

1 EXECUTIVE COMMITTEE MEETING ON LEGISLATION TO REDUCE THE
2 FEDERAL DEFICIT FOR FISCAL YEARS 1987, 1988 and 1989,
3 PURSUANT TO INSTRUCTIONS RECEIVED UNDER S. CON. RES. 120
4 WEDNESDAY, JULY 23, 1986

5 U.S. Senate
6 Committee on Finance
7 Washington, D.C.

8 The committee met, pursuant to notice, at 1:40 p.m.
9 in Room SD-215, Dirksen Senate Office Building, the Honorable
10 Bob Packwood (chairman) presiding.

11 Present: Senators Packwood, Danforth, Chafee, Heinz,
12 Durenberger, Armstrong, Grassley, Long, Bentsen, Matsunaga,
13 Moynihan, Baucus, Mitchell, and Pryor.

14 Also present: O. Don Chapoton, Deputy Assistant
15 Secretary for Tax Policy and Dennis Ross, Tax Legislative
16 Counsel, Department of the Treasury; Glen Hackbarth, Deputy
17 Administrator, Health Care Financing Administration; Don
18 Muse, Principal Analyse for Medicare and Medicaid.

19 Also present: Bill Diefenderfer, Chief of Staff; Ed
20 Mihalski, Deputy Chief of Staff; John Colvin, Chief Counsel;
21 Randy Weiss, Deputy Chief of Staff, Joint Committee on
22 Taxation; Frank Cantrel, Tax Counsel; Bill Wilkins, Chief
23 Counsel, Minority; Bruce Kelly, Health Counsel, Minority;
24 and Susan Taylor, Administrative Director.

25

1 The Chairman. The committee will come to order,
2 please.

3 Do we have a new worksheet?

4 Mr. Mihalski. Yes, sir. There is a worksheet that
5 should be distributed to all the members.

6 The Chairman. Do you fellows have it?

7 Mr. Mihalski. It is dated July 23, time 12:38.

8 The Chairman. All right. Thank you. The one that
9 starts out "Medicare indent hospital payment"?

10 Mr. Mihalski. Yes, sir.

11 The Chairman. All right.

12 Now, we left open a few amendments yesterday, and we
13 had not fully decided on the tax part of it, the revenue
14 parts of it.

15 Let's go through and explain what problems we have,
16 what amendments we have outstanding on the outlay part.

17 Mr. Mihalski. All right. Using that worksheet, I
18 have put a little "Okay" out there in the left-hand column
19 as the things that were agreed to or tentatively agreed to
20 yesterday.

21 The Chairman. Right.

22 Mr. Mihalski. The open issues, of course, are on line
23 3 as the capital payments. The idea was not to do the
24 staff proposal, but to do some kind of grandfathering of
25 capital, or perhaps do some other proposal.

1 We met last night and worked out a grandfathering
2 provision. The staff, however, is very unsure. We don't
3 have costs for that provision or savings for that provision
4 from CBO as yet.

5 But the staff is very uncomfortable in what the
6 ultimate impact of that provision is. It may very well
7 result in expenditures above and beyond what we are currently
8 spending in current law.

9 We certainly don't know what any of the disincentives
10 are.

11 The Chairman. You mean we have no idea what this will
12 cost?

13 Mr. Mihalski. Not at this point, sir, no.

14 The Chairman. Why can't we--

15 Mr. Mihalski. What we had proposed perhaps --

16 The Chairman. We have only \$196 million excess in
17 the first year, knowing what everything costs, without
18 putting in things that we don't know the cost.

19 Mr. Mihalski. That one, and some additional amendments
20 further on, which are open holes right now, we don't have
21 costs on.

22 But the staff would recommend that, rather than doing
23 the grandfathering, we set the capital reform aside until
24 next year, go with report language that says it is fully
25 our intent next year to grandfather old capital; and in order

1 to preserve the \$600 million and some savings over three
2 years, to go with a straight across-the-board reduction on
3 current capital outlays.

4 And CBO estimates that that reduction would be three
5 percent the first year, five the second, and six the third.

6 The Chairman. And the reason we don't know on the
7 grandfathering is, literally on a day's notice, we don't
8 know how many hospitals are involved and how many bonds
9 are involved.

10 Mr. Mihalski. That is correct, sir.

11 The Chairman. And we are going to have to turn this
12 out by tonight. All right. Comments from the committee?

13 (No response)

14 The Chairman. I know this was a problem that Senator
15 Moynihan was interested in; but either we are going to do
16 this tonight, or the Budget Committee is going to do it
17 for us if we don't do something.

18 Mr. Mihalski. The other open item, then, was the entire
19 issue with respect to the PIP elimination and the prompt
20 payment of claims under Parts A and B of Medicare, which
21 is reflected on lines 12, 13, and 14.

22 Those numbers that are on those lines represent the
23 staff proposal. Senator Dole and others have raised concerns
24 about protecting hospitals that have historically been paid
25 at less than 24 days.

1 We have asked CBO to try and come up with what that
2 number would be, and it will be a coster.

3 The Chairman. Tell me what 13 and 14 are. Are those
4 alternatives?

5 Mr. Mihalski. No, sir. Prompt payment for Part A of
6 Medicare, which is hospital insurance.

7 The Chairman. All right. That is fine. I am with
8 you. I didn't realize that was Part A and Part B on there.

9 Mr. Mihalski. Right. So, on line 15, the historical
10 average, sort of a hold harmless, for what we had been
11 paying hospitals. We do not know what that cost will be
12 at this time, nor do we know what the cost will be for
13 imposing the interest penalty on Part B claims, that is the
14 doctors' claims.

15 The three other parts of the amendment would be to
16 reinstate the PIP, once a carrier violated the 24-day rule,
17 and that, CBO agrees, is a noncoster. It is certainly
18 something the staff would recommend.

19 Line 18 is to basically restandardize the way payments
20 are made under the prospective payment system so that the
21 distribution of dollars between urban and rural hospitals
22 is no longer on number of hospitals but is based upon number
23 of discharges from those hospitals.

24 That is a budget neutral provision. It simply shifts
25 money around within the current system.

1 And the other amendment they have proposed is to change
2 the rural referral centers criteria, both on a case mix
3 criteria and the number of admissions criteria that are
4 currently in regulation.

5 People feel these are currently too high and restrict
6 hospitals from being able to participate as rural referral
7 centers.

8 Because it shifts money within the system, that is also
9 a budget neutral provision.

10 The Chairman. That was Senator Durenberger's? I am
11 trying to remember.

12 Mr. Mihalski. Durenberger, Dole, and others.

13 The Chairman. What is the will of the committee?

14 Senator Baucus. Mr. Chairman, I think they are good
15 proposals. I think we should adopt them.

16 The Chairman. Excuse me, Max. I am sorry.

17 Senator Baucus. I am for them.

18 The Chairman. Comments from anybody else on the
19 committee?

20 (No response)

21 The Chairman. What do you recommend, Ed?

22 Mr. Mihalski. I recommend the adoption certainly of
23 the reinstatement of the PIP thing that we talked about
24 yesterday, the PPS restandardization, and the rural referral
25 center change, which includes grandfathering for three years

1 with current rural referral centers.

2 The Chairman. I have no feeling. Without objection,
3 we will do it.

4 Senator Baucus. Now, Mr. Chairman, that is without
5 objection we will do what? The entire package there?

6 The Chairman. No. 17, 18, and 19, the amendments.

7 Senator Baucus. That is what I mean. What about 15
8 and 16?

9 Mr. Mihalski. 15 and 16, Senator Baucus, we do not
10 know what the costs of those proposals are at this point
11 in time. They will cost money; we do not know how much.

12 The Chairman. What I am reluctant to do, Max, is this.
13 I am reluctant to adopt when we have only got \$196 million
14 in that first year, and we are relatively close all the way
15 along. I am reluctant to adopt anything that has got a
16 large cost if we don't have anything on it. And we don't
17 have anything.

18 Senator Baucus. How soon can we get estimates? Is
19 anybody from CBO here?

20 Mr. Mihalski. They may not be here because they are
21 working on that now.

22 The Chairman. What it is is just trying to find the
23 averages on lots and lots of hospitals, and we have had a
24 day's notice.

25 Senator Baucus. Yes. I was just wondering if there was

1 way we could instruct the staff to work with CBO to try to
2 get those estimates still as quickly as we can, in case we
3 have time before we get to the floor.

4 The Chairman. We have got the rest of the afternoon,
5 but that is about it.

6 Senator Baucus. Can we get some rough estimate by the
7 end of the day?

8 Mr. Mihalski. We may have one walking in right now.

9 (Laughter)

10 The Chairman. Does Don Muse know?

11 Mr. Muse. If I knew the question, Senator, I would
12 probably answer it.

13 (Laughter)

14 The Chairman. How much on the historical average?

15 Mr. Muse. I am sorry?

16 Mr. Mihalski. The question, Don, is that we have a
17 proposal which basically goes to 24 days of prompt payment
18 rather than the current estimated 30 days.

19 If we would hold hospitals harmless for the current
20 historical average payments days that they are getting now,
21 which varies all over the board, the question is how much
22 would that cost? We understood that your estimate for the
23 24 days assumes all payments made on the 24th day.

24 What we would like to do is at least have those
25 payments that are being made sooner than 24 days to continue

1 to be paid on that sooner basis.

2 Mr. Muse. We do not have the distributions at this
3 moment to estimate that. My "guesstimate" would be that
4 it would discount the estimate somewhere between 10 and 20
5 percent.

6 Mr. Mihalski. So, you are talking about 10 to 20
7 percent of the \$3.7 billion?

8 Mr. Muse. 10 to 20 percent of the cost of what you
9 were indicating the proposal was.

10 Mr. Mihalski. All right. Taken together, that proposal
11 is worth about \$2.8 billion; so you are talking almost \$280
12 million and some.

13 Mr. Muse. That is an approximation at this point in
14 time, yes.

15 The Chairman. And that is just on the historical
16 average, not on interest penalty B?

17 Mr. Muse. That is what I was asked. Yes, sir.

18 The Chairman. Let me do this then. I wonder if we
19 might switch to Senator Heinz' provision. And if in another
20 20 or 30 or 40 minutes, you know some more, then that is
21 fine; but we have enough members here to adopt amendments.
22 And I would like to get as much done as we can.

