ing under the agreement that was made yesterday.

The PRESIDING OFFICER. Yes. The Senator from Wisconsin has the third special order today.

Mr. PROXMIRE. I thank the Chair.

KENNAN ADVICE TO SENATE ON NUCLEAR FREEZE ISSUE

Mr. PROXMIRE. Mr. President, the other body has been engaged in debate over the nuclear freeze issue. Shortly the Senate will discuss and decide the same resolution. I cannot think of any more critical contribution we can make to the survival of human life on this planet than the affirmation of a nuclear limitation and reduction initiative by our country, one that would stop the relentless month after month buildup and refinement of the colossal nuclear arsenal both by the Soviet Union and the United States. We now have enough to wipe every human being off the face of the Earth over, and over, and over again. And with every improvement in the accuracy, the maneuverability, the range, the power, the deadly destructiveness of this most terrible of weapons by the Soviet Union and this country, we march closer to the extinction of civilization and possibly mankind himself.

Mr. President in his book, "The Nuclear Delusion," George Kennan makes a brilliant analysis of our dilemma. Kennan writes:

For over thirty years, wise and far-seeing people have been warning us about the futility of any war fought with nuclear weapons and about the dangers involved in their cultivation. Some of the first of these voices to be raised were those of great scientists, including outstandingly that of Albert Einstein himself. But there has been no lack of others. Every president of this country, from Dwight Eisenhower to Jimmy Carter, has tried to remind us that there could be no such thing as victory in a war fought with such weapons. So have a great many other eminent persons.

When one looks back today over the history of these warnings, one has the impression that something has now been lost of the sense of urgency, the hopes, and the excitement that initially inspired them, so many years ago. One senses, even on the part of those who today most acutely perceive the problem and are inwardly most exercised about it, a certain discouragement, resignation, perhaps even despair, when it comes to the question of raising the subject again. The danger is so obvious. So much has already been said. What is to be gained by reiteration? What good would it now do?

Look at the record. Over all these years the competition in the development of nuclear weaponry has proceeded steadily, relentlessly, without the faintest regard for all these warning voices. We have gone on piling weapon upon weapon, missile upon missile, new levels of destructiveness upon old ones. We have done this helplessly, almost involuntarily: like the victims of some sort of hypnotism, like men in a dream, like lemmings heading for the sea, like the children of Hamlin marching blindly along behind their Pied Piper. And the result is that today we have achieved, we and the Russians together, in the creation of these devices and their means of delivery, levels of redundancy of such grotesque dimensions as to defy rational understanding.

I say redundancy. I know of no better way to describe it. But actually, the word is too mild. It implies that there could be levels of these weapons that would not be redundant. Personally, I doubt that there could. I question whether these devices are really weapons at all. A true weapon is at best something with which you endeavor to affect the behavior of another society by influencing the minds, the calculations, the intentions, of the men that control it; it is not something with which you destroy indiscriminately the lives, the substance, the hopes, the culture, the civilization, of another people.

What a confession of intellectual poverty it would be—what a bankruptcy of intelligent statesmanship—if we had to admit that such blind, senseless acts of destruction were the best use we could make of what we have come to view as the leading elements of our military strength!

To my mind, the nuclear bomb is the most useless weapon ever invented. It can be employed to no rational purpose. It is not even an effective defense against itself. It is only something with which, in a moment of petulance or panic, you commit such fearful acts of destruction as no sane person would ever wish to have upon his conscience.

There are those who will agree, with a sigh, to much of what I have just said, but will point to the need for something called deterrence. This is, of course, a concept which attributes to others—to others who, like ourselves, were born of women, walk on two legs and love their children, to human beings, in short—the most fiendish and inhuman of tendencies.

But all right: accepting for the sake of argument the profound iniquity of these adversaries, no one could deny, I think, that the present Soviet and American arsenals, presenting over a million times the destructive power of the Hiroshima bomb, are simply fantastically redundant to the purpose in question. If the same relative proportions were to be preserved, something well less than 20 percent of those stocks would surely suffice for the most sanguine concepts of deterrence, whether as between the two nuclear superpowers or with relation to any of those other governments that have been so ill-advised as to enter upon the nuclear path. Whatever their suspicions of each other, there can be no excuse on that part of these two governments for holding, poised against each other and poised in a sense against the whole Northern Hemisphere, quantities of these weapons so vastly in excess of any rational and demonstrable requirements.

Mr. President, I hope Senators will consider these words over the next few weeks before we act on the nuclear freeze resolution.

IMPROVEMENTS IN ZIMBABWE

Mr. PROXMIRE. Mr. President, the recent events in Zimbabwe reinforce my conclusion that the United States must ratify the Genocide Convention. The world was shocked to hear reports of many incidents of torture and human destruction inflicted by the Zimbabwean Army. The situation was clouded by the inability of outside observers to determine the magnitude of the problem and specifically which groups of people were involved. Although the violence now appears to be waning, we must not overlook the important lessons this incident has taught.

For several weeks, the world's attention turned toward Zimbabwe. The government was trying to control dissidents in a large, sparsely populated region of the country. Because of poor transportation and communication, the outside world found it difficult to determine exactly what was occurring. Numerous stories began to disclose that large numbers of innocent people were being killed, raped, or beaten. Soon, reports from rural missions, schools, and hospitals indicated that more than one thousand civilians had been killed. Recent reports now indicate that this onslaught has substantially abated.

Mr. President, many nations anxiously followed the developments in Zimbabwe. These nations were concerned about the possibility of large-scale human rights violations. They were also concerned with the possibility of a rapid escalation of violence based on tribal rivalries. It is entirely possible that the public attention focused on Zimbabwe helped to abate the violence. This demonstrates, once again, that a worldwide consensus is developing which makes even the possibility of genocide a source of international concern.

The Genocide Convention has shown that over 85 nations have agreed to work together to add some legal teeth to this consensus. Unfortunately, the United States has not yet shown its commitment to join this international effort. As a leading advocate of human rights, failure to ratify this treaty is likely to weaken our status and influence throughout the world. The Genocide Convention is in the best interest of all nations of the world, including the United States. Therefore, I urge the Senate to quickly ratify this treaty.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The acting assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. BAKER. Mr. President, I am told that the distinguished manager of the bill, the chairman of the Finance Committee, has just arrived on the floor and I yield the floor.

SOCIAL SECURITY ACT AMENDMENTS OF 1983

The PRESIDING OFFICER. The Senate will resume consideration of the pending business, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 1900) to assure the solvency of the social security trust funds, to reform the

medicare reimbursement of hospitals, to extend the Federal supplemental compensation program, and for other purposes.

The Senate resumed consideration of the bill.

Mr. DOLE. Mr. President, as I understand it, the distinguished Senator from Idaho is prepared to offer an amendment. I am pleased to yield the floor for that purpose.

Mr. SYMMS. I thank the distinguished chairman of the Finance Committee.

AMENDMENT NO. 525

(Purpose: To provide that no social security cost-of-living adjustments be made in 1983 and 1984)

Mr. SYMMS. Mr. President, a parliamentary inquiry. I believe the amendment is pending; is that not correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. SYMMS. Have the yeas and nays been ordered?

The PRESIDING OFFICER. No; they have not.

Mr. SYMMS. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. SYMMS. Mr. President, I bring up this amendment that is pending at the desk which would in effect freeze the social security COLA that is scheduled in the bill for the upcoming year. It would not tamper with the COLA's for those people who are in the neediest of positions—the SSI beneficiaries. The need-iest in our society would be held harmless by this amendment.

I am not going to belabor the point this morning, Mr. President, because yesterday during the discussion of my amendment to move the effective date of COLA stabilizer I spoke at great length on the issue of the cost-of-living adjustment.

Nevertheless, I want to make a few points about this amendment. I think that the principal underlying reason for Members to support this amendment is one of fairness and equity.

One of the great founders of this country, Thomas Jefferson, spent his political career making sure that everyone understood that when we did pass laws that we tried to treat everybody in our society fairly and equitably.

Like Thomas Jefferson, I believe our primary responsibility is to insure that whatever legislation we pass is fair. If we are going to request one group of individuals to take a larger reduction or have to wait longer to receive a cost-of-living increase in their salaries or retirement income, then we should ask everyone to do so.

As I mentioned, in the fiscal year 1984 budget the President has requested that the COLA increases for civilian and military wages and retirement benefits be frozen this year. Last year the civilian and military workers and retirees received a lower cost-of-living adjustment than those receiving social security benefits. And the year before that we told the civil service and military retirees that they had to wait 6 more months for their COLA adjustments. Now we are in the process of requesting that everyone else except social security recipients take a 1-year delay in the COLA adjustment.

Mr. President, this is simply unfair. This amendment would simply make an attempt to equalize the reductions in the increases—it is not going to reduce anybody's check, it is just going to change when the increases come—and we have asked of these good people to take what other people in our society are taking. Besides making this legislation more equitable, the amendment would help stabilize the OASDI trust fund.

I have found that Americans are willing to make sacrifices if they know that everyone else is making the same sacrifice. We cannot continue this process of favoring senior citizens receiving social security benefits over and above every other group that is either getting a Government paycheck or some kind of a Government pension check.

I urge my colleagues to support the amendment. It is an amendment which strikes right at the issue of equity.

I would like to share with my colleagues a comment that was made to me by the distinguished Senator from Wyoming, Senator STIMPSON, chairman of the Veterans Affair Committee. He told me last year that every veterans group, including the Disabled American Veterans, said they were willing to take reductions in the future COLA increases if it was fair and equitable across the board, and applied to everyone.

The Commission, the Congress, and the administration have decided to ask for those reductions. We have not given the same increases to civil service retirees or to military retirees that we have given to the social security retirees.

This amendment would save the OASDI trust fund about $50 billion to $60 billion. I think if all Senators would vote for this amendment, then they could support the Armstrong amendment which will be offered later. Then we might actually have a social security package that we could pass without massively increasing the payroll taxes that will be required of us if we take this package as recommended by the Commission.

I yield back to the chairman of the committee. I am prepared to go for the yeas and nays.

Mr. DOLE. Have the yeas and nays been ordered?

The PRESIDING OFFICER. Yes.

Mr. DOLE. Mr. President, I will take just a minute. Mr. President, I do not quarrel with the intent or purpose of the amendment. Again, we have crafted this compromise which may not be perfect, and obviously is not perfect, but I believe this amendment would go beyond the bounds of the agreement. Therefore, I hope the amendment will not be accepted.

There is no doubt about it that the Senator from Idaho has adopted a very constructive approach and it would have the result he has indicated. But as I look at it in the totality of everything we have considered in the Commission and the committee, it is not an amendment that I could support.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, the present legislation, the bill before us, is not difficult to assemble in all its parts. The distinguished chairman has said that it is the weakness of the individual parts that comprises the strength of the whole. I feel strongly that this amendment, while perfectly well-intentioned and certainly moderate in many regards, goes beyond our ability to faithfully represent the consensus that this proposal embodies. Therefore, I would urge my fellow Senators not to accept it. That is said without rancor or any sense that this is beyond the bounds of reason. It is not. But I still would not accept the amendment.

Mr. SYMMS. I thank the distinguished Senators from Kansas and New York for their comments. I am sorry they are not able to support the amendment.

I would like to say one other thing and then we can go to the vote.

The Senator from New York alluded to the fact that it is a well-intended amendment, a moderate amendment in its approach if one examines the substance of the amendment. However, due to the strength of the support for the Commission's proposal, there is opposition to the amendment.

I would make one last appeal to my colleagues.

I know that some of the members on the Commission feel bound to stay with what the Commission has proposed. Being a politician, I understand that and appreciate it. I certainly respect the Senator from New York and the Senator from Kansas for their position. But I would just say that we are trying very hard, whether we be Republicans or Democrats, to see this economy of ours start making a comeback. One of the reasons that we have had such a difficult time in having an economic recovery that will be sustained and lasting are the high interest rates. If any Senators have been noticing, the short-term rates have been creeping up slightly and long-term capital is almost nonexistent.

If the Congress, in its wisdom, could make a decision to adjust the rate of increases of the benefit programs across the board in the Federal Government, actually pass it and put it into law, I think we would find a response with respect to the long-term

interest rates that would serve all of our constituencies very well. Capitalism cannot survive without long-term capital markets. Long-term capital markets are not going to be revitalized until the Congress controls our public pension programs. Long-term capital rates are necessary so that the young married couples can afford to buy homes, and so that the industrial companies can expand plants and equipment and modernize. A robust recovery will not occur until long-term capital markets are restored and capital is available to borrow over the long term and at a reasonable rate of interest.

This amendment and the amendments I offered yesterday will, in the long run, be beneficial to all Americans including the senior citizen community. Economic revival will make life easier for all Americans, for all families, and for all the people who are receiving social security benefits, who also have children and grandchildren.

We all have a vested interest in trying to see this thing put together the best way possible. This Senator reduced the goals he had in his amendment by 1 year, hoping that more Senators would recognize the moderation that is in this amendment and recognize that by this amendment being added to this bill, we will send a signal to the investors and borrowers in this country to start doing business over the long-term. If we can get long term capital markets restored, we will see a revitalization of the steel industry, the automobile industry, the homebuilding industry, and many other industries, which I think is what we want to have happen in this country.

I urge my colleagues to support this amendment. Even if we have to give up part of it in the conference it will be a step in the right direction, no matter how small.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment of the Senator from Idaho. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Indiana (Mr. QUAYLE) is necessarily absent.

I also announce that the Senator from Maryland (Mr. MATHIAS) is absent due to an illness in the family.

Mr. BYRD. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from California (Mr. CRANSTON), the Senator from Colorado (Mr. HART) and the Senator from South Carolina (Mr. HOLLINGS) are necessarily absent.

I further announce that the Senator from Delaware (Mr. BIDEN) is absent because of illness in the family.

The PRESIDING OFFICER (Mr. PRESSLER). Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 13, nays 80, as follows:

[Rollcall Vote No. 32 Leg.]

YEAS—13

Armstrong	Helms	Nickles
Baker	Humphrey	Symms
East	Laxalt	Wallop
Goldwater	Mattingly	
Hatch	McClure	

NAYS—80

Abdnor	Glenn	Nunn
Andrews	Gorton	Packwood
Baucus	Grassley	Pell
Bentsen	Hatfield	Percy
Bingaman	Hawkins	Pressler
Boren	Hecht	Proxmire
Boschwitz	Heflin	Pryor
Bradley	Heinz	Randolph
Burdick	Huddleston	Riegle
Byrd	Inouye	Roth
Chafee	Jackson	Rudman
Chiles	Jepsen	Sarbanes
Cochran	Johnston	Sasser
Cohen	Kassebaum	Simpson
D'Amato	Kasten	Specter
Danforth	Kennedy	Stafford
DeConcini	Lautenberg	Stennis
Denton	Leahy	Stevens
Dixon	Levin	Thurmond
Dodd	Long	Tower
Dole	Lugar	Trible
Domenici	Matsunaga	Tsongas
Durenberger	Melcher	Warner
Eagleton	Metzenbaum	Weicker
Exon	Mitchell	Wilson
Ford	Moynihan	Zorinsky
Garn	Murkowski	

NOT VOTING—7

Biden	Hart	Quayle
Bumpers	Hollings	
Cranston	Mathias	

So Mr. SYMMS' amendment (UP No. 525) was rejected.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, I ask unanimous consent that the Bradley amendment to set aside in order that I may call up an amendment.

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

UP AMENDMENT NO. 85

Mr. GORTON. Mr. President, I send an amendment to the desk and ask for its consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Washington (Mr. Gorton), for himself and Mr. Jackson, Mr. Symms, Mr. McClure, Mr. Baucus, Mr. Melcher, Mr. Stevens and Mr. Murkowski, proposes an unprinted amendment numbered 85.

Mr. GORTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place insert:

SEC. . Professors of Clinical Medicine—Section 3121 (s) (relating to concurrent employment by two or more employers) is amended to read as follows:

(s) Concurrent Employment by Two or More Employers

(1) IN GENERAL.—For purposes of sections 3102, 3111, and 3121(a)(1), if two or more related corporations concurrently employ the same individual and compensate such individual through a common paymaster which is one of such corporations, each such corporation shall be considered to have paid as remuneration to such individual only the amounts actually disbursed by it to such individual and shall not be considered to have paid as remuneration to such individual amounts actually disbursed to such individual by another of such corporations.

(2) UNIVERSITIES AND EXEMPT ORGANIZATIONS.—For purposes of this subsection,

(A) the following entities shall be deemed to be related corporations:

(i) a state university which employs health care professionals as faculty members at a medical school which is the officially designated medical school for more than one state.

(ii) a faculty practice plan qualified as an exempt organization under section 501(c)(3) which employs faculty members of such medical school; and

(B) remuneration which

(i) is disbursed by such faculty practice plan to an individual employee by both such entities and

(ii) when added to remuneration actually disbursed (prior to the application of this paragraph) by such university, exceeds this contribution and benefit base (as determined under section 230 of the Social Security Act).

shall be deemed to have been actually disbursed by such university as a common paymaster and not to have been actually disbursed by such faculty practice plan.

Mr. DOLE. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. GORTON. Mr. President, this amendment is necessary to avoid having the regionalized medical school for the States of Washington, Alaska, Idaho, and Montana pay approximately $500,000 annually in unreimbursable FICA taxes. The reason for this amendment stems from the unavailability of the so-called common paymaster doctrine to the unique circumstances at the regionalized school—the University of Washington School of Medicine. Professors of clinical medicine receive two paychecks—one from the university, and one from the medical school practice plan—a 501(c)(3) organization. Both organizations would have to pay FICA taxes under the provisions of S. 1. Because this school uniquely functions as the State medical school for four States, with diverse Federal research funding and appropriations from four separate States, the doctrine of related corporations using a common paymaster is not available to avoid the double taxation of the unreimbursable employer FICA contribution.

In addition, Mr. President, a similar situation exists at the University of Colorado to that which affects us, and this would also care for concerns of the Senators from Colorado.

Mr. SYMMS. Mr. President, will the Senator yield?

Mr. GORTON. I yield.

Mr. SYMMS. I thank the distinguished Senator from Washington for offering this amendment.

Mr. President, I support the amendment being offered by my colleague from the State of Washington.

The States of Alaska, Idaho, Montana, and Washington have organized the first and only regional medical school in the country. This regional medical school uniquely functions as a State medical school for four States, with diverse Federal research funding and appropriations from the four participating States.

The technical amendment being offered by Senator GORTON is necessary in order to avoid having that regionalized medical school pay approximately one-half million dollars more in unreimbursable FICA taxes.

The reason this amendment is necessary is because the doctrine or related corporations using a common paymaster is not available to them because the professors of clinical medicine receive two paychecks—one from the university and one from the medical school practice plan—a tax-exempt (501(c)(3)) organization. Since tax-exempt organizations are going to have to participate in the social security program, both the university and the medical school practice plan would have to pay FICA taxes as if they were two separate employers.

I urge my colleagues to approve this amendment.

Mr. JACKSON. Mr. President, I want to associate myself with the remarks of my colleague from Washington. This is a double taxation matter, and it certainly should be corrected. I strongly support the amendment.

Mr. DOLE. Mr. President, the Senator from Kansas has looked at the amendment, and it also has been analyzed by the distinguished Senator from Louisiana (Mr. LONG). We are prepared to accept the amendment, and I think I can speak for both sides.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 85) was agreed to.

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GORTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, I ask unanimous consent the amendment of the distinguished Senator from New Jersey (Mr. BRADLEY) be temporarily laid aside.

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

UP AMENDMENT NO. 86

(Purpose: To provide that hospitals located in an SMSA in 1979 must be classified as urban under the prospective reimbursement system)

Mr. CHAFEE. Mr. President, I send to the desk an unprinted amendment.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Rhode Island (Mr. CHAFEE) proposes an unprinted amendment numbered 86.

Mr. CHAFEE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the end of section 301 add the following:

"(g) In determining whether a hospital is in an urban or rural area for purposes of section 1886(d) of the Social Security Act, the Secretary shall classify any hospital, located in New England as being located in an urban area if such hospital was classified as being located in an urban area under the Standard Metropolitan Statistical Area system of classification in effect in 1979."

Mr. CHAFEE. Mr. President, the amendment I am offering today is a very simple one which would resolve a problem that has existed for the past few years with the classification of the Newport Hospital in Rhode Island and other New England hospitals.

The Health Care Financing Administration recently reclassified the Newport Hospital as rural. This same situation occurred in 1979 and after months of discussion between the hospital, myself, Senator PELL and the Administrator of HCFA, the problem was resolved, we thought permanently, when HCFA conceded and classified the hospital as urban as it had been previously. HCFA published language to this effect in the June 18, 1980, Federal Register. Early this year HCFA again attempted to reclassify the Newport Hospital as rural, after discussing the problem with HCFA I was assured that for the remainder of this fiscal year Newport Hospital will be classified as urban.

In order to insure that this issue will not be raised again and to clarify the unique situation of the Newport Hospital, which now has been acknowledged twice by HCFA, I am proposing that for the purposes of prospective reimbursement, this particular hospital be treated as though in an urban area.

It is my understanding that there is no objection to this amendment on the staff level and that the Senator from Kansas would be willing to accept it as part of the bill. I sincerely hope he will do so.

Mr. President, I ask unanimous consent that the name of my colleague from Rhode Island, Senator PELL, be added as a cosponsor of the amendment.

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

Mr. PELL. Mr. President, today, I join with Senator CHAFEE in introducing this amendment which clarifies the Health Care Financing Administration's urban/rural classification scheme as it applies to Rhode Island and Newport Hospital.

In my view, the designation of Newport Hospital as a rural hospital was a mistake considering the geographical reality of Rhode Island where Newport is, in fact, a metropolitan center. I was happy to have played a part in reversing this repeated error. I think, however, it is time we make certain that the error is not repeated again.

Newport Hospital's costs are at least comparable to those of other Rhode Island hospitals—all of which are classified as urban. I believe that a rural classification is an injustice which unfairly and incorrectly penalizes Newport Hospital and its patients. I join with Senator CHAFEE in urging the Senate to accept our amendment.

Mr. DOLE. Mr. President, the distinguished Senator from Rhode Island, Mr. CHAFEE, has brought to my attention a problem faced by a hospital located in his State, a problem I believe may also be faced by other hospitals located in the Northeast.

The problem that has arisen, is one where a hospital has been designated as being located in an urban area then told it was in a rural area—and then back again to urban. Because of the design of our new medicare reimbursement system, which establishes separate rates for urban and rural hospitals, these hospitals may be put at an unfair disadvantage. I believe the amendment offered by Senator CHAFEE offers a reasonable solution to this problem, and I urge its adoption.

Mr. LONG. Mr. President, I have no objection to the amendment.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (UP No. 86) was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SYMMS. Mr. President, I ask unanimous consent that the amendment of the Senator from New Jersey be temporarily set aside.

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

Mr. SYMMS. Mr. President, it was my intention at this time that I was going to offer an amendment which would establish a social security option account.

While the bill we are considering today does provide a long-term solution to the solvency problems confronting the social security system, the proposal I was planning to offer, would have provided a more secure and flexible retirement program for many working Americans, while at the same time provide tax relief, stimulate individual savings, promote capital formation and strengthen the long-term future of the social security system.

I wish to outline this briefly and have my remarks in the RECORD. The chairman of the Finance Committee has agreed to accept a study on the question so this might be considered by the Congress at a later date.

Under the social security option account, individuals paying social security taxes could choose an alternative means of providing for their retirement. They would continue to pay social security taxes but would forfeit future social security benefits in return for a current income tax deduction.

The concept would work as follows:

First, individuals who pay social security taxes could establish a special retirement account and then deduct annual contributions from their taxable income. The account would be similar to the current IRA's and Keogh's.

Second, tax deductions would be limited to 20 percent of the amount of income subject to social security taxes. Thus, the maximum individual deduction would be about $7,000-plus today.

Third, in return, individuals with SSOA's would forfeit one-half percent of their social security retirement benefits for each $1,000 contributed to the account. For a person who contributed the maximum amount to an SSOA in any year, the maximum annual rate of forfeiture would be 3½ percent plus. At this forfeiture rate, an SSOA would become attractive to working Americans in a broad range of age and income categories.

Fourth, upon retirement, individuals with SSOA's could receive benefits from their accounts, along with reduced social security benefits; if an individual had invested enough in an SSOA, he or she would forfeit all social security benefits.

Private industry analysis of this proposal shows that by the year 2005, the SSOA could reduce social security outflows by $10 billion to $25 billion annually in 1981 dollars, providing needed relief prior to the time when the system will face its most severe financial crisis.

In addition to relieving financial pressure on social security, the SSOA would stimulate long-term capital formation to finance economic growth. Again, private industry analysis indicates that within 10 years, the SSOA program would generate a capital pool of $40 billion to $100 billion, in 1981 dollars. A significant percentage would be new capital, rather than dollars shifted from one form of savings to another. The SSOA would create a new long-term capital source that would be stabilizing in today's economy.

When the SSOA was compared with other savings incentives including the expansion of current IRA's, both concepts would stimulate savings and capital formation but the SSOA has the added advantage of benefiting the social security system. After retirement, each dollar lost to the Treasury through SSOA tax deductions would be more than offset by a $2.50 savings in social security benefit payments. Over the long term, establishment of SSOA's would produce substantially greater public benefits than the simple expansion of IRA's or Keogh's.

The SSOA has other advantages as well. Retirement income would be determined by a prearranged personal savings plan, not political decisions as is the case with the social security system. The contributor would influence the investment decisions. SSOA's thus offer a degree of personal control, predictability, and individual responsibility not possible with social security.

In addition, SSOA's would fill in some the present gaps in our Nation's retirement policy. Presently few tax incentives exist for individuals to generate funds for their own retirement. Many employers provide pensions for their workers, but not all workers receive pensions and changes in employment often curtail benefits. KEOGH plans are available only to the self-employed individuals. IRA's have fairly low caps on contributions.

The SSOA's would represent an important change in direction for Federal programs. It would veer away from ever-increasing Government entitlements, with their uncontrollable demands on the Federal budget. It would help restore the long-term solvency of the social security system and return to its original purpose of providing retirement floor. Individuals will gain more responsibility for their own retirement planning. Moreover, SSOA's would link tax relief to spending reductions and further solidify this direct relationship as a cornerstone for future fiscal policy.

The SSOA plan is not the total answer to the problems confronting the social security system and the economy, but it makes a major contribution toward a secure retirement for all Americans.

For the most part, Americans have treated the problem of security in retirement as a distinct issue from the overall health of the Nation's economy. Policymakers have addressed the crises presented by the long-term well-being of the social security program, the gaps in the Nation's retirement programs, the excessive tax burden, and the lack of adequate capital investment as separate matters. But, as the National Commission on Social Security has recently determined, our Nation's retirement programs will be healthy only if the American economy as a whole is healthy. And, I would venture to say that the capability of this economy to recover lies in our ability to solve the unfunded liability problems facing our public pension systems. Too often, for example, past attempts to solve problems facing the social security system have adversely affected private retirement planning or economic productivity. Therefore, the challenge is find solutions that achieve diverse public goals.

The foremost goal of the Nation's retirement policy should be to provide an economic climate in which all Americans can plan for income security in their postemployment years. Yet within this broad goal, the specific features of individual choice, long-range planning, flexibility, and innovation should be encouraged. Opportunities should be provided in both public and private programs to encourage the widest range of choice and greatest amount of security. Finally, as Sanford Ross recently pointed out, the entire system of retirement plans—social security, private pensions, and individual savings—must be rationalized so they work together.

Social security is an essential foundation for the Nation's retirement system. Long-term planning for the social security system must address the long-range funding problems and the actuarial deficit that presently afflict the system. A second goal should be to prevent any increase in the social security tax burden, which, for more than half of all American families, now exceeds their income taxes. Third, efforts should be made to mitigate the effect of present demographic trends on the fiscal integrity of the trust fund, perhaps by encouraging people to rely less on the system in meeting their retirement needs. Fourth, Government actions should reinforce people's confidence that the social security system is strong and will provide a minimal floor of benefits for their retirement. At the same time, however, the public should understand that social security is not a comprehensive retirement program and that it must be supplemented by individual retirement planning and saving.

Most importantly, security in retirement requires policies that retard inflation, stimulate productivity, create jobs, and foster growth. Because a significant portion of the Nation's GNP is dedicated to retirement programs, these resources should be used, where possible, to stimulate rather than retard economic productivity. Private retirement programs are, and should be, a major source of savings and capital formation. Moreover, because high taxes retard economic growth and thus indirectly burden retirement programs, tax relief is an essential element of comprehensive Federal retirement policy. Furthermore, to the extent possible, retirement policy should contribute to full employment, high wages, and new jobs, because these factors will widen the economic base upon which retirement programs must rest.

The social security option account contributes to these public policy goals. It allows individuals who pay social security taxes to chose an alternative means of providing for their retirement. They may establish a fund to pay their future retirement benefits by deducting from their Federal income tax their annual contributions to this fund. Deductions would be limited to 20 percent of their social security wages—that is, the amount of income subject to social security taxes.

In return, individuals who establish SSOA's forfeit a portion of their social security retirement benefits. They continue to pay social security taxes, but, in effect, trade future social security benefits for a present income tax deduction. The amount deducted must be paid into an SSOA, a tax-free, privately administered account similar to an individual retirement account or Keogh plan, from which an individual may draw funds when he or she retires. Thus, an SSOA does not diminish revenues from flowing into the social security old-age and survivors trust fund, but enables people to rely on private pension sources instead of social security payments in their retirement. By reducing future outlays from the trust fund, it strengthens the social security system. By linking public and private roles in retirement planning, it creates an opportunity for individual retirement planning based on specific contributions that is available to the vast majority of working men and women, encouraging them to save and channeling their savings into investment into the Nation's economic base.

The problems facing our Nation's retirement system are closely interconnected. Low productivity, inflation, and high taxes make it difficult for individuals to save for retirement and diminish the value of their savings. Because social security benefits levels have risen substantially and are indexed to the Consumer Price Index many people have little incentive to save for their retirement. A lack of savings, in turn, increases their reliance on social security. To meet increasing expectations from social security, benefits and taxes are raised further—as is being done in the legislation before us today—thereby discouraging savings, deterring capital formation, and dampening productivity. Thus, each problem aggravates the the others.

We must take these interrelated concerns into account when choosing solutions to the problems facing the Nation's retirement system. Proposals to change the social security system, retirement programs, or the tax structure should address the broader goals of creating a productive and predictable economic climate in which individuals have the flexibility to plan their retirement efficiently, the incentive to save for their future, and the opportunity to invest in the Nation's future. Dealing with broader goals will lead to integrated solutions that address the myriad problems confronting Americans in retirement. The legislation before us does not take an integrated and comprehensive approach toward solving the solvency problems of the social security system and that is exactly why I believe my amendment will greatly enhance the package we are considering

The SSOA plan will stimulate the development of a large pool of new capital. Retirement funds have been an increasingly important source of investment income. The assets of private pensions, for example, have grown from $52 billion in 1960 to over $330 billion in 1979. The social security program, in contrast, builds no capital stock because of its pay-as-you-go approach. The SSOA would provide an important vehicle to reverse that trend.

This new capital would be available for creating new jobs, improving labor productivity, and increasing wages, which, in turn, would produce additional social security revenues. In addition, reducing the demand for trust fund expenditures and expanding social security revenues also will reduce the pressure to increase social security taxes, which may diminsh savings and capital formation.

I urge all of my colleagues to support this measure. It is a proposal which will not only help the social security trust fund, but future retirees and the Nation's economy.

FORFEITURE RATE

In order to determine the actuarial effects of the SSOA plan, it is necessary to evaluate how the rate of forfeiture of social security benefits would affect the decision to establish SSOA's.

The calculation of a forfeiture rate requires determining initially the factors that influence an individual's decision to select an SSOA as an alternative to social security. Among these factors are a worker's age, tax bracket, anticipated growth in wage levels, interest rates, et cetera. Once these factors are established, it is possible to show how a given rate of forfeiture will affect the retirement planning decisions of individuals of different ages, income levels, and investment philosophies. It is also possible to estimate the number of people to whom an SSOA would appeal and the resulting effect on general revenues, savings, and capital formation.

Based on this analysis, the study considered the effects of varying forfeiture rates, assuming that wage levels and interest rates grow at approximately the same rate. A rate of forfeiture of 0.5 percent per $1,000 was selected because it makes an SSOA attractive to the largest number of people at varied income and age levels without an unreasonable loss to the Treasury in general revenues.

At the 0.5 percent rate, workers aged 30 in the 30-percent marginal tax bracket would earn a better "return" on an SSOA than from social security benefits. Older workers would require higher incomes to have the incentive to select an SSOA. Workers aged 40 in the 40-percent marginal bracket or aged 50 in the 50-percent bracket would earn a better return on an SSOA than from social security benefits.

In reality, each individual's retirement planning would involve varying assumptions about wage growth and interest rates. Different assumptions would substantially alter these conclusions. Thus, while workers age 40 in the 50-percent tax bracket would find SSOA's attractive, they would not do well if the prevailing interest rate fell below 7 percent, or the wage growth rate increased beyond 10 percent.

Higher interest rates would mean greater accumulated earnings in the SSOA account and thus higher SSOA benefit levels. Higher wages, however, would mean that the individual would qualify for relatively higher social security benefits which are indexed to increases in wage levels. If the workers marginal tax rate after retirement remained at 50 percent, they would also find SSOA's less attractive. The effect of these variables upon individuals would depend on their particular situations.

