity—or is an officer or managing employee—if the entity is already excluded from Medicare or Medicaid;

Allows the HHS Secretary to impose intermediate sanctions on a Medicare HMO if the HMO fails to carry out the contract such as in quality of care

areas. These penalties range from $10,000 to $100,000 depending on the violation. Suspension of continued enrollment or payments can also be used as sanctions;

Establishes a national health care fraud and abuse data collection program for reporting final adverse actions against health care providers, suppliers, or practitioners. The information in the data base is required to be available to Federal and State government agencies and health plans according to procedures that the Secretary will set by regulation;

Increases civil monetary penalties from $2,000 to $10,000 for a number of current fraud and abuse violations;

Adds new prohibited practices to the current law for which civil monetary penalties can be assessed such as: incorrect coding; medically unnecessary services; and persons offering remuneration—including waiving coinsurance and deductible amounts—to induce the individual to order from a particular provider or supplier receiving Medicare or Medicaid;

Allows the HHS Secretary to impose civil monetary penalties of up to $10,000 per violation for criminal anti-kickback violations;

Establishes enhanced fraud and abuse guidelines to enable the provider community to better comprehend anti-kickback requirements;

Amends the criminal code to include:

A new health care fraud statute;

Forfeiture of property that is obtained from the proceeds traceable to health care fraud;

Injunctive relief on activities related to health care fraud;

Grand jury disclosure for health care fraud proceedings;

Criminal penalties for false statements;

Criminal penalties for obstruction of a criminal investigation;

Criminal penalties for theft or embezzlement;

Criminal penalties for laundering of money used in health care fraud offenses; and

Subpoena authority to the Attorney General for health care fraud cases.

Extends the authority of the State Medicaid fraud units by allowing the units to investigate other Federal fraud abuses at the approval of the relevant Federal agency; and allowing investigation and prosecution in the case of patient abuse in non-Medicaid board and care facilities.

This legislation has received the enthusiastic endorsement of law enforcement and prosecution agencies. At a hearing of the Senate Special Committee on Aging that I chaired this past March, FBI Director Louis Freeh testified:

> The legislation . . . addresses for the first time in a comprehensive way not only the problem, but some of the important solutions which we in law enforcement look to . . . Aspects of the bill—the establishment of a fraud and abuse database, the coordination that would be required in antifraud efforts between the Department of Justice and HHS, the establishment of an antifraud account—are tremendously innovative and helpful tools . . . A straightforward health care fraud statute would simplify prosecution of these cases and greatly enhance the ability of law enforcement to attack this problem.

At that same hearing that I convened on health care fraud and abuse, the HHS Inspector General June Gibbs Brown testified:

> We strongly support the bill . . . which proposes a number of innovative ways to address health care fraud and abuse . . . strengthening existing legal remedies for addressing fraud and abuse, amending current criminal laws, as well as enhancing administrative sanction authorities available to the Department such as civil monetary penalties and program exclusions which would aid in the fight against health care fraud and abuse.

The health care fraud provisions contained in the Senate bill have received endorsements and support from the National Association of Attorneys General and the Medicaid fraud control units. In addition, we worked very closely with the Department of Justice to create a fair, workable proposal that cracks down on fraud while not penalizing honest health care providers.

Once more, the Senate provisions save billions of taxpayers dollars without cutting services or raising taxes. Specifically the antifraud provisions yield over $4 billion in savings.

In addition, many of my colleagues both Republican and Democratic have supported and encouraged this bill for a long time including the majority leader, the chairmen of the Budget Committee, the Banking Committee, the Veterans' Committee, and the Appropriations Committee. I am also pleased to point out that several of my colleagues from the other side of the aisle have cosponsored this antifraud legislation, including Senators PRYOR, NUNN, BRADLEY, GRAHAM, and MOSELEY-BRAUN.

Mr. President, that is why I stand before the Senate today to respond to this onslaught directed at the House provisions. We in the Senate have worked too hard and too long to come up with a strong health care antifraud and abuse bill, that not even the most partisan among us could attack. We must not, Mr. President, let ourselves get wrapped up in the criticism that is being directed at the House provisions.

It is my understanding that the House has made some changes to its earlier proposals in order to toughen its response to health care fraud. Specifically, provisions have been added to toughen criminal sanctions against fraudulent health care providers. While I am very pleased that the House leadership took this step, I still have strong concerns regarding some remaining provisions in the House bill that could severely weaken our efforts to combat health care fraud.

I thank my colleagues for all their longstanding support on this issue and for letting me have the opportunity to set the record straight. ●

## LUNCH OF STONES

● Mr. LEAHY. Mr. President, today on Capitol Hill a number of religious organizations concerned with hunger in the United States are gathering to highlight what I believe is one of the great injustices being perpetrated in the name of welfare reform in this Congress.

Most of my colleagues, I believe, had the best of intentions when they voted for H.R. 4, the welfare reform package. But I am very concerned with the impact of the final welfare reform package on the nutritional safety net for children, families, and senior citizens. Quite simply, under either the House or Senate versions of this bill, more children will go hungry.

The majority of the savings in the Senate version of welfare reform have come out of nutrition programs, whose main beneficiaries are children. H.R. 4 contains a little bit of reform. But even the Senate version contains a whole lot of cuts—more than $30 billion in total cuts, including more than $20 billion in reduced nutrition benefits to children alone. Less than one-half of 1 percent of the bill's savings come from antifraud provisions, according to CBO estimates. Over half of the savings come from across-the-board cuts, and another 12 percent of the savings come from households with high utility costs.

Under the Senate bill, by 2002, a working-poor family of four supported by a full-time minimum wage worker would lose $324 a year in food stamp benefits from the across-the-board benefit reductions, according to the Center on Budget and Policy Priorities. An elderly SSI recipient, typically a poor woman living alone, would lose $228 a year—that's a 32-percent reduction.

The Senate bill also contains an optional block grant that will allow States to cancel the national nutritional safety net, divert funds away from food, and slash benefits during a recession.

Wrongheaded as it is, however, the Senate version is actually preferable in many ways to the House version of H.R. 4. The House bill repeals school lunches, school breakfasts, WIC, the Child and Adult Care Food Program, and other programs for children. These are among the great success stories of public policy in the 20th century. Conservative House Republicans seem to say, ''If it works—but it does not fit our ideology—break it.'' I am pleased that many moderates of both parties are rebelling against this position.

The House bill would replace real food with junk food in school cafeterias. It would reduce food stamp benefits so they no longer pay for a decent diet. It would end scientifically based nutritional supplements for pregnant women. It would cancel the guarantee of free meals for poor schoolchildren.

This is bad public policy, and it is immoral. If we are going to turn school lunches into junk-food bonanzas and

shrivel food stamps down to a meaningless few pennies per meal, we might as well feed our children stones.

Today, the Christian citizens' group Bread for the World and other religious and antihunger groups are gathering on Capitol Hill to ponder Jesus' question in the New Testament (Matthew 7:9): ''Is there anyone among you who, if your child asks for bread, will give a stone?'' To symbolize this concern, they are holding a ''lunch of stones.'' Members of these groups, which include the Salvation Army, the Second Harvest National Network of Food Banks, Lutheran Social Services, the NETWORK Catholic social justice lobby, and other national religious and charitable leaders, will be visiting offices on Capitol Hill. These groups represent tens of thousands of concerned citizens who donate their time and effort to improving the diet and health of children, families, and senior citizens.

These dedicated citizens and I urge Members of this Congress to protect the national nutritional safety net that Republicans and Democrats together have constructed over the last 25 years. The safety net ensures that, even during recessions and natural disasters, children in need receive food assistance so they do not go hungry. I urge my colleagues to listen carefully to the concerns voiced in the ''lunch of stones.''

I also want to caution my colleagues against some of the phony arguments being bandied about on this topic. None of these gigantic cuts will reform welfare. And these cuts are not necessary to balance the budget—the President has put forward a plan to balance the budget without such gigantic cuts in nutrition programs. I believe these cuts are, quite simply, mistakes and errors in judgment. Right now there is still time to correct these errors, before more children must go hungry.●

## TRIBUTE TO THE HOCKING BROTHERS

● Mr. CRAIG. Mr. President, I rise today to pay tribute to the Hocking brothers from Idaho who served together courageously during World War II.

They were a family of 10 children, 4 girls and 6 boys, and lived in Moore, ID in 1929. In 1935 they moved to Mackay, ID. Mackay was considered home for all of them. Presently, one brother lives in each of the following Idaho cities or towns: Mackay, Arco, Blackfoot, Lewiston, and Deary. All of the brothers who are able are active fishermen and hunters. Two sisters and the oldest are now deceased. The oldest brother Pat Hocking, was not in the service as he had five children and worked at the Naval Gun Rellning Plant in Arco, ID. The remaining five brothers served in one branch or another of the military service.

Jean Hocking was drafted before the war and was stationed for 38 months of continuous service in Kodiak, AK in the U.S. Army Coast Guard Artillery and the U.S. Army Ski Troopers from 1941 to 1945. He was one of the very first men drafted from Custer County. Jean's camp was located on a mountain and everything had to be hauled up the mountain by hand. Jean's commanding officer was so disciplined that Jean did not have even 1 day off while he was there. He was always on alert or patrol. One day they were on patrol skiing down the mountain when Jean's ski tip got stuck in the snow toward the bottom of the mountain that he suffered a broken leg. He was so afraid of his commanding officer that he did not seek treatment and hobbled around on his broken leg. Jean was given a military disability and was in Walter Reed Hospital for 6 months after his discharge.

Clayton Hocking served in the U.S. Army Air Corps 9th Engineering Squadron S.A.C. from 1942 to 1967. He served all over the Pacific and retired as a well-decorated staff sergeant. Clayton received a Phillipine Liberation Medal with one Bronze Service Star, a Good Conduct Medal, a World War II Victory Medal, and an Asiatic Pacific Medal. He is currently in a rest home in Arco, ID.

Frank Hocking served in the U.S. Navy and the U.S. Marines from 1942 to 1945. Frank served both the Navy and the Marines as the Marines had no medical corps. So the Navy furnished the Marines with a Medical Corps. The first place Frank was shipped to overseas was to New Caledonia. While there Frank went to town one day. As he was walking down the street, he literally ran into his brother Clayton. Frank had not seen Clayton since joining, and had no idea where Clayton was stationed. Frank and Clayton were able to visit each others camps while there. After leaving New Caledonia, Frank went to New Zealand where he joined the Second Marine Division and trained before the battle of Tarawa. He was on the first wave who landed on Tarawa in the Gilbert Islands of the South Pacific. The Marines were told they had to take the well-fortified Japanese defenses of the island in 6 hours or they wouldn't be able to take it. It took them 4 days to take the island. The battle cost 1,000 Marines lives and 2,300 men were wounded. Japanese losses totaled about 8,500. The taking of the island of Saipan of the Marianas Islands was another major battle. Frank was one of the original two Marine divisions that tried to take the island from the 30,000 Japanese defenders. Frank was on the island from June 15 to July 7 when the remaining Japanese resistance tried the largest suicidal counterattack in the war. The loss of Saipan was so devastating to the Japanese that Prime Minister Tojo Hideki and his entire cabinet resigned after word of the defeat reached them.

Bill Hocking served in the 20th Air Force Division on Guam of the South Pacific from 1944 to 1946. He was the first aerial gunner on a B–17. Later, he became a belly gunner on the B–29's. The most memorable event in Bill's military career happened when three B–29 planes were flying in formation when Bill's B–29 caught on fire. He and the whole crew were forced to bail out into the ocean between Guam and Tokyo. When he bailed out, he just about drowned when he got so tangled in his parachute shroud that he couldn't even upright his one-man life raft. He had to lay there holding on to his upside down raft. When he finally got into the raft, he couldn't see any of the rest of the crew as they were all scattered. One guy in the crew happened to have a whistle and he kept blowing it. They all paddled toward the sound and that is how they all got back together. They were always concerned about sharks so they used shark repellent. The crew was adrift for 3 days before being picked up by the ship. That episode made Bill a member of the Caterpillar Club. A patch was given as special recognition for surviving a bail out.

Glen Hocking served in the 90th Naval Construction Battalion Combat Fleet Action from 1945 to 1946. Glen was 17 years old when he enlisted to follow in his older brothers' footsteps. He was told that his outfit was training to invade Japan. They were on their way to Japan when the bomb dropped on Hiroshima. He saw all the devastation over there. He was there for 9 months occupation duty. Glen came away from service with the Asiatic Pacific Area Campaign Medal and World War II Victory Medal.

These five brothers all came home alive, but still felt the sacrifices of war. Two of their cousins did not make it home. There were killed in the line of duty. This is one of the many family stories that make up the heroism and valor that led the United States and our allies to victory in World War II. The five Hocking brothers fell very blessed and lucky to have all come home. We are very blessed that they and many others were there to serve their country and to fight for democracy and the freedom all Americans hold dearly.●

## PUBLIC FORUM IN GREENLEAF, WI, WITH SECRETARY OF AGRICULTURE, DAN GLICKMAN

● Mr. FEINGOLD. Mr. President, on July 31 of this year, in an extraordinary gathering on a 200-acre dairy farm in Greenleaf, WI, 300 farmers, rural business people, and others in the agricultural sector came together to convey to Secretary of Agriculture Dan Glickman the importance of reforming an archaic agricultural program, known as the Federal Milk Marketing Order System. This program, created in the late 1930's has discriminated against the Wisconsin dairy industry for years

Those who attended this forum represent different segments of our dairy industry which have divergent political views and affiliations, but they all

agreed on one fundamental issue—Federal orders must be reformed. For an industry that is made up of individuals whose only shared characteristic is their independence and staunchly self-reliant nature, this type of unanimity is rare. They wanted their message to be heard by one of the few people with the power to make Federal milk marketing orders both consistent with milk markets of the 1990's as well as equitable to all those affected by them.

The current program for regulating the pricing and sale of milk provides higher prices for fluid milk to producers distant from the Upper Midwest. While that scheme might have made sense when Wisconsin was the primary dairy producing State in the United States, but in 1995, it defies logic. This system not only creates an artificial incentive for greater milk production, but has led to increased production of manufactured dairy products driving down prices throughout the Nation and increasing Government surpluses. Federal milk marketing orders are a perfect example of excessive Government regulation creating a system which is completely out of sync with current marketing conditions and which discriminates against Wisconsin and Upper Midwest dairy producers.

Mr. President, Secretary Dan Glickman listened for over an hour to farmers frustrated not only by the existence of this system, but also by its institutional resilience. I commend him for that. It is the first time in a long time that Wisconsin dairy farmers have felt that a Secretary of Agriculture actually cared about what they had to say. Dan Glickman came not to talk to lobbyists, not to talk to politicians and not to talk to Government officials, but to listen to those whose livelihood depends, in part, on the decisions he makes.

This was a unique forum in that average farmers spoke directly to the Secretary. It linked 54 of Wisconsin's 72 counties to the meeting via satellite. While the time did not allow all those who attended to speak, those producers who did represented the diversity of my home State's agricultural sector—dairy, soybeans, corn, wheat, alfalfa, and specialty products such as mink. Each, in turn, talked about what is good and what is bad about our current Federal policies. Primarily, though, they talked about dairy policy.

