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1 EXECUTIVE SESSION
2 TUESDAY, SEPTEMBER 17, 1985
3 U.S. Senate
4 Committee on Finance
5 Washington, D.C.

6 The committee met, pursuant to notice, at 9:40 a.m. in
7 Room SD-215, Dirksen Senate Office Building, the Honorable
8 Robert Packwood (chairman) presiding.

9 Present: Senators Packwood, Danforth, Chafee, Heinz,
10 Wallop, Durenberger, Armstrong, Symms, Grassley, Long,
11 Bentsen, Matsunaga, Moynihan, Baucus, Boren, Bradley,
12 Mitchell and Pryor.

13 Also Present: Dr. Henry Desmarais, Acting Deputy
14 Administrator, Health Care Financing Administration; Ms. Carol
15 Kelly, Acting Associate Administrator for Policy, Health
16 Care Financing Administration; Ms. Betty Stagg, Acting
17 Director, Policy and Legislation, Office of Human Development
18 Services.

19 Also Present: Bill Diefenderfer, Chief of Staff; Donald
20 Muse, Professional Staff Member; Ed Mihalski, Deputy Chief
21 of Staff; John Colvin, Chief Counsel; Bill Wilkins,
22 Minority Tax Counsel; Lenoard Santos, Trade Counsel; Ann
23 Moran, Tax Counsel; Sydney Olson, Joseph Humphries, Bob
24 Hoyer, Special Professional Staff Members; Frank Cantrel,
25 counsel.

(The press release announcing the hearing follows:)

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

2 Although we don't have a quorum yet, I expect we will
3 have a quorum. And I might as well indicate what I hope
4 to finish today.

5 We have four items on the agenda.

6 One is the spending cuts, principally, in the
7 Medicare-Medicaid field, although not solely in that field.
8 And we will do the revenue portion of our reconciliation
9 and budget orders tomorrow unless by chance we were to
10 breeze through this so quickly today that we could move to
11 the revenue items tomorrow. But we will hopefully do the
12 cuts today.

13 Two, we have the debt ceiling.

14 Three, we have S. 942, Senator Danforth and others'
15 Telecommunication Trade Act.

16 And, four, miscellaneous nominations. One being the
17 George Gould to be Under Secretary of the Treasury; another
18 Charles Sethness to be Assistant Secretary of the Treasury
19 for Domestic Finance; and a third, Anne Brunsdale to be
20 a Member of the International Trade Commission.

21 I know of no objections to Mr. Gould and Mr. Sethness.
22 There has been some controversy over the Brunsdale's
23 nomination. Not so much because of the character of Ms.
24 Brunsdale herself, but because of some other implications
25 involving other appointments to the Trade Commission.

1 And so what I am going to suggest, Senator Long, if
2 the committee has no objection, is that we report out
3 the nominations of Mr. Gould and Mr. Sethness for their
4 respective positions, and for the moment, and maybe bring
5 it up tomorrow, but for the moment hold on the nomination
6 of Ms. Brunsdale.

7 And I believe Senator Moynihan had a statement that he
8 wanted to make about Ms. Brunsdale. But is there any
9 objection to sending out the other two nominations, Mr.
10 Gould and Mr. Sethness?

11 Senator Moynihan. Mr. Chairman, might I make a brief
12 statement?

13 The Chairman. Without objection, we will report out
14 the other two.

15 And I know you wanted to make a statement on Ms.
16 Brunsdale, who I hope we can have some accommodation on
17 tomorrow, but we will see where we are.

18 Senator Moynihan. Which was only to say in the hope
19 that she might be listening that many of us have found her
20 a wholly attractive and qualified candidate. And that we
21 hope that the arrangements that surround that nomination can
22 be worked out so that she can be confirmed. I'm sure she
23 will be.

24 The Chairman. Any other comments about Ms. Brunsdale?

25 (No response)

1 The Chairman. If not, let me ask about the debt
2 ceiling. I'm not so naive as to think that when this bill
3 comes on the floor it is simply going to go through on the
4 consent calendar.

5 But is there any objection to reporting out the
6 Administration's request for an increase in the debt ceiling
7 from this committee without amendments? Most of the
8 amendments people have talked about are amendments that are
9 not germane to this committee, in any event. I realize
10 people are going to attach trade bills and budgets and
11 whatsoever else they choose to on the Floor, or attempt to,
12 and we will see what happens.

13 But I would like to report the debt ceiling out of the
14 committee, unless there is objection.

15 Senator Long. I don't know how Senator Armstrong feels
16 about it. If you would discuss it with him. He and I plan
17 to offer an amendment, which we have offered before. There
18 is nothing new about our amendment. But it has to do with
19 the limitation on spending.

20 Have you discussed it with him?

21 The Chairman. We had a meeting of the Republican
22 Senators earlier this morning. I indicated I was going to
23 ask to report it out. He was there and didn't say anything.
24 That's as much as I can tell you.

25 Senator Long. Well, I would suggest that you just tell

1 him that I brought the matter up. I just wanted to know if
2 he wanted to object. But we are protecting his rights.
3 I know he and I are both going to offer an amendment.

4 The Chairman. Let me ask if his staffer is here because
5 Bill said to me that he would be here a little later and he
6 would leave me the proxy for everything else. And he didn't
7 mention the debt ceiling, if he had any objection. If
8 somebody could find out and let me know.

9 Senator Symms. Mr. Chairman, the amendment that I
10 proposed, I assume then from what the Chairman said that
11 there would be an objection to that in the committee and
12 it would be out of order.

13 The Chairman. There will be -- on any objection that --
14 any amendment that is in the jurisdiction of another
15 committee, there will be objections to it on the Floor.

16 Senator Symms. What I'm proposing that we do -- I
17 think you were here the other day. No, I guess it was
18 Senator Chafee who was chairing that hearing -- that we take
19 the low number from the Senate budget in every case of the
20 budget we pass, and then take any place where the House had
21 a lower number, which is primarily defense; that we put
22 that on the budget and reconcile it and pass it with the
23 debt ceiling and save \$70 billion starting the 1st of
24 October.

25 So I would like to offer that in here, if it's in order.

1 If it's not, I'm going to offer it on the Floor.

2 The Chairman. I would appreciate it, Steve. I would
3 ask the committee to vote against it here. I want to get it
4 out and get it on the calendar. There is going to be a
5 dozen or dozens and dozens of amendments offered to the
6 debt ceiling when we get it on the Floor. And yours is
7 one. You have got a perfect right. And there it is in
8 order to offer it.

9 If you want to vote on it here, I would encourage the
10 committee to vote it down. And I'll vote against all
11 amendments here, but there may be some amendments that I
12 may even accept on the Floor.

13 Senator Long. Well, Mr. Chairman, I'm going to have to
14 object until we hear from Mr. Armstrong. My understanding
15 is that he is interested in offering his amendment here in
16 the committee. And he's testifying before the Rules
17 Committee at this time -- until I've cleared it with him.

18 The Chairman. That's fine. Let's move onto the
19 spending cuts, then, and we will come back to the debt
20 ceiling a little bit later.

21 This is the situation: The Budget Committee in the
22 budget we passed has some reconciliation orders in it, and
23 we are ordered to save about \$22 billion; specifically,
24 \$22,166,000,000.00. There are also some reconciled revenue
25 increases, and the two are not fungible. There are two

1 reconciliation orders. We cannot offset further spending
2 cuts against less tax increases or more tax increases
3 against less spending cuts.

4 If we do not report by September 27th the Budget
5 Committee, the Budget Committee gets to write our programs
6 for us, both as to the spending cuts and to the revenue
7 increases. And although we have a number of members on
8 that committee, Senator Moynihan is the only Democrat on
9 the Finance Committee that is on the Budget Committee. We
10 do have four Republicans on the Budget Committee.

11 But despite that, I think it would be an abrogation
12 of our responsibilities if we do not produce what we have
13 been reconciled to produce. And so I would suggest we start
14 out first with the spending reductions; hopefully, finish
15 those today. And I would put before you what I call a
16 staff draft, and move at least we start with that as a
17 working document.

18 I have some questions about some portions of it. I
19 know others have some questions about some portions of it.
20 And it's open to amendments and offering of suggestions and
21 changes to it.

22 But realizing that if we do not meet that total of
23 \$22,166,000,000.00, then the Budget Committee can write the
24 program for us. So you have, I believe, a staff draft
25 before you.

1 Is it distributed? Does everybody have it?

2 (No response)

3 The Chairman. And if we could start with that, I
4 would suggest moving to the Medicare portion of it, and
5 starting down the Medicare -- the suggested Medicare cuts.

6 And we will start with item number one, which is the
7 payment for inpatient hospital services. And there the
8 staff draft suggests a .5 percent increase in hospital
9 prospective payments. Does everybody have it?

10 Senator Long. I don't have it.

11 The Chairman. You all ought to have a 9-paged
12 proposal that starts out "Staff Proposal to Meet Budget
13 Outlay Requirements." Anybody not have it?

14 (No response)

15 The Chairman. All right.

16 And starting with the Medicare spending limitations,
17 you will see that the first item is to limit payments to
18 inpatient hospital services to an increase of one-half a
19 percent, .5 percent, for 1986. And item two is to limit
20 them to a market basket increase, which is basically a
21 consumer price index for medical services for 1987 and 1988.

22 And I would just as soon start with discussions on
23 those two items.

24 Senator Bradley. Mr. Chairman, what is the reference
25 to Attachment E, Page 2 of 80?

1 The Chairman. I couldn't hear you, Bill.

2 Senator Bradley. What is the reference to Attachment E,
3 Page 2 of 80? That's the staff document?

4 The Chairman. Ed, what is it?

5 Mr. Mihalski. That was Attachment E to the mark-up
6 materials that were sent out over the weekend, Senator.
7 The references there are both to Attachment E or the blue
8 book that was also sent out with the references so you
9 can find specific write ups about the proposals.

10 The Chairman. An immense packet was sent out over the
11 weekend so that either you or your staff -- I mean it
12 is an immense package -- so you could have access to it.
13 And it references those documents.

14 Discussions on items one and two. They basically ought
15 to be considered together.

16 Any objections to adopting items one and two?

17 Senator Bentsen. Mr. Chairman, let me speak on that
18 for a moment.

19 Mr. Chairman, as I understand it what the Administration
20 has asked is to freeze and that the House is going for the
21 1 percent. And we are talking about a big ticket item here.

22 My concern is -- and I can understand where you are
23 coming from on this, Mr. Chairman, but my concern is the
24 freeze on the phasing in of the national standards. And
25 that's what the House has done. And I'm going to go along

1 with you on this kind of a compromise, but I'm going to
2 be pushing as much as I possibly can to see that we go on
3 and move toward the national standard and don't freeze in
4 that regard.

5 The Chairman. The point is well taken.

6 Other comments?

7 (No response)

8 The Chairman. Is there objection to adopting, then,
9 with that comment from Senator Bentsen items one and two?

10 (No response)

11 The Chairman. Without objection. Move on to number
12 three, which is the freezing of the physician payments for
13 non-participating physicians only.

14 Ed?

15 Mr. Mihalski. Yes, sir. This would allow an increase
16 in both the customary and prevailing charge levels for
17 physicians who will become participating physicians in the
18 coming year. That is, physicians who will accept Medicare
19 assignment and Medicare's determination as to what is a
20 reasonable charge for the coming year.

21 For non-participating physicians, those doctors who
22 decide not to participate and accept assignment on all their
23 claims, there would be no increase in their customary and
24 prevailings, with one exception, and that would be the
25 doctors who were participating last year, but decided to be

1 non-participating in the coming year. We would give them
2 what they were originally promised, and, that is, an
3 update in their customary charge levels.

4 The Chairman. Questions?

5 Senator Wallop. Mr. Chairman.

6 The Chairman. Senator Wallop.

7 Senator Wallop. I don't know when it's an appropriate
8 time to bring up an amendment that is related but
9 non-revenue. I'm thinking of my bill, S. 989.

10 The Chairman. This is the one that would allow the
11 physicians to charge whatever they want so long as the
12 patient was not even sending the bill to Medicare?

13 Senator Wallop. If the physician wasn't billing
14 Medicare nor the patient, then the physician ought to be
15 permitted to levy his customary fee.

16 The Chairman. What we have is an interesting situation
17 now as far as the non-participating physicians are
18 concerned. Ed, you correct me if I am wrong.

19 Assuming that a patient is eligible for Medicare, just
20 eligible; goes to the physician, the physician says I'm
21 sending you a bill for a thousand dollars, if Medicare will
22 only reimburse -- and Medicare, if this doctor only charged
23 \$800.00 last year, he or she cannot send a bill for a
24 thousand dollars to the patient even if the patient -- it's
25 illegal, even if the patient has no intention of billing

1 Medicare for it.

2 Mr. Mihalski. That is correct, Senator.

3 Senator Wallop. And this would simply rectify this.

4 There is no cost involved, as I understand it, to the
5 government on it and would relieve a certain amount of
6 frustration that exists in that world that I don't think is
7 necessary.

8 The Chairman. I don't know what happens if subsequently
9 the patient sends the bill to Medicare, because your
10 amendment applies only if the patient doesn't send it to
11 Medicare.

12 Senator Wallop. Neither the patient nor the doctor.

13 The Chairman. I mean the patient doesn't even ask for
14 reimbursement. The patient pays the whole bill himself.
15 Doesn't ask for reimbursement even they would be eligible
16 for reimbursement for some portion of it.

17 Senator Wallop. That's right. Neither the patient nor
18 the doctor bills Medicare.

19 Mr. Mihalski. If the patient for some reason does bill
20 Medicare, then that bill would be detected, or should be,
21 through the monitoring system which the Secretary has
22 established to monitor this whole idea of the freeze.

23 Senator Wallop. It's certainly not my intention to find
24 a quick way around it. If there is a flaw in that, we can
25 adjust it.

1 Mr. Mihalski. There's no flaw in what you are talking
2 about, Senator.

3 The Chairman. Comments on Senator Wallop's amendment?

4 (No response)

5 The Chairman. Without objection, we will adopt it.

6 Any other comments on item three?

7 (No response)

8 The Chairman. Without objection, we will adopt item
9 three and move on to item four, which is the durable
10 medical equipment rentals. Here the staff suggests a 1
11 percent increase for medical equipment durables, such as
12 ambulance services, prosthetic devices. A 1 percent increase
13 in 1986.

14 Comments?

15 (No response)

16 The Chairman. Any objection to adopting?

17 (No response)

18 The Chairman. Without objection.

19 We will move on to item five, graduate medical education.

20 Ed?

21 Mr. Mihalski. The graduate medical education really
22 has two pieces. The first part is to modify the direct
23 pass through. The direct cost of graduate medical
24 education are those costs associated with the interns' and
25 residents' salaries, the salaries of the physicians who train

1 and teach those doctors and then the overhead direct
2 costs associated with that, such as blackboards, classrooms
3 or whatever.

4 The Administration had proposed an outright freeze on
5 this. This is a modification of a Dole-Durenberger bill,
6 which does a one-year freeze on the amount that we would
7 pay for the pass through.

8 After that one year, then there are two things that
9 take over. One is that foreign medical grads, that is,
10 graduates of medical schools which are non-accredited by
11 the accrediting agency here in the United States, would not
12 be -- over a period of three years, we would phase out the
13 payment for those particular graduates.

14 And, in addition, there would be a limitation on the
15 number of years of education we would pay for. And that
16 limitation would be either the lower of five years of
17 training, or the first time the doctor becomes board eligible,
18 which for some specialties can be as little as three years.

19 The Chairman. Two questions. Is this where we made
20 the exceptions for the geriatric fellowships?

21 Mr. Mihalski. There is an exception here for geriatric
22 fellowships. Senator Heinz has mentioned that. And it
23 would -- they would be carved out from this three- to
24 five-year limits. Senator Heinz had talked also about
25 perhaps then reexamining this issue after five years, with a

1 study by the Secretary to determine whether geriatric
2 and/or any other specialties should be also exempted.

3 The Chairman. And was it here or in the disproportionate
4 share that we made the exception for New York and New
5 Jersey because of the tremendous numbers of foreign medical
6 graduates they have?

7 Mr. Mihalski. Yes, sir. For those hospitals which
8 have programs which have more than 50 percent foreign
9 medical grads would get a transition which is a five-year
10 transition rather than three years.

11 The Chairman. That is important. I know both
12 Senators Bradley and Moynihan talked to me about that.

13 Mr. Mihalski. Yes, sir.

14 Senator Bentsen. Let me say that when you talk about
15 the geriatric exception I have some concern that if you had
16 a certified shortage in some of these other specialties
17 that serve the elderly that some consideration be given to
18 that. And, frankly, I plan to bring that up, possibly on
19 the Floor or in conference.

20 The Chairman. I just want to say to Senators Bradley and
21 Moynihan that we were just talking about graduate students.
22 And I mentioned the issue of the foreign medical students in
23 New York and New Jersey and that is taken care of.

24 Senator Bradley. Thank you, Mr. Chairman.

25 Senator Bentsen. I'm quite sympathetic to what

1 Senator Heinz is talking about here.

2 Senator Heinz. Mr. Chairman, the issue that Senator
3 Bentsen has raised is a most appropriate issue. We are
4 talking, of course, about limitations in the Medicare
5 program.

6 It would be ironic that if the one group of
7 specialists that were caught by this limitation would be
8 those people who graduate from geriatric fellowships. As
9 this provision before us is written, if you are in some
10 kind of sophisticated surgical residency, you can continue
11 on for five or even seven years. I guess at least five
12 years the way this is written.

13 Most geriatric fellowships are two years. And they
14 follow on from what is usually a three-year residency in
15 internal medicine or psychiatry or some other brief
16 primary care.

17 We've discussed this in the Republican caucus, and I
18 think there is a lot of sympathy for exempting the geriatric
19 fellowships from this.

20 We want, however, just so nobody can accuse us of
21 giving an open end, to have for new fellowships after five
22 years a sunset provision so we are required to look at it
23 and nobody can accuse us of being irresponsible.

24 But precedent to the sunset, I think we should design
25 an appropriate study by HHS so that they are making a

1 decision that is something other than a budgetary decision.
2 That is based on the effectiveness of the programs. And we
3 can work that out with the staff, I think.

4 Senator Bentsen. I'll look forward to that.

5 Senator Wallop. While we are designing that study,
6 I'm assuming they would study it from within existing funds,
7 and that we know at the time we are trying to save money and
8 not add a new burden.

9 Senator Bentsen. That's correct.

10 Senator Heinz. The Senator is correct.

11 Senator Bentsen. Mr. Chairman, I'd like to ask for
12 further clarification from staff.

13 When we are talking about the direct payments to
14 teaching hospitals, I want to be sure that we are talking
15 about freezing as to this year's payments, and we are not
16 talking about going back to 1983 or 1984.

17 Mr. Mihalski. That's correct, Senator.

18 Senator Bentsen. Would you clarify that for me?

19 Mr. Mihalski. That's correct. We would freeze the
20 most recent payment amounts rather than going back, as what
21 the Administration -- going back any further. So it would
22 be the most current payment.

23 Senator Bentsen. The most current payments. That's
24 what we are freezing to. Thank you.

25 Thank you, Mr. Chairman.

1 The Chairman. And the indirect teaching adjustment,
2 Ed.

3 Mr. Mihalski. The indirect teaching adjustment is
4 a payment that is made as an adjustment to the DRG, to the
5 prospective payment, rates. The adjustment was originally
6 established to pay for the extra costs that are associated
7 with training doctors. And that is the extra lab tests or
8 x-rays that might be ordered or other items such as that
9 that a hospital incurs but nobody can get a direct handle on.

10 That indirect adjustment was doubled when we instituted
11 the prospective payment system to take care of some
12 uncertainty about the severity of illness of patients that
13 are the more severe patients being attached to the teaching
14 hospitals as opposed to general hospitals.

15 It has been found now that that adjustment -- that
16 doubling was a little too generous. So this proposal would
17 basically reduce it to a more reasonable level, and then
18 further reduce it by a small factor to create a
19 disproportionate share hospital adjustment, which is what we
20 discuss later under number 14 on the chart.

21 The Chairman. Comments?

22 Senator Wallop. Mr. Chairman, I don't know again whether
23 this is the appropriate time to bring up the other of my
24 two part B things. But under present regulations, the
25 Department of Health and Human Services requires doctors to

1 sign an affidavit that they are not providing unnecessary
2 services.

3 The Chairman. Is this the I-am-not-a-crook?

4 Senator Wallop. I am not a crook. And the doctor
5 presently signs the patient's chart anyway so that there is
6 a means of looking at that. A crook will be a crook whether
7 or not he is required to attest to that.

8 And it's demeaning as hell for the ordinary physician
9 that is out there. So they have a chart that explains the
10 services provided presently, and there are the professional
11 organizations to monitor physicians' services. And I just
12 think that maybe we ought to say that the I-am-not-a-crook
13 affidavit is not necessarily a part of saving money.

14 The Chairman. Don, what's the reason for the
15 I-am-not-a-crook affidavit?

16 Dr. Muse. I believe it's to strengthen the litigation
17 process.

18 Mr. Mihalski. I think I might pass to the
19 Administration, Dr. Desmarais at the end, to talk about
20 that.

21 The Chairman. I couldn't hear you.

22 Mr. Mihalski. The Administration witness down at the
23 end may be able to talk about that a little more.

24 Dr. Desmarais. Yes, Mr. Chairman. The Justice
25 Department feels very strongly that a signature of that kind

1 is required or helpful in the event there is some wrongdoing
2 so they can prosecute the affected individuals. Otherwise,
3 the individual may claim that they were not aware of the
4 significance of what they were doing.

5 I assume you are referring to the signature required
6 as a result of prospective payment on the medical records.

7 Senator Wallop. It simply says that he has not
8 provided unnecessary services. But he does sign the
9 chart, doesn't he?

10 Dr. Desmarais. It's a routine signature that is
11 required. It's an element of all the claims forms. And the
12 Justice Department has felt very strongly that that's
13 appropriate.

14 The Chairman. So the Administration would oppose the
15 amendment?

16 Dr. Desmarais. Yes, sir.

17 The Chairman. Do you want to withhold it, Malcolm?

18 Senator Wallop. No. This is just an attestation by
19 the doctor that he hasn't provided unnecessary services when
20 he has got a peer review organization and he has a chart
21 which he signs.

22 Dr. Desmarais. The physician attestation is the
23 acknowledge that the chart description is an accurate
24 description of the condition, the diagnosis of the patient,
25 the services that were provided and so on. So it's not

1 simply inappropriate services. It's, in fact, guaranteeing
2 that the services and the diagnoses described are accurate.

3 And certainly principal diagnosis is critical for
4 assignment to DRGs.

5 The Chairman. I wonder if we might do this, Malcolm.
6 Because in reconciliation any amendments that are offered
7 on the Floor have to be revenue neutral, but this is not
8 a revenue amendment, could you hold this to the Floor? And
9 if we can't work this out with the Administration, I will
10 probably support you, but just give us a little more time
11 on it.

12 Senator Wallop. Absolutely.

13 The Chairman. I appreciate it.

14 Senator Wallop. Thank you.

15 The Chairman. Any other comments on item five?

16 Senator Chafee. Well, Mr. Chairman, just let me say
17 this: In item one we cut the hospitals from the prospective
18 1 percent they were counting on to half a percent. And I
19 know that has caused deep concern. And now we are in this
20 graduate medical education part that is also cutting them.
21 So you get a teaching hospital -- out of total hospitals,
22 including teaching hospitals, we are picking up \$6-1/2
23 billion here.

24 And it just makes me nervous. I can't point exactly
25 to what the ramifications are. Can anybody speak to this and

1 say that this is not going to cause harm? You can only
2 get so much toothpaste out of the tube and there comes a
3 time when there is just no more.

4 The Chairman. The Administration, as I recall, Dr.
5 Desmarais, wanted to freeze for all three years, didn't
6 they?

7 Dr. Desmarais. In the payment rates?

8 The Chairman. Yes. I'm trying to remember what the
9 Administration's initial recommendation was.

10 Dr. Desmarais. A one-year freeze in medical education.

11 The Chairman. Oh, pardon me. I was going back to the
12 original freeze on the payments to the hospitals on
13 prospective payment.

14 Dr. Desmarais. It's a one year, and with an evaluation
15 as we go along.

16 The Chairman. Yes.

17 Mr. Mihalski. But the Chairman is correct. The OMB
18 proposal when the deficit reduction first came up was a
19 three-year freeze on graduate medical education.

20 The Chairman. And we have gone to a 5 percent plus
21 a market-basket increase.

22 Mr. Mihalski. Yes.

23 Senator Chafee. Now how does that tie in with item
24 one there?

25 Mr. Mihalski. Item one clearly would basically hit

1 all hospitals pretty much across the board.

2 Senator Chafee. No question. Teaching as well as
3 non-teaching?

4 Mr. Mihalski. That's correct.

5 Item number five does hit more the teaching hospitals.
6 Some of that money that they would lose under item five,
7 they will make up on item 14 which is the disproportionate
8 share hospital adjustment. Clearly, not every hospital --

9 Senator Chafee. That item 14 -- oh, I'm sorry. I was
10 thinking of the -- yes, item 14 has nothing to do with
11 teaching hospitals.

12 Mr. Mihalski. Only those teaching hospitals that do
13 serve a disproportionate share of low income Medicare
14 patients.

15 The Chairman. But that would be a fair number of
16 teaching hospitals.

17 Mr. Mihalski. It would affect some teaching hospitals.
18 Some of them will gain some money back. Some may not.

19 Senator Chafee. I guess the problem that worries me,
20 Mr. Chairman -- and I suppose I'm no different from anybody
21 else on the committee. We come up with these figures and
22 you just don't know. We have to get the money somewhere
23 out of these items that you have suggested or others. And
24 it's easy to be critical of any item, but come up with a
25 replacement. And I'm not so sure I can come up with a

1 replacement.

2 But I have a queasy feeling about what we are doing
3 if you combine one and five. I guess I'm seeking some
4 reassurance.

5 Mr. Mihalski. Well, needless to say, Senator, there
6 are some hospitals that will not gain as much on the
7 combination of both these proposals.

8 Senator Chafee. My weakness here in my presentation is
9 I am not able to say A, B, C is going to result because,
10 frankly, none of us know what is going to result.

11 The Chairman. John, for what it is worth, I have gone
12 over and over and over these figures. And, yes, you are
13 right. We can take it elsewhere. You can look at the
14 Social Security fund. All we have to do is meet total, but
15 in most of what we have got today and in the increases in
16 taxes tomorrow -- and we might as well call them what they
17 are -- they are the least offensive choices, I think.

18 Senator Long. Let me ask you a question. Does this
19 cut in on -- graduate medical education, is that a cut on
20 those teaching hospitals in addition to the cuts that
21 everybody else gets?

22 Mr. Mihalski. It is in addition to the 5 percent
23 increase that everybody else gets, yes, sir.

24 The Chairman. Point five percent.

25 Mr. Mihalski. Point five percent.

1 Senator Long. Point five percent of a freeze.
2 If you gave them a cost of living increase, how much would
3 that be for hospitals? Just the cost of living increase.
4 About .4.

5 Mr. Mihalski. It is, I believe, about 4 percent or
6 somewhere in there.

7 Senator Long. So this means a 3.5 percent freeze and
8 then this is another cut in addition to that. Is that
9 right?

10 Mr. Mihalski. No, sir. They don't get a 3.5. This
11 is the only increase they get is this half percent.

12 Senator Long. Now do the teaching hospitals have to
13 stay within that .5, and then take this additional cut as
14 well?

15 Mr. Mihalski. Yes, sir.

16 Senator Long. Well, then, I'm not going to be able to
17 vote for this. I just have to anticipate what I'm going to
18 hear from those who are affected by it in my state. And I
19 just have to vote against this.

20 Senator Bentsen. Let me understand, Mr. Chairman. What
21 the Administration had asked for was a 50 percent cut,
22 wasn't it, in the indirect benefits, and what we have
23 settled for is about a 35 percent cut; isn't that correct?

24 The Chairman. Thirty-five percent.

25 Senator Bentsen. Now let me ask also, Mr. Chairman, on

1 the disproportionate adjustment, share adjustment, as I
2 understand your proposal, it mandates the inclusion of the
3 rural hospitals.

4 The Chairman. Yes, that's correct.

5 And I might say also on this direct pass -- when did
6 we raise it? It was just two years ago -- what, or three
7 years ago?

8 Mr. Mihalski. In the Social Security Amendments of
9 1983 is when it was doubled.

10 The Chairman. We doubled it not knowing what the
11 experience rating was going to be and the Administration has
12 concluded that the mix was a bit too rich. You are not
13 going to find any hospital that is going to say that, but
14 we are now cutting back from what was rather a significant
15 increase just three years ago.

16 Senator Moynihan. Mr. Chairman, could I ask how we are
17 going to vote? Are we going to vote for the Medicare portion?

18 The Chairman. Well, at the moment -- I suppose at the
19 end what we can have is an entire vote on it. I've been
20 going through issue-by-issue and saying is there objection,
21 and if there isn't I'll assume that objection is -- I mean
22 that issue is adopted. At the end of it, somebody can say
23 no I don't want any of them. But we are taking them
24 item-by-item at the moment.

25 Senator Moynihan. Can I record myself as against the

1 item five?

2 The Chairman. Yes. In fact, I would be happy to
3 put item five to a specific vote.

4 Senator Chafee. When you talk item five, Senator
5 Bentsen, for instance, are you taking the entire item five
6 or part of it?

7 Senator Bentsen. I was dealing with the indirect
8 adjustment.

9 The Chairman. The two billion four.

10 Senator Bentsen. Only part of it. Only part B of
11 item five.

12 The Chairman. Yes.

13 Senator Chafee. The only trouble with all these things,
14 as the Chairman has pointed out, I, at least, am determined
15 to meet our goal that has been levied on us. And if we don't
16 get it here, where are we going to get it from?

17 The Chairman. John, I am receptive to amendments that
18 have other ways to get it.

19 I wonder if we might put item five just to an oral
20 vote. I'm not going to ask for a rollcall.

21 All those who are in favor of item five, say aye?

22 (Chorus of ayes)

23 The Chairman. Opposed.

24 (Chorus of noes)

25 The Chairman. We will have a show of hands. All those

1 in favor of item five, raise their hands.

2 (Showing of hands)

3 The Chairman. All those opposed.

4 (Showing of hands)

5 The Chairman. Item five is adopted.

6 Let's move on to item six. And this is one that
7 surprised me. At the moment, when you become eligible for
8 Medicare at age 65 and you are still working, up until
9 age 69, you can elect whether you want to have your
10 primary coverage be Medicare or your primary coverage be
11 your employer's policy. But at age 65 onward, you have no
12 option, and Medicare is the primary coverage.

13 All this item does is extend to the employees who work
14 past age 69 an option, not mandatory, an option to elect
15 to have their employer coverage be the primary coverage and
16 Medicare second. And it picks up \$950 million. They don't
17 have to opt for it. But I assume it picks it up on the
18 assumption that the employer coverage is better and,
19 therefore, they will opt for that first.

20 Any discussion on item six?

21 (No response)

22 The Chairman. Without objection.

23 Item seven I expect some discussion on. This is Part
24 B holding a premium at 25 percent at the beginning of
25 1988 and I will open it for comments.

1 Senator Chafee. Well, I certainly think we ought to
2 hold it. As I understand it, under current law it's held
3 at 25 percent through 1987; is that right?

4 Mr. Mihalski. That's correct.

5 Senator Chafee. Well, I certainly think it should be
6 held at the 25 percent. Are you going up by yearly
7 increments? Is that it? I mean, in other words, this
8 would just make it through 1988, one year more?

9 The Chairman. Ed?

10 Mr. Mihalski. That's correct, sir. This only affects
11 1988.

12 Senator Symms. Mr. Chairman, could Ed explain exactly
13 what this is?

14 The Chairman. Yes.

15 Mr. Mihalski. Under current law, the Part B premium
16 will be held at 25 percent of program costs through
17 1987. After 1987, the original or I should say the past
18 law would apply which says then that the premium will be
19 the lower of one of two amounts. It will be the lower of
20 50 percent of program costs or simply stated last year's
21 premium increased by no more than the Social Security COLA.

22 And it is then that last year's premium increased by
23 no more than Social Security COLA which has led to the
24 premium be declining over time from 50 percent down to
25 25 to where it hit about 24 percent of the program costs

1 until it was frozen at 25.

2 Senator Symms. Well, Mr. Chairman, it would appear
3 to me that what we are doing here is imposing price
4 controls on hospitals and on physicians and yet we are
5 trying to completely ignore the market. I mean we are going
6 to put price controls on the physicians, but then we
7 won't -- and then we are going to impose price controls
8 also on what the patients have to pay.

9 It seems to me like it would make more sense to allow
10 the patient to pay more on the front end.

11 The Chairman. You mean allow the Part B to go up?

12 Senator Symms. Allow it to go up. Isn't this the
13 part that the patient pays for?

14 Mr. Mihalski. Yes.

15 Senator Symms. Let them pay a little bit of it and
16 then it would get us out of this -- what we are going to
17 end up with a dual pricing medical system out here. And if
18 we continue to go -- I don't know what's been -- I mean I
19 understand the problem that the committee has. I don't
20 like what is happening with respect to the physician fees
21 where we are not allowing the market to have anything to
22 say about that.

23 But it seems like it is just a deadend street the way
24 we are going. How much are we talking about per month for
25 a Part B increase?

1 Mr. Mihalski. Under current law we are talking about
2 \$16.20 in 1986.

3 Senator Symms. Sixteen twenty-six per month?

4 Mr. Mihalski. Per month.

5 Senator Symms. That each Medicare patient has to pay?

6 Mr. Mihalski. Yes, sir.

7 The Chairman. Well, give us a for instance.

8 Senator Symms. For instance, if it went to \$20.00,
9 how much would it be?

10 Mr. Mihalski. If it went to \$20.00?

11 The Chairman. It would be \$20.00.

12 Mr. Mihalski. It would be \$20.00.

13 Senator Symms. But I mean how much money?

14 The Chairman. Give us an idea if we went up in
15 2 percent increments. Two percent in 1986 and 2 percent
16 in 1987.

17 Mr. Mihalski. If the Part B premium went up by
18 2 percent per year up to 35 percent, let's say, in 1990,
19 which would generate a little over \$3 billion worth of
20 savings --

21 The Chairman. In the three years?

22 Mr. Mihalski. Yes, sir. In the three years.

23 The Chairman. How much would the premium be at the end
24 of five years if you went up 2 percent a year?

25 Mr. Mihalski. The premium would be in 1989, let's say,

1 under that policy, thirty dollars and about ninety cents
2 a month. It would almost double from sixteen to
3 thirty point nine.

4 The Chairman. Steve, the reason -- I have talked with
5 most of the members of the committee, I think. Almost all
6 the cuts we are making are on providers. You are right.
7 There is very little that we have done to beneficiaries in
8 this package. And some people have said, gee, the
9 beneficiaries ought to pay more of this; others have said
10 not. And I assumed when we got to this issue we would have
11 a fair debate on it.

12 But this is one where if you want to raise it, the
13 beneficiaries will pay more.

14 Senator Symms. Well, if I recall correctly, three or
15 four years ago the Administration came in and asked for
16 more payments on the front end and we were going to have some
17 kind of catastrophic insurance to protect people from losing
18 the family farm, so to speak, in some kind of a catastrophic
19 illness. Now that has not been done.

20 But what we have done is impose severe restrictions on
21 the payments, as the Chairman says. And my question was:
22 If it's \$16.80, if it went to \$20.00 a month, how much money
23 would that put back into the system?

24 The Chairman. If we went to \$20.00 in 1986, next year?

25 Senator Symms. Correct.

1 Mr. Mihalski. Well, there's a \$4.00 difference times
2 approximately 28 million people. So probably \$100 million
3 a year.

4 The Chairman. That's \$4.00 a month difference.

5 Mr. Mihalski. Yes. Then that times 12.

6 The Chairman. So you are talking about a billion two
7 or three.

8 Senator Symms. It's not quite \$4.00, you see. It's
9 \$16.80, so it's \$3.20 a month. I don't know what's fair.
10 And maybe some of the other members of the committee would
11 have a suggestion. But, Mr. Chairman, when you said go up
12 2 percent a month --

13 The Chairman. I was just picking a number out of the
14 air.

15 Senator Symms. You meant go from 25 to 27 to 29?

16 The Chairman. Twenty-nine to 31 and on up. I mean
17 the Administration at one stage, I think, had suggested
18 35 percent or that figure stuck in my mind some place.

19 Senator Bradley. Mr. Chairman, that is correct. They
20 did suggest 35 percent. And I think holding it at 25
21 percent is not only the fairer thing to do but consistent
22 and, frankly, a major victory. I don't think we want to in
23 this package raise what senior citizens have to pay for
24 Medicare by an enormous amount. And this is not going to do
25 that. It's going to hold the line. It's the same as last

1 year.

2 The Chairman. Senator Moynihan and then Senator Heinz.
3 Senator Moynihan. I would like to say this committee
4 worked very hard on the Social Security Amendments of
5 1983, a major piece of legislation. And we accepted 25
6 percent there. And I think you are proposing to keep it
7 and I think you are right.

8 The Chairman. Senator Heinz.

9 Senator Heinz. Mr. Chairman, of all the ways that
10 you could place additional burdens on beneficiaries,
11 probably the increase in the Part B premium is the least
12 onerous because at least everybody pays it. It's not a
13 sick tax.

14 But I don't support the proposal of the Administration
15 to ratchet it up 2 percent a year to 35 percent. I do think
16 that if we are going to deal with this issue we should make
17 the 25 percent principle permanent. I don't think we should
18 just extend it for one year. I think we should extend it
19 indefinitely. And if we want to change it at some future
20 point, fine. But to allow it in 1988 to raise false hopes
21 that it is actually going to go down after the history we
22 have had, I think, is really not particularly attractive.

23 Senator Bentsen. Mr. Chairman, let me try to buttress
24 some of the remarks made by my friend from Pennsylvania.

25 Now the average person over 65 now his payment is

1 between \$1,100.00 and \$1,200.00 out of their own pocket
2 even with Medicare in trying to take care of their medical
3 expenses. And I think the 25 percent, we ought to lock it
4 in. And I think it would be a serious mistake to
5 federal ratchet it above that and add to the personal
6 expenses of a person that is over 65.

7 The Chairman. Senator Chafee.

8 Senator Chafee. Mr. Chairman, let me just say I'm not
9 for the 35 percent. What would 1 percent give you?

10 Mr. Mihalski. One percent over three years, Senator,
11 if we started next year would give us about \$1.9 billion.

12 The Chairman. Twenty-six percent, 27 percent, 28
13 percent?

14 Mr. Mihalski. Yes. Over the three years would give
15 you \$1.9 billion.

16 Senator Chafee. Now when we did our proposals out of
17 here in connection with the deficit reduction package, we
18 didn't accept the Administration's 35 percent. What did we
19 do on Medicare Part B?

20 Mr. Mihalski. Well, we had started at 35 percent in
21 one of the earlier discussions.

22 Senator Chafee. Yes.

23 Mr. Mihalski. Then it got down to 30. Increasing it
24 in increments to 30.

25 Senator Chafee. We went to 30 percent over how many

1 years?

2 Mr. Mihalski. Over five years.

3 Senator Chafee. Five years.

4 Mr. Mihalski. And it was a 1 percent increment.

5 Senator Chafee. In 1 percent increments.

6 Well, is there any support for 1 percent?

7 Senator Symms. Well, Mr. Chairman, I think, if the
8 Senator would yield for a point -- I think that that
9 is -- I mean I hear what my colleagues are saying about
10 freezing this at 25 percent, but I think if we freeze it
11 at 25 percent and continue to freeze physicians' payments
12 and hospital payments, we are going to end up with a
13 ration for medical quality of care that we have now. And
14 the only way they are going to be able to solve the problem
15 is just ration it out.

16 And it seems to me like it's a much more realistic
17 approach to raise this slightly. We've been giving cost of
18 living adjustments to people. And I don't see why it should
19 be so difficult.

20 We are talking about 1 percent. It would be like a
21 dollar -- how much a month would that be to a Medicare
22 recipient?

23 Mr. Mihalski. Well, this coming year instead of then
24 being \$16.20 a month, it would go to \$16.90 a month.

25 Senator Symms. Go to \$16.90. And then next year it

1 would go to how much?

2 Mr. Mihalski. Instead of \$18.60, it would go to
3 \$20.10.

4 Senator Symms. The next year?

5 Mr. Mihalski. Yes, sir.

6 Senator Symms. Well, I think I would certainly support
7 the Senator from Rhode Island's amendment. That seems to
8 me like -- otherwise, we will never solve this problem.
9 It's going to get worse and worse. You are going to find
10 out that people will either completely quit taking
11 Medicare patients and then the people on Medicare are
12 going to have poorer medical care. And we are just
13 refusing to face the law of supply and demand if we don't
14 do this. And it's the only fair way to do it. Is to put
15 the payment on the front end.

16 Senator Chafee. Did the House have something in their
17 package on means testing?

18 Mr. Mihalski. No, sir. The Ways and Means Committee
19 had originally considered a means testing proposal, but it
20 was later dropped. It was not reported out of the committee.

21 The Chairman. Again, I might suggest to the committee
22 anything we want to offer on the Floor in reconciliation
23 that raises money, I believe, is in order. If you cannot
24 resolve it here, you won't be precluded on the Floor. It's
25 only where you have got amendments that cost money and you

1 don't make up for it that they are out of order under
2 reconciliation.

3 Senator Chafee. Well, I'm curious about -- I mean no
4 one wants to hurt the lower income people. And I'm curious
5 about the means testing of the Part B premium. Ways and
6 Means apparently had some kind of proposal to do that.

7 Mr. Mihalski. They did, Senator. I'm not familiar
8 with what that proposal was.

9 Does the Administration remember the details of that
10 proposal?

11 The Chairman. Ms. Kelly or Dr. Desmarais? Do one of
12 you know?

13 Dr. Desmarais. I do recall the debate at the time and
14 there were some administrative issues raised about getting
15 tax information and so on to determine the income for the
16 individuals. And I think the administrative issues may have
17 dissuaded the committee from pursuing the issue further.

18 Senator Chafee. The administrative problems. Oh, I
19 see.

20 Okay, Mr. Chairman. Thank you.

21 The Chairman. Any further discussion on item seven?

22 (No response)

23 The Chairman. Otherwise, we will leave it at the
24 25 percent level.

25 Senator Symms. I thought Senator Chafee moved to raise

1 it.

2 The Chairman. I don't think so.

3 Senator Chafee. No.

4 Senator Heinz. Are we going to address the freezing
5 for one year?

6 The Chairman. I would rather, frankly, freeze it for
7 one year. I hate to freeze us in permanently into that
8 level. We may want to change it in some year. And my
9 hunch is if we change it, it would be up rather than down.

10 Any objection to adopting item seven?

11 Senator Symms. Well, Mr. Chairman, I would just like
12 to have the record show that I think we ought to raise it.
13 I guess we don't have enough votes. I guess we will have
14 to do it on the Floor.

15 The Chairman. Will the record show that Senator Symms
16 would like to raise it.

17 Senator Symms. I would like to raise the physician
18 payments.

19 The Chairman. And he would like to raise the
20 physician payments.

21 Item eight is simply an extension of the prospective
22 rates for ambulatory surgery, whether it's done in a
23 hospital outpatient department or an ambulatory surgical
24 center. And the reason for that is we didn't do it initially
25 because we weren't quite sure what the experience would be.

1 The experience is such that I think we can now justify
2 extending prospective payment to both of those.

3 Any objection to item eight?

4 (No response)

5 The Chairman. Without objection.

6 Item nine, denying payments for assistance at surgery
7 during routine cataract operations. I can speak with some
8 personal experience. I've had cataract operations in both
9 eyes. This is simply to prohibit payments for assistance
10 at surgery during routine cataract operations unless their
11 services were medically necessary.

12 I think 5 or 10 years ago the assistance would have
13 been necessary. The cataract operations have become
14 relatively routine, relatively outpatient.

15 I did have one humorous experience with the doctor that
16 did mine. As with all physicians, they get frustrated about
17 Medicare payments. And he runs a rather large operation.
18 Does all of his pre-operation testing himself -- the blood
19 pressure and the heart and do you have a cold; the normal
20 things you do before you go into surgery.

21 And he would do them in his office in midtown Manhattan.
22 He would then bus all of the patients out to the hospital in
23 Long Island where he did the surgery, and he would do it the
24 next day.

25 But it was irritating that he did not regard the

1 hospitalization overnight as necessary. But Medicare
2 insisted upon the hospitalization overnight. So one night
3 he bussed them all out and put them up at the local Hilton
4 Hotel; bought them a steak dinner and a bottle of wine and
5 sent the entire bill to Medicare.

6 (Laughter)

7 The Chairman. Which was infinitely cheaper than the
8 hospital care. But, of course, Medicare would not
9 reimburse for the Hilton Hotel for that night. He simply
10 did it to prove his point.

11 I think we could now adopt number nine and no one is
12 going to be endangered because the cataract operation has
13 become a relatively -- I don't want to say "simple," but
14 certainly relatively routine an almost outpatient operation.

15 Any objection to number nine?

16 Senator Chafee. I'd feel a greater certainty voting
17 for this if I had had my cataract operation.

18 (Laughter)

19 The Chairman. John, for you we are going to have
20 paramedics perform it. Don't you worry about a thing.

21 (Laughter)

22 The Chairman. As a matter of fact, we do have one
23 staff member that has finished one term of pre-med.

24 (Laughter)

25 The Chairman. Without objection.

1 This is the man that beats me at squash all the time,
2 so I hope your eyesight comes out worse afterwards.

3 (Laughter)

4 Senator Bentsen. Mr. Chairman, I have to go over on
5 the Superfund bill, but I would like to offer an amendment
6 on Title IV, and I will try to get back and do that.

7 The Chairman. Thank you.

8 Without objection, item nine is adopted.

9 Item 10, increase the audit effort and medical claims
10 review. Ed?

11 Mr. Mihalski. This is a proposal similar to IRS
12 compliance where we spend money to get money. In effect, we
13 raise the amount of money that is allocated to contractors,
14 that is, the intermediaries and carriers, who process
15 Medicare claims. And then use that money for increased
16 audit efforts and medical claims review.

17 This is similar to something we did back in TEFRA. So
18 we spend that money and then save a hundred and eighty
19 because of the return which is about 1 to 5. Five to 1, I'm
20 sorry.

21 The Chairman. Comments?

22 Senator Wallop. Did these groups audit the
23 I-am-not-a-crook statement?

24 Mr. Mihalski. Yes, sir.

25 Senator Wallop. And all the other related diagnostic

1 material and treatment material?

2 Mr. Mihalski. Yes, sir. They are the people who are
3 responsible for the day-to-day operation and management of
4 the program.

5 Senator Wallop. Just an observation, Mr. Chairman. It
6 seems to support what I'm trying to do.

7 The Chairman. Any objection to the adoption of
8 Item 10?

9 Senator Heinz. Mr. Chairman, no objection, but I
10 think this is probably a good point for me to raise. My
11 legislation as an amendment to save some additional money
12 via what we would call a "mandatory" second opinion.

13 The amendment I have in mind is substantially similar
14 to S. 1325, a bill I introduced. So that nobody
15 misunderstands the term "mandatory second opinion," what
16 we are talking about is for a limited list of surgical
17 procedures that the Department of Health and Human Services
18 would specify where they have reason to believe that the
19 procedure generally -- can generally be postponed without
20 undue risk, where there is a high-volume procedure of
21 people who are under Medicare, where there is high cost for
22 procedure, and where, most importantly, there is a high rate
23 of non-confirmation of the necessity of that opinion.

24 We would say that the beneficiary has to get a second
25 opinion. That is what is mandatory. But it is not mandatory

1 that the opinion be followed by the patient. The patient
2 just listens to the second doctor's advice and either takes
3 it or not.

4 Medicare would pay for the second opinion. The
5 demonstrations of the Department of Health and Human
6 Services has had -- and they have had demonstrations -- have
7 shown that this would be a very effective means of saving
8 a lot of money.

9 The American Association of Retired Persons, who are
10 very concerned about both the welfare and convenience of
11 their members, strongly supports the provision. And you
12 probably wonder why they would want to subject their members
13 to a second opinion. The answer is: First, it's a limited
14 number of procedures -- hip replacements, coronary bypass,
15 a couple of examples. Second, there is an appropriate
16 waiver for hardship or inconvenience to the patient. If
17 you live in Idaho up in some distant part where transportation
18 is difficult, you would be able to get a waiver from that
19 provision.

20 I would hope that we would at least be able to get a
21 sense of the committee. My understanding is that Senator
22 Durenberger wants to be heard on it. I don't want to
23 preclude him. And I gather he won't be here for a little
24 while.

25 But, nonetheless, before we lose the quorum of the

1 committee, I wanted to make the point on this.

2 Let me ask Ed how much money we are talking about
3 here.

4 Mr. Mihalski. The proposal that you offer, Senator,
5 would save about \$221 million over three years in Medicare.
6 And I also understand it is carried over to Medicaid. And
7 in Medicaid, it would save an additional \$45 million.

8 Senator Heinz. So we are at about \$260 million that
9 we save all toll?

10 Mr. Mihalski. Yes, sir.

11 The Chairman. I wonder, John, if you might do this.

12 Senator Durenberger feels very, very strongly about
13 this and asked that we defer this until he gets here. I
14 don't want to put over any of the spending decisions until
15 tomorrow if we can finish them today, but this is one I
16 would like to put over. If he doesn't come before we are
17 done, if you would be willing to withhold it so that he can
18 make his arguments.

19 Senator Heinz. I would be happy to.

20 The other issue I really kind of hope I can raise in
21 conjunction with this, particularly if we -- if I am able
22 to prevail on this amendment, is what I would call the
23 "Katy Beckett Legislation." Now the problem with the
24 Katy Beckett legislation, which at the present time involves
25 about 2,200 individuals who are on respirators in

1 hospitals -- Katy Beckett is the little girl who was
2 hospitalized. It turned out that the government was paying
3 for a hospital room. She wanted to be at home. The
4 physicians wanted her at home; she could be at home. But
5 you couldn't get reimbursement for the respirator unless
6 you were hospitalized. And the President stepped in and
7 cut those strictures. And she was allowed to return home
8 and be on a respirator and get home care at some -- to the
9 great happiness of her and her parents and some cost
10 savings, I believe, to both the state and Federal Government.