Moreover, the individuals assumptions about the economy would also affect this determination. Concern about a poor or risky investment climate could lead to little or no investment in SSOA's. On the other hand, if people believed that the social security program would not pay adequate future benefits, the SSOA would be attractive regardless of tax bracket or wage level.

Studies have indicated that a 0.5-percent forfeiture rate would serve the public goals of encouraging savings and stabilizing the social security system as well as the private objectives of income security in retirement and flexibility in retirement planning. It would appeal primarily to young and middle-aged workers in middle to high tax brackets.

I yield to the distinguished chairman.

Mr. DOLE. Mr. President, I have discussed this amendment with the distinguished Senator from Idaho, and I think he has an excellent idea, but it is a matter that we have not been able to focus on because of the work of the National Social Security Commission and working on the bill itself in the Finance Committee.

I have suggested to the Senator from Idaho that if he would be willing to replace or substitute for that amendment an amendment that would direct the study by the appropriate agency, that would be very helpful. I am not certain whether he has had an opportunity to do that.

UP AMENDMENT NO. 87

(Purpose: To direct the Secretary of the Treasury, or his delegate, to conduct a study on the feasibility of implementing social security option accounts)

Mr. SYMMS. Mr. President, I send to the desk an amendment for a study by the appropriate agency and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Idaho (Mr. SYMMS) proposes an unprinted amendment numbered 87.

Mr. SYMMS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

At the end of Title I, insert the following new section:

(a) The Secretary of the Treasury, or his delegate, should conduct a study of the feasibility of implementing "Social Security Option Accounts." Such accounts would have the following characteristics:

1. Individuals who pay social security taxes could establish a special retirement account and then deduct annual contributions from their taxable income. The account would be similar to the current IRA's and KEOGH's.

2. Tax deductions would be limited to 20 percent of the amount of income subject to social security taxes. Thus, the maximum individual deduction would be about $7,000 plus today.

3. In return, individuals with SSOA's would forfeit one-half percent of their social security retirement benefits for each $1,000 contributed to the account. For a person who contributed the maximum amount to an SSOA in any year, the maximum annual rate of forfeiture would be 3½ percent plus. At this forfeiture rate, an SSOA become attractive to working Americans in a broad range of age and income categories.

4. Upon retirement, individuals with SSOA's could receive benefits from their accounts, along with reduced social security benefits; if an individual had invested enough in an SSOA, he or she would forfeit all social security benefits.

(b) The Secretary of the Treasury should submit to the Congress a report on the results of the study conducted under section (a) by June 30, 1984.

Mr. SYMMS. Mr. President, the amendment simply states that Treasury do a study on the concept of the amendment that I originally intended to offer and report back to the Finance Committee by June 30, 1985. It would be 18 months.

I yield back my time.

Mr. DOLE. Mr. President, I thank the distinguished Senator from Idaho.

The proposal to allow employees to establish a special retirement account similar to an IRA (with tax deductible contributions) in place of a portion of their social security benefits is an interesting concept and is worth study.

It would undoubtely have the potential for increasing the private pool of capital and encourage individuals to take more responsibility for their own retirement.

Such a program could take some pressure off the social security system by encouraging those who can to save for retirement rather than relying primarily on social security.

However, this is a major change in the role of social security and tax incentives to encourage retirement savings. It is appropriate to require a thorough study of the proposal before Congress is asked to enact it into law.

For instance, we need more information on whether these accounts will be attractive enough to gain wide acceptance as a partial substitute for social security benefits, and we need to analyze the impact on general services.

As Senator SYMMS outlined, his original proposal would allow employees to establish a special retirement account similar to an IRA.

I think this has a lot of potential and a lot of merit, and I do believe that this approach now taken will give us an opportunity to take a look at it because it is a major change in the role of social security and tax incentive to encourage retirement savings. It is appropriate to require a thorough study of the proposal before Congress is asked to enact it into law.

I can assure the Senator from Idaho that we will do what we can to make certain that it is a study in the real sense of the word and it can come back to us within a year.

Mr. SYMMS. Within a year, a year and a few months.

Mr. DOLE. So we might then have full hearings and take another look at it.

Mr. SYMMS. I thank the distinguished chairman and I thank the distinguished Senator for his indulgence of the amendments that this Senator has offered.

I note that although they have not passed, I still think there is a great deal of merit for study, and I think that we will be back revisiting social security within the next 2 or 3 years and so most likely we will have the opportunity to offer a broader choice for the American people and do some things that would encourage more savings to help revitalize our needed capital market, and this would be one way to do it.

It would not affect everyone, I must admit, but it would be an option that some people might take and they would still be paying the social security taxes but they would have the opportunity as I perceive that they would help keep the contract or would not hurt the system as far as the fiduciary ability of the social security to pay its way out of the contract that it has with the American people but it would give those people who were able to do so an opportunity to have their own retirement in exchange for social security benefits.

I call for a vote.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment of the Senator from Idaho.

(Putting the question.)

The amendment (UP No. 87) was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SYMMS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the pending amendment be laid aside so that I may present an amendment.

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

UP AMENDMENT NO. 88

(Purpose: Relating to interest on State loans.)

Mr. METZENBAUM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes an unprinted amendment numbered 88.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 235, lines 12 through 14, strike out "Interest shall accrue on such deferred interest in the same manner as under paragraph (3)(C)." and insert "No interest shall accrue on such deferred interest.".

On page 236, line 7, strike out "30" and insert "25".

On page 236, line 9, strike out "40" and insert "35".

On page 237, line 9, strike out "30 percent, 40 percent, 50 percent," and insert "25 percent, 35 percent, 50 percent".

On page 237, line 12, strike out the quotation marks and the second period.

On page 237, between lines 12 and 13, insert the following:

"(9) Any interest otherwise due from a State during a calendar year after 1982 may be deferred (and no interest shall accrue on such deferred interest) for a grace period of not to exceed 9 months if, for such calendar year in which the interest was due, the State had an average unemployment rate of 13.5 percent or greater.".

On page 237, between lines 14 and 15, insert the following:

(c) Section 1202(b)(3)(C)(1) of the Social Security Act is amended by striking the matter that follows clause (II) and inserting "No interest shall accrue on such deferred interest.".

Mr. METZENBAUM. Mr. President, this amendment has to do with the solvency of the unemployment funds in the States and the obligations of the States to the Federal Government.

It is my understanding that the distinguished senior Senator from Illinois has an interest in a part of this amendment having to do with that which might be called interest on interest and by reason of that fact if the manager of the bill feels it appropriate that we lay this aside temporarily without losing its position on the calendar, I would have no objection to doing so, provided that we can get some understanding as to when the Senator from Illinois would be joining us.

Mr. DOLE. Mr. President, if the Senator will yield, I think in addition to the two Senators from Illinois, we have the distinguished senior Senator, Senator PERCY, and Senator DIXON——

Mr. METZENBAUM. That is correct.

Mr. DOLE (continuing). As well as the two Senators from Michigan, and the two Senators from the State of Pennsylvania.

Mr. METZENBAUM. I stand corrected.

Mr. DOLE. The Senators from Kentucky, Senator FORD and Senator HUDDLESTON have amendments, so I think it might be well if we notify them that the amendment is pending and give them an opportunity to come to the Chamber. We can take it up whenever they can be here. Senator KENNEDY has a couple of amendments as has Senator NICKLES. By that time perhaps they can be here.

Mr. METZENBAUM. Does the Senator from Kansas expect to go right through the noon hour?

Mr. DOLE. Yes.

I would not expect a rollcall vote on this amendment.

Mr. METZENBAUM. No. But I wonder if I might suggest to those who have an interest in it that they could be in the Chamber at 12:30. Does that sound all right?

Mr. DOLE. Yes.

Mr. METZENBAUM. Under those circumstances, Mr. President, I ask unanimous consent that the pending amendment be temporarily set aside, that it retain its place on the calendar, with the understanding that on or about 12:30 p.m., depending on what is pending at that time, that we return to further consideration of this amendment.

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

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

UP AMENDMENT NO. 88

Mr. KENNEDY. Mr. President, I send an amendment to the desk and ask for it immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes an unprinted amendment numberd 88.

Mr. KENNEDY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place, insert the following:

"By January 1, 1985, the Secretary of Health and Human Services shall report to the Congress concerning the feasibility and desirability of applying a prospective payment methodology to payment by all payers for in patient hospital service. Such report shall specifically include consideration of the extent of cost-shifting to non-federal payers, and the impact of such cost-shifting on health insurance costs and premiums borne by employers and employees.

The PRESIDING OFFICER. Is there objection to setting aside the amendment of the Senator from New Jersey? Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, today marks an historic occasion in the evolution of medicare. After 28 years, we are finally going to move away from the wasteful, inefficient method of paying for health care—cost based, retrospective payment.

For over a decade, I have urged the Congress to adopt prospective payment as the only way to control health care costs. In the early 1970's, we began by assisting the development of HMO's. HMO's are the model of prospective payment—and they have more than proven the value of this approach to controlling health care costs. In recent years, we have begun to recognize the important contribution made by State-based prospective payment systems.

Now at last, we are prepared to put medicare on a prospective basis. I applaud the committee for an important step in the right direction. But at the same time, I must raise certain important reservations. I believe that we should immediately adopt an "all payers" approach to prospective payment. If prospective payment is limited to medicare, much of the benefit will be lost. The reason is simple. If all programs are subject to prospective limits, hospitals must either reduce their costs or suffer the consequences. But if medicare alone is subject to these limits, the hospitals are free to make up the difference from other payers.

This cost shifting goes on under medicare today. Some have estimated that as much as $6 billion in costs were shifted to employees and employers in 1982—and that number might reach $12 billion by 1985. Whatever the magnitude—cost shifting undercuts the benefits of prospective payments, adds billions to employers' costs and billions more to worker health insurance premiums.

I have introduced legislation (S. 814) that provides for an all-payer approach to prospective payment. It would put an immediate halt to runaway health costs, for all Americans—not simply for the Federal Government. It relies primarily on the States to devise programs suited to their own needs. It would protect the elderly from rising out-of-pocket costs.

It is not my intention to offer this bill as a substitute for the provisions in the bill before us. I believe that my proposal is a more effective way to deal with health costs, and hope that my colleagues will take the time to study it—so that we can discuss these issues in the months to come. But I do believe that we must address the problem of cost shifting that will arise under the medicare only proposal.

As the chairman knows, this bill contains a provision requiring the Secretary of Health and Human Services to study the feasibility and desirability of applying the prospective payment methodology to all payers of in patient hospital services. My amendment is similar to this provision, except that it would require that this report be made to Congress by January 1, 1985, and would specifically require the Secretary to determine the extent of cost shifting, and its impact on private hospital insurance premiums as they are paid by employers and workers. In this way, we will be prepared with the information needed to make a responsible and speedy decision on expanding the scope of the prospective methodology to private as well as public payers.

Mr. President, I have long been a believer in prospective budgeting. The provisions in this legislation concerning medicare, are helpful in trying to address the very difficult challenge we are going to continue to face in the future—the increase in costs of health care.

My concern is that as we put prospective budgeting with regard to medicare into the law, we are going to see an increase in costs outside of the medicare system.

All I want to do in this particular amendment is to have a review of the effect of the prospective budgeting and a report concerning the nature and extent of cost-shifting and have a report come back to Congress by early 1985 when we will have a new administration and we will be dealing with the problems of health care costs. It will make available to the Finance Committee information that will permit us to address this concern.

It will provide important additional information to the Senate and to Congress in order to try to deal with the problems of increased health care costs, and it will address what I believe is going to be a cost-shifting effect of prospective budgeting, if we just limit it to the medicare proposal.

I hope the committee will accept the amendment.

Mr. HATCH. Mr. President, I am pleased to support this proposal to reform the way medicare reimburses hospitals. While I do not ordinarily like to see increased Government regulation of any kind, this prospective payment proposal for medicare is an appropriate, though not flawless, mechanism to address the double digit inflation currently experienced in the health care industry.

I applaud the administration for the swiftness with which it responded to the Congress in drafting this legislation. I applaud the chairman of the Senate Finance Committee, Mr. DOLE and his committee staff for their efforts in rapidly addressing this important issue. I also applaud the hospitals in this country for not opposing our efforts to bring some control to the escalation of health care costs and the concurrent dramatic yearly increases in the Federal Government's medicare budget.

As a result of prospective payment being applied to medicare, I am confident mechanisms within the marketplace of a competitive nature will develop which will help to limit the rise in overall health care costs. These mechanisms will occur with only a minimal amount of Government regu-

lation and interference in the private health care industry. Therefore I am hopeful that in our consideration of this issue today that we do not apply it to all payors.

In reviewing the legislation, there are several issues of special interest to me and my constituents in Utah. I would like to briefly address them. One subject is capital costs. For the present time, both the Senate and the House bills provide that capital costs for hospitals are not subject to this new prospective payment system. The Senate specifically excludes reimbursement for capital costs under this program until after October 1, 1986. The House bill, on the other hand, asks that the administration study the issue and submit recommendations to Congress by December 31, 1983. The House bill goes on to state that it will be the intent of Congress to make a distinction between capital costs incurred before and after March 1, 1983, and to indicate that projects "initiated" before that date will somehow be treated differently in the future.

While I strongly prefer the Senate version, it is worth emphasizing that at a minimum hospitals should not be penalized for obligations legally incurred prior to enactment of this law.

An example in my own State should suffice to show the problem. The largest hospital in the State of Utah is in the midst of a much-needed major project. The State-granted certificate of need approval to this hospital for its major remodeling and construction project in November of 1980. While the construction and remodeling have proceeded at pace, the project will not be completed until sometime after the first quarter of 1985. The hospital incurred these substantial financial commitments with the expectation that capital costs would be paid on a reasonable cost basis.

There are several items in the Senate bill that I support and hope that they are retained in the final measure adopted by the Senate and the House.

First, I strongly support the Senate version on regionalization of DRG rates. I believe it is important to have a national rural/urban split in order to take into account the varying needs of hospitals serving different populations. However, too great a division regionally would only serve to reinforce the inefficiencies of some larger urban centers and at the same time not provide enough support to rural areas.

I also support the option for States to have their own program of prospective payment. I do not believe that the Congress should mandate a program of prospective payment for all-payers, which is really just the formerly considered and defeated Carter cost containment proposal. However, if a State has a good cost control program in place, then we should not place this Federal program on top of it. Of course, as made clear in the Senate bill, such State programs should not be more costly to the Federal Government.

Finally, I strongly support two other provisions of the Senate's version: The development of a independent commission to insure the mechanisms of this proposal; and a study to insure the various components of reliability of this prospective payment program.

I urge my colleagues to expeditiously support this legislation which reflects the Federal Government's desire to become a prudent purchaser of health care.

I would like to conclude by asking my distinguished colleague, Mr. DOLE to respond to one concern I have about the viability of one set of DRG's. the basis of DRG's is a system know as the MEDPAR files.

These files provide the Federal Government with historical medicare charge data. And is the basis for determining the number of cases in the relative cost weighting of diagnozed related groups: 356 of the 467 DRG's had a good sampling of charges from which to calculate a relative index. But according to information provided me by the administration, there is limited data on 111 of the 467 DRG's. I believe this situation needs to be corrected in order to insure the statistical viability of the DRG's used. As I understand, for various reasons, these 111 will be little used by medicare but might be used by other payors. Since these 111 weightings are not statistically sound, these classifications should only be made available to other payers with the specific addendum that they are not statistically valid and that further research should be made prior to their use. Senate DOLE would you agree with me that these problems should be duly noted when these DRG's are published in the Federal Register and that it is consistent with the legislation that this should be done?

Mr. DOLE. I thank my distingushed colleague, Mr. HATCH, for his comments. With regard to your question: I agree that these problems should be duly noted in the Federal Register and that to do so is consistent with this legislation and appropriate.

Mr. HATCH. I thank the Senator.

Now I also understand there may be proposed an amendment to require use of the prospective payment plan as an all-payers proposal. This must be vigorously opposed. The required use by all payers of the Federal diagnosis-related groups classification, weighing system and the specific payment rates set by HHS is nothing less than a design to discard the free-enterprise system in favor of a program of national controls which would turn health care in the United States into a Federal public utility. The health-care field is too diverse to impose these rigid controls across the board. And let me restate that if these controls are imposed, we, as a Nation, may not experience the quality of health care that we are currently provided.

It is one thing for the U.S. Government to act as a prudent purchaser of health care in a competitive marketplace with other purchasers of care. It is quite another thing for health-care providers to be required to accept as payment in full from all private citizens and third-party payers rates dictated by a Federal Government agency. This has the effect of replacing the marketplace.

If this were not repugnant enough, I understand this amendment I am opposing might preclude judicial review of the Government's discretionary authority to establish the DRG system and payment methodology. Thus, it would vest in the Government the right to act arbitrarily and capriciously without accountability. Rather than functioning as the head of a Federal administrative agency, the Secretary of Health and Human Services would be transformed into a Federal czar of national health with unbridled authority. Such a possibility threatens the health care available to the American people and thwarts efforts to make the health-care marketplace more price competitive.

In addition, there is quite limited practical experience with the DRG-based payment system. Although a DRG-based experiment has been conducted in the State of New Jersey for a few years, the results of this undertaking are not final or conclusive. In recommending a DRG-based system for prospective medicare payments, the Secretary of HHS refers to, what she characterizes as preliminary reports that the system worked in New Jersey.

Even if a preliminary indication in New Jersey is accurate, transposing the DRG system from New Jersey to a national level will necessitate numerous adjustments and changes. The administration of a program has to be more fully developed; the propriety of the proposed methodology for establishing the DRG payment on a national level for medicare patients still needs to be analyzed; the adequacy of the payment rates are in question, especially the 111 DRG's that the Federal Government does not have adequate, random sampling and now must find alternative sources for charge information.

In summary, the impact of the medicare DRG system on hospitals nationwide is uncertain. Imposing a DRG payment limit for all payers of health care would compound these adjustments and risks permanently crippling our Nation's hospitals. For this reason, I support the proposal from the Senate Finance Committee requiring the Secretary to report to Congress on the appropriateness of the DRG system. At this time I would like to read Blue Cross-Blue Shield's letter in opposition to any all-payer proposal. They state:

BLUE CROSS ASSOCIATION,
BLUE SHIELD ASSOCIATION,
Chicago, Ill., March 16, 1983.

Hon. ORRIN G. HATCH,
U.S. Senate, Washington, D.C.

DEAR SENATOR HATCH: I understand that amendments or substitutions to the Medicare prospective payment provisions of the Social Security legislation (H.R. 1900) may be offered in the next few days in the name of further controlling health care costs. Apparently these proposed changes would either impose a Federal cost control system on all hospital revenues or would mandate state systems regulating all payors. On behalf of the nation's Blue Cross and Blue Shield Plans, I would underscore the seriousness of the continuing escalation of health care costs, but would urge you to oppose any such amendments.

We have closely followed the development of the Medicare prospective payment proposals in both the House and Senate, and have largely supported them. We particularly support the notion of increasing the cost containing incentives that are needed in most hospital environments. Our primary concern over the proposals has been with the speed and scope of change which flow from Medicare's national use of a relatively new and untested reimbursement model. To mandate either the extension of this model beyond the Medicare program or an even more massive change in all health care financing would be exceedingly unwise.

Our opposition to the amendments or substitutions mentioned above stems primarily from our experience with a wide variety of reimbursement systems, over many years. This experience has led us to several conclusions:

To be effective, any cost containment program must include a variety of incentives for providers, consumers, and third party payors to contain costs.

There is no single best way to do that; the breadth and diversity of circumstances around the country requires reimbursement models responsive to local circumstances.

In most areas, effective negotiation between the purchaser and provider of care has the greatest potential for developing cost constraints sensitive to local needs.

Government mandates, where there is no local acceptance of or capacity to implement the mandated programs, are simply not effective.

Regulatory approaches have been tried in several states with only limited success; these mandatory systems often perpetuate institutions which no longer have community support; and such systems tend to block the development of more price-competitive alternatives to the status quo.

Not only does the Medicare reform bill, as reported out by the Finance Committee, contain truly far-reaching changes, but all across the country, there are private market reimbursement changes under way which are all stimulated by the critical need to contain costs. We would be pleased to work with the Congress to continue encouraging these new directions and to evaluate their short-and long-term impact on the cost and quality of health care.

Sincerely,

BERNARD R. TRESNOWSKI.

In conclusion, I support medicare prospective pay but oppose any proposal to impose this untested system on all payors. All States, including Utah, should be allowed to experiment with several options including competitive solutions to health-care costs. What may work as an experiment in New Jersey should not be imposed on every payer.

PROSPECTIVE PAYMENT

Mr. DURENBERGER. Mr President, for the last 2 years, Congress has struggled to develop an equitable solution to social security. But that compromise has not been achieved at a low cost. The discussion and debate has occurred in a highly politicized environment. Too often the fears of the most vulnerable in our society have been played upon in an effort to gain the upper hand politically.

All of us have experienced the pain and anguish of seniors convinced that their primary, and in many cases their only, means of support would be eliminated or drastically cut back. Many workers have lost confidence in the system entirely.

Nonetheless, we appear to have found a solution to the social security problem, but our unwillingness to act early and the successful efforts by some to politicize the problem have exacted a huge price.

Another social security problem—medicare—looms just beyond the horizon. Actuaries in the administration and at the Congressional Budget Office predict that medicare will be insolvent in 3 to 4 years. We have the time to fix medicare; the question is, do we have the willingness? Can Congress avoid politicizing the medicare issue?

Already, some are playing off the fears of medicare beneficiaries. This is a cruel trick to play on beneficiaries. In correcting medicare, Congress will not abandon the beneficiaries. But an equitable solution cannot be achieved if everyone is running scared.

Today, as part of the social security compromise, we have included a major piece of medicare reform, a reform that will improve efficiency and allow us to get the most out of our medicare dollars.

As chairman of the Senate Finance Committee's Health Subcommittee, I have been holding hearings since last summer on the issue of prospective payment for hospitals. We have heard from States that have their own prospective payment systems; we have heard from insurance companies engaged in prospective payment; we have heard from physicians and hospitals; and we have heard from consumers, beneficiaries, and experts in the administration.

The prospective payment provisions crafted by the Finance Committee and included in this bill are exactly what the medicare program now needs. We have learned enough from our experience with cost-based reimbursement to know that it does not work. It wastes money, penalizes the efficient hospital, and encourages dangerous overtreatment.

We have taken the administration's proposal—which is basically a very good one—and made some changes; changes which I feel improve the proposal and ease the burden on hospitals as we move from the old system to a prospective payment system.

Prospective payment is not the final solution to medicare reform. Other changes will be necessary. We must also look at including physicians, skilled nursing facilities, home health agencies, and other providers in a prospective payment system. And we must move ahead in our efforts to expand private sector vouchers for the medicare population.

Under this proposal, beneficiaries will not pay any additional dollars out-of-pocket. But they will reap additional benefits. Efficient hospitals will be able to give beneficiaries more for the money, and that is good for both patients and taxpayers. Change is never easy. The change from a cost-based retrospective system to a prospective system will force hospitals and physicians to change behavior. But it is a change for the good, and it is a change that is desperately needed. I hope my colleagues will join me in supporting this important reform.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. KENNEDY. Yes.

Mr. DOLE. I certainly agree with the distinguished Senator from Massachusetts. I am perfectly willing to accept the amendment. I have just asked the distinguished Senator from Louisiana and he has no objection.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment of the Senator from Massachusetts.

The amendment (UP No. 89) was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 90

Mr. KENNEDY. Mr. President, I have another amendment which I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes an unprinted amendment numbered 90.

Mr. KENNEDY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place, insert the following:

"The Secretary shall provide that the amount which is allowable, with respect to costs of inpatient hospital services for which payment may be made under this title, for a return on equity capital for subsection (d) hospitals (as defined in subsection (d)(1)(C)) shall, for cost reporting periods beginning on or after October 1, 1983, and before October 1, 1986, be equal to the target percentage (as defined in subsection (d)(1)(B)) of the amounts otherwise allow-

able under regulations in effect on March 1, 1983. For cost reporting periods beginning on or after October 1, 1986, the Secretary shall not provide for any such return on equity capital for such hospitals.".

Mr. KENNEDY. Mr. President, the bill before us today marks a major change in the way the Government pays for health care. As my colleagues know, since medicare was enacted, it paid for health care like the Defense Department paid for weapons—on a cost-plus basis. And the results were pretty much the same. Costs kept going up and up—but no matter how much the costs went up—there was always the plus—the profit.

With this bill, we are finally turning away from this wasteful way of paying for health care. I regret that this step is limited to medicare, since I believe that we can only control costs with an all-payers approach to prospective payment. Nonetheless, it is a step in the right direction.

Unfortunately, on our way to eliminating cost-plus in medicare, we have forgotten to eliminate the plus. Although we provide for a fixed payment per case, the bill still requires the Government to throw in a sweetener for a small number of hospitals—the profit.

I simply cannot understand the reason for keeping in the profit—known in the jargon as "return on equity." The whole point of prospective payment is to pay a fixed price. If hospitals are efficient, they get to keep the difference between the costs and the fixed payment. Is not that profit? Under this bill, we are going to pay a profit on top of the profit. And the second profit does not even have to be earned. It gets paid whether the hospital is efficient or not, whether it delivers good care or not. It just gets paid.

My amendment would address that issue. As prospective payment is phased, a first by 25 percent, then 50 percent, and then 75 percent, this amendment would phase out that additional profit item, the return on equity, over a 3-year period.

It is effectively the same concept that has been accepted by the House of Representatives. I do think it is a valuable and worthwhile saving. The estimate would be tht there would be a $300 million per year saving when this is completely implemented.

Even under the current system, return on equity has produced unjust results—rewarding the well off, and pushing up medicare costs. Return on equity costs medicare about $300 million per year—not for expanded benefits for the elderly, or lower copayments, or lower deductibles. No—in fact the administration wants to increase costs for the elderly. No—this $300 million is for profit.

According to CBO figures, for-profit hospitals account for only 9 percent of medicare costs. Excluding return on equity, they account for 11 percent of medicare capital payments—higher than their overall share. When you add in return on equity—the real story is told. For-profit hospitals account for 20 percent of medicare's capital payments, more than twice their share of overall medicare payments. Medicare capital payments to for-profit hospitals are $7,170 per bed annually compared with $3,360 per bed for nonprofits.

Now, what effect do these payments have on medicare and on the health care system generally? Well, they certainly do not go to help pay for care for the poor and the uninsured—like the 16 million Americans who have lost health insurance since the Reagan recession began. Their own spokesman has admitted that private hospitals skim well-to-do patients and leave the public hospitals to care for the poor and the lower middle class. But it does lead to a lot of unoccupied beds through acquisition and construction. For-profit hospitals have a 65-percent occupancy rate compared with the American Hospital Association average of 76 percent. And each unoccupied bed costs $112,000—a large share borne by medicare.

And for-profit hospitals are more expensive for medicare—primarily because of return on equity. According to a recent study, for-profit hospitals cost medicare about 13 percent more than comparaable not-for-profit hospitals.

The result has been that return on equity has served to increase both capital and operating costs for medicare. It does no good to adopt a prospective payment system if we exclude from it the most unjustified inflationary component in the medicare system—return on equity.

Now, I know what the opponents of this amendment will say. They will say: "Return on equity is a difficult issue. We need to study it before we act. We do not know what the effect will be." Well, prospective payment by diagnosis-related group is a difficult issue. We do not know what the effect will be on public hospitals. But does the committee ask us to study first and then act. No. We are to act first, ask questions later.

We do not know what the effect will be on urban hospitals. Or rural hospitals. Or, most important, quality and adequacy of care for the elderly, the poor, and the sick. Does the committee ask us to study first and act later on behalf of the elderly and the sick. No. But when it comes to hospital profits, suddenly we are cautious. Suddenly we are unwilling to take the plunge. I say that is wrong. I say it speaks of administration policies that are too willing to sacrifice the neediest to save the greediest. And I say we stop now.

I ask unanimous consent to have printed in the RECORD several tables and articles.

There being no objection, the matters were ordered to be printed in the RECORD, as follows:

TABLE 1.—DISTRIBUTION OF ESTIMATED MEDICARE PAYMENTS FOR CAPITAL COSTS, BY HOSPITAL OWNERSHIP

	Percent of hospitals	Percent of medicare costs	Percent of medicare capital payments		Estimated fiscal year 1984 medicare capital payments [2]
			Excluding return-on-equity [1]	Including return-on-equity	
Nonprofit	57	74	74	67	$2,130
Proprietary	12	9	11	20	630
Government	31	17	15	13	420

[1] Includes depreciation, rent and interest expenses.
[2] In millions of dollars. Includes return on equity.
Source: Preliminary CBO estimates based on Medicare cost reports for 1980.

[From the Wall Street Journal, Mar. 11, 1983]

BIG HOSPITAL CHAINS CONTINUE HEALTHY SHOWING EVEN AS LIMIT ON MEDICARE COSTS APPEARS CERTAIN

(By Gary Putka)

Congressional efforts to curb Medicare costs might be considered ill tidings for the stocks of the nation's big hospital chains, which derive 40% to 45% of their revenues from the federal program.

Instead, a couple of the stocks have been moving briskly upward recently. And yesterday, the hospital-management companies held their own in a downward market, even though it was investors' first chance to react to Wednesday night's passage in the House of Representatives of a Social Security measure containing Medicare curbs.

The reason for the stocks' surprising strength appears to be that the bill didn't come out quite as badly for hospitals as some had feared. In fact, for hospitals that are run for profit, some analysts see distinct advantages in the way that the House would change Medicare payments.

The Senate Finance Committee began work on its version of the Social Security measure late yesterday. And while there are no assurances that the final version of any bill would be exactly as the House passed it, there's widespread feeling in Washington that a similar measure will be enacted into law.

Late yesterday, the Senate Finance Committee voted to include the Medicare provision in its version of the Social Security bill.

On Wall Street, some of the biggest hospital chains are already well on their way to recovery from fears late last year that the measure would be a bitter pill. Hospital Corp. of America, the largest hospital operator, has risen about 12% in the past two weeks. Humana is up about 10% over the same span. Others, which haven't outperformed the market in recent weeks, reacted well yesterday to the news from Washington. They included American Medical International, which gained ⅝ to 30¼; Lifemark, up 1 to 39¼; and Universal Health Services, up ½ to 42¾. National Medical Enterprises, another major player, ebbed ⅛ to 31½.

The bill passed by the House would set fixed Medicare payments to hospitals for 467 categories of treatment. Under the current system, hospitals receive reimbursement for costs, plus a regulated return on equity, currently about 7% to 8% on an after-tax basis.

Before all aspects of the House's proposed legislation were clear, some had feared that the new "prospective payments" plan would mean that hospitals operated for profit wouldn't make any profit when dispensing services under Medicare, an aid program for the elderly. What seems to have dawned on investors lately is that the payments system will enable hospitals to pocket the differ-

ence if they can provide services at less than the fixed payments.

The payment schedules are expected to be guided by the average costs for providing services of all hospitals within nine geographical regions established by the bill. John Hindelong, health-care analyst and director of research A.G. Becker, believes that for-profit hospitals are so much more efficient in providing services than nonprofit hospitals, that they will be able to improve their profit margins in Medicare as a result of the new system.

Mr. Hindelong hasn't changed his earnings forecasts for the companies, however, because "I've been expecting this legislation for awhile." He believes Hospital Corp. will earn $2.80 a share this year, up from $2.25 in 1982; Humana, $2 a share in the year ending Aug. 31, up from $1.60; American Medical, also on an August fiscal year, $2 up from $1.60; and National Medical, $1.85 in its year ending May 31, up from $1.47 it earned from operations last year.

But there isn't any consensus about the effects of the proposed payments schedule. Bill Hayes, who manages the $50 million Fidelity Select Health Care mutual fund, said he believes that the hospital chains won't do any better under the new system. Nonetheless, he says he bought some of the issues yesterday, although he wouldn't say which.

"At least it isn't a major negative," he said. "And the situation is still one of demographics. We have more older people who will need more health care in the future." Mr. Hayes said he expects the major hospital chains' profits will grow at least 20% a year in the next three years. Some of this growth, he reasons, will come from acquisitions, as it becomes increasingly difficult for nonprofit hospitals to make it. "The Little Sisters of the Poor . . . are going by the boards," he said.

From an investor's point of view, the stocks are already assuming big growth rates. Their price-earnings ratios, although not as high as some high-technology medical companies, range between 17 and 20, much higher than the market as a whole.

Perry Wysong, a Ft. Lauderdale, Fla., investment adviser, tracks hospital-management companies two ways. Mr. Wysong's medical-stock newsletter has done analyses that show the industry is "grow, grow, grow," he said. But his "Consensus of Insiders" report, which tracks corporate officers' stock sales and purchases in their own companies, shows heavy insider selling of Hospital Corp. of America and Humana in the past six months, enough to keep him from recommending the two issues.

Return on common equity

[12 mo. ending Dec. 31, 1982]

	Percent Return
Proprietary hospital companies:	
Charter medical	24.4
Hospital Corp. of America	15.8
Humana	25.0
Utilities:	
American Telephone & Telegraph	12.0
Consolidated Edison Co. of New York	13.6
Central & South West	14.1
Niagara Mohawk Power Corp	13.9
Rochester Telephone	14.0
Washington Gas Light	9.1
Industry composite	12.7
Hotels:	
Hilton Hotels	14.9
Holiday Inns	10.4
Marriott	19.2
Ramada Inns	−13.4

Return on common equity—Continued

(Food and lodging) industry composite	15.5
All industry composite	11.0

Source: "Business Week," March 14, 1983.

