

§2460. Definition of depot-level maintenance and repair

“(a) IN GENERAL.—In this chapter, the term ‘depot-level maintenance and repair’ means materiel maintenance or repair requiring the overhaul or rebuilding of parts, assemblies, or subassemblies, and the testing and reclamation of equipment as necessary, regardless of the source of funds for the maintenance or repair. The term includes all aspects of software maintenance and such portions of interim contractor support, contractor logistics support, or any similar contractor support for the performance of services that are described in the preceding sentence.

“(b) EXCEPTION.—The term does not include the following:

“(1) Ship modernization activities that were not considered to be depot-level maintenance and repair activities under regulations of the Department of Defense in effect on March 30, 1997.

“(2) A procurement of a modification or upgrade of a major weapon system.”

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting before the item relating to section 2461 the following new item:

“2460. Definition of depot-level maintenance and repair.”

SEC. 320. RESTRICTIONS ON CONTRACTS FOR PERFORMANCE OF DEPOT-LEVEL MAINTENANCE AND REPAIR AT CERTAIN FACILITIES.

Section 2469 of title 10, United States Code, is amended—

(1) in subsections (a) and (b), by striking out “or repair” and inserting in lieu thereof “and repair”; and

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

“(d) RESTRICTION ON CONTRACTS AT CERTAIN FACILITIES.—

“(1) RESTRICTION.—The Secretary of Defense may not enter into any contract for the performance of depot-level maintenance and repair of weapon systems or other military equipment of the Department of Defense, or for the performance of management functions related to depot-level maintenance and repair of such systems or equipment, at any military installation of the Air Force where a depot-level maintenance and repair facility was approved in 1995 for closure or realignment under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note). In the preceding sentence, the term ‘military installation of the Air Force’ includes a former military installation closed or realigned under the Act that was a military installation of the Air Force when it was approved for closure or realignment under the Act.

“(2) EXCEPTION.—Paragraph (1) shall not apply with respect to an installation or former installation described in such paragraph if the Secretary of Defense certifies to Congress, not later than 45 days before entering into a contract for performance of depot-level maintenance and repair at the installation or former installation, that—

“(A) not less than 75 percent of the capacity at each of the depot-level maintenance and repair activities of the Air Force is being utilized on an ongoing basis to perform industrial operations in support of the depot-level maintenance and repair of weapon systems and other military equipment of the Department of Defense;

“(B) the Secretary has determined, on the basis of a detailed analysis (which the Secretary shall submit to Congress with the certification), that the total amount of the costs of the proposed contract to the Government, both recurring and nonrecurring and

including any costs associated with planning for and executing the proposed contract, would be less than the costs that would otherwise be incurred if the depot-level maintenance and repair to be performed under the contract were performed using equipment and facilities of the Department of Defense;

“(C) all of the information upon which the Secretary determined that the total costs to the Government would be less under the contract is available for examination; and

“(D) none of the depot-level maintenance and repair to be performed under the contract was considered, before July 1, 1995, to be a core logistics capability of the Air Force pursuant to section 2464 of this title.

“(3) CAPACITY OF DEPOT-LEVEL ACTIVITIES.—For purposes of paragraph (2)(A), the capacity of depot-level maintenance and repair activities shall be considered to be the same as the maximum potential capacity identified by the Defense Base Closure and Realignment Commission for purposes of the selection in 1995 of military installations for closure or realignment under the Defense Base Closure and Realignment Act of 1990, without regard to any limitation on the maximum number of Federal employees (expressed as full time equivalent employees or otherwise) in effect after 1995, Federal employment levels after 1995, or the actual availability of equipment to support depot-level maintenance and repair after 1995.

“(4) GAO REVIEW.—At the same time that the Secretary submits the certification and analysis to Congress under paragraph (2), the Secretary shall submit a copy of the certification and analysis to the Comptroller General. The Comptroller General shall review the analysis and the information referred to in subparagraph (C) of paragraph (2) and, not later than 30 days after Congress receives the certification, submit to Congress a report containing a statement regarding whether the Comptroller General concurs with the determination of the Secretary included in the certification pursuant to subparagraph (B) of that paragraph.