At the outset of our meeting, the Secretary conceded that discrimination exists within the Federal order program benefiting some regions more than others. In response, he pledged his support to try to change the existing number and administration of current milk marketing orders. He further pledged his support to try to consolidate those orders, make periodic adjustments in price differentials, and to potentially create multiple price-setting base points. While I am not entirely pleased with the Secretary's choice to attempt these changes through the administrative process, I am pleased with his admission that the system is broken.

Mr. President, as the Congress moves toward final action on the budget reconciliation and moves toward the 1995 farm bill, I think it is important that the Secretary heard the message of Wisconsin farmers. I hope that my colleagues will hear that message as well.

Action on these items, the Secretary conceded, will be a challenge in that other regions will fight to maintain their current artificial advantages. Despite the deregulatory rhetoric of many in the 104th Congress, the Secretary's prediction is proving to be true based on recent action by the Senate Committee on Agriculture, Nutrition, and Forestry.

The legislation reported by the Agriculture Committee fails to address needed reform of this system, despite the tremendous budget savings and consumer benefits that could result from such action. That is a disappointment, Mr. President. Instead, Mr. President, the committee chose to take the easy road by cutting support prices, instead of making the difficult choices associated with milk marketing order reform.

And indeed, as the Secretary pointed out at Greenleaf, these are very difficult decisions. They are so difficult that the House of Representatives, unable to reach agreement on reform, is moving on a path toward total deregulation of the dairy industry, including the elimination of Federal milk marketing orders.

Mr. President, total deregulation of the dairy industry, is not my first choice. I would rather work with my colleagues to achieve reasonable and responsible reform of Federal orders. However, for the last 3 years, many dairy farmers in Wisconsin have been telling me that if they cannot get reform, if other regions of the country will not compromise, deregulation would be a farsight better than the raw deal they are getting now.

Mr. President, I want to work with my colleagues during the budget reconciliation process and the farm bill deliberations to reach agreement on Federal orders. However, if others are unwilling to move toward a level playing field, dairy farmers in their States may end up with nothing at all.

Mr. President, in Greenleaf, WI, the Secretary of Agriculture heard loud and clear that Upper Midwest dairy farmers are fed up with the current program that regulates milk markets. I urge my deregulation-minded colleagues to listen to what the Upper Midwest is saying on this issue as well. It is time to do the right thing—reform Federal milk marketing orders or end them.

I want to publicly thank the many people who took part of the day to travel to this small community to make their voices heard to Secretary Glickman. I ask to include the names of the participants at the conclusion of my remarks. I hope the seriousness of the situation experienced by these farmers and their families will be taken into account as these issues are debated in the days and weeks ahead.

PARTICIPANTS IN THE FORUM WITH SECRETARY GLICKMAN AT GREENLEAF, WI, JULY 31, 1995

Mark Mayer, Frank Dillon, Rodney R. Littlefield, Randy Knapp, Kathi Millard, Stephen I. Rishette, Marc A. Schultz, Tim Rehbein, Tom Kruezer, Mary Behm, Sue Beitlich, Betty Plummer, Kevin Larson, Rod Webb, Randy Anderson, Judy Derricks, Kelly Olson, Julie Dokkestul, Bob Oropp, Dwight Swenson, Nolan Anderson, Lee Gross, Roger Johnson.

Kevin Connors, Bob Bjorklund, Gordon Rankin, Dave Williams, Tom Syverod, John Markus, Ralph Rounsville, Alvin Erickson, M. Kopecky, Laura Wind-Norton, Dan Butterbrodt, Russ Dufek, Ken Horton, Randy Cochart, Clifford Duffeck, Mahlon Peterson, Bob Bosold, Sandy Webb, William Dacholm, Joel McNair, Paul Rodriguez.

Dolores Rodriguez, Craig W. VerKuilun, Tom Cochren, Deborah Van Dyk, Linda Leger, Marty Mackers, Shawn W. Pfaff, Arnold Grudey, Duane Tetzloff, Paul Gruber, Tom Badth, Leonard and Betty Wajciehowski, Myron McKinley, Dennis Donohue, Elmer R. Kitzeron, Gerald Van Asten, Orvell A. Debruin, John J. Peters, Connie Seefeldt, Dick Vaitihauer.

Ken Jenks, James Kalkofin, Jim Harris, Rep. Bill VanderLoop, Robert Fryda, Katy Duwe-Fryda, Ray Diederich, Gerlinda Dueholm, Jeremy Herrscher, Len Maurer, Roger Wyse, Stewart Huber, Dick Hauser, Renea Heinrich, Pete Kappelman, Don Norton, Bill Pamperin, Dave Mennig, Jerry Lehman, Brad Brunner, Grant E. Staszak, Reuel Robertson, Jerome Blaska.

Gregory Blaska, Norma Norton, John T. Vinhoefer, Allen Schuh, Steve Pamperin, Jerome Pamperin, Nelda J. Harris, Duane Patz, Tes VanDyke, Fred Huger, Dan Krebsbach, Steve Kellerman, Rudy and Margaret Klug, Ron Hillman, Jim Jolly, John Rouch, Kevin Erb, Jim and Lorraine Shellcox, Paul Krause, Greg Hines, Robert Zimban, Michael Mengar.

Gerald H. Vander Heiden, Gary Anderson, Jon Bechle, Bill Penterman, Tom Davies, Robert Karls, Gary Terlinden, Vicki Wiese, Jim Hunt, James E. Burns, Audrey Sukinger, Tom Walsh, Earl Walsh, Pat Leavenworth, Rama Stoviak, Ron Jones, Dan Natzke, Melvin Blarke, Irv Possin, Mike Rankin, Jay Rudolph, and Harold Epp.●

## WORLD POPULATION AWARENESS WEEK

● Ms. SNOWE. Mr. President, I would like to speak briefly this morning on a matter of great importance; namely, world population. World Population Awareness Week will be held this year from October 22–29, and is designed to foster awareness of the environmental, economic, political, and social consequences of rapid worldwide population.

Let us reflect a moment on the implications of the current population growth rate. In 1830, the world's population reached 1 billion. Today, the world's population is nearly 6 billion. Unless something is done, world population in 2020 will reach 8 billion and by 2035 it will reach 12 billion.

Current levels of population growth are unprecedented. This year alone, the world's population will grow by almost

100 million people. This is like adding a new country the size of Nigeria to the world every year, or a city the size of New York City every month. Virtually all this growth takes place in the poorest countries and regions across the world—those who can least afford to accommodate such rapid population growth.

Rapid population growth is one of the world's most serious problems, posing a long-term threat to U.S. national interests in the areas of security, trade, and the environment. There are many developing countries in the world which are finally taking steps to institute the kind of free market reforms that offer them their best hope for long-term sustainable development. But high population growth rates threaten their economic development accomplishments.

Moreover, the environmental implications of such population growth is startling. A child born today can expect by the year 2000 a world where almost one-half of the world's forests will be gone and one-fifth of the world's plant and animal species will be extinct. Ground water supplies are dwindling; rivers and lakes are fouled with pollutants from industries, municipalities, and agriculture. Currently, at least 1.7 billion people, nearly one-third of the planet's population, lack an adequate supply of drinking water. The developing world already produces 45 percent of all gases contributing to global warming.

Rapid population growth, especially when overlaid with sharp social or economic divisions, places great strains on political institutions. To the extent population pressures contribute to weakening economic and political structures, they adversely affect international stability and peace. And this directly affects our own national security interests around the world.

I am very pleased that the theme of World Population Awareness Week this year is gender equality and the implementation of the Cairo Program of Action, which was approved by more than 180 countries, including the United States, at the International Conference on Population and Development last year. This is especially significant because the goals and objectives of the Cairo Program of Action include providing universal access to family planning information, education, and services; as well as eliminating poverty and illiteracy among girls and women who are disproportionately denied access to education, increasing women's employment opportunities, reducing infant mortality, and eliminating all forms of gender discrimination.

Several Governors throughout the United States, from the State of Washington to my home State of Maine, have issued proclamations recognizing World Population Awareness Week. I submit for the RECORD the proclamation of this important event issued by Gov. Angus S. King, Jr., Governor of the State of Maine.

The proclamation follows:

PROCLAMATION

Whereas, world population is currently 5.7 billion and increasing by nearly 100 million each year, with virtually all growth added in the poorest countries and regions—those who can least afford to accommodate current populations let alone massive infusions of humanity; and

Whereas, the annual increment to world population is projected to exceed 86 million through the year 2015, will three billion people—the equivalent of the entire world population as recently as 1960—reaching their reproductive years within the next generation; and

Whereas, the environmental and economic impacts of this level of growth will almost certainly prevent inhabitants of poorer countries from improving their quality of life, and, at the same time, have deleterious repercussions for the standard of living in more affluent areas; and

Whereas, the 1994 International Conference on Population and Development in Cairo, Egypt crafted a 20-year Program of Action for achieving a more equitable balance between the world's population, environment and resources, that was duly approved by 180 nations, including the United States.

Now, therefore, I, Angus S. King, Jr., Governor of the State of Maine, do hereby proclaim October 22–29, 1995 as ''World Population Awareness Week'' throughout the State of Maine, and urge all citizens to support the purpose and spirit of the Cairo Program of Action, and call upon all governments and private organizations to do their utmost to implement that document, particularly the goals and objectives therein aimed at providing universal access to family planning information, education and services, as well as the elimination of poverty, illiteracy, unemployment, social disintegration and gender discrimination that have been reinforced by the 1995 United Nations International Conference on Social Development and endorsed by 118 world leaders.●

## DEDICATION OF THOMAS J. DODD RESEARCH CENTER

● Mr. LIEBERMAN. Mr. President, yesterday I addressed my colleagues about the dedication of the Thomas J. Dodd Research Center at the University of Connecticut this past Sunday, October 15. I asked that remarks made by President Clinton at the dedication be included in the RECORD but, unfortunately, part of that speech was not reprinted.

I ask to have printed in the RECORD the full text of the President's remarks. I also ask that the remarks of my colleague, Senator CHRIS DODD, at the dedication ceremonies also be printed in the RECORD.

The remarks follow:

TRANSCRIPT OF PRESIDENT CLINTON'S REMARKS AT DEDICATION OF THOMAS J. DODD RESEARCH CENTER, OCTOBER 15, 1995

Thank you very much, President Hartley. Governor Rowland, Senator Lieberman, members of Congress, and distinguished United States senators and former senators who have come today; Chairman Rome, members of the Diplomatic Corps; to all of you who have done anything to make this great day come to pass; to my friend and former colleague, Governor O'Neill, and most of all, to Senator Dodd, Ambassador Dodd, and the Dodd family: I am delighted to be here.

I have so many thoughts now. I can't help mentioning one—since President Hartley mentioned the day we had your magnificent women's basketball team there, we also had the UCLA men's team there. You may not remember who UCLA defeated for the national championship—(laughter)—but I do remember that UCONN defeated the University of Tennessee. And that made my life with Al Gore much more bearable. (Laughter.) So I was doubly pleased when UCONN won the national championship. (Applause.)

I also did not know until it was stated here at the outset of this ceremony that no sitting President had the privilege of coming to the University of Connecticut before, but they don't know what they missed. I'm glad to be the first, and I know I won't be the last. (Applause.)

I also want to pay a special public tribute to the Dodd family for their work on this enterprise, and for their devotion to each other and the memory of Senator Thomas Dodd. If, as so many of us believe, this country rests in the end upon its devotion to freedom and liberty and democracy, and upon the strength of its families, you could hardly find a better example than the Dodd family, not only for their devotion to liberty and democracy, but also for their devotion to family and to the memory of Senator Tom Dodd. It has deeply moved all of us, and we thank you for your example. (Applause.)

Tom Dodd spent his life serving America. He demonstrated an extraordinary commitment to the rule of law, beginning with his early days as an FBI agent then federal attorney. He was equally passionate in his opposition to tyranny in all its forms. He fought the tyranny of racism, prosecuting civil rights cases in the South in the 1930s, long before it was popular anywhere in the United States, and helping to shepherd the landmark Civil Rights of 1964 into law. He fought the tyranny of communism throughout his years in elected office. And while he bowed to none in his devotion to freedom, he also stood bravely against those who wrapped themselves in the flag and turned anti-communism into demagoguery.

Tom Dodd was in so many ways a man ahead of his time. He was passionate about civil rights, three decades before the civil rights movement changed the face of our nation. In the Senate, he pioneered programs to fight delinquency and to give the young people of our country a chance at a good education and a good job. And that is a task, my fellow Americans, we have not yet finished doing. He saw the dangers of guns and drugs on our streets, and he acted to do something about that. Had we done it in his time, we would not have so much work to do in this time.

Tom Dodd's passion for justice and his hatred of oppression came together, as all of you know, most powerfully when he served as America's executive trial counsel at the Nuremburg War Crimes Tribunal. It was the pivotal event of his life. He helped to bring justice to bear against those responsible for the Holocaust, for the acts that redefined our understanding of man's capacity for evil. Through that path-breaking work, he and his fellow jurists pushed one step forward the historic effort to bring the crimes of war under the sanction of law.

Senator Dodd left many good works and reminders of his achievement. Some bear his name—the children who have followed in his steps and served the public, who carried forward his ardent support for an American foreign policy that stands for democracy and freedom, who maintain his commitment to social justice, to strong communities and strong families. They have also upheld their father's tradition of loyalty. And as one of the chief beneficiaries of that lesson, let me

say that I am grateful for it, and again, grateful for its expression in this remarkable project which will help the people of Connecticut and the United States to understand their history.

I am delighted that this center will bear the Dodd name because it is fitting that a library, a place that keeps and honors books and records, will honor Tom Dodd's service, his passion for justice and his hatred of tyranny. Where books are preserved, studied and revered, human beings will also be treated with respect and dignity, and liberty will be strengthened.

Dedicating this research center today, we remember that when the Nazis came to power, one of the very first things they did was burn books they deemed subversive. The road to tyranny, we must never forget, begins with the destruction of the truth.

In the darkest days of the war, President Roosevelt, with those awful bonfires fresh in his memory, reflected upon how the free pursuit of knowledge protects our liberty. And he put it well when he called books ''the weapons for man's freedom.'' I am glad that Tom Dodd will be remembered here, in this place, in this building, with this center, in the state he loved, with the very best arsenal for the freedom he fought to defend his entire life.

Thank you very much. (Applause.)

REMARKS OF SENATOR CHRISTOPHER J. DODD

Mr. President, Governor Rowland, President Hartley, colleagues distinguished guests, members of my family, friends: On behalf of my family—allow me to express my thanks to you, Mr. President, for your presence here today. You honor my father, my family, my State and our University. You are the first sitting American President to ever visit this University in the 114 year history of this institution, we are grateful.

We are grateful as well to those of you with whom my father worked over the years—his colleagues—his staff—his constituency and friends for being here to join with us in the celebration of his life of public service.

For nearly 40 years my father served his State and Nation. It was a full life—a life of engagement with the great issues of his time.

We are here to dedicate a new home for his papers and artifacts of the past. In so doing, we preserve delicate fragments of history which this and future generations should find instructive.