11 This legislation would, as I recollect, over three
12 years cost some \$51 million according to CBO.

13 Mr. Mihalski. Yes, sir. Fifty-one in Medicare. And
14 in Medicaid it would save \$2 million.

15 The Chairman. Save what?

16 Mr. Mihalski. In Medicaid, it would save \$2 million.

17 Senator Heinz. Well, I've got to say CBO is usually
18 pretty straight. I, for the life of me, don't understand
19 why it would cost that much. And we haven't had time to go
20 over those numbers with CBO, but I sincerely doubt that
21 those numbers are going to prove that bad.

22 But, nonetheless, the reason I want to raise Katy
23 Beckett in the context of second opinion is that certainly
24 the second opinion would more than allow us to offset the
25 cost of Katy Beckett. And, in a sense, those are the kinds

1 of trade-offs we are making here. If we want all the
2 Katy Becketts to stay in the hospitals and we don't want
3 to go with a second opinion, that's a choice we are
4 making. And that's the reality.

5 The Chairman. Well, again, I would say to the
6 Senator, because if the Senator's conclusion is right,
7 and I intuitively feel the same way you do -- it seems to
8 me it ought to save money.

9 If the Senator is right, then this can be raised on
10 the Floor. And, if not, subject to a point of order
11 because it saves money. I would like to see how CBO comes
12 to the conclusions that they come to that taking the
13 2,200 people out of the hospitals and taking care of them
14 at home costs more money.

15 Senator Symms. Mr. Chairman, is this --

16 Senator Long. Could we have them explain why they
17 think that it costs that?

18 Senator Symms. That's the question I would like to ask,
19 if I could. Let me ask a question here first. And it is
20 related to what Senator Long is bringing up.

21 My question is: Is there some new rule that is a
22 massive change in home health care that is being proposed
23 here that is in our --

24 Mr. Mihalski. No, sir. There is a rule --

25 Senator Symms. Is there a moratorium being put on?

1 Mr. Mihalski. Yes, sir. The Secretary is proposing
2 a massive change. And in the non-costers here, we propose
3 to put a moratorium on that change for one year.

4 Senator Symms. Well, back to the question. Senator
5 Long wants you to explain it. But my question is would it
6 be a good suggestion if we had a GAO audit of what the
7 proposed real changes are going to cost, and is it going
8 to just completely decimate home health care. Because I
9 have the same feeling the Chairman does. I think we ought
10 to be encouraging home health care instead of discouraging
11 it.

12 Mr. Mihalski. With the one-year moratorium, it would
13 certainly give us time to have that issue looked at, with
14 a request to both GAO and in the Administration.

15 Senator Symms. Could we have that in the report
16 language, Mr. Chairman, to have it conduct a study and see
17 what the effect of the proposed rule change might be?

18 Dr. Muse. To answer Senator Long's question, primarily
19 CBO cost estimates in this area -- and this covers a
20 variety of proposals -- the legislation attempts to reach
21 in and pull people out of institutional settings and put
22 them in home settings. And that intuitively saves money.

23 The problem is the issue of eligibility becomes
24 tangled up. And what happens is there is a woodwork effect.
25 That is, more people who "would never have gone in the

1 institution qualify for whether it's a ventilator or some
2 other home benefit." And that often in this whole area
3 complicates the cost estimate. And it gives you a cost
4 when you think you get a saver.

5 The Chairman. Further discussion?

6 Senator Symms. Well, Mr. Chairman, I don't think the
7 Chairman heard me but I was suggesting that we have a GAO
8 study and report back to us before the moratorium is over
9 on what the implications are. Senator Heinz brought up
10 about the CBO, what they are saying.

11 I would be curious to know what they think what the
12 impact would be on home health care if these proposed
13 rule changes take place.

14 The Chairman. I would be happy to sign a letter to the
15 GAO with you.

16 Senator Symms. All right.

17 Senator Heinz. Mr. Chairman, just so we can move on.

18 Since I view these proposals as in a sense linked,
19 what I will do to accommodate Senator Durenberger is withhold
20 asking the committee to vote on them or make a show on them
21 until he returns. But it will be my intention to ask the
22 committee to --

23 The Chairman. Including the Katy Beckett one.

24 Senator Heinz. To vote on both, yes.

25 The Chairman. Further discussion?

1 (No response)

2 The Chairman. Any objections to adopting Item 10? .

3 (No response)

4 The Chairman. Item 11, again, relates to cataract
5 surgery. And what it does is limit reimbursement for
6 eye glasses after cataract surgery to one replacement each
7 year, and it limits cataract contact lenses to the original
8 payer that you get after surgery and to two replacements
9 per eye per year. But it does not apply if your condition
10 changes or if the lens wears out. Although I have worn
11 contact lenses for a quarter of a century, and I must have
12 lost dozens. I don't think I've ever had one wear out.
13 And I don't think considering if the patient's condition
14 changes this limitation doesn't apply anyway that this is a
15 serious limitation on any body.

16 Any objection to Item 11?

17 (CONTINUED ON NEXT PAGE)

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1 Senator Moynihan. Mr. Chairman, I have no objection
2 to this if, in your case, you think it is sensible, but
3 how did the Committee on Finance of the Senate reduce itself
4 to making judgments about the reimbursability of plastic
5 lenses or aesthetic devices for this or that disability?

6 I mean, are we a board of physicians that is reviewing
7 the hospitals' quarterly accounts or something?

8 The Chairman. Pat, what we discovered, and it isn't
9 just in this area--we do it in tax shelters and other things
10 --we find abuses that creep in that, for one reason or
11 another, the Administration, and I don't mean just this
12 Administration, does not stop or does not catch, and they
13 don't have the legal power to do so because the doctor says
14 to the patient: You need another pair of contact lenses.
15 Now, you need another pair of contact lenses.

16 Now, you need another pair each month, and they are
17 reimbursed for them. That is the answer to the question,
18 and I don't know how we stop it.

19 Senator Moynihan. You know, if this degenerates, it
20 could be a year-long meeting.

21 The Chairman. Well, no, we are doing pretty well.

22 Senator Moynihan. I don't feel I know what I am
23 talking about. I am willing to take your word on these
24 things.

25 Senator Chafee. Don't be troubled by that concern.

2
1 (Laughter)

2 Senator Moynihan. But I know that others know that
3 I don't know what I am talking about.

4 The Chairman. Is there any objection to adopting
5 item 11?

6 (No response)

7 The Chairman. Item 12. Ed?

8 Mr. Mihalski. Senator, Dr. Muse worked a lot on this,
9 and he can explain it.

10 Dr. Muse. Basically, this proposal would encourage
11 the 2,000-odd SNFs that are not currently participating --

12 The Chairman. SNFs being skilled nursing facilities.

13 Dr. Muse. Yes.

14 The Chairman. And this is an expenditure, not a
15 saving.

16 Dr. Muse. Yes. This would encourage the skilled
17 nursing facilities to participate in the program by
18 offering them a flat perspective rate. They would know
19 what they were going to get.

20 And we also reduced the cost report significantly and
21 only get essential data, therefore encouraging both those
22 2,000 that are out there right now to come into the program
23 and also those providing very, very few days of care--under
24 1,500 days a year--to increase the number of days that they
25 offer.

1 Senator Long. Does the Department favor this?

2 Dr. Muse. The Department opposes this.

3 Senator Long. What?

4 Dr. Muse. The Department opposes this, first as an
5 expenditure, second on some administrative matters.

6 The Chairman. Of course, administrative problems are
7 always the argument against anything if you don't want it,
8 and that is not unique to this Administration either.

9 Questions on Item 12?

10 (No response)

11 The Chairman. Any objection to adopting?

12 (No response)

13 The Chairman. Adopted. Item 13, preventive care
14 demonstrations. Ed?

15 Mr. Mihalski. This was a provision that Senator
16 Durenberger was interested in.

17 Basically, it requires the Secretary to do a number of
18 demonstrations, to look at the use of preventive care
19 services as a way of lessening the impact or the severity
20 of illness for people later on in life.

21 The Chairman. A \$3 million item. Any questions?

22 (No response)

23 The Chairman. Without objection. Item 14 is the
24 disproportionate share for those hospitals that are serving
25 the very poor.

4
1 Mr. Mihalski. Yes, sir. This disproportionate share
2 adjustment is created. It hands back money to hospitals
3 that do serve a disproportionate share of poor Medicare
4 patients.

5 There are two adjustment factors. One is for hospitals
6 which are 100 beds or more. The other is for hospitals
7 which are less than 75 beds.

8 The less-than-75 bed rule was added because, in doing
9 the analysis, the Congressional Budget Office found that
10 there are a number of rural hospitals that do deserve the
11 adjustment once they get to very high levels of poor
12 Medicare beneficiaries.

13 I could go through the details of the adjustments,
14 but Dr. Don Muse has that information right in front of
15 him. He can do that.

16 The Chairman. Don? Any other questions or comments?

17 Dr. Muse. No, sir. This particular proposal ties it
18 very closely to Medicare, to the Medicare poor elderly.

19 It does not tie it to the House proposal, which
20 included Medicaid, and it also reaches a total of
21 approximately 1,000 hospitals.

22 Senator Moynihan. The disproportionate figure is what?
23 At what point do you become disproportionate?

24 Dr. Muse. Under the current proposal, when you reach
25 20 percent of your Medicare people being poor, that is

5
1 enrolled in the SSI Program, you would begin to receive the
2 adjustment.

3 Senator Moynihan. Oh, I see, it is the SSI Program.

4 Dr. Muse. That is correct, sir.

5 The Chairman. Any further comments?

6 Senator Wallop. Mr. Chairman, is this capped in any
7 way, or is it possible for people to go out and start
8 harvesting --

9 (Laughter)

10 Dr. Muse. Unless the committee chooses to increase
11 SSI dramatically, it would be capped by the number of SSI
12 people who enter the hospitals.

13 Senator Wallop. Oh, I understand that, but you create
14 a competition between hospitals for this disproportionate
15 share adjustment. Are we going to start seeing
16 advertisements, you know?

17 Dr. Muse. Sir, the advertising in hospitals right now
18 is for basically weekend operations and things of that
19 nature.

20 I would doubt they would advertise in this area.

21 The Chairman. Is that right? Is that to just kind of
22 fill up the hospitals on the weekends like motels?

23 Dr. Muse. Yes, sir. You can find advertisements --

24 The Chairman. You get a discount if you do your
25 operation on a weekend?

6
1 Dr. Muse. Yes, sir. If you come in on a weekend,
2 which are low-utilization days, they will waive the 20
3 percent coinsurance. They will give you cut rates on
4 cataracts, if you are up for it --

5 (Laughter)

6 Dr. Muse. That is not all hospitals. That is just
7 a few.

8 The Chairman. Any further comments on 14?

9 Mr. Mihalski. Senator Packwood, a point of
10 clarification for Senator Moynihan. When we talked about
11 the SSI people, it is the SSI people which do not include
12 the State subgroups, so it is a more even determination
13 across the States.

14 Senator Moynihan. Am I right in thinking that the
15 number of persons receiving SSI is beginning to go down?

16 Dr. Muse. No, sir.

17 Senator Moynihan. Is it still going up?

18 Dr. Muse. It was going down from 1978 to 1981--excuse
19 me--to 1982, late 1982. It is now on the upswing.

20 Senator Moynihan. Oh, it is going up?

21 Dr. Muse. Yes, sir.

22 Senator Moynihan. On whose watch? No, cancel that.

23 The Chairman. Further comments on 14?

24 (No response)

25 The Chairman. Is there objection?

1 (No response)

2 The Chairman. Number 15, a \$3 million item. It
3 applies only to the Mayo Clinic, does it not, to change
4 their form of adjustment so it complies with the way other
5 clinics or hospitals are adjusted?

6 Mr. Mihalski. That is correct, sir. It just makes a
7 correction for something we did last year for the Mayo
8 Clinic.

9 The Chairman. Yes. Any objection to 15?

10 (No response)

11 The Chairman. Are there other Medicare amendments
12 before we move on to Medicaid?

13 Senator Heinz. Yes, Mr. Chairman, with respect to
14 PROs. This package, as I understand it, does have a
15 necessary change in the PROs quality assurance mechanism
16 where we have given PROs the ability to deny payments for
17 care of substandard quality.

18 There are two other changes I would very much hope we
19 could make.

20 One is that we would--in terms of the reimbursement
21 floor for PROs--change the floor from a 1982 floor, which
22 related to PSROs, which are now gone and buried, to this
23 year's reimbursement rate of fiscal year 1985.

24 That would be revenue neutral, as I understand it.

25 The second thing is that we have had a lot of complaints

8
1 from PROs that they are being weighted to death for
2 reimbursement by the Health Care Financing Administration.

3 I would like to see if maybe we could do this in
4 report language and instruct HCFA to pay them 15 days after
5 the end of the month or end of the billing period.

6 The Chairman. Could you get the report language and
7 let me take a look at it? I think I agree with you because
8 I know the problem, but I would like to see the language.

9 Then, I might sign onto it specifically with you.

10 Senator Heinz. The first issue would probably have
11 to be dealt with legislatively.

12 The Chairman. So, what is your pleasure?

13 Senator Heinz. If there is no objection, let's include
14 it. If it is controversial --

15 The Chairman. Ed?

16 Mr. Mihalski. We have a proposal in the nonspending
17 items which is intended to solve this problem.

18 It goes about it a little differently, and that is we
19 remove the sections where they have the 1983 limits, which
20 are not limits but are ceilings, because that is what OMB
21 has been using as an argument to hold down the-- Well, I
22 understand that OMB is using that as an argument to hold
23 down the PRO reimbursements.

24 If you change it and say 1985 instead of 1983, since
25 1985 is dependent upon 1983 as a base, you really don't

1 gain anything, Senator Heinz.

2 Senator Heinz. I think the problem there is that what
3 you are proposing doesn't do what I am seeking to do, which
4 is to make sure that there is not an effort to cut back
5 the PROs.

6 What you have done just removes any floor at all.

7 Mr. Mihalski. Yes, but the floor they have been using
8 as an argument is as a saving also.

9 Senator Heinz. They have been using the floor as a
10 ceiling, and I am trying to keep a floor that is a floor.

11 Mr. Mihalski. But the floor you are establishing is
12 a floor which is based on the 1983 rates, which is
13 unreasonably low anyway--well, people believe it is
14 unreasonably low now.

15 Senator Heinz. What I am trying to do is establish it
16 based on fiscal year 1985. That would be my proposal, to
17 have a floor--a floor, not a ceiling--not a limit--but a
18 floor based on fiscal year 1985.

19 Dr. Muse. Yes, sir, but again, the payments that PROs
20 are now receiving are simply the 1982 levels trended forward.

21 If you establish that as a floor, the Administration
22 can meet your requirement by taking that low level and
23 adding \$1.00.

24 Senator Heinz. I understand that.

25 Mr. Mihalski. Okay.

1 Senator Heinz. I understand that. I mean, we are
2 not trying to ratchet up the costs of PROs. We are just
3 trying to send them a message that there is going to be
4 some continuity, and there is no game here.

5 These people are very nervous because of the changes
6 we have been through.

7 Mr. Mihalski. It is reasonable then to take the staff
8 proposal of nonspending and make 1985 the floor.

9 Senator Heinz. I think the staff finally agrees.

10 The Chairman. Any other Medicare?

11 Senator Moynihan. Yes.

12 The Chairman. Senator Moynihan?

13 Senator Moynihan. Mr. Chairman, I don't think we will
14 be able to deal with it today, but two distinguished members
15 of our committee, Senator Dole and Senator Durenberger,
16 have a proposal on this matter of disproportionate patient
17 populations which is different from the one which we have
18 considered.

19 But I wondered if Mr. Mihalski would describe it to
20 the committee because I think it is the purpose of the
21 Senators to offer it on the floor.

22 Mr. Mihalski. Yes. The Dole-Durenberger proposal
23 basically, instead of linking these extra payments to poor
24 Medicare beneficiaries, links them to both poor Medicare
25 beneficiaries and Medicaid beneficiaries.

1 So, in effect, you are spending Medicare Trust Funds
2 to help pay for the extra costs of serving Medicaid
3 patients.

4 Senator Moynihan. The distinction being here that
5 you can define SSI, as you know, there is a poverty test,
6 whereas on Medicaid it is a different kind of test, and
7 so you are taking a larger population.

8 Mr. Mihalski. The Dole-Durenberger bill does take a
9 larger population. Yes.

10 Senator Moynihan. I mean, it accounts for --

11 Mr. Mihalski. But it accounts for people who are not
12 eligible for Medicare at all, and you would adjust hospital
13 payments --

14 Senator Moynihan. There are those that are for
15 Medicaid.

16 Mr. Mihalski. Yes, sir.

17 Senator Moynihan. Yes.

18 Mr. Mihalski. It is a philosophical difference, I
19 guess, in whether you want to spend Medicare Trust Funds on
20 Medicaid patients.

21 Senator Moynihan. Right. What is their estimated
22 cost?

23 Mr. Mihalski. Their estimated cost-- Ours is 400.
24 The difference is about 480.

25 The Chairman. 480?

1 Dr. Muse. Yes.

2 Senator Moynihan. But it does account for hospitals
3 who have a high proportion of Medicaid patients as against
4 SSI patients?

5 Dr. Muse. To give you an idea of the difference that
6 this "philosophic difference" makes is under the pure,
7 as-submitted Dole-Durenberger bill, California which has
8 a reasonably very large State supplemental program and a
9 very large Medicaid program would receive 35 percent of all
10 the dollars of the disproportionate share adjustment.

11 As against the proposal that we have where we tie it
12 simply to the dual eligibles, California receives 17 percent,
13 which is very close to some other averages for measures of
14 poor elderly.

15 Senator Moynihan. Could we get from you, as we go to
16 the floor, a list, Mr. Chairman, of what the allocation by
17 State is?

18 Dr. Muse. CBO does not estimate by State, largely
19 because once you get beyond the very large States, the
20 estimates become extremely unstable, and they have an
21 existing policy.

22 For a few States, they will do that.

23 Senator Moynihan. So, you would know California
24 because it is such a heavily populated State?

25 Dr. Muse. Yes, sir. California is obviously quite a

1 chunk.

2 Senator Moynihan. Thank you. I just wanted that to
3 be taken note of, Mr. Chairman, that Mr. Dole and Mr.
4 Durenberger have that proposal.

5 The Chairman. Thank you. Senator Boren?

6 Senator Boren. Mr. Chairman, I have two very small
7 miscellaneous items dealing with home health care agencies
8 and physical therapists.

9 The first has been discussed with staff, and I don't
10 think there is objection to it. It has been covered already
11 by the House Ways and Means Committee in their proposal,
12 and it is an amendment dealing with Section 18610 of the
13 Social Security Act, which requires that either a physician
14 or a registered nurse administratively supervise the
15 provision of therapeutic services in a Medicare certified
16 home health agency.

17 And this simply would ask that the Secretary of HHS
18 report to Congress with recommendations on the
19 appropriateness or feasibility of allowing other health
20 care providers--therapists, physical therapists, and others,
21 speech language pathologists--to perform the supervisory
22 or administrative role.

23 So, it is purely a study that is being designated.

24 The Chairman. Any objections?

25 (No response)

14
1 Senator Boren. One other item, and I don't think this
2 has been brought up, but I just raise this question.

3 Presently, if you have a therapist who is not working
4 in an office but is providing the therapy at the home of
5 the patient, the provision under present law requires that
6 the Secretary establish conditions for independently
7 practicing physical therapists.

8 And the Secretary by regulation requires that the
9 physical therapist must maintain an office--office space--
10 with the necessary equipment in that office and so on,
11 even though they may be providing solely all of their
12 treatment in the home of the patient.

13 This seems to me to be a bit unreasonable, and I would
14 hope that we could change that so that the Secretary by
15 regulation, if you have an independently practicing therapist
16 but they are providing all the care at the home of the
17 patient, it seems to me to be a foolish expenditure to
18 require them to maintain a full office with equipment.

19 I haven't had a comment back on that from staff.

20 The Chairman. Are there staff comments on that?

21 Mr. Mihalski. None from my perspective. Does the
22 Administration have anything to say?

23 Dr. Desmaris. Well, the genesis of their requirement
24 is that a physical therapist ought to be prepared to provide
25 a full range of services to patients.

1 Senator Boren. Right.

2 Dr. Desmaris. And whatever the patient needs, the
3 therapist ought to be able to provide. Some of those
4 services can be provided in a patient's home, operating out
5 of a suitcase if you will, with some equipment.

6 Other services will require more sophisticated
7 equipment. So, I think we have been somewhat concerned
8 about moving a patient from one type of therapist to
9 another, depending on the type of services that are needed.

10 So, I think that explains in part the genesis of the
11 requirement.

12 Senator Boren. I don't know if this could be done with
13 an amendment or if we could just put report language urging
14 the Secretary to revise the regulations because it does
15 seem, if you are providing the care, if you have a person
16 providing the care solely at home and they have all the
17 equipment necessary, it may be rather sophisticated
18 equipment that may be even permanently located in the home
19 of one of the patients.

20 The Chairman. Was there any fear that you were going
21 to have hucksters in this business, traveling around with
22 a suitcase selling this service and they didn't have any
23 office at all? I have no idea what the genesis was.

24 Dr. Desmaris. Right. I am not sure we could guarantee
25 that the simple existence of an office would guarantee that

1 someone was more credible than not, but as I recall, the
2 House included report language on this subject.

3 And I think that is what we would prefer so that we
4 could study it and look at it again.

5 Senator Boren. I understand this was raised in the
6 House, and I believe the Administration supported looking
7 at the possibility of making some change.

8 Dr. Mesmaris. Yes. I believe we would like to look
9 at it again one more time to see if we can make a change
10 in the regulation.

11 Senator Boren. Perhaps we could direct a study then
12 in this area as well, to make sure that we are not making
13 an unnecessary and costly requirement, if an office is not
14 necessary.

15 The Chairman. Can the Administration accommodate us
16 on that?

17 Dr. Desmaris. Yes, sir.

18 The Chairman. Thank you.

19 Other Medicare amendments?

20 (No response)

21 The Chairman. If not, that will conclude that section.

22 Let's move on to Medicaid. In the staff package that
23 we are working from, they have one large revenue enhancement
24 and then a series of smaller revenue losses.

25 Item 1 is enhancing third party liability collections,

17

1 and here it is the situation where you have some Medicaid
2 patients who have third party coverage--employer coverage
3 or other coverage--but obviously, even with the third
4 party coverage, they would rather look to Medicaid if they
5 could. And that is what they are doing.

6 And this would simply say that Medicaid can look at
7 third and collect from third party coverage first as a
8 primary payment rather than Medicaid, and it would pick up
9 about \$450 million.

10 Any objections to Item 1?

11 Senator Chafee. Let me just ask a question on that.

12 Is there any concern under this situation that the
13 cost to the employer will so escalate that the employer
14 will just drop his insurance coverage?

15 I mean, I guess when you are talking about the people
16 on Medicaid, you are talking probably about people in very
17 low income jobs, that follows at the minimum wage rate,
18 working for an employer who probably doesn't have very
19 extensive coverage.

20 And what we are doing here is shifting who is paying.
21 We are shifting it from Medicaid to the insurance company,
22 the insurer.

23 And obviously, that is going to be reflected in the
24 charges to the employer. And if you have some small
25 business where the employer is carrying maybe coverage for

18

1 the employee only, nothing beyond that, and I am just
2 worried that this might be the straw that broke the camel's
3 back, that is, to say to the employer I will drop all the
4 coverage.

5 Is there anything that you have got on that?

6 Dr. Muse. Two things, Senator. First of all, part of
7 this proposal addresses a problem in law where self-insured
8 plans, which are becoming increasingly numerous by rather
9 substantial firms that feel that they are large enough to
10 begin to insure themselves, have been simply denying that
11 they are the payor of last resort because of an ERISA
12 provision.

13 Those are not, by and large, firms that are in
14 financial jeopardy.

15 The second part is the GAO report that was the basis
16 of the hearing --

17 Senator Chafee. I just wonder if those firms would
18 have many Medicaid people?

19 Dr. Muse. That is the unknowable part, sir. We do
20 not have a distribution that says there are 200 firms that
21 employ primarily Medicaid people.

22 I would be shocked-- I would be surprised if there
23 were a large number of such firms.

24 Senator Chafee. All right. Go ahead.

25 Dr. Muse. The second is the GAO report upon which

1 the hearing that led to this legislation was held indicated
2 that, by and large, the TPL collections are from people who
3 are marginal employees of, in most cases, unions or large
4 corporations who are simply not aware that their union has
5 provided for many years a minimal insurance package as part
6 of what they consider to be their union dues, for example.

7 Again, we are talking about distributing around \$450
8 million over perhaps ten times that number of insuring
9 organizations.

10 So, I don't think they hit on any one organization
11 other than maybe a couple of companies that are Medicaid
12 based, which is hard for me to conjure up an example.

13 Senator Chafee. All right. Thank you.

14 The Chairman. Any objection to adopting Item 1?

15 (No response)

16 The Chairman. Item 2, optional case management. Don?

17 Dr. Muse. Under this proposal, we would allow States
18 to offer case management services on less than a Statewide
19 basis and two specific groups.

20 Under current law, if they offer a service, they must
21 either get a 2176 home and community based waiver to supply
22 these kinds of services.

23 This in a sense allows them to do that without that
24 waiver.

25 The Chairman. Any comments? Senator Bradley?

20

1 Senator Bradley. Mr. Chairman, I would certainly
2 support this, and I think that I would like to have even
3 more, but I think this is progress along the way, as well
4 as some of the other things about not terminating waivers
5 until next year, making any new waivers five years instead
6 of three years.

7 I think those are important steps.

8 I think that there are two things I would like to
9 propose. One is that as this waiver system works, a State
10 is allocated a certain number of slots. For example, in
11 New Jersey, we have 1,800 slots.

12 HCFA has interpreted this to mean that, if a slot,
13 which as a person dies, that means you have one less slot,
14 which seems absurd to me; and I think that we ought to be
15 very clear that if a State is allotted a certain number of
16 slots, if someone dies someone else can fill that slot.

17 That would be my first suggestion.

18 The Chairman. As far as I am concerned, you are
19 absolutely right, and I would be happy to put that in the
20 language. We have the same problem in every State.

21 Senator Bradley. My second suggestion is that, in
22 this waiver program generally, I think HCFA has really
23 worked not to further Congressional intent but to frustrate
24 Congressional intent.

25 So, I would hope that we could have in report language

1 that these changes are being made because we think that
2 HCFA has not furthered Congressional intent but has
3 frustrated it.

4 The Chairman. I think you are absolutely right
5 because they have looked at the home waiver provision as
6 an attempt at cost containment.

7 We say to the States: You can have \$1,000.00 for
8 Medicaid. If it costs you \$1,000.00 a month to keep them
9 in an institution, you get \$1,000.00.

10 If you can put two in homes for \$500.00 apiece, you
11 still get it; but they want to take numbers, thereby cutting
12 down the extent, and that was never our intention.

13 Senator Bradley. And I think we have to be clear about
14 that.

15 The Chairman. I agree.

16 Senator Bradley. And report that these changes that
17 we are making, we are doing because HCFA is operating
18 contrary to Congressional intent.

19 The Chairman. I agree.

20 Senator Heinz. Mr. Chairman, I just want to support,
21 and strongly so, Senator Bradley in that initiative.

22 Unfortunately, no matter what we do here, we are not
23 able to address the problem, that is that OMB is simply
24 placing unreasonable and onerous restrictions on what we
25 are trying to do. That is the real issue.

1 The Chairman. Any objections to adopting Number 2?

2 (No response)

3 The Chairman. Let's move onto Number 3, the
4 reevaluation of assets. This relates to the nursing homes
5 and the sale of nursing homes. Don?

6 Dr. Muse. Yes, sir. Under a provision of Law 2314 of
7 DEFRA, we froze the increase allowed when a property is
8 sold at zero.

9 This proposal would allow an increase of 50 percent of
10 the Dodge Construction Index for nursing homes or 50 percent
11 of the CPI, whichever is lower.

12 The Chairman. Any comments?

13 (No response)

14 The Chairman. Without objection. Number 4.

15 Senator Chafee. I take it that there is some kind of
16 a restraint in there so that an owner can't just shuttle
17 his property back and forth to his wife and end up back to
18 himself and thus have the increased basis?

19 Dr. Muse. Yes, sir. There are some restraints in
20 current law. We can reemphasize those restraints in
21 report language.

22 Senator Chafee. Thank you.

23 Senator Danforth. All right. Without objection,
24 number 4 is agreed to. Number 5?

25 Dr. Muse. Number 5 is in law, as you might remember,

23
1 the Chap children were mandated. This mandate was phased
2 in, beginning with children born after a certain date.

3 Some States have expressed an interest in accelerating
4 the bringing in of these children in coverage under
5 Medicaid, and this provision would allow them at their own
6 option to bring these children in.

7 Senator Danforth. Any discussion?

8 (No response)

9 Senator Danforth. Number 5 is agreed to. Number 6?

10 Dr. Muse. Under current law, HCFA, if a skilled
11 nursing facility, for example, is paid on an interim rate
12 and they are paid too much money--slightly too much--and
13 then they go out of business, the Federal Government demands
14 its share of the refund for the overpayment to the bankrupt
15 provider.

16 This provision would eliminate that and also give the
17 States a reasonable length of time to collect overpayments
18 before having to forward them on to the Federal Government.

19 Senator Moynihan. Mr. Chairman, this is a good measure
20 which I think the staff has been very helpful to us with.

21 The Chairman. Further Medicaid amendments?

22 Senator Bradley. Mr. Chairman?

23 The Chairman. Let's do Senator Bradley. Senator
24 Chafee, Senator Boren.

25 Senator Bradley. Mr. Chairman, I would like to extend

1 the AFDC homemaker-home health aid demonstration in New
2 Jersey for one additional year.

3 This is a program where AFDC recipients are trained to
4 be homemaker aides, and they then come into homes to
5 maintain essentially certain home care services to senior
6 citizens so that they don't have to be institutionalized.

7 After about three years of the study, we are saving
8 about \$3,684.00 per AFDC recipient. A report is due in
9 September. If we delayed it a year, we would have a chance
10 to look at the report that HCFA is going to make on their
11 view of the program.

12 The Chairman. Any objections?

13 (No response)

14 The Chairman. Without objection.

15 Senator Moynihan. Mr. Chairman?

16 The Chairman. Senator Chafee next, then Senator Boren,
17 and then Senator Moynihan.

18 Senator Chafee. Mr. Chairman, first of all, I want
19 to thank you for the amendments--the waiver amendments--that
20 you considered and adopted that Senator Bradley and I were
21 interested in before.

22 I would like to just bring up another problem, and that
23 is currently the Secretary of HHS is conducting inspections
24 of ICF facilities for the mentally retarded to determine
25 whether these facilities meet standards.

1 There has been a lot of concern about the institutions
2 and whether they are correct or not.

3 So, she has levied a series of requirements that the
4 States have X months to bring these facilities up to the
5 standards that have been set.

6 This puts the States in a bind because many of the
7 States are moving toward deinstitutionalization of the
8 mentally retarded into community homes.

9 And for the States to be required to invest very
10 substantial sums in bringing these institutions up to the
11 level of the Secretary's requirements at the same time when
12 they are trying to broaden their deinstitutionalization of
13 the patients so that they are out into smaller community
14 homes, that cost money to build or acquire, means that
15 they are not able to proceed with the plan they would like
16 to proceed with.

17 The proposal that I have would have the Secretary send
18 out the notice of noncompliance, that the States would have
19 a certain amount of time to meet the requirements that she
20 levies, or to submit to her a plan saying this is what we
21 propose to do over the next 36 months in regard to reducing
22 the number of certified beds in that institution and have
23 them out into the community.

24 Now, the States would have to meet any life-threatening
25 violations, but when it gets to widening corridors and

1 matters like that, that is a separate matter and they would
2 not have to meet that requirement if they had this plan
3 which they submitted to her and she approved.

4 So, there we are, and I have got language that goes
5 with it, but that is what I am attempting to achieve.

6 And let me just say this, Mr. Chairman, that many of
7 the States are making magnificent efforts toward this
8 deinstitutionalization and having the mentally retarded
9 and the developmentally disabled out into far smaller homes
10 of three, five, seven--whatever it is--where that individual
11 reaches his or her potential to a far greater degree than
12 if they had remained in an institution.

13 The Chairman. Any comments?

14 Dr. Muse. We support the substance of Senator Chafee's
15 attempt here. We do have one concern.

16 That is the submission of a plan by the State. If we
17 say to the States without some form of penalty associated
18 with the submission of these plans, if they don't carry
19 through, in effect what we are doing is just extending poor
20 quality situations.

21 Senator Chafee. That is perfectly all right. I don't
22 want any phony plans coming in to just delay improvements
23 in the institution, when they have no intention of going
24 out and doing the --

25 The Chairman. With that understanding, without

1 objection. Senator Boren?

2 Senator Boren. Mr. Chairman, a rather odd situation
3 has developed that I think directly affects only Oklahoma
4 but potentially Colorado and Michigan, and it deals with
5 the loss of Medicaid funding as a sanction.

6 Under Section 1618 of the Act, those States which
7 reduce supplemental security income payments--State
8 supplemental payments--may be faced with the loss of all
9 of their Medicaid funding.

10 Now, the law does not require States to provide
11 supplemental funding. This the odyssey of it. So, we
12 are dealing with something that is not even required that
13 the States provide.

14 Only 27 States do provide it. Oklahoma is in a
15 situation that we do provide. We are one of only three
16 States that in fact has increased the State supplemental
17 payment faster than the rate of increase of the Federal
18 payments, and faster than the rate of inflation.

19 But in the last couple of years because of very bad
20 economic conditions, we have been forced to make some very
21 slight cutbacks in the State supplemental payment.

22 But we are still above the increase of average of
23 Federal payments and inflation for the period since 1976
24 to the present.

25 And I think it would be indeed a strange and odd

1 situation if a State were to loss all of its Medicaid funds
2 because of something it is not even required to do and
3 something it is doing more generously than even the Federal
4 Government has been doing it.

5 So, I would simply like to propose that a State may be
6 exempted from Section 1618, the pass through requirement, as
7 long as the State benefit levels for SSI recipients have
8 increased at a rate equal to or exceeding the increases in
9 Federal SSI benefits.

10 And it will have no cost. It simply means that
11 frankly the State government will have to come up with
12 money--I don't know how they will do it--that they don't
13 have in order to increase their State supplemental payments.

14 The Chairman. Excuse me. Mr. Humphries and Mr. Hoyer,
15 don't hesitate to bump in because I see you have a look on
16 your faces that you would like to say something. You are
17 welcome to grab the microphone. Why don't you go ahead?

18 Mr. Humphries. Apparently, Oklahoma meets what we set
19 up in 1976 when the automatic cost of living increases went
20 in so that there wouldn't be a situation where the Federal
21 payment went up and the State payment just went down, and
22 the individual didn't get any benefit from it.

23 A requirement was put in saying that States in the
24 aggregate would have to pass through all the Federal
25 increases to recipients, but it was on an aggregate basis

1 so States wouldn't be discouraged from raising their
2 payments more than they otherwise would have, for fear of
3 being locked in.

4 In 1983, because there was a special one-time increase,
5 the Finance Committee offered States a second option, which
6 was to instead of using a 1976 base, use an 1983 base, but
7 pass through a little less than all of it.

8 But in the House and in the ultimate enactment, that
9 became mandatory rather than an additional option.

10 So, I think basically what is being proposed here is
11 to go back to the original 1973 rule, as long as in
12 aggregate the State has passed everything through.

13 Senator Boren. Let us use the 1976 or 1983 option, at
14 the option of the States, because it is such an odd situation
15 that Oklahoma, I believe, is number one in the nation in
16 terms of percentage increase. It is something they don't
17 even have to do.

18 The Chairman. Is there objection?

19 (No response)

20 The Chairman. Without objection.

21 Senator Boren. Thank you, Mr. Chairman.

22 The Chairman. Senator Moynihan?

23 Senator Moynihan. Mr. Chairman --

24 The Chairman. Unless you have something on that point.

25 Senator Heinz. I thought you said without objection.

1 The Chairman. We just adopted going back to the 1973
2 standard. Is that correct?

3 Senator Boren. Yes.

4 Senator Heinz. Where is Senator Chafee's amendment?

5 Senator Chafee. It has been adopted. Overwhelmingly.

6 (Laughter)

7 Senator Heinz. I don't question that, but I would
8 still like to raise one or two questions about it.

9 The Chairman. Yes, although I would prefer you raise
10 them as we go along, rather than coming back to it later.

11 Senator Heinz. I didn't realize we had gotten through
12 Senator Chafee's amendment. I would like to raise a question
13 about it, and I think it is important before we go on to
14 the next item.

15 The Chairman. All right. Senator Moynihan, after he
16 raises this question. Is that all right? The question is
17 about the Chafee provision.

18 Senator Heinz. As I understand John's amendment, and
19 I apologize to my colleagues that I am slow on the uptake,
20 but we are giving people three years to correct non-life
21 threatening situations at intermediate care facilities.

22 Senator Chafee. No, no, we are not.

23 Senator Heinz. Oh.

24 Senator Chafee. We are saying that, if there is a
25 plan submitted which proposes or sets out a

1 deinstitutionalization so that the institution isn't going
2 to be required, that the State does not have to sink that
3 money into that institution.

4 Senator Heinz. John, does your amendment make any
5 distinctions about-- Let's say that there are broken
6 windows in the facilities or they have decided that they
7 are going to clean up the building once a month and it gets
8 pretty dirty and smelly on the floor. Those are non-life
9 threatening situations. How does that work?

10 I know this isn't your intent, but could your amendment
11 lead to those kinds of uncomfortable, unsanitary, non-life
12 threatening situations?

13 Senator Chafee. I would hate to think so. We do use
14 the term non-life threatening, so that those are the things
15 that could be postponed, but that is not the intent of it.

16 It is the intent of delaying the major capital
17 investments in an institution that you plan to get rid of
18 because you are going in this other direction.

19 Senator Heinz. I think I understand. What you are
20 aiming at is trying to get at those changes in code
21 requirements where they have got to widen the doors and
22 make major capital improvements.

23 Is there a way--I haven't seen the Chafee amendment.
24 Is there a way of drafting it to make sure that it really
25 does apply just to the major capital investments and not

1 to what frankly would be more or less normal housekeeping
2 and maintenance?

3 Dr. Muse. I think we can do that in one of two ways.
4 I believe it would be difficult in the legislative language
5 to make distinctions between that type of thing.

6 I think we can make it clear in the report language
7 that the Secretary, in her approval process, will use
8 certain criteria, and this would be one of them, on whether
9 to approve or disapprove the application from the State.

10 Senator Heinz. The reason I raise this is we actually
11 had a situation like this in Pennsylvania at Pennhurst, and
12 things just went, you know--they weren't life threatening,
13 but you wouldn't even want to walk through there, let alone
14 live there.

15 So, let's work together, if we can, John, to work that
16 out.

17 The Chairman. Senator Moynihan?

18 Senator Moynihan. Mr. Chairman, just to be sure, I
19 wondered if I didn't miss something as we went by. Did we
20 actually approve provision four on our Medicaid options?
21 I wondered if we didn't go by that.

22 The Chairman. Yes, we did.

23 Senator Moynihan. We did?

24 The Chairman. Yes.

25 Senator Moynihan. Thank you.

1 The Chairman. Any other Medicaid amendments?

2 (No response)

3 The Chairman. If not, let's move on. I would like
4 to just very momentarily skip over the custom user fees
5 because there is a little bit of confusion. We will get
6 right back to it.

7 Let's take up the pension benefit guarantee corporation
8 payments. It is in the Ways and Means Bill. It is a
9 provision the Administration wants.

10 It increases the annual premium for the pension benefit
11 guarantee board because it is losing money. I think I have
12 talked with everybody about it.

13 It is the pension guarantee corporation's-- I am not
14 sure what you have got. Page 5.

15 I know of no objection to it. The Administration
16 supports it. Is there objection?

17 Senator Heinz. Mr. Chairman, this is to make the
18 increases permanent?

19 The Chairman. Yes, that is correct.

20 Senator Heinz. No problem.

21 Senator Chafee. Mr. Chairman, is it my understanding
22 that the Labor Committee is going to look into this matter
23 and see if there is some reform --

24 The Chairman. We hope so. We have no guarantee of
25 it, but we hope so. But at the moment, if the increase is

1 not--the fund is going to be bankrupt if we don't increase
2 the payments.

3 The Chafee. Would you be good enough to suggest that
4 to the chairman of the committee?

5 The Chairman. More than that. We are working with
6 them and negotiating with them, and we hope we get
7 something.

8 Senator Heinz. Mr. Chairman, as I think we all know,
9 there is a real need to get some reform in this program of
10 pension insurance.

11 And part of the reason, I think, for having a permanent
12 premium is that there will be pressure on everybody to bring
13 about the reforms that are necessary.

14 Right now the big problem is that there are some
15 employers with big unfunded liabilities who will find a way
16 to go out of business, in effect, and then reappear with
17 funds --

18 The Chairman. Yes, they have got a big liability and
19 they are finding a way to reorganize and dump their pension
20 liability on the board and get out.

21 Senator Heinz. Exactly, and so we know we have got to
22 act on that somehow, sometime, and from my point of view,
23 the sooner the better. The only thing I would ask is that
24 we might include a study to be done of the way the pension
25 benefit guarantee corporation determines their liability and

1 decides on the premium they need and of the feasibility of
2 a risk-related premium, that is to say, one where the high
3 unfunded liability employers pay a larger premium.

4 I think we want to look at that. I am not necessarily
5 advocating it as a policy.

6 The Chairman. Ann, don't we have a study like that
7 now?

8 Ms. Olson. Senator, GAO did a study just reviewing the
9 way that PBGC evaluated the need for an increased premium.
10 It didn't look specifically at the risk-related item that
11 Senator Heinz is discussing.

12 Senator Bentsen. Mr. Chairman, I can't help but
13 remember, as I look at that, that I carried it as a sponsor
14 on this side when we passed ERISA. All these so-called
15 experts came in and said 50 cents is what it should be, and
16 that was going to be 20, and I said I don't believe that,
17 and just to be sure, let's raise it to \$1.00, and doubled it.

18 And now, we see it age 60, and that is just a comment
19 on when estimates are given by experts as to how much
20 something is going to cost.

21 Senator Heinz. That is about right. The same thing
22 happened in the Medicaid and Medicare programs.

23 The Chairman. Any objection to adopting this
24 provision?

25 (No response)

1 The Chairman. Let's go to revenue sharing, and I think
2 everyone knows what it is--determination of the local
3 government revenue sharing program as of September 30, 1986.

4 It continues through that time. The program expires
5 then, anyway, if it is not reauthorized, but this would be
6 a specific recommendation from this committee that that be
7 the end of revenue sharing.

8 Senator Heinz. Mr. Chairman, I would like to be
9 recorded in the negative against this.

10 The Chairman. So would Senator Long. Comments?

11 (No response)

12 The Chairman. With those two exceptions, does anybody
13 else want to be noted?

14 Senator Moynihan. Mr. Chairman, the question is do
15 we want to be noted? Does silence indicate that we think
16 there ought to be an end to revenue sharing?

17 The Chairman. Yes.

18 Senator Moynihan. I would like to record myself as in
19 the negative. I would like to record myself in the negative.
20 This is a major measure, a large initiative of the
21 Republican Administration, participated in by a Democratic
22 one, and it is designed--it has the principal purpose of
23 the decentralization of activities in American Government.

24 The basic idea of Federalism. The same idea that led
25 some of us to insist on the maintenance of the deductibility

1 of State and local taxes.

2 If you have resort to the Federal Government, you will
3 have activities. After they run out of resources, they
4 will come to Washington, and here we go--I mean--
5 centralizing Government in ways that we have never seen.

6 Just as we have the largest Government we have ever
7 had until now, the largest debt, you are going to have the
8 largest demand because you are just starving local
9 governments and State governments' resources.

10 The Chairman. Further comments?

11 Senator Bentsen. Mr. Chairman, let me say that I have
12 been concerned with the phasing out of EDA, for example, and
13 revenue sharing at the same time.

14 And some of us are working along with Senator
15 Durenberger to try to find a way to better target it to
16 get to places of actual need.

17 We obviously have had some abuses in the past. And we
18 are trying to come in with a smaller, more refined program.

19 Senator Heinz. Mr. Chairman, in that regard, if I may,
20 I hope we can find something here because as I look over the
21 communities in my home State--Rochester, Pennsylvania;
22 McKeesport, Aliquippa, a lot of small steel towns, with
23 30, 35, 40 percent unemployment because the steel mills
24 have closed--about the only stable source of funding they
25 have had has been revenue sharing.

1 They are limited by the State taxing authority. They
2 can't increase their millage beyond certain limitations.
3 They have very limited means at their disposal.

4 One of our towns, McKeesport, is in really bad shape.
5 In even worse shape is Clareton, which is apparently going
6 to go bankrupt literally. If the State would allow it to
7 go bankrupt, it would.

8 That is being argued out; and we need to find some way
9 to have a much softer letdown of those kinds of communities
10 at the very minimum; and I hope we can find a way to do that
11 although I understand the handwriting is on the wall for the
12 revenue sharing program.

13 The Chairman. I talked with both the counties and the
14 cities when they saw this coming, and bear in mind it runs
15 out unless it is reauthorized--it is gone.

16 And the President has indicated he will veto an
17 extension in any event.

18 But I posed to them the alternative of would they
19 rather have it phase out at 50 percent a year but extended
20 for two years or have it run at 100 percent through the
21 end of next fiscal year?

22 And given those two alternatives, they would rather have
23 the full funding through September 30 of next year than half
24 funding through September for each of the next two years.

25 In terms of easing it out, I guess they thought they

1 would rather worry about where they get their revenues in
2 fiscal year 1987 than where they get half of them in 1986
3 and half of them in 1987. Bill?

4 Senator Bradley. Mr. Chairman, I would also like to
5 echo the sentiments of other people on the committee about
6 the threat that this kind of action poses to a kind of
7 Federalism that I think we think too infrequently about.
8 and about its importance.

9 I regret that. The first bill I managed in the Senate
10 was counter-cyclical revenue sharing, and so I hope Senator
11 Bentsen's suggestion of at least a more targetted program
12 that we keep in some way for the areas of serious depression
13 will be one that we will adopt and that we can, maybe on
14 the floor or at some other time, preserve the concept of
15 some Federal assistance for locally distressed governments.

16 The Chairman. At the moment, let me give you a very
17 specific reason why I hope the committee supports this,
18 however.

19 The authorization runs out the end of next September.
20 It is not going to be reauthorized.

21 The President is going to veto it if it is reauthorized
22 and the veto will be sustained.

23 If, however, we vote to terminate it here, this
24 committee gets credit for the revenues that are not extended,
25 and if we don't vote to terminate it, it is \$8.4 billion

1 worth of revenues we have to come up with elsewhere to meet
2 our spending totals--our spending cut totals.

3 Senator Matsunaga. Mr. Chairman?

4 The Chairman. Sparky?

5 Senator Matsunaga. I believe we ought to give the
6 counties especially a chance to adjust. Termination coming
7 at the end of this fiscal year wouldn't give the counties
8 a chance. For example, in Hawaii, the counties have no
9 power to tax.

10 There is a proposal now in the legislature to grant
11 that power to the counties. And then, until such a law is
12 passed, the counties and city, which gets direct aid under
13 this program, would not be able to adjust.

14 The Chairman. But you understand this runs until
15 September 30, 1986?

16 Senator Matsunaga. Yes, but this calls for termination
17 of the program at October 1, 1985.

18 The Chairman. That is a typing error. I am sorry.

19 Senator Matsunaga. Oh, a typo? I see. All right.

20 The Chairman. In fact, the payments run even after the
21 program runs out because they are paid quarterly.

22 Senator Matsunaga. I see. So, they would have at
23 least a year to adjust.

24 The Chairman. I apologize for that. Further comment?

25 (No response)

1 The Chairman. Without objection. Those recorded as
2 no will be reported as no.

3 Now, custom user fees.

4 Senator Chafee. Mr. Chairman, before you get to that,
5 could you outline what your plan is for the morning? Is it
6 to finish this packet?

7 The Chairman. Finish this, and I would like to move
8 on to Senator Danforth's trade package. I am not going to
9 take up debt ceiling unless Senator Armstrong comes, and
10 we would do that tomorrow.

11 And we also have all of the revenue provisions
12 tomorrow.

13 I want an explanation to the committee of the custom
14 user fees, and we have two other minor items.

15 The minor and technical amendments will come up today,
16 but in addition to that, there is a list of about 40 or 50
17 items that are revenue neutral; and what I would like to do
18 if the committee has no objection, because I think that 95
19 percent of them are without objection, is adopt them today,
20 subject to any one of them that a committee--these are not
21 the technical amendments; these are revenue neutral--subject
22 to any particular one that a member wants to bring up
23 tomorrow, rather than going through them seriatim today,
24 and to simply say that if you want to open it tomorrow, we
25 will consider all of those open.

1 We can do the technical ones now. The technical ones
2 today are not that same list of 60 or 70 items, is it? No.

3 You will find that list in the back of your sheets.
4 Isn't it? Yes.

5 Senator Heinz. Mr. Chairman, what are we doing about
6 those so-called minor and technical amendments?

7 The Chairman. The minor and technical ones we will do
8 today if we get to them.

9 There is another list of 60 or 70 that I don't know of
10 any objection to, and I would like to adopt them all today,
11 subject to opening any one up that anybody wants to tomorrow.

12 Senator Heinz. I have one that I would like to add
13 that I think will be noncontroversial.

14 The Chairman. For the moment, however, let's do the
15 custom user fees. Len?

16 Mr. Santos. Yes, Mr. Chairman. The Administration had
17 proposed a package of user fees that included assessments
18 on both commercial transactions, the entry of conveyances
19 and, in certain cases, certain special customs services.

20 That package amounted to approximately a reduction in
21 spending of \$500 million per year or a total of about
22 \$15 billion \$500 million over three years.

23 We have proposed a package of user fees that would
24 reduce spending by approximately \$990 million over three
25 years. It is a more limited list of fees.

1 Briefly, the fees would amount to a \$5.00 fee on any
2 passenger entering the United States by either aircraft or
3 vessel, other than those entering from adjacent countries,
4 such as Canada, Mexico, any territorial possession of the
5 United States, or adjacent islands which essentially refers
6 to the countries of the Caribbean.

7 There would be a \$1.00 fee assessed for persons
8 entering the United States, whether by air, by sea, or by
9 land from Mexico, Canada, and the Caribbean Islands, but
10 not on persons entering the United States from the
11 territories or insular possessions.