23 Senator Heinz?

24 Senator Heinz. Mr. Chairman, would you bear with me
25 for another minute or two?

1 The Chairman. Yes.

2 Senator Heinz. I have just come from a meeting, and
3 I am trying to catch up.

4 The Chairman. Senator Mitchell?

5 Senator Mitchell. If I might raise something, Mr.
6 Chairman, for the committee's consideration?

7 Yesterday, we adopted a provision to hold States harmless
8 for one year from a change in the Federal matching rate for
9 Medicaid, now being computed on a different time basis than
10 before.

11 Eleven States, including four that are represented here
12 on the committee--Maine, Rhode Island, Minnesota, and
13 Missouri--will have a reduction in the Federal matching
14 rates for both Medicaid and AFDC.

15 The committee's provision does not include a hold
16 harmless for the AFDC rate, even though it is affected by
17 the same change.

18 And I propose for the committee's consideration
19 correcting what I hope was just an oversight to have the
20 hold harmless extend to both AFDC and to Medicaid.

21 The Chairman. Can the staff address themselves to that?

22 Mr. Mihalski. The hold harmless provision, which is
23 on line 36, was originally priced out as just a hold harmless
24 on the Medicaid program.

25 It turns out that the change we do make in Medicaid does

1 affect the AFDC program, and to extend the hold harmless
2 then to the AFDC program would increase this estimate by
3 \$15 million in the first year.

4 The Chairman. Fifty or fifteen?

5 Mr. Mihalski. Fifteen. So, it would go from 50 to 65.

6 The Chairman. I am inclined to do it.

7 Senator Mitchell. Thank you.

8 The Chairman. Let's adopt it.

9 Mr. Mihalski. All right, sir.

10 The Chairman. Now, all we have left then is the
11 grandfathering on the capital payments, which I am reluctant
12 to do because I have a feeling that is a big figure; and that
13 one, we are not going to have information on.

14 And on the historical average and the interest penalty
15 B, plus Senator Heinz, and then the revenue issues on the
16 second page.

17 Mr. Mihalski. We also have on line 24 the amendment
18 that is still open on the occupational therapy, that is,
19 the expanded coverage of the program for occupational
20 therapists, which CBO estimates will cost \$60 million over
21 three years.

22 The Chairman. I know that is one we have debated
23 before and adopted on close votes in this committee. My
24 reluctance to go ahead--this is a new program, isn't it?

25 Mr. Mihalski. It is, in effect, yes, new coverage,

1 expanded coverage.

2 This is something that we agreed to in conference. It
3 was a House provision last year. It was agreed to in
4 conference.

5 The Administration objected to it strenuously as a
6 program expansion; and therefore, it was dropped before
7 final adoption of COBRA.

8 The Chairman. What is the Administration's view now?

9 Mr. Hackbarth. Mr. Chairman, the view is unchanged.
10 We still oppose it; and in addition, we believe the cost
11 estimates are understated by CBO.

12 Our estimates are approximately \$50 to \$60 million per
13 year.

14 The Chairman. My inclination is to leave it out. What
15 is the committee's will?

16 Senator Chafee. What is the item, Mr. Chairman?

17 The Chairman. It is item number 24. Any objections
18 to leaving it out?

19 (No response)

20 The Chairman. Out.

21 Senator Pryor. That is number four, Mr. Chairman?

22 The Chairman. Twenty-four.

23 Senator Pryor. All right.

24 Mr. Mihalski. The other open issue, then, Mr. Chairman,
25 is line 27.

1 Senator Mitchell. I apologize, Mr. Chairman. I missed
2 that.

3 The Chairman. Twenty-four.

4 Senator Mitchell. Twenty-four?

5 The Chairman. Twenty-four.

6 Senator Mitchell. That is the occupational therapy?

7 The Chairman. Yes.

8 Senator Mitchell. I would like to object to leaving it
9 out.

10 The Chairman. All right.

11 Senator Mitchell. I spoke in behalf of it yesterday.
12 I apologize. I was reading another document.

13 The Chairman. That is fine. Record Senator Mitchell
14 in opposition.

15 Pat, on the grandfathering, we have a problem. We don't
16 know the cost. This is under the capital payments, number
17 three. We do not know the costs.

18 We don't know how many hospitals are involved. We are
19 on the ragged edge of hitting our numbers in the first
20 year, and we just have nothing to go on; and all I can
21 suggest is strong language and to indicate we want to
22 ameliorate it.

23 But I have no idea what we can put it because we have
24 no idea what we are talking about, and we are not going to
25 know by the end of the day. And if we don't do it by the end

1 of the day, the Budget Committee will do it.

2 Senator Moynihan. Mr. Chairman, I wonder if Senator
3 Durenberger might want to join us. We did work out a
4 proposal last night with Mr. Mihalski and others.

5 Mr. Mihalski. Yes, sir.

6 Senator Moynihan. And that was more than agreeable.
7 Why can't we do it?

8 Mr. Mihalski. We worked out a proposal last night.
9 However, nobody knows what the impact of that proposal is,
10 what the new incentives are that are created. And although
11 we could come to an agreement, because an agreement is
12 fairly easy to reach, it was impossible last night to really
13 sort out what the impacts and incentives are of this new
14 change in capital, particularly on an overnight basis.

15 CBO has been unable to price it out as of this
16 particular point in time. And from a staff position, I
17 would simply recommend putting off capital reform until
18 next year, protecting the savings by going with an across
19 the board reduction on capital under current law, including
20 in report language--committee report language--a requirement
21 that, when we do capital reform next year, that it
22 grandfather in old capital using the same date that is in
23 the proposal.

24 Senator Moynihan. Mr. Chairman, that not only seems
25 like a fair proposal, but it seems like the only proposal.

1 (Laughter)

2 The Chairman. Is there objection?

3 Senator Durenberger. Mr. Chairman?

4 The Chairman. David?

5 Senator Durenberger. Reserving the right to object, I
6 suppose, Ed is making a good proposition I think that since
7 we can't seem to come to an agreement on the impact of the
8 proposal that we have been dealing with--I think they have
9 spent all night trying to deal with it.

10 So, maybe the best thing is not to deal with hospital
11 capital. Is that your suggestion, Ed, until next year?

12 Mr. Mihalski. Yes, sir.

13 Senator Durenberger. Now, my apprehension about that,
14 of course, is the same as the people in this room, I would
15 imagine; and if you think you have some problems this year
16 coming to grips with hospital capital, wait until next year
17 when we are sitting around this table.

18 But given the sort of last-minute nature of this
19 grandfathering effort, maybe that is the best thing to do.
20 Let the hospitals take their chances next year in an
21 atmosphere when we are going to have to raise a lot more
22 money and save a lot more money than today.

23 I think it is going to be a very difficult atmosphere
24 for them, but --

25 Senator Moynihan. Could I ask my friend: Is there any

1 practical alternative at this moment?

2 Senator Durenberger. The alternative is the one that
3 the members of this committee have been working on and the
4 staff of this committee presented in the blue book as of
5 the blue book.

6 (Laughter)

7 Senator Durenberger. And it is an effort to have a
8 transition with an outlier for hospitals that are in a
9 especially difficult position; but that did not turn out to
10 be satisfactory to the hospital industry, and it wouldn't
11 be satisfactory to the special interests at Mount Sinai
12 and Columbia and some of those high cost hospitals.

13 It wouldn't put them out of business, but compared to
14 grandfathering, it wasn't satisfactory. And that is why
15 over the weekend was this feverish activity to get us off
16 of the staff recommendation and on to the concept of
17 grandfathering.

18 So, yes, I would say there is. In fact, the
19 recommendation is in the blue book, and it is available.
20 And it may be that the grandfathering notion can be made
21 better, but as Ed pointed out, CBO is working on it and
22 everybody has been working on it.

23 And it is hard in a 24-hour period of time to determine
24 the implications of going with this grandfather proposition.
25 What is it going to mean to all of these hospitals? How can

1 gamed? I think the toughest part, isn't it, Ed, is the
2 gaming proposition. Somebody gets grandfathered on their
3 old, and they come along and they start playing games as
4 between old capital and new capital.

5 This isn't a prejorative statement, nor is it on his
6 part; it is just that we don't know the answer to that, so
7 we make the best recommendation.

8 Mr. Mihalski. That is correct.

9 The Chairman. Why don't we then accede to the staff's
10 suggestion?

11 Senator Moynihan. I think it is obviously a good thing.

12 The Chairman. Without objection.

13 On items 15 and 16, Bob Dole wants to be here, so that
14 takes us down to what?

15 Mr. Mihalski. The next open item, Mr. Chairman, would
16 be in line 27, which is the amendment from Senator Heinz.

17 The Chairman. Senator Heinz' proposal.

18 If he is still not quite ready, let's move on to the
19 next page and do the revenues while we still have people here
20 to adopt things.

21 Mr. Mihalski. Mr. Chairman, there still is an open
22 item then in the Medicaid area, which is the presumption
23 of eligibility for pregnant women that Senator Durenberger
24 raised yesterday. It is on line 34.

25 The Chairman. Oh, I apologize.

1 Mr. Mihalski. That is a \$2 million a year proposal.
2 It is very little money but, as Senator Long and others
3 would point out, it is in some people's estimation a sort
4 of a risky business to play to have somebody walk into a
5 clinic or doctor's office and say, yes, you are eligible
6 for Medicaid, and we will find out later whether you really
7 are, which is what I believe is a sort of a fair description
8 of what this does.

9 The Chairman. Comments?

10 Senator Durenberger. I have something just laid in
11 front of me, Mr. Chairman, and I have got a different
12 proposition; but I am not sure I know where it is.

13 The Chairman. Why don't we take Senator Heinz then
14 on the other one?

15 Senator Durenberger. All right, then. Let's do that.

16 The Chairman. All right. Go ahead, John.

17 Senator Heinz. Mr. Chairman, yesterday I brought up
18 the issue of having the PROs review the quality of care in
19 post-acute settings, such as nursing homes and home health
20 agencies.

21 And it is not, as I think most of my colleagues are
22 aware, an idea which we have not given careful attention to.
23 This committee has held hearings on it--Senator Durenberger.