[From the Cincinnati Post, Feb. 18, 1983]

FIRMS FIND HOSPITALS ARE HEALTHY BUSINESS

(By Don Kirkman)

WASHINGTON.—The hospital that will open its doors in Crawfordsville, Ind., in 1985 won't be run by the customary group of physicians, or church or local government.

It will be owned and operated by a profit-making corporation, American Medical International of Beverely Hills, Calif.

Crawfordsville's new hospital is part of a trend in the United States and overseas.

Encouraged by multibillion-dollar federal health programs, private business corporations are building, buying, leasing or managing under contract thousands of health facilities that once were operated by municipalities, churches, physicans and small businessmen.

It's true of hospitals, nursing homes, diagnostic laboratories, artificial kidney treatment centers and doctor groups that offer prepaid medical plans.

While some people worry that the health corporations are driving up costs, defenders say corporations are the way of the future.

"The health field is a heck of a growth opportunity for private corporations," said Michael Bromberg, executive director of the Federation of American Hospitals.

"Doctor-owned hospitals are selling out or going broke, Catholic and municipal hospitals are turning over their hospitals to private corporations, and the large chains are moving in."

There are now more than 1000 privately owned hospitals in the United States (of 7,000 overall), and another 500 are leased or operated by corporations. Each year, the number is increasing.

The reason for the rapid growth of corporate-operated hospitals is Medicare, Bromberg said. With the government now guaranteeing payment for tens of millions of elderly patients, a hospital can make money if it's properly run.

Five large hospital corporations "are going wild," Bromberg said, continually opening facilities in the Sun Belt states and affluent suburbs throughout the country.

Most of the private facilities aren't large—usually 100 to 300 beds—and their staffs are smaller than those of municipal and sectarian hospitals of comparable size.

What they offer, however, is a great deal more personal attention per patient from physicians, nurses and staff, Bromberg said.

"On a day-by-day basis, our private hospitals are a bit more expensive than public hospitals, but our patients remain in the hospital a day less than the publics, so their total bills are lower."

Bromberg acknowledges that the private hospitals "skim" well-to-do patients from public hospitals. He says simply that the main role of the public hospital is to care for the poor and lower middle class.

Bromberg said the biggest of the private corporations is Hospital Corp. of America based in Nashville, Tenn. American Medical International is No. 2. HCA owns or operates 381 hospitals and AMI 115. Three other firms own between 50 and 100.

Paul Ginsberg, an economist for the Congressional Budget Office, says he's worried about the expansion of corporate-owned hospitals because their basic motive is to make money.

"I think they're a two-edged sword," Ginsberg said. "They're providing services for communities that need them, but they're also driving up health care costs. There's no incentive in those hospitals to reduce costs."

But Cameron Thompson, a spokesman for the FAH, says the private hospitals "have the capital to build modern facilities or improve existing facilities; have fine personnel and management expertise; and can recruit physicians for communities that are having a hard time attracting doctors."

"We think the systemization provided by corporations is the way of the future," Thompson said. "It's a good thing for Americans and provides better health care for them. But it costs a lot of money."

Mr. KENNEDY. I hope to have the attention of the chairman of the Finance Committee and also the chairman of the subcommittee of the Finance Committee, both of whom have been extremely innovative in moving us toward real and effective cost controls, to hear out their views on this particular issue.

Mr. DOLE. Mr. President, let me suggest that I understand the point raised by the distinguished Senator from Massachusetts.

As he indicated, there is a cost saving of about $300 million, when totally implemented.

Mr. KENNEDY. That is correct.

Mr. DOLE. There is a provision, of course, in the House bill, a 3-year provision, and I would guess we would have some flexibility in conference.

Certainly the Senator from Kansas is aware of the problem. In fact, the bill currently contains a provision that directs the Secretary to report back to the Congress within 18 months after the date of the enactment on the method by which all capital-related costs, such as return on net equity, can be included within the prospective payment system.

So I do not believe I have any basic disagreement with what the Senator from Massachusetts wants to accomplish. But I hope he might give us the opportunity to work this out in conference. The bill now provides the basis to fully address the problem.

I might also indicate I think the distinguished majority leader wanted to say a word on this, and maybe I could yield to the Senator from Minnesota while we are waiting for the majority leader.

Mr. DURENBERGER. I thank the chairman.

Mr. President, let me just add another dimension in the discussion of the issue, and compliment the Senator from Massachusetts for raising it.

First, perhaps by way of clarification of the issue, it is not necessarily a sweetener or a profit that is being added by this bill. It is a sweetener of sorts that has been present in the system since 1965.

As the Senator from Massachusetts indicates, this is probably an appropriate time as long as we are addressing capital from the standpoint of the way we reimburse, a very appropriate time to address the return on equity issue, and I agree with him on that.

We have a strong concern, and we have had a strong concern, about the whole issue of how and what role we play in financing the access of for-profit, not-for-profit, and Government hospitals to capital in this country. We have come a long way from the old Hill-Burton days, the tax-exempt days, to some relatively unpredictable future, and it is a time in which compensations and sweeteners and things such as that ought to get out of the picture.

I think in this medicare reform we are taking the first step in the direction of some discipline on the whole decisionmaking process because, in effect, we are addressing the hospital income area, and rather than saying to the hospitals, "Whatever you want to charge for a day in the hospital or for a particular procedure that is conducted in the hospital we are going to reimburse you for those costs," we are saying, "we are only going to reimburse so much money for each of 467 various types of diagnosis."

So right off the bat, the hospital corporations or the government units that operates these hospitals knows they can only make so much money on the front end for treating patients in the hospital. That is the first essential discipline in this process.

The second is to go back behind that and to look at the various ways, other ways, that capital needs are met. Funds can be raised through bank loans, stock sales, bond issuances, the sale of assets, acceptances of gifts, Government aid such as the Hill-Burton guarantees, tax-exempt bonds, and the return on equity, a whole variety of ways, and that is why—and I know the Senator from Massachusetts supports this—we made the decision that in 3 years we are going to blend capital costs into the prospective payment system.

That is why we want return on equity and all the other capital issues examined over the next 18 months with a report back to us by the first of the year in 1985 about what we ought to do about all of these issues as we prepare for that fourth year in this system in which we are no longer going to have these distinctions in the capital area.

So I say to the Senator from Massachusetts that I expect that I and many of us on the Finance Committee may ultimately end up supporting a phase-out of return on equity and other methods by which the Government finances capital costs associated with health care.

I would indicate, as the chairman has indicated, that we have been given the flexibility in conference to come to the ends that I think all of us would agree we need to come to.

Mr. BAKER. Mr. President, I thank the distinguished floor manager, the Senator from Kansas (Mr. DOLE) for yielding. I find myself in the not uncommon position of supporting the chairman of the Finance Committee in his opposition to the amendment offered by the Senator from Massachusetts (Mr. KENNEDY).

This amendment, Mr. President, is similar to the language added by the House Ways and Means Committee. Quite simply, it would phase out compensation, under medicare, for return on equity to proprietary hospitals. The amendment does not, however, address any of the other costs of capital, such as interest on debt. Thus, passage of this amendment would greatly distort the means of capital formation toward incurring debt. I do not believe that it is good public policy, Mr. President, to effectively eliminate equity as a source of capital for hospital construction and modernization.

Furthermore, both the House-passed and Senate-reported bills contain a requirement for the Department of Health and Human Services to conduct a study on the role of compensation for all capital costs. I think that it is only proper that any changes in the present computations wait until that study is completed. At that time, we will be better able to evaluate the appropriate compensation for all types of debt through the medicare system.

Given these considerations, I would urge the Senator from Massachusetts to consider withdrawing his amendment, which I understand he is inclined to do. I would also urge the chairman of the Finance Committee to hold the Senate position in conference. I believe that it is premature to address the issue in this legislation.

Again, I thank the Senator from Kansas (Mr. DOLE) for yielding.

Mr. KENNEDY. Mr. President, as I had other discussions both with the chairman of the Finance Committee and the chairman of the subcommittee, I know they are aware of this issue.

This is an appropriate time to address it. The fact remains, as we have effectively phased out the whole planning process, we see an increasing number of proprietary hospitals with increasing capital expenditures. Once that capital investment is actually made, it remains then for the succeeding generations to end up paying for it. So this is an important time to act. I do think it is an important matter in terms of long-term savings. I welcome both the interest and the attention that the Senator from Minnesota and the chairman of the committee have given to it.

I hope that they would give additional attention in the conference with the House of Representatives on this issue. I am quite willing to see that matter considered in the conference. We will have an opportunity to review it down the line, in any event. But I certainly welcome the attitude and the disposition of the chairman of the committee and the chairman of the subcommittee.

With those assurances, Mr. President, I ask unanimous consent to withdraw the amendment.

The PRESIDING OFFICER. The Senator has a right to withdraw his amendment. The amendment is withdrawn.

UP AMENDMENT NO. 91

Mr. KENNEDY. Mr. President, I have another amendment that I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the Bradley amendment will continue to be set aside.

The clerk will report the amendment offered by the Senator from Massachusetts.

The assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes an unprinted amendment numbered 91.

Mr. KENNEDY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 215, after line 16 insert the following new subsection:

"(k) Section 1903(s)(3) of such Act is amended by—

(1) striking out "on July 1, 1981, and" in subparagraph (A),

(2) inserting "(i)" after "the Secretary" in subparagraph (D), and

(3) after "year)" in subparagraph (D), striking the period and adding the following new clause:

"or (ii) in the case of programs established after January 1, 1983, is satisfied, based on assurances made by the State, that the annual rate of increase in aggregate hospital inpatient costs per capita or per admission (as defined by the Secretary) in the State during any subsequent calendar year will be at least two percentage points less than the annual rate of increase during that calendar year in such costs per capita or per admission for hospitals located in the States (excluding from such computation any State which has in effect a qualified hospital cost review program during that entire calendar year)."

Mr. KENNEDY: Mr. President, as my colleagues know, the Reconciliation Act reduced medicaid payments States are entitled to by 3 percent in fiscal year 1982, 4 percent in fiscal 1983, and 4.5 percent in fiscal year 1984.

States which had comprehensive hospital cost containment programs in place, July 1, 1981, were entitled to a 1-percent reduction in the reduction rate if they could demonstrate their rates of increase in hospital costs were 2 percent below the national average increase.

Only seven States—Connecticut, Massachusetts, Maryland, New Jersey, New York, Rhode Island and Washington—met the deadline—had programs in place on July 1, 1981.

These seven States will get a 3½ percent reduction in their medicaid payment next year. Every other State in

the country will have its payment reduced by 4½ percent—even if it has adopted a cost-containment program.

And the West Virginia Legislature last week adopted a cost-containment program. West Virginia, however, because it did not have a program in place in the summer of 1981 will not qualify for the bonus point.

My amendment would correct this inequity by removing the requirement that the State program be established by July 1, 1981. Under my amendment, any State that enacts a qualified hospital cost review program and can satisfy the Secretary that its program will reduce the rate of increase in hospital costs at least 2 percent below the national average would receive the 1 percent reduction.

Mr. President, runaway health costs are bankrupting our business and industry, disrupting Federal, State, and local budgets, and imperiling the security of our senior citizens. No American is immune from the ravages of health inflation, but its impact is harshest on the most vulnerable in our society—the young and the old, the sick and the poor, the struggling family trying to make ends meet.

For too long the Congress and the executive branch have failed to show the leadership necessary to tackle this critical question. We have slashed away at the rate of increase in medicare and medicaid—not by making fundamental changes in the health care system—but by shifting these costs—dollar for dollar—to the elderly, the sick, and the working American. Rampant inflation in health care costs continues unabated.

While we have failed to face head on the need to control health care expenditures, a number of States have taken the initiative and developed all payor prospective payment systems. They recognized that only by including all payors, could they finally protect their citizens against uncontrolled health inflation.

If we cannot bring ourselves to put the reins of spiralling health care costs, we must do all we can to encourage States to develop effective all payor cost-containment systems.

The legislation before us today would permit States to run their own medicare programs if they adopt all payor hospital cost control systems that will not result in greater medicare expenditures.

Those seven States that beat the statutory deadline will have an unfair break—they can opt out of the Federal medicare program, run their own all payor program and get a break on their medicaid payment. My amendment would give every State an incentive to move to establishing their own systems by giving them a slightly smaller reduction in their medicaid payment. It would recognize the move West Virginia has made in adopting an all payor cost-containment system. The incentive is admittedly modest—CBO estimates that it would return to the State less than 15 percent of the savings that accrue to the Federal Government from the State program. The benefits to our national health care system are potentially enormous.

Mr. President, this amendment is really quite simple. What we are trying to do is encourage States to take action in the area of cost containment. We have seen a number of States that have effective cost containment programs, including my own State of Massachusetts, and also maintain a program that assures quality health care.

The increases, for example, in hospital costs in the States that have had effective cost containment have been significantly below those that have not had cost containment. In the current legislation, we have provided a financial incentive to the States that have taken that action by providing an additional point of matching payment under the medicaid program. This has served as a financial inducement for those States which have an effective cost containment program.

This amendment would offer that same opportunity to other States that, in their own wisdom, make the decision to move toward cost containment. It is an encouragement to those States to move in that direction.

I think if it was totally implemented, if all the States had a cost containment program, it would cost $150 million, but the savings would be in the billions of dollars.

So what we are trying to do with this particular proposal is apply that encouragement to the States in the future that adopt cost containment programs as we have for the States that have already enacted it.

It seems to me, Mr. President, it is only fair. It does again, address the issue of trying to limit the very substantial escalation of health care costs, which now are three times the rate of inflation.

I am mindful. Mr. President, that, for example, West Virginia last week adopted a cost containment program. West Virginia, however, because it did not have a program in place in the summer of 1981, would not qualify for the bonus point. This amendment would basically correct this inequity by removing the requirement that the State program be established by July of 1981.

Clearly, any State that implements an effective cost containment program is going to be saving the Treasury tens of millions. probably hundreds of millions of dollars. Over the period of years, this amount would come up into the billions.

So I hope, Mr. President, that we would try to encourage the States. This is a very modest program, but it does seem to provide some carrot to the States if they will move toward an effective cost containment program. It seems to me those States ought to be treated equally with those States that have already adopted the program.

Mr. DURENBERGER. Mr. President, there is on its face, I imagine, a certain logic to the Senator's amendment. As he pointed out, in the agreement that was reached during consideration of the 1981 Reconciliation Act, there was a provision for certain States to offset their medicaid reductions and that applied to States that already had waivers from the program. So I suppose you could see some logic in saying that anybody else who gets a waiver in the future ought to qualify.

However, we have considered this at some length. Unfortunately, for the case of the Senator from Massachusetts, we have come to several different conclusions from those that he has come to.

First, it is our feeling that this whole discussion belongs much more appropriately in the consideration of the medicaid budget process, which we will have before us in the coming months, rather than in the content of medicare reimbursement.

Second—and this was discussed at some length during the course of our 1981 discussion and it is something that we are trying to provide more of, so to speak—the States here have a lot of incentives to establish rate-setting systems if they desire to do so. It really is a question of, do you need to give them more incentives or not? The fact of the matter is there are plenty of incentives out there right now.

So the position here is, very simply, why should we reduce Federal savings from this program in order to encourage the States to do something that already makes good sense in and of itself?

The bill that we are discussing, and which it is the intention of the Senator from Massachusetts to amend, goes another step further in the area of flexibility, because it provides opportunities for States which had desired to establish rate-setting systems to do so and it sets out some ground rules for doing it. But, in effect, it is an encouragement to States, such as the State the Senator represents and others, to go ahead with their rate-setting systems or to establish new rate-setting systems.

I suppose the bottom line on it, Mr. President, also, is the fact that accepting this amendment would result in a cost to the Federal Government of at least $57 million in fiscal year 1984 and a cost of as much as $160 million in the future.

It is our judgment that the States are going to do these things without the $57 million or the $160 million, so why should we forego that kind of saving?

I would say to the Senator from Massachusetts that the whole issue of medicaid and the Federal role in that process is one that this Senator at least is deeply concerned about. We plan to schedule a series of hearings this summer on that subject.

We acknowledge the fact that at the State, local, and community levels the savings as well as the quality can be best preserved. We do not know how to do that end of it all that well, but we need to find for us the national commitment to the needy in this country in the health care system. It is through that hearing process that we intend to start in late spring and early summer that we hope to find the most appropriate answer where you can get the quality, you can get the accessibility, and you can also get the savings at the State and local levels while we provide that necessary financial commitment to every person in this country so that they do not have to vote with their feet in order to find health care in America.

I can certainly make that commitment to the Senator from Massachusetts, that the issue that he is trying to resolve here hopefully we can resolve with the help of the States through this process of defining our role versus the States' role in providing health care to the needy.

I would encourage the Sentor to consider those arguments and, if he can find it within his heart to do so, to withdraw the amendment.

Mr. KENNEDY. Mr. President, I gather from the response of the Senator from Minnesota he is not prepared to indicate support for the concept even when we consider the medicaid later this year. If he would accept it at that particular time, I would be willing to see us delay. I do think this is an appropriate vehicle because this legislation has very significant provisions in it to encourage States to move toward cost containment.

The judgment of the Congress in 1981 was that if States have a cost containment program, it will yield savings not only to medicaid but to medicare and all hospital payers. They do not get this real incentive unless they hold the rate of growth below the national average. So they repay many times over in terms of savings to the Federal Government. It does seem to me that if it made sense in 1981 in terms of equity it would make sense now.

If it is a question about the vehicle, I am glad to wait until we consider it later on. If it is a question of the concept, I am prepared to move now.

Mr. DURENBERGER. Let me say in response to that, that from a personal standpoint it may be a combination. I suspect if we discuss our differences in concept on the right vehicle, this Senator might be more susceptible to the arguments being made by the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I do think that the reason for this proposal is really quite compelling.

I am grateful for the openness of the Senator from Minnesota, but I would just as soon let the Senate have an opportunity to speak on this issue. I am prepared to move to a vote.

Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment of the Senator from Massachusetts. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) and the Senator from Indiana (Mr. QUAYLE) are necessarily absent.

I also announce that the Senator from Maryland (Mr. MATHIAS) is absent due to an illness in the family.

Mr. BYRD. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from California (Mr. CRANSTON), the Senator from Colorado (Mr. HART), and the Senator from South Carolina (Mr. HOLLINGS) are necessarily absent.

I also announce that the Senator from Delaware (Mr. BIDEN) is absent because of illness in the family.

The PRESIDING OFFICER (Mr. HATFIELD). Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 28, nays 64, as follows:

[Rollcall Vote No. 33 Leg.]

YEAS—28

Bentsen	Huddleston	Mitchell
Bingaman	Inouye	Moynihan
Bradley	Jackson	Nunn
Burdick	Kennedy	Pell
Byrd	Lautenberg	Randolph
Chiles	Leahy	Riegle
Dodd	Levin	Sarbanes
Eagleton	Matsunaga	Tsongas
Ford	Melcher	
Glenn	Metzenbaum	

NAYS—64

Abdnor	Grassley	Pressler
Andrews	Hatch	Proxmire
Armstrong	Hatfield	Pryor
Baker	Hawkins	Roth
Baucus	Hecht	Rudman
Boren	Heflin	Sasser
Boschwitz	Heinz	Simpson
Chafee	Helms	Specter
Cochran	Humphrey	Stafford
Cohen	Jepsen	Stennis
D'Amato	Johnston	Stevens
Danforth	Kassebaum	Symms
DeConcini	Kasten	Thurmond
Denton	Laxalt	Tower
Dixon	Long	Trible
Dole	Lugar	Wallop
Domenici	Mattingly	Warner
Durenberger	McClure	Weicker
East	Murkowski	Wilson
Exon	Nickles	Zorinsky
Garn	Packwood	
Gorton	Percy	

NOT VOTING—8

Biden	Goldwater	Mathias
Bumpers	Hart	Quayle
Cranston	Hollings	

So Mr. KENNEDY's amendment (UP No. 91) was rejected.

Mr. DURENBERGER. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question now recurs on the amendment of the Senator from New Jersey.

Mr. DOLE. Mr. President, I ask unanimous consent that it be temporarily laid aside.

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

UP AMENDMENT NO. 92

(Purpose: To provide that benefits no longer be paid to aliens not authorized by law to live and work in the United States)

Mr. NICKLES. Mr. President, I have an amendment which I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Oklahoma (Mr. NICKLES), for himself, Mr. MELCHER, Mr. BOREN, Mr. EAST, Mrs. HAWKINS, Mr. BOSCHWITZ, Mr. ABDNOR, Mr. ARMSTONG, Mr. GOLDWATER, Mr. BURDICK, Mr. WARNER, Mr. PRESSLER, Mr. MATTINGLY, Mr. GRASSLEY, and Mr. HUMPHREY, proposes an unprinted amendment numbered 92.

Mr. NICKLES. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place in the bill, insert the following new section:

DISALLOWANCE OF BENEFITS NOT AUTHORIZED TO WORK IN THE UNITED STATES

SEC. , Title II of the Social Security Act is amended by adding at the end thereof the following section:

"§ 234. Prohibition of benefits to illegal aliens

"Notwithstanding any other provisions of this title—

"(a) An individual can only receive benefits if, at the time such individual files his or her claim for benefits, such individual can show that he or she—

"(1) is a U.S. citizen, or

"(2) was once a U.S. citizen but had voluntarily relinquished such status, or

"(3) is an alien who been legally admitted to work, or

"(4) was once an alien who was legally admitted to work but had voluntarily relinquished such status.

"(b) Subsection (a) applies only with respect to individuals who first become eligible for benefits after December, 1983."

SUSPENSION OF BENEFITS TO ILLEGAL ALIENS

SEC. . (a) Section 202(n) of the Social Security Act is amended by adding at the end thereof:

"(3) Notwithstanding any other provisions of this title, no monthly benefit under this section or section 223 of such Act shall be paid:

"(A) to an individual for any months for which the Attorney General notifies the Secretary that such individual is subject to—

"(i) a final order of exclusion entered under 8 USC 1226, or

"(ii) a final order of departure entered under 8 USC 1252, or

"(iii) a voluntary departure in lieu of deportation under 8 USC 1254(e); and

"(B) on the basis of wages or self-employment income which were earned by an individual during any period for which the Attorney General furnishes information suffi-

cient for the Secretary to determine that such individual is not legally permitted to work in the United States."

(b) The amendment made by this section shall be effective with respect to monthly benefits payable for months after December 1984. Nothing in this section shall prohibit current enforcement measures.

Mr. NICKLES. Mr. President, the amendment that I have sent to the desk would stop social security benefits from going to aliens who have worked illegally in this country. Joining me as cosponsors are: Senators MELCHER, BOREN, EAST, HAWKINS, BOSCHWITZ, ABDNOR, ARMSTRONG, GOLDWATER, BURDICK, WARNER, PRESSLER, MATTINGLY, GRASSLEY, HUMPHREY, RANDOLPH, HEFLIN, THURMOND, and JEPSEN.

Mr. President, the amendment I offer today is simple. First, it would allow the Social Security Administration to not pay benefits to any alien who the Immigration and Naturalization Service says is living or working in the United States illegally.

The second provision would work in a prospective manner. It would provide that those persons who are applying for social security benefits can only receive benefits if they are either a United States citizen or an alien who is living in this country legally.

As my colleagues know, it is currently unlawful for aliens to enter or work in the United States without the express permission of the United States Government. Unfortunately, present law with regard to social security do not reinforce this prohibition against illegal aliens working in this country.

Under current social security eligibility criteria, an alien who is living or working in this country illegally can earn and receive social security benefits.

I hope my colleagues will review the GAO report which is to be published soon with estimates on the number of aliens who are receiving social security benefits illegally.

In this report the GAO calculates that between 200,000 and 500,000 aliens may be receiving benefits up to as much as $2.4 billion per year illegally. Obviously, these figures are, at best, a rough estimate since there is really no exact way of knowing how many aliens are living in this country and working in this country illegally.

I think that the main point is that our laws are not currently working together. We prohibit aliens from entering our country unless they have the Government's permission, but then we turn around and support those aliens that break immigration laws with social security benefits.

The amendment that I and 18 of my colleagues offer today would correct that inconsistency in the following manner.

First, those persons who are applying for social security benefits would have to fall into one of the following catagories:

First, a U.S. citizen.

Second, a former U.S. citizen who voluntarily gave up their citizenship and left the country.

Third, an alien who has been legally admitted to work in this country, either initially or through amnesty.

Fourth, an alien who was formerly living and working in this country legally but has since left the country.

In addition, the amendment would allow SSA and INS to share information on those aliens who are found by INS to have been living or working here illegally. This insures that these illegal aliens do not receive social security benefits once they have been deported or have voluntarily left the country. The effective date on this second provision is January 1985, although current enforcement measures that INS and SSA are involved in are to continue. The reason for the effective date being 2 years away is that this is when SSA and INS will have the computer capabilities to cross check cases in a more complete manner than is currently being done.

I urge my colleagues to support this measure. Perhaps no other change that we have contemplated for social security has the unanimous support which this one does. Although it is a small measure, I believe that this is an important one for restoring confidence in Congress ability and willingness to make commonsense changes in the laws which govern Americans.

Mr. BRADLEY. Mr. President, will the Senator yield for a question?

Mr. NICKLES. I yield.

Mr. BRADLEY. Did the Senator vote for the immigration bill that was reported by the Senate last year?

Mr. NICKLES. The Senator is correct.

Mr. BRADLEY. In that bill was a provision that forgave those people who were in the United States illegally until the time that bill was passed. Can the Senator tell me what would be the effect on these people if the legislation was again passed and adopted? They are presently illegal immigrants in the country. In some cases, most probably they are getting social security benefits or building up credits. What will happen to them under the provisions of the Senator's amendment?

Mr. NICKLES. To respond the Senator's question, under our amendment, an individual can only receive benefits if at the time the individual files for his claim, such individual can show he is either a citizen or in this country legally. If Congress passes legislation providing amnesty, then they would be entitled to receive benefits.

Mr. BRADLEY. When they file for the benefits—meaning when they reach age 65 or when they are disabled or reach 62? Is that the intention?

Mr. NICKLES. The Senator is correct.

Mr. BRADLEY. When the Senator says "filed for those benefits," does that mean receive those benefits, or does that mean when they have stated that they were eligible to receive social security benefits, even though at that time they were illegal immigrants?

Mr. NICKLES. If at the time they filed, they were either American citizens or in this country legally, they would receive those benefits.

Mr. BRADLEY. What does the word "filed" mean?

Mr. NICKLES. When they make application to receive social security.

Mr. MOYNIHAN. Mr. President, will the Senator yield?

Mr. NICKLES. I yield.

Mr. MOYNIHAN. Will the Senator clarify his view? The Simpson-Mazzoli legislation, which we adopted last year, granted amnesty to a large body of persons—we do not know precisely how many, but we have reasonable estimates—who would be allowed to remain in the United States. I do not recall that they were granted citizenship.

Mr. NICKLES. The second part of my amendment would cover the question of the Senator from New York. When it states:

* * * or is an alien who has been legally admitted to work, or was once an alien who was legally admitted to work but had voluntarily relinquished such status.

If they were legal at the time of application, then they would be entitled to receive social security. If they were classified as illegal, they would not receive benefits.

Mr. MOYNIHAN. Is it the Senator's intention that a person who was covered by the amnesty provisions of the legislation adopted last year would thereupon become a legal alien, legally admitted?

Mr. NICKLES. If that is what Congress should pass in the immigration bill, then those aliens would be legally entitled to receive the benefits under this amendment.

Mr. MOYNIHAN. They cannot have been legally admitted. Was the Senator's proposal provided for these persons? The purpose of the Senate was to allow the people to remain in the United States and to continue working and legalize their status. But it cannot legalize their entry. They entered at a past time.

Mr. NICKLES. If they are living in the United States legally, then they can receive benefits.

Mr. MOYNIHAN. I see.

Mr. NICKLES. I appreciate the Senator's questions.

Mr. METZENBAUM. Mr. President, will the Senator yield?

Mr. NICKLES. I yield.

Mr. METZENBAUM. Let us assume the case of an alien who came here 30 years ago and has been working ever since and has been a good citizen in the community but never became a citizen, never really gained any legal status. Now it comes time for that individual to apply for social security benefits. Under the Senator's amendment, would that individual, who had

been paying his taxes for 30 years, be deprived of social security benefits?

Mr. NICKLES. Let me make sure I understand. Did the Senator say that the person was working illegally in the country for 30 years?

Mr. METZENBAUM. No; it would not be illegal. The person had been working in the country for 30 years. I do not think that during that period he would have been violating any laws for having worked, and he had been under social security rules. Nobody had raised any question with him. He was just one of those persons who had not seen fit to take out citizenship papers. Maybe he even served in the war. What happens? He is now 65 years of age. Do we say to him, "You can't have your benefits because one afternoon, on the floor of the U.S. Senate, the Senate adopted an amendment, and you had no knowledge of it and most other people did"? Suddenly, he or she is without social security benefits.

Mr. NICKLES. I think the question can be answered.

The Immigration and Nationality Act provides that if a person is not a U.S. citizen, then in order for an alien to work in the United States they actually have to receive from the Department of Labor, a green card. If an alien has this card or other documents stating his or her legal status in this country, then they would receive the benefits.

However, if they were working in the United States, under the example of the Senator from Ohio, for 30 years, with a suspect or a false social security card and under false circumstances, they would not receive benefits.

Mr. METZENBAUM. If they had not received that green card, even if their entry had been illegal, but it would not be possible under some circumstances to get a green card making it possible for them to work.

Mr. NICKLES. If they received the green card, that is the Department of Labor saying it is legal for them to work, then they would be qualified to receive benefits. Even if they had not worked legally but worked illegally for 30 years and the amnesty provisions were passed, they would receive benefits.

Mr. BRADLEY. Mr. President, let me try to be specific with the general question I asked earlier.

Let us assume someone has been in the United States working illegally, as an illegal immigrant, for 3 years. The Simpson-Mazzoli bill is passed and provides amnesty for that category of worker.

Under the Senator's amendment, would that worker be eligible for social security benefits that were accrued during those 3 years that he or she was an illegal immigrant?

Mr. NICKLES. The Senator is correct. They would receive those benefits.

Mr. BRADLEY. The Senator alluded to a GAO study. Could the Senator tell me when that GAO study was published?

Mr. NICKLES. I mention in my statement that that report is in the process of being published. It is expected to be released at the end of March.

Mr. BRADLEY. And the Senator has obtained the information from the GAO as to what is in the study prior to its release?

Mr. NICKLES. That is correct. There is a draft report that has been circulated which I would be happy to give to the Senator.

As a matter of fact, I ask unanimous consent to have printed in the RECORD the report with my comments.

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

(See exhibit 1.)

Mr. BRADLEY. How many illegal immigrants did the GAO study state were now receiving social security benefits?

Mr. NICKLES. The report provides only rough estimates, based on a number of studies which have been done. Estimates range from 1 million to 12 million, the most accepted range being 3.5 to 6 million.

Mr. BRADLEY. The Senator used some number $2.4 billion. What is that related to?

Mr. NICKLES. That was a figure which GAO arrived at by calculating the annual cost to the trust fund if 25 percent of the illegal aliens working in this country were to receive social security.

Mr. BRADLEY. So, according to this GAO report, which will be published and preliminary information the Senator has, if there are anywhere from 1 million to 12 million illegal immigrants in the country and anywhere between 25 percent of 3 million to 5 million of those illegal immigrants are now receiving social security benefits, to the level of $2.4 billion, is that what the Senator is asserting?

Mr. NICKLES. Yes, Senator. GAO came up with estimates and said that if 10 percent become vested which is probably a minimal number, about $900 million in benefits would be going out annually, and if 25 percent were becoming vested, it could be as much as $2.4 billion.

Mr. MOYNIHAN. Mr. President, will the Senator yield for a question?

Mr. NICKLES. I am happy to yield.

Mr. MOYNIHAN. Let me put two questions if I may.

First, we have not seen this GAO report which evidently says they cannot prove what they do not know, but they can maybe. But is the Senator aware that the Inspector General of Social Security recently ran a random sample of 80,000 social security checks and found 2 to be irregular? Out of 80,000, 2, which really would be a remarkable performance for any large system. And I do not know but just from what we know from the Inspector General that does not seem to jibe with what we hear that we are going to hear from the GAO. I just make that point. I do not want to go beyond that.

But the distinguished author of the immigration legislation that we adopted last year is in the Chamber, and the Senator from Wyoming might wish to comment.

Do I understand that if the legislation granting amnesty were not to pass, then we would be denying social security to a large number of persons who have worked and earned it? We have proposed amnesty, but if it somehow just did not happen, as it did not happen last time, would they be denied that?

Mr. NICKLES. If a person applies for social security, then they would have to say, "Yes, I am a U.S. citizen," or "I worked legally in the United States," one or the other.

Second, we would allow Immigration to contact the Social Security Administration when they find someone who is working illegally in the country so that they could stop payments to them. Present law does this, when illegal aliens are deported.

When Immigration notifies Social Security and says "We are deporting an individual, he has been working in the United States illegally," then social security stops his benefits. That is present law. However present law also provides that if Immigration contacts Social Security and says, "We found this alien working illegally," and that alien leaves the country voluntarily, then that illegal alien can continue to receive benefits even though he worked in the United States illegally.

It is a large loophole through which a large percentage of illegal aliens can receive or continue to receive benefits. I might add, according to this GAO study, the volume of benefits received versus the dollars contributed by aliens is enormous, basically because an individual contributes for a relatively short period of time.

Mr. MOYNIHAN. That is because of automatic raises in the system.