12 Senator Moynihan. Mr. Chairman, is it possible just to
13 ask for a clarification?

14 The Chairman. Yes.

15 Senator Moynihan. Mr. Santos, let me ask you. You are
16 reading this off very casually. Are you telling us that
17 a Canadian citizen who say crosses the Peace Bridge at
18 Niagara Falls and comes over in the afternoon at the end of
19 the day to meet at his Masonic Lodge or shop or whatever and
20 goes back, in the normal routine of crossing, that person
21 pays \$1.00?

22 Mr. Santos. Yes, I am, Senator.

23 Senator Moynihan. You are saying that people who--I
24 mean, Mexican citizens who cross at El Paso--

25 Senator Bentsen. I will take care of those, Senator.

1 Senator Moynihan. All right, sir.

2 (Laughter)

3 Senator Moynihan. I will stay north and you stay
4 south.

5 Senator Bentsen. You take care of Canada, and I will
6 take care of Mexico.

7 (Laughter)

8 Senator Moynihan. You are saying that in almost a
9 century and a half of what we have called unarmed borders,
10 that crosses the entire country with the most important
11 nation we have relationships with--as far as I am concerned,
12 which is Canada--that we are now going to tax that normal
13 traffic back and forth as between single cities?

14 I mean, those communities on the boundaries are often
15 in effect one community, with just a river in between, or
16 a lake or whatever. You are going to tax them?

17 Mr. Santos. Senator, the concept here is to charge
18 for the service they receive and --

19 Senator Moynihan. What service does a Canadian receive
20 coming over for a glass of beer at the end of the day after
21 working in an American plant on the Canadian side? What
22 does he get?

23 Mr. Santos. Well --

24 Senator Moynihan. They show a pass for it.

25 Mr. Santos. That is right.

1 Senator Moynihan. Does he show a pass for it?

2 Mr. Santos. I would assume there is monitoring of
3 these people as they come across the border.

4 Senator Moynihan. You assume. Do you know?

5 Mr. Santos. I know that in most cases there is. There
6 may be some places where it is --

7 Senator Moynihan. I haven't seen any monitoring. Do
8 Canadians have passports? No, they don't.

9 And what service do you provide them? You look at
10 them?

11 Mr. Santos. There is a Customs post at most borders.

12 Senator Moynihan. Yes, if you have anything to declare
13 when you come over here, but what if you just come across to
14 see a movie?

15 Mr. Santos. Senator, the concept here is that to the
16 extent that Customs has to monitor, whether they ask for
17 passports or otherwise, they are present on the border.
18 They have a cost incurred --

19 Senator Moynihan. You are going to put up a barrier
20 between the people of Canada and the people of the United
21 States, and you don't know if there is a passport, you don't
22 know what the service is.

23 You are not doing anything but raising taxes without
24 calling it taxes, and we know what it is. We have had four
25 years of it up until now.

1 The Chairman. How much does the dollar raise on the
2 daily commuters?

3 Mr. Santos. Senator, we have no figures on those who
4 are commuters, as opposed to those who cross the border for
5 other purposes. So, it is impossible to segregate the two.

6 Senator Bentsen. Mr. Chairman?

7 The Chairman. Senator Bentsen?

8 Senator Bentsen. Let me say I strongly object to this
9 approach, when you are talking about millions of people
10 crossing.

11 When you take a look, with all due respect to Kennedy
12 Airport, the number of people that come in at Kennedy
13 Airport as compared to the number of people that cross at
14 Laredo, Texas, and there is no comparison.

15 And what you are seeing along that whole Mexican border
16 is a devastating impact because of the devaluation of the
17 peso, and trade has been very severely impacted.

18 Now, to say that we are going to levy a head tax of
19 \$1.00 for each one of them coming across that border, that
20 is a lot of chips to those folks coming across.

21 The Chairman. How much is the total amount of money
22 involved? People coming across the borders and all of it?

23 Mr. Santos. Senator, according to the Congressional
24 Budget Office, there are approximately 72 million entries if
25 you don't count vehicles as more than one entry, even though

1 they may have more than one person in them.

2 So, if you count the number of vehicles entering or
3 persons walking across the border otherwise, it is about
4 72 million entries a year, so at \$1.00 --

5 The Chairman. Is that \$72 million?

6 Mr. Santos. \$72 million.

7 The Chairman. Senator Danforth?

8 Senator Danforth. I was just going to suggest that we
9 consider excluding anybody who arrives on foot or on bike or
10 by car.

11 Senator Bentsen. Well, you have got buses, too, that
12 are coming across.

13 Senator Danforth. I mean, why not exclude everybody
14 who comes in just driving or walking across the border, as
15 opposed to people who arrive on ships or planes?

16 Senator Bentsen. I would listen to that one, but what
17 you are seeing is that we will lose a lot more in the way
18 of trade and revenue from trade and taxes collected from
19 trade than we will ever pick up at \$1.00 a head tax.

20 Senator Moynihan. Mr. Chairman, I would just like to
21 make a further proposal. We would lose a century of efforts
22 to keep those borders open and undefended and something
23 singular in the world. They are important. I mean, the
24 world is going to catch up with us someplace in Europe now,
25 but that northern border of ours and that southern border of

1 ours are places where we are neighbors. We trust each other
2 and we walk back and forth and shop.

3 The Chairman. Let me do this. Let me pull this item
4 today. Let me get a better estimate on the cost, and see
5 if I can find some other place to get it, if it is \$72
6 million.

7 And put it on the agenda tomorrow with the one other
8 spending item we have, which is the surgical second opinion
9 that Senator Durenberger wants to talk about.

10 Senator Bentsen. Why don't you put it on every illegal
11 coming into the country? You would collect a lot more money
12 that way.

13 (Laughter)

14 The Chairman. If there is no objection, we will carry
15 that over until tomorrow.

16
17
18 (CONTINUED ON NEXT PAGE)

1 Senator Heinz. Mr. Chairman, you are going to put the
2 second opinion over until tomorrow?

3 The Chairman. Well, if Dave gets here today. But I
4 indicated a promise to him that he would be here to be able
5 to offer it. And if he comes in today, that's fine; but I
6 don't know if he is coming today.

7 Let's do the Aid to Dependent Children.

8 Ms. Olson. Senator, this is a proposal that deals with
9 the quality control system in the AFDC program. We propose
10 a two-year moratorium on the imposition of fiscal sanctions
11 and a study to be developed by the National Academy of Science
12 and the Secretary of HHS on the quality control system and
13 recommendations for change.

14 The Chairman. This was the proposal that Senator Evans
15 and any number of other had, the objections that the states
16 had to the quality control program. I think it is a good
17 amendment and I think we ought to adopt it.

18 Without objection, let's do the minor and technical
19 amendments.

20 Senator Bentsen?

21 Senator Bentsen. I have an amendment to help foreign
22 adoption assistance. This is one that the provision now
23 requires the state in which the special-needs child resides --
24 I would change it to that, rather than "the state in which the
25 adoption assistance program was entered into" to provide the

1 Medicaid coverage. It's a minimal cost. I would like to have
2 the comments of the staff concerning it.

3 Ms. Olson. This proposal is also contained in the
4 Administration bill on foster care and adoption assistance. I
5 know of no objections.

6 The Chairman. Is there objection?

7 (No response)

8 The Chairman. Without objection.

9 Senator Heinz. Mr. Chairman, I have an amendment related
10 to the automation of AFDC systems that is different than the
11 one I discussed with the staff during our hearing. Basically,
12 the amendment would require that states which draw down the
13 90-percent federal assistance to develop AFDC automation but
14 fail to implement the system by the time the state itself
15 sets a deadline, that they have to repay a portion of its
16 incentive; that is to say, the difference between the 90
17 percent they get and the 50 percent that they would normally
18 get of the federal match, repay that to the federal treasury.
19 And the purpose is not to restrict the states in the use of
20 incentive funding but to try to make sure we get something for
21 the extra incentive funding that we are paying. And I would
22 like to ask the staff -- that amendment would allow the
23 Secretary of HHS to allow states which have some slippage
24 which was unavoidable to avoid that particular penalty.

25 Do you know of any problems to that amendment? Is there

1 any objection to it?

2 Ms. Olson. I understand it only affects funds drawn down
3 in the future, and there is no objection.

4 Senator Heinz. That is correct.

5 The Chairman. Is there objection?

6 (No response)

7 The Chairman. Without objection.

8 Senator Bentsen. Mr. Chairman, I would like to ask
9 Ms. Olson, on the second part of that amendment, on the
10 elimination of token payment of adoption assistance in order
11 for a child to continue to receive Medicaid coverage, does
12 the Administration see any problem in that?

13 Ms. Olson. I don't believe there is an Administration
14 objection to the token payment provision, no.

15 Senator Bentsen. I would urge the adoption of that part
16 of the amendment.

17 The Chairman. Is there objection?

18 (No response)

19 The Chairman. Without objection.

20 Senator Moynihan. Mr. Chairman, could I ask Senator
21 Bentsen if he was proposing to raise the third measure, which
22 is to establish Medicaid eligibility for an adopted child at
23 the time of adoption, as against the time of an interlocutory
24 decree or a final? There are states where this takes as long
25 as a year or more.

1 Senator Bentsen. I would say to the distinguished
2 Senator from New York, I was deferring to him in that regard.

3 Senator Moynihan. Well, then, could I ask Ms. Olson?

4 The Chairman. Bear in mind, Ms. Olson doesn't speak for
5 the Administration; she works with the committee.

6 Senator Moynihan. Right.

7 The Chairman. No objection? You have no objection from
8 the Administration.

9 Senator Moynihan. We have no objection from the
10 Administration? Hmm, I'll have to think about that.

11 (Laughter)

12 Senator Moynihan. I think this is sensible, the height
13 of sensible measures, Mr. Chairman. But at this point,
14 Mr. Chairman, the states sometimes put children in foster care
15 when in fact they are in the process of being adopted.

16 The Chairman. Without objection.

17 Senator Bentsen. Mr. Chairman, I want to be sure. We
18 had an extension of a long-term care waiver in the Texas
19 situation, where we had some 3200 elderly people in Texas in
20 nursing homes. And unless that extension is carried out, they
21 would have to be moved into intensive care situations and at
22 a substantially increased cost. And I want to be sure that
23 the effective date was a three-year extension beginning at the
24 expiration of the current waiver, which is January 1st, 1986.

25 The Chairman. Can someone respond to that?

1 Mr. Mihalski. Yes, Senator.

2 The proposal that we have in the non-spender item is back
3 in pages 7, 8, and 9 of the staff package and has an effective
4 date of October 1 or 1985, but we can very well change that to
5 January 1 of 1986.

6 Senator Bentsen. That means I want it done, if the
7 committee will go along with that.

8 The Chairman. Is there an objection?

9 (No response)

10 The Chairman. Without objection, then.

11 George, I understand you have a statement on the
12 dollar border crossing. I would appreciate it, if you
13 wouldn't mind putting it in the record; although, we are
14 going to consider the issue tomorrow. I put off that Custom
15 issue until tomorrow, the reason being I would like to get to
16 Senator Danforth's trade bill today, if I can.

17 Senator Mitchell. Thank you, Mr. Chairman. I had to be
18 over on the floor on the Superfund Bill. I would just like to
19 have it put in the record, expressing my opposition to the
20 provision.

21 The Chairman. I appreciate it.

22 Senator Mitchell. Thank you.

23 The Chairman. You will find in the back of your package
24 about 35 items entitled "Outlay Options Without Budget
25 Impact." I know of no objection to them, but these are the

1 issues that I suggested that we adopt and bank, and then if
2 there is any objection to any of them, we will consider them
3 tomorrow, rather than just going through them seri adem and
4 taking up 45 minutes with what I think are no objections.

5 Senator Heinz. Mr. Chairman, I have no objections, but
6 I would like to commend the committee and the chairman for
7 the inclusion of certain of these such as the delay and the
8 downgrading of home health care reimbursement, the inclusion
9 of the provision on home health care waiver of liability.
10 You have eliminated the sunset from hospice, and made the
11 reimbursement rate more in line with actual costs.

12 From what I have seen, it is an excellent package and
13 does a lot of good things. I commend the Chairman.

14 The Chairman. I appreciate that very much, and if there
15 is no objection --

16 Senator Boren. Mr. Chairman, could I just ask one brief
17 question on one item?

18 The Chairman. Yes.

19 Senator Boren. I gather we are dealing with the item
20 including that on page 9 -- is that correct? -- on the
21 clarification of Medicaid moratorium, which is item 12 on page
22 9. Is that included in this?

23 The Chairman. That is correct.

24 Senator Boren. Well, let me just ask. We are having a
25 problem now in terms of the regulations on the forced sale of

1 residences when people go into nursing homes, and what is a
2 reasonable period of time, under the regulations now.

3 We have generally, and I think this is true in other
4 states, tried to give a few months, maybe as long as a year
5 for a person that has moved into a nursing home but still
6 holds out hope that they will be going back to their
7 residence someday. And I think that some of the states are
8 now being pushed that, if they don't make a person sell a
9 house within 30 to 60 days after going into a nursing home,
10 that they are going to have that charged against them as
11 not adequately enforcing the regulations.

12 That can be very cruel under certain conditions. There
13 are also real estate conditions where people just can't
14 immediately sell a house. I worry that we might end up with
15 all sorts of -- if we force that too quickly -- back-door
16 arrangements where we may even have nursing home operators
17 in the real estate business before we know it.

18 I think we don't want to be cruel about this situation
19 and deprive someone of all hope immediately who might think
20 there is still a chance they might return. After a few months
21 in the nursing home, they can determine if they are going to
22 be there permanently and not have to go back to their home.

23 Can this be covered as a portion of this moratorium so
24 that we can deal with this situation?

25 Mr. Mihalski. Yes, sir; we believe we can modify the

1 language to allow a reasonable time for the disposal of those
2 assets.

3 Senator Boren. I would appreciate it if we could do that.

4 The Chairman. Let us now move on to Senator Danforth.

5 Senator Long. Mr. Chairman, there is one item in this
6 group that I should object to, and that is this matter that
7 has to do with the hospice, on item number 11.

8 My understanding is that under current law this matter
9 would terminate on October 1, 1986. And there is a report
10 due to evaluate this service. I am told that the report will
11 not be completed until January 1, 1988. I have no objection
12 to continuing the program until 1988 or 1989, until the
13 Department can have their report in; but it seems to me that
14 we ought to know what their study showed before we expand
15 the program.

16 Now, my understanding also is that the HHS opposes this
17 proposal, I would like to ask, what is their position on
18 that?

19 Mr. Mihalski. The Administration position, as far as I
20 know, sir, is to oppose making it a permanent provision at
21 this time, but simply to extend it.

22 We did go with making it permanent, because when the
23 report is issued we will have the report before us at that
24 time, and can, even though the provision is permanent, modify
25 the program if we need to.

1 Senator Long. Well, it seems to me that that is what
2 we ought to do. I mean, I don't know why we have to rush
3 ahead to make all of this permanent. And I think this
4 proposal increases the cost, does it not?

5 Mr. Mihalski. No, sir, actually the proposal saves
6 money, but the small savings are used to increase the hospice
7 rates.

8 Senator Heinz. Mr. Chairman?

9 The Chairman. Yes.

10 Senator Heinz. I would like to argue for the provision
11 in the Chairman's proposal.

12 The Chairman. John, let me interrupt a second, because
13 Russell wasn't here.

14 I would like, if there are any comments about any of
15 these items that you are looking at, to consider them in the
16 morning. There are about 40 items there, and I don't think
17 there are objections to more than two or three. So that we
18 can finish Senator Danforth's trade provision. And those
19 particular items are now closed. We can take them in the
20 morning and it will give -- to the extent anybody has any
21 questions -- the staff a chance to look at them and me a
22 chance to look at them. But I would rather not consider them
23 this morning. And all of those items will not be considered
24 as finally adopted until tomorrow.

25 Senator Heinz. Mr. Chairman, before we go on to

1 Senator Danforth's, have we considered the technical
2 amendments yet?

3 The Chairman. Yes.

4 Senator Heinz. We did?

5 Ms. Olson. We have not taken up the minor and technical
6 Social Security changes.

7 The Chairman. Excuse me; I apologize. I thought we
8 did.

9 Senator Moynihan. Mr. Chairman, not wishing to delay
10 Senator Danforth, I have a very brief amendment on foster
11 care, which is what we have been dealing with here, and which
12 I have written each member of the committee about.

13 I can't imagine it taking much time, if the committee
14 is disposed one way or the other. I wondered if we could?
15 I don't know when we would get back to it.

16 The Chairman. Well, why don't you go ahead and do it
17 now as long as it is in this --

18 Senator Moynihan. Senator Danforth, is that agreeable
19 to you?

20 Senator Danforth. I am at the Chairman's disposal.

21 Senator Moynihan. This, members of the committee, I
22 tell you is a simple proposal about which I have written you.
23 It provides \$50 million, two years running, apportioned
24 among the states in accordance with their number of foster
25 care children, to see if some method can't be developed for a

1 transition into some kind of independent successful living
2 arrangements for children who age out of the foster care
3 system. Any time after 16, in various circumstances, you are
4 no longer eligible for foster care. And there you are, age
5 17, on your own in San Antonio or Louisiana or New York or
6 Los Angeles, and they just say, "Fine," you know, "you're on
7 your own."

8 It doesn't work. First of all, may I say that the
9 number of children in foster care and such like is growing
10 in recent years, and we begin to find how very difficult that
11 transition is, as you suddenly are on your own with no
12 family and no arrangements for you.

13 I give you two specific studies that have been made of
14 this, Mr. Chairman. In New York City a study was made just a
15 little while ago which established that, of children who age
16 out of foster care, within 18 months a third of them are back
17 on welfare assistance -- a third.

18 A study in California provided really chilling evidence
19 of the kind of problem foster care ends up with. Susan Gambini
20 of the Child Enforcement Care Parents Association from
21 California testified for Ways and Means and cited that the
22 California study indicated that two-thirds of the inmates of
23 the state prison system in California had been foster children.

24 So I ask if the members of the committee might just hear
25 me on that. In California they have a study that indicates

1 that two-thirds of the children in the state prison system
2 were previously in foster care.

3 Yes. It is unbelievable, said Senator Bradley.

4 We have a study just made in New York City that says
5 within 18 months of leaving foster care, a third of the sample
6 was back on welfare in some form or another, typically the
7 teenage mother.

8 I don't know that we know how to deal with this
9 situation, but certainly people are willing to try, and the
10 proposal would provide about, in effect, \$2000 or \$2500 per
11 child aging out, per year, two years, for those states who
12 wanted to try to get their share of this money. And it seems
13 to me, if you contemplate the fact that leaving them to
14 themselves, a third are back on welfare anyway, and in a much
15 more grievous way -- an adult on welfare, or a quasi-adult.
16 Whether a 17-year-old is an "adult" I don't know, but you
17 can get on it. Or in prison. I mean, you are involved with
18 obviously huge social costs, and this may be a way to help.

19 The Chairman. Pat, what is the cost; do you know?

20 Senator Moynihan. We propose the cost be whatever we
21 want to make it, sir. We are proposing try a pilot program
22 for two years at \$50 million each year, to be apportioned
23 among the states according to their portion of foster care
24 children.

25 We begin to have court orders around the country, Mr.

1 Chairman, that say you just can't tell a 17-year-old kid,
2 "Okay, it's all over; you're on your own now. Go out and find
3 a job, get a house; that's fine."

4 The Chairman. Ms. Stagg, do you have comments?

5 Ms. Stagg. Yes, I do.

6 First of all, the number of foster care children has
7 declined over the last five or six years -- I think in part
8 due to the permanency planning and preplacement provisions of
9 96-272. So that is good. There are still a lot of children
10 in foster care, about 100,000, and a lot of those are older
11 children, what we would say 15 to 18 years of age.

12 We have supported and do believe there should be training,
13 education, materials, for those foster children and the
14 parents in terms of transition to independent living or
15 self-sufficiency, and have invested resources in that from
16 discretionary funds with great success. So, we have some
17 models of how that can work.

18 Educational programs, networking, small group arrangements
19 ongoing over the last two or three years the child is in
20 foster care do work.

21 However, we have done that with discretionary funds at
22 a cost of approximately \$4-5 million over the last three or
23 four years. Our estimate of what it would take to do that I
24 believe is a lower cost figure than has been proposed, by
25 quite a bit.

1 There were 18,000 children in foster care at the age of
2 18 in 1984. Our cost estimate is that a year-long program
3 for those children could cost \$120 per child, and at 18,000
4 for 1984, the last year for which we have the figures, that
5 would be a cost of about \$2.16 million for a training and
6 education program to transition them to independence. We have
7 done that with discretionary funds for the past four or five
8 years.

9 Senator Moynihan. Could I ask, then, what did you say
10 the annual cost would be per child? -

11 Ms. Stagg. Looking at some of the models that we have
12 already developed -- these are models for educational
13 programs that last for a year -- \$120.

14 Senator Moynihan. A hundred and twenty dollars a year
15 per child? I see.

16 Ms. Stagg. And we do have some of the training materials
17 developed now.

18 Senator Moynihan. One is not surprised that we have a
19 study made nationally of the homeless youth. About 35 percent
20 of the homeless youth in the country had been in foster care.

21 Imaging putting your own kids on the streets at 17 and
22 saying, "Okay, you're on your own now. You have no family,
23 you have no friends, you have no job. But you'll find one.
24 You'll find a house. You'll make it." They need to be taken
25 into this? A hundred and twenty dollars a year can't do it.

1 If the committee wants to discuss the matter, this is an
2 efficacy, whether we can do something which maybe we can't do;
3 but we won't know if we don't try.

4 The Chairman. Comments?

5 Senator Chafee. Well, Mr. Chairman, I think that what
6 Senator Moynihan is discussing here is extremely important.
7 I must say, I am bewildered by the statistics. What can you
8 do for \$120? You can't do anything for \$120, can you?
9 A hundred and twenty dollars a year does what?

10 Ms. Stagg. Well, I could explain, briefly.

11 The kinds of programs that we have tested in a couple of
12 dozen locations -- and remember that a foster care child,
13 until they are 18, usually is in the foster home and going to
14 high school, and would therefore benefit from the independent
15 living programs in high school and from the care and the
16 training that they receive from their foster parents.

17 They are not unlike many other youths when they become
18 18, in that they reach the age of majority, and many young
19 people are out on their own, making their own living and
20 establishing their own household.

21 What we can do is special programs which we have tested
22 to give them training in job seeking skills, managing a home,
23 budgeting, health and nutrition, and those kinds of
24 informational things that will enable them to function
25 independently as we hope most 18-year-olds could do when they

1 find themselves on their own.

2 And we also encourage them to maintain their contacts
3 with their foster families or their biological parents if at
4 all possible.

5 So, there are many things that we can do that are not
6 high-cost items; and many of these training materials are
7 already developed by these models.

8 Senator Heinz. What is the average number, for want of
9 a better term, of children of a foster home or a foster parent
10 that you described? Aren't these often group facilities?

11 Ms. Stagg. In some cases they are residential group
12 facilities, that is true.

13 Senator Heinz. Of 5, 10, 15, and when somebody moves
14 out others move in? And isn't it possible that a so-called
15 foster parent may have 40 or 50 or 60 children, by your
16 definition?

17 Ms. Stagg. I think that the number of children in a
18 foster home varies from state to state. There are certainly
19 some children who are not able to live in a home with parents
20 and other children, who are institutions, and some of these
21 services may be particularly appropriate for them.

22 I don't think the average foster parent would have 40 or
23 50 children in their lifetime of raising children.

24 Senator Heinz. I am asking the question, what is the
25 average?

1 Ms. Stagg. I would have to get that answer for you. I
2 don't know.

3 The Chairman. Let me ask this: If we lose the
4 \$72 million on the Customs, and if this costs as much as I
5 think it is going to cost, and I think it is more than \$120
6 per child -- I would be surprised --

7 Senator Moynihan. The proposal is \$50 million.

8 The Chairman. -- we are going to be below our figure.
9 So, I am going to ask once. And I have just got to stay
10 above that figure or we are all going to be in trouble. So,
11 I am going to ask that this be put off until tomorrow, also.
12 We have three items for tomorrow, and we will all be better
13 prepared on this than we are now, where we are arguing
14 whether they are amorphous figures, and people are wondering,
15 "One hundred and twenty dollars? How can you do that?" And
16 you are about 50.

17 I promised Senator Danforth he could have his provision,
18 and I saw Senator Armstrong here a moment ago.

19 Did he object to the debt duty?

20 Senator Long. I can report on that, Mr. Chairman.

21 As I understand it, your proposal -- is that thing in
22 the committee right now?

23 The Chairman. Yes.

24 Senator Long. So, you are proposing to report out as it
25 stands.

1 The Chairman. Just as we have it.

2 Senator Long. He is willing to go along with that, with
3 the understanding that he wants to offer an amendment on the
4 floor that has to do with the spending limitation. And I
5 intend to support and probably cosponsor the amendment.

6 Now, in view of the fact that the amendment is not within
7 the jurisdiction of the committee, we would just as soon
8 offer the amendment on the floor rather than offer it here.

9 I do want to ask, in reporting it, that the Treasury be
10 asked to furnish us a series of charts that I have asked for
11 from time to time that they made a part of the record. It
12 shows both the growth of the debt, and it shows the debt and
13 interest as compared to various royalty factors. I think it
14 is enlightening to have that information, and the Treasury
15 prepared it. I just would like to ask that they update it and
16 make it available and that that be made a part of the report.

17 The Chairman. I can assure you that you will have it
18 from the Treasury.

19 Is there objection to reporting the debt ceiling out?

20 (No response)

21 The Chairman. Without objection.

22 Senator Baucus?

23 Senator Baucus. Thank you, Mr. Chairman. I have a very
24 technical bookkeeping amendment to the unemployment insurance
25 program.

1 The Chairman. We are doing unemployment tomorrow.

2 Senator Baucus. All right. Fine.

3 The Chairman. Senator Danforth?

4 Senator Danforth. Mr. Chairman, thank you very much.

5 The Telecommunications Trade Bill is the bill that
6 Senator Bentsen and I, especially, have been working on now
7 for I guess the better part of two years, that has a number
8 of cosponsors on the Finance Committee -- Senator Heinz,
9 Senator Grassley, Senator Long, Senator Baucus, Senator Boren,
10 Senator Mitchell, in addition to Senator Bentsen and I.

11 The theory of the bill is this: Telecommunications
12 trade is clearly an area where the United States has or should
13 have the opportunity of selling state-of-the-art equipment
14 on an international market. So, when we talk about the trade
15 deficit and think about what to do about it, maximizing our
16 ability to sell telecommunications equipment on an
17 international market is a way to hopefully reduce the trade
18 deficit without erecting trade barriers of our own.

19 The problem is that, with the divestiture of AT&T, the
20 result of AT&T diversiture is that the Bell operating
21 companies are now fair game to anybody in the world.
22 Previously, the Bell operating companies had been a captive
23 customer of Western Electric, but it is not so anymore, and
24 other countries are free to come in and in fact are coming
25 in and selling what they have to the Bell operating companies.

1 By contrast, the telecommunications markets of other
2 countries are characteristically closed. And everybody knows
3 the difficulty we have had with respect to Japan. We thought
4 we had an agreement relating to the sale of telecommunications
5 equipment to NTT. It didn't prove out to be what we hoped
6 it would be. Other countries, we have no agreement at all,
7 and no sales at all.

8 So, the theory of this bill is to attempt to pry open
9 the telecommunications markets of other countries. The way
10 it does that is to provide the President with three years of
11 negotiating authority and fast-track authority to come back
12 to the Congress with enabling legislation to open up
13 telecommunications markets.

14 It also gives the USTR a six-month study time to analyze
15 the barriers to telecommunications trade. It gives the USTR
16 an additional 30 days after that six-month period expires to
17 use offsetting measures for unfair trade practices for
18 countries that discriminate against American telecommunications
19 products where there is already an bilateral agreement with
20 that country to sell in that market. There is one such
21 country, and that is Japan.

22 With respect to the rest of the world, it provides
23 18 months for the USTR to negotiate with other countries to
24 provide access for U.S. telecommunications equipment. And if
25 at the end of 18 months we have not gained substantially

1 equivalent opportunities to sell in the markets of other
2 countries, then the President is instructed to offset the
3 barriers.

4 So, that is the thrust of the bill. This has been a very
5 long process of negotiating the details, and there are a
6 number of amendments to the bill which I think Len knows
7 about. Why don't you give any further explanation or amend
8 any mistakes I made in my presentation, and then state,
9 hopefully quickly, what the amendments are?

10 Mr. Santos. Thank you, Senator.

11 One correction I would make, and it is something that
12 is reflected in one of the amendments. The bill now provides
13 the President with up to two years to enter into agreements
14 with other countries, opening their markets.

15 One of the amendments you are proposing would reduce
16 that two years to 18 months, in effect giving the President
17 one year beyond the conclusion of the USTR study that is
18 required under the Act.

19 So, that would be one of the amendments you are proposing.
20 In addition, you are proposing a number of other ones.

21 Senator Bradley. Mr. Chairman, how would you like to
22 proceed? Should we let him propose and discuss all of the
23 amendments and then we discuss them, or should we do it on an
24 amendment-by-amendment basis?

25 Senator Danforth. How long would it take you to run

1 through, quickly, what the salient points are?

2 Mr. Santos. I would say not more than five minutes.

3 Senator Danforth. Is that all right? Because my hope
4 would be to offer these in block.

5 Mr. Santos. Shall I proceed?

6 The Chairman. Yes.

7 Mr. Santos. I will go through this in the manner in
8 which they arise in the bill, section by section, making
9 references to the sections.

10 The first series of amendments are amendments to the
11 findings in the bill. These include amendments to section
12 2(A)(3) which would indicate that most foreign
13 telecommunications markets are closed to U.S. exports and
14 that adversely affects U.S. exports in telecommunications
15 products;

16 Amendment 2(A)(4), which would indicate that the
17 discriminatory practices in foreign countries have already
18 resulted in the loss of jobs and will continue to have that
19 effect;

20 An amendment to the investigation of foreign barrier
21 section 101 would delete the reference to United States
22 subsidiaries; that is, there are a number of references
23 throughout the investigation section and the objective
24 section which require that the United States Trade
25 Representative look at exports not only from U.S. firms but

1 from their subsidiaries, wherever they may be located. And
2 that reference to subsidiary is being deleted in all of the
3 references in section 101 where there needs to be an
4 investigation of foreign trade barriers, in the factors to be
5 taken into account, and in the objective section. So the
6 measure will be limited simply to exports from the United
7 States and would not include activities by U.S. subsidiaries
8 in other countries.

9 In addition, there would be amendments to section 101(B),
10 which would require that in making the study the United
11 States Trade Representative obtain the advice of the
12 International Trade Commission. In section 101(B) also,
13 there would be a deletion of the current references to sales
14 of telecommunications equipment, and that would be replaced by
15 a reference to U.S. exports of telecommunications equipment.
16 Again, this is inconsistent with this desire to make the
17 measure exports from the United States as opposed to sales
18 by American firms and their subsidiaries overseas.

19 One of the measures in the bill, in terms of taking
20 account of the factors that represent barriers, is trade
21 flows; that is, if one could normally expect that there would
22 be trade or exports in a particular product, given the
23 competitive posture of that product, and there is no such
24 trade in that product, that would be treated as presumptive
25 as opposed to dispositive evidence that there are foreign

1 barriers.

2 In section 102(A) of the bill -- this is the section that
3 sets the negotiating objectives for the President in
4 negotiating the opening of foreign markets -- one of the
5 objectives that would be added to the existing objectives in
6 section 102(A)(2) is the enhancement of employment
7 opportunities in the telecommunications industry, in the
8 U.S. telecommunications industry.

9 Again, in the negotiating objectives of section 102,
10 the President would be directed to seek inclusion of
11 telecommunications within the coverage of the Government
12 Procurement Code, which is negotiated under the auspices of
13 the General Agreements on Tariffs and Trade.

14 In addition, he would seek to obtain equipment
15 standards and procedures, which would include the acceptance
16 of test data -- that is not now specified -- and that the
17 minimum standard and procedure is necessary to prevent harm
18 to the telecommunications network. This has been particularly
19 relevant recently in the case of the Japanese negotiations,
20 where the standards were many and the negotiators try to
21 insist on this standard being the minimum standard.

22 I made reference already to the two-year limitation on
23 Presidential negotiating agreements. That is being reduced
24 to 18 months instead of two years.

25 Also, the Congress is given authority -- this is now in

1 section 102(B)(2) -- is given authority to approve of the
2 agreements negotiated by the President, pursuant to the
3 fast-track procedures incorporated in section 102 and 151
4 of the Trade Act of 1974.

5 The United States Trade Representative, under the bill as
6 it now stands, is required to conduct annual reviews on the
7 anniversary of the conclusion of the first six-month's study.
8 Those reviews are to be submitted now, pursuant to this
9 amendment, to the relevant Congressional committees.

10 The United States Trade Representative, under the bill
11 as it now stands, is required to conduct these reviews and
12 take actions pursuant to whatever findings he may come to
13 under these studies; that is, if he finds that there are
14 barriers to the U.S. telecommunications exports, he is to
15 take actions based on those findings.

16 There is an amendment to section 103 which specifies
17 that this does not preclude the President or a private party
18 from self-initiating a section 301 case; that is, in addition
19 to what is now provided by the bill.

20 In section 202 of the bill, which provides for
21 compensation authority for the President or the United Trade
22 Representative -- that is, it gives, under the bill,
23 authority for the President or the United States Trade
24 Representative to compensate U.S. trading partners who may be
25 affected by the actions that the President or the USTR take

1 under the bill -- there is an amendment which provides that
2 compensating authority, which may be required if retaliation
3 is found to be in violation of international agreements, is
4 authorized under the bill.

5 Finally, the two final amendments would specify that
6 nothing in the Act would be construed to require Presidential
7 actions that would be in violation of international legal
8 obligations of the United States; and, furthermore, a
9 separate amendment would specify that nothing in the Act would
10 preclude that actions taken by the President, either in the
11 form of offsets to foreign trade barriers or retaliation
12 against foreign trade barriers, would be on a non-MFN basis.

13 Senator Danforth. With respect to the last point or the
14 second to last point on the GATT legality, the intention of
15 this bill is to be GATT-legal, isn't that correct?

16 Mr. Santos. That is the intention, I believe, Senator.
17 This amendment would simply indicate that the bill does not
18 require actions to be in violation of international legal
19 obligations; it would not require that they be consistent with
20 international legal obligations.

21 Senator Danforth. But the intention of the bill is to be
22 consistent?

23 Mr. Santos. I believe that is correct, Senator.

24 The Chairman. Comments?

25 Senator Moynihan. Mr. Chairman?

1 The Chairman. Senator Moynihan.

2 Senator Moynihan. I just wanted to make the point that
3 Senator Danforth has made, which is that the object of this
4 measure is to advance American trade interests in a manner
5 that is consistent with the GATT, is provided for in the
6 GATT, the General Agreement.

7 If I could just make a side remark, I think the
8 decision a few years ago to break up the American Telephone
9 System such that our system became open to imports from
10 around the world without every requiring any comparable
11 openings from other nations was perhaps one of the great
12 blunders of our history.

13 Had we a better system for making trade policy, perhaps
14 if we had a Department of Trade, we would have thought about
15 that before we proceeded; but we didn't. And you see the
16 consequences.

17 I think Senator Danforth has been very responsible and
18 moderate in what he proposes. I certainly propose to support
19 him, and I do have to note that -- and there are people in
20 the audience listening, and I hope they hear us again -- once
21 again we have negotiated an agreement with the Japanese and
22 we have nothing to show for it. Was that the Chairman's view?

23 Senator Danforth. We have very little to show for it.

24 Senator Moynihan. Very little to show for it.

25 Senator Danforth. And that is the intention of this, to

1 say, "Okay, we have an agreement, let's make sure it will
2 work."

3 Senator Moynihan. Yes, but we ought to be able to reach
4 agreements with that nation and have results.

5 Senator Danforth. Well, we have an agreement. The fact
6 is that it hasn't borne fruit.

7 But I think it is very important to note that this bill
8 is not aimed at one country; this bill is aimed at the fact,
9 as you pointed out, that the effect of ATT divestiture was
10 the unilateral trade concession, which was a very significant
11 unilateral trade concession.

12 And when you are running deficits the size that we are,
13 we can't afford to make unilateral concessions, and
14 particularly in that area where we are in the state-of-the-art.

15 The Chairman. Comments?

16 Senator Bradley?

17 Senator Bradley. I wondered if, and I have spoken to
18 Senator Danforth about this, if in this list of amendments I
19 could add one that would simply make very specific in the
20 findings that this bill is being done in response to the
21 divestiture issue, and that it does not represent a change in
22 longstanding trade policy to avoid legislating specific
23 sectoral priorities.

24 If we could do that. And it has been said by everyone
25 who has spoken that the reason this bill is before us is

1 because divestiture occurred without thought being given to
2 its trade effects.

3 And I would like to make sure that we state that
4 explicitly in the findings, as opposed to having it be
5 construed that there will now be 35 other sectors that will
6 be dealt with by the Finance Committee.

7 Senator Danforth. Mr. Chairman, I think that is a good
8 suggestion, and that it would be an improvement in the bill
9 to note the findings, that this really is a response to
10 telephone deregulation and ATT divestiture.

11 And if it would be appropriate, if we could report the
12 bill out and then negotiate the terms of that language --

13 Senator Bradley. I have the language right here if you
14 want to see it. I will pass it around.

15 The Chairman. It doesn't even have to be in the bill or
16 the record, but I might to call to the committee's attention:
17 When the Senate voted for a restructuring of AT&T, we did not
18 break up AT&T. We had them deal with the Western Electric
19 and Bell Labs at arms' length, but we did not break up the
20 affiliates from the parent.

21 Senator Long. Mr. Chairman, I would like to ask a
22 question or two and then make a statement.

23 First, let me get this straight: What all are you
24 talking about in "telecommunications equipment"? What does
25 all this mean -- telephones, and what else?

1 Mr. Santos. It would mean transmission equipment,
2 switching equipment is a major item.

3 Senator Long. It includes telephones, I take it.

4 Mr. Santos. It does.

5 Senator Long. And these newer things where you see the
6 person, and all that? Is that all included in there?

7 Mr. Santos. I believe the tariff classifications do
8 cover that, Senator, but I would have to check.

9 Senator Long. I would just like to know what all the
10 bill covers in "communications equipment."

11 Mr. Santos. Yes. It is essentially the transmission
12 equipment, the equipment that you would normally find in a
13 home to deal with telephones. The transmission equipment,
14 the switching equipment; in effect, the network that
15 involves telecommunications.

16 Senator Long. Let me tell you the problem that I am
17 concerned about, and I am saying this as a cosponsor. Was
18 I listed as a cosponsor here?

19 Senator Danforth. Yes.

20 Senator Long. Let me tell you the problem I am concerned
21 about. I became more and more aware of this as I took a trip
22 this year and talked to some people overseas.

23 In Shreveport, Louisiana, we just lost about 1600 jobs.
24 They found that they could make telephones more cheaply by
25 making them in Singapore. They are estimating up there about

1 \$1.60 an hour, and they are estimating that their labor costs,
2 when you include the fringe benefits and the Social Security
3 tax and things like that, that their costs for labor would
4 be seven times as much in the United States as it is to do
5 that in Singapore. And that is assuming that in Singapore
6 they will pay \$1.60.

7 Now, during the recess I had the opportunity to go to
8 Korea, and I also had the opportunity to go to Hong Kong and
9 to visit Red China while I was there, in that industrial
10 zone that is growing.

11 I saw television equipment and the kind of assembly line
12 that I would think they put together those type things, in
13 both places, both in Korea and also in China. And in Korea,
14 those were nice air-conditioned plants with people doing a
15 good job. Honestly, other than the fact that those were all
16 Koreans working over there, and they have a sort of
17 uniformity of racial complexion which is not the same in the
18 United States, you wouldn't know their assembly line from
19 ours at the AT&T plant, or the old Western Electric plant in
20 Shreveport, which I think were the most efficient plants for
21 making the telephones.

22 Now, if we are not competitive against \$1.60 wage scale
23 at Singapore, the same thing would be true for Korea, the
24 same thing would be true for Taiwan. And you get over into
25 Red China, and there they are paying them 50 cents -- 50 cents

1 an hour. And in this industrial zone, those are also air
2 conditioned plants -- young people. They don't work a 40-hour
3 week; they work about a 60-hour or something like that week,
4 and they do a good job. They work long, and they work hard,
5 for about 50 cents an hour. And I don't believe we are going
6 to be able to compete except in something where there is
7 very sophisticated labor. And they are proving to us that
8 they can do the stuff that takes the sophisticated labor,
9 and the cost is so much less than in our area that we have a
10 problem that this bill is not going to meet.

11 Now, Mr. Morita is the Chairman of the Sony Company.
12 I got to visit with him over there. He explained to me
13 something that he told U.S. News and World Report, but I
14 think we ought to be thinking about it; because, after you
15 hear it about the third time, it begins to get through to you
16 a little bit better than it does the first time you hear it.

17 He said, "If the United States is concerned about jobs,
18 then we," meaning Sony, "are willing to help." Sony has
19 plants in the United States. He said, "It is difficult to
20 understand why the United States is doing business the way it
21 is, if you are concerned about jobs." He said, "Now, we could
22 manufacture things that we are producing in the United States
23 a lot cheaper in Southeast Asia. In fact, there a lot of
24 things they are making in Japan we could produce a lot
25 cheaper in Southeast Asia. We have plants in the United

1 States," he told me, "rather than plants in Japan, because we
2 thought you wanted the jobs there. If it is immaterial to you
3 where the plants are going to be, then we ought to take a
4 second look at the plants we have in the United States."
5 Now, of course, he is not talking about a second look at the
6 plants they have in Japan; they want the jobs in Japan.

7 And we visited that industrial zone in China. We asked
8 the question, when they are making these recording sets and
9 these radio sets there, "Where are you going to sell this
10 stuff?" And, mind you, these are plants being run by the
11 Japanese -- Japanese capital, Japanese supervision, Japanese
12 management, Chinese labor. "Where are you going to sell this
13 equipment?" "Well" they said, "80 percent of it will go into
14 the U.S. market. Japanese, now. How much will be sold in
15 Japan? None of it. Japan will produce its own radios and
16 its own recording equipment and that sort of thing.

17 In other words, those same Japanese management people
18 operating in China, they are aware that Japan wants the jobs
19 in Japan. And apparently the United States has not
20 communicated that to our American companies. So, you can't
21 blame this man in Japan heading the Sony Corporation for
22 wondering if we are really serious about wanting the jobs
23 over here; otherwise, why don't we tell our companies we would
24 like to have them here? And he makes the point that there are
25 all sorts of things that they could make cheaper over there

1 than they can here. And I am sort of sad that that's the case.

2 Frankly, gentlemen, I think we better start thinking
3 about this; because, just opening up that market, I don't see
4 that is going to make any difference. You might sell a few
5 things over there in the short run; but, if they have a labor
6 cost that is one-seventh if you do it in Singapore, and if
7 you do it in Red China it is going to be a lot less than
8 one-seventh, less than 10 percent, I don't see how we are
9 going to be able to compete.

10 Now, I saw all these robots, especially in Japan. I
11 think they are way ahead of us in robots. And the one thing
12 that comes clear when you see the robot is that somebody has
13 to make the robot. They make the robots. And also somebody
14 has to service the robots -- look after them. They do that,
15 too.

16 Again, I would ask the question: Are we going to be able
17 to produce the robots to compete with them? As of now they
18 are ahead of us, and I doubt that we are going to be able to
19 catch up with them.

20 The Chairman. But, Russell, you are posing a fundamental
21 question that we are going to get to sooner or later, and
22 that is: Can we compete in our own domestic market against
23 fair competition from overseas? And is a lower wage than
24 ours unfair competition? And if the answer is Yes, a lower
25 wage is unfair competition, there are very few areas in the

1 country or in the world, in that case, by definition that are
2 unfair. There are occasional countries in some industries
3 where they match us in terms of wages, but very few.

4 Senator Long. Here is what bothers me about this:

5 There is one question that was asked me by an outstanding
6 person in Japan -- I don't want to embarrass him by calling
7 his name; he might regret asking the question. But the
8 question had its own answer, to me: What will we have to do?
9 Basically, he wanted to know what the Japanese will have to
10 do if they are going to continue to enjoy this happy hunting
11 ground of this American market.

12 I hope that we are not going to tell them that this is
13 all they have to do, because it is my impression that they
14 will do whatever they have to. It is not going to be United
15 Senators that tell them what they have to do. It takes
16 somebody in lots more position to speak for the whole United
17 States than any one member of this committee or any member
18 of the Senate. It seems to me it has to either come from the
19 Chief Executive or it has to come from the Congress as a
20 whole.

21 The Chairman. Mr. Chairman, in line with what Senator
22 Long has been saying, I think the sooner we begin to realize,
23 and act upon the realization, that the United States is the
24 market of the world, that everybody else is manufacturing
25 things to sell to America, the sooner we are going to resolve

1 our problems.

2 Unfortunately, we don't realize that even for
3 manufacturers in the United States --

4 The Chairman. Sparky, just a second. Let me read what
5 we have tomorrow so everybody understands, because you asked
6 me about unemployment.

7 We have the whole issue of revenues tomorrow, which we
8 have not opened up today. We are carrying over the issue
9 of Customs, and to see where we come out on Senator Moynihan's
10 foster-care issue, the second surgical opinion, with
11 Senator Heinz and Senator Danforth who have a presentation
12 on it, and the list of those 35 neutral measures in the last
13 pages of our nine-page section, any of which were open to
14 be considered tomorrow. We have not considered them, in
15 essence.

16 But the rest of the things -- Medicare, Medicaid,
17 pension, revenue-sharing, aid to dependent children, and
18 the minor and technical amendments that we adopted today.

19 Senator Mitchell. Mr. Chairman, I have an amendment on
20 mandatory Social Security coverage for retired federal
21 judges.

22 The Chairman. Yes. And that will be tomorrow.

23 Senator Mitchell. Right.

24 The Chairman. Go right ahead, Sparky.

25 Senator Matsunaga. Mr. Chairman, speaking on the bill

1 itself, the Danforth Bill, I second the suggestion made by
2 Senator Bradley that the bill, I believe, should be based
3 on the premise that the court-ordered divestiture amounted
4 to unilateral elimination of a major nontariff barrier, and
5 then, secondly, that this is directed not solely against
6 one country, Japan, but against all nations with whom we
7 trade. Am I correct?

8 Senator Danforth. Yes. Well, in different ways. Japan
9 is the only country with which we have negotiated an
10 agreement. The rest, we have to negotiate an agreement.

11 Senator Matsunata. That is correct.

12 Senator Danforth. Yes.

13 Senator Matsunaga. And the President would be given the
14 authority to negotiate?

15 Senator Danforth. Right.

16 Mr. Chairman, before we proceed further, I wonder if we
17 could adopt the amendments that were offered in block.

18 The Chairman. Is there any objection?

19 Senator Bradley. Mr. Chairman, that includes the
20 amendment that I have modified.

21 Senator Danforth. And then if we could adopt the
22 amendment that Senator Bradley has offered, as modified.

23 Senator Moynihan. Mr. Chairman, would it be possible to
24 include in the report language, and I would like it in the
25 legislative language as well, your phrase that "the

1 divestiture resulted in a unilateral trade concession"?

2 Senator Danforth. Yes, we could certainly put that in.

3 Senator Moynihan. Can we put that language in? Because
4 it is true, and it is the basis on which we respond.

5 Senator Danforth. I think that's fine.

6 Now, Mr. Chairman, if we could adopt these amendments --
7 and I know Senator Chafee has an amendment.

8 The Chairman. Is there an objection?

9 Senator Bradley. Mr. Chairman, I will proceed any way
10 the subcommittee Chairman wants. Do you want to adopt the
11 amendments and then come back and talk about it if we want
12 to change one or two?

13 Senator Danforth. Sure.

14 Senator Bradley. Okay.

15 Senator Danforth. Adopt those amendments, then adopt
16 the Bradley amendment as modified.

17 The Chairman. Is there objection to adopting the
18 amendments?

19 (No response)

20 The Chairman. And the Bradley amendment as modified?

21 Senator Chafee. What does the Bradley amendment do,
22 again?

23 Senator Bradley. It simply states that this is being
24 taken in response to the divestiture, and it does not
25 represent a change in policy of the government, that don't

1 expect to see a whole lot of lists of sector legislative --

2 Senator Chafee. That sounds good.

3 The Chairman. Senator Chafee?

4 Senator Chafee. Mr. Chairman, if you would turn to
5 page 4 of the bill, section 101, this section deals with the
6 countries that we have negotiated with. And I would like to
7 reduce that data by a date no later than four months after
8 the date of enactment of this act.

9 Let me say this, Mr. Chairman, we have been wrestling
10 with the Japanese on this for a long time, and I just think
11 that to put it off and delay any longer -- frankly, I would
12 have liked it much shorter than this, but Senator Danforth
13 and I have discussed this, and it is my understanding that
14 the four months is agreeable to him; and I would urge that
15 that be adopted.

16 And in section 103 where he has "no later than 30 days
17 after the date on which the report is submitted," I would have
18 "no later than 15 days."

19 This is an access bill, Mr. Chairman; this has nothing
20 to do with protectionism. This is trying to get access for
21 our products. And we've got all kinds of testimony and
22 articles indicating that our products can compete if given a
23 fair shake over there. So that would be my proposal,
24 Mr. Chairman.

25 Senator Danforth. Mr. Chairman, yes. I think that those

1 are good proposals, especially in light of the fact that the
2 bill is not a new bill; and especially in light of the fact
3 that the U.S. and Japan have been dealing with
4 telecommunications problems for some time, I think that those
5 are fine amendments.

6 The Chairman. Is there objection to adoption?

7 Senator Danforth. And I would also like to say this,
8 Mr. Chairman, that Senator Chafee has been very active in the
9 telecommunications trade area for some time, has had a bill
10 of his own that he introduced some time ago. And I think
11 that this is a good way of working out the differences between
12 those two bills.

13 Senator Chafee. I might say mine was far more
14 draconian than this. But I commend Senator Danforth, who has
15 worked so hard on this and brings to it less Dracula
16 measures than I do.

17 (Laughter)

18 Senator Bradley. Mr. Chairman, do I understand that
19 Senator Chafee suggests cutting the study at the USTR from
20 six months to four months? And would you then have the time
21 to negotiate a new bilateral agreement with the country that
22 we don't have, remain a year so that the total is 14 months?