24 The Committee on Aging, which I chair, has held hearings
25 on it. The Ways and Means Committee not only held hearings

1 on it; they have adopted a substantially similar provision.

2 And indeed, in addition to myself, Senator Grassley,
3 Senator Durenberger, Senator Chafee, Senator Moynihan,
4 Senator Bradley, and Senator Matsunaga, are co-sponsors of
5 the legislation, S. 2331, to have the PROs do and expand
6 their review of the quality of care to include post-acute
7 settings.

8 The specific proposal that I am making would be for
9 each PRO to devote a reasonable proportion of its effort
10 to these kinds of quality of care reviews generally. And
11 in addition, each PRO would be required to provide that a
12 reasonable allocation of its quality of care review
13 activities is made among different cases and settings,
14 including post-acute care settings, ambulatory settings,
15 and health maintenance organizations, for which essentially
16 problems in quality have been identified.

17 And those last qualifying words are important words.

18 Then, the Secretary of HHS would be required to identify
19 methods to assist PROs in identifying those cases which are
20 more likely to be associated with quality care problems.

21 In other words, this isn't asking the PROs, Mr.
22 Chairman, to do a blanket review of post-acute care. Indeed,
23 it is specifically worded to direct them to do a targeted
24 review.

25 Now, I don't know of any philosophical objection to the

1 amendment. We are saving a lot of money by people getting
2 out of hospitals--moving them out somewhat sicker, somewhat
3 quicker--and they are getting a good deal of what used to
4 be hospital coverage in nursing homes and by home health
5 care agencies.

6 So, it is logical that we extend our quality review
7 accordingly.

8 The only objection I know to this is on cost grounds;
9 and the costs are, in the first year that this would be
10 implemented, which would be start-up costs in fiscal year
11 1987, and then starting in fiscal years 1988 and 1989,
12 contract-related costs.

13 We would not be asking anybody to renegotiate or amend
14 current contracts, as we clarified yesterday.

15 The cost would be \$5 million in the first year, \$11
16 million in the second year, and \$12 million in the third
17 year.

18 Now, I know that the committee has some concerns about
19 coming in on the money; but when we talk about \$5 million
20 in the first year, 1987, and when fully implemented on an
21 annual basis, \$12 million for quality review, in view of
22 the literally billions of dollars that we are saving and
23 the dramatic changes we are making in the health system,
24 I just don't find the cost argument all that persuasive.

25 We are making judgments in this bill that we are going

1 to reimburse hospitals at a DRG rate, an increase of 1.5
2 percent. That is probably as good as some numbers, better
3 than others, worse than some others.

4 And there is a \$400 million a year savings associated
5 with that judgment. If you want to save a little money,
6 let's make it 1.99 percent, or excuse me, 1.39 percent;
7 and we will find a way to pay for it.

8 But I would hope that we can find a way to pay for this
9 because all the things we are doing, Mr. Chairman, in the
10 way of quality assurance really fall by the wayside at the
11 hospital door.

12 The Chairman. Let me ask this. Ed, are you presuming
13 that this amendment was going to be adopted and the figures
14 are included in the costs on it?

15 Mr. Mihalski. Yes, sir.

16 The Chairman. So, we found a way to pay for it?

17 Senator Heinz. I beg your pardon, Mr. Chairman?

18 The Chairman. We found a way to pay for it.

19 Senator Heinz. So we can adopt it?

20 The Chairman. On the merits. You can consider it on
21 the merits; but if it is adopted, it is assumed paid for in
22 our figures.

23 Senator Heinz. If the chairman liked the amendment, I
24 hope he will agree with it.

25 The Chairman. I think it is a good amendment.

1 Senator Heinz. Mr. Chairman, I thank you. I don't
2 know of any objection to it. Maybe there is some.

3 The Chairman. Comments?

4 Senator Baucus. Mr. Chairman, is this on the capital?

5 The Chairman. Pardon me?

6 Senator Baucus. Which amendment are you on right now?

7 The Chairman. We are on 27.

8 Senator Baucus. Oh, fine.

9 The Chairman. Without objection.

10 Dave, are you ready? The vote on the amendment is
11 now commencing if you are ready, Dave?

12 Senator Durenberger. No, I will wait.

13 The Chairman. All right. Let's discuss for the moment
14 the revenues. We have about five minutes before we have to
15 go and vote.

16 Senator Moynihan. Mr. Chairman, are you sure you
17 wouldn't want to use the five minutes for quiet meditation?

18 (Laughter)

19 The Chairman. I haven't had it on this issue for
20 several weeks.

21 Mr. Colvin. The three revenue items are on page 2.
22 They are revised somewhat from yesterday based on the
23 instructions from the committee.

24 The State and local Medicaid tax coverage would be
25 mandated, effective May 1, 1987.

1 The telephone tax would be four percent, beginning
2 September 1, 1986 and running through February 2, 1989.

3 And the faster tax deposit rule would apply only to
4 tobacco, moving that from 25 days after the period to 14
5 days.

6 The Chairman. Comments on any of these? John, are
7 you going to offer your tobacco one, your cigarette tax?

8 Senator Chafee. I notice that to make this thing work,
9 you have increased the telephone tax from three percent to
10 four percent.

11 The Chairman. Yes.

12 Senator Chafee. That is the kicker here. I will be --

13 Senator Heinz. Mr. Chairman, are we going to adjourn
14 while we go over to vote?

15 The Chairman. No.

16 Senator Durenberger. Mr. Chairman, I have one small
17 item we might want to consider.

18 The Chairman. Yes.

19 Senator Durenberger. This has to do with the peer
20 review of certain surgeries. Back in COBRA, we required
21 the Secretary to set up a process for pre- or post-procedure
22 review of ten surgeries where we thought there was probably
23 overpricing going on.

24 And we have a line on page 20--I believe it is--of the
25 blue book which specifies that a recommendation, that at one

1 time some of us thought was necessary, that there be a
2 specific pre-procedures review of cataract surgeries as of
3 January 1, 1987.

4 Now, I have personally come to the conclusion that
5 specifying that isn't essential because what we are trying
6 to do is get at this cataract surgery review; but the
7 Secretary is a lot more capable than we are of making the
8 decision whether it be pre- or post-procedure.

9 So, I would recommend that we take out one of those
10 sentences. Do you know which one it is, Ed?

11 Mr. Mihalski. Yes, sir. It is the sentence that talks
12 about having the PROs do this review to determine whether a
13 cataract surgery is necessary.

14 That is something that is already addressed in COBRA.
15 It would be no problem dropping it out of this; and because
16 it is addressed in COBRA, the CBO estimates that it has no
17 dollar impact.

18 Senator Durenberger. Thank you.

19 The Chairman. Any objection?

20 (No response)

21 The Chairman. John?

22 Senator Heinz. Mr. Chairman, this is not an amendment,
23 but I have a brief comment I would like to make.

24 As I think my colleagues all know, LTV Steel Company,
25 the corporation, filed for a reorganization under a Chapter

1 11 last Thursday, the 17th. And at that time, they
2 terminated the health care coverage for 78,000 retired
3 employees--78,000 of them.

4 And for retirees, we tend to take it for granted that
5 they are on Medicare, but in this case the majority of the
6 78,000 are too young for Medicare. They took early
7 retirement.

8 And you have a situation where people have taken early
9 retirement because the corporation, going back a number of
10 years, has promised them a number of benefits and among
11 them was health care coverage.

12 And now, the company, by virtue of going into Chapter
13 11, is saying that they have the right to terminate that
14 health care coverage.

15 Whether or not they do under the law is something that
16 will be litigated, but it seems to me that these former
17 employees are really being left out in the cold and they
18 are going to be forced to try and find some health care
19 coverage they can afford.

20 If you have ever tried to do that as an individual of
21 age 55, let's say, you can find it, but it is priced only
22 so John D. Rockefeller, I could afford it.

23 And I think that Congress should take a very serious
24 look at this because I am deeply troubled that employers
25 think that they can arbitrarily default on such commitments

1 to their retirees; and I would like to see that we address
2 that issue.

3 We had a hearing, I believe, Mr. Chairman, on this
4 issue last year, and we are going to have another one in
5 the Aging Committee in August; but in the meantime, I would
6 like to see Congress restate its intent that an employer
7 entering into bankruptcy cannot unilaterally reject retiree
8 health benefits prior even to consulting the courts.

9 Now, I am not going to press any amendment here in the
10 Finance Committee, Mr. Chairman. I have discussed it with
11 your staff, and I respect your wishes on that.

12 However, it is my intention to pursue this by an
13 amendment or a resolution to this effect when reconciliation
14 comes to the floor, probably by resolution, to put the
15 Congress on record as to what it is we did intend when we
16 rewrote or clarified, at least thought we clarified, the
17 bankruptcy possibilities under Chapter 11.

18 The Chairman. Max?

19 Senator Baucus. Mr. Chairman, did we take action on
20 number 5?

21 The Chairman. Yes. Ed, on the first page, number 5
22 is part of the grandfathering part, isn't it?

23 Senator Baucus. Could I ask whether the sole community
24 providers are protected, that is, historical costs for
25 sole community providers?

1 Mr. Mihalski. I believe within the numbers we can do
2 that.

3 Senator Baucus. That was the original understanding
4 yesterday. I want to make sure that that continues under
5 this proposal.

6 The Chairman. All right. Let's go vote and come back
7 in about 20 minutes.

8 Senator Durenberger. I don't want to associate myself
9 with John Heinz' remarks. That is a very serious issue.

10 (Whereupon, at 2:12 p.m., the meeting was recessed.)

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(Continued on next page)

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AFTER RECESS

(2:38 p.m.)

1 The Chairman. The Committee will come to order, please.

2
3 I wonder if we might consider the revenue pages, and
4 we have three revenue items mentioned: State and Local
5 Medicare, Telephone Excise, and the speedup of the Tobacco
6 Tax Deposits.
7

8 Comments on the state and local Medicare? Bill
9 Armstrong?

10 Senator Armstrong. Mr. Chairman, I think the state
11 employees are getting a raw deal on this. I suppose that
12 anybody who finds their taxes increased in some way is going
13 to feel that way; but I think in this case that they are
14 right.