Mr. NICKLES. No; that is because the alien works only half as long as an American beneficiary and then returns to his home country, where additional dependents are added who collect benefits for a long period of time. The ratio is about $23 received in benefits for every dollar contributed into the system. It is quite a drain on the social security system.

Mr. MOYNIHAN. I wish to see the GAO report.

May I say to my friend from Oklahoma that the distinguished Senator from Wyoming is in the Chamber. I hope he can speak to this matter before our debate concludes.

Mr. GORTON. Mr. President, will the Senator yield?

Mr. CHAFEE. Mr. president, will the Senator yield?

Mr. NICKLES. I am happy to yield to the Senator from Washington.

Mr. GORTON. Mr. President, I have a question which is in the same general area as the question of the Senator from New York. I did wish to inquire about the relationship between the Senator's amendment and the bill sponsored by the distinguished Senator from Wyoming which, of course, would grant legal status, eventually citizenship, to a large number of people who are now illegal aliens.

Do I correctly understand this amendment, to the extent that any such person is granted permanent resident status in the United States and/or becomes a citizen, that person would be entitled to the entire social security benefits which all of his or her employment has earned even though some of that employment took place during a time in which the immigrant was illegal? That is to say, is it true that this amendment speaks only to one's status at the time when one applies for benefits? If you are legal when you apply for benefits, you get everything that you have contributed?

Mr. NICKLES. The Senator is correct.

As I mentiond earlier to a similar question, the amendment says that an individual can only receive benefits if at the time the individual files for benefits, he or she is either a U.S. citizen or is legally living in the United States.

Mr. GORTON. But once they have made that showing, their benefits are based on their entire work experience, even that during the time in which they were illegal?

Mr. NICKLES. The Senator is correct.

Mr. GORTON. I thank the Senator.

Mr. DOMENICI. Mr. President, will the Senator yield?

Mr. BRADLEY. Mr. President, will the Senator yield for a question?

Mr. NICKLES. I am happy to yield to the Senator from New Mexico.

Mr. DOMENICI. Mr. President, in responding to the distinguished Senator from Washington, the Senator from Oklahoma said that the status will be determined at the time they apply and show their citizenship. I have a problem because I do not know whether we can devise any acceptable procedures to carry this amendment out.

Those applying for benefits would be required to show proof of citizenship or legal alien status, which was the question that the Senator from Washington just addressed.

Unfortunately, Senator, there is no system for doing that. Existing immigration documents are not adequate. Immigration kits now exist, which consist of forged documents. Social security personnel are going to pass judgment on who is and who is not a legal alien. Frankly, coming from a State which has a very large percentage of Hispanics and which is on the border, I am very disturbed about how we are going to devise a system that does not have Hispanics who apply, run through some special kind of check to see if they are citizens or not.

Mr. NICKLES. It is really not as complicated as it may appear. Applicants will either show that they are American citizens or that they are legally in this country. That would take care of your concerns, would it not?

Mr. DOMENICI. No, it would not. What do you make beneficiaries do now if they are applying? What do you make them do to show proof if they are entitled now? They do not have to produce an American citizenship document; they have an earnings record and a social security card.

Mr. NICKLES. That is part of the problem. There is no control. Criteria for receiving social security benefits do not include legal status in this country. The social security system we have was designed to benefit American workers primarily or persons working legally in the United States. Many beneficiaries do not fall into either one of these categories and they are receiving a sum of dollars draining the system.

A person coming into the United States has to receive from the Department of Labor a permit to work in this country, showing they are working legally in the United States. This can be shown as viable proof of legal status for benefits. I am not saying that what we have is perfect. But, what we can do is eliminate a lot of the benefits that are going to individuals who are leaving the country after having been found to be illegally in the country. Now, when Immigration finds them, they leave, but under law continue to receive benefits.

Mr. DOMENICI. Then you are saying that basically you do not know precisely what procedures are going to be used, and you do not have one presently on the books. Who is going to devise it?

Mr. NICKLES. We have talked to and worked with the Legal Counsel of INS. We have worked with the Social Security Administration, both of which are supportive of our efforts.

Our original legislation has been refined so that it can be done administratively by the appropriate Departments. We have coordinated with both INS and with SSA to come up with something that would give the needed flexibility.

I might add that the second part of our amendment only assures that SSA has the proper authority and mandate to stop benefits which might go to aliens who have been found to be living and/or working in the country illegally.

The effective date on this provision is after December 1984 because Immigration has requested adequate time to get their computer system ready for this kind of cross-check.

We also put in a provision which says, "Nothing in this section shall prohibit current enforcement measures," because we did not want to stop SSA of INS in their current activities to stop benefits when an alien is deported.

Mr. DOMENICI. But that only addresses the issue of Immigration sending evidence to Social Security. My question has to do with proof of citizenship up front. Are you changing that from current law? You just described how you might get stricken from the rolls if INS advises that they have somebody on the rolls who is illegal. My question has to do with qualifying from the beginning, not how you get taken off. Are you changing the requirements up front? For example, somebody is going in now and applying: Are you changing the law as to what they must use as proof that they are entitled to social security?

Mr. NICKLES. That is the first section of our amendment, Senator.

Mr. DOMENICI. You are changing the law.

Mr. NICKLES. Yes. We are saying that a person cannot receive benefits unless he is an American citizen or is living in the United States, legally. This is the prospective portion.

Mr. MELCHER. Mr. President, will the Senator yield?

Mr. NICKLES. I would be happy to yield.

Mr. MELCHER. As one of the cosponsors of this amendment, let me say that the intent is not to create a barrier that might be envisioned by some of the questions asked by individual Senators, but to create the mechanism of showing that those who are not citizens have either derived their jobs by way of the blue card or the green card, that is the green card from Immigration that it is OK to try to stay and receive a job or the blue card from the Department of Labor authorizing them to be able to work in a certain position.

It is an attempt, the amendment simply attempts, to close the drain off of social security for those who have not complied. It does not, I do not believe, attempt in any way to or create a restriction for somebody who was not a citizen but who legally worked in the country, had a job and diligently performed that work for years. There is nothing to prevent that individual from receiving benefits.

Mr. CHAFEE. Mr. President, will the Senator yield for a question?

Mr. NICKLES. I would be happy to yield for a question.

Mr. CHAFEE. I appreciate the sentiment in which this amendment has been offered by the Senator from Oklahoma, who has been concerned and has given a lot of attention to these matters, and justifiably so.

Let me just say about the amendment that this is the type of amendment that if squared away completely, if we had hearings on it, if we completely understood it and the concerns that have been voiced here on the floor were taken care of, this is the type of amendment that would pass. In other words, I do not think it is nec-

essary to have this amendment attached to the social security bill in order to have it passed. It could be deferred, and we would have a chance to review it and have hearings on it in the Finance Committee, and then come up, after careful consideration, and take care of the problems that were voiced on the floor.

But let me just say to the Senator from Oklahoma this whole area is fraught with difficulties.

I am amazed that the Commissioner wrote the Senator this letter on March 18, because the Commissioner appeared before our committee on a simpler matter; namely, the payment of benefits to legal aliens. In this legislation that is before us on the floor, it provides that legal aliens who return overseas, in other words do not remain residents in the United States, can only collect for benefits what they have put into the fund plus interest. In other words, they cannot even collect the employer's contribution.

Mr. Svahn was present when we were considering this and certainly did not take a position in favor of it. He voiced some concerns about the administrative problems. But the administrative problems that are involved in the Senator's amendment are far more difficult.

It seems to me, if we should adopt the Senator's amendment on the floor today, which I hope we will not and I hope the Senator will not press it, we are going to cause, I think, considerable hardship and unfairness to a host of people who are unable to prove certain facts going into the distant past.

It is a fact there has never been a hearing in the Finance Committee or, I believe, in the House Ways and Means Committee—and I cannot testify to that—on this matter. As a matter of fact, when this came up before the Ways and Means Committee, it was deferred on the insistence or the urging of Mr. PICKLE because there had not been hearings on this matter. So it is not in the House bill.

In the Senate bill it was brought up and many of us felt—we are dealing solely with legal aliens and the payment to them overseas—and many of us felt that it was improper to proceed without more consideration with the difficulties involved.

Now the Senator is coming forward on the floor of the Senate with this amendment which, as has been pointed out with various arguments—and I am anxious to hear what the Senator from Wyoming, who has worked long hours on this in connection with his immigration measure, has to say. Here out of the blue comes this measure. I think we are going to do great hardship to a host of potential beneficiaries.

Let me also say this: Never before, as I understand it, in the social security system, have we provided that those who pay in do not get their benefits. But that may be right. Perhaps it is correct. Perhaps in this group of illegal aliens, I cannot see that you make any provisions for those who come in illegally who subsequently become legal. But set that aside, maybe we want to take that step. But I think it is a step we ought to only take after careful consideration and hearings on it.

It may well come out the way the Senator wants or a slight variation, but this is the type of amendment that can be considered separate from this bill and will certainly have a good deal of attention and I believe support normally from this body.

So I hope the Senator will not press his amendment.

(Mr. DURENBERGER assumed the chair.)

Mr. MITCHELL. Will the Senator yield for a comment on the point just made?

Mr. NICKLES. I will be happy to yield the floor unless the Senator has a question to me.

Mr. MITCHELL. I will put it in the form of a question.

As the Senator from Rhode Island indicated, the committee dealt with the problem of noncitizens who are not residents receiving social security benefits. In this legislation now pending before the Senate is a provision that limits the benefits paid to aliens who are not residents of the United States to the amount that they paid into the system plus interest. It is, I believe, applicable to aliens who were in this country legally or illegally. There is no distinction between them. Therefore, that provision already in the legislation appears to take care of the principal concern expressed by the Senator from Oklahoma of an illegal alien who is discovered by the Immigration Service and is ordered to leave the country and subsequently leaves—and the Senator has expressed a legitimate concern—and then, going back to the country of origin, receives benefits the same as other social security beneficiaries which generally results in a return far greater than the amount of taxes paid.

I ask the Senator: Since that concern is already addressed in the legislation, is there any other reason to pursue this particular amendment? As I understood it, that was the Senator's principal concern in response to the questions raised here today.

Mr. NICKLES. I appreciate the Senator's question. The Lugar amendment, which passed and which I cosponsored, did curb the amount of benefits. There has been a growth of benefits in some cases for those who were living abroad and receiving social security. I supported provisions to curb that growth. However, those were persons who were legally working in the United States.

Our amendment addresses those who are working illegally in the United States and who Immigration has deported.

What we are trying to do is say that if Immigration finds a person working illegally, then they would lose their benefits.

The other aspect of our bill, the prospective part, I think is much greater and more important. It insures that this abuse does not happen in the future. In other words, if a alien is working illegally in the United States, they probably would not even apply for social security because they would say, "Wait a minute, I am going to have to show I was legally working in the United States."

Mr. MITCHELL. I would say it is my understanding—and I think it ought to be checked—that the provisions in the bill now do not distinguish between aliens who work legally and those who work illegally in this country, but rather the only distinguishing factor is whether or not the beneficiary is an alien and no longer resides in this country; that is, the distinction that the Senator has suggested between the provisions in the bill and his amendment do not, according to my understanding, in fact, exist in the bill. I think that ought to be checked. Obviously, if I am incorrect I will stand corrected.

But I was involved in the committee discussions, as was the Senator from Iowa, who was present at the time, and I do not recall any mention being made of limiting the provision now in the bill only to those aliens who had been legally in the country. Rather, the only distinguishing factors are whether or not they are aliens and whether or not they are no longer residents of this country.

If that is so, then it seems to me that the principal reason for the amendment of the Senator from Oklahoma no longer exists if this other provision remains in the bill.

Mr. NICKLES. Let me explain a little bit further. There is a reason for this legislation to exist. Again, I compliment the work that the Finance Committee has done in adopting the Lugar amendment—the existing language that is in the bill that is before us.

However, we would go a step further. Our amendment would say right now that when Immigration finds a person who is working illegally, they will notify the Social Security Administration and say, "This person is working illegally and should not be entitled to receive benefits." We make that prospective. It gives them plenty of time to coordinate their computers. The amendment tells Immigration to work with Social Security. And, by January 1, 1985, the two agencies would be able to coordinate their efforts on this matter.

Let me go into this a little further. Currently, an alien can receive a social security card. They receive it for purposes that they type on the card, not for work purposes, but they can use it for credit cards, et cetera. However, Social Security has found that people use this social security card, even

though they are not entitled to work legally in the United States, to earn and receive social security benefits. Now Social Security will be able to coordinate better with Immigration and say, "We have a person working illegally in the United States," and they can contact SSA.

Mr. MITCHELL. I understand what the Senator is saying, that he wishes to extend the limitation on benefits to aliens who remain in this country based upon what their alien status is, whether they are legal or illegal. All I am saying is that the argument that the Senator has been using this afternoon in response to questions—that is, that we have to close this loophole that exists because when illegal aliens are discovered they then leave and go back to their countries and continue to receive benefits—is not a valid argument because that loophole is already closed in the provisions in the bill.

You have other reasons, and I understand that. The Senator wants to go beyond the bill.

All I am saying is that it does not seem to be a valid excuse as an argument for your amendment to choose a loophole that is already closed in the bill.

Mr. NICKLES. If I can go further, Immigration can find someone working illegally, and can contact Social Security. Presently, however, Social Security would keep sending out checks if the individuals did not leave the country. Those checks would still be received.

Mr. LEVIN. Would the Senator yield for a question?

Mr. NICKLES. I am glad to yield.

Mr. LEVIN. If at the time a person applies for benefits they are here legally, and at the time they worked they were not here legally, would they receive benefits?

Mr. NICKLES. The answer to your question, Senator, is yes.

Mr. LEVIN. The amendment says the individual can receive benefits if at the time they can show that they are an alien who has been legally admitted to work. Under my hypothesis, the person had never been legally admitted to work but had always been illegal during that work time, now they are a legal resident though not a citizen.

Mr. NICKLES. The answer to your question is if they were not working and are not currently legally in the country, then, no, they would not.

Mr. LEVIN. The Senator is saying that he would deny benefits to persons who are legal residents of the United States who contributed to the social security fund, perhaps for 30 years, because they were not legal when they contributed even though they are legal when they apply?

Mr. NICKLES. We mention one of two things: If they are U.S. citizens or if they worked legally. I see where the Senator is trying to crowd somebody in between those two things, but I do not see it as a likelihood.

Mr. LEVIN. I think it is very likely to work for 30 years and build up an account with the social security system. They then may very well want to become legal residents of this country so they could receive benefits to which they thought they were entitled.

For legislative history, however, this amendment would not permit benefits to persons who were legal at the time they apply if they were not legal at the time they worked?

Mr. NICKLES. Again, I think the Senator is not interpreting my amendment correctly. If they were U.S. citizens or if they have legally been admitted to work, then they would receive benefits. The Senator is saying that they were not legal when they worked, that they worked 30 years illegally and 2 days later they applied for social security after they had become legal. If legal means they have American citizenship or have been granted amnesty or something other than American citizenship, then I intend that they would be able to apply for and receive benefits.

Mr. LEVIN. But that could be 5 or 10 years after their work life has been completed. They are now here legally but for the 20 or 30 years that they worked they were here illegally.

Under this amendment, somebody who is legally a resident of the United States could be prohibited and would be prohibited from receiving benefits if at the time they worked in the United States they were here illegally.

Mr. NICKLES. No, I do not think that is the case. Maybe this will help clarify the record, however.

Mr. LEVIN. One other question: I understand the Social Security Administration will accept money from people who are here illegally.

Mr. NICKLES. The Social Security Administration right now has no criteria for citizenship, legal or illegal.

Mr. LEVIN. So they do accept money from people who are here illegally.

Mr. NICKLES. The Senator is correct.

Mr. LEVIN. Under this amendment, even though they accept money from folks who are here illegally they will not pay out any money unless they became citizens or became legal before they retire.

Mr. NICKLES. The Senator is correct.

Let me refer again to the GAO study. GAO talks about the benefits paid out in relation to contributions paid, a ratio of about 23 to 1. In other words, 23 times the benefits received for every $1 contributed. That compares to a U.S. citizen of about $5 received for every $1 contributed. So we are still talking about a massive drain on the social security trust fund.

Mr. LEVIN. On that point if the Senator will yield for a further question. Does the Senator provide that they would return to these folks the money contributed to the system if they do not get the benefit?

Mr. NICKLES. No. If an individual is working illegally, under present law they do not get their money returned and neither would they in this legislation.

Mr. LEVIN. If the Senator will yield for one other point, the legislation says that a person who is otherwise entitled to benefits will not receive them unless they meet this test. My question is, if you are going to take away a benefit to which a person is otherwise entitled, which they earned, do you not at least want to return to that person the amount of money he contributed to the system? Is that not minimal fairness, if you take away benefits a person would otherwise be entitled to?

Mr. NICKLES. I will answer the question in the negative. How can a person earn a benefit if he worked illegally? It is against the law for the person to work in the United States. They are breaking the law.

Mr. LEVIN. Is it against the law to take his money into social security?

Mr. NICKLES. The person should not have the job and should not be contributing to the system in the first place.

Mr. LEVIN. But is social security breaking the law by taking his money.

Mr. NICKLES. There is a thought.

Mr. MOYNIHAN. Will the Senator yield for a comment?

Mr. NICKLES. I would be happy to, but I would like to present some concluding remarks.

Mr. MELCHER. Would the Senator yield for a further question?

Mr. NICKLES. I yield to the Senator.

Mr. MELCHER. I think it is clear that Social Security takes the money, the contribution of both the employee and the employer, on the presumption that they are working legally. If we want to stipulate the social security should examine all of the employees and the employers to make sure they are legal, we can do so. But that proposition has not been presented. Social security simply takes a contribution from the employee and the employer on the presumption that they are here legally.

Mr. MOYNIHAN. Mr. President, could I speak briefly? The Senator from Wyoming wants to speak also.

If I may say, it comes with little grace and ill-behooves the Social Security Administration to suddenly endorse this proposal with respect to illegal aliens, unknown quantity, unknown numbers, unknown locations, when this very Administrator defeated by his own testimony in the House-Senate conference the actions of this Senate declaring that the Social Security Administration should produce a tamper-proof social security card, a card which would not be purchasable on any street corner in El Paso, Texas,

as it were. "No," said he, "we will not have anything to do with that."

He prevailed upon the House conferees to turn down the position of the Senate in this regard. He could not care less about counterfeit cards.

Now they come along with this matter which I have to say, in my view, represents a violation of the 14th amendment's rights, even of illegal aliens; it is confiscating property. I know the Senate Finance Committee, as the distinguished Senator from Rhode Island said, would be happy to have hearings on this. We would be happy to have the GAO come forward and tell us what they know, have people comment on it, listen, think about the constitutional issues, think about the whole range of effects which we do not now understand.

I now would like to cease in order to hear the Senator from Wyoming, who, I hope, will speak.

Mr. SIMPSON. Mr. President, I was just thinking how opportune it might be to offer an unprinted amendment consisting of the Immigration Reform and Control Act of 1983. This might be a dandy time to do that. But I shall not do that.

I am fascinated to hear this very serious debate, and it should be. I have heard phrases like "fraught with difficulty," "What are we really doing," and "What will be the impact." The good Senator from Michigan outlined some serious questions. The Senator from New York makes a fascinating statement on the social security system. There is much truth in there; much truth in what the Senator from Rhode Island says as well as the Senator from Montana, and particularly the Senator from Oklahoma.

Mr. President, I remain absolutely intrigued and fascinated by the debate, because it is with a strange sense of irony that I recall last year's debate when we had the Supreme Court decision on who should bear the cost of training the children of illegal aliens in the United States. The supervisors of Los Angeles County came to the subcommittee to share with us that two-thirds of the children born in their largest hospital are born to illegal alien mothers; and the Los Angeles County supervisors are asking, who will bear that cost?

And now, today, we are justifiably concerned about the burden on our social security system created by benefit payments to undocumented workers. There is so much stuff in this one that I just say, welcome to the fray.

We already have laws that say if you are deported, there will be no benefits; but there is no way for the INS, with its present personnel, to handle deportation proceedings for the illegal aliens they apprehand. They do do not have the personnel to deal with the numbers. The Chula Vista sector last week had 5,000 apprehensions in a single day—along 60-mile segment of our Mexican border. That is double any kind of activity like that ever under the history of that sector. That is the situation in the United States right now.

All of these concerns so ably addressed by so many various persons and philosophies just scratch the surface of the problem created in this country by a singular national failure. The first duty of a sovereign nation is to control its borders, and we do not.

The other irony is the only other nation on the Earth that does not control its borders is the United States of Mexico. The problem on their southern border matches ours.

If we had had the courage to address the problem of immigration reform in Congress during the last 10 years, to follow the only possible solution, which is employer sanctions against those who knowingly hire illegal, undocumented workers, and to provide some form of employment verification which is not carried on the person but only available at the time of new hire—the only real issue is not how much do they leave on the table, how much do they take off, do they do work that American workers will not do—we would not have to address these issues today. The issue is this: When you have a fake green card and with that fake green card you receive a valid social security card, a valid AFL-CIO card, a valid food stamp card, a valid medicare card, a valid driver's license and valid unemployment insurance coverage, you have gimmicked the systems of the United States and the systems were not built for that kind of gimmickry. They are not actuarially able to handle that kind of gimmickry.

The Social Security Administration testified one time that they are not really concerned about how many fake cards are out, because at the time someone sought benefits, they would have to show up as a live human being in front of a live interviewer. I said, "Well, that is one way to run a railroad. It is not exactly the way I would do it."

But we have developed some interesting things. These things and this matter we grapple with here are the wholly unpleasant situations that result from illegal immigration. They would not be facing us today, nor would we have the national disgrace of a furtive, fearful, exploited, illegal subsociety of human beings numbering millions extant in these United States right now if we faced up to the root cause of the problem—loss of control of our borders.

Mr. President, we must adopt measures which are not nativist nor mean nor racist but we must reform what are absolutely absurd, cumbersome and unworkable immigration laws.

I thought I would get up and make that little plug for the Immigration Reform and Control Act of 1983 because we are going to seé that legislation soon. Markup is coming at the end of this month. I call upon my colleagues to carefully examine the bill, which would solve this situation before us today.

There is never a good time for immigration reform. That I can assure my colleagues. But the discussion and debate on amendments such as this show the strains on our society, the totally inappropriate results that will take place if we continue apathetically to do absolutely nothing and pretend uncontrolled illegal immigration is going to disappear. I trust congressional maturity might lead us toward some solution, because the matter will be before us and will be pressed upon us again and again and it will never go away.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, Members of the body, I think the appeal by the Senator from Wyoming to look at the bigger picture is well in order. On the other hand, I am supporting this amendment, and have in fact cosponsored the Senator from Oklahoma's amendment.

I do not know what the Senator from Kansas will do when he wants to dispose of the debate on this amendment and the bill. I shall leave that to him. But I think the effort by the Senator from Wyoming to look at the bigger picture needs to be applied specifically to this amendment as well. The amendment is not offered soley in the vein that we want to save money from the social security funds, that we want to make it more sound, even though it will have that impact, according to the GAO report.

The broader picture is this: There are many law-abiding citizens of America, people who spend their whole lives abiding by the laws in this country, and they also have the oddity that they expect other people to abide by the law in this country. They see efforts of people who are not law-abiding citizens to dip into the till and to threaten the financial soundness of a system that they pay into, and they do not like it.

I think their concern goes even beyond that and points to something that ought to concern us. That is the necessity of reestablishing credibility in the social security system. People who are working today, paying into the system, paying high taxes—every one of them would ask us who are out at the grassroots, is there going to be any money there for them to draw from?

It is the same way with those citizens who are retired today, drawing out of the system. They, too, wonder abut the soundness of the system. It is not as credible a system with them as it was one, two, or three decades ago.

Having people who are illegally in the country who have, legally or illegally, been paying into the system is not the point. The issue is that some are illegally in this country drawing

out of that system, affecting the soundness of it, bringing about a lack of respect for the system, and that is something we must deal with. That is a broader picture we have to deal with. This amendment by the Senator from Oklahoma just deals with a very small portion of our effort to reestablish credibility in the system.

As you think about the people you meet on the streets of the little towns and rural areas of your State, stop to think how many times you have been asked about people who are illegally in the country drawing out of the system and if there has not been a plea for a stop to be put to practice. This amendment does not deal with the situation totally, but it deals with it to some degree. If we would respond affirmatively to this problem, as we have tried to do with other provisions in the bill now before the Senate, then we would help reestablish that credibility. That is the greater concern that we all ought to have. The immigration problem, reestablishing control over our borders, is a major concern that we also must have. These issues have a great deal to do with the credibility of our political system and our boundaries and with our institutions in responding to these concerns. It is pretty much the same way with the social security system.

This system was established 40, 50 years ago, and it is a very integral part of the social fabric of America. We want to maintain it as such. A necessary part of that is to help everybody have more confidence in it. So it is in that vein that I am supporting this amendment, not because it deals in any way with the financial soundness of the social security system.

A broader, more encompassing provision is included in the social security package reported out of the Senate Committee on Finance which limits social security benefits to aliens. Its importance lies not so much with its revenue impact, but on the signals it sends to the American public that Congress is indeed trying to clean up the administration of this program. I am extremely gratified that with the great efforts of the chairman, Mr. MYERS, and the committee staff, we were able to fashion a provision to deal with the grevious problem in social security payments to aliens. Special notice must also be given to Senator LUGAR and his outstanding leadership in this area.

Finally, I would like to thank Senator PRESSLER for bringing to light some of the very real problems which exist under current law. We have had several discussions on the importance of this measure, and his support has been greatly appreciated. Senator PRESSLER's early recognition of the inconsistencies in the present treatment of nonresident aliens is to be commended, and I know he joins me in expressing tremendous satisfaction with the remedial language contained in S. 1.

The specific recommendation adopted by the committee and included in S. 1 would significantly tighten eligibility requirements for alien workers living abroad. The bill denies benefits to alien dependents of alien workers who were added while outside the United States. This specific provision gets at the very heart of the problem where alien beneficiaries acquire a tremendous number of dependents after they have left this country. The bill also reconciles several sensitive and complex policy issues by paying benefits to workers who are citizens of a country with which the United States has a reciprocal social security coverage arrangement.

For those aliens who continue to qualify for social security benefits, the individual would receive benefits until such time as he had received an amount equal to what he paid into social security plus interest.

The need for such legislation has become increasingly evident over the past few years. And has been amplified by the previously mentioned GAO study outlining the phenomenonal magnitude of the problem. Let me briefly summarize some of the startling findings of that report, 34 percent of all dependents abroad were added to the social security rolls after the wage earner became entitled to benefits. And approximately 34 percent of such dependents were aliens.

GAO also discovered alien retirees have worked less time in covered employment and have paid less social security taxes than the average American worker. Of the 312,000 social security beneficiaries living abroad in 1981, GAO estimated 194,000 were aliens. Perhaps the most startling finding was that where U.S. retirees receive about $5 for each dollar paid into the system, the average alien receives $23 in benefits for each tax dollar paid into social security. It is a disgrace when the laws of this Nation allow us to treat aliens better than we treat our own citizens. Congress has this opportunity to tighten up one area of glaring mismanagement in the current system. It is only appropriate that during the consideration of such a monumental reform package as S. 1, we include this measure which does not affect a single U.S. citizen. I hope my colleagues in the House will also see fit to embrace this long overdue change.

Mr. NICKLES. Mr. President, I ask unanimous consent to have printed in the RECORD a letter from the Commissioner of Social Security.

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

THE COMMISSIONER
OF SOCIAL SECURITY,
Baltimore, Md., March 18, 1983.

Hon. DONALD L. NICKLES,
U.S. Senate,
Washington, D.C.

DEAR SENATOR NICKLES: As we have discussed, I agree with your amendment to deny Social Security benefits to illegal aliens. We will work closely with the Immigration and Naturalization Service to identify new Social Security applicants who are illegal aliens as well as those who leave the country under threat of deportation.

The kind of amendment you are proposing represents an important first step in the process of dealing with this serious and growing problems.

We look forward to working with the Congress after the pending legislation is enacted to finding ways of dealing with the broader issues involving payment of Social Security benefits to noncitizens and nonresidents.

Sincerely,

JAMES A. SMITH,
Commissioner.

EXHIBIT 1

DRAFT OF A PROPOSED REPORT—SHOULD SOCIAL SECURITY BENEFITS BE PAID TO ALIENS ABROAD AND ALIENS WHO WORKED ILLEGALLY WHILE IN THE UNITED STATES?

(This document is a draft of a proposed report of the General Accounting Office. It was prepared by GAO's staff as a basis for obtaining advance review and comment by those having responsibilities concerning the subjects discussed in the draft. It has not been fully reviewed within GAO and is, therefore, subject to revision.

(Recipients of this draft must not show or release its contents for purposes other than official review and comment under any circumstances. At all times it must be safeguarded to prevent publication or other improper disclosure of the information contained therein. This draft and all copies thereof remain the property of, and must be returned on demand to, the General Accounting Office.)

DIGEST

In this report GAO examines the circumstances under which social security benefits are paid to alien retirees and dependents living abroad. GAO also questions the propriety of continuing to allow aliens, who work in violation of the Immigration and Nationality Act, to earn social security credits.

The first issue centers on a set of Congressional concerns that have been voiced from time to time since the early days of the program, and which were expressed by Representative G. William Whitehurst in a 1981 request for a GAO study. The concerns deal with whether it is fair and affordable for the American social security taxpayer to have aliens work in the U.S. for a relatively short period and then retire to their native lands and recieve benefits for themselves and their dependents for long periods of time.

The Social Security Act does not restrict benefits to aliens or to only people living in the U.S. However, when social security benefits began in 1940, there were only 100 beneficiaries abroad who received $12,000. In 1981 these numbers had grown to 313,000 beneficiaries abroad who received nearly $1 billion. Of the 313,000 beneficiaries, 194,000 (62 percent) were aliens and most of these were alien dependents.

GAO found that 34 percent of all dependents abroad were added to the social security rolls after the wage earner became entitled to benefits. About 34 percent of such dependents were aliens. (See p. 13.) Moreover, GAO found that lien retirees abroad have, generally, worked less time in covered employment and paid less social security taxes than the average worker.

In 1956 the Congress enacted legislation designed to curtail benefits to aliens abroad, but because of the many exemptions included in the legislation, it has had little effect.

The concerns which prompted the legislation are still valid today—aliens can work in the United States for a relatively short time and then return to their native country and retire and receive benefits for themselves and their dependents.

The payment of social security benefits to aliens not only represents a valid policy question for the Congress, but also presents a number of difficult and complex issues. Some of these issues involve (1) the equity of treating aliens differently than Americans, (2) the international reaction by countries whose citizens will be adversely affected and the potential retaliatory action of curtailing benefits to Americans under their systems, and (3) the administrative question of requiring alien workers to pay full FICA taxes although they might receive benefits for retirement or disability in a curtailed or capped amount.

GAO also identified an inconsistency between the Social Security Act and the Immigration and Nationality Act—aliens are allowed to earn entitlement to social security benefits while violating the Immigration and Nationality Act. Although there are not complete and accurate data on the impact that this situation is having on social security, GAO estimates that perhaps a billion dollars a year could flow from the trust funds to pay aliens on the basis of their illegal employment.

CHAPTER 3: ALIENS CAN EARN ENTITLEMENT TO SOCIAL SECURITY BENEFITS WHILE VIOLATING THE IMMIGRATION AND NATIONALITY ACT

The Immigration and Nationality Act provides for regulating admission of aliens to the U.S. The Act requires that before aliens are permitted to enter the U.S. for permanent employment, the Secretary of Labor must certify to the Attorney General that there are insufficient U.S. workers willing, able, and qualified to perform the work at the time and location it is to be performed and that such employment of aliens will not adversely affect wages and working conditions of U.S. workers similarly employed.

The Social Security Act allows aliens to earn social security insurance credits regardless of their employment or resident status in the U.S. Section 210(a) of the Social Security Act defines employment for the purpose of social security credits as any service performed in the U.S. by an employee for an employer irrespective of the citizenship of either. Consequently, aliens who are admitted to the U.S. to attend school, visit, or for other purposes, but not for permanent employment, can earn social security credits by illegally working at a job covered by Social Security. Similarly, aliens who enter the U.S. illegally can earn social security credits as a result of employment during the time of their illegal stay. The accumulation of social security credits by legal and illegal aliens can lead to insured status and entitle them to social security benefits earned through unlawful employment.

This chapter discusses both legal and illegal aliens who might have earned social security credits while violating the Immigration and Nationality Act, and the potential cost of paying benefits to such aliens.

Aliens have illegally worked and earned social security coverage

The number of aliens who have illegally engaged in employment and earned social security credits can not be precisely determined. Under the Social Security Act a wage earner's citizenship does not affect his eligibility to earn social security credits and, for that reason, SSA has not maintained data on the citizenship of all workers who pay social security taxes. SSA has some information on legal aliens who have violated their immigration status by engaging in employment, but it does not have such data on aliens who have entered the U.S. illegally and engaged in social security-covered employment during their illegal stay.

Legal Aliens Working Illegally in the United States

According to SSA's statistics, about 289,000 legal aliens have engaged in employment covered by Social Security since 1974.

Until 1974, SSA made no distinction based on citizenship when issuing a social security card. Beginning in 1974, as was required by the Social Security Amendments of 1972, SSA began issuing social security cards to legal aliens who requested them for "non-work purposes." These purposes included opening bank accounts, registering for school, and obtaining a driver's permit. When SSA issued social security cards for such non-work purposes, it coded its enumeration records to indicate that these SSN's were for non-work purposes.