We are also here today to remember the achievements of those who came before us—who made and recorded the history on which our present world is built. My father is one such person. Today we commemorate—and celebrate—his faith, his love of country, and his life of service.

Today we recall not only my father's accomplishments, but the achievements of his generation. It is now 50 years since the end of World War II, a war which tore apart a western civilization. It is 50 years since thousands of young Americans fought and died to defend tyranny. It is 50 years since the effort to rebuild that civilization began with the Nuremberg Trials—truly the trial of the century.

Many recall the stern justice rendered at Nuremberg against those who committed the atrocities of Nazism. But we should also remember that 3 of the accused at Nuremberg were acquitted. In those verdicts of acquittal, as well as in the verdicts of guilt, the United States and her allies helped to reassure the world that justice could, indeed, would prevail over evil and chaos.

After Nuremberg, my father's generation rebuilt Europe and Asia. The Marshall Plan, NATO, the United Nations—these were extraordinary acts of collective sacrifice, vision, and political courage in the fact of significant opposition here at home.

In remembering the achievements of that generation, it is fitting that we here today are joined by President Bill Clinton. In 1995, President Clinton has not forgotten the lessons of 1945.

Like my father's generation, Mr. President, you understand that no nation which proclaims the virtue of freedom can ignore the deprivation of others.

Mr. President, you understand that though the Soviet Empire no longer threatens our world, the job of securing the peace is still far from complete.

Over the past 2½ years you have demonstrated over and over and over again the role we must play in the cause of freedom and justice.

Ireland, Haiti, the Middle East, Asia, Latin America, and most recently, in Bosnia, have profitted from our principled, patient insistence that all men and women have a right to shape their own destiny.

At the same time, there remain many parts of the world that still desperately need our engagement and example.

Abroad and at home, you Mr. President, carry within your heart the same wise and generous spirit that guided the generation of my father. You have proven yourself to be a worthy inheritor of their unbending faith in a future where people can live not in fear but with hope. For that, Mr. President, you have earned our everlasting gratitude.

On behalf of the Dodd family, the University of Connecticut, and our Constitution State, we thank you for honoring us with your presence.●

## TRIBUTE TO JOHNETTA MARSHALL

● Mr. MCCONNELL. Mr. President, I rise today to pay tribute to a Kentuckian who for many years has displayed a great deal of courage in standing up for what she believes. Louisville native Ms. Johnetta Marshall has traveled the world to fight for the rights of others, and now she's being recognized here at home as the new president of the National Older Women's League, a not-for-profit organization that promotes health, housing, and Social Security issues for women over the age of 50.

Recently, Ms. Marshall traveled to China to march for equality of the sexes at the United Nation's Fourth World Conference of Women. While that trip ended peacefully, some of her journeys have taken a violent turn. One such incident occurred in the Deep South in the late 1950's when Ms. Marshall was pelted with rocks while marching for civil rights. She recently recounted in a story for Louisville's Courier-Journal, that while in Meridian, Mississippi, ''we had to go in the back way at hotels and ride the freight elevator. They made us a dining room in the bedroom rather than have us eat with the rest of the guests.'' While this kind of treatment may have disparaged some, it gave Ms. Marshall a reason to continue her fight for civil rights.

One of the highlights of Ms. Marshall's career came in March of this year, when she was named president of the Older Women's League. Marshall, who served as a member of the board of directors for 6 years, is truly dedicated to the cause and she hopes to put the organization in the public spotlight during her tenure as president. The executive director of the Older Women's League, Deborah Briceland-Betts, says members of the group are delighted that Marshall is now leading them. And they hope she will continue her extraordinary commitment to find creative and effective ways to improve the lives of midlife and older women and their families.

Not only is Ms. Marshall a national leader in the fights for the rights of others, she also worked on behalf of interests in the Bluegrass State. For nearly 20 years, Ms. Marshall was executive director of Louisville's Opportunities Industrialization Centers, Inc., which was responsible for training welfare recipients for jobs. She also served as regional coordinator of the Prichard Committee for Academic Excellence in Lexington, and during that time she worked hard to promote education reform. She was also the director of Senior Services, Inc., executive director of Kentucky's Opportunities Industrialization Center, past president of the Louisville Section of the National Council of Negro Women, and was the first African American woman chair of the March of Dimes' Kentuckiana chapter. And in the 1960's and 1970's, she investigated racism in Ohio, Tennessee, and Kentucky as a member of the Presbyterian Church task force.

As you can tell from her list of accomplishments, Ms. Marshall has had a long and distinguished career, and it does not look like it will slow down anytime soon. Even with the demanding pace of her public advocacy, she still always found time for her real love, her six children whom she successfully raised as a single mother.

Mr. President, I ask my colleagues to join me in paying tribute to this outstanding Kentuckian. I also ask that an article from the October 10 Courier-Journal be printed in the RECORD.

The article follows:

[From the Courier-Journal, Louisville, KY, Oct. 10, 1995]

A PIONEERING SPIRIT—LOUISVILLE NATIVE HAS MARCHED IN THE SOUTH AND IN CHINA FOR RIGHTS OF OTHERS

(By Lawrence Muhammad)

Johnetta Marshall won't tell her age but ''pioneer'' is definitely a title that fits her.

The Louisville native was pelted with rocks while marching for civil rights in the Deep South in the late 1950s and early '60s. More recently, she marched for sex equality under the watchful eyes of government police at the United Nation's Fourth World Conference of Women in China.

In the '60s, in Meridian, Miss., she recalled, ''we had to go in the back way at hotels and ride the freight elevator. They made us a dining room in the bedroom rather than have us eat with the rest of the guests.''

Decades later, Marshall attended the China conference as the new president of the Washington, D.C.-based Older Women's League. Carrying a banner and chanting, she and other conferees marched onto the conference grounds and into workshops.

Although no one in her group had trouble with Chinese authorities, she said, ''there were people with video cameras. . . . We wanted them to see the banner. But there was no harassment.''

Marshall, who lives in Jeffersontown, was named president of the Older Women's League in March. It's a nationwide, not-for-profit organization that promotes health, housing and Social Security issues for women over the age of 50.

The appointment caps a career of distinguished service.

For nearly 20 years until it closed in 1988, Marshall was executive director of Louisville's Opportunities Industrialization Centers Inc., once a nationwide non-profit group with headquarters in Philadelphia that trained welfare recipients for jobs.

She was also the first chairman of the Kentucky Minority AIDS Council.

Sam Robinson, president of the Lincoln Foundation and also a founding member of the AIDS council, recalled suggesting Marshall to the group because of her work with the National Council of Negro Women and the National Association for the Advancement of Colored People. ''And when we were ready to elect officers, everybody looked to her for leadership,'' Robinson said.

Lead she has, also serving stints as a Presbyterian Church organizer, propagating racial fairness among Southern members during the 1960s and '70s; as director of Senior Services Inc. in Louisville; as past president of the National Council of Negro Women's Louisville section; and as the first African-American woman to chair the March of Dimes' Kentuckiana chapter, among other posts.

Last month in China, Marshall led a 32-member delegation to the Non-governmental Organizations Forum on Women in Huairou. It was an unofficial gathering held in conjunction with the U.N. conference in Beijing.

Marshall and her group, co-sponsored by the American Society on Aging, met officials of the China National Committee on Aging and China Research Center on Aging and toured hospitals and welfare homes for the elderly. It was an effort to promote concerns of older women that past world forums had inadequately addressed, Marshall said.

For example, women over 65 are disproportionately poor, spend more on home repairs, more frequently develop breast cancer and suffer more chronic ailments than older men, according to an Older Women's League study done in 1993.

The study also showed 60 percent of married women are widowed and living alone by 75, and 30 percent require home care, double the percentage for men.

''Back in the civil-rights days, women were suffering, and there have been some improvements, but not enough,'' Marshall said. ''Women can work side by side with men, and maybe have better skills, but men get more pay. And if you happen to be an older women, you are counted out completely.''

Marshall clearly would not be counted out. Leading the local Opportunities Industrialization Center, she smashed the gender barrier in the early 1980s to head the group's executive directors association, a male-dominated network of about 85 OIC insiders.

''For Johnetta to run for that position, and win it, was akin to Shannon Faulkner entering The Citadel,'' said Gene Blue, president of the Phoenix, Ariz., OIC. ''She became a spokes-person who accompanied the founder, Dr. Leon Sullivan, at congressional hearings. She had to overcome significant male egos to preside over all these dudes at meetings and workshops, which usually got loud and emotional.''

Blue recalled one particular meeting, where ''one of the most vociferous, a senior executive from a major city, had the floor and was waxing eloquent. Finally Johnetta, without even raising her voice, said firmly, 'OK, that's enough. Sit down.' Now, it took most of us by surprise that she would tell this guy to shut up. But she did, and he sat down.''

Marshall is widely know as a nurturer too. She grew up in Louisville's Limerick neighborhood, daughter of concrete finisher John Marshall who died when she was 10, and Emma Marshall, who supported the family with domestic work. Marshall had wanted to be a surgeon, but being black and female in the segregated 1930s and '40s, it was difficult to aspire to so lofty a vocation.

A divorcee, she raised six children on her own, has four grandchildren and two great-grandchildren. The fruits of her labors are plentiful among her children: Samuel is a San Francisco stockbroker; Charles, a geriatric doctor in Los Angeles; and John, a supervisor of correctional officers in Los Angeles County, Glenna is a Louisville graphic artist; Marilyn, a bookkeeper in Atlanta; and Jo, a computer systems engineer in Louisville.

Marshall also served as a role model for scores of other people's children at the Presbyterian Community Center at 760 S. Hancock St.

''She'd ask questions like, 'How are you doing at home? How are you doing at school?'' said Ernest ''Camp'' Edwards, 63, an associate executive presbyter for the Presbytery of Louisville. ''I was sort of mischievous, throwing stuff on the floor and blaming somebody else, so she always preached that I should be accountable for my own behavior and not blame others.

''That really stuck with me over the years,'' Edwards said. ''She has a kind of presence and talks to you so that it makes a difference. I'm a social worker by profession, and, because of her, I decided to work with people. She was a 'significant other.' and I decided I could be a significant other.''

Charles Hammond, the 52-year-old mayor of Fairfield, Calif., first met Marshall at the community center when he was 14. It was ''where we virtually lived after we got out of school, and she was one of our youth directors. They basically kicked our behinds and kept us in line. We'd have our dances and she'd give us rules—no cursing, no smoking, treat the ladies like ladies * * * But she always had time for us. There was never a question that went unanswered. And that's what we admired about her. Seven days a week, any time you looked around, there she was, just like our mothers.''

JOHNETTA MARSHALL'S ADVICE FOR SINGLE MOMS

Johnetta Marshall successfully raised six children along. Some now have families of their own, and all pursue rewarding careers.

''It wasn't easy then,'' said Marshall, ''and even though women have more advantages now, it is lots more difficult.''

She offered this advice for today's single mothers: ''Recognize that you are only one person, that you can never by a mother and a father. Just be the best role model you can.

''As the mother, you instill in your children some ideals by the way you live. Always be honest and frank with the children. Don't let them think you can give them the moon when you can only give them a piece of the earth.

''And don't give up. You can do it.''

ABOUT THE OLDER WOMEN'S LEAGUE

Founded in 1980, the Washington, D.C.-based Older Women's League promotes issues of health care, Social Security and housing for women over 50.

There are 20,000 members nationwide and chapters in every state.

Annual dues start at $15; sterling, silver and platinum memberships also are available.●

## NATIONAL SCHOOL LUNCH WEEK

●Mr. LEAHY. Mr. President, in honor of National School Lunch Week I want to talk about one of the great public policy success stories of this century—the National School Lunch Program. Passed by Congress and established by President Truman in 1946, this program by law has the mission ''to safeguard the health and well-being of the Nation's children.'' By fighting hunger and promoting good nutrition among children, we can help them grow and mature into healthy, productive adults.

The program has been a resounding success in meeting this mission. Any parent or teacher can tell you that a hungry child cannot learn. More and more scientific evidence has made it clear that hunger and malnutrition can undermine a child's progress in school. Hunger remains a serious problem in this country, and school meals are an important part of the effort to fight it.

Today, the National School Lunch Program serves over 25 million students in 92,000 schools across the country. More than 90 percent of all public schools participate in the program. For almost 50 years, it has provided complete and nourishing meals to children, nearly half of them from low-income families. The school lunch program has reduced malnutrition and improved the health and well-being of children.

Since 1946, we have learned a great deal about the relationship between diet and health. We have learned that it is not enough to provide children with calories. They need the right kinds of food to keep them healthy. Too much fat, saturated fat, cholesterol, and sodium can increase the risk of heart disease and some forms of cancer. Low-income and minority groups are at greatest risk for those problems. Those risks begin in childhood. Good eating habits established in childhood are critical to staying healthy throughout one's life. I am very proud of the bipartisan legislation we passed last year to improve the nutritional content of school meals.

Mr. President, let me sum up by reiterating how important these programs have been, and how important they are today. Just as they were 50 years ago, school meals remain a critical part of this country's effort to promote our most precious resource—the health and well-being of our children. We have worked hard to build a program that is ready to meet its statutory health mission well into the 21st century. As we consider proposals to block-grant or cut these programs, let us not forget how successful they have been in the past and how important it is to maintain them at the Federal level to fulfill our national responsibility to fight hunger and promote good nutrition.●

## MEREDITH MILLER

● Mr. GRAHAM. Mr. President, I would like to articulate my deep sorrow as this week marks the anniversary of the senseless murder of Meredith Miller.

Meredith, a native of Tampa, FL, graduated with honors from Princeton University where she majored in political science. After her graduation she came to Washington to further her studies at George Washington University and to work on the issues pertaining to women. On October 17, 1994, after returning from a study group, Meredith became the victim of a carjacking.

The dream that Meredith held so dearly was to make a difference in the lives of others. Her fellow students at George Washington University would like Meredith's parents in Tampa to know that Meredith did make a difference in the lives of those fortunate enough to have known her and that their thoughts and prayers are with them today and always. Her friends miss her and learned much from her special outlook on life. She will always remain a vital part of their lives, in spirit.

Mr. President, today let us not forget the contributions Meredith Miller made in her short time here with us, and let us be diligent in our efforts to find a solution to the ever-growing number of senseless violent crimes.●

## ROGER WILLIAMS NATIONAL MEMORIAL CELEBRATES 30TH ANNIVERSARY

● Mr. PELL. Mr. President, I rise to share with my colleagues the happy news that the Roger Williams National Memorial is celebrating the 30th anniversary of its authorization.

I want to take this chance to tell you about Roger Williams, a Founding Father that you will not encounter here, except in the rotunda of the Capitol. He was the founder of Rhode Island and a champion of Democracy and religious liberty.

There is no national memorial to Roger Williams here, unlike the monuments to other national heroes like Washington, Jefferson, and Lincoln. Our national memorial is in Rhode Island, where he lived and left us a philosophical legacy of incomparable worth.

Roger Williams was banished for his beliefs from the Massachusetts Bay Colony in 1635, but survived both banishment and subsequent efforts to take over the settlement he named Providence.

''The air of the country is sharp,'' Roger Williams said of Providence, ''the rocks many, the trees innumerable, the grass little, the winter cold, the summer hot, the gnats in summer biting, the wolves at night howling.''