23 Senator Danforth. Sixteen.

24 Senator Bradley. It would still be 16? Okay.

25 Senator Danforth. It would be four plus 12, right?

1 Senator Bradley. It would be 16 as opposed to 18?

2 Senator Danforth. Oh. Four plus 14. No.

3 Senator Bradley. There are three dates, three time
4 periods here. One is six months for the USTR to make a
5 report.

6 Senator Danforth. He has that reduced to four.

7 Senator Bradley. And he has reduced that to four.

8 The other is 18 months, during which time they have --

9 Senator Danforth. That has already been reduced to 12.

10 Senator Bradley. That has been reduced to 12.

11 And then, there is the provision of 30 days with the
12 country that already has an agreement. He wants to reduce
13 that to 15?

14 Senator Danforth. Right.

15 Senator Bradley. Could I ask why he wants to reduce the
16 30 days to 15? I mean, if a country has violated an
17 agreement, the President has authority to retaliate directly.

18 Senator Chafee. I just want to get things going here.
19 I must say the intervening 12 months I am a little bit
20 confused with. I thought that, if we had been negotiating in
21 this 101, it would be a country that we already had been
22 negotiating with. Is that right, Len?

23 Mr. Santos. I'm sorry, Senator.

24 Senator Chafee. In this section 101, where I have cut
25 it from six to four. This is a country where we have been

1 negotiating with them, isn't it?

2 Mr. Santos. In section 101, it covers both cases: it
3 covers the case of a country that already has an agreement in
4 place, and it covers the case of a country where we are
5 negotiating to reduce barriers.

6 As I understand your amendment, you would reduce the
7 period, in the case of the country with which we have an
8 agreement, to four months, followed by 15 days at the end of
9 that four months, plus in 15 days the President would be
10 required to act against the country with which we already
11 have an agreement in place.

12 Senator Danforth. Four plus 15.

13 Mr. Santos. Four plus 15 days.

14 With respect to countries with which we do not already
15 have an agreement in place, the President would in effect
16 begin to negotiate -- well, he could begin to negotiate at any
17 time, but after the four months was over, the President would
18 have an additional 14 months to conclude his negotiations,
19 because that time period is not reduced by your amendment,
20 as I understand it.

21 Senator Chafee. So, in the case of a country that we
22 have been negotiating with it would be four months. And then
23 that's it, isn't it?

24 Mr. Santos. In the case of a country where we have an
25 agreement in place it would be four months, and then within 15

1 days after the end of that four months the President would
2 have to act.

3 Senator Chafee. That's right. So, there isn't the
4 intervening 12-month period there.

5 Mr. Santos. That is correct, not with respect to
6 countries where we have an agreement in place.

7 Senator Chafee. That's right.

8 In other words, we have got an agreement.

9 Senator Danforth. But for the rest of the world it
10 would be four plus 14.

11 Mr. Santos. Fourteen, unless you choose to amend that
12 period as well.

13 Senator Chafee. Well, there we are. We have got an
14 agreement, and I say let's get going.

15 Senator Bradley. Does USTR say that they can look at
16 the telecommunications industries in every country in four
17 months and make a report on what the barriers are in each
18 country?

19 Mr. Santos. I have not talked to USTR, but I would
20 mention, Senator, that they are charged under the 1984 Act
21 with studying all foreign trade barriers in all countries, and
22 that report is due early this Fall. So, in a sense, they
23 should have already started this process. But I have not
24 asked them whether they can do this particular task or not.

25 Senator Bradley. And could I ask Senator Chafee one last

1 question? What is, again, the rationale for not allowing the
2 President to use the authorities that he already has, or to
3 give the country with whom we already have an agreement the
4 same period of time as a country that we need to negotiate
5 with to get an agreement?

6 Senator Chafee. Well, because we've got the agreement
7 under this. You know, presumably they are not abiding by it.
8 And thus, I don't see having an interim period of 12 months;
9 I'd say, we've got the agreement, they are not abiding by it,
10 so therefore, let's take the steps that are provided for in
11 here. I don't understand why we should string this thing out.

12 Senator Bradley. Okay.

13 If you find that there is a violation, and the President
14 retaliates, as I understand, one of the amendments that was
15 just offered and that was adopted by the committee says that
16 "the country against which retaliation was taken has the right
17 under Article 23 to say it was unfair retaliation." If that
18 is the case, then who determines what we do? We are
19 authorizing the President to, essentially, compensate. Isn't
20 that correct?

21 Mr. Santos. We have added an amendment which would
22 authorize him to compensate the foreign country if that
23 foreign country, subsequent to our action, takes us to the
24 GATT and is successful in its charges against us.

25 Senator Bradley. Do we have the capacity to block a

1 GATT tribunal from making a judgment about compensation?

2 Mr. Santos. Well, Senator, it is true that the GATT
3 Council does not normally act against the wishes of a major
4 member. But in the case of the disk, as you know, we have
5 abided by panel decisions, in effect, even though the Council
6 did not --

7 Senator Bradley. So, could you tell me under what
8 circumstance would it be plausible to you if we take a
9 retaliation, and Japan complains, that we would then agree
10 to compensate Japan? Or, not Japan, any country.

11 Mr. Santos. Senator, I think it is conceivable, given
12 our history of not wanting to flaunt panel decisions, that if
13 a panel decision were handed that found that we were not
14 within our rights to retaliate in this case, that we would
15 be under great pressure, certainly by the international
16 community, to correct that. And the foreign country, in turn,
17 might feel free to respond in kind if they had been found to
18 be justified.

19 Senator Matsunaga. What is the Administration's position
20 on this bill?

21 Mr. Santos. Senator, as I understand it, they have never
22 developed a formal position; they have been sort of stymied by
23 conflicting points of view within the Administration.

24 I understand, informally, that one of the things that
25 one of the things that troubles them is the mandatory action

1 at the end of a given period of time, whether it be four
2 months plus 15 days, or two years. They are uncomfortable
3 with the requirement that they act. But as I understand it --
4 and this is all informal; they have never submitted a formal
5 position -- they agree that this subject needs addressing.
6 But they are not comfortable with the mandatory nature of the
7 requirements.

8 Senator Matsunaga. They have not indicated opposition
9 or support?

10 Senator Danforth. They have been invited to testify.
11 They have declined the invitation.

12 The Chairman. Further comments?

13 Senator Danforth. Mr. Chairman, I have some legislative
14 history which I would like permission to have incorporated in
15 the record as though read.

16 The Chairman. Without objection.

17 (THE INFORMATION FOLLOWS:)

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1 Senator Chafee. Now I have one more amendment,
2 Mr. Chairman, and this is under the "Purposes."

3 Where, in Purposes you see there on page 3, "Purposes
4 (B)(2): To ensure that countries," and so forth," I have,
5 "To ensure that countries such as Japan, which have made
6 commitments to open their telecommunications markets, fully
7 abide by these commitments or face swift retaliation against
8 their exports of telecommunication products and services to
9 the U.S."

10 The Chairman. That is the "Purposes"?

11 Senator Chafee. That is the "Purposes."

12 Senator Bradley. Mr. Chairman, I think it is totally
13 unnecessary to mention a country, if this is purported to be
14 a piece of trade legislation that is aimed at a generic
15 problem.

16 Senator Chafee. Well, there you go. There is a
17 difference of opinion, I think, where we say, "ensure that
18 countries such as Japan." And I might say that I have
19 supported our trade with Japan, as you know, and fought
20 against import quotas, and all of that.

21 This is a different thing. This isn't protectionism;
22 this is trying to get our products into their markets, and
23 that they open their markets. And they have been notoriously
24 unwilling to do so, and I think to mention the name of Japan
25 might further get their attention. And there is a lot of talk

1 around here about getting their attention. Hopefully, this
2 indeed will get their attention.

3 Senator Danforth. That's fine with me.

4 Senator Bradley. Well, I would vote in opposition to
5 that.

6 The Chairman. Those in favor of the amendments?

7 (Chorus of ayes)

8 The Chairman. Those opposed?

9 (Chorus of Noes)

10 The Chairman. Any further amendments?

11 Senator Danforth. No. We have adopted the amendments
12 in block -- the Bradley amendment, two Chafee amendments, and
13 we have agreed to the Moynihan report language. And that
14 brings us to the bill.

15 The Chairman. Is there objection to reporting the bill
16 out?

17 (No response)

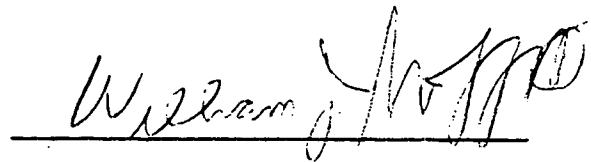
18 The Chairman. Without objection.

19 We will adjourn the hearing.

20 (Whereupon, at 12:47 p.m., the hearing was concluded.)
21
22
23
24
25

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 Committee on Finance held on Tuesday, September 17, 1985, were as herein appears, and that this is the original transcript thereof.



WILLIAM J. MOFFITT
Official Court Reporter

My Commission expires April 14, 1989.

MR PACKWOOD - CHAIRMAN, HENRIZ, DANFORTH, WILLOW, MORN HAN,
BUTSEN, LONG, MITCHELL, BRADLEY, CHAPPE, BAUCUS, BORN, MITSUNAGA
SYMMS, PRYOR, DURANBERGER, ARMSTRONG

EXECUTIVE SESSION
99th Congress, 1st Session
September 17, 1985

SENATE COMMITTEE ON FINANCE

EXECUTIVE SESSION

Tuesday, September 17, 1985; 9:30 a.m.; Room SD-215

1. Legislation to reduce the Federal deficit for fiscal years 1986, 1987 and 1988.
2. H.J. Res 372, increasing the statutory limit on the public debt.
3. S. 942, Telecommunications Trade Act of 1985.
4. Nomination of Anne Brunsdale, to be a Member of the International Trade Commission.
5. Nomination of George Gould, to be Under Secretary of the Treasury.
6. Nomination of Charles Sethness, to be Assistant Secretary of the Treasury (Domestic Finance).

7. Other Items That May Be Considered:

- A. Make permanent the exemption from unemployment tax for certain fisherman.
- B. Amend and extend existing provision awarding attorneys' fees against the United States tax cases.
- C. Provide relief for certain insolvent taxpayers from alternative minimum tax liability.
- D. Clarify treatment of cooperatives.
- E. Exclude Israel Bonds from low-interest loan rules.
- F. Require private employees to provide an option to allow certain eligible employees, and those employees' dependents and former dependents, to continue in the employer's health care program for a limited period of time.

BOB PACKWOOD, OREGON, CHAIRMAN

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MICHAEL STERN, MINORITY STAFF DIRECTOR

United States Senate

COMMITTEE ON FINANCE
WASHINGTON, DC 20510

September 13, 1985

MEMO

FROM: SENATE FINANCE COMMITTEE STAFF

TO: MEMBERS, COMMITTEE ON FINANCE

SUBJECT: MATERIALS FOR TUESDAY, SEPTEMBER 17 MARK-UP

On Tuesday, September 17, 1985, the Committee on Finance will meet in Executive Session to consider several matters now pending before it. Attached is an agenda listing those items.

The meeting will begin at 9:30 a.m. and will be held in Room SD-215 of the Dirksen Senate Office Building.

Below, for your convenience, is a description of the materials prepared for you in connection with each of the items on the agenda:

1. Legislation to reduce the Federal deficit for fiscal years 1986, 1987 and 1988.
 - A. Attachment A -- Finance Committee description of spending reduction items ("Blue Book").

- B. Attachment B -- Joint Tax Committee description of revenue options and Customs Service fees ("White Book").
- C. Attachment C -- Summary of Senate Finance Committee Report on Superfund (S.51).
- D. Attachment D -- Additional explanatory materials for revenue options:
 - (1) Cigarette excise tax.
 - (2) Railroad Unemployment.
 - (3) Income averaging.
- E. Attachment E -- Additional explanatory materials for outlay options:
 - (1) Medicare.
 - (2) Medicaid.
 - (3) Maternal and Child Health.
 - (4) Foster Care.
 - (5) Customs User Fees.
 - (6) Pension Benefit Guaranty Corporation.

- F. Attachment F -- Social Security Minor and Technical Amendments.
2. H.J Res. 372, increasing the statutory limit on the public debt. See Attachment G.
 3. S. 942, Telecommunications Trade Act of 1985. See Attachment H.
 4. Nomination of Anne Brunsdale, to be a Member, International Trade Commission. See Attachment I -- Biographical Material.
 5. Nomination of George Gould, to be Under Secretary of the Treasury. See Attachment J -- Biographical Material.
 6. Nomination of Charles Sethness, to be Assistant Secretary of the Treasury (Domestic Finance). See Attachment K -- Biographical Material.
 7. Other Items That May Be Considered:
 - A. Make permanent the exemption from unemployment tax for certain fishermen. See Attachment L.
 - B. Amend and extend existing provision awarding attorneys' fees against the

United States in tax cases. See
Attachment M.

- C. Provide relief for certain insolvent taxpayers from alternative minimum tax liability. See Attachment N.
- D. Clarify treatment of cooperatives. See Attachment O.
- E. Exclude Israel Bonds from low-interest loan rules. See Attachment P.
- F. Require private employees to provide an option to allow certain eligible employees, and those employees' dependents and former dependents, to continue in the employer's health care program for a limited period of time. See Attachment Q.

BACKGROUND DATA ON
FISCAL YEAR 1986 SPENDING REDUCTION
PROPOSALS UNDER JURISDICTION
OF THE COMMITTEE ON FINANCE

Prepared by the Staff of the
COMMITTEE ON FINANCE
UNITED STATES SENATE
BOB PACKWOOD, *Chairman*



SEPTEMBER 1985

Printed for the use of the Committee on Finance

U.S. GOVERNMENT PRINTING OFFICE

47-825 O

WASHINGTON : 1985

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VI. GENERAL REVENUE SHARING

ADMINISTRATION BUDGET PROPOSAL AND ALTERNATIVE

1. Terminate general revenue sharing

Current law.—The general revenue sharing (GRS) program provides unrestricted grants totaling \$4.6 billion annually to all local governments—counties, municipalities, townships, and Indian tribes. Revenue sharing funds are divided among local governments according to formulas based on population, income, and tax factors. The formulas are designed to target assistance toward governments with low per capita incomes or high tax efforts. The program generally has accounted for less than 2 percent of local government revenues, although for some rural and suburban governments the percentage has been higher. States participated in the program until 1981 when their shares were eliminated.

a. Administration's budget proposal.—The Administration has proposed eliminating the program as of October 1, 1985, a year before the current authorization expires. Savings from this proposal would be \$3.4 billion in 1986 and about \$3 billion over the 1986-1988 period. The estimated savings are from the Congressional Budget Office (CBO) baseline, which assumes that the program is reauthorized in 1987 at levels that would keep pace with inflation.

b. Budget Conference assumption.—The general revenue sharing program would terminate upon the expiration of its authorization on October 1, 1986.

Outlay Effect [in millions of dollars]

	Fiscal year—			Total
	1986	1987	1988	
a. Administration proposal.....	-3,407	-4,731	-4,956	-13,094
b. Budget Conference assumption.....	0	-3,526	-4,956	-8,482

(57)



I. BUDGET OVERVIEW

The current services baseline projects outlays of \$1,020.1 billion and revenues of \$792.7 billion for fiscal year 1986, leaving a baseline deficit of \$227.4 billion. The current services baseline shows what spending and receipts would be if no changes are made in present policy. Table 1 shows that the deficit will rise to more than \$240 billion in each of fiscal years 1987 and 1988 if no policy changes are made.

TABLE 1.—BASELINE BUDGET ESTIMATES

[Billions of dollars]

	Fiscal year—		
	1986	1987	1988
Revenues.....	792.7	864.3	952.5
Outlays.....	1,020.1	1,109.0	1,196.1
Deficit.....	227.4	244.7	243.6

Table 2 displays the revenue and spending changes proposed in the conference report on S. Con. Res. 32, the first budget resolution. The revenue changes listed below reflect tax increases and measure the revenue effects of the changes in spending policies contained in the budget resolution.

TABLE 2.—FIRST BUDGET RESOLUTION, CONFERENCE REPORT

[Billions of dollars]

	Fiscal year—		
	1986	1987	1988
Baseline deficit.....	227.4	244.7	243.6
Revenue increases.....	-3.0	-5.1	-7.6
Outlay reductions:			
Policy changes.....	-47.8	-75.5	-104.9
Debt service savings.....	-2.7	-9.4	-18.2
Total deficit reductions.....	-55.5	-90.0	-130.7
Remaining deficits.....	171.9	154.7	112.9

INSTRUCTIONS FOR THE FINANCE COMMITTEE

The conference report on S. Con. Res. 32, the first budget resolution, instructs the Committee on Finance to reduce outlays for programs within its jurisdiction by \$22.2 billion over fiscal years 1986-1988. The Committee is also instructed to increase revenues by \$8.4 billion over those three years.

Table 3 lists the program changes that were assumed in the Budget conference report in arriving at our totals. The Finance Committee is not bound by the savings assumed for any single program. Only the total spending reductions are required by the reconciliation instructions. No assumptions were made with respect to the revenue increases. Thus, the Committee retains full flexibility over how savings and increased revenues are to be achieved.

TABLE 3.—ASSUMPTIONS UNDERLYING BUDGET CONFERENCE REPORT INSTRUCTIONS FOR THE COMMITTEE ON FINANCE

[Outlays in millions of dollars]

	Fiscal year—			Total
	1986	1987	1988	
1. Reduce medicaid outlays.....	-80	-180	-190	-450
2. Reduce medicare outlays	-2,454	-3,452	-4,949	-10,855
3. Increase Pension Benefit Guarantee Corporation insurance premiums.....	-300	-300	-300	-900
4. Levy Customs Service user fees	-473	-493	-513	-1,479
5. Terminate general revenue sharing beginning in fiscal year 1987.....		-3,526	-4,956	-8,482
Total (outlays).....	-3,307	-7,951	-10,908	-22,166
Total (revenues).....	1,800	3,000	3,600	8,400

formal and informal entries, warehouse entries and withdrawals, brokers licenses, and the clearance of commercial and private carriers.

Effective date.—October 1, 1985.

Outlay Effect [in millions of dollars]

	Fiscal year—			Total
	1986	1987	1988	
Budget Conference assumption.....	-473	-493	-513	-1,479

a. The firm has no reasonable access to financing through the private capital market; and

b. The adjustment proposal demonstrates that the assistance sought (1) is reasonably calculated to make a material contribution to the economic adjustment of the firm in establishing a competitive position in the same or a different industry; (2) gives adequate consideration to the interest of the workers in the firm; and (3) demonstrates the firm will make all reasonable efforts to use its own resources for economic development.

In addition, the Secretary must determine that a firm seeking financial assistance (1) does not have the required funds available from its own resources; and (2) there is reasonable assurance that the loan will be repaid.

If approved, a firm may receive financial and technical assistance.

a. *Administration budget proposal.*—The Administration proposes to eliminate trade adjustment assistance for both workers and firms.

Effective date.—October 1, 1985.

b. *Ways and Means proposal.*—The Ways and Means Committee proposes to reauthorize the program for four years, expanding coverage somewhat, thereby negating any savings or potentially even incurring substantial additional cost. (Note: The Finance Committee has before it, bills reauthorizing an altered program, to be funded after two to three years by a small uniform duty on all imports.)

Effective date.—October 1, 1985.

Outlay Effect [in millions of dollars]

	Fiscal year—			Total
	1986	1987	1988	
a. Administration proposal:				
Firms.....	-20	-28	-33	-81
Workers.....	-87	-98	-99	-284
Total.....	-107	-126	-132	-365
b. Ways and Means proposal.....	(¹)	(¹)	(¹)	(¹)

¹ CBO unable to provide estimates.

OTHER PROPOSALS

2. Impose Customs user fees

Current law.—The Customs Service may seek reimbursement for its costs in only a few circumstances, including pay for overtime worked by customs inspectors, and services provided at a limited number of small airports.

Budget Conference assumption.—Authorize the imposition of user fees for the processing of entries and other commercial operations of the U.S. Customs Service. For example, fees could be charged for

II. HEALTH PROGRAMS

PROPOSALS FOR HEALTH PROGRAMS UNDER JURISDICTION OF THE FINANCE COMMITTEE

[CBO estimates, outlay effect in millions of dollars, net of offsets]

	Fiscal year—			Total
	1986	1987	1988	
A. MEDICARE:				
ADMINISTRATION BUDGET PROPOSALS AND ALTERNATIVES:				
1. Set prospective payment rates:				
a. Freeze PPS rates.....	-1,640	-2,240	-2,540	-6,420
OR				
b. Limit increase to 1%.....	-1,340	-1,830	-2,070	-5,240
(Ways and Means proposal)				
2. Set limits for PPS-exempt hospitals:				
a. Freeze limits.....	-40	-55	-60	-155
OR				
b. Allow 1% increase.....	-35	-45	-50	-130
(Ways and Means proposal)				
3. Extend freeze on physician reimbursement:				
a. Extend freeze.....	-436	-377	-374	-1,188
OR				
b. Modify and extend freeze.....	-198	-207	-274	-679
(Ways and Means proposal)				
OR				
c. Modify and extend freeze.....	-188	-200	-257	-645
(Energy and Commerce proposal)				
4. Modify clinical lab fees:				
a. Freeze.....	-42	-59	-212	-312
OR				
b. Set regional limits.....	-21	-46	-60	-127
(Energy and Commerce proposal)				
5. Freeze skilled nursing facility (SNF) limits.....	-3	-5	-5	-12
6. Set durable medical equipment (DME) and other payment limits:				
a. Freeze limits and index.....	-46	-83	-119	-248
OR				
b. Freeze DME rental limits then index.....	-29	-58	-91	-178
(Ways and Means proposal)				
OR				
c. Freeze DME rental and oxygen supply limits then index.....	-42	-74	-107	-223
(Energy and Commerce proposal)				
7. Freeze direct medical education payments:				
a. Freeze for one year.....	-130	-40	0	-170
OR				
b. Prohibit one year freeze.....	0	0	0	0
(Ways and Means proposal)				
8. Reduce the indirect medical education adjustment:				
a. Reduce by 50% (to 5.8).....	-590	-810	-1,100	-2,500
OR				
b. Reduce to 8.1.....	-320	-530	-800	-1,650

(3)

PROPOSALS FOR HEALTH PROGRAMS UNDER JURISDICTION OF THE FINANCE COMMITTEE—

Continued

[CBO estimates, outlay effect in millions of dollars, net of offsets]

	Fiscal year—			Total
	1986	1987	1988	
(Ways and Means proposal)				
9. Restructure home health limits.....	-40	-70	-120	-230
10. Delay eligibility.....	-191	-203	-216	-610
11. Extend secondary payor coverage for working aged over 69.....	-222	-345	-382	-949
12. Index the part B deductible to the medicare economic index.....	0	-35	-107	-142
13. Increase part B premiums:				
a. To 35% by 1990.....	-340	-911	-2,067	-3,318
OR				
b. To 25% for 1988 only.....	0	0	-387	-387
(Ways and Means, and Energy and Commerce proposal)				
14. Establish home health copayments.....	-60	-111	-121	-292
15. Simplify processing of part A bills.....	-3	-4	-4	-11
16. Eliminate separate railroad retirement board contractor.....	-2	-2	-2	-6
OTHER PROPOSALS:				
17. Create disproportionate share hospital adjustment.....	0	0	0	0
(Ways and Means proposal)				
18. Reduce return on equity for proprietary hospitals.....	-6	-112	-297	-415
(Ways and Means proposal)				
19. Extend and increase hospice care payments.....	(*)	(*)	(*)	(*)
(Ways and Means proposal)				
20. Limit part A late enrollment penalty.....	5	5	5	15
(Ways and Means proposal)				
21. Expand coverage of occupational therapy services.....	13	17	17	47
(Ways and Means, and Energy and Commerce proposal)				
22. Deny payments for assistants at surgery during routine cataract operations.....	-22	-26	-25	-73
(Ways and Means, and Energy and Commerce proposal)				
23. Limit reimbursement for prosthetic lenses.....	-31	-33	-38	-102
(Ways and Means, and Energy and Commerce Proposal)				
24. Establish preventive health services demonstrations.....	1	1	1	3
(Ways and Means, and Energy and Commerce proposal)				
25. Require second surgical opinions.....	-41	-88	-93	-222
(Energy and Commerce proposal)				
26. Expand coverage of optometric vision care services.....	16	51	64	131
(Energy and Commerce proposal)				
27. Change part B appeal rights.....	4	8	8	20
(Energy and Commerce proposal)				
B. MEDICAID:				
ADMINISTRATION BUDGET PROPOSALS AND ALTERNATIVES:				
1. Limit growth of Medicaid payments.....	-210	-1,140	-1,810	-3,160
2. Establish State administrative cost grants.....	-51	-56	-58	-165
OTHER PROPOSALS:				
3. Expand services for pregnant women.....	20	40	40	100

V. TRADE

ADMINISTRATION BUDGET PROPOSAL AND ALTERNATIVE

1. Eliminate trade adjustment assistance

Current law.—Since 1962, funds have been authorized for the assistance of workers and firms adversely affected by import competition.

Eligibility requirements were liberalized in 1974, and assistance to industries was authorized. However, the Omnibus Budget and Reconciliation Act of 1981 included substantial reforms of the workers program that substantially reduced its costs. Both the authorizations for the firm and workers programs were renewed in 1983 for two years; the authorizations expire September 30, 1985.

The Department of Labor administers the workers program. The Department determines whether a group of workers is eligible to apply for assistance, and works with state agencies to certify individual workers within the eligible group. To be eligible, groups of workers must show that—

a. A significant number or proportion of the workers in the firm or subdivision of the firm have been or are threatened to be totally or partially laid off;

b. Sales and/or production of the firm or subdivision have decreased absolutely; and

c. Increased imports of articles like or directly competitive with articles produced by the firm or subdivision of the firm have “contributed importantly” to both the layoffs and the decline in sales and/or production.

An individual worker in an eligible group may receive trade readjustment allowances (an extension of unemployment insurance benefits), training, employment services, and job search and relocation allowances.

The Secretary of Commerce may certify a firm as eligible for adjustment assistance if three conditions are met:

a. A significant number or proportion of the workers in the firm have been or are threatened to be totally or partially laid off;

b. Sales or production of the firm have decreased absolutely; and

c. Increased imports of articles like or directly competitive with articles produced by the firm have “contributed importantly” to both the layoffs and the decline in sales and/or production.

A certified firm must then be approved for benefits based on its application for assistance. A firm’s application must show the following:

does not propose additional revisions to the program. Also, the effective date differs from the administration proposal.

Effective date.—The increase is effective for plan years beginning on or after January 1, 1986. The increase will sunset on January 1, 1989.

c. House Education and Labor proposal.—The House Education and Labor Committee's Subcommittee on Labor-Management Relations reported provisions similar but not identical to the Administration's proposal. The premium increase would be \$8.50. The revisions to the plan termination program would differ slightly from the administration provisions. This action must be considered by the full Committee.

Effective date.—Plan years beginning January 1, 1986.

Outlay Effect [in millions of dollars]

	Fiscal year—			Total
	1986	1987	1988	
a. Administration proposal.....	-184	-206	-231	-621
b. Ways and Means proposal.....	-161	-212	-239	-612
c. Education and Labor proposal.....	-174	-231	-261	-666

NOTE.—These estimates only reflect the various dollar premium levels and effective dates proposed by the Administration and the two committees. They do not reflect the various ERISA reforms that are proposed by the Administration and by the two committees.

PROPOSALS FOR HEALTH PROGRAMS UNDER JURISDICTION OF THE FINANCE COMMITTEE—

Continued

[CBO estimates, outlay effect in millions of dollars, net of offsets]

	Fiscal year—			Total
	1986	1987	1988	
(Energy and Commerce proposal)				
4. Require direct medical education payments to hospitals.....	-5	-15	-25	-45
(Energy and Commerce proposal)				
5. Enhance third-party liability collections..... (Budget conference assumption)	-80	-180	-190	-450

* Less than \$500,000.

A. MEDICARE

ADMINISTRATION BUDGET PROPOSALS AND ALTERNATIVES

1. Set Prospective Payment Rates

Current law.—Since October 1, 1983, Medicare has paid for most inpatient hospital services under the prospective payment system (PPS). New payment rates for the Federal portion of the PPS rates are effective each October 1. For fiscal years 1984 and 1985 aggregate payment levels were limited by "budget neutrality" (which specified that hospital expenditures under PPS could not be greater or less in the aggregate than those which would have been paid under the provisions of the Tax Equity and Fiscal Responsibility Act of 1982).

For fiscal year 1986 and later fiscal years, the Secretary of Health and Human Services is responsible for setting payment rates at reasonable levels subject to the requirement that the Secretary take into account the recommendations of the Prospective Payment Assessment Commission. However, for fiscal year 1986, the increase in payment levels may not exceed the percentage increase in the hospital market basket (which reflects the change in the cost of goods and services purchased by hospitals) plus one-quarter of one percentage point.

a. Administration budget proposal.—The Administration proposes by regulatory initiative to maintain the fiscal year 1986 rates at the fiscal year 1985 levels. Final regulations to implement the proposal were issued September 3, 1985.

Effective date.—Hospital cost reporting periods beginning on or after October 1, 1985, for the hospital-specific portion of the PPS rates, and discharges occurring on or after October 1, 1985, for the Federal portion of the rates.

b. Ways and Means proposal.—The House Committee on Ways and Means proposes to require the Secretary of Health and Human Services to provide a 1 percent rate of increase to the PPS payment rates for fiscal year 1986. Additionally, the Committee proposed to extend the transition to National PPS rates by one year.

Effective date.—Hospital cost reporting periods beginning on or after October 1, 1985, for the hospital-specific portion of the PPS rates, and discharges occurring on or after October 1, 1985, for the Federal portion of the rates.

Outlay Effect [in millions of dollars]

	Fiscal year—			Total
	1986	1987	1988	
a. Administration proposal.....	-1,640	-2,240	-2,540	-6,420
b. Ways and Means proposal.....	-1,340	-1,830	-2,070	-5,240

2. Set Limits for PPS-exempt Hospitals

Current law.—Certain hospitals and hospital units are exempt from the prospective payment system (PPS). These include psychiatric and rehabilitation hospitals and units, children's hospitals, and long-term hospitals. These hospitals and units are paid on the basis of their reasonable costs up to a limit. The limit is based on historical costs in a base year which are annually adjusted.

For hospital cost reporting periods beginning in fiscal year 1986, the rate of increase is left to the discretion of the Secretary of Health and Human Services. However, for fiscal year 1986, the rate of increase may not exceed the market basket rate of increase plus one-quarter of one percentage point.

a. Administration budget proposal.—The Administration proposes by regulatory initiative to maintain the limits for hospital cost reporting periods beginning in fiscal year 1986 at the levels in effect for the prior cost reporting period. Final regulations to implement the proposal were issued September 3, 1985.

Effective date.—Hospital cost reporting periods beginning on or after October 1, 1985.

b. Ways and Means proposal.—The House Committee on Ways and Means proposes to increase by 1 percent the payment limits for PPS-exempt hospitals for fiscal year 1986.

Effective date.—Hospital cost reporting periods beginning on or after October 1, 1985.

Outlay Effect [in millions of dollars]

	Fiscal year—			Total
	1986	1987	1988	
a. Administration proposal.....	-40	-55	-60	-155
b. Ways and Means proposal.....	-35	-45	-50	-130

IV. PENSION BENEFIT GUARANTY CORPORATION

ADMINISTRATION BUDGET PROPOSAL AND ALTERNATIVES

1. Increase single employer premium rate

Current law.—The Pension Benefit Guaranty Corporation (PBGC) is a wholly-owned Government Corporation guaranteeing the pension benefits up to a maximum set by law for about 38 million workers covered by about 112,500 private-sector defined benefit plans. PBGC was established by Title IV of the Employee Retirement Income Security Act of 1974 (ERISA). PBGC's Board of Directors is chaired by the Secretary of Labor and includes the Secretaries of Treasury and Commerce. The pension insurance program is financed through: (1) premiums collected from covered pension plans, (2) assets acquired from terminated plans, (3) employer liability payments, and (4) investment income and appreciation on invested assets. The corporation may also borrow up to \$100 million from the U.S. Treasury.

PBGC administers two pension insurance programs: (1) a single employer program presently protecting about 29 million participants in over 110,000 single employer plans, and (2) a multiemployer termination insurance program presently protecting almost 9 million participants in about 2,500 multiemployer plans. While the multiemployer insurance fund showed an increase in assets at the end of FY 1984 to \$17.2 million, the single employer fund reported a \$462 million deficit (down from \$523.3 million in FY 1983). Since liabilities assumed under terminated single employer are expected to exceed income from all sources, PBGC expects its deficit in the single employer program to reach \$563 million by the end of FY 1985. Because of its concern that the Corporation is heading toward insolvency, PBGC continues to seek Congressional approval to increase the insurance premium charged for each participant in a single employer plan from the current \$2.60 to \$7.50.

a. Administration budget proposal.—The budget reflects the Administration's request that Congress approve an increase in the single employer premium rate to \$7.50 per participant to cover projected claims and amortize the current deficit over a reasonable period of time. The Administration also supports legislation to revise the single employer insurance program to allow employers to terminate an insufficiently funded pension plan only if the sponsoring employer can prove that continuing the plan would force the company out of business.

Effective date.—Plan years beginning on or after January 1, 1985.

b. Ways and Means proposal.—The Committee would raise from \$2.60 to \$8.00 the premium payable per worker for single-employer pension plans. Unlike the administration proposal, the Committee

ance by the Federal government under the Disaster Relief Act of 1974. This service in the National Guard, which lasted for a week for most of the affected individuals, cut them off from the remainder of their FSC benefits. The provision would allow these individuals to collect the remainder of their benefits.

The provision applies only to individuals who were called up for National Guard duty by the Governor in a disaster declared by the President on June 3. It applies to weeks of unemployment occurring after the individual had completed his Guard duty but during which he may not have met the work search or availability requirements of State law because he failed to file claims believing he was no longer eligible (having failed to file in consecutive weeks). It is intended to apply only until an individual's FSC benefits are exhausted or he becomes employed, whichever occurs earlier.

Effective date.—The provision would be effective for weeks of unemployment beginning after March 31, 1985.

Budget effect.—Negligible.

3. Extend Freeze on Physician Reimbursement

Current law.—Payment for physicians' services is based on Medicare's "reasonable" (i.e., allowable) charges. The reasonable charge for a service is the lowest of the actual charge, the physician's customary charge for the service, or the prevailing charge for the service in the area. If the physician accepts assignment on a claim, he or she agrees to accept Medicare's reasonable charge as payment in full (except for applicable cost sharing); in return, Medicare pays the physician directly. If the physician does not accept assignment, Medicare payments are made to the beneficiary who in turn pays the physician. Beneficiaries are liable for the required deductible and coinsurance, plus, in the case of non-assigned claims, any difference between Medicare's reasonable charge and the physician's actual charge.

The Deficit Reduction Act of 1984 (DEFRA) froze Medicare customary and prevailing charges for physicians' services for a 15-month period—July 1, 1984 through September 30, 1985. Future updates of customary and prevailing charge screens are slated to be made on October 1 of each year based on data recorded for the 12-month period ending the previous March 31.

DEFRA also established the concept of a "participating physician." A participating physician is one who voluntarily agrees to accept assignment on all claims for the forthcoming year. The law includes incentives for physicians to participate. Chief among these is the ability to raise actual charges during the freeze period in order to have such charges reflected in the calculation of customary charges in fiscal year 1986. Nonparticipating physicians cannot raise their actual charges during the freeze period. Nonparticipating physicians who do not comply with the freeze could be subject to civil monetary penalties or assessments, exclusion for up to five years from the Medicare program, or both.

a. Administration budget proposal.—The Administration proposes to extend the existing freeze for an additional year, i.e., through fiscal year 1986. Nonparticipating physicians could not increase their actual charges during the freeze while participating physicians could. Prevailing charges for services furnished after the freeze would not include an allowance for the lack of an increase during the freeze.

Customary charges for fiscal year 1987 could not exceed actual charges during the following specified base periods:

- April-June 1984 for physicians who were not participating in either fiscal year 1985 or fiscal year 1986;
- April-September 1985 for physicians who were participating during fiscal year 1985 but not fiscal year 1986; and
- October 1985-March 1986 for physicians who were participating in fiscal year 1986.

For physicians who were nonparticipating during fiscal year 1986, customary charges for fiscal year 1988 could not exceed actual charges for the April 1984-June 1984 period. The monitoring of actual charges of nonparticipating physicians would be extended through fiscal year 1986.

Effective date.—Services provided on or after October 1, 1985.

b. Ways and Means proposal.—The House Committee on Ways and Means proposes to extend the current freeze on customary and prevailing charges for an additional year, i.e., fiscal year 1986, for physicians who are nonparticipating physicians during that year. Prevailing charges for services furnished after the freeze would not include an allowance for the lack of an increase during the freeze. The proposal would also extend the freeze on actual charges of nonparticipating physicians. This freeze is tied to the April–June 1984 levels. A physician who converts from a participating physician in fiscal year 1985 to a nonparticipating physician in fiscal year 1986 would have his or her actual charges rolled back to the April–June 1984 levels. The monitoring of physicians' actual charges would be continued through fiscal year 1986.

Any physician who signs a participation agreement for fiscal year 1986 would receive an increase in Medicare payments in that year. Both participating and nonparticipating physicians would receive an increase in Medicare payments in fiscal year 1987. However, unlike participating physicians, there would be a permanent one-year lag in the prevailing charge levels applicable to nonparticipating physicians.

The proposal would extend for one year the provision transferring \$15 million from the part B trust fund to the carriers (the entities which administer part B) for continued administration of the freeze and participating physician and supplier program. It would eliminate the requirement for publication of the Physician Assignment Rate List and would provide for improvements in directories of participating physicians. The provision would also require that information on the participating physician and supplier program be included in explanations of benefits (EOB's) sent to beneficiaries for unassigned claims.

Effective date.—October 1, 1985 for payment provisions. Enactment for other provisions except that EOB changes apply to EOB's provided on or after a date specified by the Secretary but no later than April 1, 1986.

c. Energy and Commerce proposal.—The House Committee on Energy and Commerce proposes to incorporate the provisions reported by the House Committee on Ways and Means with the following modifications. A physician who was a participating physician (or took assignment 100 percent of the time) in fiscal year 1985 but did not sign a participation agreement in fiscal year 1986 would receive half the increase in recognized customary and prevailing charges to which he or she would be entitled if he or she were a participating physician. Similar provisions apply in future years for physicians who change from participation status (or 100 percent assignment status) in one year to nonparticipation status in the next year.

Effective date.—October 1, 1985 for payment provisions. Enactment for other provisions except that EOB changes apply to EOB's provided on or after a date specified by the Secretary but no later than April 1, 1986.

The Administration proposal would also allow States to provide adoption assistance in the form of medicaid eligibility without any cash assistance payment. (Under present law, medicaid is provided only on the basis of the child's status as a recipient of cash adoption assistance benefits.) The proposal would make a child eligible for medicaid in the State of residence, regardless of where the adoption subsidy agreement with that State. Another element of the Administration's proposal would permanently authorize Federal funding of foster care for children who are placed in such care under voluntary agreements. Such funding is now permitted under a temporary statute. Permanent law restricts funding to cases where the foster care placement has been ordered by a court.

The Administration also proposes to reduce the time limit for States to file claims for matching of foster care and adoption assistance to one year after the expenditures are made. The present law limit is two years.

Effective date.—Upon enactment.

Outlay Effect [in millions of dollars]

	Fiscal year—			Total
	1986	1987	1988	
Administration proposal.....	—35	—15	—18	—68

D. UNEMPLOYMENT COMPENSATION PROGRAM

1. Federal Supplemental Compensation Program Benefits Extension

Current law.—The Federal Supplemental Compensation program (FSC), which provided additional weeks of unemployment compensation to individuals who had exhausted their regular State benefits, was due to expire on April 6, 1985. Public Law 99-15, enacted on April 4, 1985, allowed individuals who were receiving FSC benefits for the week of March 31–April 6, to continue to receive the remainder of their benefits. No new FSC benefits were payable after April 6, 1985. Under P.L. 99-15, the remaining weeks of FSC benefits had to be collected in consecutive weeks of unemployment. Any interruption of benefits, for whatever reason, ended an individual's eligibility for FSC benefits.

Ways and Means proposal.—Certain unemployed individuals in the State of Pennsylvania would be permitted to collect the remainder of their FSC benefits, notwithstanding the requirement in P.L. 99-15 that such benefits be collected in consecutive weeks.

These individuals were receiving FSC for the week of March 31, 1985–April 6, 1985, and were eligible to collect the remainder of their benefits under P.L. 99-15. The collection of their remaining benefits was interrupted, however, when they were called up in the National Guard in early June to provide services during a major disaster in the State declared by the President to warrant assist-

ments to services was designed to encourage States to decrease reliance on foster care placements, and to provide instead for services to prevent the need for placing or keeping children in foster care. The mandatory cap has been in effect for only one year, 1981, because the designated level of appropriations has not been reached in the following years.

(b) *Optional cap.*—In any year in which the title IV-B (child welfare services) appropriation is below the specified level, a State may opt to have a cap imposed on its funding. This allows the State, so long as it meets the foster care protection requirements, to transfer funds from foster care to child welfare services even though the specified appropriation level is not reached. In this case, however, the State is limited in the amount which it may transfer. The amount may not exceed an amount which, together with the child welfare services funding it receives, is equal to the amount of child welfare services funds it would have received if the child welfare services appropriation for the year were high enough to trigger the mandatory cap. In FY84, 23 States opted to use a voluntary foster care ceiling and transferred approximately \$32.2 million from their foster care allocations to their child welfare services programs.

Under the title IV-E adoption assistance program, States determine which children in foster care are eligible for adoption assistance because of special needs which make it reasonable to conclude that they cannot be placed in adoptive homes unless assistance is provided. In the case of any child meeting the special requirements set forth in the law, the State may offer adoption assistance to parents who adopt the child. The amount of assistance is agreed upon between the parents and the agency. As with the foster care program, States may receive Federal matching on an open-ended entitlement basis, but without provision for a cap.

Federal funding for foster care under title IV-E was \$485 million in fiscal year 1985. The Federal cost of the adoption assistance program has increased from \$12 million in fiscal year 1983 to a projected \$42 million in fiscal year 1986.

Administration budget proposal.—The Administration proposes to limit Federal funding for foster care to \$485.4 million in fiscal year 1986 (this is the estimated expenditure level for fiscal year 1985). For future years, this limit would increase by inflation (but the increase could not exceed 5 percent in any year). States would receive a share of this total in accordance with their relative share of the program's funding for fiscal year 1984. (The level of child welfare services funding needed to "trigger" this cap on foster care funding would be reduced under the Administration proposal to \$200 million—the current funding level for the program.) The Administration proposal would also provide for a bonus payment to States equal to \$3,000 multiplied by the net reduction in the number of children in long-term foster care (more than 24 months) in the State in fiscal years 1988, 1989, and 1990. States would qualify for this bonus only if, in any of these years, they attained at least a 3 percent reduction in such long-term foster care. Bonus payments could be used for foster care, child welfare services, or general social services purposes.

Outlay Effect [in millions of dollars]

	Fiscal year—			Total
	1986	1987	1988	
a. Administration proposal.....	-490	-450	-450	-1,390
Premium offset.....	66	85	88	239
Medicaid offset.....	-12	-12	-12	-37
Total.....	-436	-377	-374	-1,188
b. Ways and Means proposal.....	-225	-250	-320	-795
Premium offset.....	33	50	54	137
Medicaid offset.....	-6	-7	-8	-21
Total.....	-198	-207	-274	-679
c. Energy and Commerce proposal.....	-215	-240	-300	-755
Premium offset.....	32	47	51	130
Medicaid offset.....	-5	-7	-8	-20
Total.....	-188	-200	-257	-645

4. *Modify Clinical Laboratory Fees*

Current law.—The Deficit Reduction Act of 1984 established fee schedules for the payment of clinical laboratory services, effective July 1, 1984.

Fee schedule established at 60 percent of prevailing charges, were made applicable to laboratory tests performed by either a physician or a freestanding laboratory. Those same schedules were applied to a hospital-based laboratory when furnishing services to persons who are not hospital patients.

Other schedules, established at 62 percent of prevailing charges, were made applicable to laboratory services performed by a hospital-based laboratory when furnishing services to the hospital's outpatients.

For the three year period beginning July 1, 1984, the fee schedules are to be established on a regional, statewide, or carrier service area basis. The fee schedules are to be adjusted annually to reflect changes in the consumer price index (CPI) for all urban consumers.

Beginning July 1, 1987, a fee schedule for tests performed by a physician or a freestanding laboratory is to be established on a national basis. At the same time, payment for hospital-based laboratory services for outpatients is slated to revert to cost-based reimbursement, unless Congress acts to provide for the continued use of a fee schedule.

a. Administration budget proposal.—The Administration proposes to freeze Medicare payments under the fee schedules for the 15-month period beginning July 1985; no catch-up would be permitted in future years. The fee schedule for hospital-based tests for hospital outpatients would be extended through September 30,

1987. Beginning October 1, 1987, hospital-based tests for outpatients could be included in the nationwide fee schedule if the Secretary decided to do so prior to July 1, 1987.

Effective date.—Enactment.

b. Energy and Commerce proposal.—The House Committee on Energy and Commerce proposes to require the Secretary of Health and Human Services to establish a ceiling on the maximum amount that Medicare will pay for clinical laboratory services under the current local fee schedules. A different ceiling would be set for each test and would be applied nationwide. The ceiling would be set at 115 percent of the median beginning on January 1, 1986, and at 110 percent of the median beginning on October 1, 1986. The annual update, currently scheduled for July 1, would be moved to October 1, beginning in 1986. Application of the fee schedules for hospital-based tests for outpatients would be extended through September 30, 1987.

Effective date.—January 1, 1986.

Outlay Effect [in millions of dollars]

	Fiscal year—			Total
	1986	1987	1988	
a. Administration proposal.....	-50	-80	-235	-365
Premium offset.....	10	24	29	63
Medicaid offset.....	-1	-3	-6	-10
Total.....	-42	-59	-212	-312
b. Energy and Commerce proposal.....	-25	-25	-70	-150
Premium offset.....	5	10	12	27
Medicaid offset.....	-1	-1	-2	-4
Total.....	-21	-46	-60	-127

5. Freeze Skilled Nursing Facility Limits

Current law.—Skilled nursing facility (SNF) reimbursement is subject to specified cost limits. Separate limits are established for freestanding facilities in urban and rural areas at 112 percent of the mean operating costs of urban and rural freestanding facilities respectively. Limits for urban hospital-based facilities are equal to the urban freestanding facility limit plus 50 percent of the difference between the freestanding limit and 112 percent of mean operating costs for urban hospital-based facilities. A similar calculation is made for rural hospital-based facilities. The limits are adjusted annually by the SNF market basket index.

Administration budget proposal.—The Administration proposes to freeze the SNF limits for SNF accounting periods beginning on or after July 1, 1985, at the levels that had been in effect for the previous year.

ing Partnership Act. In addition, at least two of the six quarters must be quarters of work.

Effective date.—The provision would be effective on October 1, 1986.

Outlay Effect [in millions of dollars]

	Fiscal year—			Total
	1986	1987	1988	
Ways and Means proposal.....	+100	+160	+260	+260
Food stamp offset.....	-35	-60	-95	-95
Medicaid offset.....	+95	+150	+245	+245
Total.....	+160	+25	+410	+410

C. FOSTER CARE AND ADOPTION ASSISTANCE (TITLE IV-E)

ADMINISTRATION BUDGET PROPOSAL

1. Foster Care Funds

Current law.—The foster care and adoption assistance programs are authorized under title IV-E of the Social Security Act. These programs, which are aimed at providing assistance for the care of children removed from their homes, were modified by the Adoption Assistance and Child Welfare Act of 1980 (P.L. 96-272) which included incentives to States to emphasize permanent placement of children and to reduce long-term foster care placements. Both the foster care and adoption assistance programs provide matching funds to States at the Medicaid matching rate to assist with maintenance costs for eligible children. These programs also provide Federal matching for State costs associated with administration expenses.

Under the title IV-E foster care program, States may receive, on an entitlement basis, Federal funding for foster care maintenance payments for children who meet certain conditions. However, there are two major provisions in effect through fiscal 1985 which affect the amount which a State may actually claim under this authority:

(a) *Mandatory cap.*—In any year in which the title IV-B (child welfare services) appropriation reaches a specified level (\$266 million in fiscal years 1983, 1984 and 1985), a State may claim for foster care maintenance payments only up to a "capped" amount, determined under one of three formulas in the law. For most States this means an allowable annual increase in their limitations equal to the lesser of twice the percentage increase in the Consumer Price Index or 10 percent. If this foster care cap is triggered by the child welfare appropriation, a State may transfer any amount of its allotment which it does not use for foster care maintenance payments for use in funding child welfare services, so long as it is certified as meeting certain foster care protection requirements. This authority to transfer funds from maintenance pay-

Ways and Means proposal.—The Ways and Means proposal establishes a block grant “for programs to prevent teenage pregnancies and to assist pregnant individuals and teen age parents in achieving self-sufficiency.” The proposal would authorize appropriations for this purpose of \$50 million for fiscal year 1986 and \$100 million for fiscal year 1987. The funds would initially be allocated in proportion to each State’s total AFDC expenditures. Unused funds could be reallocated. The block grant would be used to fund activities and services “which may help to reduce pregnancies among children.” It would also be used for a program of educational, health, employment, child care and other services for individuals up to age 25 who have not completed high school and who are or had been teenage parents. The proposal includes a specific prohibition against using grant funds for performing abortions or (except where the life of the mother would be endangered) for counselling individuals to have abortions.

Effective date.—October 1, 1985.

Outlay Effect [in millions of dollars]

	Fiscal year—			Total
	1986	1987	1988	
Ways and Means proposal.....	50	100	0	150

7. Mandate the AFDC-UP Program

Current law.—It is a State option to provide AFDC benefits to families in which both parents are present and not disabled but the principal earner is unemployed (i.e., the principal earner is working less than 100 hours per month and has six or more quarters of work in any 13-calendar quarter period ending within one year prior to applying for AFDC). This is known as the AFDC-UP (unemployed parent) program. Twenty-four States, Guam and the District of Columbia provide this assistance to needy intact families.