“(5) APPLICATION.—This subsection shall apply with respect to any contract described in paragraph (1) that is entered into, or proposed to be entered into, after January 1, 1997.”

SEC. 321. CORE LOGISTICS FUNCTIONS OF DEPARTMENT OF DEFENSE.

Section 2464(a) of title 10, United States Code, is amended—

(1) in paragraph (1), by striking out “a logistics capability (including personnel, equipment, and facilities)” and inserting in lieu thereof “a core logistics capability that is Government-owned and Government-operated (including Federal Government personnel and Government-owned and Government-operated equipment and facilities)”;

(2) in paragraph (2)—

(A) by inserting “core” before “logistics”; and

(B) by adding at the end the following: “Each year, the Secretary of Defense shall submit to Congress a report describing each logistics capability that the Secretary identifies as a core logistics capability.”; and

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

“(3) Those core logistics activities identified under paragraphs (1) and (2) shall include the capability, facilities, and equipment to maintain and repair the types of weapon systems and other military equipment (except systems and equipment under special access programs and aircraft carriers) that are identified by the Secretary, in consultation with the Joint Chiefs of Staff, as necessary to enable the armed forces to fulfill the contingency plans prepared under the responsibility of the Chairman of the

Joint Chiefs of Staff set forth in section 153(a)(3) of this title.

“(4) The Secretary of Defense shall require the performance of core logistics functions identified under paragraphs (1), (2), and (3) at Government-owned, Government-operated facilities of the Department of Defense (including Government-owned, Government-operated facilities of a military department) and shall assign such facilities the minimum workloads necessary to ensure cost efficiency and technical proficiency in peacetime while preserving the surge capacity and reconstitution capabilities necessary to support fully the contingency plans referred to in paragraph (3).”

Mr. COVERDELL. Mr. President, amendment No. 423 is language in the DOD authorization bill that would have the effect, in the judgment of the Senators that coauthored it from Georgia and Oklahoma—and I am pleased that Senator CLELAND, my colleague from Georgia and a member of the Armed Services Committee, has coauthored the amendment—this language would, in our minds, have the effect of concluding and carrying out what we believe were the findings of the last round of the Base Realignment and Closure Commission.

Because of the structure of the unanimous consent, it is designed to encourage the Senators of the States so enumerated in the unanimous consent to work arduously to try to resolve the differences that currently exist between our separate views of what the final Base Realignment and Closure Commission was and how it was carried out. It is a strong statement, following the lead of the good Senator from Oklahoma, who has been in pursuit of this issue for an extended period of time. Of course he is the principal author of the amendment.

Mr. President, I yield the floor, according to the unanimous consent agreement.

The PRESIDING OFFICER. The Senator from South Carolina.

MORNING BUSINESS

Mr. THURMOND. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business, with Senators permitted to speak for up to 5 minutes each.

Mrs. HUTCHISON. Mr. President, reserving the right to object, let me ask just one question. In the last unanimous consent it was agreed amendment No. 423 would be set aside, subject to all of the unanimous consent requirements. Has it been now set aside?

The PRESIDING OFFICER. The amendment has been set aside.

Mrs. HUTCHISON. Thank you, Mr. President. I do not object.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Kentucky.

Mr. FORD. I understand we are in a period of morning business?

The PRESIDING OFFICER. We are in a period for morning business.

Mr. FORD. I may take a little longer. I don't see anybody here to object—excuse me, the Senator from Pennsylvania may, but we will start.

The PRESIDING OFFICER. The Senator from Kentucky.

PRINCIPLES FOR TAX LEGISLATION

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

Are the tax benefits spread evenly across all income levels?

Is the tax legislation consistent with the budget agreement?

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CHANGES IN JOINT TAX COMMITTEE METHODOLOGY SKEW THE DISTRIBUTION TABLES

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

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