EXECUTIVE COMMITTEE MEETING ON THE CHAIRMAN'S MARK OF THE MARRIAGE TAX RELIEF RECONCILIATION ACT OF 2000

WEDNESDAY, JUNE 28, 2000

U.S. Senate,

Committee on Finance,

Washington, DC.

The meeting was convened, pursuant to notice, at 10:33 a.m., Hon. William V. Roth, Jr. (chairman of the committee) presiding.

Present: Senators Grassley, Hatch, Murkowski, Nickles, Gramm, Lott, Jeffords, Mack, Thompson, Coverdell, Moynihan, Baucus, Rockefeller, Breaux, Conrad, Bryan, Kerrey, and Robb.

Also present: Franklin G. Polk, Staff Director and Chief Counsel; David Podoff, Minority Staff Director and Chief Economist.

Also present: Lindy Paull, Chief of Staff, Joint Committee on Taxation; Jon Talisman, Acting Assistant Secretary for Tax Policy, U.S. Treasury, Jeff Kupfer, Tax Counsel, Senate Finance Committee; and Carla Martin, Chief Clerk.

OPENING STATEMENT OF HON. WILLIAM V. ROTH, JR., A U.S. SENATOR FROM DELAWARE, CHAIRMAN, COMMITTEE ON FINANCE

The Chairman. The committee will please come to order.

This morning the committee will consider the Marriage Tax Relief Reconciliation Act of 2000. This bill is the centerpiece of our efforts to reduce the tax overpayment by America's working families.

Not only does it reduce families' tax burden, it eliminates some of the most egregious examples of unfairness and complexity in the Tax Code today. It does all these things within the context of fiscal discipline and preserving the Social Security surplus.

Now, if some members of the committee have a feeling of deja vu, it is understandable. Less than three months ago, this committee considered and reported out S. 2346, the Marriage Tax Relief Act of 2000. Except for a modification to satisfy the budget reconciliation rules, the bill that we consider today is the same as that bill.

The fact that we are back today to mark up marriage tax relief demonstrates our commitment to it. Our earlier attempt this year to deliver marriage tax relief to the American people was blocked on the Senate floor. The Majority's Leader offer to limit debate to the marriage tax issue was rejected, and cloture votes failed.

The American people will not be satisfied with us telling them that they have to wait for comprehensive marriage tax relief because we could not overcome some procedural problems, so that is why we are using our first reconciliation bill to deliver marriage tax relief.

We hope the procedural protection of budget reconciliation will enable us to get this marriage tax relief to the American people quickly and cleanly. I want to emphasize that we are proceeding today under the budget resolution adopted by the Congress.

That resolution contains specific instructions for this committee. It does not, for instance, give us authority to increase spending. It does give us authority to report a tax cut bill, and that is what we are here to do.

This is not a time to reopen the budget debate, to argue the pros and cons of the budget resolution. Instead, it is time for us to act and to return some of the tax overpayment to American families.

While I welcome the President's recent statement that he is prepared to accept our marriage penalty package, I do not believe that it should change the focus of this mark-up.

The American people deserve marriage tax relief. Our bill will help working families who are burdened not only by the unfairness and complexity of a Tax Code that treats them one way when single, another when married and burdened by the cost of raising a family.

This bill is fair, this bill is responsible, this bill is pro-family. It is time that we divorce the marriage penalty from the Tax Code once and for all. I hope that you will support the Chairman's mark.

With that, it is my pleasure to turn to my good friend and colleague, Senator Moynihan.

OPENING STATEMENT OF HON. DANIEL PATRICK MOYNIHAN, A U.S. SENATOR FROM NEW YORK

Senator Moynihan. Mr. Chairman, I understand that due to the prior engagements of the Leaders, we are going to have to move quickly, if that can be done. If not, not. So, I will just ask that my statement be placed in the record.

[The prepared statement of Senator Moynihan appears in the appendix.]

Senator Moynihan. I would note that we did have an extraordinary day the day before yesterday, the announcement at the mid-session review that the estimate of the non-Social Security surplus of the next 10 years grew by over $1 trillion, something unheard of, without equal in our history.

Congress' leading economist, Senator Gramm, will no doubt note that what goes up could come down in the way of estimates, and we do not actually have this money, we just project that we will do. Still, it is a welcome change.

Sir, I will offer an alternative to the marriage penalty proposal that you have when that time comes. I would just like to say, I gather that you have in mind, we want to have a bipartisan consensus on these issues and that you may be able to schedule a mark-up on prescription drug coverage as soon as possible after the Fourth of July, they say.

The Chairman. I would say to my distinguished colleague that that is my plan, yes. We are working now in a bipartisan way trying to develop legislation that can represent a consensus. Frankly, I would be very happy if we could get everybody on it. If that is not possible, we still want it to be bipartisan.

So we hope to have next month, after the July 4th recess, a mark-up and proceed with this most important legislation.

Let me assure you, Pat, and members of this committee, I do not think there is anyone on the committee that is more interested in a mark-up than I am.

Senator Moynihan. A mark-up on prescription drugs.

The Chairman. Yes. And reporting out a Medicare reform and prescription drug bill.

Senator Moynihan. That is the Breaux bill.

The Chairman. Let me just make a statement, because I know there is a lot of interest. I understand the concern of people on your side. I want to get it accomplished this year. Bipartisan cooperation, I believe, will greatly facilitate our efforts. I understand that the time is short and that this committee must act.

Now, what we need to do is what the voters, I think, expect us to do, and that is to work together to achieve a consensus and develop a plan that, as I say, has broad Republican and Democratic support. The best way to achieve that consensus is to work together in this committee. I firmly believe it.

I think the Finance Committee has a long and valued history of rising to the challenge of complicated and difficult issues. We should not forget who we are and why we are here, and the influence this committee has when we work together.

We are at a critical state of our Medicare deliberations. We have completed our hearings. We have completed members' meetings. It is my intention to take the ideas we have received from all of you and put forward a plan that we can mark up and report out in July. I think if we all work together, we can get this done.

I know that many of the members would like to make some comments, but we are under short time restraints this morning so I hope we can proceed quickly.

Senator Moynihan. Mr. Chairman, I know we all are very pleased to hear what you just said, and we very much agree.

OPENING STATEMENT OF HON. MAX BAUCUS, A U.S. SENATOR FROM MONTANA

Senator Baucus. Mr. Chairman, I think we all agree that it would be far better if we could agree on not only the marriage penalty, but prescription drug, and for that matter, most matters in the jurisdiction of this committee.

So the real question is, do we have the time? Do we have the committee commitment to make that happen, or are we going to be swept away by the larger political forces in this town?

With the White House basically on one hand, the Republican Majority on the other, I do not dare predict what that outcome will be because I do not like the outcome, namely that the decision is going to be made on these basic matters, by and large, outside of this committee, and that is regrettable.

Some of my colleagues have heard me say this, and I just mention it because I do think it is really where the American people really are.

When I was home last weekend, I put together a statewide conference on economic development. We all do this in our states, so that is not new. In my State of Montana----

Senator Moynihan. But you got 10 percent of the population to come.

Senator Baucus. I got more than 10 percent. [Laughter]. One hundred people.

But the only point I want to make, and it is true there is a pent-up frustration in my State for some economic development leadership in Montana. Montana is perceived as not only the last best place in terms of visiting. People know that Montana is a wonderful place to visit, open space, clean streams, a great place to go fly fishing, et cetera, but we also want our State to be known as a place to do business.

We are very low on the economic scale. We are 50th in per capita wage income, we are 47th in per capital total income. We are first in the State in the number of jobs that each person has to hold. This goes to the main point of this hearing, this mark-up. The short of it is, people are hungering for non-partisan solutions. It is just incredible.

When I come back to Washington, DC every time after being home, and I know we all experience it, we realize that there are two separate worlds, there is home and there is Washington, DC, and they really do not meet very often in terms of what people are thinking about and talking about in our home States versus what is going on inside the Beltway here.

I say all that because it is clear to me that, if we could in this committee come up with a compromise agreement, it probably would be agreement that most Americans would find all right, that they could agree with, the marriage penalty plus some kind of prescription drug benefit for seniors.

I am not sure it is going to happen because time is a bit short. We have about 40 legislative days left. This is just 30 legislative days left, or however many it is. We are also in a time where we have this large surplus, which we do not have. We think we have it, but we do not have it. It is just a projection, it is not money in the bank, so it's easy to not get together.

My main point is, it is unfortunate we are in this situation, but we unfortunately are in this situation where we are going to offer competing message amendments rather than solutions.

I hope that, frankly, next year, if not later this year, we have a little bit different mode of action, regardless of who is elected President and regardless of the Majority of the Senate, because this is not working.

Senator Murkowski. Mr. Chairman?

The Chairman. Frank?

OPENING STATEMENT OF HON. FRANK H. MURKOWSKI, A U.S. SENATOR FROM ALASKA

Senator Murkowski. I was somewhat moved by the comments of my friend from Montana relative to the contrast between home and Washington, DC. I also was moved by his reference to economic development and the politicism associated with it.

I think it is unfortunate that reality dictates that virtually any resource development project of any consequence anywhere in the country is countered with an environmental objection.

As a consequence, the politics, just by nature, flow in, whether it's a coal issue in West Virginia where we are talking about taking the top of the mountains, whether it is a clean-up in Montana, whether it is opening up the Coastal Plain in Alaska.

I do not know how the Senator from Montana can address this any more reasonably and responsible than the Senator from Alaska, but that is just the world we live in.

To give you some idea, we have a very small population in our State. Last year, we had 61 environmental groups with offices in Anchorage Alaska. This year, we have 91. I was not aware that there were that many causes.

Now, these are young graduate lawyers, environmentalists who come out of Yale, Brown, and come up to do missionary work in our State. Our issues are so far away, it is very difficult for the public to evaluate them on their own.

But they stop and file an environmental objection against virtually everything. If you want to put a driveway across your backyard and you have some water associated with it, virtually every development project.

Now, that is the reality of the world that we live in. We are a developing State and all we have are resources, and we have the American technology to do it right, but it is very, very difficult to do it.

So I do not think you can have it both ways. It is just a reality of trying to struggle and communicate that we can do things right, we have the American technology, and are we going to do it domestically or are we going to do it overseas where we have no authority, whether it be the rain forests of Colombia or any place else? That is the dilemma that we have.

I sympathize, but reality dictates you are going to have jobs, you are going to have resource development, and you are going to have an environmental consequence. Can you, through technology, lessen the footprint? I think we can, given the outcome.

Senator Kerrey. Are we going to mark up endangered species?

The Chairman. I was just going to say, would somebody please comment on the marriage penalty? [Laughter].

Senator Moynihan. Mr. Chairman, if you want to proceed to that, I would like to offer an amendment.

Senator Rockefeller. Mr. Chairman, you had indicated I might be next.

The Chairman. Jay. All right. Please.