Thirteen householders in the population of 32 in the first year formed the first genuine democracy—also the first church-divorced and conscience-free community—in modern history.

I cannot emphasize enough how unique and utopian the vision of Roger Williams was in the midst of the 17th century. He was almost alone in believing that all citizens should be free to worship as their conscience dictated.

Roger Williams was a determined and dedicated man. In 1672, when he was nearly 70, he rowed all day to reach Newport for a 4-day debate with three Quaker orators. Both his settlement and his ideas have survived and prospered.

For most of his life, Roger Williams was a deeply religious man. Even without a church to call his own, his ideas flourished in Providence and remain alive today.

Documents, such as our Bill of Rights and Declaration of Independence can be traced directly back to the hardfought freedoms earned by Roger Williams and his followers.

I encourage my colleagues to visit the statue of Roger Williams in the Rotunda of the Capitol. When you do, remember that even the principles of democracy and religious liberty did not come easily. Roger Williams gave them form and substance more than 350 years ago.

These principles also founded the basis of our belief that all people are created with equal rights and should not be denied opportunities to succeed because of their race, gender, or religion.

I sponsored the Senate legislation that authorized the creation of the Roger Williams National Memorial and I have watched it take shape on the site of his original settlement in Providence, RI.

This anniversary comes at an important time. One purpose of the memorial is to emphasize the linked principles of tolerance and freedom. As recent events have demonstrated, we need to focus on these principles.

I am delighted to share with my colleagues today the news that the National Park Service is planning new initiatives to strengthen the impact of the Roger Williams National Memorial and its vital message.

If you have any doubts about the significance of Roger Williams in our history, consider how his philosophy has resonated through our other Founding Fathers and found its way into our most sacred documents.

Just a few examples, culled from his writings, should help to sound his call for freedom:

''The sovereign, original, and foundation of civil power lies in the People.''—The Bloody Tenent of Persecution for Conscience Discussed (1644).

''The civil state is humbly to be implored to provide in their high wisdom for security of all the respective consciences.''—The Hireling Ministry None of Christs

''No person in this colony shall be molested or questioned for the matters of his conscience to God, so he be loyal and keep the civil peace.''—Letter to Major John Mason (1670)

''And having in a sence of God's merciful providence unto me in my distresse called the place Providence, I desired it might be a shelter for persons distressed for conscience.''—Early Records of Providence

We owe a tremendous debt to Roger Williams as the first champion of true religious freedom and for translating principles of democracy and tolerance from concepts into substance.●

## SPECIAL INTERESTS HIT STUDENT LOANS

● Mr. SIMON. Mr. President, Roger Flaherty, now an editor at the Chicago Sun-Times, has followed the Federal student loan program for a number of years. I would urge my colleagues to consider what he has to say about the role of special interests in the current budget debate.

I ask that an article that appeared in the Chicago Sun-Times on September 27, 1995, be printed in the RECORD.

The article follows:

[From the Chicago Sun-Times, Sept. 27, 1995]

### SPECIAL INTERESTS HIT DIRECT LOAN PROGRAM HEAD-ON

(By Roger Flaherty)

When I was younger, I walked side by side one day with Wilbur Mills, the Arkansas Democrat then always described as ''chairman of the powerful House Ways and Means Committee,'' asking about tax reform. In a moment of candor, he said, ''If you want to reform the tax system, you've got to end all deductions.''

Why not do it? I asked. Mills responded with a dismissive look—sort of sneer and condescension—and turned to another reporter. So I learned that Washington people don't do as they think or say. We should keep that in mind as the Congress plows into a fall agenda that promises more moves to ''get government off our backs.''

Like tax deductions, government-run programs are bad until they are good for you or your friends. You usually hear this truism about defense contracts and farm subsidies.

But there's one I've observed closely in recent years—the student loan program. Several years ago, along with Sun-Times reporter Leon Pitt, I uncovered enormous abuses by for-profit trade schools that were using student loans like government vouchers they could squander any way they chose. They enrolled students into programs they were unable to complete or that were so poor in quality as to be useless. When students dropped out, within hours sometimes, the schools kept the loan money in violation of the law. The United States was being defrauded of billions of dollars.

But when reformers tried to tighten loan rules, school industry lobbyists fought them, arguing the reforms were an assault on free enterprise. It was a strange argument, considering that these schools generally received more than 90 percent of their income from government loans and grants.

Well, that odd assertion is again being made in Congress, where conservative Republicans under the guise of getting government off our backs are attacking the direct student loan program. The program, which is scheduled to be phased in over several years, operates successfully at several Illinois institutions, including the University of Illinois. The program allows loans to be made directly from the federal treasury through college financial aid offices.

This is bad, congressional opponents say, because it furthers big government and hurts

business. How ingenuous can you get? Under the old loan system still being used by most schools, a student applies to a bank for a loan. Checking his or her qualifications is a loan guarantee agency, commonly run by state governments, but also by private enterprise. The agencies then issue a guarantee of repayment to the banks. The federal government pays banks subsidies to forgive part of the interest payments and pays fees to the guarantee agencies for their services.

If a student defaults on a loan, the bank is reimbursed—making student loans the safest loans a bank can make. Loan guarantee agencies are paid fees to hound defaulters. Is this not big government? Can this be free enterprise?

There's more. The old system created a secondary loan business, including the huge public-private Sallie Mae association based in Washington, and smaller ones, like one operated by the Illinois Student Assistance Commission. These groups make money by buying loans from banks and packaging them in large blocks for resale. They were created by Congress and the states to free money for more student loans, but as was said of some missionaries to Hawaii, Sallie Mae and its emulators came to do good and ended up doing well. They are big businesses with highly paid executives.

The direct loan program, a plan advanced by Sen. Paul Simon (D–Makanda), eliminated this entire pyramid. No government subsidy or risk-free lending for banks, no government payments to loan-guarantee agencies, no Sallie Maes with executives paid from profits extracted from government loan subsidies.

But odds are increasing that Congress this fall will stop the direct loan program in its tracks, led by the same people who claim they are trying to get government off our backs. And so far, it seems to be going down like a cold, sweet Coke on a hot summer's day.●

## NATIONAL RIGHT TO WORK ACT

● Mr. BURNS. Mr. President, I am pleased to add my name as a cosponsor to S. 581, the National Right to Work Act. As a strong supporter of the right to work, I feel this legislation is vital.

We have spent the first part of this Congress fighting for freedom—the freedom from Government intervention, the freedom of speech, the freedom to choose your health care and even the freedom to succeed. This bill, though it does not add a single letter to Federal law, guarantees the freedom to work free of union imposition.

Why is this important? Americans have always been independent. No matter where they came from, they came to America to see their hard work pay off. And they are not afraid of hard work. This is especially true of Montanans.

But when a worker is forced to pay union dues in order to get a job or keep a job, they have lost part of their freedom. They may get some benefits from joining a union—I am not saying there is no role for unions here—but they lose the freedom to choose.

Mr. President, Congress created the law which allows union officials to force dues in any State back in 1935. Now we need to correct that. All we need to do is to repeal that portion of the National Labor Relations Act [NLRA] which authorizes the imposition of forced union dues contracts on employees.

Nearly every poll taken on this issue over the last few decades has shown that about 8 out of 10 Americans are opposed to forcing workers to pay union dues. It is tough to get 8 out of 10 Americans to agree on anything. I think this is a call for action.

And if you look at job creation in States that have implemented right to work laws, it is hard to ignore the results. Hundreds of thousands of manufacturing jobs have been created in right-to-work States. And in forced-unionism States, hundreds of thousands of jobs have been lost.

I have supported this bill in the past and I truly believe that this is the year to finally make this change. Working men and women in Montana want the freedom to work and they are not alone. I urge my colleagues to listen to what their constituents are saying as well. If you do, you will feel compelled to join me and the other cosponsors in supporting the National Right to Work Act.●

## THE IMPORTANCE OF CONTINUED FEDERAL SUPPORT FOR AMERICORP

● Mr. PELL. Mr. President, this month marks the start of a new class of AmeriCorps members who are dedicated to serving this Nation. As AmeriCorps celebrates its first successful year and the new class begins its service, I would like to take this opportunity to reiterate my support for continued Federal funding of this important national service initiative.

Over the past year, 20,000 AmeriCorps members worked in schools, hospitals, national parks, and law enforcement organizations to meet the most crucial needs of individual communities. AmeriCorps clearly helps to provide a more promising future for Americans by expanding educational opportunities for the young whole simultaneously improving the public services in hundreds of communities.

In my own State of Rhode Island, AmeriCorps has been particularly successful due to the efforts of Lawrence K. Fish, chairman of the Rhode Island Commission for National and Community Service. Mr. Fish challenged higher education institutions in Rhode Island to grant scholarships to AmeriCorps members. Many of our colleges and universities answered Mr. Fish's challenge and have begun lending their support in the form of college scholarships. His endeavor to expand AmeriCorps has offered more students access to an otherwise unaffordable education. Mr. Fish's exemplary work in Rhode Island serves as the quintessential example of building the natural bridge between public service and educational opportunities. In this regard, I ask that an opinion editorial by Lawrence Fish from the Providence Journal of October 11 be printed in the RECORD.

The editorial follows:

[From the Providence (RI) Journal, Oct. 11, 1995]

### THE CHALLENGE OF AMERICORPS

(By Lawrence K. Fish)

Not surprisingly, the debate in Washington over continued funding of the Corporation for National Service has become laser-focused on the politics of embarrassing President Clinton, and not on the people for whom AmeriCorps has been a ringing success.

And the reason is not surprising. It is that Washington, to the frustration of just about everyone outside the District of Columbia, just can't resist playing an inside-the-Beltway version of Gotcha! From the politicians to the pundits to the press, the emphasis remains on the politics of issues, not on the substance of issues or their impact on real people.

For whom has AmeriCorps been successful? It's been a success here in Rhode Island to the 250 AmeriCorps members who have signed up for this domestic Peace Corps and whose efforts, mostly in education, have made better, dramatically better, the lives of thousands of our neighbors. Giver and receiver have been enriched by the effort, and for that, Rhode Island is a better place.

Let me try to explain why AmeriCorps' success here in Rhode Island ought to serve as a model for programs in the 49 other states, and why that success and our promise for the future stand as far more compelling points in the debate than political one-upmanship.

AmeriCorps members have served in cities and towns from Woonsocket to Newport, bringing with them a wealth of desire, experience and cultural diversity. They have gotten results—good results that are measurable. You can see the results on paper and you can see them on the faces of children getting their first ''A's'' and in adults reading for the first time.

Rhode Island's AmeriCorps program has been very successful—and has been recognized as such. For the second straight year, after a very competitive process that pitted us against 49 other states, we received more AmeriCorps funding on a per capita basis than any other state. In this our second year Rhode Island will field 250 AmeriCorps members in eight programs that will touch the lives of thousands of our neighbors. Once again, they will work predominantly in education, because that's where many believe the greatest need is.

Linking public service and education, we approached the leaders of the state's colleges, universities and technical schools to see if they would accept our AmeriCorps challenge to inaugurate a public-private partnership from which they will get the lessons of service and commitment from AmeriCorps veterans and to which they will provide a quality education.

The Rev. Philip Smith of Providence College was the first to meet the challenge, and Vartan Gregorian of Brown was close behind. They were followed almost immediately by our other higher-education leaders—Bob Carothers of URI, Sister Therese Antone of Salve Regina, Bill Trueheart of Bryant, Roger Mandle of RISD, Jack Yena of Johnson and Wales and Ed Liston of CCRI. I mention them to dramatize that AmeriCorps runs cost-effective, successful, nonpartisan programs.

I accompanied the presidents of seven of the state's public and private colleges and universities to Washington for meetings on Capitol Hill and in the White House. There we outlined the Rhode Island Challenge to

Higher Education, a challenge to provide scholarships to AmeriCorps members that complement the stipends they receive for their year of service. The result is a win/win for both sides: Higher education gets the kind of committed students who are potential campus leaders; and AmeriCorps members pass through another gateway to opportunity.

The foundation for the Rhode Island Challenge to Higher Education was laid a year ago. Rhode Island's bipartisan congressional delegation, each member of which played a role in the passage of the legislation that brought about AmeriCorps, joined other dignitaries at Slater Junior High School in Pawtucket in AmeriCorps's debut. The setting, a junior high school in the heart of one of our older, struggling cities, provided a fitting backdrop for the Rhode Island AmeriCorps members and the educational programs they would serve.

In the year since, AmeriCorps members have farmed out across the state, serving as teachers' assistants in public schools, tutors in after-school mentoring programs, and teaching English as a Second Language and GED classes to adults. And they've had an impact, all because they are 100 percent behind keeping their end of a bargain to make AmeriCorps work the way in which Congress and the President intended.

Rhode Islanders would have been proud to have joined me and some of the presidents in the White House Cabinet Room recently when we introduced the Rhode Island Challenge to Higher Education to President Clinton. From the smallest state to the other 49 came the challenge for their colleges and universities to match our commitment of scholarships to AmeriCorps members.

Our hope, and that of AmeriCorps members around the country and others committed to public service, is that our Challenge to Higher Education can help overcome the cynicism that has come to mark the debate in Washington.●

## ORDER OF PROCEDURE

Mr. DOLE. Mr. President, first, I indicate there will be no further votes this evening.

## AUTHORIZING TESTIMONY AND LEGAL REPRESENTATION

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 186, submitted earlier by Senator DOLE and Senator DASCHLE.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 186) to authorize testimony by Senate employees and representation by Senate legal counsel.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

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

Mr. DOLE. Mr. President, the U.S. Government is the defendant in a pending case in the U.S. Court of Federal Claims arising out of a dispute with a private real estate developer over the Government's procurement to lease a new headquarters building for the Securities and Exchange Commission. The plaintiff developer responded to the Government's request for proposals by offering to build the SEC a new headquarters building in Silver Spring, MD. The plaintiff alleges in this lawsuit that the Government violated procurement law in connection with the SEC headquarters procurement.

The Government has determined that the group of individuals who may have relevant information about this case includes two employees on Senator SARBANES' staff. In addition to his interest in this matter arising out of the SEC's potential selection of a site in Maryland for its headquarters building, Senator SARBANES is the ranking minority member of the Committee on Banking, Housing, and Urban Affairs, which has oversight jurisdiction over the SEC.

Senator SARBANES would like the Senate to authorize the employees in his office to testify in response to the Government's request. This resolution would authorize them to testify with representation by the Senate legal counsel.

Mr. President, I ask unanimous consent that the resolution be agreed to; that the motion to reconsider be laid upon the table; and that any statements relating to the resolution appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered. Without objection, the preamble is agreed to.

So the resolution (S. Res. 186) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 186

Whereas, the defendant in *Triangle MLP United Partnership* v. *United States,* No. 95–430C, a civil action pending in the United States Court of Federal Claims, is seeking testimony at a deposition from Charles Stek and Rebecca Wagner, employees of the Senate who are on the staff of Senator Paul S. Sarbanes;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate is needed for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288B(a) and 288c(a)(2), the Senate may direct its counsel to represent employees of the Senate with respect to subpoenas or requests for testimony issued or made to them in their official capacities: Now, therefore, be it

*Resolved,* That Charles Stek, Rebecca Wagner, and any other employee of the Senate from whom testimony may be required are authorized to testify and to produce documents in the case of *Triangle MLP United Partnership* v. *United States,* except concerning matters for which a privilege should be asserted.