In 1975, SSA discovered that social security-covered earnings were being reported under many of the SSN's that were issued for non-work purposes. This was not a violation of the Social Security Act, but SSA did gather statistical data on these incidents and shared the information with the Immigration and Naturalization Service (INS), since these alien wage earners were apparently violating their immigrant status. This information flow was discontinued after the enactment of the Tax Reform Act of 1976 because of questions regarding interagency transmittal of taxpayer information. These questions were resolved in 1982, and SSA plans to transmit the information on aliens who worked illegally since 1976 to INS and will resume transmitting information to INS on aliens who are illegally working in the U.S.

Also, SSA has begun noting "for non-work purposes" on the face of new social security cards issued to legal aliens if they are not permitted to work in the U.S.

Illegal Aliens Working Illegally in the United States

The exact number of illegal aliens who have entered and worked in the U.S. and earned social security credits cannot be determined. This occurs, in part, because illegal aliens conceal their illegal immigrant status when they apply for social security cards. When they are successful in obtaining social security cards, those cards and numbers cannot be distinguished from legitimate ones. Therefore, little is known as to the number of illegal aliens who have earned social security credits under fraudulently obtained social security cards, or those who have worked and paid taxes under someone else's SSN.

Various studies, including one by GAO,[1] have developed estimates of the number of illegal aliens in the U.S. The estimates range from 1 to 12 million, but the most widely accepted range is from 3.5 to 6 million. One study showed that between 65 and 88 percent of a group of illegal aliens who were interviewed had been employed while residing in the U.S. and had paid social security taxes on their earnings.[2]

Potential cost to social security due to aliens engaging unlawfully in covered employment

Despite the statistical limitations of the various illegal alien studies, one can develop a rough estimate of the impact on the social security trust funds of payments to illegal aliens. To illustrate such potential impact, we used the lower range of the most widely quoted illegal alien population estimate (3.5 million) and the lower estimate of those illegal aliens who had been employed while in the U.S. and paid social security taxes (65 percent). We chose the lower range of the estimates because of uncertainties as to the statistical reliability of these estimates. Using these data, we estimated that from 2.2 million[3] aliens had worked in social security covered employment and had received some social security credits.

It is unknown how many of these wage earners have earned sufficient quarters of credits to be eligible for disability or retirement benefits. There are no reliable data on social security payments made to aliens as a result of their unlawful employment. Nonetheless, we developed three estimates to show the potential annual costs to the trust funds if 10, 15, and 25 percent of the illegal alien workers had qualified for and were receiving benefits in 1981. We used the average alien family benefit rate ($4,160) for aliens abroad in 1981 to complete the estimates. Our estimates show the following cost ranges:

$.9 billion (if 10 percent of the illegal aliens had qualified for social security),

$1.4 billion (if 15 percent of the illegal aliens had qualified for social security), and

$2.3 billion (if 25 percent of the illegal aliens had qualified for social security).

Applying these same assumptions and the 10-percent estimate to the legal aliens who have unlawfully worked in the U.S., adds another $.1 billion cost to the trust funds.[4] Therefore, legal and illegal aliens combined could cost SSA about $1 billion per year as a result of unlawful employment if only 10 percent of the aliens working illegally eventually receive benefits.

Should social security benefits accrue from unlawful employment?

In 1954, a bill was introduced in the Congress (HR 9366) which said, in part, that earnings derived from covered employment by individuals during periods when they were unlawfully residing in the U.S. would not be used in establishing eligibility for, or the amount of, social security benefits. Furthermore, the bill said these earnings would be deleted from such individuals' earnings record upon the Secretary's[5] receipt of notification from the Attorney General of an alien's periods of unlawful residence in the U.S.

These provisions were deleted from the bill, however, by the Senate Finance Committee after it received the Secretary's comments on the feasibility of its implementation. The Secretary endorsed the objective of these provisions, but he opposed enactment on the basis of the disproportionate administrative burden it would impose on the Department and SSA, compared to the benefits that might be realized. He noted, for example, that he would have received 900,000 notifications of unlawful employment in 1953 and earnings from such employment would have had to be deleted from the aliens' Social Security earnings records—a task he thought too administratively burdensome to accomplish.

The subject of aliens who might earn entitlement to social security benefits while either unlawfully residing or unlawfully

[1] Problems and Options in Estimating the Size of the Illegal Alien Population: September 24, 1982 (IPE-82-9), p. ii, 10-11.

[2] David North and Marion Houstoun (31), "The Characteristics and Role of Illegal Aliens in the U.S. Labor Market: An Exploratory Study," March 1976, p. 130.

[3] 3,500,000×.65.

[4] This is the product of 289,000 (legal alien workers)×$4,160×.10.

[5] "the Secretary" refers to the Secretary of the Department of Health, Education, and Welfare; currently the Secretary of the Department of Health and Human Services.

working in the U.S. was discussed during hearings before the House Subcommittee on Government Operations in November 1973. A Member of this Committee stated, in part, that it seemed almost incongruous that aliens could participate in illegal activity—working in violation of the Immigration and Nationality Act—and earn social security benefits. If their status had been known, they would not have been permitted employment, instead they might have been deported. If aliens are formally deported for illegal work in the U.S., they do not receive benefits. The member of Congress asserted that these wages/earnings were, in effect, illegally obtained with regard to the Immigration and Nationality Act. He further stated that if the employment upon which the entitlement is based was illegal, the law should require that the benefits be disallowed.

If legal resident and employment status were required in order to earn social security credits, we believe SSA could enforce it by implementing a two-phase process. In the first phase, SSA could delete any earnings and credits derived from such earnings when it discovers that an alien has reported earnings while violating the Immigration and Nationality Act.

The second phase of the enforcement process could be applied when aliens or their surviving dependents file application for benefits. At that time, SSA could require that sufficient evidence be provided by the claimant that the wage earner was in legal alien status and was authorized to be employed when his social security credits were earned. Otherwise, no credits would be allowed for earnings during any calendar quarter in which the wage earner was in violation of the Immigration and Nationality Act.

Conclusion

The Social Security Act does not prohibit aliens from earning entitlement to Social Security benefits based on earnings derived from covered employment in the U.S., even if the individuals were illegal residents, or legal residents who had engaged in unauthorized employment.

Under the Immigration and Nationality Act, both types of aliens may be deported if discovered for illegal entrance or violating their immigrant status by engaging in unauthorized employment.

There is a gap between the provisions of the Social Security Act and the Immigration and Nationality Act, which allows aliens to earn entitlement to Social Security benefits while violating the Immigration and Nationality Act. Consequently, millions of aliens both legal and illegal may have engaged in unauthorized employment and earned entitlement to Social Security benefits. The effects that benefit payments to these workers could have on the trust funds depend on their numbers and benefit levels.

The Congress may wish to consider whether aliens who work illegally in the U.S. should be allowed to earn entitlement to social security benefits for such work. If the Congress decides that aliens should not earn credits for illegal work, it could require proof of legal immigrant status before benefits are paid.

● Mr. MATTINGLY. Mr. President, I am pleased to support the efforts of the Senator from Oklahoma which rectifies inconsistencies in current law concerning social security payments to individuals who have worked in America illegally. Senator NICKLES' amendment will give the Social Security Administration authority to stop payment of benefits or credits from going to any alien who is in violation of U.S. employment and resident laws. In addition, it would require the wage earner or dependent to provide sufficient evidence to the Social Security Administration that wages in the system was earned while working and living legally in the United States.

Time and again throughout the past few weeks, as I have discussed the crisis the social security system is facing with citizens from Georgia, they have expressed their frustrations over misuse and abuse of the program. Often, they have mentioned this very issue, the payment of benefits to illegal aliens. The citizens of America realize that those who operate outside of the laws of this Nation should not be allowed to reap the benefits of Federal programs designed to aid our citizens. I believe recognition of this fact and action by the Congress is long overdue. Again, I am pleased to cosponsor the amendment of my colleague from Oklahoma.●

Mr. WARNER. Mr. President, as a cosponsor of this amendment, I rise to urge my colleagues to adopt its provisions. I had previously cosponsored the Senator from Oklahoma's legislation, S. 595, which would accomplish the purposes of this amendment, and would also reduce benefits to aliens living abroad. The average alien abroad has been receiving $23 dollars for each dollar contributed, compared to the average American wage earner receiving $5 for each $1 contributed.

The purposes of the latter aspect of S. 595 was adopted by the Senate Finance Committee in their recommendations for this bill. I commend Senator LUGAR and the members of the committee for this action.

The Government Accounting Office estimates that illegal aliens in America may be receiving from $900 million annually in social security benefits to $2.4 billion annually. When Americans are asked to make the sacrifices we are asking in this difficult compromise package to save the social security system, how can we allow aliens who have worked illegally in this country, who have perhaps prevented Americans from receiving gainful employment during this time of high unemployment, to skim possibly $2 billion from the depleted social security coffers?

I applaud my friend, the Senator from Oklahoma, for introducing both the legislation and this amendment to resolve glaring inequities in the current law. These inequities no doubt evolved unintentionally, but they are inequities which I am sure most Americans will want corrected now.

● Mr. LEVIN. Mr. President, I want to voice my opposition to the amendment offered by Senator NICKLES from which would eliminate social security benefits for some individuals who worked and contributed to the social security system while they were in this country illegally.

I share the Senator's concern of not encouraging or rewarding illegal immigration into this country. However, I could not support his amendment because it was overbroad and confiscatory.

I can understand why someone might want to stop the payment of social security benefits to individuals who are in this country illegally at the time that they are receiving the benefits.

But it is unfair to deprive an individual of social security benefits who has paid into the system for a number of years and who is now in this country on a legal basis, because they were here illegally when they were working. For example, under the amendment it would be possible for an individual to come into this country illegally and work for 40 years. During that entire time, they could have paid social security taxes. They could then go back to the home country for a few years, and then be readmitted to this country legally based on family bonds which may have been established earlier. Under the Nickles amendment, this individual would be ineligible for receiving social security benefits. The amendment specifies that benefits could only be collected if the individual can show that he is a U.S. citizen, or was once a U.S. citizen but has relinquished that status, or was once an alien who has legally admitted to work but gave up that status, or is now an alien who has been legally admitted to work. In the example I cited it is possible for an individual not to meet any of those criteria. Specifically, although the 70-year-old individual may be in this country legally now, she or he was admitted because of family bonds and not admitted "to work." I find it hard to believe that the authors of this amendment intended this effect, but it is the effect, nevertheless.

Also, this amendment is confiscatory because it would prohibit the payment of any social security benefits which are based on those working periods during which they were in this country illegally. In this case, the individual would not even be able to receive that portion of the social security benefits which were made up totally of their earlier contribution into the system.

I, therefore, oppose the adoption of the Nickles amendment, even though I share some of the frustration and anger of people with the present system and believe we should find equitable ways of avoiding rewards or incouragement for illegal immigration.●

Mr. MOYNIHAN. Mr. President, I cannot speak for the Committee on Finance but I certainly know the sentiments of its members and that this is a serious subject. We have made a major provision in the present law with respect to illegal aliens residing abroad and receiving benefits, one

which involves in effect taking from them their employer contributions, which were certainly a property right as far as I am concerned, but we did anyway. There is much to be learned. The Senator from Wyoming has spoken eloquently and calmly about the complexities. We will address those complexities in hearings and in orderly legislation which this body will not fail to take up, I am sure. Therefore, Mr. President, without prejudice to the provisions of the amendment as such but because we do not know enough about the subject and must learn much more, I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Indiana (Mr. QUAYLE) is necessarily absent.

I also announce that the Senator from Maryland (Mr. MATHIAS) is absent due to an illness in the family.

Mr. BYRD. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from California (Mr. CRANSTON), the Senator from Colorado (Mr. HART), the Senator from South Carolina (Mr. HOLLINGS), and the Senator from Georgia (Mr. NUNN) are necessary absent.

I also announce that the Senator from Delaware (Mr. BIDEN) is absent because of illness in the family.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 34, nays 58, as follows:

[Rollcall Vote No. 34 Leg.]

YEAS—34

Bentsen	Hecht	Mitchell
Bingaman	Heinz	Moynihan
Bradley	Inouye	Pell
Chafee	Jackson	Proxmire
Danforth	Kassebaum	Sarbanes
Denton	Kennedy	Simpson
Dodd	Lautenberg	Specter
Dole	Laxalt	Stafford
Domenici	Levin	Tower
Durenberger	Lugar	Tsongas
Eagleton	Matsunaga	
Glenn	Metzenbaum	

NAYS—58

Abdnor	Gorton	Percy
Andrews	Grassley	Pressler
Armstrong	Hatch	Pryor
Baker	Hatfield	Randolph
Baucus	Hawkins	Riegle
Boren	Heflin	Roth
Boschwitz	Helms	Rudman
Burdick	Huddleston	Sasser
Byrd	Humphrey	Stennis
Chiles	Jepsen	Stevens
Cochran	Johnston	Symms
Cohen	Kasten	Thurmond
D'Amato	Leahy	Trible
DeConcini	Long	Wallop
Dixon	Mattingly	Warner
East	McClure	Weicker
Exon	Melcher	Wilson
Ford	Murkowski	Zorinsky
Garn	Nickles	
Goldwater	Packwood	

NOT VOTING—8

Biden	Hart	Nunn
Bumpers	Hollings	Quayle
Cranston	Mathias	

So the motion to lay on the table Mr. NICKLES' amendment (UP No. 92) was rejected.

Mr. DOLE. Mr. President, I wonder if we might agree to accept this amendment based on the tabling motion. I have discussed it with the proponents and opponents of the amendment. There is no similar provision in the House-passed bill.

I can understand some of the concerns that have been expressed. I think even the author of the amendment indicates that there is one area that he is willing to address.

If we might do that, I think we could take care of some of the concerns in the conference.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oklahoma.

The amendment (UP No. 92) was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. NICKLES. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I will take a minute.

Given the importance of the legislation before us today, I would like to take a moment to state for the record the reason why my good friend and colleague, Senator BIDEN, is not able to be present for this session.

Senator BIDEN, as we all know, commutes daily from his home in Wilmington to Washington. As his train arrived this morning, he was greeted by the news that one of his sons had suffered a dislocated hip in a sports accident at school and had been rushed to the hospital, where he needed to be put under general anesthetic to have the hip put back in place.

As any good father or grandfather would, Senator BIDEN immediately took the next train back home and is with his son now at the hospital.

I am happy to report that the Senator's son is doing well, and I know that we all wish him a speedy recovery.

I yield the floor.

The PRESIDING OFFICER. The question recurs on the motion of the Senator from Rhode Island, amendment No. 88.

Mr. DOLE. Mr. President, will the Senator yield for 1 second?

Mr. METZENBAUM. I yield.

Mr. DOLE. The Senator from Kansas understands first the Senator from Ohio, Senator METZENBAUM, has an amendment pending. That will be modified by an amendment by Senators PERCY, DIXON, and LEVIN. When that is completed—and I understand the distinguished Senator from Oklahoma will speak in opposition to the amendment—we have an amendment from the distinguished Senators from Kentucky, Senators FORD and HUDDLESTON. That will be followed by a colloquy between myself and the Senator from Kentucky, Senator FORD. That will be followed by an amendment by the distinguished minority leader, to which I am not certain there is no objection, followed by an amendment of the Senator from Kansas.

I think, depending on the length of debate, if we can just stay on this area we might take care of a lot of the unemployment matters now.

UP AMENDMENT NO. 88, AS MODIFIED

Mr. METZENBAUM. Mr. President, I have an amendment pending at the desk and I now ask unanimous consent that I be permitted to send a modification of that amendment to the desk with the understanding that the Senators from Illinois and the Senators from Michigan may be permitted to reinsert the language which will be deleted from my amendment by modification, and without unanimous consent being granted I am informed that it would violate the rules of this body, and it is for that reason that I ask unanimous consent.

The PRESIDING OFFICER (Mr. COCHRAN). Is there objection to the request? The Chair hears none, and it is so ordered.

Mr. METZENBAUM. Mr. President, I send an amendment to the desk on behalf of myself, Senators RIEGLE, and LEVIN.

The PRESIDING OFFICER. The clerk will report the amendment, the modification.

The assistant legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes a modification to his amendment numbered UP 88.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment, as modified, is as follows:

On page 236, line 7, strike out "30" and insert "25".

On page 236, line 9, strike out "40" and insert "35".

On page 237, line 9, strike out "30" percent, 40 percent, 50 percent, and insert "25 percent, 35 percent, 50 percent".

On page 237, line 12, strike out the quotation marks and the second period.

On page 247, between lines 12 and 13, insert the following:

"(9) Any interest otherwise due from a State during a calendar year after 1982 may be deferred (and no interest shall accure on such deferred interest) for a grace period of not to exceed 9 months if, for such calendar year in which the interest was due, the State had an average unemployment rate of 13.5 percent or greater.".

Mr. METZENBAUM. Mr. President, the purpose of this amendment and the modifications which are to be suggested, which are to be offered, in a second degree by the Senator from Il-

Illinois and the Senators from Michigan and, I believe, the Senators from Kentucky as well, deal with a problem that has arisen by reason of the loans that have been made by the States from the Federal Government in order to continue to meet their unemployment obligations, and the Finance Committee, in its wisdom, has seen fit to provide some assistance but, at the same time, it provided some conditions in connection with the repayment of those funds. According to the committee report the bill requires State law changes which both increase revenues and decrease benefits by a total of 30 percent the first year, 40 percent the second year, and 50 percent the third year in order that the State may qualify for deferral of interest payments.

My amendment would change these numerical figures to 25, 35, and 50 instead of 30, 40, and 50.

The committee report stated that for interest due October 1, 1983, the change would have to affect benefits and taxes in calendar year 1984.

The committee bill is silent as to which calendar year the States' action must affect in order to qualify for deferral.

I now address this comment to the manager of the bill if I may have his attention for just one moment, if I could have the attention of the manager of the bill for one moment, Senator DOLE—I apologize to the Senator from Nevada—it is my understanding that in determining if a State qualifies for the deferral for interest due October 1, 1983, you look at the effect of the benefits and the tax changes in calendar year 1983, and I believe that my interpretation of that conforms with the staff on that subject. Would you confirm that for me, please.

Mr. DOLE. Yes; that interpretation is a proper one, 1983 would be the base year used for a determination on deferral of the interest owed in that year.

Mr. METZENBAUM. I thank the Senator from Kansas.

Now, another part of my amendment would provide that a State with high unemployment would be able to qualify for a 9-month grace period in which to remit the interest charges which are due. A State would qualify for this relief only if it has an average adjusted unemployment rate of less than 13.5 percent for the 12-month period immediately preceding the date on which the interest is otherwise due.

I hope the Senate will see fit to adopt the amendment but I believe there are two other portions of my amendment that I very strongly support, and it is now my understanding that the Senator from Illinois on behalf of himself, Senator DIXON and myself is prepared to offer that language that was originally in our amendment and has been set aside in order to accommodate the Senators from Illinois.

Mr. PERCY. Mr. President, I thank my distinguished colleague and my fellow midwesterner from Ohio for yielding for this purpose.

UP AMENDMENT NO. 93 TO UP AMENDMENT NO. 82 AS MODIFIED

(Purpose: To provide that deferred interest shall not be subject to further interest.)

Mr. PERCY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Illinois (Mr. PERCY), for himself, Mr. DIXON, Mr. METZENBAUM, Mr. HEINZ, Mr. GLENN, Mr. BOSCHWITZ, Mr. FORD, Mr. RANDOLPH, and Mr. SPECTER, proposes an unprinted amendment numbered 93 to Mr. METZENBAUM's unprinted amendment numbered 82.

Mr. PERCY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

At the end of the amendment offered by the Senator from Ohio add the following:

On page 235, lines 12 through 14, strike out "interest shall accrue on such deferred interest in the same manner as under paragraph (3)(C)." and insert "No interest shall accrue on such deferred interest."

Mr. PERCY. Mr. President, the pending amendment that I have at the desk I offer on behalf of my distinguished colleague, Senator DIXON, who is the principal cosponsor. I wish to state that he has worked on every aspect of this problem with me. His vast experience in the Illinois government caused him to be particularly helpful in causing the State now to face up to its responsibility to reduce benefits and increase contributions so that we can meet the problem faced by the State.

We are joined by Senators HEINZ, MOYNIHAN, FORD, RANDOLPH, BOSCHWITZ, GLENN, and SPECTER as cosponsors.

Mr. President, I would also like to express my appreciation to Senator DOLE for working so closely with us on this amendment and for his attention to the special problems facing Illinois and other very high unemployment States, including the State of Ohio.

I am very honored, indeed, to add as a cosponsor of the pending amendment the Senator from Ohio, who has been deeply concerned about the problems of employment and the very high cost attendant to that unemployment in Midwestern States.

Mr. President, I ask unanimous consent that Senator METZENBAUM be added as a cosponsor.

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

Mr. PERCY. Mr. President, while we hear a great deal of optimism lately about how economic conditions will improve, we must recognize that many States today remain in serious trouble. The unemployment situation in Illinois is nothing less than shocking. When other States stayed stable throughout the country, Illinois went up again last month. We are at 13½ percent, and 13½ percent of our workers without jobs means a tremendous tax on the State, on its income, and on this particular unemployment compensation fund.

In some urban areas in Illinois, 1 out of 4 people are unemployed. These terrible conditions are the primary reason that Illinois has been forced to go into debt to the Federal Government.

The severity of the State's employment problem brought Governor Thompson to Washington to testify earlier this month before the Finance Committee to ask for some temporary relief from the interest burdens being placed on Illinois. He requested that the 10-percent interest on new net borrowing be reduced, and subsequently asked for my help and the help of Senator DIXON in eliminating the compounding interest on this debt. My preference would be that we do as Governor Thompson suggested and make both of these changes.

The pending amendment seeks to cover only the elimination of compounded interest. We have discussed this in great detail with the distinguished manager of the bill. We recognize the problem, be we do urge the conferees on this bill to consider reducing the interest rate, as well.

Let there be no mistake about it, I support Senator DOLE's efforts to encourage States to put their unemployment systems in order. For this reason, I oppose attempts to eliminate or defer indefinitely all incentives for fixing the States' unemployment systems. In providing these interest incentives, however, we must be sure not to place burdens on the States which push them beyond the point of no return.

Over the last 30 years, the Federal unemployment trust fund has been strained by State borrowing attributed to two causes: A series of economic downturns in the last decade which have affected some States harder than others; and the inability or unwillingness of many States to either raise taxes or reduce benefits to keep their systems in balance. Because borrowing was interest-free until last year, there was little incentive for States to make the maximum effort needed to get their own houses in order.

In 1981, Congress faced the problem of attempting to balance two conflicting needs. It was our responsibility to make sure that the Federal trust fund remains fiscally sound so that it can continue to service the urgent funding needs of high unemployment States. Unnecessary borrowing was to be discouraged and States were to be given new incentives to tighten up their own systems. It soon became clear, however, that the States with the greatest debts to the Federal trust fund were States with continuing high rates of unemployment and severe economic

problems which made them least able to repay their debt in the foreseeable future.

In the Omnibus Budget Reconciliation Act of 1981, Congress enacted legislation calling for 10 percent interest payments on new net borrowing which was intended to decrease borrowing from the Federal Government. In addtion, some relief was made available to States with high unemployment problems by allowing employers to qualify, under certain conditions, for a cap on the so-called penalty tax. When the legislation reached the Senate floor, I offered an amendment, along with my colleague ALAN DIXON, to enable the State of Illinois to qualify for this relief, and the issue was ultimately resolved on the floor.

Since that time, economic conditions in my State have deteriorated. The 1982 unemployment insurance defict in Illinois was $800 million and, even if the State had paid benefits at the level of the national average, our higher unemployment rates still would have caused a deficit, estimated to be about $545 million. This is in spite of a substantial effort to redice the costs of the State system by enactment of a $500 million package in 1981 of increased taxes and reduced benefits. Additional efforts are underway in Illinois right now to further tighten up our system.

Governor Thompson, business, labor, and State legislative leaders, have been meeting over the past 4 weeks in Chicago and Springfield to fashion a new package of higher taxes and reduced benefits in order to limit as much as possible additional borrowing. I know our Governor met in Chicago with Chairman DOLE on January 19, with other Governors in attendance, as well.

The elimination of the compounding of interest on Illinois' debt will save the State an estimated $40 million over a 4-year period. The remaining 10 percent interest on the debt will still place a heavy burden on the State—a burden which is more than is really needed to encourage it to fix its unemployment system.

I hope the conference can look at this point and consider reductions in the level of interest payments.

However, this $40 million savings represented by the pending amendment is a first step in the right direction.

I urge my colleagues to support it.

Mr. DIXON. Mr. President, I wish to thank my warm friend and distinguished senior colleague for those fine remarks. I am honored to cosponsor with him this amendment which is significantly important for our State.

Mr. President, I would like to take this opportunity to thank the distinguished chairman of the Finance Committee, BOB DOLE, for his attention to the critical problems of my State of Illinois, as well as others, which have incurred a substantial debt to the Federal Government for unemployment insurance.

As we all know, there are many reasons for these debts, and the solution to solvency is not a simple one.

I wish to say to my distinguished friend from Louisiana, who has been kind enough to listen to my concerns in regard to this problem in my State and many similarly situated States, that through the leadership of our Governor and the State legislature, in cooperation with labor and business leaders, we are working on the final details of a package of $1.151 billion in tax increases and $777.3 million in benefit cuts to shore up this system. Now, that is a pretty bitter pill to swallow. It will be introduced as an amendment to House bill 327, which is currently before the Illinois State Labor and Commerce Committee. This is in addition to $500 million in reduced benefits and increased taxes in 1981.

This is a major change, Mr. President. But it is necessary in order to show the Federal Government that our State is making a substantial effort to meet a very substantial problem. I do not want to leave the impression that Illinois has been irresponsible, for we have not. Our tax effort is well above the national averge—27 percent above and 12th in the Nation to be exact. But we are also third among 10 large States in unemployment, with a 13.5 percent rate in February. The length and depth of this recession is something that was never figured into our unemployment insurance system. It is designed to have some surplus in good times to carry States through during the bad. But the bad times have endured longer than that system could support.

I believe that any assistance that the Federal Government can offer to the 31 borrowing States should be, in effect, a partnership of responsibility. The States should show a goodfaith effort at making change in their systems which will contribute to improved solvency. Unemployment is a national problem—it is not the sole responsibility of States and local areas. Our economic difficulties affect each State, and have an impact on the world economy as well. Therefore, it is right for the Federal Government to be involved in aiding States to pay back their debts.

We are not asking for forgiveness of these debts. We are asking for a reasonable way of allowing us to pay them, a way which will not jeopardize the overall recovery effort. If we tax businesses to the point where they lock their doors and lay off more people, rather than hiring those already out of work, unemployment will increase and the overall solvency problem will be exacerbated. If we cut benefits to the point where people cannot meet even their most basic needs, then the system is no longer doing what it should.

The amendment proposed by Senator PERCY and myself, as well as others, would improve the package of assistance being proposed by the Finance Committee. It would eliminate the accrual of interest on the interest payments being deferred under the plan. This will mean a savings of that interest on interest of $30 to $40 million for Illinois, over the 3 years.

Again, I commend my friend from Kansas for addressing this critical problem, and for keeping further options open to improving this package. I have never seen Senator DOLE duck an issue of grave importance that has been within the purview of his committee, and some of those issues have been tough to address.

Mr. President, I also wish to thank my colleague, my colleague and warm friend from Louisiana, the ranking member, RUSSELL LONG; and my colleague from Ohio, who has accommodated us.

I earnestly hope that the Members of this body will support us in this effort to help those very tragically affected major States of this Union which have suffered under a terrible burden of high unemployment for a great many months.

Mr. HEINZ. Mr. President, I rise in strong support of the amendment of the Senator from Illinois, Senator PERCY. I agree with him in every respect in his excellent analysis of the situation of States like Illinois, Pennsylvania, and others, that are burdened heavily with the costs of this recession, where people have been forced out of work for longer periods than we have experienced in our recent memory.

His amendment will eliminate the interest on the interest, the compounding. Frankly, in my judgment, it is a very small step we should take to improve the Finance Committee package.

I particularly want to emphasize his point that it would be extremely helpful to States like Pennsylvania, Illinois, and other of the urban, industrial States that are having to set their houses in order, if the interest that is now 10 percent by statute could be further reduced.

It is my understanding—and I would like the attention of the chairman of the Finance Committee if he would be so kind to respond to some questions—that in 1983 there would be a revenue loss or additional borrowing to the Federal Government somewhere in the neighborhood of between $230 million and $320 million. Does the Senator from Kansas know if that is approximately correct, depending on the number of States?

Mr. DOLE. I am advised that is approximately correct.

Mr. HEINZ. In 1984 there would be a favorable impact on the Federal Government in the way of reduced borrowing of somewhere between $700

million and $1.025 billion. Is that about correct?

Mr. DOLE. I am advised that is about correct, yes. Keep in mind that such an effect will only occur if State legislatures make certain reforms in the UI programs.

Mr. HEINZ. And, again, in 1985 there would again be a favorable impact on Federal borrowing of between $82 million and $172 million. It is only in 1984 that there would be any unfavorable results, somewhat minimal, somewhere between $180 million and $75 million unfavorable cash flow for the Federal Government. Is that correct?

Mr. DOLE. As I understand, that is correct, provided the borrowing States take the action necessary to reform their systems.

Mr. HEINZ. Mr. President, I thank the Senator from Kansas for responding to those questions. As I add up those numbers, and taking the most conservative assumptions, it means that over the 4-year period 1983-86, we could expect a favorable impact by passing this legislation, including Senator PERCY's amendment which would have a reduction of some $40 million and the impact, that the Federal Government will come out about $340 million better off as a result of what the Finance Committee has done.

Mr. President, that suggests to me that there is room in conference to get some additional relief to our hard-pressed States. It is my hope that the conferees, both the Senate conferees and the House conferees, will bear in mind the already significant burden that our States bear and indeed will make every effort to achieve relief. In terms of this Senator's priorities, I would hope the first place we would look would be at the interest rates that we are now charging the States and we would seek to lower the 10 percent.

Mr. BOREN addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BOREN. Mr. President, I am certainly in sympathy with the situation being faced by the States, and the situation explained by the Senator who presented this amendment. I think all people in the country have compassion for that situation. I am told that in some of these States the benefits have been cut. I believe the Senator from Illinois, Senator DIXON, told me that benefits have been cut some $700 million in the State of Illinois and revenues increased over $1 billion. Certainly, those kinds of efforts have been brought about because of the economic necessities of those States and deserve the understanding, the thoughtful understanding, of all the rest of us, particularly those from States which have, to some degree, escaped the full impact of needing to take actions of that magnitude.

But I am concerned that we not go too far in what we are doing. I think that those who represent these States would understand that if we were to open the door too far, we would take all the pressure off from all the States to take actions that are necessary to keep their financial houses in order.

Over the past 3 or 4 years, the Finance Committee has worked very, very hard to bring about some positive changes in the unemployment compensation program. In many cases, the programs have been tightened up, the costs have been reduced, and certain categories, such as those who have voluntarily quit their jobs as opposed to those who are unemployed, have been no longer qualified to receive benefits. These were changes that were long overdue. In fact, we went for some 40 years in this program without any changes at all in the area of saving any costs. I am told from the period of time when the program was first adopted, it was not until the Finance Committee took action some 3 or 4 years ago that a single dollar was ever saved out of that program, that costs were reduced by even 1 penny. Every single change in the intervening decades have been changes which added costs to the program.

So I am concerned that we not go too far while reacting and responding to what is truly a financial emergency. While we attempt to be very understanding, we also have to realize that there are some States which have taken even more drastic actions than others. I believe the State of Michigan and the State of Louisiana have met this 30-percent threshold change. They reduced their benefits or raised their revenues as much as 30 percent.

If we were to go too far or if the Senator from Ohio was proposing an amendment saying to go to 5 or 10 percent, I assure you I would be opposing it, not only from the point of view of the general public in the States but of the States which have measured up to this very high standard. It would not be fair to Michigan or the other States which have taken actions for us then to say, "Now that you have taken the tough actions we will pass something to water down the requirements so that other States can come in under an easier test."

This is a modest change that we are talking about, a 25-percent cut in benefits or increases in revenues. Certainly, I would agree with the Senator from Ohio that is not minor but it is a harsh degree of the sacrifice required.

I am not going to oppose that portion of the amendment. I would ask the Senator from Ohio if he understands the point we are making and if he will help us in the future, that we not have a recurring year after year effort to water down these standards too much because they do need to keep pressure on in some of the States to assure that those State governments react in a responsible way.

I would hope he would be willing to join me in this effort, and in this case if we try to show sympathy and understanding we not make this a recurring situation year after year to do that.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. I very much appreciate the thoughts expressed by my good friend, the Senator from Oklahoma. The points he makes have validity. I appreciate very much his referring to this matter, not making a battle royal in connection with the pending amendment but raising his concerns, voicing them.

Certainly, we share those concerns and we look forward to working with him to see to it that we do not have to return time after time for the same kind of special consideration.

Mr. BOREN. Mr. President, I thank the Senator from Ohio. I might just ask the senior Senator from Illinois—the other part of the amendment envisioned in the change from the 30 down to 25 percent to the threshold is a matter of the interest penalty that has been raised by the senior Senator from Illinois and the Senator from Michigan and the junior Senator from Illinois and others. Would it cause problems if we only provided this removal of the compounding of the interest for, say, a 2-year period and still be able to defer for 4 years, but give us a chance to look at this again in 2 years? Or would this create an undue problem?