The States currently *without* a two-parent AFDC program are: Alabama, Alaska, Arizona, Arkansas, Colorado, Florida, Georgia, Idaho, Indiana, Kentucky, Louisiana, Mississippi, Nevada, New Hampshire, New Mexico, North Carolina, North Dakota, Oklahoma, Oregon, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, and Wyoming.

Ways and Means proposal.—The current optional AFDC program for unemployed parents would be mandatory in all States. As a result, all States would be required to provide the AFDC benefits to two-parent families in which the principal earner is unemployed.

In addition, the definition of “quarters of work” would be modified to permit, at State option, the substitution of participation in school or training as follows: (1) full-time school attendance would be limited to elementary or secondary school; (2) full-time vocational or technical training to prepare for gainful employment; (3) participation in education or training established under the Job Train-

Effective date.—SNF accounting periods beginning on or after July 1, 1985.

Outlay Effect [in millions of dollars]

	Fiscal year—			Total
	1986	1987	1988	
Administration proposal.....	-3	-5	-5	-13
Medicaid offset.....	0	0	0	1
Total.....	-3	-5	-5	-12

6. Modify Durable Medical Equipment and Other Payment Limits

Current law.—Payments for durable medical equipment (DME), prosthetic devices, ambulance services, and other non-physician services are made on the basis of reasonable charges.

a. Administration budget proposal.—The Administration proposes by regulatory initiative to freeze customary and prevailing charge limits for durable medical equipment and other non-physician services for one year beginning in fiscal year 1986. Beginning in fiscal year 1987, prevailing charge limits would be indexed to the consumer price index. Proposed regulations were issued August 16, 1985.

Effective date.—October 1, 1985.

b. Ways and Means proposal.—The House Committee on Ways and Means proposes to impose new reimbursement limits on rented DME (other than that furnished under a lease purchase agreement). During fiscal year 1986, Medicare customary and prevailing charges for rented durable medical equipment would be allowed to increase by only 1 percent over the level in effect for the 15-month period beginning July 1, 1984. Thereafter, Medicare reasonable charges for both rented and purchased DME would rise no faster than the increase in the consumer price index. Medicare payment for rented equipment would only be made on the basis of mandatory assignment, i.e., the supplier would be required to accept Medicare’s reasonable charge as his or her full charge and could collect from the beneficiary no more than the applicable deductible and coinsurance.

Effective date.—Limitations on payment for rented equipment would apply October 1, 1985; limitations on annual increases would apply October 1, 1986; mandatory assignment provisions would apply January 1, 1986.

c. Energy and Commerce proposal.—The House Committee on Energy and Commerce proposes to freeze Medicare customary and prevailing charges for rental of DME (other than that furnished under a lease purchase arrangement) and for purchase of oxygen supplies during fiscal year 1986. Beginning October 1, 1986, Medicare payment for rented equipment would rise no faster than the increase in the consumer price index. Medicare payment for rented

equipment and for the purchase of oxygen supplies would only be made on the basis of mandatory assignment.

Effective date.—Limitations on payment for rented equipment and oxygen supplies would apply October 1, 1985; limitations on annual increases would apply October 1, 1986; mandatory assignment provisions would apply January 1, 1986.

Outlay Effect [in millions of dollars]

	Fiscal year—			Total
	1986	1987	1988	
a. Administration proposal	-55	-100	-140	-295
Premium offset.....	10	20	25	55
Medicaid offset.....	-1	-3	-4	-8
Total.....	-46	-83	-119	-248
b. Ways and Means proposal.....	-35	-70	-105	-210
Premium offset.....	7	14	17	38
Medicaid offset.....	-1	-2	-3	-6
Total.....	-29	-58	-91	-178
c. Energy and Commerce proposal.....	-50	-90	-125	-265
Premium offset.....	9	18	21	48
Medicaid offset.....	-1	-2	-3	-6
Total.....	-42	-74	-107	-223

7. Freeze Direct Medical Education Payments

Current law.—The direct costs of approved graduate medical and other health professional education programs (such as classroom costs and the salaries of interns and residents) are excluded from the prospective payment system and are paid on a reasonable cost pass-through basis.

a. Administration budget proposal.—The Administration imposed, through final regulations issued July 5, 1985, a one-year limit on payments to hospitals for their direct costs of approved medical education activities. The limit would be the lesser of the provider's actual allowable costs of approved medical education activities from July 1, 1985, to June 30, 1986, or during hospital cost reporting periods beginning in fiscal year 1984, updated for inflation.

Effective date.—Hospital cost reporting periods beginning on or after July 1, 1985 but before July 1, 1986.

b. Ways and Means proposal.—The House Committee on Ways and Means proposes to prohibit the Secretary of Health and Human Services from imposing a one-year freeze on Medicare payments for the direct costs of medical education.

Effective date.—Effective for cost reporting periods beginning during the one-year period beginning on July 1, 1985.

faith effort to reduce errors. In making the waiver request, States would also be permitted to challenge the Federal error rate findings. The Secretary would review and act on the request according to a timetable specified in regulations.

The regulations would specify criteria (described in the provision) that would be used in assessing waiver requests, such as the following:

(a) *Factors beyond the State's control*—such as disasters (fire, flood or civil disorders); strikes by State or other staff needed to determine eligibility or process changes in cases; sudden workload changes resulting from changes in Federal or State law and regulations or rapid caseload growth; and State actions which were the result of incorrect policy interpretations by a Federal official.

(b) *Factors related to agency commitment*—such as demonstrated commitment by top management to the error reduction program; sufficiency and quality of operational systems which are designed to reduce errors; use of effective systems and procedures for the statistical and program analysis of quality control and related data; and effective management and execution of the corrective action process.

(c) *Other factors as appropriate*—these may be identified by the Secretary in regulations or may be detailed by States in their waiver requests but would include past State error rate performance as well as the cost effectiveness of error reduction efforts.

States would be permitted to appeal the Secretary's decision on the waiver request described above to the HHS Grant Appeals Board and could also appeal to the courts.

In lieu of the waiver authority identified above, the Secretary would be required to waive a sanction permanently if the State submits a plan for the reduction of errors which includes the expenditure of additional State administrative funds equal to one-half of the sanction amount. These expenditures would be a Federally-matched administrative expense.

Effective date.—For FY 81 and 82, States would have the option of applying current law or the new quality control system and standards. For FY 83 and thereafter, the new quality control system and standards would apply.

Outlay Effect [in millions of dollars].

	Fiscal year—			Total
	1986	1987	1988	
Ways and Means proposal.....	4	4	62	70

6. Teenage Pregnancy Block Grant

Current law.—There is no specific block grant designed to provide pregnancy prevention services for AFDC recipients.

technical errors) would not be required to submit a corrective action plan for the Secretary's approval.

(b) *Set a new national standard for the AFDC error rate of 3.5 percent.*

The standard tolerance level for overpayment errors would be permanently set at 3.5 percent.

(c) *Determine and adjusted State error rate.*

The procedures described in (a) above would be used to obtain the raw error rate data. Subsequently, two adjustments would be made to produce an adjusted State error rate.

So-called "technical errors" would be excluded for fiscal sanctions purposes. They include: failure to provide evidence in the case record of social security numbers, assignment of rights to support, cooperation in obtaining support, WIN registration, and other errors of this nature.

The point estimate of a State's error rate would be the lower bound of the range within which a State's true error rate falls, rather than the midpoint, if the State has a sample size sufficient to produce a lower limit which is 2.5 percentage points or less below the midpoint. In the calculation of the lower confidence level, the Secretary would have the authority to promulgate regulations to adjust for variability among States in the number, proportion or dollar value of cases where the findings of the State quality control review differ from the Federal findings.

(d) *Adjust the standard tolerance level annually for each State taking into account certain factors*

The standard tolerance level of 3.5 percent would be increased (up to a maximum tolerance of 5 percent) as follows:

(a) Add 0.5 percent to the standard level if the State has operated an AFDC unemployed parent program during the fiscal year.

(b) Add 0.1 percent to the standard level, up to a maximum of 0.5 percent, for each 20 percent increment by which the State exceeds the national average in terms of percent of total State AFDC caseload with earnings.

(c) Add 0.1 percent to the standard level, up to a maximum of 0.5 percent, for each 20 percent increment by which the State exceeds the national average in terms of population density (population per square mile land area).

(e) *Impose fiscal sanctions on the basis of the adjusted State error rate and the adjusted State tolerance level.*

A State's fiscal sanction would be equal to the Federal portion of benefits paid above the adjusted State tolerance level using the adjusted State error rate.

A sanction amount would be reduced by the Federal share of overpayments collected by the State in the fiscal year to which the error rate applies.

The current authority for the HHS Secretary to waive sanctions to acknowledge certain circumstances would be retained and expanded. States could request a waiver based on the State's good

Outlay Effect [in millions of dollars]

	Fiscal year—			Total
	1986	1987	1988	
a. Administration proposal.....	-130	-40	-0	-170
b. Ways and Means proposed.....	0	0	0	0

8. Reduce the Indirect Medical Education Adjustment

Current law.—Additional payments are made to hospitals under Medicare's prospective payment system (PPS) for the indirect costs of approved medical education programs. Such costs may be due to such factors as additional tests ordered by interns and residents as part of their training and, presumably, to the relatively more severe medical condition of patients in teaching hospitals.

Prior to implementation of PPS, an estimate was developed of how a hospital's costs increased as the ratio of interns and residents to beds increased. This adjustment factor was used in setting the reimbursement limits applied under Medicare's reimbursement method in effect before PPS. For PPS, Congress doubled the adjustment factor. This doubled factor is equal to 11.59 percent for each 0.1 increase in the ratio of a hospital's full-time equivalent interns and residents to its number of beds.

a. Administration budget proposal.—The Administration proposes to eliminate the doubling of the indirect medical education adjustment factor, limiting the factor to 5.795 percent. It would also exclude from the count of interns and residents those interns and residents furnishing services to outpatients.

Effective date.—Admissions occurring after September 30, 1985.

b. Ways and Means proposal.—The House Committee on Ways and Means proposes to reduce the indirect teaching adjustment to 8.1 percent for fiscal years 1986 and 1987 on a variable or curvilinear basis. When the Committee-proposed disproportionate share provisions expire at the end of fiscal year 1987, the indirect teaching adjustment would rise to 8.7 percent. The Secretary of Health and Human Services would be prohibited from changing the manner in which residents' services to inpatients and outpatients are counted for the purpose of determining the indirect teaching adjustment.

Effective date.—Discharges occurring on or after October 1, 1985.

Outlay Effect [in millions of dollars]

	Fiscal year—			Total
	1986	1987	1988	
a. Administration proposal.....	-590	-810	-1,100	-2,500
b. Ways and Means proposal.....	-580	-880	-950	-2,410
Transition freeze offset.....	190	240	150	580

Outlay Effect [in millions of dollars]

	Fiscal year—			Total
	1986	1987	1988	
Disproportionate share offset.....	70	110	0	180
Total.....	-320	-530	-800	-1,650

9. Restructure Home Health Limits

Current law.—Reimbursement for home health services is currently limited to the 75th percentile of the average costs per visit incurred by all home health agencies. Separate limits are established for each type of service (e.g., skilled nursing, home health, and physical therapy); however, they are applied in the aggregate to each home health agency based on its mix of services.

Administration budget proposal.—The Administration has revised, in regulations published July 5, 1985, the home health cost limit methodology. For cost reporting periods beginning on or after July 1, 1985, the limits would be set at 120 percent of the mean and would be applied separately to each type of service. For cost reporting periods beginning on or after July 1, 1986, the limits would be reduced to 115 percent of the mean. For cost reporting periods beginning on or after July 1, 1987, the limits would be set at 112 percent of the mean.

Effective date.—July 1, 1985.

Outlay Effect [in millions of dollars]

	Fiscal year—			Total
	1986	1987	1988	
Administration proposal.....	-40	-70	-120	-230

10. Delay Eligibility

Current law.—Eligibility for parts A and B of Medicare begins on the first day of the month in which an individual reaches age 65.

Administration budget proposal.—The Administration proposes to delay Medicare eligibility to the first day of the month following the month in which age 65 is attained.

Effective date.—January 1, 1986.

OTHER PROPOSALS

5. Revise AFDC Quality Control System

Current law.—The Federal government and the States have established ongoing quality control systems. The systems attempt to: (1) measure the extent and dollar value of errors in program administration; (2) identify the types and causes of errors; and (3) specify and monitor corrective actions taken to eliminate or reduce errors.

Fiscal sanctions have also been made a part of these systems. Under the sanctions, States can be held liable for the cost of benefit payments made in excess of statutorily established error tolerance levels, referred to as target error rates.

Prior to enactment of the Tax Equity and Fiscal Responsibility Act of 1982 (P.L. 97-248), Congress passed legislation which required States to reach a 4 percent error tolerance level by fiscal year 1983. Between fiscal year 1981 and fiscal year 1983, States were required to make progress toward the 4 percent standard in three equal installments. P.L. 97-248 reduced the target error rate for AFDC to 3 percent for fiscal year 1984 and thereafter.

To date, no fiscal sanctions have been collected for errors in the AFDC program although sanctions have been announced for fiscal year 1981.

Ways and Means Proposal.—The current error rate tolerance level for AFDC would be modified. The proposal would establish in statute a timetable, for the collection of the error rate data, determine each State's error rate, and collect potential fiscal sanctions. The proposal also specifies the basic terms and conditions for granting waivers of the fiscal sanctions. The specific provisions of the Committee proposal are described below.

(a) Establish minimum quality control policies and procedures in law.

States would be required to determine the AFDC error rate for each fiscal year in a manner similar to current practice. States could, at their option, collect either 2 six-month samples or an annual sample of their AFDC caseload to develop the error rate but would be prohibited from reducing their sample size.

The Federal re-review, analysis, and notice to the States of the official error rate would have to occur within six months after the close of the fiscal year for which the data are collected or six months from the date a completed State sample is submitted to the Federal regional office, whichever is later.

After completing the data collection process: (1) States would be required to develop and submit to the Secretary of Health and Human Services (HHS) a corrective action plan for reducing the identified errors (including those not subject to fiscal penalties as discussed below); (2) the Secretary would review and approve the plan, and; (3) States would be required to implement the corrective actions. The Secretary would be required to establish a timetable for these activities in regulations and monitor the corrective action process. States with adjusted State error rates that are consistently at or below the adjusted State tolerance level (without excluding

Outlay Effect [in millions of dollars]

	Fiscal year—			Total
	1986	1987	1988	
Medicaid offset	-15	-30	-50	-95
Total	10	20	30	60

4. Cap Federal Matching Payments to States for Program Administration

Current law.—The Federal Government, on an open-ended entitlement basis, reimburses each State for 50 percent of its administration and training costs related to the operation of the AFDC program. Certain costs of developing and installing management information systems are matched at 90 percent.

Administration budget proposal.—The Administration is proposing to discontinue the current open-ended entitlement for administration costs. Instead, States would receive grants under a discretionary appropriation account subject to an overall authorization limit. For fiscal year 1986, the authorization limit would be \$928 million—the estimated amount to be spent on administration in fiscal year 1985. For subsequent years, the authorization limit would be increased by the percentage increase in the gross national product (GNP) deflator. The amount payable to each State out of the total appropriated for any year would be based on its proportionate share in fiscal year 1984 of total administrative funding except for the installation and planning of computers pursuant to section 403(a)(3).

Administrative costs incurred in implementing the work programs would be funded through a similar but separate block grant. Each state would receive grants for this purpose in an amount equal to its proportionate share of the amount appropriated on the basis of the number of individuals in that State (and all other States) who are subject to the work requirements. For fiscal year 1986, the proposal would authorize an appropriation of \$145 million. For future years, the authorization would be unspecified.

Effective date.—October 1, 1985.

Outlay Effect [in millions of dollars]

	Fiscal year—			Total
	1986	1987	1988	
Administration proposal	-50	-50	-34	-134

Outlay Effect [in millions of dollars]

	Fiscal year—			Total
	1986	1987	1988	
Administration proposal	-245	-270	-295	-810
Premium offset.....	35	45	55	135
Medicaid offset.....	19	22	24	65
Total	-191	-203	-216	-610

11. Extend Secondary Payer Coverage for Working Aged Over 69

Current law.—The Tax Equity and Fiscal Responsibility Act of 1982 required employers of 20 or more workers to offer employees aged 65 through 69, and their spouses aged 65 through 69, the same group health plans offered to employees under age 65. Where the beneficiary elects such coverage, Medicare becomes the secondary payer. The Deficit Reduction Act of 1984 extended the working aged provision to beneficiaries covered under a working spouse's employer health plan when that working spouse is under age 65.

a. Administration budget proposal.—The Administration proposes to extend the working aged provision to beneficiaries over age 69 if they or their spouses work and elect the employer-based health insurance plan.

Effective date.—January 1, 1986.

b. Ways and Means proposal.—Same as the Administration proposal.

Effective date.—January 1, 1986.

c. Energy and Commerce proposal.—The House Committee on Energy and Commerce proposes to incorporate the provisions reported by the House Committee on Ways and Means without amendment.

Effective date.—January 1, 1986.

Outlay Effect [in millions of dollars]

	Fiscal year—			Total
	1986	1987	1988	
a. Administration proposal	-230	-360	-400	-990
Premium offset.....	8	16	18	43
Medicaid offset.....	0	-1	-1	-2
Total	-222	-345	-382	-949
b. Ways and Means proposal.....	(1)	(1)	(1)	(1)
Premium offset.....	(1)	(1)	(1)	(1)
Medicaid offset.....	(1)	(1)	(1)	(1)
Total	(1)	(1)	(1)	(1)

Outlay Effect [in millions of dollars]

	Fiscal year—			Total
	1986	1987	1988	
c. Energy and Commerce proposal.....	(1)	(1)	(1)	(1)
Premium offset.....	(1)	(1)	(1)	(1)
Medicaid offset.....	(1)	(1)	(1)	(1)
Total.....	(1)	(1)	(1)	(1)

¹ Same as Administration proposal.

12. Index the Part B Deductible to the Medicare Economic Index

Current law.—Enrollees in the Supplementary Medical Insurance (or part B) portion of Medicare are responsible for paying the first \$75 of covered expenses (known as the deductible) each year before any benefits are paid. The amount of this deductible is fixed by law. When the program was first enacted, the deductible amount was set at \$50. It was subsequently increased to \$60 in 1972 and \$75 in 1982.

Administration budget proposal.—The Administration proposes to index the part B deductible, beginning in 1987, by the percentage by which the Medicare economic index increases each year, rounded to the next highest dollar. The Medicare economic index reflects changes in the costs of providing physician services and is used (except during the freeze period) to limit increases in the reasonable charges paid for physician services under part B of the program. Under the proposal, the Congressional Budget Office estimates that the part B deductible would increase from \$75 to the amounts shown below.

PART B DEDUCTIBLE

[CBO estimates]

	Calendar year—				
	1986	1987	1988	1989	1990
Indexed deductible.....		\$78	\$82	\$86	\$90

Effective date.—January 1, 1987.

(a) **Requirements for participation.**—The present law requirements for participation in work-related activities would be somewhat modified. Under present law, if one adult in a family of two adult workers (the principal earner in a family that is eligible on the basis of unemployment of the parent) is participating in work-related activities, the second parent is exempt. Under the proposed change, both parents would be required to participate (unless they are otherwise exempt—for example, on the basis of illness, or need to care for a young child). Present law exempts parents caring for children under age 6 from mandatory participation in work programs except that States have the option to require community work experience participation for parents with children under age 6 (but not under age 3) if child care is available. This option is extended to all work programs under the Administration proposal.

(b) **Modification in number of required hours.**—Under the Administration's proposed amendments, there would also be modification in the number of hours that individuals could be required to participate in work programs. Present law permits only the consideration of the amount of the AFDC benefit in establishing the work participation requirement for CWEP. Under the proposed change, the maximum monthly number of hours that the individual could be required to participate in CWEP would be 120 but the value of food stamps in addition to the AFDC grant would be considered in determining the number of hours of participation. In addition, work program participants would be required to engage in job search on a monthly basis.

(c) **Employment search program.**—The Administration's amendments would also make changes in the optional employment search program as established by the Tax Equity and Fiscal Responsibility Act of 1982. Under the Administration's proposal, that program would become mandatory with the State welfare agencies.

(d) **Requirements for States.**—Under the Administration's proposal, States would have to ensure that at least 25 percent of eligible AFDC recipients had been referred for participation in the revised AFDC work program in fiscal year 1986. The participation requirement would rise to 50 percent in fiscal year 1987 and to 75 percent in fiscal year 1988 and years thereafter. States would lose Federal funding equal to the average AFDC payment for families to the extent that these targets are not met.

Effective date.—October 1, 1985.

Outlay Effect [in millions of dollars]

	Fiscal year—			Total
	1986	1987	1988	
Administration proposal:				
1. Elimination of WIN.....	-217	-288	-302	-807
2. Require job search.....	-5	-15	-25	-45
Medicaid offset.....	-15	-30	-35	-80
Total.....	-20	-45	-60	-125
3. Require work programs.....	25	50	80	155

the basis of the State's percentage of WIN registrants during the preceding January; half are distributed under a formula developed by the Secretary to take into consideration each State's performance. Special funding provisions apply to States with WIN demonstration programs.

Regular AFDC matching provisions prevail in the case of individuals who are receiving AFDC benefits and are participating in CWEP. State expenditures for administration of CWEP are eligible for Federal matching of 50 percent. However, such expenditures may not include the cost of making or acquiring materials or equipment or the cost of supervision of work, and may include only such costs as are permitted by the Secretary.

Federal matching (as determined by the regular AFDC matching provisions) is available to a State for the costs of a work supplementation program to the extent that those expenditures do not exceed the aggregate of what would have been paid as AFDC for all participants in the program for a maximum of 9 months if they had no other income and if the State had not adopted any reduction in grant levels, as permitted under the program. This limitation applies only to wage supplementation payments. Administrative costs and related services are eligible for matching under the general AFDC provisions.

Federal matching of 50 percent is available to the States for the cost of administering the employment search program. This may include transportation and other necessary services.

(e) *Administration.*—WIN is administered jointly at the Federal level by the Department of Health and Human Services and the Department of Labor. At the State level it is administered jointly by the welfare (or social services) agency and the State employment service. The WIN demonstration authority requires single-agency administration of the program under the direction of the welfare agency.

The community work experience, the work supplementation, and the employment search programs are administered at the Federal level by the Department of Health and Human Services. Regulations require that these programs be administered through the welfare agency.

Administration budget proposal.—The Administration is proposing amendments which would modify the work-related activities and requirements for AFDC applicants and recipients. All activities would be operated by or under the direction of the State welfare agency. The major proposals are: (1) The work incentive program and the work incentive demonstration program would be repealed. (2) These programs would be replaced with mandatory job search by able-bodied AFDC applicants and recipients and a revised AFDC work program.

The State welfare agency would have several employment program options to which to refer AFDC applicants and recipients: the community work experience program, work supplementation, training under the Job Training Partnership Act or another program of State design providing practical work experience if approved by the Secretary of the Department of Health and Human Services.

Outlay Effect (in millions of dollars)

	Fiscal year—			Total
	1986	1987	1988	
Administration proposal.....	0	-50	-130	-180
Premium offset.....	0	13	17	30
Medicaid offset.....	0	2	6	8
Total.....	0	-35	-107	-142

13. Increase Part B Premiums

Current law.—Under the original Medicare law, beneficiary premiums paid for 50 percent of the cost of part B with the remaining 50 percent financed by Federal general revenues. However, legislation enacted in 1972 provided that the percentage increase in the part B premium could not exceed the percentage increase in social security cash benefits payments. As a result, beneficiary premiums financed less than 25 percent of program costs by 1982.

The Tax Equity and Fiscal Responsibility Act of 1982, as amended by the Social Security Amendments of 1983, specified that enrollees' premiums in 1984 and 1985 would be allowed to increase to amounts necessary to produce premium income equal to 25 percent of program costs for elderly enrollees. (Disabled enrollees pay the same premiums even though the per capita cost of services to these enrollees is higher.) The Deficit Reduction Act of 1984 extended this provision for two calendar years (i.e., 1986 and 1987).

a. Administration budget proposal.—The Administration proposes to increase the part B premium over a five-year period beginning in 1986. As a percent of costs, the premium would increase by two percentage points each year so that by 1990, the premium would equal 35 percent of estimated program costs for elderly enrollees.

Effective date.—Enactment.

b. Ways and Means proposal.—The House Committee on Ways and Means proposes to extend for one additional year (calendar year 1988) the temporary provision of law under which enrollee premiums are to produce premium income equal to 25 percent of program costs for elderly enrollees.

Effective date.—Enactment.

c. Energy and Commerce proposal.—The House Committee on Energy and Commerce proposes to incorporate the provisions reported by the House Committee on Ways and Means without amendment.

Effective date.—Enactment.

MONTHLY PART B PREMIUMS

[CBO estimates]

	Calendar year—				
	1986	1987	1988	1989	1990
Current law	\$16.20	\$18.60	\$19.40	\$20.20	\$21.00
a. Administration proposal	17.20	21.30	25.30	30.20	35.60
b. Ways and Means proposal..	16.20	18.60	20.80	21.70	22.60
c. Energy and Commerce proposal.....	(¹)	(¹)	(¹)	(¹)	(¹)

¹ Same as Ways and Means proposal.

Outlay Effect [in millions of dollars]

	Fiscal year—			Total
	1986	1987	1988	
a. Administration proposal	—358	—959	—2,125	—3,441
Medicaid offset.....	18	47	58	123
Total	—340	—911	—2,067	—3,318
b. Ways and Means proposal.....	0	0	—407	—407
Medicaid offset.....	0	0	20	20
Total	0	0	—387	—387
c. Energy and Commerce proposal.....	(¹)	(¹)	(¹)	(¹)

¹ Same as Ways and Means proposal.**14. Establish Home Health Copayments**

Current law.—Home health services are not subject to coinsurance charges.

Administration budget proposal.—The Administration proposes to require a copayment equal to one percent of the inpatient hospital deductible on all home health visits after the 20th visit in a calendar year. The Administration estimates that the copayment amount would be approximately \$4.80 in 1986.

Effective date.—January 1, 1986.

Outlay Effect [in millions of dollars]

	Fiscal year—			Total
	1986	1987	1988	
Administration proposal	—65	—120	—130	—315
Medicaid offset.....	5	9	9	23
Total	—60	—111	—121	—292

generally or for certain categories of recipients—to achieve the necessary savings and to assure that employment is more attractive than AFDC. States may use the savings from the reduced AFDC costs to provide or underwrite job opportunities for AFDC eligibles.

Another work-related provision was enacted in the Tax Equity and Fiscal Responsibility Act of 1982, which authorized States to require applicants and recipients to participate in job search programs operated by the welfare agency.

(b) *Eligibility.*—As a condition of AFDC eligibility, all applicants and recipients must register for WIN unless they are: children under age 16 or in school full time; ill, incapacitated, or elderly; too far from a project to participate; needed at home to care for a person who is ill; caretaker relatives providing care on a substantially full-time basis for a child under age 6; employed at least 30 hours a week; or the parent of a child if the other parent is required to register (unless that parent has refused). Persons who are not required to register may volunteer to do so.

Under the community work experience program, States may require caretaker relatives who are caring for a child age 3 or over (rather than 6) to participate, provided child care is available. They may also require persons to participate in CWEP who are not required to register for WIN because they live too far from a WIN project. Individuals who are employed 80 hours a month and earning at least the applicable minimum wage may not be required to participate in a CWEP project. Otherwise, all registrants of WIN may be required to participate in a CWEP project.

The work supplementation legislation gives States complete flexibility in determining who may be included in the program, provided they meet the State's May 1981 AFDC eligibility requirements but participation must be voluntary.

With respect to the employment search program, any applicant or recipient who is required to register for WIN (or who would be required to register except for remoteness from a WIN site) may be required by the State to participate. However, the State has the option of limiting participation to certain groups or classes of individuals who are required to register for WIN.

(c) *Jobs and other services.*—WIN participants may receive employment or training services. They may also be given supportive services, including child care, which are needed to enable them to take jobs or participate in training.

Community work experience programs must be designed to improve the employability of participants through actual work experience and training, and to enable individuals to move into regular employment.

The work supplementation legislation defines a supplemented job as one which is provided by the State or local agency administering the program or any other employer for which all or part of the wages are paid by the administering agency.

States have authority to design their own employment search programs, which may include job search clubs or individual job search activities.

(d) *Financing.*—The Federal Government provides 90 percent matching funds for WIN. States must contribute 10 percent matching in cash or kind. Half the funds are allocated to the States on

child, or before claiming aid, whichever is later. The State agency would be given authority to make payments to a protective payee with respect to a minor parent affected by the provision (i.e. a minor parent who *does* live with her parents or guardian), until the individual is no longer considered a minor by the State.

The committee approved a similar provision in 1982 and again last year, but it was dropped in conference with the House.

Effective Date.—October 1, 1985.

Outlay Effect [in millions of dollars]

	Fiscal year—			Total
	1986	1987	1988	
Administration proposal	-20	-20	-20	-60
Food stamp offset	10	10	10	30
Medicaid offset	-10	-10	-10	-30
Total	-20	-20	-20	-60

3. Work Requirements for Applicants and Recipients of AFDC

Current law.—(a) *General description of programs.*—The work incentive (WIN) program was enacted by Congress in 1967 with the purpose of reducing welfare dependency through the provision of training and job placement services and the establishment of mandatory registration for and participation in such services. In 1971 the Congress adopted amendments aimed at strengthening the administrative framework of the program and at placing greater emphasis on immediate employment instead of institutional training, thus specifically directing the program to assist individuals in the transition from welfare to work. In the same year, Congress also provided for a tax credit to employers who hire WIN participants.

The Omnibus Budget Reconciliation Act of 1981 included a provision authorizing States to operate 3-year demonstration programs as alternatives to the current WIN program. The demonstration is aimed at testing single-agency administration and must be operated under the direction of the welfare agency. The legislation includes broad waiver authority.

The 1981 Reconciliation Act also authorized States to operate community work experience programs (CWEP) that serve a useful public purpose, and to require AFDC recipients to participate in these programs as a condition of eligibility. Participants may not be required to work in excess of the number of hours which, when multiplied by the greater of the Federal or the applicable State minimum wage, equals the sum of the amount of aid payable to the family.

In addition, the 1981 Reconciliation Act included a provision under which States are permitted to use any savings from reduced AFDC expenditures to make jobs available on a voluntary basis. This provision was broadened in the Deficit Reduction Act of 1984. Under this approach (work supplementation), recipients may be given a choice between taking a job or depending upon the AFDC grant. States are given authority to reduce AFDC levels—either

15. Simplify Processing of Part A Bills

Current law.—Under current law, the responsibility for collecting deductible and coinsurance amounts from beneficiaries in connection with stays in two or more hospitals during the same spell of illness is currently assigned to the hospital in which services were first provided. As a result, payments to any hospital other than the first to provide services must be delayed until the claim for the first hospital is processed.

Administration budget proposal.—The Administration proposes to allow the processing of part A hospital bills in the order in which they are submitted for payment. As a result, a hospital that provided services after another hospital but submitted its payment request first would be responsible for collecting the deductible and be credited with the first 60 days of coverage (for which no coinsurance is required).

Effective date.—Spells of illness beginning on or after October 1, 1985.

Outlay Effect [in millions of dollars]

	Fiscal year—			Total
	1986	1987	1988	
Administration proposal	-3	-4	-4	-11

16. Eliminate Separate Railroad Retirement Board Contractor

Current law.—Current law requires the Railroad Retirement Board to contract with a separate carrier to handle Medicare part B payments for railroad retirement beneficiaries. The board has contracted with Travelers Insurance Company to serve as a nationwide carrier.

Administration budget proposal.—The Administration proposes to eliminate the requirement for a separate Railroad Retirement Board carrier so that part B claims of railroad retirees would be processed by the same carriers that process other part B claims.

Effective date.—One year after date of enactment or at such earlier date as the Secretary and the Railroad Retirement Board agree.

Outlay Effect [in millions of dollars]

	Fiscal year—			Total
	1986	1987	1988	
Administration proposal.....	-2	-2	-2	-6

OTHER PROPOSALS

17. Create Disproportionate Share Hospital Adjustment

Current law.—Under the Social Security Amendments of 1983, the Secretary of HHS was required to make such adjustments to the prospective payment system (PPS) rates as the Secretary deems appropriate for hospitals that serve a disproportionate number of low-income or Medicare part A patients. The Deficit Reduction Act of 1984 required the Secretary, prior to December 1, 1984, to develop and publish a definition of disproportionate share hospitals, to identify such hospitals, and to make the list available to the committees with legislative jurisdiction over part A of Medicare. To date, no adjustments have been made for such hospitals, and the Secretary has not developed criteria for defining or identifying such hospitals.

Ways and Means proposal.—The House Committee on Ways and Means proposes to require the Secretary to make additional payments to urban PPS hospitals with 100 beds or more serving a disproportionate share of low-income patients. The proxy measure for low-income would be the percentage of a hospital's total patient days attributable to Medicaid patients and patients dually eligible for Medicare and Medicaid. The Federal portion of the PPS payment would be increased by 7 percent for each 10 percentage point increase in the proportion of low-income days to total days, above the minimum threshold of 15 percent. The maximum adjustment would be no greater than 16 percent. The Secretary would also be required to make disproportionate share payments of 16 percent per DRG discharge where a hospital can demonstrate that 30 percent of its revenue is provided by local or State governments for patient care for low-income patients not covered by Medicaid. The provision would expire in two years.

Effective date.—Discharges occurring during fiscal years 1986 and 1987.

Outlay Effect [in millions of dollars]

	Fiscal year—			Total
	1986	1987	1988	
Ways and Means proposal.....	250	420	0	670
Indirect medical education offset.....	-70	-110	0	-180

household. States now have complete flexibility to decide who will be included in the grant as an "essential person".

Administration budget proposal.—Under the Administration's proposal, when the youngest child reaches age 16, an employable parent/caretaker relative would no longer be eligible for AFDC benefits. An individual would be determined to be employable if he is required to register for the State's AFDC work-related programs. Benefits to the child would continue. However, the income of a parent or stepparent who is living with the child would be considered in determining the amount of the child's benefit. The amount of income to be considered in determining the child's benefit would be the amount calculated as available after application of the "disregard" provisions that are currently applied to stepparents. This proposal was agreed to by the Senate Committee on Finance once before, but was deleted in conference with the House.

The Administration proposal also includes a definition of "essential persons" that can be included in the grant. Only those furnishing personal services needed because of disability or employment could be included.

Effective date.—October 1, 1985.

Outlay Effect [in millions of dollars]

Outlay Effect [in millions of dollars]

	Fiscal year—			Total
	1986	1987	1988	
Administration proposal.....	-55	-55	-60	-170
Food stamp offset.....	25	25	30	80
Medicaid offset.....	-45	-50	-50	-145
Total.....	-75	-80	-80	-235

2. Households Headed by Minor Parents

Current law.—A minor parent who has a child, and who leaves home, may establish her own household and claim AFDC as a separate family unit. The income of the grandparents is not automatically counted as available to the minor parent.

Administration budget proposal.—The Administration is proposing that in the case of a minor parent who has never been married, AFDC may be provided only if the minor parent resides with her parent or legal guardian, unless the State agency determines that (1) the minor parent has no parent or legal guardian who is living and whose whereabouts are known, (2) the health and safety of the minor parent or the dependent child would be seriously jeopardized if she lived in the same residence with the parent or legal guardian, or (3) the minor parent has lived apart from the parent or legal guardian for a period of at least one year before the birth of the

Benefits are paid to U.S. citizens who reside abroad without restriction. However, there are restrictions on the payment of benefits to persons outside the United States who are not U.S. citizens or nationals. Under Section 202(t) of the Social Security Act, enacted in 1956, benefits are not payable to aliens living abroad for six months or more. This restriction on the payment of benefits applies to an insured worker who is an alien, as well as to any of his dependents or survivors who are aliens. However, because of several broad exceptions to this restriction (if it will be contrary to a treaty obligation, the worker has 40 quarters of coverage, etc.), benefits are withheld for only a small number of aliens and their dependents.

As a result of the 1983 social security amendments (P.L. 98-21), dependents' benefits are suspended to any alien who receives benefits as a survivor or dependent and is outside the U.S. for more than 6 consecutive months, unless he has lived in the U.S. for at least 5 years during which his relationship with the worker was the same as that on which his entitlement to benefits is based (e.g., spouse, child, parent). Children who cannot meet the 5-year residency test on their own are deemed to meet it if the test was met by the parents. Also, children adopted outside the U.S. cannot be paid outside the United States.

Budget Resolution proposal.—The sense of the Congress is expressed that benefits to illegal and nonresident aliens would be limited to the amount of the worker's social security taxes plus interest, unless the worker is a citizen of a country with which the United States has a treaty or totalization agreement.

Effective date.—Beneficiaries becoming entitled on or after January 1, 1986.

Outlay Effect [in millions of dollars]

	Fiscal year—			Total
	1986	1987	1988	
Budget resolution proposal	5	-9	-5	-9

B. AID TO FAMILIES WITH DEPENDENT CHILDREN [AFDC]

ADMINISTRATION BUDGET PROPOSALS

1. End parent's benefit when youngest child reaches age 16; definition of "essential person"

Current law.—Present law continues the eligibility of a parent/caretaker as long as the youngest child is eligible for benefits, i.e., until the child reaches 18, or, at the option of the State, age 19 if the child is in school and is expected to complete his course of study before his 19th birthday. Present law also allows States to include in the AFDC grant computation the needs and income of persons who are not themselves eligible for assistance but are in the

Outlay Effect [in millions of dollars]

	Fiscal year—			Total
	1986	1987	1988	
Redistribution offset	-180	-310	0	-490
Total	0	0	0	0

18. Reduce Return on Equity for Proprietary Hospitals

Current law.—Return on equity capital (ROE) invested and used in providing patient care is considered a Medicare allowable cost for proprietary, or for-profit, health care providers. Equity capital is the net worth of a hospital excluding those assets and liabilities not related to patient care. Specifically, equity capital includes: (1) the investment in the plant, property, and equipment (net of depreciation) related to patient care, plus deposited funds required in connection with leases; and (2) net working capital maintained for necessary and proper operation of patient care facilities.

The level of payment for ROE formerly was set at a rate of no more than one and one-half times the average rate of return on the assets of the Federal Hospital Insurance Trust Fund. In the Social Security Amendments of 1983, for inpatient hospital services, the Congress reduced the level of payment for ROE to the average rate of return on the Trust Fund investments. The rate of return for other provider services was not affected.

Ways and Means proposal.—The House Committee on Ways and Means proposes to exclude ROE from Medicare allowable costs for inpatient hospital services and to exclude ROE in determining the Federal portion of the PPS payment rates, beginning October 1, 1986. Beginning on October 1, 1985, for other than hospital inpatient service providers, the rate of return would be reduced to one times the average rate of return on the assets of the Hospital Insurance Trust Fund.

Effective date.—For inpatient hospital services, the provision would apply to cost reporting periods beginning on or after October 1, 1986. Costs attributable to ROE would be excluded from the determination of the Federal portion of the PPS rates for discharges occurring on or after October 1, 1986. For other than hospital inpatient service providers, the provision would be applicable to cost reporting periods beginning on or after October 1, 1985.

Outlay Effect [in millions of dollars]

	Fiscal year—			Total
	1986	1987	1988	
Ways and Means proposal	-6	-113	-298	-417
Premium offset	0	1	1	2
Total	-6	-112	-297	-415

19. Extend and Increase Hospice Care Payments

Current law.—Under current law, individuals who are entitled to Medicare part A benefits and who are certified to be terminally ill may elect to receive part A reimbursement for hospice care services, in lieu of certain other services. The Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA), which authorized this hospice benefit, mandates reports to the Congress by the Secretary of Health and Human Services (HHS) on September 30, 1983 (regarding the Department's hospice demonstration project) and January 1, 1986 (evaluating the hospice benefit). The report on the hospice demonstration project has not yet been submitted to the Congress. Current authority for the Medicare hospice benefit is scheduled to sunset on October 1, 1986.

In implementing the TEFRA hospice benefit, HHS established a prospective payment system and set daily rates for each of four levels of hospice care. Public Law 98-617 increased the routine home care payment rate by approximately \$7.00 per day for the fiscal year beginning October 1, 1984, and required the Secretary of HHS to review and adjust the hospice rates annually, beginning October 1, 1985.

Ways and Means proposal.—The House Committee on Ways and Means proposes to repeal the sunset provision of current law. In addition, beginning October 1, 1985, each of the four daily payment rates for hospice care would be increased by \$10.00. The requirement for the Secretary to review and adjust the hospice rates and to report to the Congress on the adequacy of the rates in ensuring participation in Medicare by an adequate number of hospice programs would be extended one year to October 1, 1986.

Effective date.—The repeal of the sunset provision would be effective on enactment of the bill, and the rate increases would be effective for hospice care furnished on or after October 1, 1985.

Outlay Effect [in millions of dollars]

	Fiscal year—			Total
	1986	1987	1988	
Ways and Means proposal.....	(*)	(*)	(*)	(*)

*Less than \$500,000.

III. INCOME SECURITY PROGRAMS

PROPOSALS FOR INCOME SECURITY PROGRAMS UNDER JURISDICTION OF THE FINANCE COMMITTEE

[CBO estimates; outlay effect in millions of dollars, net of offsets]

	Fiscal year—			Total
	1986	1987	1988	
A. Old Age-Survivors and Disability Insurance:				
1. Limit benefits for non-resident aliens..	5	9	-5	9
B. Aid to Families with Dependent Children [AFDC]:				
1. End benefits of parent when youngest child reaches age 16	-75	-80	-80	-235
2. Households headed by minor parent	-20	-20	-20	-60
3. Work requirements:				
a. Eliminate WIN	-217	-288	-302	-807
b. Work provisions	-10	-25	-30	-65
4. Cap Federal matching payments to States for administrative costs	-50	-50	-34	-134
5. Revise AFDC quality control	4	4	62	70
6. Teenage pregnancy block grant.....	50	100	0	150
7. Mandate AFDC-UP Program		160	250	410
C. Foster Care and Adoption Assistance:				
Cap foster care funds	-35	-15	-18	-68
D. Unemployment Insurance Program:				
1. Federal supplemental benefits	(¹)	0	0	0

¹ Less than \$500,000.

A. OLD-AGE SURVIVORS AND DISABILITY INSURANCE

ADMINISTRATION BUDGET PROPOSAL

1. Restrictions on Benefits to Illegal and Nonresident Aliens

Current law.—Under current law, U.S. citizenship is not required for receipt of benefits under the social security program. Any alien in the United States—whether in the United States legally or illegally, or as a permanent or temporary resident—is eligible for benefits provided he meets the eligibility requirements (i.e., age, disability, requisite quarters of coverage, etc.). Dependents and survivors are also eligible for benefits regardless of their immigration status or that of the insured worker.

20. Limit Part A Late Enrollment Penalty

Current law.—Under current law, part A coverage under Medicare is available on a voluntary basis to individuals 65 or over who are not otherwise entitled to coverage. These individuals may obtain Medicare part A coverage by paying a monthly premium.

Anyone purchasing part A coverage after the third month after the month in which he or she becomes eligible is charged a late penalty of 10 percent of the standard premium for each 12 months during which he or she could have been, but was not enrolled. This penalty is paid every month of coverage for the rest of the beneficiary's life.

Ways and Means proposal.—The House Committee on Ways and Means proposes to limit the part A premium penalty to 10 percent regardless of how late an individual enrolled. The period during which the penalty is paid would be limited to twice the number of years the enrollment was delayed. This calculation would also apply to beneficiaries currently paying the penalty. At the end of this period, the premium would revert to the standard monthly premium in effect at that time.

Effective date.—Premiums payable for January 1986 and thereafter.

Outlay Effect [in millions of dollars]

	Fiscal year—			Total
	1986	1987	1988	
Ways and Means proposal.....	5	5	5	15

21. Expand Coverage of Occupational Therapy Services

Current law.—Medicare part A covers medically necessary occupational therapy services when provided as a part of covered inpatient hospital services or post-hospital extended care services in a skilled nursing facility, or as part of home health services or hospice care.

Part B coverage of occupational therapy services is limited to treatment in a hospital outpatient department, comprehensive outpatient rehabilitation facility, home health agency, or when provided incident to a physician's service.

a. Ways and Means proposal.—The House Committee on Ways and Means proposes to extend Medicare part B coverage to occupational therapy services provided in skilled nursing facilities (when part A coverage has been exhausted), in clinics, or in rehabilitation agencies on a reasonable cost basis. In addition, occupational therapy furnished in a therapist's office or beneficiary's home would be covered (subject to the same annual \$500 limit on incurred expenses applicable to physical therapy services). Payment for these latter services would be based on 80 percent of reasonable charges.

Effective date.—October 1, 1985.

b. *Energy and Commerce proposal.*—The House Committee on Energy and Commerce proposes to incorporate the provisions reported by the House Committee on Ways and Means without amendment.

Effective date.—October 1, 1985.

	Outlay Effect [in millions of dollars]			Total
	Fiscal year—			
	1986	1987	1988	
a. Ways and Means proposal.....	15	20	20	55
Premium offset.....	-2	-4	-4	-10
Medicaid offset.....	0	1	1	2
Total.....	13	17	17	47
b. Energy and Commerce proposal.....	(1)	(1)	(1)	(1)

¹ Same as Ways and Means proposal.

22. Deny Payments for Assistants at Surgery During Routine Cataract Operations

Current law.—Currently, Medicare covers assistants at surgery during routine cataract operations. Their services are considered reasonable and necessary if it is the generally accepted practice among ophthalmologists in the local community to use an assistant at surgery. Some Medicare carriers restrict coverage of assistants at surgery to cases where medical necessity is established.

a. *Ways and Means proposal.*—The House Committee on Ways and Means proposes to deny Medicare payment for assistants at surgery for routine cataract operations. In cases where complicating medical conditions exist, the Secretary would be required to establish procedures by which the primary surgeon could request prior approval from the Peer Review Organization for the use of an assistant.

The assistant at surgery (or someone on his or her behalf) would be prohibited from billing the beneficiary for excluded services. In addition, the primary surgeon (or someone on his or her behalf) would be prohibited from including charges for the assistant in his or her bill for services. The proposal would give the Secretary the authority to impose civil monetary penalties or assessments, or exclusion for up to five years from the Medicare program, or both.

The Secretary would be required, after consultation with the Prospective Payment Assessment Commission, to develop and report to Congress by April 1, 1986, recommendations and guidelines regarding other surgical procedures for which an assistant at surgery generally is not medically necessary and circumstances under which the use of an assistant at surgery is medically appropriate with prior approval of an appropriate entity.

Effective date.—October 1, 1985.

b. computer match the information with other data bases, as specified by the Secretary, and

c. use that information to pursue collections according to a plan approved by the Secretary of Health and Human Services.

The regulations would also provide that the States be financially penalized for not collecting the information or not following through with the agreed-on collection plan. The proposal would also clarify that Medicaid is the payer of last resort with respect to self-insured plans.

Effective date.—October 1, 1985.

	Outlay Effect [in millions of dollars]			Total
	Fiscal year—			
	1986	1987	1988	
Budget Conference assumption.....	-80	-180	-190	-450

State and Federal laws and regulations and quality and safety standards.

The Social Security Amendments of 1983 provided for a new prospective payment system (PPS) for hospitals under Medicare. States are not required to use Medicare's payment system for their Medicaid programs, although they may elect to do so. The direct costs of approved graduate medical and other health professional education programs (such as the salaries of interns and residents and classroom costs) are excluded from Medicare's PPS and are paid on a reasonable cost pass-through basis.

Energy and Commerce proposal.—The House Committee on Energy and Commerce proposes to require States, under Medicaid, to pay hospitals with approved residency programs for direct medical education costs on the basis of a facility-specific, fixed amount per resident. This amount would be calculated by the Secretary of Health and Human Services for each teaching hospital based upon historical costs, adjusted for inflation, paid to each facility under Medicare for a full-time resident in an approved residency program. A ceiling would be imposed on the amount per resident, set at 175 percent of the median for all such amounts for the residency year beginning July 1, 1986; 150 percent of the median for the residency year beginning July 1, 1987; and 125 percent of the median for the residency year beginning July 1, 1988. Beginning July 1, 1987, the amounts per resident would be weighted so as to increase payment for primary care residents (internal medicine, pediatrics, family medicine, geriatric medicine, and public health and preventive medicine). Foreign medical graduates would be counted as residents for Medicaid reimbursement purposes only if they passed both days of the Foreign Medical Graduate Examination in the Medical Sciences.

Effective date.—Medicaid payments made on or after July 1, 1986 for costs incurred or services rendered on or after that date.

Outlay Effect [in millions of dollars]

	Fiscal year—			Total
	1986	1987	1988	
Energy and Commerce proposal..	-5	-15	-25	-45

5. Enhance Third-party Liability Collections

Current law.—Medicaid is supposed to be the payer of last resort, that is, all other available resources must be used before Medicaid pays for the care and services of an individual enrolled in the Medicaid program.

Budget Conference assumption.—This proposal would require the Secretary to issue regulations so that the States:

- collect sufficient information to identify third party liabilities,

b. Energy and Commerce Committee proposal.—The House Committee on Energy and Commerce proposes to incorporate the provisions reported by the House Committee on Ways and Means without amendment.

Effective date.—October 1, 1985.

Outlay Effect [in millions of dollars]

	Fiscal year—			Total
	1986	1987	1988	
a. Ways and Means proposal.....	-25	-30	-30	-85
Premium offset.....	4	5	6	15
Medicaid offset.....	-1	-1	-1	-3
Total.....	-22	-26	-25	-73
b. Energy and Commerce proposal.....	(¹)	(¹)	(¹)	(¹)

¹ Same as Ways and Means proposal.

23. Limit Reimbursement for Prosthetic Lenses

Current law.—Medicare part B pays for prosthetic lenses (e.g., cataract contact lenses and eyeglasses), if determined to be medically necessary by the physician for aphakic patients. Generally, part B carriers are authorized to pay for replacement of prosthetic lenses without a physician's order in cases of loss or irreparable damage and when supported by a physician's order in cases of a change in the patient's condition. Currently, there are no uniform limits on the number of replacements for which Medicare will provide reimbursement.