SEC. 2. That the Senate Legal Counsel is authorized to represent Charles Stek, Rebecca Wagner, and any other employee of the Senate in connection with the testimony authorized by this resolution.

## FEDERAL EMPLOYEES EMERGENCY LEAVE TRANSFER ACT OF 1995

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 197, S. 868

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 868) to provide authority for leave transfer for Federal employees who are adversely affected by disasters or emergencies, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

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

Mr. DOLE. Mr. President, I ask unanimous consent that the bill be deemed read a third time and passed; that the motion to reconsider be laid upon the table; and that any statements relating to the bill be placed at the appropriate place in the RECORD.

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

So the bill (S. 868) was deemed read the third time and passed, as follows:

S. 868

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the ''Federal Employees Emergency Leave Transfer Act of 1995''.

SEC. 2. (a) Chapter 63 of title 5, United States Code, is amended by adding after subchapter V the following new subchapter:

''SUBCHAPTER VI—LEAVE TRANSFER IN DISASTERS AND EMERGENCIES

**''§ 6391. Authority for leave transfer program in disasters and emergencies.**

''(a) For the purpose of this section—

''(1) 'employee' means an employee as defined in section 6331(1); and

''(2) 'agency' means an Executive agency.

''(b) In the event of a major disaster or emergency, as declared by the President, that results in severe adverse effects for a substantial number of employees, the President may direct the Office of Personnel Management to establish an emergency leave transfer program under which any employee in any agency may donate unused annual leave for transfer to employees of the same or other agencies who are adversely affected by such disaster or emergency.

''(c) The Office of Personnel Management shall establish appropriate requirements for the operation of the emergency leave transfer program under subsection (b), including appropriate limitations on the donation and use of annual leave under the program. An employee may receive and use leave under the program without regard to any requirement that any annual leave and sick leave to a leave recipient's credit must be exhausted before any transferred annual leave may be used.

''(d) A leave bank established under subchapter IV may, to the extent provided in regulations prescribed by the Office of Personnel Management, donate annual leave to the emergency leave transfer program established under subsection (b).

''(e) Except to the extent that the Office of Personnel Management may prescribe by regulation, nothing in section 7351 shall apply to nay solicitation, donation, or acceptance of leave under this section.

''(f) The Office of Personnel Management shall prescribe regulations necessary for the administration of this section.''.

(b) The analysis for chapter 63 of title 5, United States Code, is amended by adding at the end thereof the following:

''SUBCHAPTER VI—LEAVE TRANSFER IN DISASTERS AND EMERGENCIES

''6391. Authority for leave transfer program in disasters and emergencies''.

SEC. 3. The amendments made by section 2 of this Act shall take effect on the date of enactment of this Act.

## TIED AID CREDIT PROGRAM REAUTHORIZATION

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 203, S. 1309.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1309) to reauthorize the tied aid credit program of the Export-Import Bank of the United States, and to allow the Export-Import Bank to conduct a demonstration project.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

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

Mr. DOLE. Mr. President, I ask unanimous consent that the bill be deemed read a third time and passed; that the motion to reconsider be laid upon the table; and that any statements relating to the bill be placed at the appropriate place in the RECORD.

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

So the bill (S. 1309) was deemed read the third time and passed, as follows:

S. 1309

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. EXTENSION OF TIED AID CREDIT PROGRAM.**

(a) TIED AID CREDIT FUND.—Section 10(c)(2) of the Export-Import Bank Act of 1945 (12 U.S.C. 635i–3(c)(2)) is amended by striking ''the September 30, 1995'' and inserting ''September 30, 1997''.

(b) AUTHORIZATION.—Section 10(e) of the Export-Import Bank Act of 1945 (12 U.S.C. 635i–3(e)) is amended by striking ''1993, 1994, and 1995'' and inserting ''1996 and 1997''.

**SEC. 2. AUTHORITY TO CONDUCT A DEMONSTRATION PROJECT.**

Notwithstanding section 4701(a)(1)(A) of title 5, United States Code, the Export-Import Bank of the United States may conduct a demonstration project in accordance with section 4703 of such title.

## DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1996

Mr. DOLE. Mr. President, I ask unanimous consent that the Chair lay before the Senate a message from the House on H.R. 2126, an act making appropriations for the Department of Defense for the fiscal year ending September 30, 1996.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

*Resolved,* That the House disagree to the amendment of the Senate to the bill (H.R. 2126) entitled ''An Act making appropriations for the Department of Defense for the fiscal year ending September 30, 1996, and for other purposes'', and ask a further conference with the Senate on the disagreeing votes of the two Houses thereon.

*Ordered,* That Mr. Young of Florida, Mr. McDade, Mr. Livingston, Mr. Lewis of California, Mr. Skeen, Mr. Hobson, Mr. Bonilla, Mr. Nethercutt, Mr. Istook, Mr. Murtha, Mr. Dicks, Mr. Wilson, Mr. Hefner, Mr. Sabo, and Mr. Obey be the managers of the conference on the part of the House.

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate agree to a request for a further conference with the House and that the Chair be authorized to appoint conferees on the part of the Senate.

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

The PRESIDING OFFICER (Mr. BENNETT) appointed Mr. STEVENS, Mr. COCHRAN, Mr. SPECTER, Mr. DOMENICI, Mr. BOND, Mr. MCCONNELL, Mr. MACK, Mr. SHELBY, Mr. GREGG, Mr. HATFIELD, Mr. INOUYE, Mr. HOLLINGS, Mr. JOHNSTON, Mr. BYRD, Mr. LEAHY, Mr. BUMPERS, Mr. LAUTENBERG, and Mr. HARKIN conferees on the part of the Senate.

## APPOINTMENT OF CONFEREES—H.R. 1617

The PRESIDING OFFICER. Pursuant to the order of October 11, 1995, the Chair appoints the following Senators to serve as conferees on the part of the Senate on H.R. 1617, a bill to consolidate and reform workforce development and literary programs.

The PRESIDING OFFICER (Mr. BENNETT) appointed Mrs. KASSEBAUM, Mr. JEFFORDS, Mr. COATS, Mr. GREGG, Mr. FRIST, Mr. DEWINE, Mr. ASHCROFT, Mr. ABRAHAM, Mr. GORTON, Mr. KENNEDY, Mr. PELL, Mr. DODD, Mr. SIMON, Mr. HARKIN, Ms. MIKULSKI, and Mr. WELLSTONE conferees on the part of the Senate.

## ORDER FOR FRIDAY, OCTOBER 20, 1995

Mr. DOLE. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 9:30 a.m. on Friday, October 20, 1995; that following the prayer, the Journal of proceedings be deemed approved to date, the time for the two leaders be reserved for their use later in the day; that there then be a period for the transaction of morning business until the hour of 10:30 a.m., with Senators permitted to speak for up to 5 minutes each, with the exception of the following: Senator WARNER, 10 minutes; Senator BAUCUS, 10 minutes; Senator KERREY, 20 minutes. So there will be an additional 40 minutes for those who would like to participate in morning business.

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

## PROGRAM

Mr. DOLE. For the information of all Senators, at 10:30 it will be the majority leader's intention to turn to Calendar No. 207, S. 1322, regarding the relocation of the Embassy in Israel to Jerusalem. Votes could occur in connection with that bill and the Senate could be asked to turn to the State Department reorganization if the managers' amendment could be agreed to. Therefore votes can be expected to occur.

## NEGOTIATIONS WITH THE PRESIDENT

Mr. DOLE. Mr. President, I will just make one brief statement before we recess. I will just say this.

I think, for the first time, the President of the United States, President Clinton, indicated today that he was prepared to negotiate with the leaders of the Congress concerning a balanced budget in 7 years. It is the first time he suggested 7 years. He also mentioned capital gains, taxes, and other matters. That may be the beginning, at least a glimmer of hope that we might be able to come together in some negotiation with the President of the United States, myself, and the Speaker of the House, Speaker GINGRICH. And I hope that is a sincere offer by the President of the United States, that we can properly pursue it at the appropriate time.

## RECESS UNTIL 9:30 A.M. TOMORROW

Mr. DOLE. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in recess under the previous order.

There being no objection, the Senate, at 7:11 p.m., recessed until Friday, October 20, 1995, at 9:30 a.m.

## NOMINATIONS

Executive nomination received by the Senate October 19, 1995:

DEPARTMENT OF DEFENSE

AUTHUR L. MONEY, OF CALIFORNIA, TO BE AN ASSISTANT SECRETARY OF THE AIR FORCE, VICE CLARK G. FIESTER.

# EXTENSIONS OF REMARKS

## OPPOSITION TO H.R. 2425, THE MEDICARE PRESERVATION ACT OF 1995

### HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 19, 1995*

Mr. STOKES. Mr. Speaker, I rise in strong opposition to H.R. 2425, the Medicare Preservation Act of 1995. While cloaked in an innocent, nonthreatening title, when you peel off the title and clear the smoke and mirrors, what you find is that H.R. 2425 authorizes a legalized assault, and an all-out attack on the health of the Nation's seniors.

The measure destroys our Nation's health care system for the elderly—Medicare—by cutting $270 billion—from health care services for the elderly—in order to pay for a tax cut for the wealthy. It is absolutely essential for the American people to be aware that this figure is—three times more—than the $89 billion which the medicare actuaries and the medicare trustees have determined is needed to ensure Medicare's solvency.

The Republican measure forces the American people to needlessly pay more for less. Seniors' health care premiums will double. Gone are the limitations on the amount that doctors and hospitals can charge patients. In fact, the Republicans' balance billing provision allows providers to charge patients as much as they want, well beyond what Medicare pays.

With respect to choice, seniors' choice of provider is seriously restricted. Seniors are forced through a maze of financial maneuvers under the Republican Medicare-Plus provisions. These provisions are specifically designed to make it increasingly difficult for seniors to remain with their current private doctor, forcing seniors into HMO-type health care systems.

Mr. Speaker, where will our Nation's frail, poor, and sick elderly turn for care, when H.R. 2425 seriously erodes and threatens the very survival of the Nation's safety net hospitals. Uncompensated care will escalate.

As if these destructive provisions were not enough, H.R. 2425 provides fertile ground for fraud and abuse. Current provisions that are designed to prevent kickbacks and promote accurate billing are repealed. CBO estimates that this provision alone will cost the American people over $1 billion. These are but a few of H.R. 2425's life threatening provisions.

Mr. Speaker, I know the standard of living and quality of life for the 1.6 million beneficiaries in my State, Ohio, will be drastically reduced. They certainly cannot absorb the over $8 billion that Ohio will lose under the Republican proposal. This 20—ballooning to 30—percent cut will devastate Ohio's health care systems.

Let me take just a moment to share with you just a snapshot of the worries and fears that haunt the seniors in my district as they see medicare being ripped apart just for the sake of providing a tax cut for the wealthy.

Ms. Erline Chess is a 78-year-old widow who has been receiving home oxygen for nearly 10 years. She is concerned that the increased cost of care could put an end to her existence.

Mr. Eli Strinic has had the same doctor for over 15 years and does not want to be forced into a HMO-type health care system. Mr. Strinic is proud of the fact that his doctor knows his medical history, and understands his health care needs.

Mr. Speaker, I think that Ms. Anita Woodward, a health professional in my district sums up the situation most appropriately. She writes, ''I fear not only the loss of quality. I worry that the sick will be forgotten, and patients that I see every day will really have to make the choice between the prescription blank and the grocery list.''

Mr. Speaker, I strongly urge you and my colleagues to listen to the plea of America's seniors in particular, and the American people in general. Do not destroy medicare. Join me in voting ''No'' on H.R. 2425.

## WELCOME BACK LOUISVILLE SLUGGER

### HON. MIKE WARD

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 19, 1995*

Mr. WARD. Mr. Speaker, I would like to take this opportunity to welcome the Louisville Slugger, the world's finest baseball bat, back to its hometown of Louisville, Kentucky.

This Saturday, October 21, 1995, the Louisville Slugger will return to the Louisville skyline at the future site of the Hillerich and Bradsby headquarters at Eighth and Main Streets in downtown Louisville. The factory will open in Louisville this January. This event will also correspond with the first day of the World Series. In front of the future headquarters, the world's largest baseball bat will be installed, reaching a height of 120 feet. This giant bat will represent not only the quality product manufactured by Hillerich and Bradsby, but will also come to embody our Nation's love for the game. A public street party and other events will take place to welcome Hillerich and Bradsby and the large bat back to Louisville.

Mr. Speaker, I would like to congratulate the company of Hillerich and Bradsby on their dedication to producing a high quality product, on their dedication to the game of baseball, and on their dedication to the city of Louisville. Mr. Speaker, in Louisville, we may speak softly, but we carry a big bat.

## TRIBUTE TO MAJ. GEN. JERRY C. HARRISON

### HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 19, 1995*

Mr. SKELTON. Mr. Speaker, today I pay tribute to a great American, a great Army officer, a great Missourian, and a great soldier. This month Jerry Harrison will complete over 32 years of dedicated service to our country. As a soldier, leader, and finally as a trusted advisor to the Secretary of the Army and the Chief of Staff of the Army he has provided dedicated and distinguished service.

Today as we honor his retirement, Jerry Harrison serves as the Army's Chief of Legislative Liaison. This is the capstone of a remarkable career which started in 1959 when he entered the U.S. Military Academy at West Point and where he was commissioned as a second lieutenant of field artillery in 1963. Over the course of the past three decades, he served in a variety of exceptionally challenging troop and staff assignments in the United States, Germany, Korea, and Vietnam.

As a leader, he has commanded at the battery, battalion, and brigade levels, culminating in his command of the U.S. Army Laboratory Command. As a staff officer and commander, he saw duty in many tough and challenging positions, validating the confidence the Army placed in his demonstrated abilities. He commanded the 1st Battalion 29th Field Artillery at Fort Carson, Colorado, followed by a staff assignment as Chief, High Technology Test Division, Office of the Deputy Chief of Staff for Operations and Plans. His skills were recognized when he was chosen for higher command and served as the Division Artillery Commander, 2nd Infantry Division, Camp Stanley, Korea. This was followed by a tour with the Deputy Chief of Staff for Research, Development, and Acquisition as the Deputy Director.

His selection to Brigadier General led him to Fort Sill, Oklahoma where he served as the Assistant Commandant of the Field Artillery School, followed by an assignment as the Chief of Staff, Army Materiel Command. Upon his selection for promotion to Major General, he was given command of the U.S. Army Laboratory Command. Since January 1992, he has served with distinction as the Chief, Army Legislative Liaison.

During his tour as the Chief, Army Legislative Liaison, he shepherded the Army's relationship with Congress wielding a deft and skillful touch during a period of tremendous change. Throughout this period, Jerry Harrison ably assisted the Army's senior leadership in its dealings with Members of the Congress and helped them to understand the needs of America's Army as it transformed itself from a forward deployed force to a power projection force. Drawing on this years of experience he skillfully charted the way for an enhanced understanding of the Army's role in the legislative process and for telling the Army story. His

leadership resulted in cohesive legislative strategies, well-prepared Army leaders, and a coherent Army message.