Mr. PERCY. Mr. President, first, let me say to my distinguished colleague that I have listened attentively to his concerns. I very much appreciate his willingness not to object at this time. As a former Governor, I think he can walk in the shoes of Governors of States such as Illinois that have such a tremendous influx of immigration.

We have a problem unlike Oklahoma's, in many respects, where we have structural unemployment. We do stand 10th, because of the very high cost of living, among States in benefits paid, whereas Oklahoma, because of its more favorable conditions, is 49th in that regard and owes no debt whatsoever. Illinois' debt is a crushing $2 billion.

In answer to the specific question of whether we should sunset this in 2 years, I think it would cause some real concerns. The compounding which I am asking be deleted, would not have kicked in until the second year anyway, thus, a 2-year sunset would provided little relief. I assure my colleague that our Governor and State legislature, as testified to by my distinguished colleague (Mr. DIXON), are doing everything conceivable to face up to this situation—reduce benefits, increase the income to this fund, and reduce this debt—just as rapidly as they possibly can.

Two years may simply be too soon. The compounding effect compounds the problem, obviously. Emotionally, as I explained privately to my distinguished colleague, this has been a source of great agitation and concern.

I think this step alone—I hope in conference, we can look at the rate we actually do charge. Even with adoption of the amendments before us, Illinois will have $70 million in interest alone added to its debt owed the Federal Government next year. Compounding of this interest would place excessive and unnecessary burdens on a State already under tremendous strain. Given these factors, I hope we would not eliminate compounding for only 2 years.

Mr. BOREN. Will the Senator yield?

Mr. PERCY. Yes.

Mr. BOREN. There is not a provision like this in the House bill, is that correct, at this time?

Mr. DIXON. There is not.

Mr. BOREN. Therefore, in terms of the proposal we are talking about now, there would be no possibility that the figures would come out of the conference any less stringent; the least possible stringent standards that would come out would be the standards in this amendment, is that correct?

Mr. PERCY. Yes. I point out, Mr. President, that the compounding figure we are talking about does not kick in until near the end of 1984.

Mr. BOREN. Mr. President, I appreciate the comments that my colleagues have made. I did come to the floor because I am concerned. As I say, we have made such progress in the Committee on Finance on this subject, I think it is something we do not want to engage in a massive retreat from. At the same time, I do not think that we should take the position that we are so locked into what we have done in the past that we shall not consider the suffering that is going on in parts of this country right now.

I know the people in my State have been fortunate. We are one of the two most fortunate States in this category. It is also partly because we have had the most massive changes in our unemployment compensation laws. That is part of it, too, at the States level. We have completely rewritten our law in the past decade.

We do have a strong feeling that we are a part of this country and that we cannot stand by and have others suffering in other parts of the country without its ultimately reflecting on our own people. We do want to be helpful to those in other parts of the country.

Mr. President, I shall just say I am not going to lodge any objection. I shall not ask for any rollcall. I shall not oppose this amendment. I appreciate the sensitivity that my colleagues have expressed to the need to keep the system stringent so that we do not just open the doors so widely that States no longer have an incentive to take action. I hope that we can hold this at this point now and that we shall not see further attempts in the future to weaken the standard.

I appreciate the time of my colleagues, but I did think it wise that we have an airing of this. I can say to all of them that they have been very persuasive and forceful in the arguments that they have made. I am sure the people in their States appreciate the efforts which they have made here, on the floor, in their behalf.

Mr. METZENBAUM. Mr. President, I think we are going to concur on this matter. I think there is pretty general agreement that it is a good amendment. Do I understand the Senator from Michigan (Mr. LEVIN) wishes to be recognized to speak on this matter on which he is a cosponsor?

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, let me just thank my friend from Oklahoma for his usual reasonable approach on this. As he knows, we spoke on this in private and after this amendment is accepted and adopted, I shall be offering an amendment which does the same as the earlier act, avoiding compounding the interest on the tougher act, which we adopted a few months ago—just as the Percy-Dixon-Metzenbaum-Heinz amendment would avoid compounding it on this act.

I just wanted the Senator to know that I shall be offering that. I do thank him very much for his position.

Mr. BOREN. I thank the Senator very much. I do understand his amendment is the same. For the reasons already stated, I shall not be lodging any objection to that amendment.

Mr. DOLE. Mr. President, I also commend the distinguished Senator from Oklahoma because, as he indicated, we have made some substantial progress in the Finance Committee. We relied, I say for the record, largely on the expertise of the Senator from Oklahoma in this field. We appreciate his assistance in the committee and his constructive remarks on the floor today.

Let me reassure the Senator from Oklahoma and other Senators, because there are some States that are not borrowing, we cannot continue taxing nonborrowing States to take care of those who are borrowing, even though some of the borrowing States are among the hardest hit—Ohio, Illinois, Pennsylvania, Michigan—by the recession and high unemployment.

When I met with some of the Governors in Chicago earlier this year and later here in Washington, the demands they made were great. They wanted interest forgiveness; they wanted reduced interest rates; they wanted no compounding on interest—we have agreed on that—they wanted forgiveness of old loans, and they wanted to apply mandatory payments to interest-bearing loans before repaying old loans. They had a laundry list that would not stop.

It seems to this Senator we can try to accommodate some of their concerns, because many States are in a real financial bind. However, many States, particularly Michigan, Louisiana, and the District of Columbia, have made rather Draconian changes in their systems. They stand as examples to such States as Pennsylvania and Ohio. There can be some relief without abandoning the principle of tightening up the State programs. That is what we tried to do in the Finance Committee proposal.

I think we should encourage States to continue to make changes as Illinois is about to do. I understand that in a few days, based on the agreements reached by the political leadership in that State, organized labor, management, and others, Illinois may enact some real reform.

I assure the Senator from Oklahoma that there is no effort here to abandon what we believe are some of the most important changes in the UI field in many years—the Omnibus Budget Reconciliation Act of 1981 reforms.

Mr. President, I have agreed to support the amendment offered by the Senators from Illinois and the Senators from Pennsylvania even though it represents a liberalization of the interest requirements enacted as part of the Omnibus Budget Reconciliation Act of 1981. The Percy/Dixon/Heinz/Specter amendment removes the requirement that interest be charged on the interest deferred as a result of the 5-year deferral which is provided under this bill.

There is no doubt that this amendment will have a fiscal impact. The Federal Government will forego the collection of interest on deferred interest and this is a sum which will never be recouped. The record should indicate that is what will happen.

However, it is my view that the big borrowing States may need additional encouragement to bring their programs to solvency. These States also may need additional time before the payment of large sums of interest to the Federal Treasury. The loan and interest relief provisions of S. 1 do provide the additional incentives and time for States to reform their State programs. Unfortunately, economic conditions in those States have been such that the payment of a large interest liability could be crippling to the reform effort itself.

The Percy amendment, preventing the accrual of interest on deferred interest, would result in a major benefit for the big borrowing States. Interest will still be paid by the States on the original borrowing, however, they will be relieved of the burden of a constantly growing interest liability.

This is a major amendment providing substantial relief. It represents a concession on the part of all taxpayers in nonborrowing States—the very point the Senator from Oklahoma made.

I trust, as we have already had some indication, that my colleagues representing the borrowing States will recognize this concession and that they will make an effort to encourage their States to accept this relief and go

about the business of reforming the State systems.

I understand that a number of Senators wish to cosponsor this amendment, including Senators DANFORTH, BOSCHWITZ, FORD, HUDDLESTON, and RANDOLPH.

I have been discussing with Senator PERCY why we cannot change the interest rate charged on State borrowing. We have made a reduction in cases where the States have made big changes. But the interest rate charged the States on new loans is the same interest rate that the Federal Government pays the solvent States with reserves in their unemployment accounts deposited with the U.S. Treasury. The rate charged to the States is capped at 10 percent. Thus, the States are charged a fair interest consistent with the interest rate paid by the U.S. Government.

So I would say to Senators that I realize that they are going to have inquiries from their Governors and others as to why we cannot get the interest rates down.

Well, we suggested to the Governors that if we could pay them less interest on the reserves, maybe we could charge less interest on borrowing, but that did not seem to ring the right bell.

I want to assure everyone that we believe we have provided some relief to the States who face a difficult time and serious unemployment problems. At the same time we have not gone overboard on relief. We know there are other States watching what we do to see if we are discriminating against States who refused to borrow but chose instead to tighten their programs.

The Finance Committee reported a responsible loan and interest relief provision which is deserving of the support of the full Senate. The committee developed a plan which will allow a State to spread the interest it owes on borrowing from the Federal Government over a 5-year period. The State can also qualify for a reduction of 1 percent in the interest rate charged on borrowing. Additionally, a State which does not qualify for the full cap on the loss of Federal unemployment tax (FUTA) credit may now qualify for a partial cap.

Some action on the State's part for this relief is, of course, necessary. The Finance Committee proposal requires States to make progress toward solvency of 30 percent the first year, 40 percent the second year, and 50 percent the third year to qualify. Senator METZENBAUM'S amendment changes those levels to 25 percent and 35 percent. If the State makes an effort to reach solvency which increases those percentages to 50, 80, and 90, the interest rate charged on borrowed funds will be reduced by 1 percent.

This limited relief will have a Federal budget impact. The loss to interest paid to the Federal Government could total as much as $319 million in fiscal year 1983 and $483 million in fiscal year 1984. The partial cap of the FUTA credit loss will also have an impact—$145 million in fiscal year 1984 and $300 million in fiscal year 1985. However, the committee recognized the fact that the current recession has been deeper and more prolonged than we expected in the summer of 1981 when the interest requirement was enacted. Therefore, the committee was willing to make some temporary changes in the current law in order to allow States extra time to enact the necessary State law changes to bring their programs closer to solvency.

Some background may be helpful to put this whole issue in perspective. Twenty-six States, plus the District of Columbia, Puerto Rico, and the Virgin Islands have totally exhausted their unemployment benefit reserves. These jurisdictions have received Federal loans of over $11 billion and more borrowing is certain. The account in the Federal unemployment trust fund from which loans to States are made is also insolvent and general Treasury borrowing has become necessary. In total, over $15 billion has been loaned to the States over the past 10 years.

Obviously, the current insolvency of the unemployment trust fund is not a new development. In fact, in the early and mid-1970's, 25 States and jurisdictions depleted their trust fund reserves and required advances from the Federal Treasury. Many of the debtor States repaid their advances. However, 11 of the 25 States have been in debt continuously since then, and 4 others have repaid loans only to borrow again a short time later. Obviously, a number of States did not permit reserves to build up in their trust funds during the recovery years as is the purpose of the account system. Some States, such as Pennsylvania, instead used the brighter economic picture as an excuse to lower taxes and increase benefits.

Under the law in effect in the 1970's, it made good fiscal sense for a State to borrow from the Federal Government to meet benefit costs. After all, the loans were interest free and repayment was not required for up to 2 to 3 years after the loan was made. A State's employers were supposed to experience a loss of the credit against the Federal unemployment tax, but Congress passed several delays of the offset. Credit reductions were not imposed for loans outstanding from 1975-80. Finally, credit reductions were effected and, as of January 1, 1983, 16 States and jurisdictions are experiencing credit reductions.

Congress recognized that the brakes had to be applied to unlimited State borrowing. In the 1981 Reconciliation Act, we enacted the interest and loan reform provisions which a number of States are seeking to escape this year. First, interest of up to 10 percent is now charged on loans made after April 1, 1982, except those classified as "cash-flow." Second, States are allowed to "cap" the automatic FUTA credit reductions if certain solvency requirements are met. Since the enactment of these provisions, some 22 States have made changes in their State laws to increase solvency. A number of States have made truly remarkable reforms—Michigan and Louisiana are the primary examples.

Other States have, unfortunately, chosen not to take the high road. Instead, those States have continued to borrow and to incur large interest liabilities. Some States have expressed the view that Congress will "bail" them out by eliminating or "forgiving" the interest liabilities. Some States even believe that the Congress will forgive old loans and reschedule payment of new loans. We have heard some States say that they will simply refuse to pay and that the Federal Government will be unable to enforce the interest charges. Other States threaten to increase the taxes on employers in the State to pay the interest charge. Few States have been willing to make the reforms necessary to eliminate or at least reduce the need for borrowing.

What does State borrowing and the failure to repay loans mean to nonborrowing States? In essence, it means a tax increase on every citizen in the solvent, responsible States. The Federal Treasury does not borrow in the private marketplace interest free. The cost of Federal borrowing contributes to the deficit and is thus passed on to every taxpayer.

The Finance Committee proposal responds to the needs of the debtor States, but it does not ignore the solvent States. Further changes which may be proposed on the floor or suggested in conference could upset the balance which the Finance Committee has attempted to establish. Allowing States to escape interest charges effectively forces the States with fiscally sound programs to subsidize States that fail to balance benefit expenditures against tax revenues.

Providing relief to States simply on the basis of unemployment rates higher than the national average ignores the fact that a number of States with high unemployment—Oregon and Alaska, for example—have not borrowed but have instead reformed their programs to bring outlays and expenditures closer into balance.

I urge my colleagues to support the Finance Committee loan and interest provision modifications with no further changes. We are close to the point at which the administration may just refuse to approve loan and interest relief at all. Let us not jeopardize what we have accomplished.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania (Mr. SPECTER).

Mr. SPECTER. Mr. President, I thank the distinguished Senator from

Kansas and the distinguished Senator from Oklahoma for their comments in support of these amendments which will provide significant relief for States like Pennsylvania, Michigan, Illinois, and Ohio.

After listening to the debate on the subject this afternoon, I should like to briefly comment that there is more involved in this issue than the reform of unemployment compensation programs. The central problem arises because of the very, very high unemployment levels in States like Pennsylvania, Ohio, Michigan, and Illinois. That is the central issue for which we have not yet found an answer.

Two months ago, when the unemployment rate nationally declined from 10.8 to 10.4 percent, the unemployment rate of Pennsylvania increased from 12.9 to 13.7 percent. We truly face a national problem. The unemployment rate in Pennsylvania turns significantly on the serious situation in the American steel industry, which is compounded by the problem that the Government has taken ineffective stands against dumping by foreign importers. The International Trade Commission shows that subsidies of British steel were in the range of $250 a ton, but compromises were worked out on that issue largely in recognition of foreign relations between the United States and Great Britain and the implications of the North Atlantic Treaty Organization. The impact of automobiles turned on relations between the United States and Japan. This is truly a national problem where some States as a result of a great many factors have incurred great disadvantages.

The central factor of this unemployment compensation problem is the unemployment rate itself. So that when the distinguished Senator from Kansas relates to the comments about the laundry list that the Governors of a number of States have presented, they are talking about some very serious long-range problems which may have to be addressed on another day.

I thank my colleagues from States which have not incurred this kind of problem for their consideration, and I think that the step taken on the absence of interest, on the compounding factor, and the delay of interest is a significant step forward. However, we cannot lose sight of the underlying problems and the necessity for a national approach to this problem which has resulted in some States being hit harder than others. The problem is far beyond the control of those individual States and to a significant extent is because of national objectives on foreign policy resulting in national policies which worked to the disadvantage of a few States like Illinois, Michigan, Ohio, and Pennsylvania.

Mr. President, I yield the floor.

● Mr. BOSCHWITZ. Mr. President, I rise to express my support for Senator PERCY's amendment. I am a cosponsor of his amendment because I feel it is necessary to offer some relief to States who have experienced high unemployment for a long period of time; 29 States are now borrowing from the Federal unemployment trust fund because they do not have the money to pay the unemployment claims. Over 225,000 Minnesotans are unemployed, with over 125,000 in actual claim status. The drain on the financial system has been enormous.

Minnesota requested $43 million for the month of March, and due to the shortfall in the trust fund received only $18 million. Hopefully we have resolved this problem by passage of the supplemental appropriations bill, but Minnesota will still have an outstanding loan of $400 million by the end of this month.

To put this in perspective—Minnesota's tax collections for the UI program are projected to be only $200 million this year.

According to the State's department of economic security, they are paying 10 percent interest on $208 million this year, plus paying the three-tenths of 1 percent penalty from last year. This penalty adds another $25 million to the bill.

The amendment now being offered would partially relieve States like mine, by eliminating the requirement that States pay interest on the interest charged them. This will save Minnesota several million dollars.

I also am strongly supportive of the work the Finance Committee has done to help out the States who are borrowing. Their proposal to allow deferral of payments to States who have made honest efforts to resolve their financial difficulties is a welcome step. I appreciate Senator DOLE's cooperation and responsiveness on this issue.

I believe that the Finance Committee's efforts, along with this amendment, will go a long way toward putting State UI programs into the black.●

Mr. RIEGLE. Mr. President, I rise as a cosponsor of the amendments offered by my colleagues from Michigan and Ohio. These amendments constitute modest but important relief for high-debt States devastated by the recession.

Nowhere have the disastrous effects of this recession been felt more keenly than in my State of Michigan. Michigan has sufferd double-digit unemployment for 38 consecutive months. In order to pay unemployment benefits to its jobless workers, Michigan has incurred a debt to the Federal Government that exceeds $2.3 billion. Michigan is forced to pay over $216,000 per day in interest charges alone. Estimates indicate that Michigan will owe almost $275 million in interest charges during 1983-86. Michigan is a proud State struggling to recover from the economic agony that it has suffered. It has enacted major reforms in its unemployment insurance laws to accelerate the repayment of its debt. The staggering interest charges it faces, however, make its recovery exceedingly difficult. The interest relief embodied in the Metzenbaum and Levin amendments will help speed the recovery in Michigan and other industrial States.

The Metzenbaum amendment provides a 9-month grace period for interest payments due on October 1 for those States whose unadjusted employment rate for the prior 12 months equals or exceeds 13.5 percent. This provision will benefit those States which continue to suffer exceedingly high unemployment by granting them more time to raise additional revenues. While it does not forgive the interest payments due, it provides needed relief for high unemployment and high debt States such as my own.

The Levin amendment permits a waiver of all interest assessed on amounts permitted to be deferred under the Tax Equity and Fiscal Responsibility Act of 1982. This provision simply mirrors the interest waiver that other States will receive on amounts they can defer as a result of a provision in this bill. Estimates indicate that this interest waiver will save Michigan $11.3 million during 1984-86.

I urge my colleagues to join me in support for these important amendments.

The PRESIDING OFFICER. Is there further debate on the amendment of the Senator from Illinois?

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. As I originally indicated, this amendment was a part of the original amendment. It obviously has good support on the floor. We appreciate the consideration given to it by the Senator from Oklahoma. I am prepared to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 93) was agreed to.

UP AMENDMENT NO. 94 TO UP AMENDMENT NO. 88 AS MODIFIED

(Purpose: To provide that no interest shall accrue on any deferred interest.)

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

Mr. FORD. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. This is an amendment to the amendment of the Senator from Ohio.

Mr. METZENBAUM. Correct.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Michigan (Mr. LEVIN, for himself, Mr. RIEGLE, and Mr. METZENBAUM), proposes an unprinted amendment numbered 94.

Mr. LEVIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 237, between lines 14 and 15, insert the following: (c) Section 1202 (b)(3)(C)(i) of the Social Security Act is amended by striking the matter that follows clause (II) and inserting "No interest shall accrue on such deferred interest."

Mr. LEVIN. Mr. President, this is a second-degree amendment to the Metzenbaum amendment, and I believe it is acceptable to the committee and acceptable to Senator METZENBAUM.

A few months ago, Mr. President, we agreed to defer interest under certain circumstances on loans from these funds. Today we are agreeing to defer interest under other circumstances for other States for loans from these funds. We have just agreed to the Percy-Dixon-Metzenbaum modification which says that on the deferred interest we will not be compounding interest, we will not require those States to pay interest on interest. The amendment which I have just sent to the desk does the same thing for the deferred interest under the bill which we just adopted a few months ago called the Tax Equity and Fiscal Responsibility Act of 1982 that we are doing on today's bill. It would in effect say, for the same reasons, that we do not want to charge interest on those deferred payments as we are deciding today not to charge interest on interest on the deferrals that we are allowing today.

I might just quickly say that my State of Michigan, which benefited under that early act, has increased taxes by $2 billion and cut benefits by $1 billion. It is the kind of Draconian action which the chairman has referred to. We have taken that bitter medicine.

We are very appreciative of the work of the chairman of the Finance Committee in working this out with us. He has been extremely accommodating, I must say again, as in so many other matters that come before the Senate, in the first instance a few months ago in working it out so that we could get some relief on the interest, and now some relief from the compounding interest in today's bill.

I also want to thank the Senator from Ohio for accepting this amendment, for working through this process with us. We have worked very closely with him, as we have worked very closely with Senator DOLE. He is the principal cosponsor along with Senator RIEGLE of my modification to his amendment. I am very happy that he has agreed to go at it in this way, and again my thanks to the chairman of the Finance Committee.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, the amendment of the distinguished Senator from Michigan and cosponsors is a good amendment, one of those we talked about at an earlier point. I am happy to accept his amendment to my amendment.

Mr. DOLE. Mr. President, the amendment of the Senator from Michigan is consistent with what we have just done with regard to the Percy amendment. The amendment should be adopted. We support the amendment.

I was just explaining to the Senator from Michigan that if anybody does not understand what has happened in his State, they should take a look at loan projections based on the President's budget assumptions and provided by the U.S. Department of Labor, dated March 15, 1983. These projections indicate that Michigan is borrowing about $1.1 billion in 1983, $816 million in 1984, $606 million in 1985, $294 million in 1986, down to $87 million in 1987, and zero in 1988. These figures take into account the substantial reforms enacted by the State legislature in December 1982 under the leadership of then Gov. Bill Milliken.

These DOL figures are based on assumptions, but they do indicate the magnitude of the changes made in that State. They also provide an indication of why we believe we are justified in providing some relief for States like Michigan, which have made such drastic changes.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 94) was agreed to.

The PRESIDING OFFICER. Is there further debate on the amendment of the Senator from Ohio?

Mr. METZENBAUM. Mr. President, we are about ready to act on this amendment, as amended by both second-degree amendments, but before doing so, I should like to express my appreciation to the Senator from Kansas, the manager of the bill. He has done that which he felt necessary in order to send a strong and loud message to the States, as well as to see to it that the States do try to catch up with their arrearages and meet their obligations to the Federal Government. Yet, he has been understanding enough to make it possible for this amendment, as amended by the two second-degree amendments, to be considered and to be acted upon. I express to him my appreciation for his cooperation on the floor of the Senate.

I wish I could say the same about the Department of Labor, because in considering this amendment, we attempted to find out from the Department of Labor what the projected interest payments were, on a State-by-State basis, through 1988. For some reason unbeknown to me, they indicated that that information had a kind of confidentiality about it, which I cannot understand. They talked about it being State sensitive.

I have heard a lot of things around this community being marked confidential and privileged, and so forth, but I cannot understand why figures such as that are State sensitive from the Department of Labor.

I wish to advise them, in loud and clear tones, that I do not expect them to refuse any Member of the Senate or any Member of Congress any information of this kind, unless there is some special law that makes it possible for them to do so.

Having gotten that off my chest, Mr. President, I am happy to proceed with action on this amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

The question is on agreeing to the amendment.

The amendment (UP No. 93), as amended, was agreed to.

Mr. METZENBAUM. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I had omitted one matter. I ask unanimous consent that the name of my colleague from Ohio, Senator GLENN, be added as a cosponsor of my amendment.

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

UP AMENDMENT NO. 95

(Purpose: To change the date after which a State solvency action must have been taken)

Mr. FORD. Mr. President, I send to the desk an amendment on behalf of myself and my colleague, Senator HUDDLESTON, and I ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the Bradley amendment will continue to be set aside.

The amendment of the Senator from Kentucky will be stated.

The bill clerk read as follows:

The Senator from Kentucky (Mr. FORD), for himself and Mr. HUDDLESTON, proposes an unprinted amendment numbered 95.

Mr. FORD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 235, line 23, strike out "October 1" and insert "March 31".

Mr. FORD. Mr. President, this amendment that I and my colleague from Kentucky, Senator HUDDLESTON, are offering is of a technical nature. It moves back the effective date from October 1, 1982 to March 31, 1982, for

purposes of allowing States to participate in the unemployment loan interest deferral program if a sufficient solvency effort is undertaken.

This will enable Kentucky, which on April 1, 1982, approved tough legislation saving money in its unemployment compensation system, to qualify for the loan deferral provisions in this bill. Kentucky's April 1982 legislation retroactively increased employer taxes as of January 1, 1982, and prospectively reduced benefits as of July 1, 1982. The result of this legislation, according to February figures from the U.S. Department of Labor, is that Kentucky employers now have the highest average tax rate in the Nation as a percent of taxable wages and the fifth highest average tax rate as a percent of all wages.

The provision in the Finance Committee bill which allows States to defer interest payments that are due on October 1, 1983, is designed to assist States that have made a major effort to find savings in their unemployment compensation system, but that because of the continued recession still must borrow from the Federal Government.

The Senate Finance Committee bill would allow States to qualify only if they made changes in their unemployment compensation system after October 1, 1982. Kentucky made changes in 1982 before the October 1 date. Those changes were substantial and represented tremendous sacrifice from both employers in the State of Kentucky and unemployment Compensation beneficiaries. Kentucky has taken responsible action to strengthen its unemployment compensation system. It remains frustrated by continuing high unemployment that has unexpectedly forced the State to borrow funds from the Federal Government. Like other borrowing States, Kentucky is having a very difficult time paying the new interest charges on those borrowed funds.

Unlike other States, Kentucky has the unique problem of not gaving funds to make the full October 1, 1983 interest payment. This situation has arisen because the Kentucky Legislature is the only legislature in the Nation that does not meet in regular session in 1983 during which funds can be appropriated to make the October 1 interest payments. In 1982, when the Kentucky General Assembly was considering making changes in the unemployment system, it was on the basis that those savings would be sufficient to avoid the necessity of borrowing from the Federal Government. As a result, no contingency plans were made to set aside funds for possible interest payments on October 1, 1983. A contingency fund does not exist to make loan payments on the October 1, 1983 date, but that fund has only enough money to pay the 20 percent that would be required if Kentucky is made eligible for the loan deferral. It does not have enough money to pay the approximately $8.2 million interest that is presently required.

Kentucky has made the sacrifices required by this legislation and it is only fair that Kentucky also be allowed to participate in the deferral. Beyond that, however, Kentucky must participate in the deferral because it does not have funds to make the October 1, 1983 payment. I am pleased the distinguished chairman and ranking minority member of the Senate Finance Committee have agreed to accept this provision. They agree it is the fair thing to do and I hope it will give Kentucky, like other States, the chance to get its unemployment compensation system in order.

Mr. President, I understand that this change is acceptable to the majority and minority floor managers of the bill.

I say to the distinguished Senator from Kansas that it is my understanding that our amendment to change the date for acceptable law changes from October 1, 1982, to March 31, 1982, will have no impact on the base levels from which changes in State law will be measured. As a result, Kentucky will qualify on the basis of action taken by our general assembly last year.

Mr. DOLE. The distinguished Senator from Kentucky is correct. The bill provides that the base level is determined to be the level of benefit outlays and revenues which would have been in effect if the changes in State law had not taken effect. The Department of Labor estimates that Kentucky may be eligible for deferral as a result of this date change.

Mr. METZENBAUM. Mr. President, will the Senator yield?

Mr. DOLE. I yield.

Mr. METZENBAUM. I understand that the changes made last year by Ohio would be taken into consideration as the result of this amendment.

Mr. DOLE. Yes; they would. Of course, any changes used in the determination will have to remain in place throughout calendar year 1984 to achieve the deferral for calendar year 1983.

Mr. METZENBAUM. I thank the Senator from Kansas.

Mr. DOLE. Mr. President, the Senator from Kentucky has discussed this amendment with me and I do support it. The amendment simply provides for a change in the date after which a State must have taken action to increase solvency in its State UI program. The committee bill requires that State action must have occurred after October 1, 1982. The Ford amendment changes that date to March 31, 1982.

The committee position is that in order to qualify for relief from the interest and loan provisions enacted in the Omnibus Budget Reconciliation Act of 1981, the State should have enacted reforms in response to those provisions. Interest became effective on borrowing by States after April 1, 1982.

It does seems clear, therefore, that the State of Kentucky did pass its legislation in response to the congressional action. The Kentucky legislation retroactively increased taxes on employers as of January 1, 1982, and decreased benefits as of July 1, 1982. As a result of these changes, Kentucky has the highest average tax in the Nation as a percent of taxable wages and the fifth highest average tax rates as a percent of all wages.

This is clearly a substantial effort toward reaching solvency. I support this minor change.

Mr. FORD. Mr. President, I thank the distinguished floor manager of the bill for his support.

I am ready to vote.

The PRESIDING OFFICER. Is there further debate?

Mr. LONG. Mr. President, I have no objection to this amendment, and I am prepared to vote for it.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 95) was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HEINZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 96

(Purpose: To adjust the criteria and period for using the "normalization" procedure.)

Mr. LONG. Mr. President, I send to the desk a conforming amendment.

The PRESIDING OFFICER. Without objection, the amendment of the Senator from New Jersey will continue to be set aside.

The amendment of the Senator from Louisiana will be stated.

The assistant legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG) proposes an unprinted amendment numbered 96:

On page 100, line 20, strike out "12" and insert in lieu thereof "20".

On page 103, line 5, strike out "1988" and insert in lieu thereof "1990".

Mr. LONG. Mr. President, the bill contains several provisions designed to assure the fiscal soundness of social security funds over this decade. The pending amendment would conform one of those provisions to the others by making it available when the assets of the trust fund are below 20 percent of the year's benefits, and would have the effect of carrying out what the intent of the committee was all the time.

Mr. DOLE. The Senator is correct. This is a conforming amendment. When we passed the Long amendment, we failed to conform that with another amendment in the bill. I understand that is essentially what the Long amendment would do.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 96) was agreed to.

Mr. LONG. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 97

(Purpose: To revise the test for deferral of interest)

Mr. BYRD. Mr. President, the Committee on Finance recommends that States be allowed to defer paying interest on loans from the unemployment trust fund over a 5-year period for interest accrued during fiscal years 1983, 1984, and 1985. Eighty percent of the interest accrued could be deferred, with one-quarter of the deferred interest payable in each of the four succeeding years.

In order to qualify, States would have to meet two standards: They would be prohibited from taking any action to reduce tax effort or trust fund solvency, and they would be required to increase revenues and decrease benefits by certain amounts after October 1982.

In general, this is a reasonable provision. However, I do not believe it is reasonable to require benefit decreases or tax increases in a State that has already taken substantial, responsible steps to reform its unemployment insurance program—which resulted in placing it among the States with the highest unemployment insurance tax rates in the Nation—just because that action was taken before October 1982.

My State of West Virginia falls into this category. In April 1981, the legislature enacted and the Governor signed into law a major reform of the unemployment insurance system. West Virginia now has the third highest tax rate relative to total wages in the State in the Nation.

The amendment that I am going to offer provides, simply, that if a State has an average unemployment tax rate equal to or greater than 2 percent of the total of the wages covered by the State unemployment insurance tax, without a ceiling on those wages, it may qualify for the ability to defer paying interest on loans in the same manner as States that take action to reform their programs after October 1982 in accord with the committee's criteria.

I have discussed this amendment with the chairman and the ranking minority member of the Finance Committee, and I hope that they will be willing to accept the amendment. It is an amendment pointed toward fairness which I hope everyone in this Chamber will be able to support.

I urge its adoption.

I send the amendment to the desk and ask that it be stated by the clerk.

The PRESIDING OFFICER. Without objection, the amendment of the Senator from New Jersey will continue to be set aside.

The amendment will be stated.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. BYRD) proposes an unprinted amendment numbered 97.

Mr. BYRD. Mr. President, I have already explained the amendment. I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 235, line 22, insert "(I)" after "(ii)".

On page 236, line 4, strike out the period and insert "; or".

On page 236, between lines 4 and 5, insert the following:

"(II) have had, for taxable year 1982, an average unemployment tax rate which was equal to or greater than 2.0 percent of the total of the wages (as determined without any limitation on amount) attributable to such State subject to contribution under the State unemployment compensation law with respect to such taxable year."

Mr. BYRD. Mr. President, I hope the distinguished manager will accept the amendment.

Mr. DOLE. Mr. President, the amendment offered by the distinguished minority leader adds an additional qualification requirement to the Finance Committee proposal on interest relief. The requirement would include a State tax effort currently in place in about three States.

I have no quarrel with the amendment. It is my hope that the States which qualify by reason of the Byrd amendment will also take steps to reform their unemployment compensation benefits.

So I am prepared to accept the amendment.

I understand the distinguished Senator from Louisiana has no objection to the amendment.

Mr. LONG. Mr. President, I have no objection.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment of the Senator from West Virginia.

The amendment (UP No. 97) was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I thank the distinguished manager of the bill, Mr. DOLE, and the distinguished ranking minority member, Mr. LONG.

UP AMENDMENT NO. 98

(Purpose: To conduct a study with respect to establishing the Social Security Administration as an independent agency)

Mr. HEINZ. Mr. President, on behalf of myself and Senator MOYNIHAN I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the amendment of the Senator from New Jersey (Mr. BRADLEY) will continue to be set aside.

The amendment will be stated.

The legislative clerk read as follows:

The Senator from Pennsylvania (Mr. HEINZ), for himself and Mr. MOYNIHAN, proposes an unprinted amendment numbered 98.