OPENING STATEMENT OF HON. JOHN D. ROCKEFELLER IV, A U.S. SENATOR FROM WEST VIRGINIA

Senator Rockefeller. I want to express a little bit different point of view, and a very frustrated point of view.

The Chairman. If I could, Jay, I would ask everyone to be brief.

Senator Rockefeller. I will be brief.

The Chairman. All right.

Senator Rockefeller. People say, the Senate Finance Committee will not make the final decisions on this. Well, so long as we keep saying that kind of thing, I will guarantee you we are not going to make any final decisions.

If we want to weaken ourselves, then fine, let us just cede on prescription drugs. Let us just decide, well, we are not going to be able to agree, or let us decide we will agree after the July recess, which will not happen because we have got two on our side who will not agree on that. You all over there do not have any prescription drug proposal. The House has one. Maybe it will come over, maybe it will take it up, maybe it will not.

I want a prescription drug proposal. I think it is a moral issue. I want my people in West Virginia and across the country to have a prescription drug bill. They deserve it. It is outrageous that we have not done it.

I feel very much this morning, and probably will offer the President's amendment, combined with Senator Moynihan's second amendment, the Democratic amendment on the marriage penalty tax. People say, oh, no, you cannot do that because it might lose. It might lose. You cannot lose.

Well, the question is, who is losing? Are we losing or is it the people we represent are losing? No wonder there is a gap between Montana, West Virginia and the government. We talk about the gap, but we do not do anything about it.

One place we can do something about it is right here in the Senate Finance Committee where we are responsible for health care and where we are responsible for prescription drugs.

Are we going to have a better chance of a compromise after the July 4th weekend? I very much doubt it. We have made very little progress so far.

I would feel much better having the votes counted, and let us see where we stand. If people do not like it or they do not like tomorrow's newspapers, that is fine.

In the meantime, my responsibility here is to get prescription drugs for the American people.

The Chairman. Time is running out. So I think the important thing now is to proceed with the mark-up.

Senator Moynihan. I offer the Democratic amendment number two.

The Chairman. Could I first ask Mr. Kupfer to describe the proposed legislation?

Senator Moynihan. Yes, of course.

Mr. Kupfer. Thank you, Mr. Chairman.

As you indicated, except for a modification to satisfy the budget rules, the Chairman's mark is the same as S. 2346, which was approved by the committee on March 30, 2000.

The Chairman's mark has five components. First, the bill would increase the basic standard deduction for a married couple filing a joint return to twice the basic standard deduction for a single individual. This standard deduction increase would become effective next year in 2001.

Second, the bill would increase the size of the 15 percent and 28 percent regular income tax brackets for a married couple filing a joint return to twice the size of the corresponding rate brackets for a single individual.

This increase is phased in over a six-year period.

The rate bracket increase begins in 2002 and is fully implemented in 2007.

Third, the bill increases the beginning and ending income levels of the phase-out of the Earned Income Credit for married couples filing a joint return by $2,500. It is effective next year in 2001.

Fourth, the bill preserves family tax credits such as the child credit or the Hope Scholarship credit from being cut back by the Alternative Minimum Tax. It does so by permanently extending the present-law temporary measure that allows non-refundable personal credits to offset both the regular and minimum tax.

Finally, in order to ensure that the bill does not violate the so-called Byrd rule of the Budget Act, it has a provision that sunsets all the other provisions of the bill so that they will all cease to apply to any taxable year beginning after December 31, 2004.

Thank you, Mr. Chairman.

Senator Moynihan. Mr. Chairman?

The Chairman. Senator Moynihan?

Senator Moynihan. I would like to offer a substitute which has the great advantage which our Ranking Congressional economist, Senator Gramm, would recognize of economy and simplicity.

It is a simple measure that would allow married taxpayers to file jointly or separately, as they choose. There is a cap of adjusted gross income between $100,000 and $150,000.

The Chairman. Let me say that the concept of the Moynihan substitute amendment is something I have endorsed in the past, primarily because it has the capability to deliver complete marriage penalty relief to all our taxpayers both at the low end and at the high end.

But the amendment that Senator Moynihan offers today cuts away from that principled approach. Today's amendment imposes arbitrary income limits on the marriage penalty relief, it begins to phase out the benefits at $100,000 of income, and then completely shuts them off at $150,000 per couple.

All of us, both Democrats and Republicans, have talked at length about the fundamental unfairness of the marriage penalty in the Tax Code. But we all really believe that it is a policy that needs to be changed, and I believe that it does, and that we should change it for all Americans.

I do not see how we can justify solving the marriage tax penalty for some but letting it remain for those above some arbitrary income level. This should not be an issue of the rich versus poor.

Senator Moynihan. Mr. Chairman, if we were to drop that provision would you then agree? I do not like either. [Laughter].

The Chairman. I could not agree with that. I think it is important that we recognize that in many families one of the spouse's stay home to work and do work in the home. Our legislation recognizes that, gives them the same tax break. We think this is an important difference and one that should be continued.

Senator Moynihan. In that case, Mr. Chairman, I would ask for the yeas and nays.

The Chairman. The yeas and nays have been asked for. I suggest, if we could proceed, I want to go ahead and vote.

Senator Baucus. Mr. Chairman, just very, very briefly, just so we all know what we are doing here. Senator Moynihan's proposal, just to make it absolutely clear, does, but for the cap, and I am for limiting the cap as well, take care of the entire problem.

With all due respect, Mr. Chairman, you mentioned you wanted to eliminate the so-called penalty for all Americans. Senator Moynihan's proposal does just that. It is for all Americans, and that is the beauty of it. If the cap were off, I think that would be even better.

Second, just so it is clear for everybody, with all due respect, the Majority proposal eliminates the penalty in only 3 of the 62 penalty provisions in the Code. It does for a standard deduction, brackets, and I think the third is EITC.

But for the rest of the provisions in the Code which cause a penalty, including Social Security benefits, the Majority alternative does not reduce the penalty for all Americans, it only does with respect to three provisions in the Code. It does not with respect to 62 provisions in the Code that cause the penalty.

Senator Moynihan. There are, altogether, 62.

Senator Baucus. One other point, briefly, Mr. Chairman. That is that the Majority proposal will eliminate the penalty. Forty percent of the revenue in the bill eliminates the penalty for the three conditions I mentioned, but 60 percent of the revenue in the Majority bill goes to lower taxes for reasons that have nothing to do with the penalty.

So, there are two major proposals from Senator Moynihan. One, it covers all the penalty provisions and all the revenue goes to eliminating the penalty.

The Chairman. We are running out of time.

Senator Nickles. Mr. Chairman, I would urge my colleagues not to vote in favor of my colleague from New York's amendment. I compliment him for it, but it offers no relief for couples with incomes of, say, $50,000 where one individual chooses to stay at home with the children.

What Chairman Roth's proposal does, is says, let us double the 15 percent bracket. So if you are 15 percent bracket up to $26,000, let us make that $52,000 for a couple so there is no penalty whatsoever. Then eventually it is the same thing on the 28 percent.

So I compliment the Chairman. There is tax relief for all families, for all married returns, and I compliment the Chairman.

Senator Moynihan. Mr. Chairman, I am not going to get into this, and Senator Nickles may not know that we earlier announced we are going to get through this quickly in order that he and the Leader can get to an 11:30 meeting, but, sir, if you are a household in which one member earns $50,000 and the other member stays home, you have a marriage bonus in the present law.

The Chairman. Time is running out and we are trying to complete this. The sponsor of the amendment has asked for a roll call vote. The Clerk will call the roll.

The Clerk. Mr. Grassley?

Senator Grassley. No.

The Clerk. Mr. Hatch?

The Chairman. No, by proxy.

The Clerk. Mr. Murkowski?

Senator Murkowski. No.

The Clerk. Mr. Nickles?

Senator Nickles. No.

The Clerk. Mr. Gramm, of Texas?

Senator Gramm. No.

The Clerk. Mr. Lott?

Senator Lott. No.

The Clerk. Mr. Jeffords?

Senator Jeffords. No.

The Clerk. Mr. Mack?

Senator Mack. No.

The Clerk. Mr. Thompson?

Senator Thompson. No.

The Clerk. Mr. Coverdell?

The Chairman. No, by proxy.

The Clerk. Mr. Moynihan?

Senator Moynihan. Aye.

The Clerk. Mr. Baucus?

Senator Baucus. Aye.

The Clerk. Mr. Rockefeller?

Senator Rockefeller. Aye.

The Clerk. Mr. Breaux?

Senator Breaux. Aye.

The Clerk. Mr. Conrad?

Senator Conrad. Aye.

The Clerk. Mr. Graham, of Florida?

Senator Moynihan. Aye, by proxy.

The Clerk. Mr. Bryan?

Senator Bryan. Aye.

The Clerk. Mr. Kerrey?

Senator Kerrey. Aye.

The Clerk. Mr. Robb?

Senator Robb. Aye.

The Clerk. Mr. Chairman?

The Chairman. No.

Senator Moynihan. I can tell you what the vote is. [Laughter].

The Clerk. Mr. Chairman, the tally is 9 ayes, 11 nays.

The Chairman. The amendment is not agreed to.

Are there any further amendments?

Senator Conrad. Mr. Chairman?

The Chairman. Yes. The Senator from North Dakota.

Senator Conrad. Mr. Chairman, I would like to offer an amendment, along with Senator Baucus, on a Social Security and Medicare lock box. I offer it at this time because I think it makes an important point, that while we are considering tax relief proposals, that our first priority ought to be to protect Social Security and Medicare.

I think there is a growing consensus--we have certainly seen it develop on Social Security, it seems to be developing on Medicare--that we ought to put off budget those programs so that we make certain that money is not used from the surpluses generated by those funds for other purposes.

The amendment is simple. It says we must protect Social Security surpluses each and every year. It also says that we take the Medicare Hospital Insurance Fund Trust Fund surpluses off budget to prevent those surpluses from being used for anything but Medicare.

According to the Office of Management and Budget, the Medicare trust fund will run a surplus of some $400 billion over the next 10 years. Taking those surpluses off budget will ensure they are used only for Medicare and to pay down the debt.

So, Mr. Chairman, I would just hope that this committee would send a signal that at the same time we are enacting tax relief, which is important, that we also are very clear that the top priority is protecting Social Security and Medicare.

So, I offer the amendment in that light, Mr. Chairman.

The Chairman. Any comment?

Senator Moynihan. I would like to comment that one of the agreeable side effects of the Senators' proposal is that we pay off the national debt whilst we are precluding ourselves from using this money for other purposes. I do not know if there could be a more important purpose at this sudden moment of surplus.

The Chairman. Let me just make a comment, then I will turn to you, Don.

The amendment would establish points of order against using the combined Social Security and Medicare surpluses for on-budget purposes and take the Medicare program off budget.

Now, since the only item that is listed on the committee's agenda is marriage tax relief reconciliation legislation, I must rule that the lock box amendment is out of order under Rule 2 of the committee rules.