Jerry Harrison's career reflects a commitment to our Nation, characterized by dedicated selfless service, love for soldiers, and a commitment to excellence. Major General Jerry C. Harrison, the consummate professional, whose performance in over three decades of service, in peace as well as in war, personified those traits of courage, competency, and integrity that our Nation has come to expect from its Army officers. On behalf of the Congress of the United States and the people of this great Nation, I offer our heartfelt appreciation and best wishes for a soldier who served his country so admirably.

## TRIBUTE TO MABEL HOGGARD

### HON. BARBARA F. VUCANOVICH

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 19, 1995*

Mrs. VUCANOVICH. Mr. Speaker, I rise today to take time to honor and pay tribute to an individual who spent her life in the service of others. In doing so, Mabel Hoggard became a pioneer, both for her race and for women. Born on March 10, 1905, in Pueblo, CO, Mabel left her home State after high school to attend the University of Tennessee at Nashville, then known as Tennessee A&M, to pursue a teaching degree. Upon completion, she started teaching in a two-room schoolhouse in the coal fields of Jenkins, KY, for $100 a month. Mabel went on to do graduate work in education at Chicago University, University of Utah, and the University of Nevada, Las Vegas.

A lifelong Republican, Mabel was the first black writer for the Williamson, West Virginia News and the first black administrative staff person for the Williamson Housing Authority. Mabel Hoggard was not to be satisfied with these important contributions, however. In 1944, she moved to Las Vegas and became the first black teacher in the State of Nevada. Mabel spent 25 years with the Clark County School District, teaching at a number of schools including Matt Kelly, Highland, Westside, and C. V.T. Gilbert. In 1975, the Board of Trustees honored her by changing the name of the former Bonanza Elementary to the Mabel Hoggard School. The University of Nevada, Las Vegas in 1977, awarded Mabel the ''Outstanding Citizen'' award.

Mr. Speaker, Mabel Hoggard was a true pioneer in the great spirit of Nevada and we honor her memory today as an inspiration not only for Nevadans, but all Americans.

## NAVAL ACADEMY'S CLASS OF 1955 PRESENTS COLD WAR MURAL

### HON. CHARLES W. STENHOLM

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 19, 1995*

Mr. STENHOLM. Mr. Speaker, in June 1955, 742 young men graduated from the U.S. Naval Academy and received commissions in the Navy, the Marine Corps and the Air Force. Today the Class of 1955 returns to the Academy for its 40th reunion. The U.S. Naval Academy was founded in October 1845. In recognition of the Academy's 150th anniversary, this evening the president of the class of 1955 will formally present an 85′ x 10′ mural to the superintendent of the U.S. Naval Academy. The mural is mounted in Alumni Hall and is described by the following text:

WINNING THE COLD WAR

On the occasion of our 40th reunion, the Class of 1955 proudly presents this mural to salute the 150th Anniversary of The United States Naval Academy. Conceived and commissioned by the class, the mural reminds today's midshipmen of the Cold War's scope and complexity. Through numerous examples, the mural illustrates the extensive efforts by our nation to win the longest war in our history. The mural makes the point that winning the war occurred in part as a result of values imparted to midshipmen of all the classes of the era by the Academy.

The historical purpose of the mural is to portray the world as it evolved during the period of sustained tension between the free world and the Communist nations from the late 1940's to the early 1990's. This period generally coincides with the active duty service of the Class of '55. The images of historic events and Naval Academy activities are chosen to remind viewers that the national security environment during the Cold War was very different than today's, and that the Naval Academy environment was different in many ways as well.

The Cold War is but one of many periods in our nation's history in which Naval Academy graduates made significant contributions to the preservation of our freedom. Despite the changing nature of the challenges, the Naval Academy prepares midshipmen to make these important contributions by emphasizing a traditional set of core values that provide the foundation for continued success by Academy graduates. These values are illustrated by the four themes in the mural: Leadership, Academics and Technology, Athletics, and Excellence and Professionalism.

LEADERSHIP

The Naval Academy consistently produces high quality graduates who understand and practice the fundamental principles of leadership. Academy graduates of every rank lead men and women in training and battle, in the execution of supporting technical and administrative duties, and rise to the most senior positions in their services. During the Cold War, Naval Academy graduates (including many members of the Class of '55) commanded ships, planes, squadrons, companies, battalions and other fighting units in the Navy, Marine Corps and Air Force. The two glass panels flanking the central world map present the insignia of all the services, the Department of Defense, and the Naval Academy.

The central panel of the mural illustrates the enormous geographic size of the Communist Empire directed by the very large and powerful Soviet Union. The comparatively small United States mounted a sustained 40 year campaign of moral, military, economic, and technical superiority to defeat the Communist threat to our free existence. The hexagon shaped panels illustrate some of the significant events that collectively contributed to Winning The Cold War. Naval Academy graduates participated in these events that resulted in the total collapse of the Soviet Union and subordinate nations of the Communist Empire. The mural suggests the internal decay of that empire by the rusty steel and popped rivets around the borders of Communist countries.

ACADEMICS AND TECHNOLOGY

The angled wall to the right of the map illustrates the role of the Naval Academy in preparing midshipmen for future intellectual challenges. Some of the most amazing technological advances in history occurred during the years spanned by the service of the Class of '55. As midshipmen, we used the slide rule for general calculations and analog computers for gun laying. A few years after graduation, the digital computer entered our professional careers and triggered an exponential technological explosion. The solid academic foundation provided by the Naval Academy enabled graduates to master emerging technologies and lead their subordinates through the challenges of the computer and nuclear age. The glass overlays on each end of the central panel, together with the adjacent painted scenes, illustrate representative ship, submarine and aircraft systems of steadily increasing complexity in which Naval Academy graduates served during the Cold War. The consistent ability of our nation to stay ahead of the former USSR in the development and application of technology forced a series of Communist leaders to recognize that they could not compete successfully in a military confrontation with the United States.

ATHLETICS

The angled wall to the left of the map illustrates the important contribution of the Naval Academy athletic programs in developing high quality graduates. Over the years, brilliant performances by individuals, combined with a unique Naval Academy emphasis on teamwork, resulted in significant victories over national colleges and universities with much stronger and heavily subsidized athletic programs. As an example, the ''team called *DESIRE*'', led by the Class of '55, overpowered favored Army and then defeated Mississippi, the Southeastern Conference Champions, 21–0 in the 1955 Sugar Bowl. Other teams and individuals represented on the panel won Olympic, National, Eastern Intercollegiate, and League Championships. A fierce competitiveness, the will to win, and a refusal to quit characterize the performance of Navy teams across a wide spectrum of collegiate sports. The special tolerance for pressure and for leadership under stress developed by participation in Navy sports enabled Academy graduates to withstand the physically demanding requirements of combat operations, space flight and in some cases prolonged detention as a prisoner of war. The Naval Academy athletic programs also motivate graduates to remain physically fit and apply the same winning habits to their professional careers.

EXCELLENCE AND PROFESSIONALISM

The plebe at the left end of the mural represents all midshipmen entering the Naval Academy. Each new plebe class contains individuals from every state, a few foreign nations, and some with previous military service. These fledgling midshipmen represent a wide range of value systems, family backgrounds and ethnic cultures. During their four years at the Academy, these young people grow in their sense of ethics, truthfulness and honor, and learn to respect the need for spiritual guidance. The first class midshipman at the right end of the mural is about to graduate, well prepared for commissioning as an officer in one of the armed services. The habit of excellence developed as midshipmen is transformed into the professionalism that distinguishes Naval Academy graduates as they lead military organizations, work on the frontiers of technology, and participate in programs of national importance.

The Cold War is over. Our national ability to remain strong and unyielding for over 40

years in the face of a hostile and persistent Communist threat to our freedom was due in significant part to dedicated service by Naval Academy graduates. Unfortunately, the world is still a dangerous place and our country will continue to call upon the armed services to preserve our freedom. The men and women in the service uniform of their choice will continue to answer the call and will add new chapters to the proud history of the Naval Academy developed over the past 150 years.

## SEPA

### HON. PAT DANNER

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 19, 1995*

Ms. DANNER. Mr. Speaker, today I rise in opposition to a provision that may be included in the House version of the budget reconciliation package. Specifically, I strongly oppose the auction to the highest bidder of the Southeastern Power Administration [SEPA] and the consideration of the auction of any of the other Power Marketing Administrations [PMA's].

The House Resources Committee, by a 1 vote margin, approved language that would require the Corps of Engineers to auction to the highest bidder contracts to all SEPA generated power plus all land and facilities related to the generation of electricity. This includes generators, dams, locks, reservoirs, and the land surrounding the reservoirs. It is important to note that other than the generated power, those assets are under the jurisdiction of the House Transportation and Infrastructure Committee, not the Resources Committee.

In response, the Transportation and Infrastructure Committee, of which I am a member, passed language that prohibits the sale of the Corps of Engineer's assets as they relate to SEPA. If the Transportation and Infrastructure Committee language stands, which it should, all that is left of the Resources Committee language is the sale of the generated power. However, according to the Congressional Budget Office, the sale of the power generation alone does not score as a budget savings. If there are no budget savings the argument favoring such a sale, simply does not make sense.

We must defeat all proposals, now and in the future, to auction to the highest bidder any of the PMA's. This proposed auction would assuredly result in higher electric rates for rural and small town consumers.

## ANNUAL FUND DINNER FOR THE INDIANA BRANCH OF THE NAACP

### HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 19, 1995*

Mr. VISCLOSKY. Mr. Speaker, I rise today to congratulate the members of the Hammond, IN branch of the National Association for the Advancement of Colored People [NAACP]. On Thursday, October 19, 1995, they will hold the Annual Freedom Fund Dinner.

The Hammond NAACP, which has chosen the theme of ''Building Family Values,'' was organized in 1934 by a group of residents that felt there was a need for an organization that would monitor and defend the rights of African-Americans in Northwest Indiana. The national organization, of which the Hammond branch is a member, focuses on providing better and more positive ways of addressing the important issues facing minorities in social and job-related settings.

The Annual Fund Dinner is a major fund raiser for the Hammond branch of the NAACP. In addition, the dinner serves to update and keep the community aware of the accomplishments of the local and national chapters on an annual basis.

Moreover, awards are presented at the dinner to members who have given of themselves above and beyond the planned agenda or the President's request. Those special individuals who will receive awards are the following: Rocharda Moore Morris, President's Award; The Reverend Albert Johnson, Jule Alexander Award; Officer Pete Torres, Community Service Award; and Anthony Higgs, Program Support Award. Pearline Jenkins Scholarship Awards, whose joint contributors are the Hammond NAACP and the Northern Indiana Public Service Co., will be presented to Peter Adams, of Hammond High School, and Marquist L. Spencer, of Morton Senior High School. The Master of Ceremonies is Bernard Carter, Lake County Prosecutor, and the Keynote Speaker is Norman Van Lier, former star of the Chicago Bulls. In addition, Norman will receive a special recognition award.

Mr. Speaker, it is my honor to congratulate the Hammond Branch of the NAACP for commending these outstanding men and women, who have taken the extra step to improve the quality of life for the residents of Indiana's First Congressional District.

## PET TECHNOLOGY

### HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 19, 1995*

Mr. DUNCAN. Mr. Speaker, last month I was invited to the University of Tennessee Hospital where I was given a tour and briefing concerning a new medical technology, Positron Emission Tomography, or PET for short. I should say that this is the latest advance in medical technology for humans and does not apply to pet animals.

PET technology is the latest advance in diagnosing diseases such as breast cancer, colon cancer, lung cancer, brain cancer, heart disease, and epilepsy.

I have introduced H.R. 2194, the Medicare PET Coverage Act of 1995, because it is time that the average American has access to both this technology and the benefits from cost savings that PET scans provide. My bill would expand PET from research into widespread clinical use by permitting Medicare and Medicaid reimbursement for PET scan procedures.

Despite the fact that CHAMPUS and private insurers like Blue Cross/Blue Shield already reimburse for this safe, cost effective procedure, Medicare and Medicaid do not.

PET scan technology is a diagnostic procedure that doctors can use without surgery to determine the rate of growth of a tumor and tell if it is malignant or benign. This knowledge saves patients from unnecessary surgery and even eliminates the need for many biopsies.

Over its 20-year history and some 1 million PET scans, the technique has demonstrated the ability to reduce the number, cost, physical pain, and mortality of expensive surgical procedures.

This results not only in improved care, but also reduced health care delivery costs.

For example, in the case of breast cancer, most patients undergo an expensive and painful surgery to evaluate the tumors. This procedure often requires hospitalization and anesthesia and can lead to complications. PET scans allow doctors to screen out the 75 percent of patients who can be treated by partial mastectomy and thereby avoid surgery. Almost 74,000 women per year would be spared the risk and the cost associated with this surgery.

Similarly, lung cancer patients would avoid 10,000 surgeries and 17,000 biopsies each year with the use of PET scans.

With today's rising health care costs, we need to push those technologies which provide cost savings into the mainstream of medical practice.

Data collected from peer review studies shows that PET technology offers the potential to reduce national health care costs by a net of $5 billion a year. Approximately $1 billion of these savings would be in Medicare alone.

I would like to commend my colleague, Mr. THOMAS of California, for his efforts to include PET scans in the Medicare Preservation Act we will vote on tomorrow. His language clarifies the scope of coverage and amount of payment under the Medicare program. This would ensure that cutting-edge and cost-saving technologies like PET are reimbursable.

This language is an important step in enabling Americans who rely on Medicare to benefit from innovative new technologies while at the same time generating considerable savings to the Federal Government.

As important for me as the cost savings is the fact that the largest manufacturer of PET scan equipment in the world, CTI, is located in my district in east Tennessee. The technology and personnel that founded the company came from the Oak Ridge National Laboratory just outside of Knoxville, TN.

The savings from PET technology could start today. One million PET scan studies have been performed with no known negative reactions. Patients have avoided unnecessary surgery because of PET. Again, I say we are not talking about animal pets, but a medical breakthrough called Positron Emission Tomography.

The Health Care Financing Administration (HCFA) has not made a decision on reimbursement while the Food and Drug Administration [FDA] drags its feet in making a decision on whether and how to regulate PET—something that States have already been doing.

For over 7 years, the developers of PET scans have complied with HCFA and FDA procedures and requests only to have the rules changed and inquiries about progress met with minimal response.

While there has been some recent movement on the part of the FDA, the fact remains that we have no consistent regulatory plan that applies industry-wide to all uses of PET.

Mr. THOMAS' language will help move PET, and other technologies like it, out of this needless bureaucratic standstill.

Under this language, HCFA can no longer prevent Americans who rely on Medicare from

the benefits of PET scan technology. It will no longer be able to keep the Federal Government from realizing the savings that PET scans can generate.

A hallmark of our health care system is the ability to constantly improve patient treatment by introducing new technology. Better technology often means a more intelligent approach to the diagnosis and treatment of illness. This often translates into better care at a lower cost.