Mr. HEINZ. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the end of part D of title I, add the following new section:

SOCIAL SECURITY AS AN INDEPENDENT AGENCY

SEC. 153. In keeping with the recommendations of the National Commission on Social Security Reform, a study shall be conducted with respect to the establishment of the Social Security Administration as an independent agency under a bipartisan board appointed by the President, by and with the advice and consent of the Senate. The study shall be conducted by a Presidential Commission consisting of experts widely recognized in the fields of government administration, social insurance, and labor relations. The study shall address, analyze, and report to the Congress on: the program(s) which should be included within the jurisdiction of the new agency, the legal and other relationships of the Social Security Administration with other organizations which would be required as a result of establishing the Social Security Administration as an independent agency, and any other details which may be necessary for the development of appropriate legislation to establish the Social Security Administration as an independent agency. The Commission shall report the legislative details to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, not later than April 1, 1984.

Mr. HEINZ. Mr. President, the amendment I am offering for myself and the distinguished Senator from New York (Mr. MOYNIHAN) would establish a special study to develop the legislative details necessary to establish the Social Security Administration as an independent agency under a bipartisan board. The study would be conducted by a special Presidential commission and would be completed by April 1, 1984.

This amendment would take the first step toward restoring the Social Security Administration to the status it enjoyed in the early days of the program. It would implement a recommendation of the first National Commission on Social Security which reported to Congress in 1981, and it would follow up on a recommendation of the recent National Commission on Social Security Reform, on which both Senator MOYNIHAN and I serve, which supported separate agency status in principle and recommended a study.

Mr. President, establishing the Social Security Administration as an independent agency under a bipartisan

board would go a long way to restoring public confidence in the social security program. When the original Social Security Act established a Social Security Board as an independent agency, it was clear to the public that this program would be managed as a separate social insurance program with its own tax contributions. This Board had no matters competing for its attention and its resources other than the efficient management of this important program. Young workers could clearly understand the relationship between their tax payments and their eventual entitlement for benefits. There was no confusion about how the tax revenues were being used or why changes were made in the program.

I wish to highlight why this is a necessary approach.

Over the years, the Social Security Board has been subsumed under other administrative units and has become only one part of the confusing array of health and welfare programs provided by the Federal Government. In the process, the operations and objectives of the social security program have been obscured, both within the Government and to the view of the general public. This process of absorption began in 1939 when the original Social Security Board was subsumed under the Federal Security Agency. In 1953, the Social Security Administration was made a part of the Department of Health, Education and Welfare—later the Department of Health and Human Services. In 1977, as part of the reorganization of the Department, medicare was separated from the Social Security Administration and placed, along with the medicaid program, in a new Health Care Financing Administration (HCFA). Several public assistance programs, including aid to families with dependent children and child support enforcement programs were at that time shifted to the Social Security Administration to be administered. As a result, today there is no clear distinction in either the organization or the administration of the Department's programs between those programs which are financed with general tax revenues and those which are based on the payroll tax contributions of workers.

Not only is the present organization confusing and distressing to those in the public who are contributing taxes today in the expectation of receiving benefits in the future, it is also counterproductive to the efficient operation of the social security program. In recent years, the Social Security Administration has shown increasing signs of difficulty in administering the social security program. Constant turnover in leadership at the Department and the agency level has made it difficult, if not impossible, to establish consistent policy priorities in that very important agency.

The clearest evidence of this ever-fluctuating policy has appeared in the failure of the agency to develop a consistent plan to upgrade and revise its computer system which can survive long enough to be implemented. As a result, the Social Security Administration is now operating a computer system barely able to keep up with the maintenance of earnings records on hundreds of millions of workers and the regular computation of benefit checks for over 35 million beneficiaries.

As one of the operating divisions within a conglomerate Cabinet-level Department, the Social Security Administration has been saddled with responsibilities for programs unrelated to social security which place an added burden on its already overcommitted staff and computer resources. In addition, as part of a broader Department, the agency is apportioned both program and administrative budget reduction targets based on overall departmental needs and without regard to social security program considerations or operational needs. This mathematical apportioning of resources and responsibilities is interfering with the ability of the Social Security Administration to manage the social insurance program it was intended to administer.

While the Social Security Administration resources are stretched to the limit, the separate administration of the medicare and cash benefit programs has led to duplication of staff in budget, policy planning, and administrative services between these two agencies and between them and the Department as a whole. This duplication is both a source of added overhead cost and a source of problems in coordination of activities and policy.

From our perspective, the most distressing side effect of this administrative confusion is that our constituents are finding it increasingly difficult to get decent service from the Social Security Administration. Increasingly constituents with errors in their checks or earnings records are having to seek recourse through their Congressman's district office because the Social Security Administration is slow or reluctant to respond to their concerns.

The confusion in the general public about the social security program and its administration is a major source of declining public confidence in the program. In the last few years, confidence in the future of the social security program has declined sharply—among younger people in particular, the proportion of those with little or no confidence in the program has risen from one-half to three-quarters. I see this confusion about the financing and management of the program in the letters I receive from constituents. Many younger people believe their payroll tax deductions are used to finance welfare programs.

I have people come up to me every time I am having a town meeting in the State and they say: "Senator, you have just to get these welfare programs out of the Social Security Administration. They are robbing us of our retirement."

Of course, we all know there are no welfare programs in the social security program. It is the old age and survivors program. There is the disability program. There is a health insurance program, medicare. Each of those programs have their own tax rate to pay for those programs. There are no welfare programs in social security.

Others believe that changes in the program are made only to reduce budget deficits or to finance increases in the defense budget. The sense that this program can be altered merely to meet budget needs or for other largely political reasons is a major source of the recent loss in public confidence.

Mr. President, the agency I am talking about is the second largest agency in the Federal Government. The Social Security Administration has more employees (80,000) and a larger budget (over $150 billion) than any other Federal Department except the Department of Defense. This is an agency that dwarfs the rest of the Department of Health and Human Services, and yet it is treated as only one of several divisions in that Department. I believe it is time the Congress clearly indicated its intention to consolidate and separate the operations of the social security program so that its important mission can be accorded the special attention it so badly needs.

I recognize that the separation of this agency raises a number of difficult questions about reorganization. Quite rightly these questions should be the subject of a careful study to develop the details of a reorganization plan. But I hope we will not be deterred now by these questions from expressing our intent to develop a strong Social Security Administration with a clear set of responsibilities, strong leadership, and the resources to manage this important program effectively. It will take a strong signal like this from the Congress to convince the American people once again that this earnings-related program is unique and separate and is not simply another of the many discretionary programs this Government operates from time to time.

I think, Mr. President, we are only going to really clarify that question for our constituents when we have a separate Social Security Administration. We are only going to run it right when there is a separate Social Security Administration, and that is why I want and hope that my colleagues will accept this amendment.

I might add that later on this afternoon I will offer an amendment to take one of the other steps which I believe is necessary and that is to separate the social security old age and survivors and disability insurance programs financially from the unified budget, but that is not what this amendment seeks to do.

So at this point I am only urging my colleagues to join me in setting in motion the process of restoring as it once was the Social Security Administration to independent status.

Mr. DOLE. Mr. President, this amendment by the distinguished Senator from Pennsylvania and the Senator from New York (Mr. MOYNIHAN), has been discussed and also has been modified so that it now is a study.

I think the idea has a great deal of merit.

The one concern we had with the original amendment was that it became self-executing if nothing were done by a certain date. It now satisfies the chairman and others that it is a good amendment and we hope that it might be accepted.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment of the Senator from Pennsylvania.

The amendment (UP No. 98) was agreed to.

Mr. HEINZ. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 99

Mr. DOLE. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the amendment of the Senator from New Jersey (Mr. BRADLEY) will continue to be set aside.

The clerk will report the amendment of the Senator from Kansas.

The legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) proposes an unprinted amendment numbered 99.

Mr. DOLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

Beginning on page 239, line 16, strike out through page 240, line 11, and insert the following:

PENALTY FOR FAILURE TO PAY INTEREST

SEC. 414. (a) Section 303(c) of the Social Security Act is amended by striking out "or" at the end of paragraph (1), striking out the period at the end of paragraph (2) and inserting "; or", and adding at the end thereof the following new paragraph:

"(3) that any interest required to be paid on advances under title XII of this Act has not been paid by the date on which such interest is required to be paid or has been paid directly or indirectly (by an equivalent reduction in State unemployment taxes or otherwise) by such State from amounts in such State's unemployment fund, until such interest is properly paid.".

(b) Section 3304(a) of the Internal Revenue Code of 1954 (relating to certification of State unemployment compensation laws) is amended by redesignating paragraph (17) as paragraph (18) and by inserting after paragraph (16) the following new paragraph:

"(17) any interest required to be paid on advances under title XII of the Social Security Act shall be paid in a timely manner and shall not be paid, directly or indirectly (by an equivalent reduction in State unemployment taxes or otherwise) by such State from amounts in such State's unemployment fund; and".

Mr. DOLE. Mr. President, this amendment should have followed the other amendments relating to unemployment insurance. But the Senator from Pennsylvania wanted to offer his amendment, and the Senator from Kansas deferred.

What my amendment does is to strengthen the collection authority of the Federal Government in regard to overdue interest on unemployment compensation loans.

First, the amendment spells out the implicit fact that a State's failure to pay its interest liabilities could result in the loss of State certification.

This would mean that State employers would no longer be eligible for full credit against the Federal unemployment tax. Such a proceeding has been carried out fully only once. However, it does provide an effective tool for enforcement and compliance questions with the States.

Second, the amendment would withhold administrative funds from a State which fails to meet the payment schedule of its interest liabilities. The funding, which is all Federal, would be withheld until the required payment is made.

The amendment provides for the late payments which qualify under the Metzenbaum amendment, but the provision I am proposing would become effective for late interest payments beyond the grace period.

I urge my colleagues to approve this amendment as it is simply good business policy to require payments in a timely fashion of debts. The Federal Government hopefully will never have to utilize this provision, but it should be available if necessary.

I think this amendment has been discussed with the minority manager of the bill. It is a strengthening amendment, and I hope there is no objection to it.

The PRESIDING OFFICER. Is there objection to the amendment?

Mr. LONG. I do not object. It accomplishes the purpose it has in mind.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kansas.

The amendment (UP No. 99) was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, I understand the Senator from Kentucky (Mr. HUDDLESTON) has an amendment which we are in the process of reviewing, and perhaps while he is discussing it we can take a look at it.

UP AMENDMENT NO. 100

Mr. HUDDLESTON. Mr. President, I thank the floor manager of the bill. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the amendment of the Senator from New Jersey will continue to be set aside. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Kentucky (Mr. HUDDLESTON), for himself and Senators DANFORTH, RANDOLPH, FORD, and PELL, proposes an unprinted amendment numbered 100.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

At the end of title I add the following new section:

SEC. . (a)(1) Section 210 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"ELECTIVE COVERAGE FOR MINISTERS AS EMPLOYERS

"(r) Services performed in the exercise of his ministry by a duly ordained, commissioned, or licensed minister of a church who has made an election under section 312(v)(1)(A) of the Internal Revenue Code of 1954 with respect to such service shall constitute employment under this section beginning with the first day of the calendar quarter in which coverage becomes effective with respect to such service under section 312(v)(3) of such Code."

(2) Section 210(a)(8)(A) of such Act is amended by striking out "except that" and inserting in lieu thereof the following: "except as provided in subsection (r), and except that."

(3) The last sentence of section 211(c) of such Act is amended by inserting "(i)" after "unless", and by inserting before the period at the end of the sentence the following "or (ii) in the case of service performed by a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry as described in paragraph (4), the service constitutes employment under section 210(r)."

(b)(1) Section 3121 of the Internal Revenue Code of 1954 (definitions under Federal Insurance Contributions Act) is amended by adding at the end thereof the following new subsection:

"(v) MINISTER.—

"(1) TREATMENT OF SERVICE AS EMPLOYMENT.—Service performed by a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry, shall constitute employment under this section if—

"(A) he has elected to have such service covered as employment under this section; and

"(B) the church has elected to have such service covered as employment under this section.

"(2) ELECTION BY MINISTER AND CHURCH.—

"(A) Any minister who makes an election under paragraph (1)(A) shall file a certificate of such election in such form and manner, and with such official, as the Secretary shall by regulations prescribe. Such certificate shall specify the date on which the minister wishes such election to become effective for him, but in no case shall such election become effective (i) prior to the

first day of the earliest calendar quarter which begins on or after the first day of the sixth calendar month before the month in which the minister files such certificate, or (ii) later than the first day of the quarter following the quarter in which the minister files such certificate.

"(B) Any church which makes an election under paragraph (1)(B) shall file a certificate of such election and a waiver of exemption from the taxes imposed by section 3121, in such form and manner, and with such official, as the Secretary shall by regulations prescribe. Such certificate shall specify the date on which the church wishes such election to become effective for the church, but in no case shall such election become effective (i) prior to the first day of the earliest calendar quarter which begins on or after the first day of the sixth calendar month before the month in which the church files the certificate of such election, or (ii) later than the first day of the quarter following the quarter in which the church files such certificate.

"(C) In any case where a church is subject to the control of a national, regional, or other governing body with respect to the selection and compensation of its ministers (under the constitution, by-laws, or other administrative arrangements of the denomination of which such church is a part), the election under paragraph (1)(B) through the filing of a certificate under subparagraph (B) may be made on behalf of the church by such governing body; and any election so made shall be deemed for purposes of this subsection to be the election of the church.

"(3) EFFECTIVE DATE OF COVERAGE.—Coverage shall become effective with respect to service specified in paragraph (1) on the first day of the first quarter for which both an election by the minister is effective under paragraph (2)(A) and an election by the church is effective under paragraph (2)(B). Such service shall constitute employment under this section beginning with the first day of the calendar quarter in which coverage is effective with respect to such service.

"(4) APPLICABILITY OF ELECTION.—

"(A) Any election under this subsection shall be irrevocable. An election made under this subsection by a minister shall apply with respect to any service performed by such minister in the exercise of his ministry in the employ of any church which has made an election under this subsection; and an election made under this subsection by a church shall apply with respect to any such service performed in the employ of such church by a minister who has made an election under this subsection.

"(B) A church which has made an election under this subsection shall not, for purposes of sections 3102 and 3111, be considered to be the employer of any minister who has not made an election under this subsection".

(2) Section 3121(b)(8)(A) of such Code is amended by striking out "except that" and inserting in lieu thereof the following: "except as provided in subsection (v), and except that".

(3) The last sentence of section 1402(c) of such Code is amended by inserting "(i)" after "unless", and by inserting before the period at the end of the sentence the following: "or (ii) in the case of service performed by a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry as described in paragraph (4), the service constitutes employment under section 3121(v)."

(4) The second sentence of section 1402(e)(2) of such Code is amended by inserting "and shall not be affected by any election subsequently made under section 3121(v)(1)(A)" immediately before the period at the end thereof.

(C) The amendments made by this section shall apply with respect to service performed on or after the first day of the first calendar quarter which begins after the date of the enactment of this Act.

Mr. HUDDLESTON. Mr. President, the amendment I am proposing to the pending social security legislation would bring consistency and equity to the social security payroll tax system for members of our Nation's clergy. I am pleased that the distinguished Senator from Missouri, (Senator DANFORTH), the Senator from West Virginia (Mr. RANDOLPH), Senator FORD, my colleague from Kentucky, and the Senator from Rhode Island (Mr. PELL) have joined me as cosponsors of this amendment. As a member of the Senate Finance Committee, Senator DANFORTH has devoted a great deal of time and effort toward the social security issue and therefore, I beleive, has a unique perspective on the problem addressed by our amendment.

Current law requires that clergy members be considered self-employed for the purposes of social security taxation. This means that they must pay taxes on their wages based on the rate applied to the self-employed, a rate measurably higher than that paid by employed individuals.

The inconsistency arises out of the fact that in the vast majority of cases, the clergy member's salary is not self-generated, but is actually paid by the church or synagogue just as that of all other individuals serving that house of worship.

The church, therefore, is withholding income taxes from clergy salaries as employees of the church, but at the same time is not paying the employer portion of the social security tax for its clergy based on current law which deems these individuals self-employed.

The situation as it now exists requires one Government agency, the IRS, to recognize clergy members as employees of their church or synagogue, while another (SSA) insists that, for social security tax purposes, these individuals are self-employed.

The amendment I am proposing would relieve this inconsistency by providing the option for churches and synagogues to contribute the employer's portion of the social security tax on behalf of their clergy. Briefly, it would permit duly ordained, commissioned, or licensed ministers to enter into voluntary agreements with their churches to be treated, for social security tax purposes, as employees of their church or synagogue. In essence, it would be a mutual decision arrived at between the two parties involved.

Mr. President, I believe this approach to be both purposeful and compromising; it restores a balance to the method by which we tax these respected members of our community, while allowing those churches and clergy members with particular objection to this change to simply opt against implementing it.

The language I am proposing merely provides the vehicle for change, and allows the final, sometimes delicate employment classification of clergy to be made by those directly affected by it.

It is important to point out that my amendment does not tamper with the actual revenue inflow to the social security trust funds, since it simply shifts responsibility for a clergy member's social security payroll taxes from one source to another.

I am submitting for the RECORD a letter from the National Council of Churches indicating their support for my amendment.

Mr. President, I believe my amendment adequately addresses a problem which is in great need of correction, and I urge my colleagues to join Senator DANFORTH and I in support of it.

Mr. President, I ask unanimous consent the letter to which I referred be printed in the RECORD.

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

NATIONAL COUNCIL OF THE CHURCHES OF CHRIST IN THE U.S.A.,
Washington, D.C., March 18, 1983.

Hon. WALTER D. HUDDLESTON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HUDDLESTON: On behalf of the National Council of the Churches of Christ in the USA, I write to commend your efforts in relation to the question of Social Security coverage for clergy.

We support the amendment you are offering today, which would allow clergy the option of being treated as employees for purposes of Social Security.

Since some religious groups may not wish to have their clergy treated in this way, we especially appreciate the fact that, under your amendment, the election to be covered as an employee would be completely optional.

Thank you for the leadership you have provided on this issue.

Sincerely yours,

JAMES A. HAMILTON,
Associate General Secretary and Director, Washington Office.

Mr. HUDDLESTON. I would be happy to respond to any questions the manager of the bill or the distinguished ranking member might have at this time.

Mr. DANFORTH. Mr. President, I am pleased to join with Senator HUDDLESTON in offering this amendment, which touches a subject with quite an interesting history. Under the Social Security Act at present, members of the clergy can only be considered self-employed persons. This means that they bear a larger social security tax than an employed person, who pays one-half the full social security tax. Many clergymen and women would, for the purposes of social security, prefer to be considered employees of their churches. Similarly, many churches, properly interested in providing a decent standard of living for their ministers, would gladly pay the employer share of the social security

tax in order to reduce their ministers' social security tax burden.

More is at stake in this question than, mere dollars and cents. The root question is more than a financial one. Some ministers could never consider themselves the "employees" of a church. Likewise, some churches could never agree that they are in an employer-employee relationship with their ministers or priests.

It is for this reason, as I understand it, that an employer-employee relationship has been avoided for purposes of social security.

The beauty of this amendment is that a clergyman or clergywoman and his or her church, by a voluntary and mutual agreement, could consider themselves in that relationship of employer and employee. Under such an agreement, the clergyman would pay the employee share of the social security tax, and the church the employer share. Again, the amendment mandates no such change—it merely allows such a change if both parties agree.

Happily, the amendment is revenue neutral. It will not affect the social security trust funds.

I urge the adoption of the amendment.

Mr. DOLE. Mr. President, the Huddleston-Danforth amendment would allow ministers to be treated as employees for FICA tax purposes if both the minister and his church elected such treatment.

There would be no adverse impact on the trust funds and no adverse impact on general revenues by the adoption of this amendment since our bill equalizes the SECA rate and the combined employer-employee social security tax rate.

My only concern would be whether the affected ministers and churches would agree that this is an appropriate amendment. It is my understanding that there is no problem so long as the provision is elective—which it is—and that, in appropriate circumstances, a national, regional, or other governing body has the authority to make the election on behalf of the local church. These concerns have been addressed by the amendment in a fair and equitable manner.

Therefore, the Senator from Kansas believes the amendment should be accepted, and I have no objection to the amendment.

Mr. LONG. I have no objection.

Mr. HUDDLESTON. I move the adoption of the amendment.

The PRESIDING OFFICER (Mr. TRIBLE). Is there further debate? If not, the question is on agreeing to the amendment of the Senator from Kentucky.

The amendment (UP No. 100) was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, as I understand it, we are waiting for the arrival of the Senator from New Mexico (Mr. DOMENICI).

We have disposed of 10 or 15 amendments since noon, so we have made good progress.

I do not believe there are that many amendments left. We have an amendment by the distinguished Senator from New Jersey (Mr. BRADLEY), the Senator from Louisiana, and other amendments relating to that one topic. If there are other amendments, I would say to Members who may be in their offices that we would like to continue to dispose of amendments this afternoon. I think that is the hope of the majority leader; is that correct?

Mr. BAKER. That is correct.

Mr. President, will the Senator yield to me?

Mr. DOLE. Yes.

Mr. BAKER. Mr. President, we really need to do as much as we can this afternoon. I congratulate the Senator from Kansas, the chairman of the committee, and others for moving along as expeditiously as they have been doing.

May I ask the manager of the bill whether or not he thinks that we can be usefully employed this afternoon for another hour or so, so that Senators can be on notice?

Mr. DOLE. I would say probably another hour, maybe an hour and a half.

Mr. BAKER. I would like to get to third reading if we can, and, if we cannot, to do as much as is possible to do in any event so that we can finish this bill on Monday.

Mr. DOLE. There may be one additional rollcall vote today.

Mr. BAKER. I thank the chairman.

Mr. DOLE. Mr. President, I suggest the absence of a quorum while we await the arrival of the distinguished chairman of the Budget Committee.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. DOLE. Mr. President, the Senator from Kansas is advised that the amendment we had hoped to take up now probably cannot be disposed of or even considered until sometime on Monday. It concerns whether or not social security should be within the budget process. That may take, I would assume, at least an hour or an hour and a half of debate. Hopefully it would not take longer than that amount of time.

Because of a conflict between four or five principal players we cannot act on that amendment this afternoon. I hope that other Members in their offices who may have amendments could offer them. I know the distinguished Senator from Florida, Senator HAWKINS, has an amendment, as does the Senator from New Jersey, Senator BRADLEY. Both will require rollcall votes.

If there are Senators who believe they have noncontroversial amendments, this would be a good time to discuss them and determine if they are noncontroversial. We would like to dispose of additional amendments this afternoon. It is our purpose to complete action on this bill on Monday.

I suggest the absence of a quorum while, hopefully, Members start coming this way.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HEINZ. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

REMOVING SOCIAL SECURITY FROM THE UNIFIED BUDGET

Mr. HEINZ. Mr. President, it had been my intention to offer my amendment to remove social security from the unified Federal budget this afternoon, but Senator CHILES, the ranking member of the Budget Committee, and Senator DOMENICI have travel arrangements that, were I to offer the amendment at this time, would prevent them from fully engaging in debate. What I shall do instead is discuss the amendment this afternoon. I shall send the amendment to the desk not to be taken up and to be considered, but I shall simply have the amendment printed and printed in the RECORD at this point but not as if for consideration.

The amendment is as follows:

At the end of title I, insert the following:

REMOVAL OF SOCIAL SECURITY TRUST FUNDS FROM THE UNIFIED BUDGET

SEC. . Part A of title XI of the Social Security Act is amended by adding at the end thereof the following new section:

"REMOVAL OF SOCIAL SECURITY TRUST FUNDS FROM THE UNIFIED BUDGET

"SEC. 1136. (a)(1) For the fiscal years beginning after September 30, 1984, and ending before October 1, 1988, the President shall, in accordance with the second sentence of section 1104(c) of title 31, United States Code, establish a separate functional category for requests for new budget authority and estimates of outlays for the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, the Federal Hospital Insurance Trust Fund, and the Federal Supplementary Medical Insurance Trust Fund, and a separate category for estimates of revenues for such Trust Funds and estimates of revenues from taxes imposed under sections 1401, 3101, and 3111 of the Internal Revenue Code of 1954. The categories established by the President pursuant to the preceding sentence shall be used in the preparation and submission of the budget under section 1105(a) of title 31, United States Code, for each such fiscal year. The budget submitted under such section for each such fiscal year shall not classify requests for new budget authority and estimates of out-

lays and revenues for such Trust Funds and estimates of revenues from taxes imposed under sections 1401, 3101, and 3111 of the Internal Revenue Code of 1954 under any functional category other than the categories established by the President pursuant to this paragraph.

"(2) Notwithstanding any other provision of law, any concurrent resolution on the budget considered under title III of the Congressional Budget Act of 1974 for a fiscal year beginning after September 30, 1984, and ending before October 1, 1988, shall use the categories established by the President under paragraph (1) in specifying the appropriate levels of new budget authority and budget outlays for the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, the Federal Hospital Insurance Trust Fund, and the Federal Supplementary Medical Insurance Trust Fund and in specifying the recommended level of revenues for such Trust Funds and revenues from taxes imposed under sections 1401, 3101, and 3111 of the Internal Revenue Code of 1954. A concurrent resolution on the budget considered under title III of the Congressional Budget Act of 1974 for any such fiscal year shall not classify the appropriate levels of new budget authority and budget outlays for such Trust Funds or the recommended level of revenues for such Trust Funds and revenues from taxes imposed under sections 1401, 3101, and 3111 of the Internal Revenue Code of 1954 under any functional category other than the categories established by the President pursuant to paragraph (1).

"(b)(1) Notwithstanding any other provision of law, at the time the President submits the budget under section 1105(a) of title 31, United States Code, for any fiscal year beginning after September 30, 1988, and at the times the President submits the supplemental summary and changes in budget authority, outlays, and receipts under section 1106 of such title for any such fiscal year, the President shall transmit to the Congress a separate statement specifying requests for new budget authority and estimates of outlays for the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund for such fiscal year and estimates of revenues for such Trust Funds and revenues from taxes imposed under sections 1401(a), 3101(a), and 3111(a) of the Internal Revenue Code of 1954 for such fiscal year. The budget for any such fiscal year submitted under section 1105(a) of title 31, United States Code, and any supplemental summary or changes in budget authority, outlays, and receipts submitted under section 1106 of such title for any such fiscal year, shall not contain any requests for new budget authority or any estimates of outlays or revenues for any such Trust Fund for such fiscal year or any estimates of revenues from taxes imposed under sections 1401(a), 3101(a), and 3111(a) of the Internal Revenue Code of 1954 for such fiscal year.

"(2) Notwithstanding any other provision of law, any concurrent resolution on the budget considered under title III of the Congressional Budget Act of 1974 for any fiscal year beginning after September 30, 1988, shall not include in the provisions specifying—

"(A) the appropriate level of total new budget authority and total outlays required under section 301(a)(1) of such Act for such fiscal year;

"(B) the estimates of total new budget authority and total outlays for each major functional category required under section 301(a)(2) of such Act for such fiscal year; or

"(C) the recommended level of Federal revenues required under section 301(a)(4) of such Act for such fiscal year,

any amounts attributable to budget authority and outlays for the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund for such fiscal year or any amounts attributable to revenues for any such Trust Fund or revenues from taxes imposed under sections 1401(a), 3101(a), and 3111(a) of the Internal Revenue Code of 1954 for such fiscal year.

"(3) Any concurrent resolution on the budget considered under title III of the Congressional Budget Act of 1974 for any fiscal year beginning after September 30, 1988, or any amendment thereto or any conference report thereon, shall not contain any specifications or directions described in the second sentence of section 310(a) of such Act which relate to the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, or revenues from taxes imposed under sections 1401(a), 3101(a), and 3111(a) of the Internal Revenue Code of 1954.

"(C) The budget outlays of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund for any fiscal year beginning after September 30, 1988, shall be exempt from any general limitation imposed by statute on budget outlays of the United States, including any limitation on net lending.

"(d)(1) For the fiscal year beginning on October 1, 1988, and the succeeding fiscal years, the President shall, in accordance with the second sentence of section 1104(c) of title 31, United States Code, establish a separate functional category for requests for new budget authority and estimates of outlays for the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund and a separate category for revenues for such Trust Funds and revenues from taxes imposed under sections 1401(b), 3101(b), and 3111(b) of the Internal Revenue Code of 1954. The categories established by the President pursuant to the preceding sentence shall be used in the preparation and submission of the budget under section 1105(a) of title 31, United States Code, for each such fiscal year. The budget submitted under such section for each such fiscal year shall not classify requests for new budget authority and estimates of outlays and revenues for such Trust Funds and estimates of revenues from taxes imposed under sections 1401(b), 3101(b), and 3111(b) of the Internal Revenue Code of 1954 under any functional category other than the categories established by the President pursuant to this paragraph.

"(2) Notwithstanding any other provision of law, any concurrent resolution on the budget considered under title III of the Congressional Budget Act of 1974 for a fiscal year beginning after September 30, 1988, shall use the categories established by the President under paragraph (1) in specifying the appropriate levels of new budget authority and budget outlays for the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund and the recommended level of revenues for such Trust Funds and for revenues from taxes imposed under sections 1401(b), 3101(b), and 3111(b) of the Internal Revenue Code of 1954. A concurrent resolution on the budget considered under title III of the Congressional Budget Act of 1974 for any such fiscal year shall not classify the appropriate levels of new budget authority and budget outlays for such Trust Funds or the recommended level of revenues for such Trust Funds and revenues from taxes imposed under sections 1401(b), 3101(b), and 3111(b) of the Internal Revenue Code of 1954 under any functional category other than the categories established by the President pursuant to paragraph (1).

"(e) The provisions of subsections (a)(2), (b)(2), (b)(3), and (d)(2) are enacted by the Congress—

"(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they shall be considered as part of the rules of each House, respectively, or of that House to which they specifically apply, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

"(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to such House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.

"(f) For purposes of this section—

"(1) the term 'budget outlays' has the same meaning as in section 3(1) of the Congressional Budget and Impoundment Control Act of 1974;

"(2) the term 'budget authority' has the same meaning as in section 3(2) of such Act; and

"(3) the term 'concurrent resolution on the budget' has the same meaning as in section 3(4) of such Act.".

Mr. HEINZ. Mr. President, let me take my colleagues' time to consider what I view as a very important choice before the Senate.

The amendment we shall take up on Monday, that I shall offer then, would separate the operations of the social security trust fund, first, as a distinct functional category in the next congressional and Presidential budgets, and then would remove social security entirely from the unified budget beginning in fiscal year 1989. Specifically under this amendment, the operations of the old age and survivors insurance—OASI—the disability insurance—DI—the hospital insurance—HI—and the supplemental medical insurance—SMI—trust funds would be separated from functional categories 550 and 600 and displayed as a separate function in the President's and the congressional budget effective with the fiscal year 1985 budgets.

In addition, the operations of the OASI and DI trust funds would be separated from the President's budget and the congressional budget and exempt from any general limitation on spending of the U.S. Government, effective for fiscal year 1989.

Mr. President, so that there is no misunderstanding of what this amendment would achieve, I ask unanimous consent that a section-by-section analysis of it be printed in the RECORD at this point.

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

AMENDMENT TO REMOVE SOCIAL SECURITY FROM THE UNIFIED FEDERAL BUDGET BY SENATOR HEINZ—SECTION-BY-SECTION ANALYSIS

(a)(1) For fiscal years 1985 through 1988, the President's budget would contain a sepa-

rate functional category for the budget authority and outlays of the Old-Age and Survivor's Insurance (OASI), the Disability Insurance (DI), the Hospital Insurance (HI), and the Supplementary Medical Insurance (SMI) trust funds; and a separate category for the revenues to these trust funds. These trust funds would not be classified in any other categories. Budget authority, outlays, and revenues for these trust funds would still be included in the budget totals.

(2) Budget resolutions for fiscal years 1985 through 1988 would use the categories established by the President in specifying budget authority, outlays, and revenues for the OASI, DI, HI, and SMI trust funds. These trust funds would not be classified in any other categories, and would be included in the budget totals.

(b)(1) For fiscal years 1989 and beyond, budget authority, outlays, and revenues of the OASI and DI trust funds would not be included in the unified budget submitted by the President. However, when the President sends the unified budget and mid-year revisions to the Congress, he would send, in addition a separate statement on the operations of the OASI an DI trust funds.

(2) Concurrent budget resolutions for fiscal year 1989 and beyond would not include in the totals, functional categories, and revenues, any amount attributable to budget authority, outlays, or revenues for the OASI and DI trust funds.

(3) Concurrent budget resolutions, and amendments to or conference reports on concurrent budget resolutions would not include reconciliation instructions to Committees which relate to the OASI or DI trust funds, effective for fiscal years 1989 and beyond.

(c) The OASI and DI trust funds would be exempt from any general limitations on outlays and net lending which might be imposed (e.g. were there a statutory requirement that outlays could not exceed revenues in any given year, the OASI and DI trust funds would not be included).

(d) For fiscal years 1989 and beyond, the SMI and HI trust funds would be included in the unified budget but would be treated as a separate functional category in the budget.

(e) This provision simply restates that limitations on what can be included in concurrent budget resolutions are considered part of House and Senate rules and not a matter of statute, and can be changed as such by either House.

Mr. HEINZ. For the sake of emphasis and clarity, let me say again that the amendment insofar as it affects the congressional budget process, including reconciliation, would only be with respect to the two cash benefit trust funds—old age and survivor's insurance and disability insurance—and that it is those two and those two only that would be removed from the unified budget beginning in fiscal year 1989. Therefore, it would not remove the two medicare trust funds, HI and SMI. The medicare trust funds would remain in the budget as a separate functional category.