The bill before us is a tax cut. The amendment creates budget points of order, and this is in the jurisdiction of the Budget Committee. The Chair has consistently held matters in the jurisdiction of other committees to be non-germane, so I rule it out of order.

Senator Nickles. Mr. Chairman?

The Chairman. Yes.

Senator Nickles. I wanted to ask the sponsor, was this the actual lock box proposal or was this saying no tax cuts unless these funds are protected first?

Senator Conrad. No. This is simply the lock box proposal.

Senator Nickles. I would just urge my colleague to withhold it for the time being. The Chairman mentioned it does not belong here, but I will work with my colleague. We are going to get that done this year. I know the Chairman of the Budget Committee is interested in it.

We have talked about having a lock box. We have already passed a lock box, as people are aware of, the House has, on Social Security. Now, some people prevented that from happening in the Senate, but we still want that to happen. Frankly, we want a lock box on Medicare.

So, I would be happy to work with my colleague, who is one of the senior members of the Budget Committee, to see if we cannot do it. But I would like to do it in a bipartisan manner to see that it happens and becomes law and not to confuse or to add it to this bill when I know, when we tried the Social Security lock box on the floor, some Democrats objected and we have not been able to get that to a vote.

I will work with you to come to a vote, but I do not want it to kill the marriage penalty, and I do not think that is my colleague's intention. I like to keep marriage penalty separate, safe, pass it, have that become law, and I will work with my colleagues to pass the lock box, both on Social Security and Medicare, this year.

The Chairman. Let me just add to what Senator Nickles said. I, too, want to protect Medicare and would be happy to work with you. I think this is the wrong place, and that is the reason we have to make the ruling. But we are very sympathetic to what you are proposing.

Senator Conrad. Mr. Chairman, might I just respond? I want to make clear, I am not trying to kill anything else. As many members of the committee know, I have offered the lock box protection for Social Security and Medicare for two years because I believe very strongly it is the right budget plan for the country, that we make very clear we are not going to dip into Social Security surpluses, we are not going to dip into Medicare surpluses, that those are going to be set aside.

As the Ranking Member indicates, the positive effect of that approach is the money goes to pay down the debt. A swifter pay-down of the debt, every economist has told us, is the right plan for the country.

That still leaves plenty of room for significant tax reduction, it leaves plenty of room for a prescription drug benefit, it leaves plenty of room for initiatives in education that I think most people would favor.

I would ask the Ranking Member for his advice in terms of proceeding with this at this point.

Senator Moynihan. I would like to suggest, inasmuch as a two-thirds vote is required, even if we do get Senator Nickles' vote, we probably would not make it, but it would be a good thing to have on the record.

Senator Nickles. You misunderstood my comment. [Laughter]. My comment was urging my friend and colleague from North Dakota to withhold it at this point and to see if we cannot work something out.

The House has already passed a Social Security lock box. We have not been able to pass that in the Senate because there have been objections from the Democrat side. I would be happy to work with my colleague from North Dakota to protect both and to pass both. I do not think they should be on this particular bill.

Senator Conrad. Mr. Chairman, I respect very much my colleague's entreaty.

I would just say, I would like to get a vote and start the process. So I would move to waive the germaneness and ask for a vote of the committee.

The Chairman. I would point out, a two-thirds vote of the committee is required. I would like to proceed with the vote, if we could.

Senator Gramm. Mr. Chairman?

The Chairman. Thirty seconds.

Senator Gramm. Mr. Chairman, the incredible paradox is that we have a bill reported out of the Budget Committee that would have a lock box for Social Security. The Democrat leadership has objected to letting us bring that bill up.

If we brought that bill up, Senator Conrad could offer the amendment to it that would include Medicare. So what we need to do is, is Senator Conrad needs to convince his leadership to let us bring up the lock box on Social Security. I would think, knowing how strongly he feels about it, he could influence them to let us do that, in which case we would solve this problem.

Senator Moynihan. But may I say that there could be no more affirmative mode to do that than be able to point out that the Democratic Senators present voted to go forward as the Senator from Texas suggests we should.

The Chairman. Two-thirds of the members present are required to waive the rule.

So the Clerk will call the roll. The question is to waive the point of order, so those who are supporting the Chairman would vote no.

The Clerk. Mr. Grassley?

Senator Grassley. No.

The Clerk. Mr. Hatch?

Senator Hatch. No.

The Clerk. Mr. Murkowski?

Senator Murkowski. No.

The Clerk. Mr. Nickles?

Senator Nickles. No.

The Clerk. Mr. Gramm of Texas?

Senator Gramm. No.

The Clerk. Mr. Lott?

Senator Lott. No.

The Clerk. Mr. Jeffords?

Senator Jeffords. No.

The Clerk. Mr. Mack?

Senator Mack. Mr. Chairman, do I understand that a no vote supports your position?

The Chairman. That is correct.

Senator Mack. No.

The Clerk. Mr. Thompson?

Senator Thompson. No.

The Clerk. Mr. Coverdell?

Senator Coverdell. No.

The Clerk. Mr. Moynihan?

Senator Moynihan. Notice the difference, the brio with which Democrats say, yes.

The Clerk. Mr. Baucus?

Senator Baucus. [No response].

The Clerk. Mr. Rockefeller?

Senator Rockefeller. [No response].

The Clerk. Mr. Breaux?

Senator Breaux. [No response].

The Clerk. Mr. Conrad?

Senator Conrad. Aye.

The Clerk. Mr. Graham of Florida?

Senator Graham. [No response].

The Clerk. Mr. Bryan?

Senator Bryan. Aye.

The Clerk. Mr. Kerrey?

Senator Kerrey. Mr. Chairman, I understand a no supports your position?

The Chairman. That is correct.

Senator Kerrey. Aye. [Laughter].

The Chairman. I object. [Laughter].

The Clerk. Mr. Robb?

Senator Robb. Aye.

The Clerk. Mr. Chairman?

The Chairman. No.

The Clerk. The Chairman votes no.

Senator Moynihan. Thank you.

The Clerk. Mr. Chairman, we have 5 ayes, 11 nays.

The Chairman. The waiver is not agreed to.

Are there any more amendments?

Senator Bryan. Mr. Chairman, I do not have an amendment, but I would like to ask a question about the measure that we are going to be voting on. Is this the appropriate time?

The Chairman. Sure.

Senator Bryan. It has been described by our staff as parallel to the provision that we voted on in March of this year. As I recall those numbers, they go something like this: 25 million people in this country actually pay a marriage penalty, 21 million actually receive a bonus.

Now, the numbers that we had at the March mark-up would indicate that, of the money allocated for this tax benefit, only 42 percent apply to those who are in a penalty stage, 58 percent of the money go to those who are either in a marriage bonus or the 1.9 million people who are not married at all.

My question is, and I think that the scoring of this is $55 billion over a five-year period of time. If I am incorrect, I certainly would ask the Chairman or the staff to correct me.

Would I be correct in assuming that 58 percent of the money that is involved in this mark-up will go to people who are not in a marriage penalty situation at all; am I correct in that assumption?

Senator Moynihan. I believe so, sir.

Senator Bryan. Well, I would say with great respect that this bill masquerades as a marriage penalty relief, but it is certainly much more. I would hope that we could work on a more targeted marriage relief benefit, and I thank the Chair.

Senator Nickles. If the Senator would yield, maybe I will offer a little different view.

Maybe it depends on how you define penalty, but if you have an individual that pays taxes at 15 percent up to $26,000 and you say as a couple that should be doubled, and that is what we do in the bill, we are eliminating basically a penalty that the present law says, no, as a couple they have to start paying 28 percent at $43,000. We are saying, no, they should pay 28 percent at $52,000. We doubled the amount for individuals.

So we are eliminating the penalty because they happen to be married and they get flipped into the higher bracket prematurely, then doubles. So we doubled both brackets. That is the fairest way to do it.

Senator Bryan. I would respectfully disagree with my friend from Oklahoma. It seems to me the fairest way to do it is to simply provide a choice to the taxpayer. If he or she benefits by filing a single return rather than a joint return, that option should be his or hers. Conversely, to the extent that a married couple would benefit, they should be able to file jointly.

I think that has two advantages, if I might say to my friend. Number one, it provides the choice. I think most of us support that concept. Second, it strikes me that that is a more targeted way to provide the benefit and that would give us the opportunity to consider other relief that we might want to provide other categories.

Senator Nickles. Mr. Chairman, I have the greatest respect for my colleague from Nevada, and I do respect him a lot, but what we are basically saying is that one individual, and here are their taxes, let us give that same tax level to the other person.

Right now, if they file as a couple, frankly, they have to start paying at a much higher rate earlier. So by doubling the brackets, the 15 percent bracket and the 28 percent bracket--and incidentally, we did double the exemption level as well--I think that is the fairest, simplest way to provide the relief.

Senator Gramm. We are for love and we are for marriage, and this bill gives us more of both.

Senator Moynihan. Mr. Chairman?

The Chairman. Senator Moynihan?

Senator Moynihan. Yes. As regards love and marriage, we give you not only more of that, but we give you simplicity, too, which any scientist knows is essential to good methodology. I want to thank the prodigious work of our staff. We have found that there are 65 marriage penalties in the Tax Code.

The bill we have approved eliminates one, and partially addresses two. The bill we have rejected, for the moment, eliminates them all. Think of how much more love and marriage there would be with all of them resolved.

The Chairman. Senator Robb?

Senator Robb. Mr. Chairman, if I could, just for clarification purposes, ask the Chairman or the distinguished Senator from Oklahoma for a definition of marriage penalty. It would certainly assist me in sorting out some of the rhetoric that I have heard. I identify very strongly with the remarks just made by my distinguished friend from Nevada.

The Chairman. Our bill is marriage tax relief, basically, is what is involved. I think many of us feel very strongly that one should not be penalized tax-wise for marrying. I think, for that reason, there is broad support for this legislation.

Are there any more amendments?

Senator Rockefeller. I would like to ask unanimous consent. I was on the telephone and a piece of paper was held up to me saying, we are voting. I came in, we had voted. I would have voted aye had I been here, and I would like to have been able to have voted aye on the last vote.

The Chairman. Without objection.

Senator Coverdell. Mr. Chairman?

The Chairman. Senator Coverdell, did you want to make a similar request?

Senator Coverdell. No, that is sufficient.

Senator Conrad. Mr. Chairman, might I just be recognized on the marriage penalty?

The Chairman. Yes.

Senator Conrad. Mr. Chairman, I think what Senator Bryan said is about as clear and compelling as any statement could be. The problem we have, is the marriage penalty proposal from the Majority deals with a lot more than marriage penalty. You are giving breaks to people who already get a marital bonus.

The reason I believe the Moynihan approach is far superior is it deals with the marriage penalty, and it deals with all of the marriage penalties that are in the Code.

As a former tax commissioner, the Senator from New York is precisely correct. We have dozens of marriage penalties in the current Code. The only proposal before us that deals with all of them is the proposal from the Senator from New York. That eliminates marriage penalty because it gives taxpayers a choice. I would just say to the Chairman, you endorsed this approach previously.