15 We went through this issue pretty thoroughly a year ago,
16 and after a lot of pulling and hauling, and pretty careful
17 consideration, we decided that we would phase it in. And
18 my sense of it is that that phase-in is a fairly rapid
19 process. I think that the turnover of state employees is
20 9 or 10 percent a year, so that under the present law
21 practically all state employees will soon be covered.

22 The proposal that is in here, to simply put them all in,
23 after we looked at it thoughtfully and carefully last year
24 and decided not to, doesn't seem quite fair to me.

25 Now, what I am not sure of is what to do about it.

1 Obviously we have to have some revenue from some source, and
2 that is why I have been listening intently to see what is
3 going to happen to Senator Chafee's amendment, because just
4 by coincidence, as far as I know, the amendment which he
5 has in mind comes out to about the same amount of money as
6 would be necessary to afford relief on this point to the
7 state employees. So, that is at least something I am going
8 to look at.

9 I just mention this. I have not had an opportunity to
10 discuss it with many members; I have talked to one or two,
11 at least one of whom made the sage observation that, "Well,
12 it doesn't matter, because the Chairman has got the votes for
13 it in its present form," and if that is the case, it wouldn't
14 be the first time, I guess, so I wouldn't be too surprised.

15 I just want to note in passing that I think this is a
16 problem, and at least this one group of people, which is not
17 a very affluent segment of our society, is kind of taking it
18 in the neck.

19 The Chairman. Well, I don't know what the committee may
20 do. Once before we voted 13-to-5 to put it into effect
21 immediately. On the floor we deferred it for one year, but
22 to put it in effect after a year for all employees.

23 I am not wedded to this. I am going to vote against any
24 further increase in cigarette taxes. We have got to meet
25 our revenue number somehow. I have not counted any votes on

1 this; I was just presuming from the way the committee has
2 foted twice before that that is probably the way they felt.

3 Senator Armstrong. Well, Mr. Chairman, how about this:
4 Have you ever heard the old saying, "It pays to advertise"?
5 I would like to consider my statement an advertisement, and
6 just ask are there any other members of the committee who
7 feel that way. And if they do, if they would like to present
8 themselves, either publicly or privately, I am ready to try
9 to work something out.

10 I haven't got a specific proposal; I just have a concern.
11 And if there are several of us who do, then maybe we can come
12 up with an alternative source of revenue that would meet the
13 reconciliation, without doing it in this way.

14 The Chairman. Senator Bentsen, and then Senator
15 Mitchell.

16 Senator Bentsen. Mr. Chairman, I share the concerns. I
17 did before. I think I was one of the five that were against
18 it. But, the mandatory coverage of local employees such as
19 municipal workers and school personnel is a tough burden. It
20 is going to affect about half the cities in my own state and
21 the school districts.

22 What we are facing in our state is a tremendous loss of
23 revenue because of what has happened to oil and gas, and we
24 are looking at a \$3-million deficit in our state budget. We
25 have to raise taxes substantially, and this is just adding to

1 that problem. I would very much prefer that we choose an
2 alternative source, and I am very interested in what Senator
3 Chafee is going to have to offer in that regard.

4 It is not a question of saying I am just against any
5 kind of cost increase; I am choosing another one in place of
6 this one. So I will be casting my vote against it.

7 The Chairman. Senator Mitchell?

8 Senator Mitchell. Thank you, Mr. Chairman.

9 As you will recall, I offered the amendment that was
10 defeated 13-to-5 last year, and we debated it at great length.
11 I will not repeat that, but I would like to just make a
12 couple of points.

13 I agree with Senator Armstrong. I think this is a most
14 unwise proposal. Essentially what we are doing is forcing
15 every municipality in this country to raise its taxes so we
16 can go around saying, at the federal level, "We are against
17 taxes." That is exactly what we are doing, because every
18 municipality will have to raise its taxes to fund this.

19 I also make an interesting note, Mr. Chairman. Yesterday
20 when this proposal was before us, it called for an effective
21 date of July 1, 1987.

22 The Chairman. June 1, yesterday.

23 Senator Mitchell. I have it right in front of me. Well,
24 maybe I am reading the wrong document. It says 7-1-87. Maybe
25 it went from July 1 on this document to June 1 yesterday, to

1 May 1 today. I shudder to think what would happen to the
2 municipal employees if this went on for several more days.

3 The Chairman. If you adopt it now, it stops at day-one.

4 (Laughter)

5 Senator Mitchell. This might stem the tide, huh?

6 (Laughter)

7 Senator Mitchell. So, I just think it is the wrong
8 approach. Again, it is part of this effort to say we are
9 not raising anybody's taxes, so every municipality and every
10 state has to raise their taxes to accommodate us. And for
11 all the reasons that were made in the lengthy debate we had
12 last year, I express my opposition to this proposal.

13 The Chairman. The argument I would make is the same
14 one I made on the floor last year, in terms of Medicare. We
15 presume actuarially that some people are going to collect, even
16 if they never pay anything into it. There is no
17 differentiation here like there is on Social Security. You
18 work, your spouse doesn't; when your spouse becomes eligible
19 for Medicare, the spouse collects fully.

20 So, we presume to pay for that by saying, partially
21 actuarially, "Okay, you work, your spouse works, you both pay
22 into Medicare, even though the spouse doesn't get any more
23 benefits because the spouse works all the time." But we
24 make a distinction: If you work for IBM, you pay into it.
25 If you work for the city, you don't. And with the state,

1 you don't. And yet, you still get the same benefits.

2 I think it is unfair to say, for a particular class of
3 people -- those who work for a municipal or state government
4 -- that they are going to get all of the Medicare benefits
5 but never pay anything into it. But you just make a change
6 and instead of working for Bangor, Maine, you work for IBM,
7 you do pay into it. You don't get any more benefits.

8 And those people, therefore, to make this system come
9 out actuarially sound, those people who work or those married
10 couples who both work are paying in a little extra, a little
11 bit, so that those who work for municipal governments can
12 have the benefits of Medicare but pay nothing into it.

13 Senator Mitchell. Well, of course, Mr. Chairman, the
14 example you cite is a highly specific one, in which one
15 spouse is employed and the other is not, and one is employed
16 by a private corporation and the other by a public entity. I
17 am sure you will agree that that example is not applicable
18 to a circumstance in which an individual works for a public
19 government and would not be eligible for Medicare benefits.

20 So, you can make up an example of a circumstance in
21 which it would be unfair in one way; there are an equal
22 number of examples that could be made up the opposite way.

23 So, I think that, while I accept what you said as
24 accurate, it of course describes only the specific situation.

25 The Chairman. Except on the latter one, where the person

1 is single, at the moment they don't pay any Medicare taxes and
2 and are not eligible for Medicare.

3 Senator Mitchell. That is right. They get no benefits.

4 The Chairman. They get no benefits, and they pay no
5 money.

6 Senator Mitchell. Right.

7 The Chairman. Now, if they pay money they get benefits.
8 It is not like they are being taxed for something they are
9 not going to get.

10 Senator Mitchell. I understand that, but the point of
11 your original example was that someone is getting a benefit
12 for which they did not pay. And my response to that is,
13 there are many others similarly situated who don't pay and
14 won't get a benefit.

15 Mr. Mihalski. Mr. Chairman, there was a study that the
16 General Accounting Office did in 1982 on the issue. They
17 looked at federal retirees. And the federal retirees that
18 were age 65 or over -- 81 percent of them at that time were
19 also entitled to Medicare on the basis of work outside of
20 their federal employment.

21 The Chairman. I know it, and we presume from that that
22 state and local government probably wasn't much different.
23 We didn't have any study on it, but we presumed about the
24 same.

25 Mr. Mihalski. Yes, sir

1 Senator Mitchell. But I would say that there is
2 absolutely no evidence upon which to base that presumption.

3 The Chairman. No, granted that.

4 Senator Mitchell. I could just with equal force say,
5 "I presume that the opposite is true with state and local
6 employees."

7 The Chairman. Further discussion?

8 Senator Chafee. What are we on now, anything in
9 connection with the revenues, Mr. Chairman?

10 The Chairman. Well, at the moment we have been on number
11 one, the Medicare, and the state and local Medicare tax. I
12 have not yet put it for a vote.

13 Senator Chafee. Just you are voting on line-by-line.

14 The Chairman. Further discussion?

15 (No response)

16 The Chairman. Well, let me put it as a vote and see
17 where we come out. I think on this one I have no idea. I
18 can't remember who voted which way, but on this one I would
19 invite those who have not voted, those who were not here to
20 vote. And I wish their staffs would give them a call.

21 I will just put the motion that we adopt item number one,
22 the State and Local Medicare Tax Effective May 1, 1987.

23 Senator Mitchell. Could we have a rollcall?

24 The Chairman. Yes, I would be happy to.

25 Clerk, call the roll.

1 The Clerk. Mr. Dole?
2 (No response)
3 The Clerk. Mr. Roth?
4 (No response)
5 The Clerk. Mr. Danforth?
6 Senator Danforth. Aye.
7 The Clerk. Mr. Chafee?
8 Senator Chafee. Aye.
9 The Clerk. Mr. Heinz?
10 (No response)
11 The Clerk. Mr. Wallop?
12 (No response)
13 The Clerk. Mr. Durenberger?
14 Senator Durenberger. Aye.
15 The Clerk. Mr. Armstrong?
16 Senator Armstrong. No.
17 The Clerk. Mr. Symms?
18 (No response)
19 The Clerk. Mr. Grassley?
20 Senator Grassley. Aye.
21 The Clerk. Mr. Long?
22 Senator Mitchell. No, by proxy.
23 The Clerk. Mr. Bentsen?
24 Senator Bentsen. No.
25 The Clerk. Mr. Matsunaga?