There are two reasons for leaving the two medicare trust funds in the budget. First, although one of these—HI—is financed by the payroll tax, there really is no relationship between the earnings of the worker and the benefits provided under the program. Once an individual is entitled to medicare, they have full access to the benefits of the program, no matter how many quarters they worked beyond the minimum of 40 quarters, and without regard to the amount of earnings they had in this period. So in this regard, the sense of having earned the benefits is really quite different than it is with regard to the cash benefits.

Second, and more important in my mind, is that the medicare program is facing serious financing difficulties beginning in a few years and extending into the foreseeable future. These financing problems are so severe that they call into question our ability to continue operating medicare as it is currently structured. Medicare's financing problems are only a signal of far greater financing problems in the general area of health care. With hospital costs rising at twice the rate of inflation, we are not only facing alarming increases in medicare expenditures, we are facing a substantial erosion in tax revenues as well through our income-tax treatment of private health insurance. These are problems we will have to address broadly throughout the budget. The solutions to them may involve a restructuring of medicare financing making it inappropriate to have this program outside of the unified Federal budget. So I do not believe this is the proper time to address the issue of how we should treat medicare financing in the unified budget.

Mr. President, I would like to contrast the financing problems we have in medicare with those we have been experiencing in the cash benefit programs, because I think this reinforces the justification for separating the cash benefit programs from the unified budget. While the nominal cost of funding the current structure of benefits in OASI and DI is expected to rise substantially over the next 75 years, the cost of these programs relative to the economy as a whole will not necessarily increase over levels we are already supporting. In other words, today the cash-benefits account for about 5.2 percent of the GNP, and under intermediate II-B assumptions, they are expected to be 5.4 percent of GNP in 2060. In the interim, OASDI outlays will fluctuate under these assumptions between 4 percent and 6 percent of GNP. But the point is, over the long run, this is a relatively stable spending program. Where Federal spending fixed as a percent of GNP in the future will be the case, this program would account for a relatively stable share of that spending over quite a long period of time.

Medicare, however, is quite a different matter. Health care costs generally have been and are expected to continue rising at alarming rates. Health care accounted for only 6 percent of GNP as recently as 1965. It has jumped to nearly 11 percent of GNP today and is still climbing.

In sum, I think it makes good sense to wait until we resolve the problems in health-care financing and see how medicare is financed at that time before we make any final decisions about including or excluding medicare from the unified Federal budget.

Mr. President, for several years, Congress has been debating whether social security ought to be a part of the unified budget and whether it ought to be considered each year in the context of the congressional budget process.

I believe the time has come to stop discussing that question. We have given it a tremendous amount of study. I believe the time has come to act.

We have before us today a social security financing bill which will do a great deal to restore public confidence in the social security program. It will provide $165.5 billion in additional financing in the shortrun and totally eliminate, under current forecasts, the longrun financing deficit. Despite its success in providing new financing, it fails to address one of the root causes of declining public confidence, namely, cynicism about the way the Congress develops social security legislation.

I have been in a number of forums where the work of the Finance Committee and of the Budget Committee has been misunderstood. Any time somebody proposes to try and put social security on a firm financial footing so that we may assure the elderly that their benefit checks are going to go out, someone will get up and say: "These changes are being proposed to balance the budget on the backs of social security recipients."

How many times we have heard that in the last 2 years are too numerous to count. Whatever the reasons, there is a general misunderstanding in the public of the way social security is financed and of its relationship to the rest of our Federal programs.

Many people honestly believe that the Federal Government uses social security funds for other purposes and that the current financing problems have resulted because the Congress has repeatedly raided the trust funds.

Mr. President, I do not know of a single Member of this body who wants to be accused, even to let it be thought for a moment that they want to make a single change, no matter how modest, in the social security system if it is for the purpose of balancing the budget, or for that matter for the purpose of helping finance the defense budget, or any purpose other than maintaining the solvency of social security itself.

But I must say, I think the fact that we have had to deal with social security in the annual congresssional budget debate in the last few years is largely to blame for this growing public skepticism. Congress has given the American people the impression that payment of social security benefits is conditional upon the status of the overall Federal budget, and not solely upon the financial condition of

the trust funds. Annual quick fixes in social security, made in the rush of reporting out a comprehensive budget, have flown in the face of the fact that this is a social insurance program dependent on long-term commitments by workers and the Government. Its inclusion in the budget process has made it look more like discretionary spending than the social insurance that it is.

Mr. President, the need to restore public confidence in the long-term stability of social security is of overriding importance. In the last few years, while the Congress has been debating what to do about social security, the public, particularly younger workers, has lost faith in the future of this program. In 1978, surveys showed that nearly half of all workers between 18 and 49 had confidence that they would receive benefits from the program when they retired. Today, fewer than one in four of these workers believe they will receive benefits. Mr. President, that is not a reversal. It is a wholesale loss of public confidence. It is a serious problem because the whole structure of this social insurance program rests on a compact made across generations. Younger workers today pay taxes to finance benefits for todays retirees in the expectation that future generations will also be willing to pay taxes when it is their turn to retire. Such growing doubts about the future of social security threaten to undermine the willingness of workers to support the payroll tax upon which the entire system rests.

The bill before us will begin the process of restoring public confidence in social security. In part, we will do this through the financing measures we adopt here. But we will also need to reassure the 115 million contributing workers and 35 million social security beneficiaries that these measures are being adopted solely to finance social security. To do this we must remove the social security trust funds from the unified Federal budget.

Restoring public confidence in social security is one good reason for removing social security from the budget, but it is not the only reason. If we look at this question from a budget perspective, it is even clearer that social security does not belong in the unified budget.

Mr. President, the social security program is a very different kind of program than those we generally find in the budget. It is a program which has its own dedicated taxes and its own financing reserve. This reserve is intended to provide resources to the program, cushioning it from the ups and downs of economic cycles. When social security runs deficits, it draws on its reserves; when it runs surpluses it builds the reserves back up. As part of the unified budget, however, social security's deficits add to the budget deficit and its surpluses mask budget deficits that might otherwise be more apparent. But social security is not a program which should be continually adjusted to correct these temporary effects on the overall budget. It is a program which should be set on a sound financial basis and, to the extent possible, left alone to weather economic and demographic fluctuations with its own resources.

If we make the mistake of leaving social security in the unified budget, I think we are going to have tremendous difficulty in the future managing the social security program in a consistent manner. None of us can know for sure what the future will hold, but there are a few events which we know have a high probability of occurring. One of these which is going to have tremendous effects on social security financing, is the inevitable aging of the baby-boom generation. Like a rabbit swallowed by a snake, this generation will advance slowly through the age groups—first swelling the ranks of workers, and then, after 2015, swelling the ranks of retirees. This demographic pattern will result in annual surpluses for social security from the 1990's for about 25 years—in other words through about 2015—followed by annual deficits for social security after 2015. It seems to me, if we can gaze into the crystal ball for a moment, that this will lead to two kinds of problems in the context of the unified budget.

Mr. President, the charts behind me indicate the periods when social security will be in surplus and when it will be in deficit. As my colleagues can see, there are very large yellow areas between the years 1990 and 2015 that represent both annual and accumulated surpluses. After the year 2015, there is a large area of red that diminishes over time to a greater or lesser degree, depending on assumptions, that represents deficits, both annual and accumulated, that the system will experience.

Let us look at one of the surplus years. Take the year 2010. Under present law in that year, the old-age, survivors, and disability insurance trust funds are going to receive in revenues an estimated $60 billion in 1982 dollars, today's dollars—not the dollars of the future some 30 years hence—they will receive $60 billion more than they will spend in outlays, adding this to a trust fund of more than $600 billion, again 1982 dollars, not future dollars.

If we enact H.R. 1900, as I hope we do, this surplus could run as high as $125 billion in that year, and the trust fund itself might total as much as $1 trillion that year.

It seems to me that if we have annual surpluses this large there will be enormous pressures for excess Government spending in other areas since this excess spending could occur without generating or creating a budget deficit.

Now let us gaze still a little further ahead into the future, and what we see is a very different problem for social security and, indeed, for the country. This time let us look at the year 2025. Now the OASDI trust funds are spending under current law about $100 billion more than receipts in revenues, again in 1982 dollars, and it is beginning to draw down on its reserves of more than $230 billion.

If H.R. 1900 is enacted, the deficit would be somewhat smaller, perhaps only $50 billion, and trust fund reserves would be quite a bit larger. But the general problem will be the same. These large deficits—equal to about 5 percent of Federal outlays—will put tremendous pressure on the Congress to either cut spending in other Federal programs or cut spending in social security, despite the fact that social security will have adequate trust fund reserves to meet its own needs through the 2050's and beyond.

These pressures to cut more or spend more because of the fluctuations in social security appear substantial when we look into the future. But we can see similar, though less intense, pressures operating on the Congress today. In fiscal year 1969, when President Johnson first included the operation of the social security trust funds in the Federal budget, it had the side effect, because social security was running surpluses in those years, of making the spending on the Vietnam war look smaller, and obscuring its impact on the budget deficit. By contrast, in recent years, social security deficits have intensified the overall budget deficits and increased the pressure to cut spending. On at least one occasion, these pressures have led the Congress to make cuts in social security that were, in my opinion, hasty and ill-advised.

The mismatch between social security and the unified budget is only too clear. The horizon of the budget process is 1 to 3 years. By necessity it must focus on program changes which can go into effect quickly and produce either immediate savings or immediate increases in revenues. On the other hand, the horizon of social security is an individual's working career and retirement. Its trustees project the actuarial balance of the system over a 75-year period. To consider social security only in terms of its financial condition in the next year or so is not only shortsighted but can be extremely dangerous for the long-run integrity of the system.

Some have suggested that my legislation would take social security off budget and hide it somewhere in the murky gloom of unknown and uncontrolled off-budget agencies. This is ridiculous. I do not think anyone would seriously believe there is any danger of losing a program the size of social security in the shadows. We will always know where it is and what it is doing.

It is interesting to note that even before social security was thrown in with the rest of the budget, the role of social security spending as a part of overall Federal spending was abundantly clear to the Congress. Prior to

the submission of the first unified budget, there were two separate Federal budgets: a trust fund budget and an administrative budget. Though these budgets were presented separately, they were combined in a single table for use in assessing the overall impact of all Federal spending programs on the economy. The amendment I will offer on Monday would not hinder in any way the ability of the Congress to evaluate the economic effects of social security spending. What it would do is separate the issue of social security solvency from other budget issues which are substantively unrelated.

Mr. President, the time has come to clarify for the American public that social security is an independent and separate program which must survive on its own basis and not be continually adjusted to respond to budget pressures. I ask my colleagues to support this method of dealing responsibly with the issue when we address it on Monday.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ANDREWS). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. BAKER. Mr. President, I have just conferred with the distinguished chairman of the Finance Committee, Senator DOLE, who is on the floor. He indicates to me that there are one or two, maybe three, other amendments that can be disposed of this afternoon. I hope so, because we need to do as much as we can. It does not appear that those amendments will require rollcall votes.

In view of that, and in view of the number of absentees on both sides of the aisle which have developed by this hour, I wish to announce that there will be no more rollcall votes today. We will continue on this bill, however, and do as much of it as we can without further record votes today.

I urge Senators who have amendments and are willing to take them up today to come to the floor and make that known to the two managers.

Mr. President, so much has been done today that I feel we all should offer congratulations to the chairman of the committee and the ranking minority member, who have done their usual excellent job of moving this bill along. I believe that we are now in striking distance of finishing on Monday.

I announce, Mr. President, that Senators should be prepared to stay late on Monday and finish this bill, because it is essential, in my view, that we get this bill to conference as soon as possible.

The adjournment resolution that will come to us from the House of Representatives will provide for the adjournment of the Senate over for the Easter recess on Wednesday, Thursday, or Friday.

I need not belabor that point, except to say that the sooner we get the social security bill out of the way and get to conference and get the jobs bill out of the way, the sooner we will be able to adjourn and perhaps improve the schedule for the Easter recess by a day or so.

UNANIMOUS-CONSENT AGREEMENT—ORDER FOR ADJOURNMENT UNTIL MONDAY

Mr. BAKER. Mr. President, I should like to put a unanimous-consent request now, which I have submitted for the consideration of the minority leader, who is in the Chamber.

I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 12 noon on Monday next, March 21, provided that when the Senate convenes at that time, the reading of the Journal be dispensed with; that no resolution or motion come over under the rule; that no call of the calendar occur; that the morning hour be deemed to have expired; but provided that there be a period for the transaction of routine morning business of not to exceed 30 minutes, in which Senators may speak for not more than 5 minutes each—again, after the expiration of the time allocated to the two leaders under the standing order.

Mr. BYRD. Mr. President, reserving the right to object—and I will not object—the majority leader has eliminated the morning hour. As he well understands, that eliminates the possibility of making a nondebatable motion that might otherwise be made, and he put that in as an understanding between the two of us.

Mr. LONG. Mr. President, reserving the right to object, may I understand what the distinguished leader plans? It is his intention that the social security bill will continue to be the pending business?

Mr. BAKER. It will. When we go out today, it will be the pending business; and when we return, after the time for the transaction of routine morning business, it will recur.

Mr. LONG. Can the Senator say how long he thinks morning business will take?

Mr. BAKER. Mr. President, I think we will be on this bill again before 1 p.m.

The PRESIDING OFFICER. Without objection, the unanimous-consent request of the majority leader is agreed to.

Mr. BYRD. Mr. President, could the majority leader indicate—maybe he is not in a position to do so—that there will be no votes before 2 p.m. on Monday?

Mr. BAKER. Yes. Mr. President, rather than request an order to that effect, let me simply assure the minority leader that I do not expect or anticipate record votes except perhaps procedural votes to instruct the Sergeant at Arms, and the like, prior to 2 p.m. on Monday.

Mr. President, I have just been handed a note that there are two requests for special orders on Monday that I shall request shortly.

I will say to the distinguished Senator from Louisiana that will advance the time perhaps when this bill will be up on Monday by 30 minutes, so it may be a little after 1 p.m. if this request is granted.

ORDER FOR THE RECOGNITION OF SENATORS WARNER AND THURMOND ON MONDAY

Mr. BAKER. Mr. President, I ask unanimous consent that on Monday next, after the recognition of the two leaders under the standing order, Senators WARNER and THURMOND be recognized in that order for not more than 15 minutes each.

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

Mr. BAKER. I yield.

ORDER OF PROCEDURE ON MONDAY

Mr. BYRD. Mr. President, if I may ask the majority leader a difficult question and one which I doubt he would wish to give me assurances on, but would it be possible to get an understanding that there will be no votes before 2:30 p.m. and none after 6 p.m. on Monday.

Mr. BAKER. Mr. President, I really cannot do that after 6 p.m. part because, I indicated earlier, and I believe the chairman of the committee and the ranking minority member both have expressed an enthusiasm for finishing this bill on Monday. It may be after 6 p.m. before we do so. So I am confident there will be no votes before 2:30 p.m., but I feel fairly certain there will be votes after 6 p.m.

Mr. BYRD. Mr. President, I felt the majority leader would, of necessity, have to respond in that way.

I think that his indication that there will be no votes before 2:30 p.m. is certainly something that should be beneficial to some of the Senators who inquired of me about that possibility.

I thank the Senator.

Mr. BYRD. I thank the Senator.

SOCIAL SECURITY ACT AMENDMENTS OF 1983

The Senate resumed consideration of H.R. 1900.

Mr. SARBANES. Mr. President, will the majority leader yield?

Mr. BAKER. I yield.

Mr. SARBANES. Is it the majority leader's intention to try to finish the bill on Monday?

Mr. BAKER. Yes, it is.

Mr. DOLE. Mr. President, in view of and following what the majority and minority leaders have discussed, I would indicate that we are not encouraging any more amendments. We have still some to deal with. I know that the amendment by Senator BRADLEY, if he pursues that amendment, will be a record vote because there is strong opposition, including opposition from the chairman and the ranking minority member of the Finance Committee to that amendment.

Senator HAWKINS, the distinguished Senator from Florida, has an amendment which would cost about $2 billion. We do not have $2 billion. That will be strongly opposed.

And as far as I know at this point, then the budget issue will probably require a rollcall vote. I am talking about Monday.

Others, if they pursue the amendments, could require rollcall votes.

Sometime perhaps on Monday the distinguished Senator from Louisiana (Senator LONG), will have an amendment which will be amended and that will require some rollcall votes.

So there will probably be a number of rollcall votes. I doubt any would be before 2:30 p.m.

I know we are waiting. Senator BENTSEN has an amendment.

Would he be willing to add Senator THURMOND as a cosponsor to his amendment?

Mr. BENTSEN. I am delighted to do so.

The PRESIDING OFFICER. Without objection, the amendment of the Senator from New Jersey will continue to be laid aside.

UP AMENDMENT NO. 101

(Purpose: To treat nonqualified deferred compensation the same as other elective deferred compensation for social security purposes)

Mr. BENTSEN. Mr. President, I have an unprinted amendment which I send to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Texas (Mr. BENTSEN), for himself, Mr. THURMOND, Mr. ZORINSKY, Mr. DURENBERGER, Mr. LUGAR, Mr. SYMMS, Mr. BAUCUS, Mr. SASSER, and Mr. BRADLEY proposes an unprinted amendment numbered 101.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

SECTION 1. Strike lines 3-19 on page 104 and strike lines 20-25 on page 106, and lines 1-11 on page 107 and in each place insert the following new paragraph:

"(2) treatment of certain nonqualified deferred compensation plans"

"(A) IN GENERAL.—Any amount deferred under a deferred compensation plan shall be taken into account for purposes of this chapter as of the later of

"(i) when the services are performed, or

"(ii) when there is no substantial risk of forfeiture of the rights to such amount.

"(B) TAXED ONLY ONCE.—Any amount taken into account as wages by reason of subparagraph (A) shall not thereafter be treated as wages for purposes of this chapter.

"(C) DEFERRED COMPENSATION PLAN.—For purposes of this paragraph—

"(i) IN GENERAL.—Except as provided in clause (ii), the term 'deferred compensation plan' means any plan or other arrangement for deferral of compensation other than a plan described in subsection (a)(5).

"(ii) EXCEPTION FOR CERTAIN GOVERNMENTAL PLANS.—In the case of a governmental plan (within the meaning of section 414(d)), the term "deferred compensation plan" shall include only a plan described in sections 457(a), 457(e)(1), 457(e)(2)(B), 457(e)(2)(D), and 457(e)(2)(E).

SEC. 2. Strike lines 4-18 of page 110 of amendment 516 and insert the following:

"Any amount deferred under a deferred compensation plan (within the meaning of section 3121(v)(2)(C) of the Internal Revenue Code of 1954) shall be taken into account for purposes of this title as of the later of when the services are performed, or when there is no substantial risk of forfeiture of the rights to such amount. Any amount taken into account as wages by reason of the preceding sentence shall not thereafter be treated as wages for purposes of this title."

SEC. 3. EFFECTIVE DATE.—Sections 3121(v)(2) and 3306(r)(2) of the Internal Revenue Code of 1954, as added by this section, shall apply to services performed after December 31, 1983.

Mr. BENTSEN. Mr. President, I have an amendment to correct what I believe to be an unintended result reached by the Finance Committee.

Many employers, particularly small employers, use nonqualified deferred compensation arrangements as a method of providing retirement income for their employees. Under current law, amounts deferred under these nonqualified deferred compensation plans are not subject to FICA (social security) or FUTA taxes when received as retirement payments. The blue ribbon Greenspan Commission did not recommend a change in this treatment. Likewise, the House of Representatives did not subject these deferred amounts to FICA or FUTA taxes.

Unfortunately, the Finance Committee has chosen to subject these nonqualified, deferred amounts to FICA and FUTA taxes when actually paid as retirement payments. This has the result of subjecting recipients to a social security tax burden when they are already retired and receiving social security. It has the additional onerous effect of eliminating the person's social security benefits because of the wage limitations. By indirection, it effectively increases the wage base for these persons way beyond the wage base currently in the bill, which, as we know, has already been dramatically increased. Finally, the Finance committee amendment is retroactive and, consequently, would drastically increase taxes by changing the rules after people already elected to defer some of their compensation.

My amendment corrects these results by simply subjecting these amounts to FICA and FUTA taxation when the amounts are deferred, not when they are eventually paid or made available. This simple, easily understood solution is exactly the same as the Greenspan committee recommendation and the House and Senate Finance Committee action in reference to section 401(k) plans and all similar plans under the bill. My amendment will help preserve the social security base from erosion by, in effect, ignoring nonqualified deferred compensation agreements for social security purposes without, however, imposing a drastic penalty on this form of compensation.

In most cases, under nonqualified deferred compensation agreements it is a relatively simple matter to determine when amounts are deferred and the amount that is being deferred. Likewise, as in many other areas of our tax law, simple rules can be established to determine the present value of amounts deferred in other cases.

My amendment preserves social security benefits for retired persons by simply making amounts deferred under nonqualified compensation plans subject to FICA and FUTA when deferred, not when eventually paid or made available.

There is negligible revenue loss, if any, and the amendment should be adopted.

Mr. President, what we are dealing here with is an amendment that deals with deferred compensation and under the present law, this is one where you would not have a tax incurred. What I am asking for and what has been checked with the chairman of the committee and with Senator LONG, the ranking minority member, is a piece of legislation that is revenue neutral and was not in the blue ribbon commission report of recommendations nor was it in the House bill and frankly would allow the deferred compensation to be recorded as of the date that it is earned rather than deferred to some future date at the time when it was received.

I believe that is the proper way to approach the problem and if we do not have that, then I think we have an unintended result in what was reported out of the committee and I believe that it would result in a number of deferred compensation plans being dropped.

I believe that is a good way to try to encourage retirement plans, and I urge very strongly that this amendment be accepted, and I state that it has been submitted to staff and to the chairman of the committee.

I yield to the Senator from Kansas for any comments that he may make.

Mr. DOLE. Mr. President, this amendment has been discussed with both the Senator from Texas and the Senator from South Carolina, and earlier today I had a colloquy, which is in

the RECORD, with the distinguished Senator from South Carolina, Senator THURMOND, on this same subject.

This amendment is further clarification, and, as the Senator from Texas indicates, it is a conforming amendment in many respects.

Essentially, the Bentsen-Thurmond amendment will conform, as closely as possible, nonqualified deferred compensation arrangement to the FICA tax treatment, section 401(k) plans as agreed to by the Finance Committee. It is fair to treat all deferred compensation equally for FICA purposes.

There may be additional areas such as ad hoc cost-of-living adjustments which may have to be worked out in conference, but this amendment goes a long way toward equalizing the FICA tax treatment of qualified and nonqualified deferred compensation arrangements and should be adopted.

I am willing to accept the amendment as I understand the distinguished Senator from Louisiana is willing to accept the amendment.

I am happy to yield to the Senator from South Carolina.

Mr. THURMOND. Mr. President, I wish to thank the able manager of the bill.

We feel this is a sound amendment, and I hope the Senate will accept it.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Texas.

The amendment (UP No. 101) was agreed to.

Mr. BENTSEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, are there other amendments that might be disposed of without record votes?

Mr. BAKER. Mr. President, may I inquire of the distinguished chairman of the committee if there are other amendments that appear available to us? If not, I intend to ask the Senate to have a period for the transaction of routine morning business.

Mr. DOLE. Mr. President, I know of no other noncontroversial amendments. There are some that may become noncontroversial, but at this point we are still in the negotiation and discussion stage.

So I think that is about all we can do today.

Mr. BAKER. I thank the Senator.

Mr. President, it has been a good day, and the chairman of the committee and the ranking minority member should be commended for their good work this day.

TREATMENT OF DEFERRED EMPLOYEE COMPENSATION UNDER THE SOCIAL SECURITY EARNINGS TEST

Mr. THURMOND. Mr. President, I wish to have a brief colloquy with the distinguished floor manager of the social security bill concerning the bill's treatment of deferred employee compensation under the social security "earnings test."

I have been advised that, as reported from the Finance Committee, the social security bill apparently would have had the unintentional effect of causing thousands of retired recipients of deferred compensation to lose all or part of their social security benefits.

This would occur as a result of the interaction between the revised definition of "wages"—which would include certain types of deferred compensation—and the "earnings test", which causes social security benefits to be reduced if the retiree has earnigns in excess of the allowed amount. Since another provision of the bill completely eliminates the retirement earnings test by 1994, an objective which I strongly support, I am sure that it is not the intent of the committee to bring under the earnings limitation a large group of individuals—retired recipients of deferred compensation—who heretofore have not been subject to it in respect to that deferred compensation.

Mr. DOLE. The Senator's observations are well founded. This was simply a drafting error which we will take care of through a committee technical amendment. The amendment reflects the intent of the committee that the receipt of income by a retired employee under a deferred compensation plan will not be counted as earned income for the purpose of the earnings test.

Mr. THURMOND. I thank the distinguished chairman of the Finance Committee for recognizing and taking care of this problem.

DRG'S

● Mr. BURDICK. I say to the chairman, I hope we can clarify a concern I have about the diagnosis-related groups, or DRG's. I am concerned that the proposed system will not take into consideration the costs at those institutions which have research costs associated with the care of their patients.

As you may know, the Senate Appropriations Committee, on which I serve, has a long history of supporting community-based cancer centers. In fact, the Labor-HHS Appropriations Subcommittee has included report language in 2 of the last 3 years directing the National Cancer Institute to continue this effort. In part because of this interest, the Institute is establishing closer links between local community physicians and hospitals and the larger cancer centers. Two examples of this outreach are the regional cancer research groups and the community clinical oncology program. These kinds of programs are allowing patients at the local level to participate in and benefit from NCI research. In the upper midwest, we have a fine program developing in which community-based physicians and hospitals are involving their patients in cooperative research programs which benefit not only the patients, but the larger body of medical knowledge. This research does not involve excessive additional costs, but it sometimes requires a greater intensity of care, more careful monitoring, additional testing or slightly longer hospital stays.

I feel strongly that this kind of cooperative, community-based research should continue so that citizens from all parts of the country can share the benefits of NCI research. I would hate to see the prospective reimbursement system limit this or reduce the opportunity for participation for medicare patients. I would hope that the Secretary will have the flexibility to recognize the additional research-related costs that may be involved in these cases, and that she or he will have the authority to make appropriate adjustments for them.

Mr. DOLE. I fully understand your concerns about this and share your belief in the importance of community-based research. We have no intention of discouraging legitimate research from taking place. Under the terms of our bill, the Secretary will have the authority to take the intensity of these cases into consideration in making adjustments to the standard DRG's.

Mr. BURDICK. I thank the Senator for clarifying this matter.●

● Mr. DECONCINI. Mr. President, I see that judicial and administrative review are not available for the initial rates for each diagnosis related group (DRG) and the DRG classification system itself.

I wish to clarify that, subject to the present jurisdictional requirements for review by the Provider Reimbursement Review Board (PRRB), judicial and administrative review are available for matters relating to updating the rates, including the composition of the market basket, and the Secretary's decisions on the advisory panel's recommendations.

Mr. DURENBERGER. That is correct. The exclusions from judicial and administrative review are those items necessary to maintain budget neutrality during fiscal year 1984 and fiscal year 1985. In addition, the establishment of specific DRG's and their relative weights are not reviewable. Matters affecting aggregate expenditures and the DRG rates in subsequent years are reviewable.

Mr. DECONCINI. Are subsequent additions to or subtractions from the initial list of DRG's reviewable?

Mr. DURENBERGER. I do not believe so.

Mr. DECONCINI. Then the Secretary could cut the number of DRG's in half, or double the number, or do anything else he wanted at his total discretion. He could also refuse to change the relative weights of the DRG's, even though it was absolutely proven that a given DRG was under or over weighted. This is particularly significant because, as I understand it, a relatively small number of DRG's ac-

count for the majority of all hospital discharges. The Secretary could make all these changes at his total discretion regardless of their impact on hospitals and patients. This is a very broad grant of discretionary authority, and one that I believe may prove unwise.

Mr. DURENBERGER. Mr. President, the concerns of my colleague from Arizona have some merit. We have attempted to address these concerns in part by establishing an independent commission of experts whose responsibility it will be to work with the Secretary in determining the changes that need to be made in and among the various DRG's. In addition, I expect to hold hearings during the second session and into the future, and to consider any reasonable changes to the legislation as become necessary as we learn more about the new system. I invite my colleague from Arizona to share with me his specific recommendations.

Mr. DeCONCINI. I thank my friend from Minnesota for his generous assistance and continued able leadership in the health area. I look forward to working with him next session.●

● Mr. WALLOP. Mr. President, one of the most important pieces of legislation to be enacted into law this century is the Social Security Act of 1935. It is an act of Congress that affects virtually every American, providing protection against destitution, assistance during ill health, and dignity in retirement. The program has been enormously successful and popular. During the almost 50 years of its existence, the social security program has expanded both coverage and benefits. Funding for the program has followed Franklin Roosevelt's decision to use the payroll tax rather than general revenues. Today, even those who publicly oppose it rely on it to undergird their own security, whether they realize it or not.

As the program matured, it was relatively painless to expand benefits. Money was flowing into the trust fund, and outgo was minimal. This halcyon period reflected the fact that the number of covered workers retiring was small in relation to the active work force, and the economy was quite robust.

Social security has reached its mature phase. The program covers virtually all workers and the tax applies to most wages. The number of retirees has expanded as the original participants have retired. This maturing has coincided with a period of sluggish economic growth and high inflation. The two developments have been devastating to the financial stability of the social security trust fund. As the number of retirees to workers has increased, the ability of workers to finance this pay-as-you-go program has diminished because of a weak economy.

The social security system is faced with a funding crisis. This crisis has two parts, the short term and the long-term phases. Earlier this year, the National Commission on Social Security Reform presented a series of recommendations to the Congress which would keep the program solvent for both the short and long term.

Merely reaching an agreement on recommendations was a major achievement for the Commission. The members represented many different perspectives on social security. However, the severity of the problem forced a concensus. As I said last month, there are provisions in the package with which I agree and other provisions with which I disagree. But, this is a time for realism, and I realize that we all must swallow hard and do what is right. I joined as a cosponsor of S. 1, the social security reform bill. I also cosponsored S. 76, a bill to resolve the remaining long-term funding problem by raising the retirement age.

Last Thursday, the Senate Finance Committee approved the reform package by a vote of 18 to 1. I strongly support the package. The committee bill improves on the Commission recommendations by including a sensible solution to that portion of the long-term funding gap not addressed by the Commission. The Finance Committee rejected higher taxes over the long term. Instead, the retirement age will be increased to age 66 by the year 2012. And, initial benefits will be reduced by 5 percent beginning in the year 2000. Though the benefit calculation will be reduced, benefit levels will continue to grow as the wage level increases. This will avoid any hardship caused by the 5-percent reduction.

The Finance Committee also approved other sensible changes. The retirement earnings test would be eliminated. Thus, the penalty on work would be removed for those who have reached the retirement age. We also improved the tax credit to offset the burden of increased payroll taxes for the self-employed. Last, the committee agreed to changes in the treatment of spouses and former spouses to improve the treatment of women. For instance, two dropout years would be allowed for child bearing without losing entitlement to benefits.

This is a good package. The advancement of this program demonstrates that our political process does work, that the Congress can successfully deal with major problems. I urge my colleagues to support the Social Security Amendments of 1983.●

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that there now be a brief period for the transaction of routine morning business to extend not past the hour of 5 p.m. in which Senators may speak for not more than 5 minutes each.

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

ROBERT FISKE BRADFORD

Mr. SARBANES. Mr. President, I know all of my colleagues join in sending heartfelt condolences to Senator MATHIAS and his wife Ann, on the death of her father, Hon. Robert Fiske Bradford.

The descendant of a long line of distinguished leaders of our country, Robert Fiske Bradford, was educated at Harvard College and Harvard Law School before entering the private practice of law in his native Massachusetts. He became active in State politics, serving as executive secretary to the Governor of the Commonwealth and was active in the campaigns for Governor and Senator of Leverett Saltonstall. He was elected district attorney of Middlesex County in 1938 and reelected in 1942.

In 1944, he was elected Lieutenant Governor of Massachusetts and went on to win the governorship in 1946. Governor Bradford worked to balance the Commonwealth's budget and keep the economy on a stable course during the immediate post-World War II period. He was also active in the European relief effort, serving as chairman of the "silent guest" program, urging Americans to donate the equivalent of a Thanksgiving dinner to the starving people of Europe in 1947. During his term as Governor, innovative alcoholic rehabilitation and education programs were approved.

After returning to private life in 1949, Governor Bradford remained active in civic and public affairs, serving as president of the Greater Boston Community Council, chairman of the Executive Committee of the Board of Overseers of Harvard University and on the boards of numerous educational, civic, and business organizations.

Mr. President, I want to express on behalf of all our colleagues our sympathy to Ann and MAC MATHIAS, and to all of the family of the late Governor Bradford, a fine and distinguished public servant and leader when the people of Massachusetts shall remember with gratitude and appreciation for his outstanding public service.

Mr. BAKER. Mr. President, will the Senator yield? I wish to join the distinguished Senator from Maryland in expressing my sympathy to Ann Mathias and her family on the passing of Governor Bradford.

It was a sad occasion for me today when I dispatched a letter to Mrs. Mathias expressing my regrets. I am sure I speak for every Member of the Senate when I say it is always a loss when any member of this broad Senate family meets the inevitable sadness of death. But I speak for myself and my colleagues, I am sure, in expressing to all of them, the Mathias and Bradford families, our deepest sympathy.