To the person who can avoid surgery, the access to PET is an immediate health concern. For the taxpayer or individual insurance consumer, reimbursement can help relieve the burden of rising costs. Medicare and Medicaid reimbursement of PET technology provides access to a medical benefit that Americans should not be denied 1 more day.

Mr. Speaker, PET scans can save lives, discovering things that other types of medical scanning miss.

It will not be long before people will be demanding this technology. We should not deny its benefits to our senior citizens because of bureaucratic delays or unfair medical rules.

## TRIBUTE TO BYRON McKELVIE

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 19, 1995*

Mr. McINNIS. Mr. Speaker, I rise today to pay tribute to Mr. Byron McKelvie of Cortez, CO, who recently retired after more than 30 years in the news business. As an acknowledgement of the many years of service Mr. McKelvie gave as an objective reporter and editor of the Cortez Sentinel and Montezuma Journal, those papers recently printed a wonderfully written farewell. I would like to insert that editorial into the RECORD, Mr. Speaker, and I ask that my colleagues join me in honoring Mr. McKelvie's devotion to his work, his community, and our country.

[From the Cortez Sentinel, Sept. 9, 1995]

There's an old joke about a little boy whose parents were very concerned that he could not talk. He seemed to function quite well in every other way, and the years went by until, lo and behold, one night at the supper table an amazing thing occurred. ''This roast beef is burnt,'' he said, quite clearly. His parents and siblings were amazed. ''Jimmy,'' they said, ''you can talk! Why have you never said anything before?'' ''You never burned the roast beef before,'' he said.

That's the way the newspaper business works; until we publish something disagreeable, every one of our thousands of readers remain silent. Much of an editor's time is spent fielding complaints about not printing enough information, printing too much information, printing information too soon or too late, and occasionally but not nearly as often as one might think, printing incorrect information. Newspaper work is thankless, but the time has come to say thanks to a man who has spent much of his life contributing to the public exchange of information.

Byron McKelvie retired this week, after 36 years in the news business, most of them at Cortez Newspapers. First as a reporter and columnist and then as editor, he has been responsible for shining a clear light on issues of great importance to Montezuma County. While covering topics too numerous to list, his primary area of expertise has been water issues. He reported the development of the Dolores project from the early 1960s until its fruition, and he accomplished the delicate balancing act required of an objective reporter who was also an ardent supporter.

Writers are often remembered for the subjects about which they've written, but the true story of a newspaper man's career is the story of line after line of copy, year after year of deadlines, meeting after meeting to attend, newspaper after newspaper after newspaper to put out.

That's why the profession is called journalism, because a newspaper done well is a journal of life in its community. A newspaper is not a collection of stories, but thousands of chapters in a single story. For 8 years as this newspaper's editor, ''Mac'' has been responsible for telling that story. His accuracy, fairness, persistence and dedication are appreciated by his readers and by those of us who follow in his footsteps.

Thanks, Mac. Cortez and Montezuma County will miss you, and so will the Sentinel and the Journal, and myself.

## STATEMENT ON MEDICARE BY CLAIRDA POTTS

### HON. MIKE WARD

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 19, 1995*

Mr. WARD. Mr. Speaker, Clairda Potts is a constituent of mine who came to Washington to make a statement regarding her concerns about the proposed drastic changes in the Medicare system that the House is considering today. I am a Member of Congress for the sole purpose of representing Clairda Potts and all of my constituents who would not have a voice before this body. Therefore, I am including here for printing Ms. Potts concerns in her own words. I believe her statement really says it all.

My name is Clairda Potts and I am from Louisville, KY.

I have worked since I was 9 years old and for much of that time I paid into Medicare and Social Security.

When Social Security and first developed, Congress made a commitment to the American people—if we paid in to Social Security, we would be free from financial worry in our senior years.

I am appalled that here in our great country, there are actually senior citizens who go to bed hungry or without their medication.

Now, we have a new contract with America, to give tax cuts to the rich and solvent.

I ask that Congress keep its first contract with America before it starts manufacturing new ones.

I ask you honorable Members of Congress, please do not take from the vulnerable and needy in order to satisfy the wants of the greedy.

## TRIBUTE TO MISSOURI NATIONAL GUARD

### HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 19, 1995*

Mr. SKELTON. Mr. Speaker, today I pay tribute to the Missouri National Guard in recognition of their great feat of transporting tons of military equipment from the Port of Balboa on the Pacific side of the Panama Canal to Jefferson City, MO. The following is the fact sheet for the project:

SEAGOING BARGES MOVE MILITARY EQUIPMENT FROM THE PORT OF BALBOA, PANAMA

Late 1994.—The Missouri National Guard, in cooperation with the 102nd Army Reserve Command, ships over 340 pieces of military equipment to Panama for a Jan.–May 1995 exercise that was part of the ongoing nation building program in the US Southern Command theater. The equipment ranged from giant earthscrapers to light trucks, collected at Fort Leonard Wood and Camp Crowder, MO and loaded onto railcars and shipped to Beaumont, TX. It was unloaded there and then loaded onto a ship for the trip to Panama. Four high dollar items, UH–1 ''Huey'' helicopters, were flown by C–5 ''Galaxy'' from Whiteman AFB to avoid potential rail movement and transloading damage.

February, 1995.—Changes at Fort Leonard Wood made it impossible to plan on the fort as a return site. Regardless, the gear had to eventually come to National Guard headquarters along the Missouri River in central Missouri for maintenance after five months in Panama, and there is no rail yard there. Guard officials begin discussing barge movement with military transportation and sealift planners. The idea of shipment by seagoing barge became a plan and a contract was let.

June, 1995.—At the port of Balboa on the Pacific side of Panama two 400 by 100 foot barges are loaded with all equipment, including the helicopters (protected by plastic shrink wrap), towed through the canal and up to the Gulf of Mexico to New Orleans, then pushed up the Mississippi and Missouri Rivers and in mid-July unloaded at a temporary wharf less than half mile from the Guard's maintenance shops. The helicopters are unwrapped and flown straight from the barge deck two miles to their maintenance facility.

The Results.—With four handlings en route to Panama, there was damage to numerous items of equipment, including significant damage to vehicle windshields. With the equipment handled only twice on the return (by its ''owners'' both times) damage was almost zero. Personnel injury risk exposure was cut in half, and the offload was completed in the Missouri River bottoms with daytime highs in the mid to upper 90s without a single injury or heat casualty among the soldiers.

The move demonstrated the ability of an inland location to serve as a power projection platform for direct overseas movement or receipt of equipment in situations where seagoing barges can be used effectively as a means of filling shortfalls in current lift capability. The move avoided the costs associated with intermediate transloading operations, including avoiding personnel injury risk exposures and potentially significant equipment damage.

## TRIBUTE TO AUTUMN KEYES-ITA

### HON. BARBARA F. VUCANOVICH

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 19, 1995*

Mrs. VUCANOVICH. Mr. Speaker, I rise today to honor an outstanding citizen of the great State of Nevada. Autumn Keyes-Ita has been active in Republican and civic duties for the past 30 years. She has put many hours

into improving the lives of her fellow Nevadans through her work at the Community College of southern Nevada, as well as representing Nevada at three Republican national conventions. Presently doing post-graduate work at the University of California, Dominquez Hills, Autumn was awarded a fellowship to research her paternal family, one of the founding families of Gonzales County TX, during the time that Texas was still a territory.

Autumn has served under three Governors and two Presidents, as well as running the Clark County office of the Republican Party in 1972. Along with these accomplishments, Autumn has spent her life in the service of children and adults who are mentally challenged. Her love of the arts has led her to serve an assistant directorship of two major Broadway hits, Oklahoma and Carousel.

Mr. Speaker, today I recognize Autumn Keyes-Ita for her outstanding accomplishments and civic pride. She is a shinning example of women making a difference in their community.

## A TRIBUTE TO RICHARD AND JANICE SAMBOL

### HON. DICK ZIMMER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 19, 1995*

Mr. ZIMMER. Mr. Speaker, I rise today in order to recognize two remarkable individuals, Richard and Janice Sambol of Middletown, NJ. The Sambols will be honored this evening at the 1995 Testimonial Dinner and Journal Tribute for the Center for Holocaust Studies at Brookdale Community College.

Our community has been enhanced by the Sambol's civic endeavors and their personal generosity. The Ocean County Association of Children with Learning Disabilities named Dick Sambol Man of the Year; the Monmouth/Ocean Counties National Conference of Christians and Jews has honored him with the Brotherhood Award; the Ocean County Council, Boy Scouts of America has presented him with its Citizen of the Year Award; and the Kimball Medical Center Foundation has given him the Kimball Humanitarian Award. In 1990, both Dick and Janice were honored with the first annual Theodore Herzl Leadership Award by the Ocean County Jewish Federation.

Dick has built a highly successful construction business known for excellence of its work and its ethical practices. Janice has served the community by her active participation in a host of community and philanthropic organizations, including Hadassah, of which she is a life member. Dick and Janice have set wonderful examples for those around them by making pubic service an integral part of their lives.

It has been my privilege to get to know such giving and consequential people. I am happy to join in honoring Dick and Janice for their years of humanitarian efforts and dedication to their community, and wish all the best to both of them and to their entire family.

## FORTIETH ANNIVERSARY OF FAIRFIELD, OH

### HON. JOHN A. BOEHNER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 19, 1995*

Mr. BOEHNER. Mr. Speaker, today, the city of Fairfield, OH, marks its 40th anniversary. On this proud day, I extend my heartiest congratulations to its citizens, who have made Fairfield what it is today and what it promises to be tomorrow.

Although Fairfield became a city only 40 years ago, it boasts a proud history. Early in 1787, the New Jerseyite John Cleves Symmes heard from Major Benjamin Stites of a place in the western territories that was ''the garden spot of any place that he had seen.'' Moved to visit the land, Judge Symmes formed a company to buy a large tract of land between the Little Miami and Big Miami Rivers, and ultimately, Judge Symmes was successful in buying just less than 1 million acres, at approximately 66 cents per acre.

Revolutionary war veterans moved into Ohio, seeking better lives for their families from the richness of the land. They traveled the country roads now recognized as U.S. Route 127 and S.R. 4. These pioneers began the statehood application process, and Ohio was accepted as a State in 1803. The opening of the Erie and Miami Canals in the 1820's brought greater prosperity and immigration to Fairfield's promising pastures, as farm goods and people moved freely between Ohio and major markets on the east coast.

In this century, Fairfield has grown and thrived, just as America has grown and thrived. While nearby Cincinnati grew into a truly large world class city, Fairfield maintained its uniquely American, town-of-the-heartland, entrepreneurial character. Incorporated as a village on July 10, 1954, it officially became a city on October 20, 1954. Today, its outlook for the future is as sure as its roots in the past. As a thriving center of the small businesses that will lead America into the next century, Fairfield is truly an illustration of how citizens, politically and economically empowered, can take control of their lives and make a better world for themselves and their families. I sincerely and enthusiastically congratulate Fairfield on its 40th year of independent life as a city, and look forward to many more successful years to come.

## 50TH ANNIVERSARY OF THE CITY OF OAK PARK

### HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 19, 1995*

Mr. LEVIN. Mr. Speaker, on October 29, 1995, the city of Oak Park, MI, marks the end of its 50th anniversary celebration.

Since its incorporation 50 years ago, Oak Park's recent immigrants and long-time residents have helped transform it from semirural origins into a thriving community that is a good place to live, to work, and to raise families.

With the strong support of the Oak Park business community and the tireless efforts of city staff and volunteers, Oak Park has celebrated this milestone with fireworks, public safety programs, beautification projects, an international festival, recreation programs, and musical shows by nationally known performing artists.

The year-long celebration comes to an end October 29, with the annual dinner that honors more than 200 volunteers who serve on Oak Park's many boards and commissions.

It is my pleasure to share in the celebration and best wishes for continued success and prosperity for the city of Oak Park, MI.

# Daily Digest

HIGHLIGHTS

Senate passed Cuban Liberty and Democratic Solidarity Act.

House passed Medicare Preservation Act.

# Senate

## Chamber Action

*Routine Proceedings, pages S15297–S15369*

Measures Introduced: Eleven bills and two resolutions were introduced, as follows: S. 1335–1345, and S. Res. 185–186. **Pages S15337–38**

Measures Reported: Reports were made as follows:

S. 187, to provide for the safety of journeymen boxers. (S. Rept. No. 104–159)

S. 1004, to authorize appropriations for the United States Coast Guard, with an amendment in the nature of a substitute. (S. Rept. No. 104–160)

S. 673, to establish a youth development grant program, with an amendment in the nature of a substitute. (S. Rept. No. 104–161)

S. 1012, to extend the time for construction of certain FERC licensed hydro projects. (S. Rept. No. 104–162)

H.R. 1266, to provide for the exchange of lands within Admiralty Island National Monument. (S. Rept. No. 104–163)

S. Res. 177, to designate October 19, 1995, as ''National Mammography Day''. **Page S15337**

Measures Passed:

*National Mammography Day:* Senate agreed to S. Res. 177, to designate October 19, 1995, as ''National Mammography Day.'' **Pages S15311–12**

*NASA Authorizations, 1996:* Senate passed S. 1048, to authorize appropriations for fiscal year 1996 to the National Aeronautics and Space Administration for human space flight, science, aeronautics and technology, mission support, and the Inspector General, after agreeing to a committee amendment in the nature of a substitute, and the following amendment proposed thereto: **Pages S15298–S15311**

Kassebaum (for Pressler) Amendment No. 2939, to authorize funds for operation of the Upper Midwest Aerospace Consortium, and to clarify an authorization. **Pages S15303–06**

*Cuban Liberty and Democratic Solidarity Act:* By 74 yeas to 24 nays (Vote No. 494), Senate passed H.R. 927, to seek international sanctions against the Castro government in Cuba, and to plan for support of a transition government leading to a democratically elected government in Cuba, after taking action on amendments proposed thereto, as follows: **Pages S15315–25**

Adopted:

(1) Dole Amendment No. 2898, in the nature of a substitute. **Pages S15315–25**

(2) Helms Amendment No. 2936 (to Amendment No. 2898), to strengthen international sanctions against the Castro government and to support for a free and independent Cuba. **Pages S15315–25**

Rejected:

(1) Simon Modified Amendment No. 2934 (to Amendment No. 2936), to protect the constitutional right of Americans to travel to Cuba. (By 73 yeas to 25 nays (Vote No. 492), Senate tabled the amendment.) **Pages S15315–23**

(2) Dodd Amendment No. 2906 (to Amendment No. 2936), to seek international sanctions against the Castro government in Cuba, and to plan for support of a transition government leading to a democratically elected government in Cuba, and Dodd Amendment No. 2908 (to Amendment No. 2936), to seek international sanctions against the Castro government in Cuba, and to plan for support of a transition government leading to a democratically elected government in Cuba. (By 64 yeas to 34 nays (Vote No. 493), Senate tabled the amendments en bloc.) **Pages S15315–24**

*Senate Legal Representation:* Senate agreed to S. Res. 186, to authorize testimony by Senate employees and representation by Senate Legal Counsel. **Page S15368**

*Federal Employees Emergency Leave Transfer Act:* Senate passed S. 868, to provide authority for

leave transfer for Federal employees who are adversely affected by disasters or emergencies.