1 Senator Matsunaga. Aye.

2 The Clerk. Mr. Moynihan?

3 Senator Moynihan. Aye.

4 The Clerk. Mr. Baucus?

5 The Chairman. Aye, by proxy.

6 The Clerk. Mr. Boren?

7 Senator Boren. Aye.

8 The Clerk. Mr. Bradley?

9 Senator Bradley. Aye.

10 The Clerk. Mr. Mitchell?

11 Senator Mitchell. No.

12 The Clerk. Mr. Pryor?

13 (No response)

14 The Clerk. Mr. Chairman?

15 The Chairman. Aye. And Senator Heinz, aye by proxy.

16 Wallop, aye by proxy.

17 The Clerk. Twelve Yeas, four Nays.

18 The Chairman. Adopted.

19 Let us move on to the 4-percent telephone excise tax.

20 Discussion?

21 Senator Chafee. Mr. Chairman, what would it cost if that
22 were dropped, just continuing the three percent? I know that
23 the three percent is meant to expire, so that juggles the
24 figures; but what I am really asking is the difference between
25 the continuation at three percent, totally, and going to the

1 four percent, as suggested. What is the difference?

2 The Chairman. Do you want the three-year total?

3 Senator Chafee. Yes, please.

4 Mr. Weiss. The three-year total would be approximately
5 \$1.7 billion, if you simply continued the three percent and
6 used the same expiration date as in the item on the sheet.

7 The Chairman. Is that all? I thought we had a bigger
8 figure than that.

9 Mr. Weiss. The bulk of the revenue -- the bulk of the
10 three-year total is the extension rather than the increase.
11 The extension is more than half of that \$4.1 billion.

12 The Chairman. I am confused. If it said three percent
13 telephone excise tax effective 9-1-86 to 2-28-89, that
14 figure would be 1.7 instead of 4.07? There is a difference
15 of \$2.3 billion?

16 Mr. Weiss. It would be about 2.3, or so.

17 The Chairman. The total would be 2.3?

18 Mr. Weiss. Right. The extension at 3 percent through
19 February 28 would be about 2.3.

20 The Chairman. Oh. So, it is 1.7 short?

21 Mr. Weiss. Right. And so, the extra percentage point
22 gets you the 1.7.

23 The Chairman. Which would put a short on our totals,
24 both in 1987 and totally?

25 Mr. Weiss. That is correct.

1 Senator Chafee. I am not quite sure how they do their
2 figuring.

3 The Chairman. I think what he is saying, John, is that
4 the bulk of the increase is not the extension, but it is
5 going up one percent.

6 Senator Chafee. Yes.

7 Mr. Weiss. It is the other way around, I think.

8 The Chairman. The other way around?

9 Mr. Weiss. Yes. The extension piece of this is about
10 2.3.

11 The Chairman. All right.

12 Mr. Weiss. And then the extra percentage point is
13 about 1.7. Right, roughly. So it brings it up to about four.

14 The Chairman. Discussion?

15 Senator Chafee. Mr. Chairman, I am not for that increase
16 in the telephone tax. I know there is the suggestion of
17 separating it out to business and individuals, but I wouldn't
18 favor that either, because I think this is another increased
19 tax on business, which means jobs.

20 At the same time, we are hitting everybody on the
21 telephone tax, regardless of income. So, Mr. Chairman, you
22 are talking 1.7, Randy. Is that right, over five years?

23 Mr. Weiss. The three year total for that extra percent,
24 that's right.

25 Senator Chafee. And if we went to, on the cigarettes,

1 an eight cent increase, we would get \$5 billion, roughly.

2 Mr. Weiss. That is correct.

3 Senator Chafee. So, at the appropriate time -- now, I
4 know that people will see the difference and try to latch
5 onto it. I would not be for using it for other purposes,
6 except I would hope that we certainly would cover the
7 proposition that Senator Bentsen and I have worked on, that
8 is the Maternal and Child Health. Although, I understand that
9 \$75 million has been -- the money is available for that.
10 That is the Maternal and Child Health. Is that correct?

11 Senator Bentsen. It is in the budget.

12 Senator Chafee. All we have to do is authroize that
13 here?

14 Mr. Weiss. Yes, sir.

15 Senator Chafee. So, I would come forward with --

16 The Chairman. But is that the one -- I am trying to
17 remember. Is that the one that is extraneous, and we were
18 going to offer it on the bill? I will support it. I can't
19 remember the number. I want to say 1868, or 1688, or
20 something like that.

21 What are you suggesting, John?

22 Senator Chafee. I am suggesting that -- well, of course,
23 if we let the telephone tax expire as required at the end of
24 '87, then what would we be talking, in dollars?

25 Mr. Weiss. If you simply retain present law on the

1 telephone tax?

2 Senator Chafee. Yes.

3 Mr. Weiss. Then you would lose this \$4.1 billion that
4 is on the sheet. That would then be your target, I guess.

5 The Chairman. When does the telephone tax expire?

6 Mr. Weiss. It expires at the end of calendar year 1987,
7 the end of next year.

8 The Chairman. Then I am confused as to your answer to
9 John's question. You just said if we let it expire, what
10 happens? We don't need all the four billion then.

11 Senator Chafee. If we let the whole thing expire, as
12 per law, would you then lose the total amount you have from
13 this figure?

14 Mr. Weiss. Yes, because this figure is relevant to
15 present law. So, this is the increase relative to leaving
16 it at three percent through the end of 1987.

17 The Chairman. Well, if you left it at three percent
18 through the end of 1987, and that is when it expires, do you
19 mean leave it the way it is?

20 Senator Chafee. That's right, just do nothing.

21 The Chairman. We have got to pick up some money through
22 '87 if you leave it at three percent, don't you?

23 Mr. Weiss. No, but in present law it is at three
24 percent.

25 The Chairman. I understand that. So, you are saying

1 these are the figures above present law?

2 Mr. Weiss. Exactly. These are the figures above
3 present law.

4 The Chairman. All right.

5 Mr. Chapoton. Mr. Chairman, I think the members of
6 this committee know the position of the Administration is
7 opposed to any increase in taxes for budget reduction
8 purposes, and we would consider the extension of the three
9 percent tax or the increase, the one-percent increase, to be
10 a tax increase. And the Administration would be opposed.

11 The Chairman. Or the cigarette tax, I presume.

12 Mr. Chapoton. Or the cigarette tax.

13 The Chairman. Discussion?

14 Senator Chafee. Well, Mr. Chairman, do I have to do this
15 in two steps?

16 The Chairman. Why don't you just offer it as a
17 substitute?

18 Senator Chafee. All right. I would offer as a
19 substitute for the telephone tax the eight-cent increase in
20 the cigarette tax.

21 I think we have set forth these arguments. I have just
22 briefly touched on them. The cigarettes are a costly item
23 to the public health expenses of the nation, on the one side,
24 and it is clear that a tax increase is going to discourage
25 new smokers -- perhaps not those who are already habitual

1 smokers.

2 On the other side of the coin, the increase in these
3 taxes affects everybody; that is, on the telephone tax,
4 practically everybody in America has a telephone. Many of
5 them are poorer people. I think we were all shocked when we
6 were in the Tax Conference and saw that, I believe, the
7 statistics were one-quarter of the people in the United
8 States have a taxable income of \$8000 or less.

9 Senator Mitchell has spoken on this several times, and
10 I think eloquently. So, I would propose that substitution.

11 The Chairman. Bill Bradley?

12 Senator Bradley. Mr. Chairman, I would like to support
13 Senator Chafee in his effort and add one additional fact:
14 That is, if the excise tax were to be at the real figure that
15 it was in 1951, it would have to be at 32 cents a pack. This
16 doesn't even come close to being where the real figure was in
17 1951.

18 In 1951 the cigarette tax was eight cents a pack. To
19 represent the same proportion of the price, it would have to
20 be at 32 cents a pack. This raises it only eight cents to
21 24 cents a pack, and I think it is a much better way to get
22 the revenue than a telephone tax.

23 Senator Bentsen. Mr. Chairman, I would also like to
24 support Senator Chafee and what he is striving to do here. I
25 think that not only is it a much more equitable way to put

1 this tax on but I think it is a contribution to health in
2 the process.

3 I think it is a fair tax and has a good social
4 objective, in addition.

5 The Chairman. Do we ever have any statistics as to the
6 economic incidence of cigarette tax? Who buys cigarettes?

7 Mr. Weiss. Mr. Chairman, I believe there are some data
8 on that from the Consumer Expenditure Survey. Unfortunately,
9 I don't happen to recall exactly what the pattern is.

10 The Chairman. I just wondered if the poor
11 disproportionately smoked more than they telephoned.

12 (Laughter)

13 Mr. Weiss. Unfortunately I am not aware of what the --

14 The Chairman. Senator Danforth?

15 Senator Danforth. Mr. Chairman, I'm sorry. Senator
16 Bradley I think was speaking.

17 Senator Bradley. I was just going to say I think they
18 do both, but only one is dangerous to your health.

19 Senator Bentsen. Mr. Chairman, I would like to enrich
20 their health by putting this tax on cigarettes.

21 The Chairman. Senator Danforth?

22 Senator Danforth. Mr. Chairman, the cigarette tax has
23 been with us a long time. It is my impression that, as a
24 percentage of the cost of a package of cigarettes over the
25 last couple of decades, it has declined significantly. Is

1 that right, Randy? Or do you know?

2 I was Senator Chafee's predecessor in offering this
3 cigarette tax some years ago, and I don't remember the
4 figures but I do remember making the argument that the tax
5 as a percentage of the total cost of a pack of cigarettes now
6 is much lower than it had been, say a decade or two ago.
7 Does anybody know that?

8 Senator Bradley. Yes.

9 Senator Danforth. Or, can I just assert that?

10 Senator Bradley. I think you can assert that, because
11 in 1951 the tax per pack was eight cents. Now, offhand I
12 don't know how much a pack of Luckies cost in 1951, but my
13 guess it was much less than what it is today; in fact, we
14 are only increasing it from 16 cents to 24 cents with this
15 amendment.

16 In real terms, according to the statistics that I have
17 here, it has been a decline of 50 percent in real terms
18 since 1951.

19 Senator Danforth. Well, I support Senator Chafee's
20 effort. I think that this is more equitable. Telephone
21 service is a true necessity in today's world; cigarette
22 smoking is not. Cigarette smoking in and of itself
23 endangers health. This isn't a matter of abusing cigarettes,
24 it is the mere fact of smoking cigarettes that is a danger
25 to health.

1 The Federal Government spends significant amounts of
2 money -- again, I don't have the figures, but it is
3 undeniably true that the Federal Government spends
4 significant sums of money through Medicare and Medicaid and
5 disability insurance in paying for the costs of smoking.