Physicians can bill Medicare for services related to cataract surgery in two ways: (1) a comprehensive service code covering the lenses, their fitting and evaluation, and short-term follow-up to assure their suitability; or (2) separate codes for the lenses and for the physician's services.

a. Ways and Means proposal.—The House Committee on Ways and Means proposes to limit Medicare reimbursement for prosthetic lenses as follows: (1) for cataract eyeglasses, one replacement each year; and (2) for cataract contact lenses, one original and two replacements per eye the first year after surgery and two replacements per eye each subsequent year. The Secretary would be required to apply an "inherent reasonableness" test in determining reimbursement amounts for lenses and to determine separately the reasonable charge for the related professional service.

Effective date.—October 1, 1985. In applying the replacement schedule, there shall not be taken into account any cataract eyeglasses or contact lenses replaced before October 1, 1985.

b. Energy and Commerce proposal.—The House Committee on Energy and Commerce proposes to incorporate the provisions reported by the House Committee on Ways and Means without amendment.

Effective date.—October 1, 1985. In applying the replacement schedule, there shall not be taken into account any cataract eye-glasses or contact lenses replaced before October 1, 1985.

	Outlay Effect [in millions of dollars]			
	Fiscal year—			Total
	1986	1987	1988	
a. Ways and Means proposal.....	-35	-40	-45	-120
Premium offset.....	5	8	8	21
Medicaid offset.....	-1	-1	-1	-3
Total.....	-31	-33	-38	-102
b. Energy and Commerce proposal.....	(¹)	(¹)	(¹)	(¹)

¹ Same as Ways and Means proposal.

24. Establish Preventive Health Services Demonstrations

Current law.—Medicare, whose focus is primarily on covering health care costs associated with acute conditions, does not generally provide coverage for preventive health services.

a. Ways and Means proposal.—The House Committee on Ways and Means proposes to require the Secretary of Health and Human Services to fund at least five demonstrations, under the auspices of schools of public health, to determine whether and how it would be cost-effective to include preventive services as a Medicare benefit. Services to be made available to beneficiaries would include health screenings, health risk appraisals, immunizations, and counseling and instruction on health-related matters. Within three years, the Secretary would be required to submit a report to Congress describing the demonstrations in progress. Within five years, the Secretary would be required to submit a final report that would evaluate the costs and benefits of providing such services and recommend whether specific preventive services should be included as a Medicare benefit.

Effective date.—October 1, 1985.

b. Energy and Commerce proposal.—The House Committee on Energy and Commerce proposes to incorporate the provisions reported by the House Committee on Ways and Means without amendment.

Effective date.—October 1, 1985.

Outlay Effect [in millions of dollars]

	Fiscal year—			Total
	1986	1987	1988	
	Administration proposal.....	-51	-56	-58	-165

OTHER PROPOSALS

3. Expand Services for Pregnant Women

Current law.—Under current law, Medicaid coverage is not available to families unless the principal breadwinner is absent, incapacitated, or unemployed. States may, however, cover children in two-parent families and are required to cover all children under age 5 born after October 1, 1983 who meet State income and resource standards.

Energy and Commerce proposal.—The House Committee on Energy and Commerce proposes to require States to provide prenatal, delivery, and postpartum services to pregnant women in two-parent families that meet AFDC income and resource standards where the principal earner is not unemployed. States would be allowed to expand the benefits they offer to pregnant women without extending comparable benefits to other categorically needy beneficiaries. Further, a Medicaid-eligible pregnant woman would retain Medicaid eligibility until the end of the 60-day period beginning on the last day of her pregnancy.

Effective date.—October 1, 1985 except, with respect to expanded coverage, delay is permitted where State legislation required.

Outlay Effect [in millions of dollars]

	Fiscal year—			Total
	1986	1987	1988	
	Energy and Commerce proposal..	20	40	40	100

4. Require Direct Medical Education Payments to Hospitals

Current law.—Prior to the enactment of the Omnibus Reconciliation Act of 1981 (OBRA), States were required to reimburse for inpatient hospital services under Medicaid on the same basis as was then required under Medicare (i.e., "reasonable costs") unless they had approval from the Secretary to use an alternate system. OBRA deleted these Medicaid hospital reimbursement requirements and gave States increased flexibility in determining hospital payment rates. State payments for inpatient hospital services must be reasonable and adequate to meet the costs which must be incurred by efficiently and economically operated facilities in order to meet

The Administration proposal would give States increased flexibility in the design of their Medicaid programs. The proposal would include the following modifications:

- Elimination of most minimum benefit requirements for “categorically needy” groups retaining requirements only for mandatory services for mandatory eligibles;
- Specification that up to 20 percent of that portion of the annual income of financially responsible spouses and parents that exceeds 200 percent of the Federal poverty line may be deemed available to the institutionalized individual;
- Retention of the requirement that States provide comparable services throughout the State only for mandatory services for mandatory groups;
- Limiting application of “freedom of choice” requirement to mandatory services for the categorically needy;
- Elimination of Federal requirements concerning State payment rates; and
- Elimination of review requirements and penalties for operation of mechanized claims processing information systems.

Effective date.—Enactment.

Outlay Effect [in millions of dollars]

	Fiscal year—			Total
	1986	1987	1988	
Administration proposal.....	-210	-1,140	1,810	-3,160

2. Establish State Administrative Cost Grants

Current law.—The Federal share of administrative costs is generally 50 percent, though higher rates are applicable for specific items.

Administration budget proposal.—The Administration proposes to establish a block grant for funding State Medicaid administrative costs. This new grant would include funds for administration, certification activities, and Medicaid fraud control units. The fiscal year 1986 grant would equal the estimated fiscal year 1985 funding level of \$1.2 billion. States would not be required to provide matching funds to receive the grant. Funds would be distributed based on each State’s relative share of total fiscal year 1984 spending for administration (other than developmental costs of Medicaid management information systems). Future increases would be limited to inflation increases as measured by the gross national product deflator.

Effective date.—Enactment.

Outlay Effect [in million of dollars]

	Fiscal year—			Total
	1986	1987	1988	
a. Ways and Means proposal.....	1	1	1	3
b. Energy and Commerce proposal.....	(1)	(1)	(1)	(1)

¹ Same as Ways and means proposal.

25. Require Second Surgical Opinions

Current law.—Under current law, Medicare payment will be made, subject to the applicable coinsurance requirements, if a Medicare beneficiary voluntarily seeks a second opinion from another physician prior to undergoing elective surgery. Beneficiaries can obtain information on this program from Medicare carriers.

Energy and Commerce proposal.—The House Committee on Energy and Commerce proposes to deny payment for a list of elective surgeries, under part A and part B of Medicare, if the patient did not have a second opinion from a qualified physician. Payment would not be denied if the patient received a second opinion that did not confirm the first. The deductible and coinsurance would be waived for the second opinion and for a third opinion, if the second differed from the first.

Physicians, hospitals, and ambulatory surgical centers would be obligated to inform patients about the requirement for a second opinion and would be subject to penalties for failing to do so. Peer Review Organizations (PRO’s) would act as referral centers to assist patients in obtaining a second opinion. Physicians having a common financial interest with the physician giving the first opinion would not be permitted to provide a second opinion. The requirement for a second opinion would be waived if delay would pose a risk to the patient, if a qualified physician is not reasonably available, or if the patient is enrolled in a risk-based health maintenance organization or competitive medical plan. The Secretary would designate at least 10 procedures for each geographical area. Designated procedures would be selected from those that are high volume or high cost, can be postponed without a risk, and have a high rate of non-confirmation.

Effective date.—Applies to items and services furnished on or after the first day of the first month which begins more than six months after enactment.

Outlay Effect [in millions of dollars]

	Fiscal year—			Total
	1986	1987	1988	
Energy and Commerce proposal.....	-40	-85	-90	-215
Premium offset.....	-1	-3	-3	-7
Total.....	-41	-88	-93	-222

26. Expand Coverage of Optometric Vision Care Services

Current law.—Medicare excludes payment for eyeglasses; eye examinations for the purposes of prescribing, fitting, or changing eyeglasses; and procedures performed to determine the refractive state of the eye. The exclusions do not apply to physicians' services performed in conjunction with an eye disease, or to postsurgical prosthetic lenses or permanent prosthetic lenses. An optometrist who is legally authorized by the State to practice optometry is defined as a physician but only with respect to services related to the treatment of aphakic patients (i.e. those without the natural lens of the eye).

Energy and Commerce proposal.—The House Committee on Energy and Commerce proposes to pay for all vision care services performed by optometrists, if the services were among those already covered by Medicare when furnished by a D.O. or M.D. and if the optometrist is authorized by State law to provide such services.

Effective date.—April 1, 1986.

Outlay Effect [in millions of dollars]

	Fiscal year—			Total
	1986	1987	1988	
Energy and Commerce proposal.....	20	60	75	155
Premium offset.....	-5	-11	-13	-29
Medicaid offset.....	1	2	2	5
Total.....	16	51	64	131

27. Change Part B Appeal Rights

Current law.—Beneficiaries dissatisfied with an initial determination on a part B claim involving issues other than basic Medicare entitlement may request the carrier to reconsider the decision. If the beneficiary is dissatisfied with this review, and if amount in controversy is \$100 or more the beneficiary may request the carrier to give him a fair hearing. The law does not provide for administrative appeal or judicial review of the fair hearing decision.

Energy and Commerce proposal.—The House Committee on Energy and Commerce proposes to allow beneficiaries to obtain an administrative law judge hearing for part B claims if the amount

in controversy is \$500 or more, and judicial review if the amount in controversy is \$1,000 or more. The current carrier hearing would be retained for amounts in controversy between \$100 and \$500. Beneficiaries making an appeal under part A or part B could be represented by the provider who furnished the service in question.

Effective date.—October 1, 1985, except for provision relating to provider representation which would be effective upon enactment.

Outlay Effect [in millions of dollars]

	Fiscal year—			Total
	1986	1987	1988	
Energy and Commerce proposal.....	5	10	10	25
Premium offset.....	-1	-2	-2	-5
Total.....	4	8	8	20

B. MEDICAID

ADMINISTRATION BUDGET AND ALTERNATES PROPOSALS

1. Limit Growth of Medicaid Payments

Current law.—The Federal Government helps States meet the cost of Medicaid services by means of a variable matching formula. The matching rate ranges from 50 percent to 77.63 percent depending on State per capita income.

Administration budget proposal.—The Administration proposes to limit Federal Medicaid expenditures for medical assistance payments to \$22.1 billion in fiscal year 1986. Compared to current spending projections, this represents an \$0.5 billion reduction in Federal payments for benefits. Within the overall spending limit, a State would receive in fiscal year 1986 the same proportional share of Federal funds that it expended in fiscal year 1984. Federal payments to States would continue to match State expenditures but only up to each State's individual growth limit. For fiscal year 1987 and succeeding fiscal years, each State's limit would be its fiscal year 1986 ceiling, indexed by the medical care component of the consumer price index. The amendment would not apply to the territories, whose Federal matching payments are already capped.

In conjunction with its proposal to limit expenditures, the Administration proposes the establishment of a one-time \$300 million hardship funding pool in fiscal year 1986. This fund, which is intended to facilitate the transition to the new Federal payment limit, is to be used to assist States which meet specified criteria. The States must demonstrate that their Federal Medical assistance payments, but for the ceiling, would be more than 108 percent of the payment limited by the ceiling and must further demonstrate evidence of controls over program costs over previous periods.

**SUMMARY DESCRIPTION OF
REVENUE PROPOSALS RELATING TO
BUDGET DEFICIT REDUCTION**

SCHEDULED FOR HEARINGS

BEFORE THE

COMMITTEE ON FINANCE

ON SEPTEMBER 11-13, 1985

PREPARED BY THE STAFF

OF THE

JOINT COMMITTEE ON TAXATION



SEPTEMBER 10, 1985

Congress of the United States
JOINT COMMITTEE ON TAXATION
Washington, D.C. 20515

September 10, 1985

ERRATA NOTE FOR JCS-37-85

On page 8, the Revenue effect paragraph should be placed at the bottom of the page, under the Ways and Means Committee Bill (H.R. 3128) heading.

INTRODUCTION

The Senate Committee on Finance has scheduled public hearings on September 11-13, 1985, on certain revenue-related proposals in the President's fiscal year 1986 budget proposal, and certain other revenue proposals discussed in connection with the Budget Resolution deficit reduction requirement, including the revenue provisions in H.R. 3128 as reported by the House Committee on Ways and Means (H. Rep. No. 99-241, Part 1; July 31, 1985).

This pamphlet,¹ prepared in connection with the hearings by the staffs of the Joint Committee on Taxation and the Committee on Finance, provides a summary description (and estimated revenue effects) of seven revenue-related proposals:² (1) Black Lung Disability Trust Fund and coal excise tax; (2) Customs Service fees and compliance provisions; (3) coverage of railroad workers under Federal-State unemployment compensation and the railroad unemployment repayment tax; (4) Railroad Retirement benefits; (5) Internal Revenue Service fees and compliance measures; (6) social security and medicare coverage for State and local government employees and (7) deposit of social security payroll taxes for State and local governments. Finally, the pamphlet provides estimates on the overall budget impact of the budget resolution revenue proposals.

¹ This pamphlet may be cited as follows: Joint Committee on Taxation, *Summary Description of Revenue Proposals Relating to Budget Deficit Reduction* (JCS-37-85), September 10, 1985.

² Discussion of the proposed increase in Pension Benefit Guaranty Corporation (PBGC) premiums is included in the Finance Committee staff pamphlet, *Background Data on Fiscal Year 1986 Spending Reduction Proposals Under Jurisdiction of the Committee on Finance* (S. Prt. 99-79) September 1985.

SUMMARY DESCRIPTION OF REVENUE PROPOSALS

1. Black Lung Disability Trust Fund and Coal Excise Tax

Present Law

A manufacturers excise tax is imposed on domestically mined coal (other than lignite) that is sold or used by the producer of the coal. The rate of tax is \$1 per ton for coal from underground mines and 50 cents per ton for coal from surface mines, but the tax cannot exceed four percent of the price for which the coal is sold.³ The Black Lung Benefits Revenue Act of 1981 (P.L. 97-119) doubled the original rate of the tax, effective January 1, 1982, and made certain amendments relating to the Trust Fund.

Amounts equal to the revenues collected from the coal excise tax are automatically appropriated to the Black Lung Disability Trust Fund.⁴ The Trust Fund pays certain black lung disability benefits to coal miners (or their survivors) who have been totally disabled by black lung disease in cases where no coal mine operator is found responsible for the individual miner's disease.

Administration Proposal

The Administration's fiscal year 1986 budget proposal indicated that the coal excise tax would be increased sufficiently to freeze the cumulative deficit in the Black Lung Disability Trust Fund over the next five years.

The Department of Labor testified in support of the increased coal excise tax rates approved in the Ways and Means Committee bill (H.R. 3128).⁵ as described below.

Status of Black Lung Disability Trust Fund

At the end of fiscal year 1984, the Trust Fund had a cumulative deficit of approximately \$2.5 billion (see table below); this amount represents advances from the general revenues which are repayable with interest. The Department of Labor estimates that, unless the present rates of the coal excise tax are increased, this deficit could reach \$30 billion by 2010.

The following table shows the receipts and expenses of the Black Lung Disability Trust Fund for fiscal years 1978-1984.

³ On the earlier of January 1, 1996, or any January 1 after 1981 on which there is no balance of repayable advances to the Trust Fund and no unpaid interest on such advances, the tax rates are scheduled to return to the pre-1982 rates, which were one-half the current rates (i.e., 50 cents/ton for underground mines, and 25 cents/ton for surface mines, limited to two percent of the price for which the coal was sold).

⁴ Revenues from so-called "penalty" excise taxes on certain activities (e.g., self-dealing, excess contributions) of black lung benefit trusts also are automatically appropriated to the Trust Fund.

⁵ Testimony of Susan Meisinger, Deputy Undersecretary for Employment Standards, Department of Labor, before the House Committee on Ways and Means, June 19, 1985.

BUDGET RESOLUTION IMPACT OF REVENUE PROPOSALS

Administration Budget Proposal

The President's fiscal year 1986 budget proposal includes revenue-increase items totaling an estimated \$1.40 billion in fiscal year 1986, \$1.7 billion in fiscal year 1987, and \$3.1 billion in fiscal year 1988. These amounts include proposals relating to extension and expansion of Superfund tax revenues, increases in revenues for the Black Lung Disability Trust Fund and Inland Waterway Trust Fund, and certain changes in tax deposit and enforcement provisions.

Budget Resolution Revenue Proposals

House Budget Resolution

H. Con. Res. 152, the House-passed budget resolution, recommended fiscal year budget receipts of \$794.1 billion in 1986, \$866.0 billion in 1987, and \$955.6 billion in 1988. These levels included recommendations for increased revenues to finance a reauthorized and expanded Superfund, increased compliance and enforcement of trade and tax laws, and other minor changes. The revenue increases, which are included in the totals mentioned above, amounted to \$1.45 billion in 1986, \$1.7 billion in 1987, and \$3.1 billion in 1988, or \$6.25 billion for 1986-1988.

Senate Budget Resolution

S. Con. Res. 32, the Senate-passed budget resolution, recommended fiscal year budget revenue levels of \$793.6 billion in 1986, \$866.3 billion in 1987, and \$955.9 billion in 1988. These recommendations included revenue increases of \$0.9 billion in 1986, \$2.0 billion in 1987, and \$3.4 billion in 1988, or \$6.3 billion for 1986-1988.

Conference Budget Resolution

S. Con. Res. 32, as agreed to by the conference and as passed by the House and Senate, sets fiscal year budget revenue levels of \$795.7 billion in 1986, \$869.4 billion in 1987, and \$960.1 billion in 1988. These levels include revenue increases of \$3.0 billion in 1986, \$5.1 billion in 1987, and \$7.6 billion in 1988, or \$15.7 billion for 1986-1988.

Budget Revenue Reconciliation Provisions

The conference agreement on S. Con. Res. 32 includes revenue reconciliation instructions for the Committee on Finance to increase fiscal year revenues by \$1.8 billion in 1986, \$3.0 billion in 1987, and \$3.6 billion in 1988, or \$8.4 billion for 1986-1988.

Black Lung Disability Trust Fund Receipts and Expenses, Fiscal Years 1978-1984

[In millions of dollars]

Fiscal year	Receipts			Expenses		
	Coal excise tax	Interest	Advances from general fund (deficit)	Benefit payments	Administrative expenses	Interest on advances
Actual:						
1978	92.1	1.2	18.9	76.8	35.3	.....
1979	221.6	.1	400.8	582.0	32.1	7.7
1980	272.3	.....	535.8	721.7	34.2	52.5
1981	236.6	.....	554.8	644.3	35.6	109.5
1982	490.7	.3	283.0	578.2	35.8	160.6
1983	493.7	.3	357.8	623.1	34.8	193.3
1984	518.5	.4	346.1	594.2	36.6	234.5
Total	2,325.5	2.3	2,497.2	3,820.5	244.6	748.1

Source: Fourth Annual Report on the Financial Condition and Results of Operations of the Black Lung Disability Trust Fund (Department of Treasury, Sept. 30, 1981), and Budget of the U.S. Government Appendixes for fiscal years 1984, 1985, and 1986.

Ways and Means Committee Bill (H.R. 3128)

H.R. 3128, as reported by the Committee on Ways and Means, would increase the per-ton coal excise tax rate (and the sales price ceiling), beginning January 1, 1986, as shown in the following table:

Calendar year(s)	Tax on underground coal	Tax on surface coal	Ceiling (percent of sales price)
1986-1990	\$1.50	\$0.75	6.0
1991-1995	\$1.60	\$0.80	6.4
1996-	\$1.50	\$0.75	6.0

In lieu of the rates shown in the above table for 1996 and later years, the 1985 rates (\$1 or 50 cents per ton, four percent ceiling) would be reinstated for any calendar year after 1995 if throughout the two most recent fiscal years ending before the beginning of such calendar year there was no balance of repayable advances made to the Trust Fund, and no unpaid interest on such advances.

Revenue effect.—This provision in H.R. 3128 is estimated to increase net fiscal year budget receipts by \$213 million in 1986, \$229 million in 1987, \$236 million in 1988, \$246 million in 1989, and \$256 million in 1990.

7. Deposit of Social Security Payroll Taxes for Covered Employees of State and Local Governments

Present Law

States currently are required to make deposits twice a month of social security contributions on their own behalf and for sub-State entities. The States are liable for all such payments under current agreement with the Secretary of Health and Human Services.

Private employers are required to make tax payments under a schedule that generally relates the frequency of deposits to the amount of taxes withheld. Large employers may make deposits as frequently as twice a week, while small employers may make them as infrequently as once every three months.

Late deposits by State governments are subject to an interest charge of 6 percent. Private sector employers pay an interest rate which is based on the prime interest rate charged by major commercial banks.

Administration Proposal

The Administration budget proposal would remove the States from the intermediary role of collecting contributions from sub-State entities and put all State and local government employers under a direct depositing requirement with a schedule that conforms with the frequency required of private employers. States would be relieved of liability for the contributions owed by sub-State governments. In addition, the proposal would subject State and local governments to the same interest charge for late deposits as is imposed on private employers.

The proposal would be phased in over a two-year period, beginning January 1, 1986.

Estimated Revenue Effect of Administration Proposal

[In millions of dollars]

	Fiscal year			
	1986	1987	1988	1986-88
Deposit requirement for State-local government social security payroll taxes	400	100	300	800

ment not otherwise covered under voluntary State coverage agreements.

H.R. 3128 would apply to services furnished after December 31, 1985, by employees hired after that date.

Estimated Revenue Effect of H.R. 3128

[In millions of dollars]

	Fiscal Year			
	1986	1987	1988	1986-88
HI (Medicare) revenues.....	53	191	293	537

2. Customs Service Fees and Compliance Measures

a. Customs Service fees

Present Law

The U.S. Customs Service does not currently have the general legal authority to collect fees for the processing of persons, aircraft, vehicles, vessels, and merchandise arriving in or departing from the United States. The Customs Service does have limited authority to charge fees under certain limited circumstances, e.g., when providing services (such as pre-clearance of passengers and private aircraft) which are of special benefit to a particular person. The Customs Service also has the authority to assess fees on operators of bonded warehouses and foreign trade zones and on the entry of vessels into ports and are authorized to receive reimbursement from carriers for overtime for services provided during nonbusiness hours and reimbursement from local authorities for services provided to certain small airports.

Administration Proposal

Both the House and Senate Budget Resolutions contained a proposal to authorize the Customs Service to assess a fee for processing common carriers, passengers, and commercial import arrivals in the United States. The Administration has testified⁶ in support of allowing the Customs Service to assess fees on virtually all Customs import and export transactions. The fee schedule would be based on an analysis of the costs (both direct and indirect) of the services provided. It is estimated in the Budget Resolutions that such fees would increase fiscal year budget receipts by nearly \$500 million per year.

Ways and Means Committee Bill (H.R. 3128)

H.R. 3128, as reported by the Committee on Ways and Means, would set customs fees on the arrival of commercial vessels over 100 tons (\$425), trucks (\$5), trains (\$5 per car), private yachts, boats and general aviation aircraft (\$25 per year), and on passengers arriving on commercial aircraft trains and vessels (\$1 for contiguous countries, U.S. territories and adjacent lands, and \$5 for all other countries).

Receipts from such fees would be deposited in the Treasury as miscellaneous receipts and placed in an identifiable proprietary account. These new fees would be effective 180 days after the date of enactment, and remain in effect for a three-year period.

⁶ See testimony of U.S. Customs Service (Robert P. Schaeffer, Assistant Commissioner, Commercial Operations, and Michael H. Lane, Deputy Assistant Commissioner, Office of Inspection and Control), before the House Committee on Ways and Means, June 19, 1985.

a small percentage of employees is covered. Alaska is the only state that opted out of the system (in 1980).

The majority of State and local government employees who are not covered by social security work at the local level, including employees of such large cities as Atlanta, Boston, and Cleveland. Policemen, firemen, and teachers are less likely to be covered under social security than other State and local government employees, but many of them have coverage under an alternative pension system.

Until April 1983, the law permitted the termination of coverage for employees covered under an agreement, if the State or local entity (through the State) had given two-years' advance notice. This provision, however, was repealed in the Social Security Amendments of 1983.

Budget Conference Assumption

Under the budget conference assumption (S. Con. Res. 32), Social Security coverage under Old Age, Survivors, and Disability Insurance (OASDI) would be extended on a mandatory basis to new employees of State and local governments. This would be done in conjunction with a measure mandatorily extending Health Insurance (HI) (Medicare) coverage to current and new employees of State and local governments. Mandatory coverage under OASDI would apply to all new hires of State or local governments, effective beginning on January 1, 1986. Mandatory coverage under Medicare would apply to current employees as well as new employees effective on January 1, 1986.

The budget conference agreement assumes the following revenues would result from enactment of this measure:

Revenues Assumed Under S. Con. Res. 32

[In millions of dollars]

	Fiscal years			
	1986	1987	1988	1986-88
OASDI revenues.....	192	692	1,124	2,008
HI (Medicare) revenues.....	1,524	2,332	2,390	6,376
Total.....	1,746	3,024	3,614	8,384

Ways and Means Committee Bill (H.R. 3128)

H.R. 3128, as reported by the House Committee on Ways and Means, would extend Medicare coverage on a mandatory basis for newly hired employees of State and local governments. Employers and employees would become liable for the hospital insurance portion of the social security tax, and employees would earn credit toward Medicare eligibility based on covered earnings. Mandatory coverage would be extended only for Medicare and only for employ-

The bill would further provide that, with regard to the processing of passengers on scheduled airline flights arriving in the United States, no additional charges (such as for overtime for customs officers) may be assessed against the airlines or passengers other than the fees established by the bill. All other overtime charges would continue to be collected as under present law.

Revenue effect.—This provision in H.R. 3128 is estimated to increase fiscal year budget receipts by \$75 million in 1987, \$230 million in 1987, \$240 million in 1988, and by \$170 million in 1989.

b. Customs Service compliance measures

Present Law

The Customs Procedural Reform and Simplification Act of 1978 (P.L. 95-410) provides for the annual authorization of appropriations for the U.S. Customs Service. In the 10-year period, 1976-1985, Customs' staff increased by 38 positions, from 13,380 to 13,418.

Administration Proposal

The Customs Service submitted a budget request for fiscal year 1986 of \$699.5 million, which included \$639.1 million for salaries and expenses and \$60.4 million for operations and maintenance of the Customs air program. This request proposed cuts of about 887 Customs positions.⁷

Ways and Means Committee Bill (H.R. 3128)

H.R. 3128, as reported by the Committee on Ways and Means, would authorize appropriations of \$769.1 million for the Customs Service for fiscal year 1986, or about \$69.5 million higher than proposed by the Administration. This would restore the proposed cut in Customs positions and add 800 new front-line Customs officers, with the new personnel (as indicated by the Committee Report) to be allocated to those port facilities having the greatest import volume and complexities.

In addition, H.R. 3128 would direct that any savings in salaries and expenses resulting from the consolidation of administrative functions within the Customs Service is to be used to strengthen the commercial operations of the Service by further increasing the number of inspector, import specialist, and other line operational positions. Further, the bill would preclude the Customs Service from closing any port of entry during fiscal year 1986 which during fiscal year 1985 processed not less than \$1.5 million in Customs revenues. The bill also would make a number of other administrative changes.

Revenue effect.—This provision in H.R. 3128 is estimated (in the Ways and Means Committee Report) to increase fiscal year budget receipts (assuming continuation of the added staff throughout the 3-year period) by \$150 million in 1986, \$450 million in 1987, and \$615 million in 1988, for a total of \$1,215 million for 1986-1988.

⁷ See also Customs Service testimony referenced in Note 6, *supra*.

3. Coverage of Railroad Workers Under the Federal-State Unemployment Compensation System; Railroad Unemployment Re- payment Tax

Present Law

Present law provides a railroad unemployment compensation program that is separate from and different than the regular Federal-State unemployment compensation system. Most workers in other industries are covered under the Federal-State unemployment compensation system.

The Railroad Unemployment Insurance (RRUI) program is administered by the Railroad Retirement Board (RRB), which collects the unemployment taxes directly from rail employers. Legislation enacted in 1959 provided the Railroad Unemployment Insurance Account with the authority to borrow from the Railroad Retirement Account when funds in the RRUI Account are not sufficient to meet benefit payments. This borrowing authority expires September 30, 1985. On that date, the outstanding debt to the retirement account is estimated to be \$783 million, of which \$526 million is principal and \$257 million is accumulated interest.

There is no automatic mechanism in the law to repay loans from the retirement account as they occur. Loans are repaid out of basic contributions to the unemployment account when the Railroad Retirement Board determines that there are sufficient funds in the unemployment account to make a repayment.

The Railroad Retirement Solvency Act of 1983 established a repayment tax scheduled to begin on July 1, 1986 and to expire on September 30, 1990. The tax rate will begin at 2.0 percent and increase by 0.3 percentage points a year up to a maximum of 3.2 percent in 1990. The tax is scheduled to expire on January 1, 1991. The tax is paid on the first \$7,000 in wages paid annually to a rail employee.

Administration Proposal

The Administration proposes to cover railroad workers under the Federal-State unemployment compensation system. New railroad claimants would claim regular State benefits as of October 1, 1985.

Railroad employers would reimburse the States for the cost of these benefits until the States had sufficient experience with paying benefits to railroad workers. Not later than January 1989, the States would apply their normal experience-based tax rates to railroad employers. No change would be made in the current debt repayment tax on railroad employers. Also, rail labor and management would be authorized to bargain collectively for sickness benefits which, under present law, are provided through the unemployment program.

6. Mandatory Coverage of Employees of State and Local Governments under Social Security and Medicare

Present Law and Background

Under the Old Age, Survivors, and Disability Insurance program (commonly referred to as social security) and the Hospital Insurance program (commonly referred to as Medicare), coverage for State and local government employees is optional. An election for coverage under the Social Security Act includes both programs. Approximately 10.1 million (or some 68 percent) of the 14.8 million persons whose major employment in 1981 was with State and local governments were covered by social security. Under the law, a State controls the option for itself and its subdivisions; however, most often State governments allow their political subdivisions to make their own choices.

When elected, coverage is provided on a group basis through agreements between the State and the Secretary of Health and Human Services. Coverage can be provided even when the State or local government already has a retirement system in place. When there is no retirement system in place, the State or local government entity, not the employees, has the option to choose social security. However, if there is a system already in place, then the Governor or a designee must conduct a referendum of the employees involved.

In the original Social Security Act, employment by State and local governments was omitted altogether from social security coverage. The 1950 Social Security Amendments permitted State and local governments to elect coverage if their employees were not already in positions covered under a pension plan (beginning in 1951). This decision was to reside solely with the State or local government, not with the employees themselves.

The Social Security amendments of 1954 extended coverage to State and local employees who were in positions already covered under a State or local pension plan, provided coverage was agreed to through a referendum by a majority of all employees who were members of the pension plan. The 1956 Amendments further provided that, in certain States, if State or local government employees who already were covered by a pension plan were divided about joining social security, coverage could be given only to those who wanted it, provided that all new employees of the group would be mandatorily covered. This provision originally applied to eight specified States and what was then the Territory of Hawaii, at the request of these entities. At present, however, the provision is available to 21 specified States and all interstate instrumentalities.

Most State-level employees participate in social security. The major exceptions are State employees of Alaska, Colorado, Louisiana, Maine, Massachusetts, Nevada, and Ohio, where none or only

in the fiscal year 1986 IRS budget and provides for an increase of \$178 million over the Administration's proposed budget for fiscal year 1986.

Revenue effect.—This provision in H.R. 3128 is estimated to increase fiscal year budget receipts by \$228 million in 1986, \$465 million in 1987, \$580 million in 1988, \$640 million in 1989, and \$708 million in 1990.

The Administration proposal would be effective on October 1, 1985.

Estimated Outlay and Revenue Effect of Administration Proposal

[In millions of dollars]

	Fiscal year			
	1986	1987	1988	1986-88
Unemployment tax	146	157	161	464
Modify benefits	-3	3	10	10
Total	143	160	171	474

Ways and Means Committee Bill (H.R. 3128)

Under H.R. 3128 as reported by the House Committee on Ways and Means, the railroad unemployment insurance system would be modified in the following respects, effective on October 1, 1985.

(1) The loan repayment tax, scheduled to begin on July 1, 1986 at a 2-percent rate with increases of 0.3 percent a year, is amended as follows:

	Calendar year				
	1986	1987	1988	1989	1990
	Tax Rate (%)				
Present law	2.0	2.3	2.6	2.9	3.2
Ways and Means Committee bill	4.3	4.7	6.0	2.9	3.2

(2) The RRUI Account's authority to borrow from the Railroad Retirement Account is extended, effective October 1, 1985.

(3) An automatic surcharge of 3.5 percent on an annual wage base of \$7,000 would be levied if the RRUI Account has to borrow from the retirement account. The surcharge would be used to repay such additional borrowing.

Estimated Revenue Effect of H.R. 3128

[In millions of dollars]

	Fiscal year			
	1986	1987	1988	1986-88
Ways and Means Committee bill		101	98	199

4. Tax Treatment of Railroad Retirement Benefits

Present Law

Under present law, a portion of Railroad Retirement system benefits computed by using the social security benefit formula (tier 1) are subject to Federal income tax for individuals whose incomes exceed certain levels (generally, \$25,000 for unmarried individuals and \$32,000 for married individuals filing a joint return). (These benefits may be available at an earlier age under the Railroad Retirement system than under the social security system). Other benefits under the Railroad Retirement system are subject to Federal income tax for all recipients to the extent the payments exceed the amount of the individual's previously taxed contributions to the plan.

Administration Proposal

Under the Administration proposal, a portion of tier 1 Railroad Retirement benefits would continue to be taxed in the same manner as social security benefits. This portion equals the amount of the annuity under the Railroad Retirement Act of 1974 that equals the social security benefits to which the individual would have been entitled if all of the individual's employment on which the annuity is based had been employment for social security benefit purposes. In addition, a minimum monthly annuity benefit (described in sec. 3(f)(3) of the Railroad Retirement Act of 1974) would be taxed in the same manner as social security benefits. Other tier 1 Railroad Retirement benefits would be taxed under the rules that apply to all other payments under the Railroad Retirement system.

Thus, Railroad Retirement disability benefits generally would be fully taxable if they are payable to individuals who would not be entitled to social security disability benefits or are in excess of the social security disability benefits to which an individual would be entitled. Similarly, Railroad Retirement benefits that are payable at an age earlier than social security benefits or in an amount greater than social security benefits would be fully taxable.

This provision would be effective for monthly benefits for which the generally applicable payment date is after December 31, 1985.

Revenue effect.—This provision in H.R. 3128 is estimated to increase fiscal year budget receipts by \$34 million in 1986, \$62 million in 1987, \$65 million in 1988, \$65 million in 1989, and \$63 million in 1990.

Ways and Means Committee Bill (H.R. 3128)

H.R. 3128, as reported by the Committee on Ways and Means, includes the Administration proposal on the tax treatment of railroad retirement benefits.

5. Internal Revenue Service Fees and Compliance Measures

a. IRS user fees

Present Law

The Internal Revenue Service (IRS) does not currently charge businesses, individuals, or other taxpayers for issuing determination letters or rulings submitted by such taxpayers.

In 1983, the IRS issued 135,234 advance determination letters on the qualification of corporate and self-employed pension plans. The IRS acted on 53,947 determination letters and ruling requests from tax-exempt organizations during that year. The IRS also issued 34,399 private letter rulings in response to taxpayer requests during that year.

Administration Proposal

The Administration proposes to impose a user fee of \$100 for each determination letter and private letter ruling issued by the Internal Revenue Service.⁸ These fees are proposed to become effective on October 1, 1985.

b. IRS tax compliance initiative

Present Law

In fiscal year 1985, there are approximately 29,000 examination employees at the Internal Revenue Service. These employees are responsible for auditing tax returns.

Administration Proposal

For fiscal year 1986, the Administration initially proposed 86,489 staff positions for the IRS and a total budget of \$3.5 billion. This was a decrease of 1,254 staff positions and \$30.4 million from the fiscal year 1985 appropriation (including requested amounts).

The Administration proposal would increase the number of examination employees by 2,500 a year for fiscal years 1987, 1988 and 1989, resulting in an aggregate increase in examination employees of 7,500 by the end of fiscal year 1989. Advance hiring would begin in fiscal year 1986.

Ways and Means Committee Bill (H.R. 3128)

The Ways and Means Committee bill (H.R. 3128) endorses the recommendation of the House Appropriations Committee (in H.R. 3036). H.R. 3036 restores the Administration's proposed reductions

⁸ See testimony of James Owens, Deputy Commissioner of the Internal Revenue Service, before the House Committee on Ways and Means, June 19, 1985.

Calendar No. 156

99TH CONGRESS
1st Session

SENATE

REPORT
99-73

SUPERFUND REVENUE ACT OF 1985

MAY 23 (legislative day, APRIL 15), 1985.—Ordered to be printed

Mr. PACKWOOD, from the Committee on Finance,
submitted the following

REPORT

together with

ADDITIONAL VIEWS

[To accompany S. 51]

[Including cost estimate of the Congressional Budget Office]

The Committee on Finance, to which was referred the bill (S. 51)¹ to amend the Comprehensive Environmental Response Compensation, and Liability Act of 1980, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

I. SUMMARY

A. Present Law

Hazardous Substance Response Trust Fund and Taxes

Under present law, excise taxes are imposed on crude oil and certain chemical feedstocks, and amounts equivalent to these taxes are deposited (together with appropriated funds) into the Hazardous Substance Response Trust Fund ("Superfund"). These amounts are available for expenditures incurred in connection with releases or threatened releases of hazardous substances and pollutants or

¹ S. 51, the Superfund Improvement Act of 1985, has been considered and reported favorably by the Committee on Environment and Public Works (S. Rep. 99-11; March 18, 1985). The bill was referred to the Committee on Finance for consideration of the revenue aspects of the legislation (title II and sec. 140).

contaminants into the environment. These provisions were enacted in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA"), which established a comprehensive system of notification, emergency response, enforcement, and liability for hazardous spills and uncontrolled hazardous waste sites.

An excise tax of 0.79 cent per barrel is imposed on the receipt of crude oil at a U.S. refinery, the import of crude oil and petroleum products, and the use or export of domestically produced crude oil (if the tax has not already been paid).

An excise tax is imposed on the sale or use of 42 specified organic and inorganic substances ("chemical feedstocks") if they are produced in or imported into the United States. The taxable chemical feedstocks generally are intrinsically hazardous or create hazardous products or wastes when used. The rates vary from 22 cents to \$4.87 per ton. (See Table 1 for a list of current law tax rates on chemical feedstocks.)

The taxes generally are scheduled to terminate after September 30, 1985. However, the taxes would have been suspended during calendar years 1984 or 1985, if, on September 30, 1983, or 1984, respectively, the unobligated trust fund balance had exceeded \$900 million, and if the unobligated balance on the following September 30 would have exceeded \$500 million, even if these excise taxes were to be suspended for the calendar year in question. (As of September 30, 1984, the unobligated balance in the Superfund was \$295 million.) Further, the authority to collect taxes would otherwise terminate when cumulative receipts from these taxes reach \$1.38 billion. (Cumulative revenues from these excise taxes through September 30, 1984, amounted to \$0.863 billion.)

Post-closure Liability Trust Fund and Tax

Effective after September 30, 1983, an excise tax of \$2.13 per dry weight ton is imposed on hazardous waste which is received at a qualified hazardous waste disposal facility and which will remain at the facility after its closure. These tax receipts are deposited into the Post-closure Liability Trust Fund. This Trust Fund is to assume completely the liability, under any law, of owners and operators of closed hazardous waste disposal facilities that meet certain conditions. No liabilities have yet been assumed by the Trust Fund. These provisions were enacted in CERCLA.

Authority to collect the post-closure tax would be suspended for any calendar year after 1984, if the unobligated balance in the Trust Fund had exceeded \$200 million on the preceding September 30. (Cumulative receipts from the post-closure tax through September 30, 1984, amounted to less than \$5.9 million.) Further, authority to collect the tax terminates when cumulative receipts from the crude oil and chemical excise taxes, described above, reach \$1.38 billion, or, if earlier, after September 30, 1985.

B. Finance Committee Amendment to S. 51

Hazardous Substance Superfund

The committee amendment redesignates the "Hazardous Substance Response Trust Fund" as the "Hazardous Substance Superfund," and continues and expands the Superfund by allocating to the fund the balance of the existing Superfund and Post-closure Liability Trust Fund in addition to amounts equivalent to the new Superfund Excise Tax on manufacturers, together with the present law taxes on petroleum and chemical feedstocks (modified as described below). No general revenues are authorized to be appropriated to the Superfund after fiscal year 1985.

The Superfund expenditure purposes and administrative provisions are generally the same as under present law; however, the committee amendment relocates these provisions from CERCLA to the trust fund code (Chapter 98) of the Internal Revenue Code.

The amended trust fund provisions are effective on October 1, 1985.

Petroleum and chemical feedstocks taxes

The petroleum and chemical feedstocks taxes (Codes secs. 4611 and 4661) are extended for five years, through September 30, 1990, at their present law rates. Exemptions from the chemical feedstocks tax are provided for exports of taxable chemicals; substances used to produce animal feed; and certain domestically recycled nickel, chromium, or cobalt (in addition to the present law exemptions).

These taxes would be suspended or terminated earlier than September 30, 1990, under certain conditions when the unobligated balance in the Superfund exceeded \$1.5 billion. Additionally, the taxes would expire at any point at which the Secretary determines that cumulative Superfund receipts during the reauthorization period (including interest but not including recoveries, fines, or other non-tax amounts) equal or exceed \$7.5 billion.

Superfund Excise Tax

Under the committee amendment, a new Superfund Excise Tax is imposed on the sale or lease of tangible personal property, in connection with a trade or business, by the manufacturer of the property. The tax rate is equal to 0.08 percent of the sales price of, or gross lease payments for, the property (i.e., \$8 of tax per \$10,000 of taxable amount). In the case of imports, the tax is imposed on the importer of tangible personal property based on the customs value (or, if no customs value is available, the fair market value) of the imported property plus customs duties. The tax is fully deductible against Federal income taxes.

A credit is allowed against the tax for purchases of tangible personal property, which is allocable to the cost of manufactured goods, using the manufacturer's inventory accounting method for income tax purposes. No tax is imposed on any manufacturer having \$5 million or less of sales or lease receipts in any year. (In the case of imports, no tax is imposed on any shipment with a customs value, including duties, of less than \$10,000.) Credits in excess

of a manufacturer's tax liability may be carried over against later years' tax liabilities; however, excess credits may not be refunded. For purposes of the credit, expenses for items which are depreciable for income tax purposes are fully included in the year of purchase.

In addition to the exemption for small manufacturers, items sold or leased by governmental units and by tax-exempt organizations (other than by unrelated trades or businesses), are exempt from the tax. Additionally, exported items are exempt from tax. Special rules are provided for purposes of implementing the export exemption, as well as for establishing constructive sales prices for manufactured goods in appropriate cases.

For purposes of the tax, "manufacturing" is generally defined as it is for purposes of the Standard Industrial Classification ("SIC") Manual published by the Office of Management and Budget. Manufacturing also includes mining and the production of raw materials generally. However, manufacturing subject to the tax does not include the storage or transportation of property (or services incidental thereto); the preparation of food in a restaurant or other retail establishment; or the incidental preparation of property.

"Tangible personal property" includes natural gas and other gaseous products and materials, but does not include electricity, unprocessed agricultural products (including timber), or unprocessed food products.

The Superfund Excise Tax is to be effective from January 1, 1986 through December 31, 1990, with provisions for earlier termination or suspension under the same conditions as the petroleum and chemical feedstocks taxes (discussed above). Returns for the tax are to be filed on an annual basis, using the taxpayer's taxable year for income tax purposes.

Repeal of post-closure liability tax and trust fund

The committee amendment repeals the Post-closure Liability Trust Fund and the related hazardous waste disposal tax (Code sec. 4681), effective October 1, 1985. Amounts in the Trust Fund at that time are to be transferred to the Superfund.

Study of alternative Superfund taxes

The committee amendment directs the General Accounting Office ("GAO") to report to the Finance Committee by January 1, 1988, regarding alternative mechanisms for financing the Superfund. This report is to include a study of the effect of a tax on hazardous waste on the generation and disposal of such waste.

Industrial development bonds for hazardous waste disposal facilities

The committee amendment allows State and local governments to issue tax-exempt industrial development bonds (IDBs) to finance facilities for the treatment of hazardous waste, as these terms are defined under section 1004 of the Solid Waste Disposal Act. This exemption is limited to facilities which are subject to permitting requirements under the Resource Conservation and Recovery Act (RCRA). This provision is effective on the date of enactment.

ADDITIONAL EXPLANATORY MATERIALS

FOR REVENUE OPTION ITEMS

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(3) Income Averaging	7

EXCISE TAX RATES ON CIGARETTES

Present Law and Background

An excise tax is imposed on cigarettes manufactured in or imported into the United States (Code sec. 5701(b)). The tax is determined when the cigarettes are removed from the factory or released from customs custody. The present rate of tax on small cigarettes is \$8 per thousand (i.e., 16 cents per pack of 20 cigarettes). The tax rate on large cigarettes generally is \$16.80 per thousand; proportionately higher rates apply to large cigarettes that exceed 6.5 inches in length. Small cigarettes are cigarettes weighing no more than 3 pounds per thousand; large cigarettes are cigarettes weighing more than 3 pounds per thousand. Nearly all taxable cigarettes are small cigarettes.

The current cigarette tax rates were enacted in the Tax Equity and Fiscal Responsibility Act of 1982 (sec. 283 of P.L. 97-248), for the period January 1, 1983, through September 30, 1985. On October 1, 1985, the present cigarette excise tax rates are scheduled to decrease to \$4 per thousand (i.e., 8 cents per pack of 20 cigarettes) for small cigarettes and to \$8.40 per thousand for large cigarettes, that is, to the rates in effect before 1983.

Revenues from the excise tax on cigarettes are deposited in the general fund of the Treasury.

Administration Proposal

The Administration's fiscal year 1986 budget proposal assumes that the scheduled reduction in the cigarette tax rates under present law will take place.

Other Proposals

The following Senate bills regarding cigarette tax rates have been introduced thus far during the 99th Congress.

S. 820 (Senator Heinz)

This bill would permanently extend the 16-cents per pack cigarette tax rate.¹ One-half of revenues from the tax imposed on cigarettes after September 30, 1985 (i.e., 8 cents per pack) would be allocated to the Federal Hospital Insurance (Medicare) Trust Fund.

S. 874 (Senators Chafee and others)

S. 874 would impose a 32-cent per pack tax rate on cigarettes after December 31, 1985. One-half of these tax revenues (i.e., 16 cents per pack) would be allocated to the Medicare Trust Fund. The bill also contains floor stocks provisions, with an exception for retailers.

S. 1633 (Senator Durenberger)

Senator Durenberger's proposal would permanently extend the 16-cents per pack rate. One-half of revenues from the tax imposed on cigarettes after September 30, 1985 (i.e., 8 cents per pack) would be allocated to a new trust fund for making grants to the States for disease prevention and health promotion programs.

Other Congressional Action

H.R. 3128, as reported by the House Committee on Ways and Means on July 31, 1985 (H. Rep. No. 99-241, Part 1), would extend the current cigarette tax rates (i.e., 16-cents per pack on small cigarettes) on a permanent basis.

One-sixteenth of cigarette excise tax revenues (i.e., 1 cent per pack of 20 cigarettes) would be appropriated to a newly established Tobacco Equalization Trust Fund, for the period October 1, 1985, through September 30, 1990, for use in the Federal tobacco price support program. The remaining 15 cents per pack would continue to be deposited in the general fund.

¹ Tax rates mentioned are per pack of 20 small cigarettes. The rates on large cigarettes would be adjusted proportionately in each case.

RAILROAD UNEMPLOYMENT INSURANCE (RRUI) REFORM

- A. Current Law. -- The authority for the railroad unemployment compensation system to borrow from the railroad retirement account expires on September 30, 1985. On that date, the outstanding debt to the retirement account is estimated to be \$783 million, of which \$526 million is principal and \$257 million is accumulated interest.

There is no automatic mechanism in the law to repay loans from the retirement account as they occur. Loans are repaid out of basic contributions to the unemployment account when the Railroad Retirement Board determines that there are sufficient funds in the unemployment account to make a repayment.

The Railroad Retirement Solvency Act of 1983 established a repayment tax that will begin on July 1, 1986 and will expire on September 30, 1990. The tax rate will begin at 2.0 percent and increase by 0.3 percent a year. The tax is paid on the first \$7,000 in wages paid to a rail employee.

B. Proposal. --

1. The loan repayment tax, scheduled to begin on July 1, 1986 at a 2% rate with increases of .3% a year, will be increased as follows:

Calendar year	<u>1986</u>	<u>1987</u>	<u>1988</u>	<u>1989</u>	<u>1990</u>
Rate	4.3	4.7	6.0	2.9	3.2

2. The RRUI Account's authority to borrow from the Railroad Retirement Account is extended, effective October 1, 1985.
3. An automatic surcharge of 3.5% on an annual wage base of \$7,000 will be levied if the RRUI Account has to borrow from the retirement account. The surcharge will be used to repay such loans.
4. Effective January 1, 1986, 1 percent of the tier 2 railroad retirement tax revenues would be directed from the railroad retirement account to the railroad unemployment insurance account. These revenues would then be returned to the railroad retirement account to help repay the loans (plus accumulated interest) which the railroad retirement account made to the unemployment account in

the past. The diversion would end on April 1, 1990.

C. Effective Date. -- October 1, 1985, unless otherwise noted.

D. Revenue Effect (in millions of dollars)

	<u>Fiscal Year</u>			
	<u>1986</u>	<u>1987</u>	<u>1989</u>	<u>Total</u>
Proposal	--	101	98	199

* This proposal is identical to the Ways and Means Committee bill provision described in the Joint Tax Committee document, with the exception of item 4 under the description.

REPEAL INCOME AVERAGING FOR FORMER STUDENTS

- A. Current Law. -- Income averaging provisions are designed to cushion the tax effects of incomes that vary significantly from year to year. Under these provisions, if an eligible individual's income for the taxable year exceeds 140 percent of his average income for the three preceding years ("base years"), the individual may average his income and thus reduce tax liability for the year. An individual who was a full-time student during any or all of the base years may use income averaging, as long as he is otherwise eligible.
- B. Reason for Change. -- Income averaging was intended primarily to provide relief for individuals whose income fluctuates widely from year to year. Due to the way eligibility for income averaging is calculated, students who enter the job market for the first time may be eligible for income averaging.

- C. Proposal. -- An individual who was a full-time student for any base year would generally not be eligible to use income averaging.