I hope, before we get to the floor, we will go back to what is a targeted, clean way of dealing with all of the marriage penalties that exist in the Code and not have the proposal that is now before us that deals with marriage bonus situations, that is not targeted, and fails to deal with literally dozens of marriage penalties that are in the Code, and will remain in the Code if we do not go back to the proposal the Chairman previously endorsed and has been offered here by the Senator from New York.

The Chairman. We are running out of time. I think two of our members have to leave. So I would like to proceed, if we could, with the vote.

If there are no further amendments, I now move to favorably report the Chairman's mark as an original bill to the Senate.

The Clerk will call the roll.

The Clerk. Mr. Grassley?

Senator Grassley. Aye.

The Clerk. Mr. Hatch?

The Chairman. Aye, by proxy.
The Clerk. Mr. Murkowski?
Senator Murkowski. Aye.
The Clerk. Mr. Nickles?
Senator Nickles. Aye.
The Clerk. Mr. Gramm of Texas?
Senator Gramm. Aye.
The Clerk. Mr. Lott?
Senator Lott. Aye.
The Clerk. Mr. Jeffords?
Senator Jeffords. Aye.
The Clerk. Mr. Mack?
Senator Mack. Aye.
The Clerk. Mr. Thompson?
Senator Thompson. Aye.
The Clerk. Mr. Coverdell?
Senator Coverdell. Aye.
The Clerk. Mr. Moynihan?
Senator Moynihan. No.
The Clerk. Mr. Baucus?
Senator Moynihan. No, by proxy.
The Clerk. Mr. Rockefeller?
Senator Rockefeller. No.
The Clerk. Mr. Breaux?
Senator Moynihan. No, by proxy.

The Clerk. Mr. Conrad?

Senator Conrad. No.

The Clerk. Mr. Graham of Florida?

Senator Moynihan. No, by proxy.

The Clerk. Mr. Bryan?

Senator Bryan. No.

The Clerk. Mr. Kerrey?

Senator Moynihan. No, by proxy.

The Clerk. Mr. Robb?

Senator Robb. No.

The Clerk. Mr. Chairman?

The Chairman. Aye.

The Clerk. Mr. Chairman, we have 10 ayes, 5 nays.

The Chairman. The bill is favorably reported.

Senator Moynihan. Mr. Chairman, before we conclude, we have done it in time as a courtesy to the Republican Leaders, and we were happy to do that. But I would just say, we are equally happy to hear that you would like to have a mark-up on prescription drugs early in July, for Medicare.

The Chairman. Yes. We are very anxious to proceed with that. We expect to have a mark-up of Medicare reform and access to pharmaceutical drugs. That is a top priority and we want to do it in a bipartisan way.

Senator Moynihan. Good.

The Chairman. I want to thank everyone for being here, and appreciate the fact that we completed this 10 minutes early.

The committee is in recess.

[Whereupon, at 11:20 a.m., the meeting was concluded.]

A

I N D E X

Gilmour
41 pp.
6-28-00

UNITED STATES SENATE
COMMITTEE ON FINANCE

Wednesday, June 28, 2000
10:00 a.m.
215 Dirksen Senate Office Building

OPEN EXECUTIVE SESSION
AGENDA

Chairman's Mark on The Marriage Tax Relief Reconciliation Act of 2000

Committee On Finance

William V. Roth, Jr., Chairman

NEWS RELEASE

www.senate.gov/~finance

FOR IMMEDIATE RELEASE
June 16, 2000

Press Release #106-399
Contact: Ginny Flynn
202/224-4288
Tara Bradshaw
202/224-5218

COMMITTEE TO MARK UP MARRIAGE PENALTY RELIEF JUNE 28

Legislation Will Be First of Two Revenue Reconciliation Measures

WASHINGTON -- Senate Finance Committee Chairman William V. Roth, Jr. (R-DE) today announced that the Committee will meet on Wednesday, June 28 to mark up marriage tax penalty relief as the first of two revenue reconciliation bills. The mark up will take place at 10:00 am in room 215 of the Dirksen Senate Office Building.

"The so-called 'marriage tax penalty' hits about half of our country's married couples, sending them into a higher tax bracket than if they were single. This is patently unfair and anti-family. When a couple decides to exchange wedding vows, they shouldn't also have to take a vow of poverty. A tax form should not stand in the way of Cupid's bow," Roth stated. " That is why I intend to try again to rid the tax code of this anti-family tax."

The budget resolution instructs the Committee to report out two revenue bills as part of the budget reconciliation process. The budget instructs the Committee to report out the first revenue bill by July 14 and the second by September 13. The Committee is authorized in those bills to cut taxes by $150 billion over the next five years.

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OPENING STATEMENT OF
SENATOR DANIEL PATRICK MOYNIHAN
MARRIAGE PENALTY MARKUP
JUNE 28, 2000

Mr. Chairman, earlier this week we received some remarkable news. In its *Mid-Session Review,* the Office of Management and Budget estimates a 10-year unified budget surplus of $4.2 trillion, up from the $2.9 trillion estimated just about 4 months ago. The revised estimates put the on-budget surplus at $1.9 trillion, up from $746 billion in the earlier estimate. And the Congressional Budget Office is also expected to release similar upwardly revised estimates within the next two weeks.

A word of caution before the rush to allocate this largess among favored tax cut proposals and/or expenditure programs. "Sensitivity analysis" done by both OMB and CBO show that a five-year slowdown in real economic growth of just one percentage point -- from say 3 percent to 2 percent -- could easily reduce the total surplus by half, and just about wipe out the on-budget surplus.

As I have said on a number of occasions, my first priority is to pay down the federal debt. That is the strategy that has brought us to this point -- a record-breaking expansion of 111 months, an unemployment rate of about 4 percent and little or no inflation. Policies of the last 7 years, focused on reducing the deficit and paying down the debt, have produced a virtuous circle with more growth, more tax revenues, lower debt and lower interest rates leading to more investment, which in turn leads to still higher growth, more revenues and ever larger surpluses and so on. Let's not rush to break the circle.

With that said, we should respond to concerns about the "marriage penalty" and also the need to provide prescription drug coverage for our seniors.

Mr. Chairman, I know that the purpose of today's session is to markup "The Marriage Penalty Relief Reconciliation Act of 2000." But, as you know, on Monday the President suggested that we consider marriage penalty relief and prescription drug coverage together as part of a "true compromise" designed to break the legislative logjam.

Let's today, here in the Finance Committee, which after all is the Committee of jurisdiction, at least begin forging a true bipartisan consensus on these issues. Perhaps we can move forward with the marriage penalty today, and set a time for considering prescription drug coverage as soon as possible after the July 4th recess.

DESCRIPTION OF A CHAIRMAN'S MARK OF THE MARRIAGE TAX RELIEF RECONCILIATION ACT OF 2000

Scheduled for Markup

by the

SENATE COMMITTEE ON FINANCE

on June 28, 2000

Prepared by the Staff

of the

JOINT COMMITTEE ON TAXATION

June 26, 2000

JCX-64-00

CONTENTS

INTRODUCTION

This document,[1] prepared by the staff of the Joint Committee on Taxation, provides a description of a chairman's mark of "The Marriage Tax Relief Reconciliation Act of 2000," scheduled for markup by the Senate Committee on Finance on June 28, 2000.

[1] This document may be cited as follows: Joint Committee on Taxation, *Description of a Chairman's Mark of The Marriage Tax Relief Reconciliation Act of 2000* (JCX-64-00), June 26, 2000.

I. MARRIAGE TAX RELIEF PROVISIONS

A. Standard Deduction for Married Couples Set at Two Times the Standard Deduction for Single Individuals

Present Law

Marriage penalty and bonus in general

A married couple generally is treated as one tax unit that must pay tax on the couple's total taxable income. Although married couples may elect to file separate returns, the rate schedules and other provisions are structured so that filing separate returns usually results in a higher tax than filing a joint return. Other rate schedules apply to single persons and to single heads of households.

A "marriage penalty" exists when the combined tax liability of a married couple filing a joint return is greater than the sum of the tax liabilities of each individual computed as if they were not married. A "marriage bonus" exists when the combined tax liability of a married couple filing a joint return is less than the sum of the tax liabilities of each individual computed as if they were not married.

While the size of any marriage penalty or bonus under present law depends upon the individuals' incomes, number of dependents, and itemized deductions, as a general rule married couples whose incomes are split more evenly than 70-30 suffer a marriage penalty. Married couples whose incomes are largely attributable to one spouse generally receive a marriage bonus.

Under present law, the size of the standard deduction and the tax bracket breakpoints follow certain customary ratios across filing statuses. The standard deduction and tax bracket breakpoints for single filers are roughly 60 percent of those for joint filers.[2] Thus, two single individuals have standard deductions whose sum exceeds the standard deduction for a married couple filing a joint return.

Basic standard deduction[3]

Taxpayers who do not itemize deductions may choose the basic standard deduction (and additional standard deductions, if applicable), which is subtracted from adjusted gross income ("AGI") in arriving at taxable income. The size of the basic standard deduction varies according

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[2] This is not true for the 39.6-percent rate. The beginning point of this rate bracket is the same for all taxpayers regardless of filing status.

[3] Additional standard deductions are allowed with respect to any individual who is elderly (age 65 or over) or blind.

to filing status and is indexed for inflation. For 2000, the size of the basic standard deduction for each filing status is shown in the following table:

Table 1.–Basic Standard Deduction Amounts

Filing status	Basic standard deduction
Single return	$4,400
Head of household return	$6,450
Married, joint return	$7,350
Married, separate return	$3,675

For 2000, the basic standard deduction for joint returns is 1.67 times the basic standard deduction for single returns.

Description of Proposal

The proposal would increase the basic standard deduction for a married couple filing a joint return to twice the basic standard deduction for a single individual beginning in 2001. The basic standard deduction for a married taxpayer filing separately would continue to equal one-half of the basic standard deduction for a married couple filing jointly.

Effective Date

The proposal would be effective for taxable years beginning after December 31, 2000.

B. 15-Percent and 28-Percent Rate Tax Brackets for Married Couples Set at Two Times the Corresponding Tax Brackets for Single Individuals

Present Law

To determine regular income tax liability, a taxpayer generally must apply the tax rate schedules (or the tax tables) to his or her taxable income. The rate schedules are broken into several ranges of income, known as income brackets, and the marginal tax rate increases as a taxpayer's income increases. The income bracket amounts are indexed for inflation. Separate rate schedules apply based on an individual's filing status. In order to limit multiple uses of a graduated rate schedule within a family, the net unearned income of a child under age 14 may be taxed as if it were the parent's income. For 2000, the individual regular income tax rate schedules are shown below. These rates apply to ordinary income; separate rates apply to capital gains.