6 So, I would think that this would be something we would
7 want to do.

8 The Chairman. Could I ask again that the staff be
9 prepared to give me their bosses' proxies one way or the
10 other, because I would like everybody to be registered on
11 this if they can. It has been a close vote before, and they
12 probably will want to be registered again.

13 Dave?

14 Senator Durenberger. Mr. Chairman, on the issue -- I
15 don't know if we are going to vote on telephone versus
16 cigarettes or just vote for or against cigarettes. I don't
17 whether I have a half dozen telephones in my home or eight
18 of them scattered around the house. I have young kids who
19 spend hours on the telephone.

20 I don't want to use just me as an example, but I would
21 challenge the contention that telephones are a necessity
22 across the board, whereas the consumption of tobacco is a
23 luxury or an elective, or something like that.

24 But regardless, I don't know that we should make a
25 decision on that basis. I intend to vote against the tobacco

1 tax, unless -- and I think the only time, maybe earlier this
2 year, that I have supported John in this effort is when I
3 knew that the tax was going to go into something other than
4 national defense or all of these elderly programs that we
5 continue to approve here. If it actually went to communities
6 so that they could do something about getting young mothers
7 off of smoking when they are pregnant for the first time,
8 and teach them something about the value of not smoking, if
9 you could see some of this money being directed towards an
10 end that is somehow related to the problems created by it,
11 I would see the national government coming along and saying,
12 "We ought to discourage it, on the one hand, and the
13 resources that are collected should be put into education,"
14 and all that sort of thing.

15 But all we are doing is taking another eight cents, or
16 something like that, off of this, and it is going to
17 evaporate, meaning the states and local governments and other
18 units of government that have only excise taxes to go to get
19 revenue, it is made more difficult for them to go to the
20 cigarette tax or one of these other taxes as a source of
21 revenue. So, I think we ought to think twice before we make
22 the switch.

23 The Chairman. Further discussion?

24 Senator Matsunaga. Mr. Chairman?

25 The Chairman. Sparky?

1 Senator Matsunaga. What is the estimated total which
2 the eight cents would bring in, as compared to the telephone
3 tax?

4 Mr. Weiss. The eight cents would bring in \$5.0 billion,
5 and the telephone tax would bring in 4.1, over the three
6 years.

7 The Chairman. Further discussion?

8 (No response)

9 The Chairman. If not, Clerk, call the roll.

10 The Clerk. Mr. Dole?

11 (No response)

12 The Clerk. Mr. Roth?

13 (No response)

14 The Clerk. Mr. Danforth?

15 Senator Danforth. Aye.

16 The Clerk. Mr. Chafee?

17 Senator Chafee. Aye.

18 The Clerk. Mr. Heinz?

19 (No response)

20 The Clerk. Mr. Wallop?

21 (No response)

22 The Clerk. Mr. Durenberger?

23 Senator Durenberger. No.

24 The Clerk. Mr. Armstrong?

25 Senator Armstrong. Aye.

1 The Clerk. Mr. Symms?
2 (No response)
3 The Clerk. Mr. Grassley?
4 Senator Grassley. No.
5 The Clerk. Mr. Long?
6 Senator Bentsen. No, by proxy.
7 The Clerk. Mr. Bentsen?
8 Senator Bentsen. Aye.
9 The Clerk. Mr. Matsunaga?
10 Senator Matsunaga. Aye.
11 The Clerk. Mr. Moynihan?
12 Senator Moynihan. Aye.
13 The Clerk. Mr. Baucus?
14 Senator Chafee. Aye, by proxy.
15 The Clerk. Mr. Boren?
16 Senator Boren. Aye.
17 The Clerk. Mr. Bradley?
18 Senator Bradley. Aye.
19 The Clerk. Mr. Mitchell?
20 Senator Mitchell. Aye.
21 The Clerk. Mr. Pryor?
22 (No response)
23 The Clerk. Mr. Chairman?
24 The Chairman. No.
25 Wallop, No, by proxy.

1 The Clerk. Ten Yeas, five Nays.

2 The Chairman. Ten Yeas, five Nays. Do any of the
3 staff here know how their members want to vote?

4 (No response)

5 The Chairman. All right. I will leave it open for
6 about 15 or 20 minutes more.

7 John, let me ask you this: If this passes, do you have
8 any objection to dropping the faster tobacco tax deposit?
9 You will have enough money to cover it, anyway.

10 Senator Chafee. No. I don't fully know what that is.

11 The Chairman. It is a speedup on how fast they pay
12 their excise taxes to the Government.

13 Senator Chafee. I don't want to be looked on as
14 vindictive against the tobacco industry.

15 (Laughter)

16 Senator Bentsen. Mr. Chairman, though, he did raise
17 another point. Senator Chafee and I have worked on this
18 Maternal and Child Health Care, which is about some \$70-some
19 million, and it was suggested it was extraneous; but we have
20 taken quite a number of extraneous things so far, and I think
21 this is a material one and a very meritorious one, and I would
22 hope we could reconsider, along with having taken several
23 already.

24 The Chairman. I don't think we have taken any extraneous
25 ones, have we?

1 Senator Bentsen. Well, I understand we have.

2 The Chairman. Which ones? I thought everything was
3 reasonably related. I know we didn't on the revenues. Ed,
4 did we on the outlays?

5 Mr. Mihalski. There was some discussion as to whether
6 some would be extraneous, but by and large they move money
7 around, and it was felt that because of the moving of money
8 around they were not extraneous.

9 The Chairman. Do you mean like the rural referral?

10 Mr. Mihalski. Yes, sir.

11 Senator Bentsen. But in this one we had a budget
12 resolution that provides for it, anyway. I don't think anyone
13 is going to quarrel with you if we take care of it in this
14 bill.

15 Senator Armstrong. Well, except, Mr. Chairman, this:
16 Some of us are sitting on some very worth amendments which
17 are extraneous, as this is. At least in one case comes to
18 mind an amendment that is not as popular perhaps as the one
19 that Senator Bentsen recommends, but which from a
20 parliamentary situation is in exactly the same posture.

21 Senator Bentsen. Except, the budget resolution takes
22 care of this one already and provides for it.

23 Senator Armstrong. Well, but that isn't the point of the
24 limitation on extraneous material with respect to the rule
25 put through under Senator Byrd's initiative, and I think

1 wisely so.

2 I guess what I am asking is, I don't object to taking
3 your amendment, Lloyd, but I guess I am really exploring
4 where that leaves the rest of us who are withholding the
5 offering of amendments which would otherwise logically fit
6 here, were it not for the limitation on extraneous material.

7 Senator Bentsen. All right.

8 The Chairman. Let me ask again if the staff could
9 please --

10 All right. We will leave this open for a few more
11 minutes. But if it passes, that takes care of our revenues.

12 Here is Senator Dole. Bob, so far I am holding the
13 vote open. It is 10 Yeas, five Nays on an eight-cent
14 cigarette tax.

15 Senator Dole. I vote No.

16 The Chairman. I voted No. That is 10-6.

17 Susan, who is left that hasn't voted?

18 The Clerk. Mr. Roth, M[. Heinz, and Mr. Pryor.

19 The Chairman. Then I am missing one. I have only 16.
20 Can you give me the Yeas and Nays? I mean, who voted which
21 way, then? Is the vote 10-7?

22 The Clerk. I am sorry, 10-6.

23 The Chairman. Okay, who is missing?

24 The Clerk. We are missing Roth, Heinz, Symms, and
25 Pryor.

1 The Chairman. Thank you.

2 Mr. Weiss. Mr. Chairman, the package is clarified. The
3 numbers I gave, the 5.0, assumed a permanent eight-cent
4 extension of the cigarette tax. I just didn't want there to
5 be any confusion that it corresponded to the dates on this
6 piece of paper for the telephone tax.

7 The Chairman. No, I think that was understood. Yes.
8 Further discussion on outlays?

9 Senator Matsunaga. Mr. Chairman?

10 The Chairman. Sparky?

11 Senator Matsunaga. I asked for reconsideration of item
12 number 24, an amendment which I had early offered and which
13 was accepted on occupational therapy.

14 The Chairman. Well, apparently it wasn't accepted
15 yesterday. I asked the staff, and they said No. We took it
16 out this morning on the urging that it was a new program, but
17 you are welcome to bring it back up again. Go ahead.

18 Senator Matsunaga. The new figures, as indicated on the
19 sheet passed out today, indicates the total cost of \$60
20 million over the three-year period. And since we just saved
21 \$928 million by raising the eight-cents-on-tobacco-tax, that
22 would easily cover that.

23 But what I am trying to say is, Mr. Chairman, that that
24 figure, according to a letter which I received earlier from
25 the CBO estimates, which I quoted yesterday, of \$47 million,

1 evidently costs have gone up. It is up from 47 to 60.

2 But the CBO estimate, and I quote from that letter dated
3 March 20 of last year, the CBO estimate of July 1984 did not
4 include savings due to lower-cost settings or decreased
5 hospitalization.

6 I have here an estimate made by the hospital association
7 itself, the American Occupational Therapy Association, and
8 based on 20 percent of Medicare patients who receive
9 occupational therapy services in outpatient departments of
10 hospitals switching to rehabilitation agency as proposed
11 under the amendment, and 20 percent of such patients
12 switching to private-practice settings, we have an estimated
13 cost savings of \$9.6 million in the first year.

14 A further study made by the American Occupational
15 Therapy Association indicates that \$25.8 million costs
16 would be prevented through the occupational therapy services
17 as covered under my amendment.

18 This would actually mean a savings, even over the next
19 three years. And as you project it further, and it is
20 expected that more and more will take advantage of the
21 offering of therapy services provided in the treatment in
22 the outside-of-the-hospital complex, then the savings will be
23 tremendous, because this estimate of \$25.8 million cost
24 savings is based purely and merely on a one-percent
25 rehospitalization rate.