- D. Effective Date. -- The proposal is effective for taxable years beginning on or after January 1, 1986.

- E. Revenue Effect. -- The proposal would raise \$1.2 billion over FYs 1986-88.

ADDITIONAL EXPLANATORY MATERIALS

FOR OUTLAY OPTIONS

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1. MEDICARE

Payments for Inpatient Hospital Services

- A. Current Law. -- Current law provides that the Medicare prospective payment rates should be updated annually by the Secretary of Health and Human Services. The law states that the update should reflect increases in hospital input prices but, for FY 1986, may not exceed the market basket (hospital input prices) plus one quarter of a percentage point. Certain hospitals and units are exempt from the prospective payment system (PPS). These hospitals and units are paid on the basis of their reasonable costs up to a limit. The limit is based on historical costs in the base year which are annually adjusted.
- B. Proposal. -- Require the Secretary of Health and Human Services to provide a 0.5 percent rate of increase to the PPS rates for fiscal year 1986 and market basket in FY 1987 and FY 1988. Additionally, increase by 0.5 percent the payment limits for PPS-exempt hospitals for fiscal year 1986 and market basket in FY 1987 and FY 1988.
- C. Effective Dates. -- Hospital cost reporting periods beginning on or after October 1, 1985, for the

hospital-specific portion of the PPS rates, and discharges occurring on or after October 1, 1985, for the Federal portion of the PPS rates. Hospital cost reporting periods beginning on or after October 1, 1985, for PPS-exempt hospitals.

D. Outlay Effect (in millions of dollars). --

	<u>Fiscal Year</u>			
	<u>1986</u>	<u>1987</u>	<u>1988</u>	<u>Total</u>
Proposals				
0.5 percent increase	-1548	-2048	-2320	-5916
Market Basket Limit	0	-145	-395	-540

Extend Prospective Payments for Ambulatory Surgery

A. Current Law. -- Medicare may pay for ambulatory (i.e., outpatient) surgery performed in three different settings.

1. Ambulatory Surgical Center (ASC)

Payments for surgery performed in an ASC are made on the basis of prospectively set rates. The rates do not cover prosthetic devices, laboratory services, or physician services. Furthermore, to foster greater use of ambulatory surgical centers as opposed to higher cost hospitals, the Congress waived the 20 percent copayment usually required of patients for such Part B services.

2. Hospital Outpatient Departments

Medicare payments for ambulatory surgery performed in a hospital outpatient department are made on the basis of reasonable costs. As a Part B service, a 20 percent copayment is required of the patient.

3. Physician's Office

Although legislation to allow payment for ambulatory surgery in a physician's office was passed in 1981, the legislation has not been implemented because adequate utilization and quality control peer review, which is required by law, is not available for office-based surgery.

B. Proposal. -- Pay for surgery performed in a hospital outpatient department on the basis of prospective rates instead of reasonable costs. Under the proposal, the Secretary would be required to:

1. update the present ASC prospective rates to current costs,
2. include in the rates, the reasonable costs of all ancillaries and prosthetics,
3. allow no rate to exceed the DRG payment rate for comparable inpatient surgery,
4. update the rates annually,
5. reinstate the 20 percent copayment requirement for ASC services,

6. require the Secretary to contract for review, by a Peer Review Organization (PRO), of surgeries covered by this provision,
7. continue the pass-through for direct graduate medical education and capital costs associated with the surgery paid for under the rates, and
8. provide an additional payment to take into account the costs of services provided by a Certified Registered Nurse Anesthetist (CRNA).

C. Effective Date. -- Enactment.

D. Outlay Effect (in millions of dollars). --

	<u>Fiscal Year</u>			<u>Total</u>
	<u>1986</u>	<u>1987</u>	<u>1988</u>	
Proposal	-65	-110	-150	-325

Increase Audit Effort and Medical Claim Review

- A. Current Law. -- Under current law and regulations, the Secretary contracts with intermediaries and carriers to perform the day-to-day administrative and operation tasks for the Medicare program, including the review of claims and the conduct of audits.
- B. Proposal -- Require that that Medicare contractor budgets for fiscal years 1986, 1987, and 1988 be supplemented by \$60 million in each year to be spent specifically for provider cost audits and medical review activities.
- C. Effective Date. -- October 1, 1985.
- D. Outlay Effect (in millions of dollars). --

	<u>Fiscal Year</u>			
	<u>1986</u>	<u>1987</u>	<u>1988</u>	<u>Total</u>
Proposal	-60	-60	-60	-180

Modify Direct Medical Education Payments

- A. Current Law. -- The direct costs of approved graduate medical and other health professional education programs (such as classroom costs and the salaries of interns and residents) are excluded from the prospective payment system (PPS) and are paid on a reasonable cost pass-through basis.
- B. Proposal. -- Limit payments to hospitals for their direct costs of approved medical education activities for the first cost reporting period beginning on or after July 1, 1985. The limit would be the lesser of the provider's approved medical education costs during the cost reporting period subject to the limit, or during a base year. Beginning with the first cost reporting period beginning on or after July 1, 1986, the direct costs of medical education activities associated with those residents which are either board eligible or have completed more than five years of training will no longer be allowable direct costs, with the exception of no more than 100 geriatric fellowships which meet criteria established by the Secretary. Also, only 66 percent of the direct educational costs of graduates of medical schools not accredited by the Liaison Committee on

Medical Education (LCME) will be allowable costs. The allowable percent for these so-called "foreign medical graduates" would be reduced to 33 percent in the subsequent reporting period and to zero percent thereafter. However, programs whose foreign medical school graduates represent more than 50 percent of the students as of October 1, 1985, would receive the 66 percent funding for the first two reporting periods beginning on or after July 1, 1986, 33 percent funding for the three subsequent periods, and no funding thereafter.

C. Effective Date. -- Effective for cost reporting periods beginning on or after July 1, 1985.

D. Outlay Effect (in millions of dollars). --

	<u>Fiscal Year</u>			<u>Total</u>
	<u>1986</u>	<u>1987</u>	<u>1988</u>	
Proposal	-80	-140	-260	-480
Geriatric exception	N/A	N/A	N/A	N/A

Reduce the Indirect Medical Education Adjustment

- A. Current Law. -- Additional payments are made to hospitals under Medicare's prospective payment system (PPS) for the indirect costs of approved medical education programs. These costs may be due to such factors as additional tests ordered by interns and residents as part of their training and, presumably, to the relatively more severe medical condition of patients in teaching hospitals.

Prior to implementation of PPS, an estimate was developed of how a hospital's costs increased as the ratio of interns and residents to beds increased. This adjustment factor was used in setting the reimbursement limits applied under Medicare's reimbursement method in effect before PPS. For PPS, Congress doubled the adjustment factor. This doubled factor is equal to 11.59 percent for each 0.1 increase in the ratio of a hospital's full-time equivalent interns and residents to its number of beds.

- B. Proposal. -- Reduce the indirect medical education factor from 11.59 percent to 8.7 percent on a curvilinear basis. For fiscal

years 1986 and 1987, the factor would be reduced further from 8.7 percent to 7.7 percent to take into account the creation of a disproportionate share hospital adjustment.

C. Effective Date. -- Effective for cost reporting periods beginning on or after July 1, 1985.

D. Outlay Effect (in millions of dollars). --

	<u>Fiscal Year</u>			
	<u>1986</u>	<u>1987</u>	<u>1988</u>	<u>Total</u>
Proposal	-640	-1,000	-1,185	-2,825
Disproportionate				
Share Adjustment				
Offset	<u>150</u>	<u>210</u>	<u>0</u>	<u>360</u>
Total	-490	- 790	-1,185	-2,465

Create Disproportionate Share Hospital Adjustment

- A. Current Law. -- Under the Social Security Amendments of 1983, the Secretary of HHS was required to make such adjustments to the prospective payment system (PPS) rates as the Secretary deems appropriate for hospitals that serve a disproportionate number of low-income or Medicare Part A patients. The Deficit Reduction Act of 1984 required the Secretary, prior to December 1, 1984, to develop and publish a definition of disproportionate share hospitals, to identify such hospitals, and to make the list available to the committees with legislative jurisdiction over Part A of Medicare.
- B. Proposal. -- This proposal would require the Secretary to make additional payments to all PPS hospitals serving a disproportionate share of low-income Medicare patients. The proxy measure for low-income Medicare patients would be percentage of a hospital's total Medicare patient days attributable to Medicare patients also enrolled in the federal Supplemental Security Income (SSI) program, sometimes called "dual eligibles". Hospitals with 100 beds or

more would have the Federal portion of the PPS payment increased by 2 percent plus 2.87 percent for each 10 percentage points (or portion thereof) that the proxy measure is above a minimum threshold of 20 percent. The maximum adjustment would be no greater than 12 percent. Hospitals with less than 100 beds would have their payments increased by 12 percent if their proxy measure is 55 percent or more.

In fiscal year 1986, the Secretary would be required to pay hospitals interim rates based on historical data with final settlement based on actual data. Upon request, the Secretary would be allowed to adjust the interim rate if a hospital provided adequate data to show the interim rate was too high or low. The Secretary would be required to develop accurate "dual eligible" data by October 1, 1986. The proposal also requires the Secretary to pay hospitals in States where historical data is not available on the basis of similiar hospitals in the region in which the State is located. The provision would expire in two years.

C. Effective Date. -- For discharges occurring on or after October 1, 1985, and before September 30, 1987.

D. Outlay Effect (in millions of dollars). --

	<u>Fiscal Year</u>			
	<u>1986</u>	<u>1987</u>	<u>1988</u>	<u>Total</u>
Proposal	300	460	0	760
Indirect medical				
education offset	<u>-150</u>	<u>-210</u>	<u>0</u>	<u>-360</u>
Total	150	250	0	400

Improve Access to Skilled Nursing Facilities

- A. Current Law. -- Medicare provides skilled nursing facility (SNF) services under the Hospital Insurance (Part A) program. SNFs are currently reimbursed retrospectively on the basis of reasonable costs actually incurred, subject to limits. The limits are currently based on 112% of the average costs of urban and rural freestanding facilities. Freestanding facilities are facilities that are not part of a hospital. All participating SNF's are required to file a cost report.
- B. Proposal. -- SNF's that provide less than 1,500 days of care per year to Medicare patients will have the option of being paid a prospective rate set at 105 percent of the regional mean for all SNF's in the region. The rate would be differentiated for urban and rural areas and include all non-ancillary costs, including capital and return on investment. Those accepting the prospective rate would be required to file a minimal cost report. Also, to improve the evenness of administration of the benefit, the Secretary would be required to reduce the number of intermediaries to ten within 18 months of enactment

and strengthen monitoring of the administration of the SNF benefit. The Secretary will be required to reinstate the five percent favorable presumption waiver of liability until 30 months after enactment of this legislation.

C. Effective Date. -- Enactment.

D. Outlay Effect (in millions of dollars). --

	<u>Fiscal Year</u>			
	<u>1986</u>	<u>1987</u>	<u>1988</u>	<u>Total</u>
Proposal	30	30	35	95

Indirect Teaching Cost Adjustment Related to Outpatient
Activities

- A. Current Law. -- In addition to the DRG payments other hospitals receive, teaching hospitals are paid amounts designed to compensate them for certain costs that are indirectly attributable to their teaching activities. The amount of this indirect teaching adjustment is based on the ratio of the hospital's residents and interns to the number of its beds. On June 10, 1985, the Secretary proposed regulations that would eliminate interns and residents who serve in the hospital's outpatient department from this ratio.
- B. Proposal. -- Clarify that residents and interns should be included in the ratio since the regression analysis on which the indirect teaching adjustment is based includes all of the residents and interns serving the hospital's patients.
- C. Effective Date. -- Enactment.
- D. Outlay Effect (in millions of dollars). -- Not available.

Indirect Teaching Adjustment Related to Independent Clinic
Activities

- A. Current Law. -- For the first three years of the prospective payment system (PPS), a special exception is applied to hospitals which had traditionally allowed direct billing under Part B so extensively that it would have been disruptive to immediately require them to bill for all such services under Part A. These hospitals were, in effect, allowed to have part of their PPS payments paid through Part B billings and the remainder paid to the hospital under Part A. The Health Care Financing Administration has ruled that in such split payment cases, the indirect teaching adjustment would apply only to the portion of the Medicare payment that is paid through Part A.
- B. Proposal . -- Clarify that the split payment provision was only intended to provide a temporary billing accommodation for certain hospitals and that the amount of the indirect teaching adjustment should be the same as if the entire payment had been made under Part A.

C. Effective Date. -- Enactment.

D. Outlay Effect (in millions of dollars). --

	<u>Fiscal Year</u>			
	<u>1986</u>	<u>1987</u>	<u>1988</u>	<u>Total</u>
Proposal	N/A	N/A	N/A	N/A

N/A -- Not Available.

Transfer of Assets

- A. Background. -- Where a State donates a hospital to a non-profit corporation, the basis for Medicare capital-related costs to the new owner will be the lesser of the sales price or the prior owner's historical cost (net of depreciation).
- B. Proposal. -- Allow State owned and operated acute-care general (non-university) hospitals being transferred to community non-profit corporations at little or no cost to retain their current Medicare book value (acquisition cost less depreciation) for purposes of calculating their Medicare allowance for interest and depreciation.
- C. Effective Date. -- Enactment.
- D. Outlay Effect (in millions of dollars). -- Not available.

Require Second Surgical Opinions

A. Current Law. -- Medicare payments will be made, subject to the applicable coinsurance requirements, if a Medicare beneficiary voluntarily seeks a second opinion from another physician prior to undergoing elective surgery.

B. Proposal. -- Establish a mandatory second surgical opinion program (SSOP) under Medicare which denies payment for a list of surgeries if the patient does not obtain a second opinion from a qualified physician.

This approach would tie the existing preadmission certification programs conducted by PRO's with second opinions.

The Peer Review Organization (PRO) would:

1. review the first opinion, if the surgery is one of those specified on the list;
2. then determine whether the proposed procedure should be:
 - a. approved,
 - b. denied, or
 - c. referred to a non-PRO physician, and

3. notify the beneficiary and physician of its determination.

The PRO decision to approve or deny would be binding, while a decision by a physician to whom the patient was referred would not affect payment. Under this provision, the only basis for denial of any subsequent claim for the proposed operation would be if:

1. the required review of the PRO were not obtained, or
2. the PRO determined that the proposed procedure would be inappropriate.

C. Effective Date. -- Applies to items and services furnished on or after the first day of the first month which begins six months after enactment.

D. Outlay Effect (in millions of dollars). --

	<u>Fiscal Year</u>			<u>Total</u>
	<u>1986</u>	<u>1987</u>	<u>1988</u>	
Proposal	N/A	N/A	N/A	N/A

DME and Other Non-Physician Services

- A. Current Law. -- Payments for durable medical equipment (DME), prosthetic devices, ambulance services, and other non-physician services are made on the basis of reasonable charges.
- B. Proposal. -- Impose new reimbursement limits on rented DME (other than that furnished under a purchase agreement) and other non-physician services. During fiscal year 1986, Medicare customary and prevailing charges for rented durable medical equipment and other services would be allowed to increase by 1 percent over the level in effect before October 1, 1985. Thereafter, Medicare reasonable charges for both rented and purchased DME and other services could rise no faster than the increase in the consumer price index.
- C. Effective Date -- Enactment.

D. Outlay Effect (in millions of dollars). --

	<u>Fiscal Year</u>			
	<u>1986</u>	<u>1987</u>	<u>1988</u>	<u>Total</u>
<u>Proposal</u>	N/A	N/A	N/A	N/A

N/A -- Not Available.

Peer Review Organization Reimbursement

- A. Current Law. -- Sections 1866(a)(1)(F)(iii) and (iv) of the Social Security Act set Peer Review Organization reimbursement at no less than 1982 levels adjusted for inflation.
- B. Proposal. -- Delete these sections. They are no longer necessary.
- C. Effective Date. -- Enactment.
- D. Outlay Effect (in millions of dollars). --

	<u>Fiscal Year</u>			
	<u>1986</u>	<u>1987</u>	<u>1988</u>	<u>Total</u>
Proposal	N/A	N/A	N/A	N/A

N/A -- Not Available.

Require PRO Review of Health Maintenance Organization Services

- A. Current Law. -- Current law permits the Secretary of Health and Human Services (HHS) to require Peer Review Organization's (PRO's) to review Health Maintenance Organization's (HMO's) services to Medicare beneficiaries.
- B. Proposal. -- Require PRO review of HMO services to Medicare beneficiaries.
- C. Effective Date. -- Enactment.
- D. Outlay Effect (in millions of dollars). --

	<u>Fiscal Year</u>			
	<u>1986</u>	<u>1987</u>	<u>1988</u>	<u>Total</u>
Proposal	N/A	N/A	N/A	N/A

N/A -- Not Available.

Substitute for PRO Review

- A. Current Law. -- A Peer Review Organization (PRO) has exclusive authority to review utilization and quality of care if it has a contract with HCFA. The Secretary may terminate a PRO contract for non-performance but the PRO must be given 90 days prior notice. Terminations can create a period of several months where no utilization and quality review is conducted.
- B. Proposal. -- Authorize the Secretary to assign review authority to another entity while a PRO is being terminated because the PRO is not performing effectively.
- C. Effective Date. -- Enactment.
- D. Outlay Effect (in millions of dollars). -- Not available.

End Stage Renal Disease (ESRD) Networks

- A. Current Law. -- As required, the Secretary has established networks to assure the effective and efficient administration of the end-stage renal disease (ESRD) program under Medicare. The networks help assure that ESRD patients:
1. use treatment settings most compatible with successful rehabilitation; and
 2. receive quality care.
- B. Proposal. -- Prohibit the Secretary from dismantling ESRD networks.
- C. Effective Date. -- Enactment.
- D. Outlay Effect (in millions of dollars). -- Not available.

Extend Home Health Waiver of Liability

- A. Current Law. -- Under statutory authority, the Secretary of Health and Human Services had, until recently, granted Home Health Agencies a presumptive 2.5 percent waiver of liability. Under current law, the Secretary is required to reduce the number of fiscal intermediaries that process Home Health Agency claims to ten.
- B. Proposal. -- Require the Secretary to reinstate the 2.5 percent waiver of liability for home health agencies from the date of enactment until 12 months after all ten Home Health Agency fiscal intermediaries begin operations.
- C. Effective Date. -- Enactment.
- D. Outlay Effect (in millions of dollars). --

	<u>Fiscal Year</u>			
	<u>1986</u>	<u>1987</u>	<u>1988</u>	<u>Total</u>
Proposal	N/A	N/A	N/A	N/A

N/A -- Not Available.

Moratorium on Medicare Laboratory Payment Demonstration

- A. Current Law. -- Pursuant to demonstration authority of present law, the Secretary has proposed to experiment with competitive bidding as a method of purchasing clinical laboratory services under the Medicare program. Independent laboratories that are unsuccessful bidders would not be eligible to participate in the Medicare program.
- B. Proposal. -- Postpone the demonstrations until December 31, 1986. During this moratorium, representatives of the laboratory industry would conduct a study in collaboration with the Secretary and U.S. General Accounting Office, to determine whether there is a less disruptive method of utilizing competitive market forces in setting Medicare payment levels -- e.g., by giving Medicare access to laboratory fee schedules that have been established to compete for the business of other large purchasers. A report to the Secretary and the Congress would be due on July 1, 1986, so that both would have six months to review the need for the proposed demonstration and to consider any proposed alternative methodology.

C. Effective Date. -- Enactment.

D. Outlay Effect. -- Not available.

Wisconsin Health Maintenance Organization Waiver

- A. Current Law. -- Current law precludes Health Maintenance Organizations (HMOs) that have chosen not to become federally qualified from participating in the lock-in provision of the Medicaid program. The Secretary was granted authority to waive this requirement in the Omnibus Reconciliation Act of 1981. This authority was repealed by the Deficit Reduction Act of 1984.
- B. Proposal. -- Allow the Secretary to grant Wisconsin two year renewable waivers of the federal qualification requirement upon application by the State of Wisconsin.
- C. Effective Date. -- Enactment.
- D. Outlay Effect (in millions of dollars). --

	<u>Fiscal Year</u>			
	<u>1986</u>	<u>1987</u>	<u>1988</u>	<u>Total</u>
Proposal	N/A	N/A	N/A	N/A

N/A -- Not available.

Prohibit Retroactive Application of Hospital Wage Index

- A. Current Law. -- Medicare payments to hospitals under the prospective payment system (PPS) must be adjusted to reflect the hospital wage level in a hospital's geographic area relative to the national average hospital wage level. The Secretary has used a Bureau of Labor Statistics index to make the required adjustment. However, because the index does not distinguish between full-time and part-time employment, the Deficit Reduction Act (DEFRA) of 1984 required the Secretary to develop a new index. The new index must be applied retroactively to payments made since October 1, 1983.

The Secretary has issued regulations to implement the DEFRA provision using a new index, the "gross index", derived from gross hospital wages which include salaries and wages for contracted labor, interns and residents, non-hospital cost center personnel, and hospital-based physicians.

- B. Proposal. -- Require the Secretary to use the "gross" index to adjust only those PPS payments made for discharges after September 30, 1985.

C. Effective Date. -- For discharges occurring on or after
October 1, 1985.

D. Outlay Effect (in millions of dollars). -- None.

Home Health Regulation Moratorium

- A. Current Law. -- Reimbursement for home health services is currently limited to the 75th percentile of the average costs per visit incurred by all home health agencies. Separate limits are established for each type of service (e.g., skilled nursing, home health, and physical therapy); however, they are applied in the aggregate to each home health agency based on its mix of services. The Administration has revised, in regulations, published July 5, 1985, the home health cost limit methodology,. For cost reporting periods beginning on or after July 1, 1985, the limits would be set at 120 percent of the mean and would be applied separately to each type of service. For cost reporting periods beginning on or after July 1, 1986, the limits would be reduced to 115 percent of the mean. For cost reporting periods beginning on or after July 1, 1987, the limits would be set at 112 percent of the mean.
- B. Proposal. -- Delay implementation of the regulations until July 1, 1986.
- C. Effective Date. -- July 1, 1985.
- D. Outlay Effect (in millions of dollars). -- None.

Extend Medicare Hospice Benefit

- A. Current Law. -- Individuals who are entitled to Medicare Part A benefits and who are certified to be terminally ill may elect to receive Part A reimbursement for hospice care services, in lieu of certain other services. Current authority for the Medicare hospice benefit is scheduled to terminate on October 1, 1986. An evaluation of the program, to be conducted by the Secretary of Health and Human Services, is due to Congress prior to January 1, 1985. However, this report will not be completed until January 1, 1988.
- B. Proposal. -- Make permanent the hospice benefit under the Medicare program. Utilize the savings generated to increase the rates which are paid for hospice care.
- C. Effective Date. -- Enactment.

D. Outlay Effect (in millions of dollars). --

<u>Fiscal Year</u>			
<u>1986</u>	<u>1987</u>	<u>1988</u>	<u>Total</u>
*	*	*	*

* -- Less than \$50,000

Continue Regional Hospital Payment Systems

A. Current Law. -- In the 1983 Prospective Payment System (PPS) legislation, the Secretary was directed to continue certain hospital payment systems that had previously been established as demonstrations. To use a payment system other than PPS, a State must ensure that the system is no more costly to Medicare than use of the Medicare PPS. Currently, statewide hospital payment systems are in effect for New Jersey, Maryland, and Massachusetts. In New York, three separate systems are in effect, covering:

1. the Rochester area
2. the Finger Lakes area; and
3. the remainder of the State.

Neither the Rochester project nor the Finger Lakes project will be allowed to continue when the waivers under which they were created expire.

B. Proposal. -- Permit Rochester and Finger Lakes hospital payment systems to be used by Medicare on the same basis as statewide systems -- i.e., so long as they continue to reduce Medicare spending and meet the other requirements established for statewide systems.

C. Effective Date. -- Enactment.

D. Outlay Effect (in millions of dollars). -- None.

Continuation of Medicare Waivers

- A. Current Law. -- States may request a waiver of Medicare's reimbursement rules for a statewide hospital reimbursement control system under Section 1886(c) of the Social Security Act. A number of requirements must be met before such a waiver request is granted. One requirement is that the State demonstrate, to the Secretary of HHS's satisfaction, that the amounts of payments made under the waiver would not exceed the amounts that otherwise would have been paid with respect to a 36-month period under Title XVIII if the State were not under a statewide reimbursement waiver.
- B. Proposal. -- Require the Secretary to continue waivers so long as the State takes appropriate steps by July 1, 1986, to assure the Secretary that its system will continue to meet the cost-effectiveness test, applied over a 36-month period. The provision would apply only to States which had made a request for a waiver under 1886(c) prior to December 31, 1984.
- C. Effective Date. -- Enactment.
- D. Outlay Effect (in millions of dollars). -- None.

Correction of Charges for Certain Hospital-Based Physicians

- A. Current Law. -- With the elimination of combined billing arrangements effective October 1, 1983, it became necessary for the carriers that administer Part B of the Medicare program, to determine how much of the compensation of certain hospital-based physicians is covered under Part B, and translate that portion of the compensation into compensation-related customary charges (CRCC's). As a result of the 1984 Medicare legislation, these CRCC's, which were intended to be transitional, were frozen for 15 months, until October 1, 1985. (Proposed legislation would continue the freeze for some of these physicians for an additional 12 months.)
- B. Proposal. -- Recalculate the CRCC's on the basis of the fees the physicians have actually charged, but reduced to put these physicians in the same position as other physicians. For services rendered between October 1, 1985, and September 30, 1986, (the proposed freeze extension period) the customary charges of certain hospital-based physicians would be determined based on their actual charges made between April 1, 1984 and March 31, 1985, or, if appropriate, made after February 1, 1985. These actual charges will be deflated to

September 1, 1984 levels for participating physicians
and to 1982 levels for non-participating physicians.

C. Effective Date. -- For services rendered on or after
October 1, 1985, and before October 1, 1986.

D. Outlay Effect (in millions of dollars). -- None.

Authorize Peer Review Organizations to Deny Payment for
Substandard Care

- A. Current Law. -- PRO's are required to conduct quality reviews, but are not authorized to deny payment for care of substandard quality.

- B. Proposal. -- Authorize PRO's to deny payment for care of substandard quality that is identified through explicit criteria developed according to a plan approved by HCFA.

- C. Effective Date. -- Enactment.

- D. Outlay Effect (in millions of dollars). -- None.

Allow Greater HMO Membership on PRO Boards

- A. Current Law. -- The Secretary must enter into contracts with organizations to provide utilization and quality control peer review of the health care services paid for under Medicare. The contractors are referred to as Peer Review Organizations (PRO's). A PRO whose governing body consists of more than one member who is affiliated with a health maintenance organization (HMO) is given secondary preference when PRO contracts are awarded.
- B. Proposal. -- Allow PROs with more than one HMO board member to qualify as a PRO on the same basis as other organizations.
- C. Effective Date. -- Enactment.
- D. Outlay Effect (in millions of dollars). -- None.

Extension of Certain Medicare-HMO Demonstration Projects

- A. Current Law. -- Present law permits waiver of certain Medicare requirements when the Health Care Financing Administration enters demonstrations under its general demonstration authority.
- B. Proposal. -- The Secretary would be required to extend for three additional years, the four municipal health services demonstration projects (Milwaukee, Baltimore, San Jose and Cincinnati) currently authorized under Medicare demonstration authority. These demonstrations were authorized under authority provided in the Social Security Amendments of 1967 and 1972.
- C. Effective Date. -- Enactment.
- D. Outlay Effect. -- None.

Clarify Impact of Physician Fee Freeze on HMOs

- A. Current Law. -- Physicians who agree to become participating physicians, that is, accept assignment for all patients, must accept Medicare's reasonable charge as full payment for services rendered to beneficiaries. When a participating physician provides an emergency service to a Medicare beneficiary who is enrolled in a Health Maintenance Organization (HMO), the physician may bill the HMO. In this case, a participating physician does not have to accept assignment, and a non-participating physician would not be limited as to the amount he or she can charge the HMO as he would be under the proposed extension of the physician fee freeze, had the beneficiary not been an HMO member.
- B. Proposal. -- Require participating and non-participating physicians to charge HMOs no more than what they would otherwise be permitted to charge for emergency services to a Medicare beneficiary.
- C. Effective Date. -- October 1, 1985.
- D. Outlay Effect (in millions of dollars). -- None.

Require Timely Publication of HMO Rates

Current Law. -- The Secretary of Health and Human Services (HHS) is required to calculate and then publish prospective payment rates for Health Maintenance Organizations (HMOs) and similiar organizations. There is no time deadline by which HMOs must be notified as to the rates that would be in effect for the next calendar year.

Proposal. -- Require the Secretary to publish the rates no later than 10 days after publication of the hospital prospective payment rates.

Effective Date. -- January 1, 1986.

D. Outlay Effect (in millions of dollars). -- None.

Coverage of Psychologists' Services

- A. Current Law. -- Among the inpatient hospital services that are paid for by Medicare are "such diagnostic or therapeutic items or services furnished by the hospital or by others ... as are ordinarily furnished to inpatients...."
- B. Proposal. -- Clarify that payment may be made under Medicare Part A for diagnostic or therapeutic services provided by a psychologist under an arrangement with a hospital to an inpatient entitled to Part A benefits.
- C. Effective Date. -- Enactment.
- D. Outlay Effect (in millions of dollars). -- None.

Expand PROPAC Membership

- A. Current Law. -- The Prospective Payment Assessment Commission (PROPAC) is limited to 15 members appointed for 3-year terms. Commission members are eligible for reappointment by the Director of the Office of Technology Assessment for no more than 2 consecutive terms.
- B. Proposal. -- Expand PROPAC membership from 15 to 17 members.
- C. Effective Date. -- Enactment.
- D. Outlay Effect (in millions of dollars) -- None.

Remove Restriction on Actuarial Opinion

- A. Current Law. -- Annual reports on the financial status of the Social Security trust funds (including the Medicare trust funds) must include an actuarial opinion certifying that the assumptions and cost estimates used in the report are reasonable. That opinion, however, may not comment on the economic assumptions provided by the Treasury Department, which must be used in the report. This restriction was added in 1981.
- B. Proposal. -- Allow the actuaries to comment on the economic assumptions.
- C. Effective Date. -- Enactment.
- D. Outlay Effect (in millions of dollars). -- None.

Extend GAO Reporting Date

- A. Current Law. -- The U.S. General Accounting Office is required to submit a report on the results of a study mandated in the Deficit Reduction Act of 1984 (DEFRA), not later than 12 months after enactment of that Act. The study is to address the ability of the Health Care Financing Administration to manage competitive bidding for Medicare claims processing and related issues.
- B. Proposal. -- Extend the reporting date to 18 months after the enactment of DEFRA to allow the GAO to expand the scope of the study as requested by the Committees of jurisdiction (Finance, and Ways and Means).
- C. Effective Date. -- As if originally included in the Deficit Reduction Act of 1984.
- D. Outlay Effect (in millions of dollars). -- None.

2. MEDICAID

Modify Revaluation of Assets Provision

- A. Current Law. -- Under Section 2314 of the Deficit Reduction Act of 1984, the so-called "revaluation of assets" provision, Medicare and Medicaid payments to nursing homes may not be increased to reflect higher capital costs (depreciation and interest) that result solely from the sale of such facilities. The higher costs occur when a nursing home is sold and its assets are revalued.
- B. Proposal. -- Modify the revaluation of assets provision to allow a revaluation of nursing homes under Medicaid. The revaluation, however, would be limited to the acquisition costs of the asset increased by 50 percent of the nursing home cost index published in the Dodge Construction Index or 50 percent of the CPI, whichever is lower. The U.S. General Accounting Office would be required to study the effect of this provision on the sales of nursing homes.
- C. Effective Date. -- October 1, 1985.

D. Outlay Effect (in millions of dollars). --

	<u>Fiscal Year</u>			
	<u>1986</u>	<u>1987</u>	<u>1988</u>	<u>Total</u>
Proposal	37	34	45	116

Modify Overpayment Recovery Rules

A. Current Law. -- State Medicaid agencies are allowed to pay nursing homes and hospitals at interim rates until final rates are established. If the final rate is less than the interim rate, the institution was overpaid and the State is supposed to collect the "overpayment". The State must refund the Federal share of the overpayment to the Federal Government. Under current regulations:

1. the State must refund the Federal share immediately upon the State discovering the overpayment, and
2. refunds must be made for all overpayments including providers that have gone into bankruptcy or have gone out-of-business.

B. Proposal. -- Allow States sixty days to recover overpayments from providers before they must refund the Federal share. Also, a state would not be liable for the Federal share of overpayments which cannot be collected from bankrupt or out-of-business providers.

C. Effective Date. -- October 1, 1985.

D. Outlay Effect (in millions of dollars). --

	<u>Fiscal Year</u>			
	<u>1986</u>	<u>1987</u>	<u>1988</u>	<u>Total</u>
Proposal	12	5	5	22

Home and Community Based Service Waiver Extensions

- A. Current Law. -- Under Section 1915(c) of the Social Security Act, the Secretary must monitor Medicaid home and community based service waivers in order to assure that the requirements and assurances for the waivers are met. The States may request three year renewals of the waivers.
- B. Proposal. -- Provide that the Secretary must renew, for a period of one year at a minimum or five years at a maximum, any waiver that expires between October 1, 1985, and September 30, 1986, if the State requests a renewal.
- C. Effective Date. -- Enactment.
- D. Outlay Effect. -- Not available.

Home and Community Based Waiver Renewals

- A. Current Law. -- A Medicaid home and community based waiver is granted for a initial term of three years, and, upon the request of a State, can be extended for additional three year periods unless the Secretary determines that certain assurances have not been met.

- B. Proposal. -- Provide that home and community based waiver renewals shall be for a period of five years.

- C. Effective Date. -- Enactment.

- D. Outlay Effect. -- Not available.

Optional Targeted Case Management Services

- A. Current Law. -- Case management services may be provided by States to Medicaid recipients. If the services are offered they must either be
- o offered to all Medicaid recipients in all areas of the State, or
 - o if the State wants to offer the services to targeted groups or area within the State, it must obtain a home and community based services waiver from the Secretary.
- B. Proposal. -- Modify current law to allow States to target case management services to specific groups and/or specific areas within the State without obtaining a home and community based services waiver.
- C. Effective Date. -- October 1, 1985.

D. Outlay Effect (in millions of dollars). --

	<u>Fiscal Year</u>			<u>Total</u>
	<u>1986</u>	<u>1987</u>	<u>1988</u>	
Proposal	N/A	N/A	N/A	N/A

N/A -- Not Available

Broaden Range of Services Under Waiver Authority

- A. Current Law. -- In Section 137 of the Tax Equity and Fiscal Responsibility Act of 1982, Congress authorized the Secretary of Health and Human Services (HHS) to waive the Medicaid program requirement that equal services be provided to all Medicaid recipients in a State. Specifically, Section 137 provided that under a waiver, the States may contract with providers in a given geographic area to provide no more than two mandatory services to Medicaid recipients. The services offered under the contract may be more or less than those offered to other Medicaid recipients in the State.
- B. Proposal. -- Increase the number of services from two to five that can be granted under the waivers.
- C. Effective Date. -- Enactment.

D. Outlay Effect (in millions of dollars). --

	<u>Fiscal Year</u>			
	<u>1986</u>	<u>1987</u>	<u>1988</u>	<u>Total</u>
<u>Proposal</u>	N/A	N/A	N/A	N/A

N/A -- Not Available.

Life Safety Code Recognition

- A. Current Law. -- The Secretary of Health and Human Services may establish "standards of safety and sanitation" applicable to intermediate care facilities for the mentally retarded. Section 1861(j)(13) of the Social Security Act specifies that institutions must meet the safety and sanitation provisions of such edition (as specified by the Secretary in regulations) of the Life Safety Code of the National Fire Protection Association.

- B. Proposal. -- Direct the Secretary to recognize the 1985 Life Safety Code of the National Fire Protection Association.

- C. Effective Date. -- Enactment.

- D. Outlay Effect. -- Not available.

Medicaid Eligibility by Community Health Centers

- A. Current Law. -- Community Health Centers, primarily funded by the Public Health Service, are currently required to meet all requirements of Section 1903(m) of the Social Security Act in order to qualify for certification as federally qualified Health Maintenance Organizations (HMO's) in the Medicaid program. Community Health Centers that existed when these requirements were enacted in 1976 were exempted from certain of the requirements.
- B. Proposal. -- Update the language of Section 1903(m) to allow Community Health Centers created since 1976 to have the same exemptions.
- C. Effective Date. -- Enactment.

D. Outlay Effect (in millions of dollars). --

	<u>Fiscal Year</u>			
	<u>1986</u>	<u>1987</u>	<u>1988</u>	<u>Total</u>
Proposal	N/A	N/A	N/A	N/A

N/A -- Not Available

Extend Optional Coverage of Children

Current Law. -- Section 2361 of the Deficit Reduction Act of 1984 required that State Medicaid programs cover certain poor children under six years of age beginning in 1984. The law required that the coverage be phased in over a five year period starting with the youngest children.

Proposal. -- Allow States to cover, and receive Federal matching funds for, all of these children immediately if they so desire.

Effective Date. -- January 1, 1986.

D. Outlay Effect (in millions of dollars). --

	<u>Fiscal Year</u>			
	<u>1986</u>	<u>1987</u>	<u>1988</u>	<u>Total</u>
Proposal	N/A	N/A	N/A	N/A

N/A -- Not Available.

Modify Coverage Beginning Date

- A. Current Law. -- Current law provides Medicaid coverage, at State option, to individuals who are in medical institutions but who have too much income to qualify for such assistance. The income standards which States apply to this optional coverage group can be as high as 300 percent of the standard applied to the aged, blind and disabled who qualify for Medicaid. As the law is written, a hospital or nursing home stay qualifies an individual for Medicaid eligibility under the special income rule. As a result, States that elect the optional group coverage would have had to bear the cost of a large number of individuals qualified on the basis of a short hospital stay, had the Department not issued regulations which allow the States to avoid those costs.

The regulations implementing this law allow the special income standard to be applied beginning with the first full calendar month of institutionalization.

- B. Proposal. -- Substitute for the calendar month test a requirement that payment begin at the beginning of any 30 consecutive-day period of institutionalization.

C. Effective Date. -- October 1, 1985.

D. Outlay Effect (in millions of dollars). --

	<u>Fiscal Year</u>			
	<u>1986</u>	<u>1987</u>	<u>1988</u>	<u>Total</u>
<u>Proposal</u>	N/A	N/A	N/A	N/A

N/A -- Not Available.

Allow Comprehensive Benefits for Pregnant Women

- A. Current Law. -- The Medicaid statute provides that benefits furnished to a "categorically needy" person shall not "be less in amount, duration or scope than the medical assistance available to any other (categorically needy) individual."
- B. Proposal. -- Allow States the option to waive the "comparability" requirement under Medicaid and provide more extensive prenatal care to pregnant women than is provided to other categorical needy individuals.
- C. Effective Date. -- Enactment.
- D. Outlay Effect (in millions of dollars). -- None.

Permit Hospice Care as an Optional Medicaid Service

- A. Current Law. -- Federal legislation does not authorize comprehensive hospice care as a covered service under Medicaid.

- B. Proposal. -- Permit hospice care as an optional Medicaid service.

- C. Effective Date. -- Enactment.

- D. Outlay Effect (in millions of dollars). -- None.

Annual Calculation of Medicaid FMAP

- A. Current Law. -- The Federal Matching Assistance Percentage (FMAP) is the percentage of allowable State's Medicaid expenditures that the Federal Government will pay. The national average is 55 percent. The "poorer" the State is, the higher the FMAP. The formula is set in law and calculated at two year intervals.

- B. Proposal. -- Calculate the FMAP every year rather than every two years beginning in FY 1988.

- C. Effective Date. -- Enactment.

- D. Outlay Effect (in millions of dollars). -- None.

Allow Sampling During Nursing Home Utilization Review

- A. Current Law. -- Current law requires that the care of 100 percent of the patients in a nursing home must be reviewed when HHS evaluates the appropriateness and quality of care the nursing home provides.

- B. Proposal. -- Allow nursing home reviews to be based on a sample, but require the Secretary to specify a statistically significant sampling percentage for the reviews.

- C. Effective Date. -- Enactment.

- D. Outlay Effect (in millions of dollars). -- None.

Extension of Texas Long-Term Care Waiver

- A. Current Law. -- Texas currently has a waiver under Section 1115 of the Social Security Act to operate a demonstration program regarding community care alternatives for certain institutionalized aged Medicaid recipients. This waiver will expire on January 1, 1986.

- B. Proposal. -- Extend the waiver for three years.

- C. Effective Date. -- October 1, 1985.

- D. Outlay Effect (in millions of dollars). -- None.

3. MATERNAL AND CHILD HEALTH

Maternal and Child Health (MCH)

- A. Current Law. -- States may obligate funds within a two year time frame under the MCH Block Grant. However, these funds must be expended by the States prior to the close of that second year.
- B. Proposal. -- Repeal the provision that limits States' expenditures under the MCH Block Grant to those incurred within two years of being allotted. States may then spend their allotment over a longer period of time.
- C. Effective Date. -- Enactment.
- D. Outlay Effect (in millions of dollars). -- None.

4. FOSTER CARE

EXTENSION OF PROVISIONS RELATING TO
CEILINGS ON FOSTER CARE EXPENDITURES

(Title IV-E, Social Security Act)

- A. Current Law. -- Under the Aid to Families with Dependent Children (AFDC) foster care program, States are entitled to Federal matching funds based on the Medicaid matching rate for foster care maintenance payments for AFDC-eligible children.

The Adoption Assistance and Child Welfare Act of 1980 (P.L. 96-272) established a mandatory ceiling on Federal foster care maintenance payments for each of fiscal years 1981 through 1984 if appropriations for the child welfare services program reached a specified level. These provisions were subsequently extended through FY 1985 (P.L. 98-617). For each of fiscal years 1983-1985, this level was set at \$266 million. Each State's ceiling is based on previous years' funding levels and/or the State's under-18 population.

When operating under the mandatory ceiling States may transfer, under certain conditions, unused foster care funds to be used for child welfare services. In addition, if appropriations do not reach the specified trigger amount necessary for

the mandatory ceiling, States may through FY 1985 choose to operate under a voluntary ceiling and transfer a certain proportion of "unused" foster care funds (funds not expended for foster care under the foster care ceiling amount calculated) to their child welfare services program.

- B. Proposal. -- The provisions requiring a mandatory ceiling on foster care expenditures would be extended through FY 1987. The formulas for calculating each State's allotment, when child welfare services appropriations made in advance reach the specified trigger level, would also be extended. The trigger level would be continued at \$266 million for each of FY 1986 and 1987. The proposal would also extend through FY 1987 the methods of calculating each State's allotment and the provisions allowing States to opt to operate under a ceiling on foster care expenditures.
- C. Effective Date. -- October 1, 1985.
- D. Outlay Effect. -- None.

EXTENSION OF VOLUNTARY PLACEMENT PROVISIONS

(Title IV-E, Social Security Act)

- A. Current Law. -- The Adoption Assistance and Child Welfare Act of 1980 (P.L. 96-272) authorized Federal matching payments to be made under the AFDC foster care program for a limited period (originally through FY 1983) for children removed from the home under a voluntary placement agreement, when States meet specified protections and procedures. The provision was extended through FY 1985 (P.L. 98-118 and P.L. 98-617).
- B. Proposal. -- Extend through FY 1987 the provisions allowing for payments for children placed under a voluntary placement agreement.
- C. Effective Date. -- October 1, 1985.
- D. Outlay Effect. -- None.

5. CUSTOMS USER FEES

Customs User Fees

- A. Current Law. -- The U.S. Customs Service does not currently have the general legal authority to collect fees for the processing of persons, aircraft, vehicles and merchandise arriving in or departing from the United States. They do, however, have limited authority to charge fees under certain limited circumstances, such as when they are providing services (such as pre-clearance of passengers and private aircraft) which are of special benefit to a particular individual. They also have authority to assess fees on operators of bonded warehouses and foreign trade zones and on the entry of vessels into ports. They are further authorized to receive reimbursement from carriers for overtime for services provided during non-business hours and reimbursement from local authorities for services provided to certain small airports.
- B. Proposal. -- Assess a fee for processing common carriers and persons and for providing special services in connection with commercial importation.

Proposed Schedule of Fees

Passengers (train, aircraft, or vessel)	\$2.00
Persons (land/border)	\$1.00
Commercial vessels under 100 tons	\$25.00
Commercial vessels of 100 tons or over	\$397.00
Commercial trucks	\$5.00
Trains (per car)	\$5.00
Private yachts, boats and general aviation (per year)	\$25.00
Informal entries and dutiable mail for which documents are prepared by Customs	\$5.00
In-bond	\$10.00
Brokers license	\$125.00

C. Effective Date. -- October 1, 1985.

D. Outlay Effect (in millions of dollars). --

	<u>Fiscal Year</u>			
	<u>1986</u>	<u>1987</u>	<u>1988</u>	<u>Total</u>
Proposal	-330*	-330*	-330*	-990*

*Based on Customs estimates

6. PENSION BENEFIT GUARANTY CORPORATION

PBGC Premium Increases: Alternative Effective Date and
Premium Level

A. Current Law. -- The Pension Benefit Guaranty Corporation provides retirement benefits for employees whose defined benefit retirement plans cannot pay promised benefits. Currently employers pay an annual premium of \$2.60 per employee for this insurance-like benefit.

B. Proposal. --

1. Administration Proposal on Premium Level --

The Administration proposes a premium increase to \$7.50 per employee, effective January 1, 1985.

2. Alternative Proposal -- As an alternative to a \$7.50 premium effective January 1, 1985, the premium could be raised to \$8.10 per employee, effective January 1, 1986.

C. Effective Dates. -- As described above.

D. Outlay Effect (in millions of dollars). --

	<u>Fiscal Year</u>			
	<u>1986</u>	<u>1987</u>	<u>1988</u>	<u>Total</u>
1. Administration				
Proposal	-184	-206	-231	-621
2. Alternative				
Proposal	-163	-216	-243	-622

COMMITTEE ON FINANCE

September 17, 1985

ERRATA NOTES: MATERIALS FOR TUESDAY, SEPTEMBER 17, 1985

Attachment E:

1. Page 9 of 80, paragraph, change

"-80 -190 -260 -480"

to "-90 -185 -245 -520"

2. All outlay effect estimates that were listed as
"N/A" (not available) are now zero's except,

- a. Page 9 of 80, paragraph D, change

"N/A N/A N/A N/A"

to " 0 1 2 3"

- b. Page 19 of 80, paragraph D, change

"N/A N/A N/A N/A"

to " 1 1 1 3"

- c. Page 65 of 80, paragraph D, change

"N/A N/A N/A N/A"

to " 5 5 5 15"

- d. Page 67 of 80, paragraph D, change

"N/A N/A N/A N/A"

to " 5 5 5 15"

3. Page 53 of 80, paragraph D, change
" 37 34 45 116"
to " 26 24 32 82"
4. Insert attached pages 76a of 80, and 76b of 80.
5. Page 36 of 80, paragraph A, line 9, change
"1985"
to "1986".
6. Page 6 of 80 , Paragraph D, change
"Enactment"
to "January 1, 1986"
7. Substitute attached Page 78 of 80 for the page
contained in the attachment.
8. Insert pages 80a of 80, 80b of 80, and 80c of 80.

Clarification of Medicaid Moratorium Provisions of the
Deficit Reduction Act of 1984

- A. Current Law. -- The Deficit Reduction Act of 1984 prohibits the Secretary of Health and Human Services from taking any regulatory action against a State because the State uses less restrictive standards or methodologies in determining the eligibility of Medicaid beneficiaries who do not receive cash assistance than it uses for those who do. The prohibition applies during a moratorium period that will end 18 months after the Secretary submits to Congress her recommendations on the application of cash assistance income, asset (including home ownership) and resource standards and methodologies to the "medically needy" and other non-cash Medicaid eligibles. As a result of a drafting defect, the provision is not being implemented.
- B. Proposal. -- Remedy the drafting defects to provide for implementation of the moratorium.
- C. Effective Date. -- July 18, 1984 (date of enactment of the Deficit Reduction Act of 1984).

D. Outlay Effect (in millions of dollars). -- None.

Proposed Schedule of Fees

Passengers (aircraft or vessel)*	\$5.00
Persons (land/border)**	\$1.00
Commercial vessels under 100 tons	\$25.00
Commercial vessels of 100 tons or over	\$397.00
Commercial trucks	\$5.00
Trains (per car)	\$5.00
Private yachts, boats and general aviation (per year)	\$25.00
Informal entries and dutiable mail for which documents are prepared by Customs	\$5.00
In-bond	\$10.00
Brokers license	\$125.00

C. Effective Date. -- October 1, 1985.

D. Outlay Effect (in millions of dollars). --

Fiscal Year

	<u>1986</u>	<u>1987</u>	<u>1988</u>	<u>Total</u>
Proposal	-330***	-330***	-330***	-990***

*Except passengers entering from Canada, Mexico, a territory or possession of the U.S., or any "adjacent island"

**Including passengers from Canada, Mexico;
excluding persons from a U.S. territory or possession

***Based on Customs estimates

September 16, 1985

MORATORIUM ON PENALTIES FOR EXCESSIVE WELFARE ERRORS

AUTHORIZATION OF QC STUDY

- A. Current Law. -- The Quality Control (QC) system was established to improve administration of the Aid to Families with Dependent Children (AFDC) program by identifying errors and developing corrective actions to eliminate the errors. The QC system is the basis for the imposition of fiscal sanctions against the States for erroneous payments in excess of error tolerance levels set in Federal law.
- B. Proposal. --
1. No State AFDC funds would be withheld prior to a date 2 years from the date of enactment.
 2. Effective upon enactment, the Secretary and the National Academy of Sciences would conduct studies of how best to operate a quality control system with a view towards obtaining information which will allow program managers to improve the quality of administration and which will provide reasonable data on the basis of which Federal funding may be withheld for States with excessive levels of erroneous payments.

The studies would be due 1 year from the date of enactment. During the interim, the States and the Secretary would continue to operate the existing quality control system. Sanctions would be computed but would not be withheld. Not later than 18 months after the date of enactment, the Secretary would be directed to publish regulations which would:

1. restructure the quality control system to the extent necessary and appropriate in the light of the studies (as determined by the Secretary);
2. provide, in the light of the studies, for criteria for adjusting the amount of sanctions which would be applicable for prior years so as to eliminate any sanctions which apparently would not have been required under the new quality control system.