Pages S15368–69

*Tied Aid Credit Program Authorization:* Senate passed S. 1309, to reauthorize the tied aid credit program of the Export-Import Bank of the United States, and to allow the Export-Import Bank to conduct a demonstration project. Page S15369

Department of Defense Appropriations—Further Conference: The Senate agreed to a further conference with the House on H.R. 2126, making appropriations for the Department of Defense for the fiscal year ending September 30, 1996, and the Chair appointed the following conferees: Senators Stevens, Cochran, Specter, Domenici, Bond, McConnell, Mack, Shelby, Gregg, Hatfield, Inouye, Hollings, Johnston, Byrd, Leahy, Bumpers, Lautenberg, and Harkin. Page S15369

Workforce Development Act—Conferees: Pursuant to the order of October 11, 1995, the Chair appointed conferees on H.R. 1617, to consolidate and reform workforce development and literacy programs, as follows: Senators Kassebaum, Jeffords, Coats, Gregg, Frist, DeWine, Ashcroft, Abraham, Gorton, Kennedy, Pell, Dodd, Simon, Harkin, Mikulski, and Wellstone. Page S15369

Messages From the President: Senate received the following messages from the President of the United States:

Transmitting a report of deferrals of budgetary resources; which was referred jointly, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, to the Committee on Appropriations, to the Committee on the Budget, to the Committee on Foreign Relations, to the Committee on Labor and Human Resources, and to the Committee on Finance. (PM–88). Page S15336

Nominations Received: Senate received the following nomination:

Arthur L. Money, of California, to be an Assistant Secretary of the Air Force. Page S15369

Messages From the President: Page S15336

Messages From the House: Pages S15336–37

Measures Referred: Page S15337

Communications: Page S15337

Statements on Introduced Bills: Pages S15338–57

Additional Cosponsors: Pages S15357–58

Amendments Submitted: Page S15359

Notices of Hearings: Page S15359

Authority for Committees: Page S15359

Additional Statements: Pages S15359–68

Record Votes: Three record votes were taken today. (Total—494) Pages S15323, S15324, S15325

Recess: Senate convened at 10 a.m., and recessed at 7:11 p.m., until 9:30 a.m., on Friday, October 20, 1995. (For Senate's program, see the remarks of the Majority Leader in today's RECORD on page S15369.)

# Committee Meetings

*(Committees not listed did not meet)*

## NOMINATIONS

*Committee on Agriculture, Nutrition, and Forestry:* Committee concluded hearings on the nominations of Michael V. Dunn, of Iowa, to be an Assistant Secretary of Agriculture for Marketing and Regulatory Programs, and to be a Member of the Board of Directors of the Commodity Credit Corporation, and John David Carlin, of Kansas, to be an Assistant Secretary of Agriculture for Congressional Relations, after the nominees testified and answered questions in their own behalf. Mr. Dunn was introduced by Senator Leahy, and Mr. Carlin was introduced by Senator Kassebaum.

## ROLE OF COUNCIL OF ENVIRONMENTAL QUALITY

*Committee on Energy and Natural Resources:* Subcommittee on Oversight and Investigations concluded hearings to examine the role of the Council of Environmental Quality in the decision-making and management processes of the Department of the Interior, Department of Energy, and the U.S. Forest Service, after receiving testimony from Kathleen A. McGinty, Chair, Council on Environmental Quality.

## SAFE DRINKING WATER ACT AMENDMENTS

*Committee on Environment and Public Works:* Committee concluded hearings on S. 1316, to revise and authorize funds for programs of the Safe Drinking Water Act, after receiving testimony from Carol M. Browner, Administrator, Environmental Protection Agency; Nebraska Governor E. Benjamin Nelson, Lincoln, and Ohio Governor George V. Voinovich, Columbus, both on behalf of the National Governors Association; Mayor Jeffrey N. Wennberg, Rutland, Vermont, on behalf of the National League of Cities and the National Association of Counties; Gurnie C. Gunter, Kansas City Department of Water Services, Kansas City, Missouri, on behalf of the Association of Metropolitan Water Agencies; Erik D. Olson, Natural Resources Defense Council, Washington, D.C., on behalf of the Campaign for Safe and Affordable Drinking Water; Donald Satchwell, East Green

Acres irrigation District, Post Falls, Idaho, on behalf of the American Water Works Association; Dan Keil, Montana Rural Water Systems, Conrad, on behalf of the National Rural Water Association; David Ozonoff, Boston University School of Public Health, Boston, Massachusetts; Richard J. Bull, Battelle Pacific Northwest Laboratories, Richland, Washington; and William R. Mills, Jr., Orange County Water District, Orange County, California, on behalf of the Association of California Water Agencies.

BUDGET RECONCILIATION

*Committee on Finance:* Committee completed its review of certain spending reductions and revenue increases to meet reconciliation expenditures as imposed by H. Con. Res. 67, setting forth the congressional budget for the United States Government for fiscal years 1996, 1997, 1998, 1999, 2000, 2001, and 2002, and agreed on recommendations which it will make thereon to the Committee on the Budget.

RUBY RIDGE

*Committee on the Judiciary:* Subcommittee on Terrorism, Technology, and Government Information held hearings to examine certain Federal law enforcement actions with regard to the 1992 incident at Ruby Ridge, Idaho, receiving testimony from Louis J. Freeh, Director, Federal Bureau of Investigation, Department of Justice.

Subcommittee recessed subject to call.

RURAL AND URBAN COMMUNITY REVITALIZATION

*Committee on Small Business:* Committee held hearings on proposals to revitalize American rural and urban communities, including provisions of S. 743, S. 1184, and S. 1252, receiving testimony from Senators Abraham, Lieberman, and Ashcroft; Jack Kemp, Empower America, Marc Bendick, Jr., Bendick and Egan Economic Consultants, Inc., and Paul S. Grogan, Local Initiatives Support Corporation, all of Washington, D.C.; Blair Forlaw, East-West Gateway Coordinating Council, St. Louis, Missouri; and Randall C. Gideon, KVG Gideon/Toal, Inc., Fort Worth, Texas, on behalf of the American Institute of Architects.

Hearings were recessed subject to call.

# House of Representatives

## Chamber Action

Bills Introduced: 8 public bills, H.R. 2507–2514; and 2 private bills, H.R. 2515, 2516; and 1 resolution, H. Res. 240, were introduced. **Page H10484**

Reports Filed: Reports were filed as follows:

H. Res. 239, providing for the consideration of H.R. 2492, making appropriations for the Legislative Branch for the fiscal year ending September 30, 1996 (H. Rept. 104–283); and

H.R. 994, to require the periodic review and automatic termination of Federal regulations, amended (H. Rept. 104–284, Part 1). **Pages H10464, H10484**

Speaker Pro Tempore: Read a letter from the Speaker wherein he designates Representative LaHood to act as Speaker pro tempore for today. **Page H10309**

Committees To Sit: The following committees and their subcommittees received permission to sit today during proceedings of the House under the 5-minute rule: Committees on Agriculture, Commerce, Government Reform and Oversight, International Relations, the Judiciary, Resources, Science, Small Business, and Transportation and Infrastructure. **Page H10314**

Medicare Preservation Act: By a yea-and-nay vote of 231 yeas to 201 nays, Roll No. 731, the House passed H.R. 2425, to amend title XVIII of the Social Security Act to preserve and reform the medicare program. **Pages H10328–H10464**

Rejected the Gephardt motion to recommit the bill to the Committees on Ways and Means and Commerce with instructions to report it back forthwith containing an amendment that strikes language relating to the extension of Part B premiums (rejected by a recorded vote of 183 ayes to 249 noes, Roll No. 730). **Pages H10462–64**

Agreed to the amendment in the nature of a substitute made in order by the rule (text of H.R. 2485), as modified by the rule. **Page H10461**

Rejected the Gibbons amendment in the nature of a substitute that sought to reduce medicare by $90 billion over seven years, reduce Part A spending by an amount sufficient to extend the solvency of the Part A hospital trust fund to 2006, and reduce cost sharing by medicare beneficiaries by freezing the Part B premium for one year and providing that the monthly premium in succeeding years would be below the level under current law (rejected by a recorded vote of 149 ayes to 283 noes, Roll No. 729). **Pages H10388–H10461**

H. Res. 238, the rule under which the bill was considered, was agreed to earlier by a recorded vote of 227 ayes to 192 noes, Roll No. 727. Agreed to order the previous question on the rule by a yea-and-nay vote of 231 yeas to 194 nays, Roll No. 726.

**Pages H10314–28**

Late Report: Conferees received permission to have until midnight Friday, October 20, to file a conference report on H.R. 2002, making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1996. **Page H10465**

Presidential Message—Budget Deferrals: Read a message from the President wherein reports three deferrals of budgetary resources, totaling $122.8 million and affecting the International Security Assistance program, and the Departments of Health and Human Services and State—referred to the Committee on Appropriations and ordered printed (H. Doc. 104–125). **Page H10465**

Quorum Calls—Votes: One Quorum call (Roll No. 728), two yea-and-nay votes, and three recorded votes developed during the proceedings of the House today and appear on pages H10327, H10327–28, H10459–60, H10461, H10463–64, and H10464.

Adjournment: Met at 9 a.m. and adjourned at 8:56 p.m.

# *Committee Meetings*

## FOOD FOR PEACE PROGRAM REAUTHORIZATION

*Committee on Agriculture:* Subcommittee on Department Operations, Nutrition, and Foreign Agriculture approved for full Committee action amended H.R. 2493, Food for Peace Reauthorization Act of 1995.

## DISTRICT OF COLUMBIA APPROPRIATIONS

*Committee on Appropriations:* Approved for full Committee action the District of Columbia appropriations for fiscal year 1996.

## POSTMARK PROMPT PAYMENT ACT

*Committee on Government Reform and Oversight:* Subcommittee on Postal Service held a hearing on H.R. 1963, Postmark Prompt Payment Act of 1995. Testimony was heard from Representatives Boehlert, Romero-Barceló, Jacobs, Stockman, Barrett of Wisconsin, and Blute; and public witnesses.

## FARM BILL TRADE PROVISIONS

*Committee on International Relations:* Subcommittee on International Economic Policy and Trade held a hearing on the Trade Provisions in the 1995 Farm bill. Testimony was heard from August Schumacher, Administrator, Foreign Agricultural Service, USDA; and public witnesses.

## MISCELLANEOUS MEASURES

*Committee on the Judiciary:* Subcommittee on Commercial and Administrative Law approved for full committee action the following measures: H.R. 2064, to grant the consent of Congress to an amendment of the Historic Chattahoochee Compact between the States of Alabama and Georgia; and H.J. Res. 78, amended, to grant the consent of the Congress to certain additional powers conferred upon the Bi-State Development Agency by the States of Missouri and Illinois; and H.R. 394, amended, to amend title 4 of the United States Code to limit State taxation of certain pension income.

Prior to this action, the Subcommittee held a hearing on H.R. 2064 and H.J. Res. 78. Testimony was heard from Representatives Everett and Talent.

## OVERSIGHT—UNITED STATES COMMISSION ON CIVIL RIGHTS

*Committee on the Judiciary:* Subcommittee on the Constitution held an oversight hearing on the U.S. Commission on Civil Rights. Testimony was heard from Representatives Foley, Slaughter, Shaw, and Rohrabacher; Mary Mathews, Staff Director, U.S. Commission on Civil Rights; and a public witness.

## MEDICAL PROCEDURES INNOVATION AND AFFORDABILITY ACT; INVENTOR PROTECTION ACT

*Committee on the Judiciary:* Subcommittee on Courts and Intellectual Property held a hearing on the following bills: H.R. 1127, Medical Procedures Innovation and Affordability Act; and H.R. 2419, Inventor Protection Act of 1995. Testimony was heard from Senator Lieberman; Representatives Ganske and Wyden; G. Lee Skillington, Counsel, Office of Legislative and International Affairs, Patent and Trademark Office, Department of Commerce; and public witnesses.

## MISCELLANEOUS MEASURES

*Committee on the Judiciary:* Subcommittee on Crime approved for full Committee action the following bills: H.R. 2418, amended, DNA Identification Grants Improvement Act of 1995; H.R. 1533, to amend title 18, United States Code, to increase the penalty for escaping from a Federal prison; and H.R. 2359, amended, to clarify the method of execution of Federal prisoners.

NUCLEAR WASTE POLICY ACT AMENDMENTS

*Committee on Resources:* Met to consider H.R. 1020, to amend the Nuclear Waste Policy Act, but no action was taken thereon.

LEGISLATIVE BRANCH APPROPRIATIONS

*Committee on Rules:* Granted, by voice vote, a closed rule providing 1 hour of debate on H.R. 2492, making appropriations for the legislative branch for the fiscal year ending September 30, 1996. The rule provides for consideration of the bill in the House. Finally, the rule provides one motion to recommit. Testimony was heard from Representatives Packard and Fazio.

UNITED STATES-JAPANESE COOPERATION IN HUMAN SPACEFLIGHT

*Committee on Science:* Held a hearing on United States-Japanese Cooperation in Human Spaceflight. Testimony was heard from Donald S. Goldin, Administrator, NASA; Ambassador Takakazu Kuriyama, Embassy of Japan; and public witnesses.

EFFECTS OF SUPERFUND LIABILITY ON SMALL BUSINESS

*Committee on Small Business:* Held a hearing on Effects of Superfund Liability on Small Business. Testimony was heard from Lois J. Schiffer, Assistant Attorney General, Environmental and Natural Resources Division, Department of Justice; and public witnesses.

PUBLIC AIRCRAFT REGULATION

*Committee on Transportation and Infrastructure:* Subcommittee on Aviation held a hearing on Regulation of Public Aircraft by the FAA under Public Law 103–411 and on proposed Restrictions on the use of Certain Special Purpose Aircraft under H.R. 1320, to impose restrictions on the use of certain special purpose aircraft. Testimony was heard from public witnesses.

## *Joint Meetings*

APPROPRIATIONS—TRANSPORTATION

*Conferees,* agreed to file a conference report on the differences between the Senate- and House-passed versions of H.R. 2002, making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1996.

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## COMMITTEE MEETINGS FOR FRIDAY, OCTOBER 20, 1995

*(Committee meetings are open unless otherwise indicated)*

### Senate

*Committee on the Budget,* business meeting, to mark up proposed legislation to provide for reconciliation pursuant to H. Con. Res. 67, setting forth the congressional budget for the United States Government for fiscal years 1996, 1997, 1998, 1999, 2000, 2001, and 2002, 1:30 p.m., SD–608.

*Committee on the Judiciary,* to resume hearings to examine the status of religious liberty in the United States, 10 a.m., SD–226.

### House

No committee meetings are scheduled.

*Next Meeting of the* SENATE

9:30 a.m., Friday, October 20

Senate Chamber

Program for Friday: After the recognition of three Senators for speeches and the transaction of any morning business (not to extend beyond 10:30 a.m.), Senate may consider S. 1322, regarding the relocation of the Embassy in Israel.

*Next Meeting of the* HOUSE OF REPRESENTATIVES

10 a.m., Friday, October 20

House Chamber

Program for Friday: No legislative business is scheduled.

## Extensions of Remarks, as inserted in this issue

HOUSE

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