1 As a matter of fact, Mr. Chairman, the Blue Cross/Blue
2 Shield of Maryland decides they would include occupational
3 therapy services as their standard component of the health
4 insurance policy coverage, with no increase in premiums. And
5 this is based on the fact that the Blue Cross/Blue Shield
6 determined that any modest cost incurred through this
7 expanded coverage would be more than offset by the long-term
8 savings associated with greater patient independence and the
9 avoidance of the need for institutional care, which means
10 avoidance of rehospitalization.

11 So, I think this is a good amendment. It will mean
12 savings. I don't know why the Administration opposes it.
13 The Administration is looking for savings, I am sure, and
14 they can come up with no real estimates. And these studies
15 were made by the American Occupational Therapy Association on
16 a regional basis. They found that these are the figures,
17 based only on the one percent of the savings of
18 rehospitalization, which is a very modest figure.

19 So, I would think, for one thing, we adopted this, you
20 know, last reconciliation measure. And this is merely a
21 repeat of what we did last time. Last time, as you recall,
22 the White House indicated in the veto message that that was
23 one of the reasons why they vetoed it. But I think the
24 Administration can be made to look at the facts this time,
25 that we will actually enjoy a savings cost by this provision.

1 So, I ask for reconsideration of the proposal.

2 The Chairman. Susan, would you record Symms "No" on the
3 Chafee amendment?

4 Senator Mitchell?

5 Senator Mitchell. Well, Mr. Chairman, we have debated
6 this issue in this committee on several occasions, and in
7 the interest of time I won't repeat all of the arguments that
8 have been made in the past. I will simply say that if the
9 committee members will just look at the substance of this,
10 common sense tells us that this will be a cost-savings
11 measure, that the inevitable result must be to produce a
12 reduction in expenditures under the Medicare Program. So,
13 we will be accomplishing both providing a broader range of
14 service to Medicare beneficiaries in a more convenient
15 setting, and saving money for the program at the same time.

16 For those reasons, and for all of the reasons suggested
17 by Senator Matsunaga and others in previous debate, I would
18 hope the committee would adopt this amendment, as I thought
19 we did yesterday. Then, I guess we unadopted it earlier.

20 The Chairman. Well, I was under a mistaken impression,
21 then. The staff indicated to me that we had not adopted it
22 yesterday.

23 Put Heinz down as "No" on the Chafee cigarette tax.

24 Further discussion?

25 (No response)

1 The Chairman. All of those in favor of the amendment,
2 say Aye.

3 (Chorus of Ayes)

4 The Chairman. Opposed?

5 (No response)

6 The Chairman. Carried.

7 Senator Durenberger. Mr. Chairman?

8 The Chairman. Dave?

9 Senator Durenberger. Could I take a crack at this
10 Medicaid amendment while we are waiting?

11 The Chairman. Yes.

12 Senator Durenberger. Yesterday we engaged in a very
13 interesting and a very important discussion of where we were
14 spending federally-collected resources as between generations
15 and between those in need and those not in need. And I
16 suggested there were a couple of relatively small amendments
17 or changes we could make that would relate to infant
18 mortality in the Medicaid program.

19 Because the material had just been stuck in front of me,
20 I characterized it, I guess, as "getting out information
21 about the availability of Medicaid and having it lying around
22 the doctors' offices," and I regret having put it in that
23 context; but that is what the words looked like when I was
24 reading them.

25 Those of us who have spent any time in migrant health

1 centers or community health centers, Indian health centers,
2 in our cities, are quite aware of the fact that these
3 health centers are also community centers.

4 It isn't like going into the doctor's office and
5 finding out you are pregnant, and then somebody says, "This
6 is what you do about it." It is, to a degree, a social
7 service center.

8 What my amendment would do would be to permit these
9 kinds of clinics, and a large part of it would be Title 5
10 clinics, Indian health clinics, community clinics, WICK
11 clinics, migrant health clinics, all of which are supported
12 in part by state funding already, to have available the
13 forms for initial qualification or enrollment in a Medicaid
14 program.

15 I was listening to Russell yesterday, and he was talking
16 about, "Well, we are trying to drag them into the welfare
17 system," but the reality is, these places are the kinds of
18 places that people who are almost automatically a part of
19 this welfare system already are frequenting for their health
20 needs.

21 So, this is a way to say that, in these places on a
22 state-option basis there can be available enrollment
23 information and the taking of initial eligibility. And that
24 initial eligibility form would go into the county social
25 service department, and for 45 days they would remain

1 eligible unless there was a non-eligibility determination.

2 This is backed strongly by the National Governors
3 Association as well as by the Childrens Defense Fund, to
4 both of whom I apologize for my inarticulate way of laying
5 out the nature of this amendment.

6 The Chairman. Senator Moynihan?

7 Senator Moynihan. Mr. Chairman, could I speak just to
8 that? As I said yesterday, the Committee on Rules held a
9 hearing on establishing a committee on children's families,
10 and there is one repeated theme from witnesses who are
11 involved in the kinds of activities that Senator Durenberger
12 described.

13 There is an extraordinary disparity between the cost of
14 prenatal care and the cost of not providing prenatal care.
15 These are people who are from Cumberland, Kentucky, and
16 Doylestown, Pennsylvania, and Huntsville, Alabama, and it is
17 quite similar to what Senator Durenberger says. But the
18 situations he is describing are not those in which there is
19 any real question about the condition of the person involved.
20 I mean, you can tell they are likely Medicaid-eligible --
21 that is what they are in those centers for.

22 And the difference between providing prenatal care and
23 the cost of failing to do so is so big that I can't see why
24 we wouldn't want to do what the Senator proposes.

25 Senator Bentsen. I strongly support the Senator's

1 proposal. When you get to the question of not having
2 prenatal health care, and then you have all the results of
3 disabilities, mentally handicapped, physically handicapped,
4 the problems of institutionalizing those people, the
5 incredible costs involved to care for them throughout their
6 lifetimes, plus all the emotional things that take place
7 and what happens to a family, it is one of the most
8 cost-rewarding things that you could do.

9 If you are looking at after birth and what you spend on
10 that child in the very early years, you are talking at least
11 three dollars for every one in the way of return to the
12 taxpayers -- outright cost to the taxpayers. So, it is a
13 real payoff.

14 The Chairman. Just hold on a second, I want to note
15 that Senator Pryor wants to vote Aye on the Chafee amendment,
16 the cigarette tax.

17 Senator Durenberger. Just briefly, I think the question
18 of cost has been raised, and somebody is floating a figure of
19 maybe about \$5 million. But I think the Senator from Texas
20 is correct; The objective of this bill is to reduce infant
21 mortality, to reduce the problems that are associated with
22 low-birth-weight babies. And in the end, there isn't any
23 question in anybody's mind but what we will be saving money
24 out of an amendment like this.

25 Mr. Mihalski. Yes, sir. The costs, I believe, come from

1 a CBO assumption that, for those people that you will have
2 provided services for and then found out that they weren't
3 eligible, you will not be able to recoup those costs.

4 Senator Bentsen. I would like to hear what Mr. Mihalski
5 has stated there, Mr. Chairman.

6 Mr. Mihalski. What I am saying is, the small cost that
7 is attributed to this amendment, I think, is a presumption
8 that if you allow the person to become eligible for this
9 45-day period and then subsequently, let us say on the 40th
10 day, find that they were not eligible, you will have
11 provided the services, which would be a cost, which you will
12 not be able to recoup from that individual.

13 Senator Durenberger. Only the baby benefits.

14 Mr. Mihalski. But it is only \$2 million a year, for
15 a total of six over three years.

16 The Chairman. Comments?

17 (No response)

18 The Chairman. Those in favor?

19 Senator Durenberger. Aye.

20 The Chairman. Opposed?

21 (No response)

22 The Chairman. Let me make a suggestion on the last few
23 things open, as far as I know, on the first page, 15 and 16,
24 Historical Average and Interest Penalty. After talking to
25 Senator Dole, who is quite interested in this, put them in

1 a priority with Historical Average first and Interest
2 Penalty second, and include them in the package, unless
3 the estimates will not pay for them, in which case we will
4 drop them out. Any objection to that?

5 (No response)

6 The Chairman. Without objection.

7 I would move that we report --

8 Senator Moynihan. Now, that was not item 18?

9 The Chairman. We have adopted 17, 18, and 19 on page
10 one, and we put them in that priority order -- 15 first,
11 16 second.

12 Senator Moynihan. Could I ask a question, Mr. Chairman?

13 The Chairman. Yes.

14 Senator Moynihan. Would Mr. Mihalski state what item
15 18 is?

16 Mr. Mihalski. Yes, sir. Item 18 is a restandardization
17 of the payment rates under the prospective payment system.
18 The rates were initially set based upon numbers of hospitals
19 that were urban versus rural. This restandardization would
20 base that split on the number of discharges that were urban
21 versus rural.

22 The Chairman. Well, that's okay, Pat.

23 Senator Moynihan. What is the effect?

24 Mr. Mihalski. As I understand, there is the effect
25 that the urban rates will go down slightly and the rural

1 rates will go up slightly. I don't have the exact number.

2 Senator Moynihan. We agreed to that?

3 Senator Durenberger. Well, Pat, can I give you an
4 example?

5 Mr. Chairman? If Pat will yield?

6 I asked somebody to give me sort of a specific, and I
7 asked for an urban teaching hospital where the combination
8 of payments that we make -- the case-mix payments, the
9 indirect medical education, the direct medical education,
10 the disproportionate share where it serves the poor, and
11 all that sort of thing. The average case payment is \$6402.
12 We would reduce that here by \$32.

13 By comparison, the average rural hospital, because of a
14 lower case-mix and the absence usually of this medical
15 reimbursement, and the difference between urban and rural,
16 which is the largest part of it, the average rural hospital
17 payment would be \$2400, about one-third, and that would be
18 increased by \$74.

19 Now, I don't know if I got the right examples, but this
20 is not a large deal.

21 Mr. Mihalski. The only numbers I have show that
22 there would be a shift from the urban hospitals of one-half
23 of one percent to rural hospitals.

24 Senator Durenberger. Mr. Chairman?

25 The Chairman. Senator Durenberger?

1 Senator Durenberger. Mr. Chairman, before we report the
2 bill, I wanted to raise with you the issue of general
3 revenue sharing.