No disallowances shall be imposed during the two-year moratorium. Not later than the start of the calendar quarter beginning 2 years from enactment, the Secretary would be required to begin operating the revised quality control system and to begin withholding any penalties applicable under that system and any penalties applicable for years prior to the institution of that system (subject to the adjustments described above).

The proposal would thus allow 1 year for the study, 6 months for publishing the regulations to implement the study, and at least 6 months for Congress to review those regulations and, if appropriate, enact legislation directing any modifications in those regulations which Congress might find appropriate.

C. Effective Date. -- Enactment.

D. Outlay Effect. --

(\$ in millions)

<u>FY86</u>	<u>FY87</u>	<u>FY88</u>	<u>TOTAL</u>
2	1	0	3

H.R. 2005, The Social Security and Minor Technical
Changes Act of 1985

Attached is a summary of the provisions of H.R.
2005. The bill was:

1. Reported out of Ways and Means Committee,
(Report No. 99-69) on May 7, 1985.
2. Passed by the House unanimously on May 14,
1985.

PROVISIONS OF H.R. 2005

1. Demonstration Projects Involving the Disability Insurance Program -- The Social Security Disability Amendments of 1980 granted the Secretary authority to waive provisions of the Social Security Act in order to conduct demonstration projects to encourage disability beneficiaries to return to work, and required a report to Congress on the results 5 years later. The bill extends the waiver authority for 5 years, and requires a final report to Congress by June 9, 1990.

2. Disability Advisory Council -- The Social Security Act requires an Advisory Council on Social Security to be appointed every 4 years, at the beginning of each Presidential term, and to report by January 1 of the second year after appointment. The bill provides for a special ad hoc Disability Advisory Council in lieu of the general council, which shall report to Congress by January 1, 1987.

3. Taxation of Social Security Benefits Received by Citizens of U.S. Possessions -- Under present law, citizens of American Samoa are treated as non-resident aliens and are subject to withholding of

taxes from their social security benefit at a 15 percent rate. Citizens of other U.S. territories are exempt from the withholding requirement. The bill eliminates U.S. tax withholding on social security payments to citizens of American Samoa, to make it consistent with the tax treatment of citizens of other U.S. possessions.

4. Dependency Test for Adopted Great-Grandchildren -- Under present law, a grandchild (under age 18) of social security beneficiaries is entitled to benefits if the child is adopted by and lives with the grandparent for at least one year before applying for benefits and received half his support from the beneficiary. The bill would extend the provision to great-grandchildren of the beneficiary.

5. Cease Publication of Annual Revisions in the Pre-1979 Benefit Tables -- Under present law, the Secretary is required to publish the pre-1977 Amendment table of benefit amounts as revised by each general benefit increase. (This table applies only to those eligible for benefits before 1978 and the enactment of the Average Indexed Monthly Earnings provision.) The bill would eliminate the

requirement to publish the revised tables, but would not affect the revisions themselves.

6. Notification Formula Clarification -- Under the 1983 Amendments, the Board of Trustees is required to notify Congress whenever it determines that the balance in any of the trust funds at the beginning of any calendar year may become less than 20 percent of expenditures. The bill clarifies the Congressional intent that the determination should utilize a measure of reserves which include the taxes credited to the trust funds on the first day of each month.

7. Extension of 15-Month Reentitlement Period for Childhood Disability Beneficiaries Subsequently Entitled -- Under present law, disabled individuals who complete a 9-month trial work period and still have a disabling impairment, may be automatically reinstated to active benefit status during the next 15 months for any month in which their earnings fall below substantial gainful activity (SGA) level, currently \$300/month. However, a person entitled to benefits as a disabled adult child who has used this provision once cannot subsequently be covered by it again. The bill extends the

subsequent 15-month reentitlement periods to reentitled childhood disability beneficiaries.

8. Charging of Work Deductions Against Auxiliary Benefits in Disability Cases -- Under present law, the earnings of a person receiving auxiliary benefits on the record of a disabled worker are imposed against the auxiliary worker's benefits which would be payable after any reduction for the family maximum limit. However, the amount withheld from the working individual is redistributed to others in the family so that the family continues to receive benefits up to the family maximum. A technical error in the 1980 provision uses the regular (retired) family formula for computing the amount to be withheld from the working family member instead of the disability family maximum formula which is used to determine the amount actually payable to the entire family. The bill provides that the disability family maximum limit would be used for computing the individual's deductions as well as for computing the total family entitlement.

9. Perfecting Amendments to Disability Offset

Provision -- The 1981 Omnibus Budget Reconciliation Act expanded the social security disability offset (reduction in social security disability benefits due to receipt of other types of benefits) to include most governmental disability benefits paid to individuals. Previously, the offset was applicable only to workers' compensation payments. However, unclear wording led to confusion with regard to certain workers' compensation benefits. Present law also treats State and local disability payments differently than similar Federal payments. The bill amends the present law to ensure that all disability benefits paid under a Federal or State workers' compensation law or plan would continue to be subject to the disability offset. Moreover, the bill clarifies that both Federal and State or local workers must have had substantially all their service covered by social security to be excluded from the disability offset.

10. State Coverage Agreements -- Under present law, coverage of State and local employees under social security is effective on the date that an agreement is mailed by the State to the Secretary of Health and Human Services. However, for workers paid on a

fee basis and for those electing retroactive coverage, the agreement becomes effective on the date it is signed by both parties, which may result in complications and loss of coverage for some employees. The bill would make all agreements and modifications of agreements effective on the date the agreement is mailed or delivered by other means to the Secretary.

11. Effect of Early Delivery of Benefits -- Under present law, when the normal delivery date for social security benefits (the third day of the month) falls on a Saturday, Sunday or legal holiday, checks must be delivered on the nearest preceding banking day. This may result in checks being delivered in the previous month or even year, which could cause distortion of year-end trust fund balances, possibly low enough to trigger the stabilizer provision, and exaggerated beneficiary tax liability. The bill would eliminate these problems by providing that, for purposes of asset-expenditure ratio calculations and taxation of benefits, Social Security benefits delivered prior to their scheduled delivery date would be deemed to have been paid on the regular delivery date.

12. Preservation of Benefit Status for Disabled Widows and Widowers -- The Social Security Amendments of 1983 raised the amount of benefits for disabled widows and widowers aged 50 to 59, effective January 1984. As a result of the increase, some beneficiaries lost eligibility for Supplemental Security Income (SSI) and, consequently, Medicaid. (20 States do not have "medically needy" standards for Medicaid eligibility.) The bill provides that those low-income widows and widowers who lost SSI eligibility because of the January 1984 disability benefit increase may file an application for protection with the State within 15 months after enactment and be deemed to be receiving SSI benefits for the purpose of Medicaid eligibility. The bill further directs the Secretary to inform the States of the identities of affected individuals, and States to notify such individuals, solicit their applications for Medicaid coverage and process their applications promptly.

Cost Estimates (\$ in millions)

	<u>1985</u>	<u>1986</u>	<u>1987</u>	<u>1988</u>	<u>Total</u>
Total Outlays	*	4	5	5	14
Total Revenues	*	-1	-1	-1	-3
Total Change on unified budget deficit	*	5	6	6	17

*Indicates impact of less than \$500,000

Joint Committee on Taxation
September 13, 1985
JCX-20-85

INCREASE IN THE PUBLIC DEBT LIMIT

A. Public Debt Limit (H.J. Res. 372)

Present law

The permanent limit on the public debt is \$1,823.8 billion. It was enacted on October 13, 1984 (P.L. 98-475).

House action

H.J. Res. 372, which would increase the debt limit to \$1,847.8 billion on enactment and to \$2,078.7 billion on October 1, 1985, was deemed passed by the House of Representatives on August 1, 1985, after the Conference Report on the Budget Resolution (S. Con. Res. 32) was approved by the Congress.

Current situation

At the close of business on Tuesday, September 10, 1985, the outstanding public debt subject to limit was \$25 million below the current statutory limit of \$1,823.8 billion. The operating cash balance at that time was \$8.5 billion.

Treasury has indicated its belief that the current debt limit will meet its needs to September 30, 1985. The present operating cash balance is below the Treasury's preferred level of \$25 billion. Although the level may decline below the present level between now and mid-September, the cash balance tends to increase to \$35-\$40 billion after September 15 because of receipt of quarterly estimated corporate and individual income tax payments.

Administration and congressional proposals

<u>Estimated public debt limit levels</u>	Billions of dollars Through fiscal years	
	<u>1985</u>	<u>1986</u>
Administration estimate ¹	1,840.6	2,073.4
H.J. Res. 372: Conforms with Conference Report on budget resolution (S. Con. Res. 32)	1,847.8	2,078.7

Related unified budget deficits

Administration estimate ¹	211.3	177.8
Conference Report on budget resolution (S. Con. Res. 32)	209.8	171.9

¹OMB, Mid-Session Budget Review, August 30, 1985, p. 39.

On September 30, 1985, Treasury will credit the Civil Service Retirement trust fund with its annual lump sum appropriation--about \$16 billion this year--which must be invested in public debt securities. On October 1, similar investments must be made of the federal contributions to the military retirement trust fund (\$10.0 billion) and, on October 3, federal supplementary medical insurance trust fund (\$1.8 billion). In addition, an advance of estimated social security October receipts is to be deposited in the OASDI trust fund in the form of federal securities on October 1.

The required investments and normalized tax transfer to OASDI trust funds will require \$40.2 billion in borrowing authority. If the debt limit is not increased by September 30, the two retirement trust funds and the medical insurance trust fund will lose \$8 million in interest earnings that would not be made as presently scheduled.

B. Other Issue

Treasury also has requested an increase of \$50 billion in long-term bond authority above the present limit of \$200 billion. At the current rate of issuing long-term bonds for sale to the public, Treasury has estimated that the \$200 billion authority will be exhausted early in calendar year 1986.

P.L. 98-302 (enacted on May 25, 1984) provided an increase of \$50 billion in the long-term bond authority, raising the limit on this authority from \$150 billion to \$200 billion. Under this authority, the Treasury may issue the specified amount of bonds at interest rates above the statutory ceiling of 4-1/4 percent. The limitation applies only to bonds held by the public, i.e., holdings of Federal agencies and the Federal Reserve Banks are not included in the limit. A bond is defined as a debt obligation of the United States that has a maturity when issued which is longer than 10 years.

S. 942, THE TELECOMMUNICATIONS TRADE ACT OF 1985A. Premise of the bill

The premise of the bill is that the court-ordered divestiture (break-up) of AT&T represents a unilateral elimination of a major non-tariff barrier to imports of telecommunications equipment. Systematic use of access to the U.S. market as negotiating leverage and strict enforcement of existing trade agreements are used as a means of improving access to foreign markets for American telecommunications exporters. Such access is believed essential if U.S. telecommunications equipment manufacturers are going to compete successfully with foreign producers, many of whom receive protection and support from their governments.

B. Negotiating Objectives

The bill's objectives include negotiation of agreements to obtain opportunities in foreign markets that are substantially equivalent to opportunities available in the U.S. market for telecommunications products and services. For this

purpose, the President is given a three year authority to negotiate bilateral or multilateral agreements to open trade in telecommunications, and may, for this purpose, eliminate or modify U.S. tariff and non-tariff barriers. Such agreements must be approved by Congress under the fast-track procedures in sections 102 and 151 of the Trade Act of 1974.

C. Actions Required after Two Years

Imbalances in competitive opportunities in telecommunications trade which still exist at the end of two years following the bill's enactment are to be corrected by restricting imports of products and services of countries which have failed to enter into trade agreements. Remedies available to the President include duty increases, restrictions on registration or approval of equipment, restrictive government procurement practices and other measures. The President is given authority to compensate countries whose exports are affected.

D. Actions Required after Six Months

Within six months of enactment, the bill requires that the President retaliate against

countries which have failed to implement commitments to open their markets. The purpose of retaliation is to restore the balance of competitive opportunities by raising duties and restricting registration or approval of telecommunications products imported from those countries.

Negotiations and retaliation are to be based on a six month investigation by USTR of foreign barriers to U.S. telecommunications exports.

MISSING: 3 CHAPTER Amended

1 BRADLEY Amended

TELECOMMUNICATIONS TRADE ACT: Summary of Amendments

1. Delete all references to "subsidiaries". Clarify issue of investment barriers in legislative history.
2. Add "employment" negotiating objective to 102(a)(2)(A)/General Negotiating Objectives.
3. Add "employment" reference to Section 2(b)(1)/Purposes
4. Add "employment" reference to Section 2(a)(4)/Findings
5. Technical amendment to Section 2(a)(3) changing "many" to "most"
6. Require ITC advice on "actual patterns of trade" under Section 101(b)(1)(B) and Section 101(b)(2)/Factors to be Taken Into Account. Discuss need for results-oriented measure un legislative history.
7. Amend "actual patterns of trade" language to refer explicitly to "U.S. exports" under 101(b)(1)(B)/Factors to be Taken Into Account.
8. Substitute "presumptive" for "dispositive" and add explicit reference to "U.S. exports" in "actual patterns of trade" language under Section 101(b)(2)/Factors to be Taken Into Account.
9. Add language to "Annual Review" Section 103(b)(2) so as not to preclude cases under Section 301 of the Trade Act.
10. Require actions by the President to offset foreign barriers be subject to fast-track Congressional approval under Section 102(b). Comment on Committee preference that all agreements, offsets and compensation be submitted in one or a few packages.
11. Require submission to Congressional Committees (for review and consultations) of action taken by USTR under Section 103(a)
12. Require submission to Congressional Committees (for review and consultations) of annual review by USTR under Section 103(b).
13. Shorten timeframe for negotiating track from 2 years after date of enactment to 18 months after date of enactment under Section 102(b)/Actions To Be Taken if No Agreement Obtained.
14. Provide "stand-by" compensation authority if retaliatory action by USTR under Section 103(a) later turns out to have been inconsistent with U.S. international obligations.
15. Add expansion of GATT Government Procurement Code to Section 102(a)(2)(B)(iii)/Specific Negotiating Objective relating to discriminatory government procurement.
16. Technical amendment to Specific Negotiating Objective 102(a)(2)(B)(iv).

17. Add new Section at end of bill stating that "Nothing in this Act shall be construed to require (action) in a manner inconsistent with U.S. international obligations."

18. Instruct staff to make technical changes to action (offset or retaliation) language in bill so as not to preclude action on an MFN basis.

Legislative History

- Telecommunications services" term meant to stress value-added telecommunications services, not data processing.
- "SECO" does not mean mirror-image. Precedents for sectoral negotiations exist (eg. Civil Aircraft Code)
- Action by the President and USTR should be designed to minimize negative impact on domestic interests.
- Impact of deregulation and divestiture on telecommunications trade makes this legislation timely and unique.
- Countries with existing trade agreements that involve access to only part of their market would be treated under both negotiation and retaliation tracks.
- Other general observations from Danforth "Summary and Rationale".

"Subsidiaries"

1. Amend to drop direct references to "subsidiaries."

{Legislative History (barriers/investment)

"In determining market openness and competitive opportunities, all barriers to sales must be taken into account. These barriers include, but are not limited to standards, testing and certification, discriminatory government procurement, infant industry protection, anti-competitive market practices and barriers to servicing, maintenance and investment. In this regard, the Committee notes that few such barriers to trade and investment exist in the U.S. market as evidenced by the growing number of foreign telecommunications firms that sell and have established a presence in this market.

As regards investment, the Committee recognizes that in the same circumstances, market access is achievable only through commercial entities located in a foreign market. Therefore, in determining the measure of access, both in the U. S. and in foreign countries, sales through such entities

Subsidiaries**Page Two**

should be taken into account. (For example, a service company which must have a physical presence to provide the service.) Where there are barriers to the establishment or operation of foreign entities of U. S. companies, there is a requirement that a U. S. company establish an entity (subsidiary, joint venture or other business arrangement) or investment performance requirements are imposed on such entities, sales by entities subject to these barriers and requirements should not be considered evidence of market openness. All such barriers and requirements should be considered in the analysis of competitive opportunities."}

Employment

2. Amend 102(a)(2)(A)/General Negotiating Objectives by adding a new (iv)

"(iv) to enhance United States employment growth in telecommunications and related industries."

3. Amend Sec 2(b)(1)/Purposes

"to foster the economic and technological growth of, and employment in, the U. S. telecom industry, related industries, and all U. S. entities that ...

4. Amend Findings Sec 2(a)(4) to read

"(4) unfair and discriminatory trade practices in foreign countries have resulted in and continue to threaten the loss of jobs ..."

5. Amend Sec 2(a)(3) to read

"most foreign markets ..."

Factors to be Taken Into Account

6. Amendment: Add to language to 101(b) to require that USTR seek ITC advice regarding "actual patterns of trade" in relation to U. S. competitive position (101(b)(1)(B)) and "patterns that could be reasonably anticipated" (101(b)(2)).

{Legislative History (actual patterns)}

"The requirement that actual patterns of trade be taken into account in determining market openness is designed to go beyond traditional means of analysis that focus primarily on nominal or formal barriers to access. By bringing empirical data and evidence to bear in the determination, the Committee expects USTR to find evidence of trade distorting practices that are of a more informal or less visible nature. Evidence of such practices might take the form of comparisons between the world market share of a given U. S. export and a substantially smaller market share in the country in question or between sales of a product in one country that are disproportionately smaller than its sales in a country with a similar market.

Factors to be Taken Into Account

Page Two

Above all, the Committee believes that it is no longer sufficient for measures of market openness and the success of trade agreements to be determined solely on the basis of the nominal absence or reduction of barriers. Rather, the Committee expects actual sales to be factored in to any such determination and would anticipate that agreements reached pursuant to this Act would include monitoring provisions to see that measurable results are indeed achieved."}

7. Amend 101(b)(1)(B) to read

"actual patterns of trade, including U. S. exports of telecom products and services to foreign countries in relation. ..."

8. Amend 101(b)(2) to read

"In making determinations under Subsection (a)(2), the USTR shall consider as presumptive any evidence of actual patterns of trade (including U. S. exports of telecom products and services to foreign countries) that do not reflect ..."

Annual Review

9. Add at the end of Sec. 103(b)(2) a new subsection (3)
- "(3) Nothing in this subsection shall preclude action by the President on his own motion or the submission of a petition by any interested party pursuant to Section 301 of the Trade Act of 1974."

Congressional Approval of Action and Determinations

10. Amend Section 102(b) related to action by the President by adding language to require Congressional approval on a fast-track legislative basis (Sec.102/151 Trade Act '74).

(Currently, only agreements reached pursuant to Section 201 and use of compensation authority under Section 202 are subject to Congressional approval.)

{Legislative History: Among the reasons for requiring legislative approval of agreements, actions to achieve "SECO", and compensation is the Committee's assumption that at the end of the initial 18 month negotiating period, it would be logical for all of these elements to be folded into one package for submission to Congress.}

Congressional Approval of Action and Determinations

Page Two

11/12. Amend 103(a) and (b) (relating to action by the USTR and USTR's annual review) to require submission of findings/determinations to relevant Congressional Committees.

{Legislative History: These submissions would be expected to include assessments of action taken or anticipated (both by the President under 102(b) and by the USTR under 103(a) and (b)), as well as a review of countries initially excluded from investigation pursuant to 101(c). The latter review would consider whether the countries involved appeared to be developing "substantial potential in their exports to the United States attributable to production markets for United States telecommunications products and services" and whether such countries showed major increases by firms of foreign countries subject to previous action by the President or USTR under 102(b) and 103(a) and (b).}

Timing

13. Reduce time frame for Presidential action pursuant to Section 102(b) from ~~2 years~~ after enactment to 1 and 1/2 years after enactment (i.e. ¹⁴~~12~~ months after ⁴~~6~~ months USTR study) by amending Section 102(b)/Actions To Be Taken If No Agreement Obtained to read:

"(1) If the President is unable to enter into an agreement under section 201 with any foreign country...the President shall, by no later than the date that is 18 months after the date of enactment of this Act, take whatever actions..."

{Legislative History related to change in time frame:

"The Committee agreed to a shorter time period for negotiation of market liberalizing agreements because of the increased urgency of the problems addressed by this Act. In particular, the Committee noted that the need to address the trade implications of telecommunications deregulation and divestiture has been brought to the attention of the Administration on numerous occasions, beginning with hearings in June, 1984. In this regard, members of the Committee expressed their hope that the Administration would use existing authority to begin addressing the problems without waiting for the final enactment of this Act."}

Timing

Page Two

14. Changes related to GATT implications of timing of retaliatory action by USTR under 103(a):

Leave time frame of USTR retaliation at 30 days after 6 month study, but amend Section 202/Compensation Authority to provide for compensation in cases where retaliatory action was taken by the USTR under 103(a) that was subsequently found by GATT to have been inconsistent with U.S. obligations:

Amend Section 202 to read:

"(a) In General.--If--

(1) the President has taken action under section 102(b) with respect to any foreign country, and

(2) the United States Trade Representative is not required to take action against such country under section 103(a), or

Timing

Page Three

(3) the United States Trade Representative has taken action under section 103(a) that is later found to be inconsistent with the international legal obligations of the United States,

the President may enter into trade agreements with such foreign country for the purpose of granting new concessions as compensation for such actions taken by the President or United States Trade Representative in order to maintain the general level of reciprocal and mutually advantageous concessions."

Specific Negotiating Objectives

15. Amend 102(a)(2)(B)(iii) to read:

"non-discriminatory government procurement policies with respect to such products and services and the inclusion under the Agreements on Government Procurement of the procurement (by sale or lease) of all telecommunications products and services by state owned or controlled agencies."

16. Amend 102(a)(2)(B)(iv) to read:

"equipment standards and procedures for certification, including the acceptance of test data, which do not exceed the minimum standards and procedures necessary to prevent harm to the telecommunications network."

Compliance with International Obligations

17. Add a new Section 305 reading:

"Nothing in this Act shall be construed to require the President and the United States Congress to act in a manner inconsistent with the international legal obligations of the United States."

Action on MFN basis

18. Instruction to staff to make technical changes to language pertaining to offsets by the President or retaliation by the USTR to ensure that language does not preclude action (such as raising tariffs against a principle supplier) on an MFN basis.

Services

{Legislative History ('telecommunications services')}

"Although the Committee chose not to include a definition of "telecommunications services" in the legislation, members of the Committee made clear that their principal concerns lie with barriers to value-added telecommunications services as opposed to data processing services."

"SECO"

{Legislative History:

"For purposes of the identification and analysis (101(a)), negotiations and action (102(b), 103(a) and (b) under this act, the term "Substantially Equivalent Competitive Opportunities" does not assume mirror-image comparisons. The Committee recognizes that each country has (and will continue to have) telecommunications systems and markets that are unique in character. Therefore, in determining whether "SECO" exists or how it might be achieved through negotiated agreement or unilateral U. S. action, each country will have to be treated in a different manner. For any given country, specific negotiating objectives and agreements to achieve "SECO" will have to be tailored to the unique situation in that country.

The Committee notes, in this regard, that ample precedents exist both for sectoral negotiations (such as the GATT Civil Aircraft Agreement, bilateral civil aviation agreements and the bilateral U. S. - Japan "MOSS" talks) and for multilateral agreements that provide guidelines for the treatment of imports applicable to varied import regimes (The GATT Codes on Government Procurement and Technical Barriers/Standards)."

Minimize damage to domestic interests

{Legislative History for (102(b)/103(a) and (b)) or
(Consultations 104(b))

"Since the purpose of this legislation is to use the U.S. market as leverage to open foreign markets--not close the U. S. market--the Committee expects that any action by the President under 102(b) or by the USTR under 103(a) or (b) will be designed to maximize the economic impact on foreign suppliers while minimizing the economic impact on domestic U.S. interests. In this regard, nothing in these subsections is meant to imply that action should be directed at U.S. subsidiaries of foreign firms. This will require close consultation with domestic U. S. interests on both targets and instruments for action by the President or USTR."

Impact of deregulation/divestiture

{Legislative History re:

-- factors in analysis: "benefits...accruing...from the open access to the U. S. telecom market that has resulted from the liberalization and restructuring...." 101(b)(1)(A)

-- general objectives: "correct the imbalance" 102(a)(2)(A)

-- action to achieve objectives 102(b)(1)

-- compensation factors 202(c)

"References in the legislation to the imbalance in trade opportunities accruing from the liberalization and restructuring of the U. S. telecommunications market reflect the Committee's deep concern about the unanticipated trade effects of telecommunications deregulation and divestiture in this country. While the purpose of this legislation is not to "reregulate" the U. S. telecommunications market, it is intended to harness the trade effects of deregulation and divestiture in this sector--namely, the unilateral opening of major segments of the market to

Impact of deregulation/divestiture

Page Two

imports--as leverage to achieve a more open world trading system in telecommunications.

The Committee believes that the trade situation characterizing the U. S. telecommunications market is almost unique and therefore requires the kind of special and timely treatment provided for in this legislation. While the Committee is not asserting that the GATT requires compensation by trading partners for uncompensated reductions in barriers by any given country, correction of the imbalance in market opportunities (relative to other countries) created by such action is a legitimate trade policy objective.

In the case of telecommunications trade, improved access to the U. S. market accruing from deregulation and divestiture must be included in any estimate of the openness of the U. S. market and in any assessment of whether the U. S. negotiating objective of "SECO" has been achieved. Similarly, any U. S. action to achieve such objectives--whether in the form of U. S. concessions or in terms of unilateral action to restore the balance of

Impact of deregulation/divestiture

Page Three

opportunities--must take into account previous unilateral actions that have had the effect of opening the U. S. market to our trading partners. Finally, as regards potential compensation for unilateral action to offset foreign barriers to U. S. telecommunications exports--particularly in the context of GATT Article XXVIII negotiations--U. S. negotiators should ensure that appropriate credit is given for unilateral reductions in U. S. barriers that have never been "paid" for by our trading partners--in particular, those related to divestiture that have occurred since the last major multilateral trading round."}

Agreement Countries

{Legislative History: "If a country (such as Japan) is party to a trade agreement on telecommunications that involves access to only a portion of its market, then the legislation would provide for treatment of that country under both negotiation and retaliation tracks. If that country maintains policies that deny SECO but do not violate existing agreements, it would be treated solely under the negotiation track. If the country were found in violation of its agreement--therefore subject to retaliation--policies not covered by the agreement that still deny SECO would be the subject of a negotiated agreement."}

ANNE E. BRUNSDALE

Career Summary

AMERICAN ENTERPRISE INSTITUTE FOR PUBLIC POLICY RESEARCH: 1967-present.

1983-Present: Resident fellow of the institute.

1977-Present: Managing editor of Regulation, a bimonthly magazine described by the Washington Post as "must reading for persons interested in regulatory matters." Launched the magazine and, since then, have been responsible for its content and management--commissioning and overseeing work from leading thinkers on regulatory policy.

1970-1977: Director of Publications. Created AEI's publications department, exercising full editorial and production responsibility for a program that quintupled in size, reaching 90 titles a year.

1967-1970: Research associate. Wrote and edited studies on social and economic policy; designed and managed a computerized talent bank.

OTHER EXPERIENCE:

1975-present: Manage family farming interests in eastern North Dakota.

1966-1967: Free Society Association, Washington, D.C. Served as associate director of publications for public policy association.

1957-1965: Craig-Hallum Corp., Minneapolis, Minn. Served as investment analyst and then V.P. for research of a regional investment firm.

1947, 1950-1956: Central Intelligence Agency. Served as intelligence officer; selected for senior executive development program.

POLITICAL ACTIVITIES: Have held leadership positions in Republican politics in Minneapolis (1957-65) and the District of Columbia (1984), and temporarily left regular job during two national campaigns:

1976 (Sept.-Nov.): Office of Communications, Executive Office of the President. Responsible for President Ford's issue briefing books.

1964 (Aug.-Nov.): Research associate in Goldwater-for-President campaign, Republican National Committee, Washington, D.C.

EDUCATION:

Yale University: M.A. (with honors) in government, 1949; completed examinations for Ph.D. in government and international relations, 1950 (Cowles Scholar, 1948-1950).

University of Minnesota: M.A. in Far Eastern area studies, 1946; B.A. (magna cum laude) in political science, 1945.

SENATE FINANCE COMMITTEE

A. BIOGRAPHICAL:

1. George Dana Gould
2. 320 East 72nd Street, New York, NY 10021
3. Boston, Mass. May 22, 1927
4. Jane Mack Gould
5. George W. Gould, age 23
6. Yale University 1947-1951, BA
Harvard Business School 1953-1955, MBA
7.

June 1976 to June 30, 1985	Madison Resources (Oil & Gas Company)	645 Madison Ave New York, NY 10022	Chairman & CEO
January 1985 to June 30, 1985	Wertheim & Co. (Investment Bankers)	200 Park Avenue New York, NY 10166	General Partner
1974 to 1976	Donaldson, Lufkin & Jenrette Securities Corp.	140 Broadway New York, NY 10005	Administrative (Chairman)
October 1961 to 1974	Donaldson, Lufkin & Jenrette	140 Broadway New York, NY 10005	Investment & Administrative
Sept. 1955 to Oct. 1961	Jeremiah Milbank	44 Wall Street New York, NY 10005	Investment Management
Sept. 1951 to Sept. 1953	Brundage, Story and Rose	90 Broad Street New York, NY 10005	Investment Management

Please note that I have also worked part-time for the Federal Court and the S.E.C. from 1969 to 1976 as a Court-appointed Director of International Controls (Robert Vesco). From May 1983 to the present, I have been a consultant to the Central States Teamsters Pension Fund in Chicago.

8. Municipal Assistance Corp.	1975-1979	Director & Chairman
NYS Housing Finance Agency	1976-1979	Director & Chairman
NYS Medical Care Facilities Finance Agency	1976-1979	Director & Chairman
NYS Project Finance Agency	1976-1979	Director & Chairman
NYS Municipal Bond Bank Agency	1976-1979	Director & Chairman
NYS Mortgage Agency	1976-1979	Director & Chairman
NYS Dormitory Authority	1982-1985	Director & Chairman

9. Links Club	Social
Brook	"
Racquet & Tennis	"
River Club	"
Southampton Bathing Association	"
Meadow Club	"
Doubles	"
St. Elmo Society	Fraternity
Century Club	Honors Society
Southampton Association	Civic
The Appalachian Company	Director
Wenonah Development Company	Director
Inspiration Resources Company	Director
World Bank	Pension Advisory Director

10. No significant contributions that I recall. My late wife, Julie E. Gould, made a number of contributions, but I have no means of determining them specifically at this time.

11. Graduated from Yale with the award of High Orations and Dean's list for four years. Graduated from Harvard Business School having been elected a Baker Scholar and received my degree with High Distinction. I was elected President of the Centry Club, the Honor Society at Harvard Business School.

12. No published writings

13. No speeches given during past three years.

14. I have spent my entire career in various forms of finance. This has included the Chairmanship of the State Agencies listed above and the Chairmanship of Donaldson, Lufkin & Jenrette Securities Corporation, a major investment banking firm. Thus I feel I have a broad background and qualification for the position of Under Secretary of the Treasury for Finance.

CHARLES O. SETHNESS

SENATE FINANCE COMMITTEEA. BIOGRAPHICAL:

1. Charles O. Sethness
2. 6219 Garnett Drive, Bethesda, MD 20815
3. February 24, 1941. Evanston, Illinois
4. Geraldine Greene Sethness
5. Peter W. Sethness, age 15 (son)
John T. Houseman, age 22 (step-son)
Carla M. Houseman, age 21 (step-daughter)
Sarah E. Houseman, age 16 (step-daughter)
6. Princeton University 1959-1963, AB
University of Chicago Business School 1963-1964, no degree (nights)
Harvard Business School 1964-1966, MBA with high distinction
7.

June 1963 to August 1964	American National Bank & Trust Co.	LaSalle & Washington Chicago, IL 60602	Senior Credit Analyst
June 1965 to August 1965	Donaldson, Lufkin & Jenrette	140 Broadway New York, NY 10005	Summer Associate
June 1966 to July 1967	Harvard Business School	Dillon Hall Boston, MA 02163	Research Assistant
July 1967 to March 1971	Morgan Stanley & Co.	140 Broadway New York, NY 10005	Corporate Finance Associate
April 1971 to June 1973	Morgan & Cie International S.A.	3 Place de la Concorde Paris, France 75008	Directeur
June 1973 to March 1975	World Bank	1818 H Street, N.W. Washington, DC 20433	U.S. Executive Director
April 1975 to August 1981	Morgan Stanley & Co. Incorporated	1251 6th Avenue New York, NY 10020	Managing Director
October 1981 to August 1985	Harvard Business School	Sherman Hall 31 Boston, MA 02163	Associate Dean for External Relations
8. No government experience other than stated above for Jun 1973-March 1975
9. No memberships

10. Contributed a very modest amount to George Bush's 1980 Presidential primary campaign, and solicited contributions for same from several colleagues.
11. Graduated from Harvard Business School having been elected a George F. Baker Scholar and received my degree with High Distinction.
12. No published writings
13. No speeches other than extemporaneous, informal talks to groups of Harvard Business School alumni about current events at the school.
14. I believe that I am qualified to serve as Assistant Secretary of the Treasury for Domestic Finance by virtue of my education, experience, personal qualities, and skills. My background includes a mix of consistent, successful experience working in capital markets, structuring and negotiating of complicated transactions, institutional advocacy, relationship management, time spent in government, exposure to major financial institutions, a sound set of analytical and communication skills, personal integrity, and administrative/budgetary/strategic planning assignments.

FUTA TREATMENT OF CERTAIN FISHING ACTIVITIES

- A. Current Law. -- Prior to the Economic Recovery Tax Act of 1981 (ERTA), remuneration paid to fishing boat crew members was generally subject to Federal unemployment tax (FUTA) if the services performed were related to catching halibut or salmon for commercial purposes or if the services are performed on a vessel of more than 10 net tons.

Under a provision which expired on December 31, 1984, remuneration paid to fishing boat crew members is exempt from FUTA if the remuneration depends on the boat's catch and the crew normally consists of fewer than 10 members.

- B. Reason for Change. -- For reasons of simplicity and administrative convenience, fishing boat crew members who are self-employed for purposes of the social security and income tax withholding, should also be treated as self-employed for purposes of the unemployment tax.
- C. Proposal. -- Enact a permanent exemption from Federal FUTA tax for the services exempted under the temporary provisions.

D. Effective Date. -- The proposal applies to remuneration paid after December 31, 1984.

E. Revenue Effect. -- The proposal is expected to reduce revenues by a minimal amount.

AMENDING AND EXTENDING PROVISION AWARDING
ATTORNEYS' FEES AGAINST THE UNITED STATES
IN TAX CASES

- A. Current Law. -- Section 7430 of the Internal Revenue Code allows attorneys' fees to taxpayers who prevail against the Government in the tax cases. To get attorneys' fees, the prevailing taxpayer must prove that the Government's litigating position was "unreasonable". The maximum amount of fees that can be awarded under Section 7430 is \$25,000. This law expires on December 31, 1985.
- B. Reasons For Change. -- The Equal Access to Justice Act (EAJA) allows successful litigants against the Government to get attorneys' fees. The EAJA does not apply to Tax Court cases. If the party can prove that he substantially prevailed against the Government, the Government then has to prove that its litigating position in the case was "substantially justified". If the Government fails to carry its burden of proof, attorneys' fees will be awarded. Also, this standard of "substantially justified" applies to the pre-litigation actions of Government agents.

C. Proposal. -- In conformity with the EAJA, Section 7430 would be amended to provide the following:

1. the \$25,000 limitation on the award of attorneys' fees would be repealed, and EAJA limits on attorneys' hourly fees and experts' fees would be made applicable.
2. the "unreasonableness" standard would be changed to the "substantially justified standard" in the EAJA for judging the Government's litigation position.
3. the standard of "substantial justification" would be made applicable to pre-litigation actions of Government agents.
4. the burden of proving that the Government's position had been substantially justified would be placed on the Government rather than on the taxpayer.

D. Effective Date. -- For cases commenced on or after the date of enactment.

E. Revenue Effect. -- The proposal will increase outlays by less than \$5 million annually.

RELIEF FOR INSOLVENT TAXPAYERS FROM
ALTERNATIVE MINIMUM TAX LIABILITY

- A. Current Law. -- The net capital gains deduction is a preference item for purposes of the minimum tax. In certain cases, insolvent taxpayers, such as insolvent farmers, are forced to sell their land or equipment in a foreclosure sale, and recognize large capital gains in the sale. Such taxpayers may be subject to the alternative minimum tax liability because of the capital gains preference.
- B. Reason for change. -- The alternative minimum tax was designed to ensure that otherwise high bracket taxpayers who make large use of tax preferences must, nevertheless, pay at least a minimum level of tax. It is inappropriate to apply the tax to insolvent taxpayers.
- C. Proposal. -- For purposes of the individual minimum tax, gain or loss from the transfer of property to a creditor in cancellation of debt or from the sale or exchange of property under threat of foreclosure shall not be taken into account in computing net

capital gain, if, immediately before the transfer or sale or exchange, the taxpayer is insolvent.

D. Effective Date. -- Transfers, sales, or exchanges after December 31, 1981.

E. Revenue Effect. -- Less than \$50 million for FYs 1986-88.

NETTING OF EARNINGS AND LOSSES OF COOPERATIVES

- A. Current Law -- Presently, the state of the law is disputed. Cooperatives assert that they may offset earnings of one or more allocation units against losses of other allocation units ("netting") without losing the deduction for patronage dividends. This position has been upheld by the U.S. Tax Court in cases dealing with particular fact situations. One case has been affirmed by the 8th Circuit, and the 5th and 7th Circuit have dismissed appeals by IRS. IRS has continued to challenge netting, however, and has recently issued a Technical Advice Memorandum which would disallow netting in the particular case described in the Memorandum.
- B. Reason for Change -- To eliminate the uncertainty over whether a cooperative may deduct patronage dividends if it offsets earnings of one or more allocation unit against losses of other allocation units.

- C. Proposal -- The proposal would clarify that cooperatives which offset earnings of one or more patronage allocation units against losses of other patronage allocation units may deduct patronage dividends. After the date of enactment, a cooperative would be required to notify affected patrons with respect to its netting practices.
- D. Effective Date -- Generally, retroactive to the first tax year of cooperatives beginning after December 31, 1962.
- E. Revenue Effect -- (to be supplied)

EXCLUDE ISRAEL BONDS FROM
LOW-INTEREST LOAN RULES

- A. Current Law. -- The low interest loan rules enacted in the Deficit Reduction Act of 1984 impute interest to purchasers of low interest bonds issued by the State of Israel.
- B. Reason for Change. -- Congress did not intend to affect the Israel bond program through these rules.
- C. Proposal. -- Exempt Israel bonds from the low interest loan rules.
- D. Effective Date. -- The effective date of the low interest loan rules in the Deficit Reduction Act.
- E. Revenue Effect. -- The revenue effect is minimal.

PRIVATE HEALTH INSURANCE CONTINUATIONDESCRIPTION OF WAYS AND MEANS PROVISIONS

- A. Current Law. -- Under current law, there are no Federal requirements that employer-based group health insurance plans provide continuation or conversion options for any individuals who lose coverage in the health plan.
- B. Ways and Means Provision. -- H.R. 3128 would amend Section 162 of the Internal Revenue Code to deny the business tax deduction for contributions to a group health plan of any employer who fails to include in the plan a continuation option to --
- (1) a widowed spouse and dependent children,
 - (2) a divorced or separated spouse and dependent children, and
 - (3) a medicare ineligible spouse and dependent children.

The bill would allow a spouse or former spouse who has been a beneficiary under the group plan to elect continuation coverage on his or her own behalf and on behalf of the dependent children.

Coverage would be cancelled during the five-year period if the employer ceases to provide any group health plan to employees, the qualified beneficiary does not pay the premiums or becomes covered under another group policy or medicare, or if the qualified beneficiary remarries and can become covered under the new spouse's group health plan. The covered dependent child would lose coverage upon no longer meeting the plan's definition of a dependent child.

The qualified beneficiary would be required to pay both employer and employee shares of the premium costs, although the employer could voluntarily assume the employee share.

In accordance with regulations of the Secretary of the Treasury, the group health plan would provide written notice to each covered employee and spouse (if any), explaining the continuation and conversion options contained in the bill.

- C. Effective Date. -- In general, the provision is effective for plan years beginning on or after January 1, 1986. In the case of a group health

plan maintained pursuant to one or more collective bargaining agreements, the provision would not apply to plan years beginning before the earlier of the date on which the last of the collective bargaining agreements relating to the plan terminates or January 1, 1987.

D. Revenue Effect. -- Negligible.

STAFF PROPOSAL TO MEET BUDGET OUTLAY REQUIREMENT

OUTLAY OPTIONS WITH BUDGET IMPACT
(in millions of dollars)

	<u>3-Year totals</u>
MEDICARE	-11837
MEDICAID	-316
CUSTOMS USER FEES.....	-990
PENSION BENEFIT GUARANTY CORPORATION.....	-622
REVENUE SHARING.....	-8482
AID TO FAMILIES WITH DEPENDENT CHILDREN...	3
MINOR AND TECHNICAL AMENDMENTS.....	15
	<hr/>
OPTIONS TOTAL.....	-22229
BUDGET REQUIREMENT.....	-22166
	<hr/>
OVER REQUIREMENT.....	63

MEDICARE OPTIONS WITH BUDGET IMPACT
(in millions of dollars)

	3-year total	
1. Payments for inpatient hospital services, 0.5% in FY 86.....	-5920	Attachment E page 2 of 80
2. Payments for inpatient hospital services, MB in FY 87 and 88.....	-540	Attachment E page 2 of 80
3. Freeze physician payments, non-participating only.....	-663	Bluebook page 7
4. DME rentals & other services, 1% in Fy 86, CPI thereafter.....	-216	Attachment E page 23 of 80
5. Graduate medical education:		Attachment E
a. Modify direct cost pass-through	-517	page 8 of 80
b. Reduce indirect adjustment.....	-2465	page 10 of 80
6. Extend secondary payer coverage for the working aged.....	-950	Bluebook page 15
7. Hold Part B premium at 25%, beginning in 1988.....	-387	Bluebook page 17
8. Extend prospective payment for ambulatory surgery.....	-325	Attachment E page 4 of 80
9. Deny payments for assistants during routine cataract surgery....	-73	Bluebook page 24
10. Increase audit effort and medical claims review.....	-180	Attachment E page 7 of 80
11. Limit reimbursement for prosthetic lenses.....	-102	Bluebook page 25
12. Improve access to skilled nursing facilities (SNFs).....	95	Attachment E page 15 of 80

MEDICARE OPTIONS WITH BUDGET IMPACT
(in millions of dollars)

	3-year total	
13. Establish preventive health services demonstrations.....	3	Bluebook page 26
14. Create disproportionate share hospital adjustment.....	400	Attachment E page 12 of 80
15. Indirect teaching adjustment, clarification for certain clinics..	3	Attachment E page 18 of 80

Medicare total.....	-11837	
Budget requirement.....	-10855	

OVER budget requirement.....	982	

MEDICAID OPTIONS WITH OUTLAY EFFECT
 (in millions of dollars)

	<u>3-year total</u>	
1. Enhance third party liability collections.....	-450	Bluebook page 32
2. Optional targeted case management services.....	*	Attachment E page 58 of 80
3. Modify revaluation of assets provision.....	82	Attachment E page 52 of 80
4. Modify coverage beginning date for institutionalized individuals..	15	Attachment E page 66 of 80
5. Extend optional coverage of children.....	15	Attachment E page 65 of 80
6. Modify overpayment recovery rules.....	22	Attachment E page 54 of 80
Medicaid total.....	<u>-316</u>	
Budget requirement.....	-450	
(UNDER) budget requirement.....	<u>(134)</u>	

 CUSTOMS USER FEES OPTION
 (budget impact in millions of dollars)

	3-year total	
1. Customs user fees for conveyances, passengers, and special services...	-990	Attachment E page 77 of 80
Budget requirement.....	-1479	

(Under) budget requirement.....	(489)	

 PENSION BENEFIT GUARANTY CORPORATION OPTION
 (budget impact in millions of dollars)

	3-year total	
1. Increase annual premium from \$2.60 to \$8.10 per person.....	-622	Attachment E page 79 of 80
Budget requirement.....	-900	

(Under) budget requirement.....	(278)	

 GENERAL REVENUE SHARING OPTION
 (budget impact in millions of dollars)

	3-year total	
1. Terminate program at expiration date, October 1, 1985.....	-8482	Bluebook page 57
Budget requirement.....	-8482	

MEETS budget requirement.....	0	

 AID TO FAMILIES WITH DEPENDENT CHILDREN OPTION
 (budget impact in millions of dollars)

1. Quality Control (QC) study and moratorium.....	3	Attachment E page 80a of 80
Budget requirement.....	0	

OVER budget requirement.....	3	

 MINOR AND TECHNICAL AMENDMENTS
 (budget impact in millions of dollars)

	3-year total	
1. Minor and technical amendments, H.R. 2005.....	17	Attachment F
Budget requirement.....	0	

OVER Budget requirement.....	17	

 OUTLAY OPTIONS
 WITHOUT BUDGET IMPACT

3-year
 total

MEDICARE

1. Indirect teaching cost adjustment related to outpatient activities...	0	Attachment E page 17 of 80
2. Transfer of assets, special rule related to donated property.....	0	Attachment E page 20 of 80
3. Peer review organization reimbursement.....	0	Attachment E page 25 of 80
4. Require PRO review of health maintenance organization services..	0	Attachment E page 26 of 80
5. Substitute for PRO review.....	0	Attachment E page 27 of 80
6. End stage renal disease (ESRD) networks.....	0	Attachment E page 28 of 80
7. Extend home health waiver of liability.....	0	Attachment E page 29 of 80
8. Moratorium on Medicare laboratory payment demonstration.....	0	Attachment E page 30 of 80
9. Prohibit retroactive application of hospital wage index.....	0	Attachment E page 33 of 80
10. Home health regulation moratorium.....	0	Attachment E page 35 of 80
11. Extend Medicare hospice benefit.....	0	Attachment E page 36 of 80
12. Continue regional hospital payment systems.....	0	Attachment E page 38 of 80
13. Continuation of Medicare waivers.....	0	Attachment E page 40 of 80
14. Correction of charges for certain hospital-based physicians.....	0	Attachment E page 41 of 80

15. Authorize PROs to deny payment for substandard care.....	0	Attachment E page 43 of 80
16. Allow greater HMO membership on PRO boards.....	0	Attachment E page 44 of 80
17. Extension of certain Medicare HMO demonstration projects.....	0	Attachment E page 45 of 80
18. Clarify impact of physician fee freeze on HMOs.....	0	Attachment E page 46 of 80
19. Require timely publication of HMO rates.....	0	Attachment E page 47 of 80
20. Coverage of psychologists' services.....	0	Attachment E page 48 of 80
21. Expand PROPAC membership.....	0	Attachment E page 49 of 80
22. Remove restriction on actuarial opinion.....	0	Attachment E page 50 of 80
23. Extend GAO reporting date.....	0	Attachment E page 51 of 80

MEDICAID

1. Home and community-based service waiver extensions.....	0	Attachment E page 56 of 80
2. Home and community-based waiver renewals.....	0	Attachment E page 57 of 80
3. Broaden range of services under waiver authority.....	0	Attachment E page 60 of 80
4. Life safety code recognition.....	0	Attachment E page 62 of 80
5. Medicaid eligibility by community health centers.....	0	Attachment E page 63 of 80
6. Allow comprehensive benefits for pregnant women.....	0	Attachment E page 68 of 80
7. Permit hospice care as an optional Medicaid service.....	0	Attachment E page 69 of 80
8. Annual calculation of Medicaid		Attachment E

FMAP.....	0	page 70 of 80
9. Allow sampling during nursing home utilization review.....	0	Attachment E page 71 of 80
10. Extension of Texas long-term care waiver.....	0	Attachment E page 72 of 80
11. Wisconsin health maintenance organization waiver.....	0	Attachment E page 32 of 80
12. Clarification of Medicaid Moratorium under DEFRA.....	0	Attachment E page 76a of 80

MATERNAL AND CHILD HEALTH (MCH)

1. Repeal two year limit on obligating MCH funds.....	0	Attachment E page 73 of 80
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FOSTER CARE

1. Extend ceilings on Foster care expenditures through FY 1987.....	0	Attachment E page 74 of 80
2. Voluntary placement, extend payments through FY 1987.....	0	Attachment E page 76 of 80

SENATOR MITCHELL:

I would like to associate myself with the remarks made by Senator Moynihan. I can't see any reason to impose this type of tax on individuals passing through Customs Service border stations.

As I understand the proposal, a tax would be imposed every time an individual crosses between Canada and the United States whether by foot, motor vehicle, train or vessel. I think we have to see this for what it is and that is a tax on American citizens living along our borders.

This Administration has for several years now taken the politically popular position of opposing new income taxes to fund the federal government even while it proposes year after year the imposition of new excises, user fees, and other hidden taxes on the American people.

Now it is asking for a so-called user fee on individuals who cross over our borders with Canada or Mexico. This fee would have nothing to do with the services Customs provides nor would it relate to any special benefit that people along the border might receive. It is simply a crude attempt to raise revenue for the Treasury.

If we must raise revenue through Customs Service operations, this is the wrong way to go about it.

BOB PACKWOOD, OREGON, CHAIRMAN

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United States Senate

COMMITTEE ON FINANCE
WASHINGTON, DC 20510

WILLIAM DIFENDERFER, CHIEF OF STAFF
MICHAEL STERN, MINORITY STAFF DIRECTOR

Press Release No. 85-077

P R E S S R E L E A S E

For Immediate Release
Monday, September 23, 1985

Contact: Sam Richardson
(202) 224-4515

FINANCE COMMITTEE AGREES TO EXTEND MEDICARE TO STATE, LOCAL WORKERS

The Senate Committee on Finance, meeting in Executive Session September 17-20, 1985, agreed to extend Federal hospital insurance (Medicare) coverage to current and new employees of state and local governments throughout the nation.

The provision was part of the \$15.7 billion in total revenues required of the Committee by the Congressional Budget Resolution.

Senator Bob Packwood (R-Oregon), Chairman of the Committee, explained the panel also agreed to \$22.166 billion in outlay reductions in fulfilling 100 percent of its obligations under the budget reconciliation requirements.

The Medicare provision is effective with respect to service performed by state and local government employees after September 30, 1986.

Senator Packwood said the package of outlay reductions and revenue increases represented some 45 percent of the total deficit reduction effort approved earlier this year by the House-Senate Conference Committee and the Congress.

--End--

P. R. #85-077