Table 2.--Federal Individual Income Tax Rates for 2000

If taxable income is:	Then income tax equals:
	Single individuals
$0-26,250	15 percent of taxable income
$26,250-$63,550	$3,937.50, plus 28% of the amount over $26,250
$63,550-$132,600	$14,381.50 plus 31% of the amount over $63,550
$132,600-$288,350	$35,787 plus 36% of the amount over $132,600
Over $288,350	$91,857 plus 39.6% of the amount over $288,350
	Heads of households
$0-$35,150	15 percent of taxable income
$35,150-$90,800	$5,272.50 plus 28% of the amount over $35,150
$90,800-$147,050	$20,854.50 plus 31% of the amount over $90,800
$147,050-$288,350	$38,292 plus 36% of the amount over $147,050
Over $288,350	$89,160 plus 39.6% of the amount over $288,350
	Married individuals filing joint returns[4]
$0-$43,850	15 percent of taxable income
$43,850-$105,950	$6,577.50 plus 28% of the amount over $43,850
$105,950-$161,450	$23,965.50 plus 31% of the amount over $105,950
$161,450-$288,350	$41,170.50 plus 36% of the amount over $161,450

[4] Married individuals filing separately must apply a separate rate structure with tax rate brackets one-half the width of those for married individuals filing joint returns.

If taxable income is:	Then income tax equals:
Over $288,350	$86,854.50 plus 39.6% of the amount over $288,350

Description of Proposal

The proposal would increase the size of the 15-percent and 28-percent regular income tax rate brackets for a married couple filing a joint return to twice the size of the corresponding rate brackets for a single individual. This increase would be phased-in over six years as shown in the following table. Therefore, this provision would be fully effective (i.e., the size of the 15-percent and 28-percent regular income tax rate brackets for a married couple filing a joint return would be twice the size of the corresponding regular income tax rate brackets for an single individual) for taxable years beginning after December 31, 2006.

Taxable year	Joint return rate bracket as a percentage of single return rate bracket
2002	170.3
2003	173.8
2004	180.0
2005	183.2
2006	185.0
2007 and thereafter	200

Effective Date

The proposal would be effective for taxable years beginning after December 31, 2001.

C. Increase the Beginning Point and Ending Point of the Earned Income Credit Phase-out for Married Couples

Present Law

Certain eligible low-income workers are entitled to claim a refundable earned income credit ("EIC") on their income tax return. A refundable credit is a credit that not only reduces an individual's tax liability but allows refunds to the individual of amounts in excess of income tax liability. The amount of the credit an eligible individual may claim depends upon whether the individual has one, more than one, or no qualifying children, and is determined by multiplying the credit rate by the individual's earned income up to an earned income amount. The maximum amount of the credit is the product of the credit rate and the earned income amount. The credit is phased out above certain income levels. For individuals with earned income (or modified AGI, if greater) in excess of the beginning of the phase-out, the maximum credit amount is reduced by the phase-out rate multiplied by the earned income (or modified AGI, if greater) in excess of the beginning of the phase-out. For individuals with earned income (or modified AGI, if greater) in excess of the end of the phase-out, no credit is allowed. In the case of a married individual who files a joint return, the income for purposes of these tests is the combined income of the couple.

The parameters of the credit for 2000 are provided in the following table.

Table 3.--Earned Income Credit Parameters (2000)

	Two or more qualifying children	One qualifying child	No qualifying children
Credit rate (percent)	40.00	34.00	7.65
Earned income amount	$9,720	$6,920	$4,610
Maximum credit	$3,888	$2,353	$353
Phase-out begins	$12,690	$12,690	$5,770
Phase-out rate (percent)	21.06	15.98	7.65
Phase-out ends	$31,152	$27,413	$10,380

Description of Proposal

The proposal would increase the beginning point of the phase-out of the EIC for married couples filing a joint return by $2,500. Because the rate of the phase-out would not be changed by the proposal, the ending point of the phase-out would also be increased by $2,500. The effect of the increase in the beginning of the phase-out would be to increase the EIC for taxpayers in the income phase-out by an amount up to $2,500 times the phase-out rate. For example, for couples with two or more qualifying children, the maximum increase in the EIC as a result of the proposal would be $2,500 times 21.06 percent, or $526.50. The proposal would also expand the number of married couples eligible for the EIC. Specifically, the $2,500 increase in the ending point of the phase-out would make married couples with earnings up to $2,500 beyond the present-law phase-out eligible for the EIC. The beginning and ending points of the phase-out range of the EIC (including the $2,500 increase for joint returns) would continue to be indexed for inflation, as under present law.

Effective Date

The proposal would be effective for taxable years beginning after December 31, 2000.

D. Preserve Family Tax Credits from the Alternative Minimum Tax

Present Law

In general

Present law provides for certain nonrefundable personal tax credits (i.e., the dependent care credit, the credit for the elderly and disabled, the adoption credit, the child tax credit, the credit for interest on certain home mortgages, the HOPE Scholarship and Lifetime Learning credits, and the D.C. homebuyer's credit). Except for taxable years beginning during 1998-2001, these credits are allowed only to the extent that the individual's regular income tax liability exceeds the individual's tentative minimum tax, determined without regard to the minimum tax foreign tax credit. For taxable years beginning during 1998 and 1999, these credits are allowed to the extent of the full amount of the individual's regular tax (without regard to the tentative minimum tax). For taxable years beginning during 2000 and 2001, the nonrefundable personal credits may offset both the regular tax and the minimum tax.[5]

An individual's tentative minimum tax is an amount equal to (1) 26 percent of the first $175,000 ($87,500 in the case of a married individual filing a separate return) of alternative minimum taxable income ("AMTI") in excess of a phased-out exemption amount plus (2) 28 percent of the remaining AMTI, if any. The maximum tax rates on net capital gain used in computing the tentative minimum tax are the same as under the regular tax. AMTI is the individual's taxable income adjusted to take account of specified preferences and adjustments. The exemption amounts are: (1) $45,000 in the case of married individuals filing a joint return and surviving spouses; (2) $33,750 in the case of other unmarried individuals; and (3) $22,500 in the case of married individuals filing a separate return, estates and trusts. The exemption amounts are phased out by an amount equal to 25 percent of the amount by which the individual's AMTI exceeds (1) $150,000 in the case of married individuals filing a joint return and surviving spouses, (2) $112,500 in the case of other unmarried individuals, and (3) $75,000 in the case of married individuals filing separate returns or an estate or a trust. These amounts are not indexed for inflation.

Reduction of refundable credits by alternative minimum tax

Refundable credits may offset tax liability determined under present-law tax rates and allows refunds to an individual in excess of income tax liability. However, the refundable child credit (beginning in taxable years beginning after December 31, 2001) and the earned income credit are reduced by the amount of the individual's alternative minimum tax.

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[5] The foreign tax credit is allowed before the personal credits in computing the regular tax for these years.

Description of Proposal

The proposal would permanently extend the provision that allows the personal nonrefundable credits to offset both the regular tax and the minimum tax.[6]

Also, the proposal would permanently repeal the reduction of the refundable credits by the amount of an individual's alternative minimum tax.

Effective Date

The proposals would be effective for taxable years beginning after December 31, 2001.

[6] The foreign tax credit will continue to be allowed before the personal credits in computing the regular tax.

E. Compliance with Congressional Budget Act

Present Law

Reconciliation is a procedure under the Congressional Budget Act of 1974 ("the Budget Act") by which Congress implements spending and tax policies contained in a budget resolution. The Budget Act contains numerous rules enforcing the scope of items permitted to be considered under budget reconciliation process. One such rule, the so-called "Byrd rule," was incorporated into the Budget Act in 1990. The Byrd rule, named after its principal sponsor, Senator Robert C. Byrd, is contained in section 313 of the Budget Act. The Byrd rule is generally interpreted to permit members to make a motion to strike extraneous provisions (those which are unrelated to the deficit reduction goals of the reconciliation process) from either a budget reconciliation bill or a conference report on such bill.

Under the Byrd rule, a provision is considered to be extraneous if it falls under one or more of the following six definitions:

(1) it does not produce a change in outlays or revenues;

(2) it produces an outlay increase or revenue decrease when the instructed committee is not in compliance with its instructions;

(3) it is outside of the jurisdiction of the committee that submitted the title or provision for inclusion in the reconciliation measure;

(4) it produces a change in outlays or revenues which is merely incidental to the non-budgetary components of the provision;

(5) it would increase the deficit for a fiscal year beyond those covered by the reconciliation measure; and

(6) it recommends changes in Social Security.

Description of Proposal

To ensure compliance with the Budget Act, the provision provides that all provisions of, and amendments made by, this bill shall cease to apply for taxable years beginning after December 31, 2004.

23-Jun-00 3:00PM

#00-2 093
PRELIMINARY
23-Jun-00

ESTIMATED REVENUE EFFECTS OF THE CHAIRMAN'S MARK OF THE "MARRIAGE TAX RELIEF RECONCILIATION ACT OF 2000," SCHEDULED FOR MARKUP BY THE COMMITTEE ON FINANCE ON JUNE 28, 2000

Fiscal Years 2001 - 2010

[Millions of Dollars]

Provision	Effective	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2001-05	2001-10
1. $2,500 increase to the beginning and ending income levels for the EIC phaseout for married filing jointly; sunset 12/31/04 [1]	tyba 12/31/00	-8	-1,570	-1,541	-1,558	-1,580	---	---	---	---	---	-6,257	-6,257
2. Standard deduction set at 2 times single for married filing jointly; sunset 12/31/04	tyba 12/31/00	-4,105	-6,003	-6,383	-6,523	-1,959	---	---	---	---	---	-24,973	-24,973
3. 15% and 28% rate bracket set at 2 times single for married filing jointly, phased in over 6 years; sunset 12/31/04	tyba 12/31/01	---	-1,717	-4,370	-8,464	-2,972	---	---	---	---	---	-17,523	-17,523
4. Permanent extension of AMT treatment of refundable and nonrefundable personal credits; sunset 12/31/04	tyba 12/31/01	---	-305	-1,638	-2,312	-2,591	---	---	---	---	---	-6,846	-6,846
NET TOTAL		-4,113	-9,595	-13,932	-18,857	-9,102	---	---	---	---	---	-55,599	-55,599

Joint Committee on Taxation

NOTE: Details may not add to totals due to rounding.

Legend for "Effective" column: tyba = taxable years beginning after

	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2001-05	2001-10
[1] Estimate includes the following effects on fiscal year outlays	7	1,345	1,311	1,321	1,336	---	---	---	---	---	5,320	5,320

1

DEMOCRATIC AMENDMENT NUMBER 1

Amendment in the nature of a substitute, as follows.