4 Senator Bradley. Mr. Chairman, what was the suggestion
5 on this hospital issue?

6 Mr. Mihalski. The proposal that has been adopted was
7 to restandardize the way the payments are set for hospitals
8 under the prospective payment rates. The original split
9 between urban and rural, the money was shared based on the
10 number of hospitals that were urban versus the number of
11 hospitals that were rural. This would cause the monies now
12 to be split based upon the number of discharges that were
13 urban versus the number of discharges that were rural.

14 Senator Bradley. What would be the effect of that?

15 Mr. Mihalski. The effect of that? The numbers I have
16 show that it would reduce the payments for urban hospitals
17 by one-half of one percent, and increase the payments for the
18 rurals.

19 Senator Bradley. So, essentially what this would mean is
20 a reduction in the DRG payment to urban hospitals, right?

21 Mr. Mihalski. Yes, sir.

22 Senator Bradley. And the revenue, instead, would be
23 used to increase the payment to rural hospitals by three
24 percent, is that right?

25 Mr. Mihalski. Yes, sir.

1 Senator Bradley. And what is the policy rationale for
2 that? Why are discharges a better way?

3 Mr. Mihalski. Well, because it was felt that, rather
4 than giving equal weight to a 500-bed hospital in an urban
5 weight, giving that equal weight to a 50-bed hospital in a
6 rural area, and calling them both one, it was clearly, when
7 you have a 500-bed hospital with let's say 1000 discharges
8 a year compared to the rural hospital which would have 400
9 discharges a year, it was better to weight them on the number
10 of discharges rather than saying they are both equal weight.

11 Senator Moynihan. Is it not the case that next year we
12 will have a four-year -- we have been trying to produce this
13 standardized measurement. We are in the third year, and next
14 year we --

15 The Chairman. The national average that they are all
16 paid the same? That's true. We are moving toward it by law
17 unless we postpone it.

18 Senator Moynihan. Well, could we postpone the effective
19 date of this measure until we see what the results will be of
20 the four years?

21 Senator Bentsen. Well, I think if you are talking about
22 doing that, Senator -- some of us believe, and Senator Dole
23 and I believe, that you have a basic flaw in the methodology
24 on which you have structured the prospective payment rates.

25 We are working toward the national average. You will

1 have to speak to Senator Dole on this, but I could understand
2 possibly why it was delayed for a year. But then I think
3 it would have to be effective. I don't want to talk about a
4 reevaluation at that point. Then you could phase it in, and
5 you would not have the kind of problem that you are having
6 now, I suppose. That would moderate it, wouldn't it?

7 Mr. Mihalski. A delay in the effective date would
8 probably be advisable, given that this will require a great
9 deal of effort on the part of the Administration to adjust
10 the new rates which would supposedly be effective October
11 1st of this year; giving them an additional year to get
12 those rates in order might make sense.

13 The Chairman. Senator Bradley?

14 Senator Bradley. Mr. Chairman, I am not unsympathetic
15 to the question of the rural hospitals. I am not
16 unsympathetic to that; I just wonder if there isn't another
17 way to handle it aside from reducing the payment to urban
18 hospitals. How much revenue are we talking about here?

19 Mr. Mihalski. I do not know, sir.

20 Senator Bradley. We don't know the revenue? Well, how
21 do you know that a one-half of one percent decrease takes
22 care of the three-percent increase for rural hospitals?

23 Mr. Mihalski. Those were numbers that we got from some
24 analysis. I understand it was done by CBO. But without
25 having the database here, I don't know. They gave us a

1 percent, and I don't know what the percent of what the basis
2 was.

3 Senator Moynihan. There are none of us who do not have
4 urban hospitals and rural hospitals.

5 Senator Bentsen. No, I am not sure that is true. I am
6 not sure that New Jersey is overrun with rural hospitals. I
7 would guess that New Jersey is pretty limited in that regard.

8 Senator Bradley. I would like to take you to a
9 beautiful area of the state that has a number of rural
10 hospitals.

11 Senator Bentsen. Well, I am delighted.

12 (Laughter)

13 Senator Moynihan. Can I suggest that we do delay this
14 for one year?

15 Senator Durenberger. Mr. Chairman, this is a very
16 interesting debate. I mean, the Senator from New Jersey
17 comes from a state that isn't affected by this, really,
18 anyway, because it is a state in which the state itself sets
19 the rates one way or another and cross-subsidizes the rural
20 and the urban.

21 All of the rest of us have the problem. And the problem
22 is, very simply, that in setting this policy up originally
23 on a per-hospital basis, we overcompensated most urban
24 hospitals and undercompensated most rural hospitals.

25 We have been searching first through the Labor Index,

1 which in response to the Senator from New Jersey's
2 argument a more logical place to go to try to leaven it
3 for an answer, and we found part of the answer in adjusting
4 the Labor Index.

5 Now we have come another step in this process, which is
6 changing this calibration from per-hospital to per-discharge.
7 Maybe we will find even better ways to do it; I don't know.
8 But in the meantime, we have not neglected the urban
9 hospitals.

10 Last year we put a lot of money into disproportionate
11 share hospitals, largely in urban areas. That had to come
12 from someplace, and I think in part is came from some of our
13 rural hospitals.

14 We have made adjustments in the teaching, primarily
15 that benefits urban hospitals. So, in a sense of fairness as
16 well as in a sense of policy, and given the fact that the
17 numbers are not that large. I would beg my colleagues to
18 consider this a relatively minor adjustment in the direction
19 of fairness.

20 Senator Moynihan. But we have heard that there is a case
21 to be made, just administratively, to delaying it one year.

22 Senator Durenberger. I didn't buy the argument. They
23 have got from now until October 1 to put the rates out, don't
24 they, Ed?

25 Mr. Mihalski. The rates have to be published in final

1 regulations on September 1st to go into effect October 1st.

2 Senator Durenberger. So, we won't make it? Is that
3 your point, Ed?

4 Mr. Mihalski. Yes, sir. They won't make it.

5 The Chairman. Senator Mitchell?

6 Senator Mitchell. Mr. Chairman, I would just say that
7 is not an argument for a year's delay. He made a suggestion
8 that they might not meet an October 1st deadline, but there
9 is nothing from what he said that a year's delay is required.

10 I just want to say that delaying this for a year
11 perpetuates a situation which is grossly disadvantageous
12 to rural hospitals. They are not starting out on an even
13 situation.

14 Senator Moynihan. Six months?

15 (Laughter)

16 Mr. Mihalski. It becomes very difficult to adjust the
17 prospective payment rates, because of eh prospective nature
18 of the system, in midstream. It is much better to do it on
19 a year-to-year basis.

20 Senator Mitchell. I would just say to you, in that year
21 there are many rural hospitals who won't last because, in
22 part, of this circumstance.

23 The Chairman. Let me ask you something, Ed. In terms
24 of moving toward a national norm on the payment, do rural
25 hospitals do better than urban hospitals, on the average, as

1 we move toward a norm?

2 Mr. Mihalski. On the average, I think everybody believes
3 that rural hospitals will do better under the national rates.

4 The Chairman. It seems to me a year delay would be
5 fair. They are going to do better as they move toward the
6 national.

7 I thought that was the answer, that on the average --
8 this is not an Eastern-Western phenomena, this is a
9 rural-urban phenomena. And as we move toward the national
10 norm, the rurals will do slightly better. And we are moving
11 toward that national norm inexorably, unless Congress delays
12 it. It is in the law now.

13 Mr. Mihalski. That is correct.

14 The Chairman. So, I would think a year's delay would be
15 fair.

16 Senator Durenberger. Mr. Chairman, just to clarify that,
17 you are absolutely right, that as we get the national
18 averaging, rural in general will improve. But within the
19 rural hospital you have the phenomenon of regionalization
20 that we have all seen taking place out there; The smaller
21 hospitals change their character, and they affiliate with
22 larger hospitals. It is the larger rural hospitals that are
23 in the largest pain. They suffer from national averaging.

24 So, really little ones will gain from national averaging;
25 the larger ones in the communities of 15,000 or 10,000, or

1 something like that, are suffering.

2 So I would like to see us leave it in here. And even
3 though we can't implement it, maybe the Secretary will
4 implement it through regulatory powers.

5 The Chairman. Let us put it to a vote. How many
6 would like to delay it for one year?

7 (Show of hands)

8 The Chairman. All those opposed?

9 (Show of hands)

10 The Chairman. Well, we had better have -- well, let
11 me count. One, two, three, four, five, six. How many in
12 favor? That was the delay for one year. One, two, three,
13 four. The motion fails.

14 All of those who would now like to report our
15 reconciliation package to the Budget Committee?

16 Senator Matsunaga. Mr. Chairman?

17 The Chairman. Yes?

18 Senator Matsunaga. I didn't get the costs on items
19 15 and 16. Are there any costs there?

20 The Chairman. What we have done on those, Sparky, is
21 agree that we would put them in in the order, the priority
22 order, of 15 and 16, if we could cover it

23 Senator Matsunaga. All right.

24 Senator Durenberger. Mr. Chairman?

25 The Chairman. Yes?

1 Senator Durenberger. I left a letter with you
2 yesterday on general revenue sharing. I don't know if you
3 have had time to think about how we may react.

4 The Chairman. Yes, but let me talk to you afterwards.

5 Senator Durenberger. Okay.

6 The Chairman. All those in favor of reporting the --
7 yes?

8 Senator Bradley. Mr. Chairman, what was the final vote
9 on the Chafee amendment?

10 The Chairman. It was 11 Yeas, eight Noes, and one not
11 recorded.

12 All those in favor of reporting the package will say
13 "Aye."

14 (Chorus of Ayes)

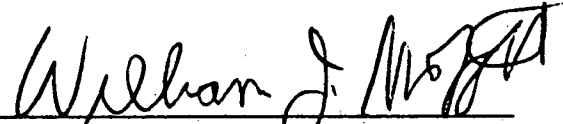
15 The Chairman. Opposed, "No."

16 Senator Mitchell. No.

17 The Chairman. Reported. And we are adjourned.
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C E R T I F I C A T E

This is to certify that the foregoing proceedings of an Executive Session of the Senate Finance Committee, held on July 23, 1986, were as herein appears, and that this is the original transcript thereof.


WILLIAM J. MOFFITT
Official Court Reporter

My Commission expires April 14, 1989.