Optional Separate Filing. Allow married couples to file as two single filers on the same return. Income, deductions, credits, exemptions and other tax attributes would be allocated among the spouses as follows:

1. earned income to the taxpayer who earned it; unearned income to the taxpayer owning the underlying property giving rise to the unearned income (with such ownership considered 50-50 regarding joint tenancy property);

2. deductions proportionate to income;

3. deductions allowable by Section 151(b) (relating to personal exemptions for taxpayer and spouse), one exemption allocated to each spouse;

4. credits proportionate to income;

5. regarding the Earned Income Credit (EIC), dependents would be allocated proportionate to income (rounded to the nearest whole number). A total income cap for EIC eligibility would be imposed at two times the maximum EIC phase-out point;

6. eligibility for credits which require joint filing status would be satisfied under this proposal;

7. taxpayers would also be allowed to compute their taxes as if they were two single filers for purposes of the alternative minimum tax.

Effective date: Tax years beginning after December 31, 2001.

This proposal would be phased in so that the cost is approximately $55 billion over 5 and 10 years.

To comply with the Byrd Rule, the benefit would sunset on December 31, 2004.

2

DEMOCRATIC AMENDMENT NUMBER 2

Amendment in the nature of a substitute, as follows.

Optional Separate Filing. Allow married couples to file as two single filers on the same return. Income, deductions, credits, exemptions and other tax attributes would be allocated among the spouses as follows:

1. earned income to the taxpayer who earned it; unearned income to the taxpayer owning the underlying property giving rise to the unearned income (with such ownership considered 50-50 regarding joint tenancy property);

2. deductions proportionate to income;

3. deductions allowable by Section 151(b) (relating to personal exemptions for taxpayer and spouse), one exemption allocated to each spouse;

4. credits proportionate to income;

5. regarding the Earned Income Credit (EIC), dependents would be allocated proportionate to income (rounded to the nearest whole number). A total income cap for EIC eligibility would be imposed at two times the maximum EIC phase-out point;

6. eligibility for credits which require joint filing status would be satisfied under this proposal;

7. taxpayers would also be allowed to compute their taxes as if they were two single filers for purposes of the alternative minimum tax.

Effective date: Tax years beginning after December 31, 2001.

The benefit of this amendment would be phased out between adjusted gross income of \$100,000 and \$150,000. For phase-out purposes, the benefit would be the difference between a couple's tax liability under current-law joint filing and the couple's liability when this amendment is fully phased-in.

This amendment would be phased in so that the cost is approximately \$55 billion over 5 and 10 years.

To comply with the Byrd Rule, the benefit would sunset on December 31, 2004.

3

DEMOCRATIC AMENDMENT NUMBER 3

Amendment in the nature of a substitute, as follows.

Optional Separate Filing. Allow married couples to file as two single filers on the same return. Income, deductions, credits, exemptions and other tax attributes would be allocated among the spouses as follows:

1. earned income to the taxpayer who earned it; unearned income to the taxpayer owning the underlying property giving rise to the unearned income (with such ownership considered 50-50 regarding joint tenancy property);

2. deductions proportionate to income;

3. deductions allowable by Section 151(b) (relating to personal exemptions for taxpayer and spouse), one exemption allocated to each spouse;

4. credits proportionate to income;

5. regarding the Earned Income Credit (EIC), dependents would be allocated proportionate to income (rounded to the nearest whole number). A total income cap for EIC eligibility would be imposed at two times the maximum EIC phase-out point;

6. eligibility for credits which require joint filing status would be satisfied under this proposal;

7. taxpayers would also be allowed to compute their taxes as if they were two single filers for purposes of the alternative minimum tax.

Effective date: Tax years beginning after December 31, 2000.

The benefit of this amendment would be phased out between adjusted gross income of $100,000 and $150,000. For phase-out purposes, the benefit would be the difference between a couple's tax liability under current-law joint filing and the couple's liability when this amendment is fully phased-in.

This amendment would be phased in so that the cost is approximately $55 billion over 5 and 10 years.

To comply with the Byrd Rule, the benefit would sunset on December 31, 2004.

4

DEMOCRATIC AMENDMENT NUMBER 4

Amendment in the nature of a substitute, as follows:

Chairman's Marriage Penalty Proposal, with additional provisions concerning prescription drug benefits, medicare lockbox, and/or other topics.

5

<u>**Senate Finance Committee Mark-Up - June 28, 2000**</u>

Senator Rockefeller offers the following amendment to establish a Medicare Prescription Drug Benefit:

(Note: This amendment is intended to reflect President Clinton's Medicare prescription drug proposal released on July 2, 1999, as amended by modifications proposed by the President in February and on June 24, 2000.)

Overview of Amendment. This proposal would create a new and voluntary outpatient Medicare prescription drug benefit that is accessible and affordable to all beneficiaries. Medicare beneficiaries would have the option to enroll in "Part D" of the program. All Part D beneficiaries would immediately be able to purchase their prescriptions at the lower drug prices which private-sector benefit managers are able to negotiate. The new benefit would have no deductible and would pay half of participants' drug costs up to $5,000 ($2,500 in Medicare payments) when fully implemented. In addition, Medicare would provide beneficiaries with comprehensive catastrophic coverage after they incur $4000 per year of out-of-pocket costs beginning in 2002, indexed to drug inflation in subsequent years.

Medicare would provide a 50 percent premium subsidy for this coverage to assure that it is affordable for all beneficiaries. Moreover, costs associated with catastrophic coverage are excluded from the pro-rata premium calculation. Plan premiums are estimated to be $25 in 2002 and would increase as the benefit is phased in. Low-income beneficiaries (below 135 percent of poverty) would not pay for premiums or cost sharing (improving the protections that they have for the Medicare Part B premium), and those between 135 and 150 percent of poverty would pay a reduced premium. Enrollees in Medicare managed care plans would receive their benefit as they do today - although plans, for the first time, would be paid directly for providing this coverage. Beneficiaries in the traditional program would get their benefits through private pharmacy benefit managers (PBMs) or other qualified entities. Medicare would contract out for this management through competitive bidding similar to that used by most private insurers and large employers. This proposal also includes incentives to develop and retain employer-provided retiree drug coverage.

Reason for Change. Despite the indisputable importance of prescription drugs to health care today, Medicare does not explicitly cover outpatient prescription drugs. As a consequence, nearly 15 million Medicare beneficiaries lack drug coverage altogether - many of whom are middle income. Millions more have retiree health coverage, which is declining; Medigap, which is unstable and increasingly expensive; Medicaid, which restricts eligibility to the lowest income seniors and people with disabilities; or Medicare managed care. Medicare manage care plans are restricting their extra benefits, including prescription drugs, reinforcing the need for a minimum, national drug benefit option for all Medicare beneficiaries.

a. Benefit design

Amendment: There are several major design features of the prescription drug benefit:

- No deductible: Coverage would begin with the first prescription.

- Discounts: From the first prescription on, beneficiaries would get the same discount that the private group purchaser who manages the benefit gets. This discount would continue even after the benefit limit is reached.

- Coinsurance: Beneficiaries generally would be responsible for coinsurance amounting to 50 percent of the cost of any prescription (beneficiary premiums do not include the cost of the stop-loss). Benefit managers would be allowed to reduce the coinsurance charged to beneficiaries if they could demonstrate as part of their bid proposal that they could achieve savings without undermining quality health care and access to needed medications.

- Basic Benefit: There would be a basic coverage amount the plan would pay each year on behalf of a particular beneficiary, exclusive of catastrophic coverage. The limit would be set at $2,000 ($1,000 in Medicare payments) for calendar years 2002 and 2003; $3,000 for 2004 and 2005; $4,000 for 2006 and 2007, and $5,000 for 2008. In 2009 and subsequent years, the limit would be increased each year by the increase in the drug consumer price index (CPI).

- Catastrophic Coverage: The plan would limit beneficiary spending on prescription drugs to $4,000 per year in 2002, indexed to the drug consumer price index (CPI) in subsequent years. This reaffirms the commitment to providing true insurance, enabling beneficiaries to afford needed drugs when they have high costs.

In general, all therapeutic classes of drugs would be covered under the Medicare Part D benefit. In addition, beneficiaries would be guaranteed access to off-formulary drugs when medically necessary, and have basic appeal rights where coverage is denied. The only exceptions would be the set of drug classes currently excluded under Medicaid (Title XIX) (including drugs for weight loss or gain, promoting fertility, cosmetic purposes or hair growth, symptomatic relief of cough or colds, prescription vitamins and minerals, and all nonprescription drugs), except that prescription smoking cessation drugs not covered under Title XIX would be covered under Medicare Part D. Prescription drugs currently covered under Medicare Part A or B would still be covered under current arrangements and would not be counted against the Part D benefit limit. If there are drugs for which there have been documented abuses, benefit managers would be permitted to take certain measures to assure appropriate utilization, as is the case in both private sector and Medicaid prescription drug programs. No formulary would be established by the Medicare program, but private benefit managers could establish formularies, subject to the coverage requirements (described below), as virtually every PBM and private insurer does today. This would help them negotiate better prices and evaluate optimal therapeutic interventions. Benefit managers would also be authorized to create appropriate incentives for generic substitution, a practice widely used in private plans today.

Reason for Change: This benefit would provide meaningful coverage to all beneficiaries regardless of their level of drug utilization. Because of the zero deductible, beneficiaries would be covered from their first prescription each year.

This benefit is designed to assure beneficiaries have access to needed drugs while allowing private managers set procedures for accessing drugs. This flexibility allows the Medicare drug benefit to adapt to future pharmaceutical advances without major new legislation or regulation.

b. Financing

Amendment: In general, the new Medicare prescription drug benefit would be operated as a separate part of the Supplemental Medical Insurance (SMI) Trust Fund. Using this Trust Fund would eliminate the additional bureaucracy associated with a new trust fund. In no way would Part D costs or income affect Part B costs or premiums. The beneficiaries and government would equally split the cost of the Part D benefit. Thus, beneficiaries would pay a premium in the amount of 50 percent of the cost of the program (the government will bear the costs associated with catastrophic coverage). The estimated premium in 2002 is $25 per month and would increase as the benefit is phased in. Beneficiaries would also pay cost sharing, as described above.

Premiums for those beneficiaries opting for Part D coverage would be collected in the same way as Part B premiums, as a deduction from Social Security checks for most beneficiaries. Once enrolled, beneficiaries would be notified of the annual premium in the same notice in which they learn about the Part B premium for the next year.

Note however, the proposal will maintain the monthly premium at the levels that were in the President's February proposal, even with the newly specified catastrophic benefit. To assist beneficiaries, the costs associated with catastrophic coverage are excluded from the pro-rata premium calculation. As a result, premiums for this coverage would start at $25 per month in the first year and would increase as the benefit is phased in.

Reason for Change: The Part D prescription drug benefit is financed on a shared voluntary basis, similar to the structure of Medicare Part B. Financing will be split between beneficiaries and government (each pays 50 percent of the full premium, excluding the costs associated with catastrophic coverage which are to be borne exclusively by the government). This level of subsidy is designed to keep premiums low enough to be affordable to beneficiaries and to avoid risk selection.

c. Enrollment

Amendment: In general, beneficiaries would have a one-time opportunity to sign up for the voluntary benefit, in either the first year the benefit is offered (2002) or their first year of Medicare eligibility. There are two exceptions: (1) beneficiaries who are covered by their employer while still working (or by the employer of a working spouse) have a one-time opportunity to enroll after retirement (or retirement or death of the working spouse); and (2) beneficiaries who are covered by employer-based retiree coverage have a one-time opportunity to enroll if the former employer drops coverage of prescription drugs for all retirees.

In the first year of implementation, all Medicare beneficiaries would be able to sign up for the benefit during an open enrollment period, held at the same time as the Medicare+Choice enrollment period in November 2001. During 2001, the Medicare program would conduct a major education campaign about the new benefit option. After the first year of implementation, all newly eligible Medicare beneficiaries could enroll for the optional Part D coverage, under the same procedures as established for enrollment in optional Part B coverage.

Reason for Change: Similar to Medicare Part B, enrollment in Medicare Part D is done on a one-time only basis. This approach is critical to reducing or eliminating selection bias; if enrollment were allowed on an annual basis, beneficiaries could make the decision to select coverage only for years in which they anticipate high drug costs. Beneficiaries who have adequate employer-sponsored coverage could continue that coverage without paying twice for the same benefit. The exceptions are designed to ensure that beneficiaries with employer-sponsored coverage are protected if that coverage becomes unavailable.

d. Management, payments, and beneficiary protections

Amendment: Medicare would not administer this benefit directly, but instead contract out with private sector entities. This could include pharmacy benefit managers (PBMs), retail drug chains, health plans or insurers, states (through mechanisms established for Medicaid), or multiple entities in collaboration (e.g., alliances of pharmacies), provided that the collaboration increases their scope or efficiency and is not anti-competitive.

Private benefit managers would competitively bid to manage the benefit for a particular geographic area. The number and boundaries of the geographic areas designated should be set to ensure that multiple entities would have an opportunity to compete for the single contract awarded in each area and that enrollment in each area is large enough to encourage efficiency. At the same time, rules would be established to assure that a few private benefit managers do not dominate the Medicare market and that there are multiple areas.

Competition for contracts to administer the Part D benefit would be held periodically, probably every two or three years. The Secretary would develop specific criteria for selecting the winning entities, and would solicit bids in response to these criteria. In general, Medicare would follow the best practices of large private employers and plans, including consultation and recommendations from benefits experts. The selection process would consider the entity's administrative fees, as well as its clinical quality programs, its formulary, information and management systems, the likely ability of the entity to control drug costs for beneficiaries and government, disease management programs, relationships with drug manufacturers, and other factors. Any entity that meets a set of criteria (described below) would be eligible to compete for the contracts.

All PBMs or other entities would be required to meet access and quality standards established by the Secretary. These standards would include (but are not limited to): inclusion of strategies to encourage appropriate use of medications; use of a medical panel with outside experts free of conflicts of interest in creating the formulary; use of objective criteria in selecting drugs for the formulary; open and fair dealing with all drug and biologic companies; publication of criteria for any cost containment measure that could affect patient care; submission of data about costs and utilization on a regular basis to help improve quality of care; compliance with standards for capacity and pharmacy availability to serve all beneficiaries in the geographic area; and compliance with contract requirements and consumer protections, including grievance and appeals procedures, that apply to Medicare+Choice plans to the extent that these requirements are relevant. No balance billing could be collected by the pharmacy. We would also require that, once beneficiaries have exceeded their benefit caps, that they would continue to have access to prices established by the benefit manager.

Private benefit managers could use various cost containment tools in administering the program, subject to limitations and guidelines in the contract. Benefit managers would be required to negotiate with pharmacies that meet a set of qualifications, including having the necessary information systems to process electronic point-of-sale transactions and create utilization records. Dispensing fees would have to be high enough to ensure participation by most pharmacies. They would also be required to use drug utilization review programs and meaningful clinical criteria to assure quality.

The government would bear most of the risk for the cost and utilization of services under the prescription drug benefit. The PBM serving each geographic area would be paid a fee for managing the benefit, and would have some contractual incentives to control cost and utilization. The Medicare program would test the use of various arrangements such as bonuses (retaining portion of discounts they arranged), withholds, or risk corridors to provide incentives to the private benefit managers to manage the benefit effectively.

Under this proposal, Medicare would not set prices for drugs. Prices would be determined through negotiations between the private benefit administrators and drug manufacturers. Thus, the proposal differs from the Medicaid program in that a "rebate" would not be required and from the Veterans' Administration program in that no fee schedule for drugs will be developed.

Instead, the competitive bidding process would be used to yield the best possible drug prices and coverage, just as it is used by large private employers and the Federal Employees Health Benefit Plan today.

Medicare+Choice plans would be required to provide a prescription drug benefit for all enrollees who have elected to participate in Part D. Those beneficiaries enrolled in Medicare managed care plans would receive their drug benefit through their plan and the government would explicitly subsidize this coverage. Like the Part B premium, which would be based on the plan's price, this Part D premium would be competitively set. If beneficiaries leave a Medicare+Choice plan and return to fee-for-service Medicare, they would receive their Medicare Part D benefit through the contracting PBM for their geographic area.

To further assist managed care plans to continue to offer prescription drug coverage next year and stabilize the managed care market, the plan proposes to increase payments to the Medicare+Choice plans in 2001 to explicitly pay for prescription drug coverage.

Reason for Change: The Part D benefit would rely on administration by private entities, such as PBMs. Beneficiaries enrolled in managed care plans would receive a drug benefit from that plan which would receive a government payment for that coverage. Beneficiaries in traditional Medicare would get their benefits through private benefit managers. This approach mirrors the administration of most private insurance programs, which increasingly use PBMs or similar organizations to administer their drug benefits. These organizations have experience managing drug utilization and have developed numerous tools for cost containment and utilization management. Contracting with multiple private entities, each with claims processing and program management experience, will increase Medicare's ability to run this benefit smoothly. The number of contracts and the number of years in the contracting cycle will be set by the Secretary at levels that will help attract existing PBMs to this program and that will encourage new entrants into this market.

Private benefit managers would have the authority to use the tools that are commonly used for managing drug costs and utilization in the private sector, subject to basic standards set by Medicare. In particular, Medicare would require drug utilization review to help ensure that adverse drug interactions are prevented, that proper drug protocols are followed, and that compliance by patients is monitored. A key goal would be to reduce unnecessary hospitalizations and adverse drug events where possible.

In today's private-sector marketplace, PBMs do not typically accept full risk for the management of drug benefits. To be consistent with market practices and to assure that PBMs participate, Medicare would share only limited risk in its contracts. To provide some incentive for managing utilization and costs, Medicare would establish performance bonuses or other means of rewarding benefit managers that manage the benefit effectively.

The program would also establish certain basic beneficiary protections, an essential feature of any health program. Adequate access to a pharmacy network should be ensured since benefit managers are required to contract with all qualifying pharmacies. In addition, beneficiaries would be guaranteed access to off-formulary drugs when medically necessary, and have basic appeal rights where coverage is denied.

e. Expanded assistance for low-income beneficiaries

Amendment: This plan would build on current Medicaid protections for low-income beneficiaries to assure that they have access to the new prescription drug benefit. The new Part D program would be treated like Part B for beneficiaries in the qualified Medicare beneficiary (QMB) program. This means that Medicaid would pay for drug premiums and cost sharing for beneficiaries up to 100 percent of poverty, using the current Medicaid matching rate. Additionally, the proposal would create two new eligibility categories. First, beneficiaries with incomes between 100 and 135 percent of poverty would, like QMBs, receive full assistance for their drug premiums and cost sharing. However, the Federal matching rate would be 100 percent. Second, beneficiaries with incomes between 135 and 150 percent of poverty would pay a partial, sliding-scale premium based on their income. The Medicaid costs for this group would also be matched at 100 percent. States would be obliged to offer this expanded protection.

All states would have some fiscal relief as a result of this benefit since they all provide prescription drug coverage to dual eligible Medicaid-Medicare beneficiaries. The current qualified Medicare beneficiary (QMB), specified low-income Medicare beneficiary (SLMB), and qualified individual (QI) programs would continue as under current law to provide assistance for Part B premiums and cost sharing.

Reason for Change: Low-income beneficiaries tend to have disproportionately high drug costs. An AARP study found that beneficiaries with incomes below $10,000 spent an average of 8 percent of their income for drugs. For those with a severe illness or a need for a new, high-cost drug, the costs can be devastating. Only those beneficiaries who are very poor or who, because of severe health problems, qualify for Medicaid which covers prescription drugs.

Medicaid does, however, pay for Medicare Part B premiums and cost sharing for certain low-income beneficiaries. This coverage, which was expanded by the Balanced Budget Act, would be further enhanced under this proposal. Federal funding would be available to states to ensure that all poor and near-poor beneficiaries pay no premiums or cost sharing for this coverage.

f. Incentives to develop and retain employer-provided retiree drug coverage

Amendment: The policy is designed to encourage and support the development and retention of employer-sponsored retiree health benefits. It is the intention of this policy to make certain that current coverage for prescription drugs in retiree health plans is not lost or diminished.

The Administration would be expected to work closely with employers, unions, and other interested parties to make certain that this goal is met.

Under this policy, Medicare would provide a partial drug premium subsidy to employers whose retiree coverage is at least as good as the Medicare benefit. The Medicare contribution would be 67 percent per beneficiary of the subsidy that it would otherwise provide for Medicare Part D enrollees. As such, Medicare would save 33 percent of its costs for each beneficiary in private employer-based retiree coverage.

This incentive payment would operate through the health plan or PBM that administers an employer's drug benefit, as follows. First, on an ongoing basis, the health plan or PBM would document for HCFA all retirees for whom they are providing employer-sponsored drug benefits. HCFA would use these lists to designate beneficiaries who should not be charged the Part D premium and which employers are eligible for the employer subsidy.

Second, the employer health plan or PBM would attest, at the outset and on an annual basis, that their drug benefit meets minimum standards (e.g., is as generous as the Medicare benefit and is offered to all retirees in a manner that does not discriminate based on factors such as age or health status). The standards would be analogous to those required of Medicare+Choice plans.

Third, HCFA would make the premium subsidy payments to the health plan or PBM that administers the drug benefit on behalf of the employer, so that the employer's payment is reduced. Because the PBMs and private plans used by employers to administer their drug benefits will generally be participating in Medicare, the subsidies would generally go to entities that are already receiving payments from HCFA.

If the employer drops retiree coverage, beneficiaries who were covered would have a one-time opportunity to enroll in Medicare Part D.

Reason for Change: Less than 30 percent of Medicare beneficiaries today get coverage through their former employers. This type of coverage has been eroding in recent years. Between 1993 and 1997, the percent of large firms offering retiree health benefits for Medicare eligibles dropped 20 percent. This provision is designed to create an incentive to keep employers in this market by making a payment to the employers (or the plans or PBMs that manage their drug benefits) and possibly encourage others to offer. The incentive payment is lower than what the government's costs would be if the employer coverage was dropped. Because the employer contribution to the drug benefit is tax-deductible, this policy provides an additional incentive for employers to provide coverage, allowing employers to offer the same or more generous drug benefits at a significantly lower net cost.

g. Paying managed care plans to provide prescription drugs in 2001

Amendment: To help managed care plans continue to offer prescription drug coverage next year and stabilize the managed care market, the plan proposes to increase payments to the Medicare+Choice plans in 2001 to explicitly pay for prescription drug coverage. Plans that provide at least 50 percent coinsurance to $2,000 would be eligible for these subsidies. Under the plan, managed care plans would receive direct subsidies for the provision of a prescription drug benefit for the first time in program history. This will increase payments by over $25 billion over 5 years and over $75 billion over 10 years, including $2 billion in 2001.

6

BREAUX AMENDMENT #1

Description: An outpatient prescription drug benefit could be added to Medicare only if new measures of Medicare's solvency are established including: 1) obligations from the general revenues of the Treasury for Medicare benefits (in total, in relation to all other general revenue amounts, and as a percent of gross domestic product); 2) an historical overview of that spending; and, 3) 10-year and 50-year projections of general revenue expenditures for Medicare, both before and after the addition of a drug benefit.

Rationale: Medicare Part B, which currently represents 36% of total Medicare expenditures, has grown 38% over the past 5 years and continues to consume an increasing share of general revenues, crowding out spending on other national priorities such as education and national defense. Medicare's solvency should be assessed by considering measures beyond the status of the Part A trust fund.

7

BREAUX AMENDMENT #2

Description: An outpatient prescription drug benefit could be added to Medicare only if accompanied by concurrent, structural, market-based reforms designed to improve Medicare's value by moving the program to a more competitive system.

Rationale: HCFA's administration and Congressional micromanagement of Medicare have left Medicare's benefit package and administrative structure frozen in the 1960s. Medicare's benefit package doesn't resemble the kind of coverage commonly available to people with private insurance under 65 or the nine million federal employees and their dependents enrolled in FEHBP. This amendment would condition a new Medicare outpatient drug benefit on structural changes to Medicare that would retain Medicare's defined benefit but inject much-needed competition into the program-- specifically, moving the underlying program to a more competitive, FEHBP-style, market-based system where HCFA's fee-for-service program and private plans compete for Medicare beneficiaries based on price, quality and benefits.

8

BREAUX AMENDMENT #3

Description: An outpatient prescription drug benefit could be added to Medicare only if accompanied by changes in HCFA's governance structure. Specifically, a new entity, outside the Department of Health and Human Services, would be established to oversee the Medicare+Choice program and any new prescription drug program established by Congress.

Rationale: There is an inherent conflict of interest with HCFA managing both fee-for-service Medicare and Medicare+Choice plans. Moreover, HCFA's focus over the years has been administering a government pricing system through more than 133,000 pages of rules and regulations. This amendment would create a new agency with a new mission– overseeing a more flexible Medicare+Choice program (and potential prescription drug program) and creating a new, more responsive, more business-like operating climate for Medicare.

9

BREAUX AMENDMENT #4

Description: An outpatient prescription drug benefit could be added to Medicare only if accompanied by projected cost information for the full Medicare program (including drugs) for the next three decades so that Congress can evaluate the future impact of the drug benefit on future appropriations, other entitlements, tax levels, and debt levels.

Rationale: A prescription drug benefit for Medicare is one of the key fiscal policy decisions Congress will make for the next several decades. This decision should be thoroughly debated and made with good information.

10

CONRAD/BAUCUS AMENDMENT #1
SOCIAL SECURITY AND MEDICARE OFF-BUDGET LOCKBOX

Senators Conrad and Baucus offer the following amendment to Strengthen and Reinforce Points of Order Protecting the Social Security Trust Funds and to take the Medicare Hospital Insurance Trust Fund Off-Budget

At the appropriate place in the Chairman's mark, insert the following:

Social Security and Medicare Off-Budget Lockbox

Proposal: This proposal would (1) strengthen and reinforce points of order protecting the Social Security surpluses; (2) move the Medicare trust fund off-budget; and (3) enforce the off-budget status of Medicare through points of order similar to those that now protect the Social Security trust funds. Under this proposal, both Social Security and Medicare would be excluded from the President's budget, the Congressional budget resolution, and all Budget Enforcement calculations.

This proposal does not include any general fund transfers.

Reinforcing the Social Security firewall

This proposal adds two new points of order to reinforce the current Social Security firewall. The first would preclude a budget resolution or subsequent legislation from including Social Security in any on-budget totals. The second would prohibit Social Security surpluses from being decreased ***in any fiscal year covered by a budget resolution*** rather than simply enforcing the first year and the total of all the years in the resolution.

Medicare Off-Budget

This proposal would take the Medicare trust fund off-budget. This would mean that, like the Social Security program, the Medicare Hospital Insurance (HI) trust fund would be excluded from the President's budget, the Congressional budget resolution, and all Budget Enforcement calculations. The provision would be enforced through supermajority points of order similar to those that now protect the Social Security trust funds.

If current policies are continued, the Hospital Insurance trust fund will run a surplus of $403 billion between 2001 and 2010. This surplus is the excess of Medicare income (mainly the payroll tax) over benefit payments and administrative costs.

At present, the Medicare trust fund surplus is included in the Federal budget and can be used to offset unrelated expenditures or tax cuts. Taking the Medicare surplus off-budget would ensure that HI payroll taxes are used entirely for Medicare and to pay down debt to help strengthen the economy.

Taking Medicare off-budget honors the social contract of the payroll tax. Workers pay their HI payroll taxes today in the expectation that they will receive Medicare benefits in the future. If there are any surpluses in Medicare today, they should be used only for Medicare. They should not be used to meet budget targets or pay for other spending increases or tax cuts.

Creating a Medicare Firewall

The proposal creates new supermajority Budget Act points of order for Medicare that parallel those that protect Social Security. These points of order lie against any budget resolution or subsequent legislation that: (1) violate the off-budget status of Medicare; (2) decrease the HI trust fund surpluses in any year for unrelated expenditures; or (3) cause or increase an on-budget deficit.

11

CONRAD/BAUCUS AMENDMENT #2
MEDICARE OFF-BUDGET LOCKBOX

Senators Conrad and Baucus offer the following amendment to take the Medicare Hospital Insurance Trust Fund Off-Budget

At the appropriate place in the Chairman's mark, insert the following:

Medicare Off-Budget Lockbox

Proposal: This proposal would (1) move the Medicare trust fund off-budget; and (2) enforce the off-budget status of Medicare through points of order similar to those that now protect the Social Security trust funds. Under this proposal, Medicare would be excluded from the President's budget, the Congressional budget resolution, and all Budget Enforcement calculations.

This proposal does not include any general fund transfers.

Medicare Off-Budget

This proposal would take the Medicare trust fund off-budget. This would mean that, like the Social Security program, the Medicare Hospital Insurance (HI) trust fund would be excluded from the President's budget, the Congressional budget resolution, and all Budget Enforcement calculations. The provision would be enforced through supermajority points of order similar to those that now protect the Social Security trust funds.

If current policies are continued, the Hospital Insurance trust fund will run a surplus of $403 billion between 2001 and 2010. This surplus is the excess of Medicare income (mainly the payroll tax) over benefit payments and administrative costs.

At present, the Medicare trust fund surplus is included in the Federal budget and can be used to offset unrelated expenditures or tax cuts. Taking the Medicare surplus off-budget would ensure that HI payroll taxes are used entirely for Medicare and to pay down debt to help strengthen the economy.

Taking Medicare off-budget honors the social contract of the payroll tax. Workers pay their HI payroll taxes today in the expectation that they will receive Medicare benefits in the future. If there are any surpluses in Medicare today, they should be used only for Medicare. They should not be used to meet budget targets or pay for other spending increases or tax cuts.

Creating a Medicare Firewall

The proposal creates new supermajority Budget Act points of order for Medicare that parallel those that protect Social Security. These points of order lie against any budget resolution or subsequent legislation that: (1) violate the off-budget status of Medicare; (2) decrease the HI trust fund surpluses in any year for unrelated expenditures; or (3) cause or increase an on-budget deficit.

Graham Amendment #1

Chairman's Mark

The tax cuts proposed in the Chairman's Mark reduce future non-Social Security surpluses by $250 billion over the next ten years. The Chairman's mark does nothing to safeguard any portion of the remaining non-Social Security surpluses to be used to extend the solvency of the Social Security program.

Graham Amendment

The Graham amendment would create an account into which would be deposited $1 trillion of on-budget surpluses over the next ten years to be used solely for the purpose of extending the solvency of the Social Security program.

Rationale

The purpose of the amendment is to preserve a sufficient amount of the projected non-Social Security surplus so that Congress has a wide range of options available to it to reform the Social Security program. This amendment does not outline how extending the solvency of the Social Security program should be accomplished. Rather, it simply sets aside $1 trillion in resources over the next ten years to accomplish that objective. The amendment would ensure that Congress does not deplete the non-Social Security surplus prior to enacting reform legislation .

13

Graham Amendment #2

Chairman's Mark

The tax cuts proposed in the Chairman's Mark go into effect without regard to whether Congress and the Administration reach agreement on legislation extending the solvency of either the Social Security or Medicare programs.

Graham Amendment

The Graham amendment would delay the effective date of the tax cuts in the Chairman's mark until after enactment of legislation that extends the solvency of the Social Security trust fund through 2075 and the Medicare Part A program through 2025.

14

Robb Amendment #1

Senator Robb's first amendment would offer the Graham/Robb/Bryan/Conrad/Baucus/Rockefeller/Chafee prescription drug benefit (S. 2758) in addition to the tax benefits contained in the Chairman's Mark.

15

Robb Amendment #2

Senator Robb's second amendment would strike the Chairman's Mark and offer the Graham/Robb/Bryan/Conrad/Baucus/ Rockefeller/Chafee prescription drug benefit (S. 2758) in lieu of this language.

16

Robb Amendment #3

Senator Robb's third amendment would strike the Chairman's Mark and offer the Graham/Robb/Bryan/Conrad/Baucus/ Rockefeller/Chafee prescription drug benefit (S. 2758) and the Democratic Alternative marriage penalty relief language as offered in the mark up in the Finance Committee on March 30, 2000.

17

Robb Amendment #4

Senator Robb's fourth amendment would offer the President's revised Medicare prescription drug benefit in addition to the tax benefits contained in the Chairman's Mark.

18

Robb Amendment #5

Senator Robb's fifth amendment would strike the Chairman's Mark and offer the President's revised Medicare prescription drug benefit in lieu of this language.

19

Robb Amendment #6

Senator Robb's sixth amendment would strike the Chairman's Mark and offer the President's revised Medicare prescription drug benefit and the Democratic Alternative marriage penalty relief language as offered in the mark up in the Finance Committee on March 30, 2000.