processors from receiving artificial milk manufacturing incentives which are significantly higher than those allowed in the rest of the country under the Federal milk product support program.

The reconciliation bill repeals this provision resulting in a $20 million cost to the Federal taxpayer by the purchase of additional cheese surpluses from California. This amendment strikes that provision and leaves current law intact and saves $20 million.

The PRESIDING OFFICER. The pending question is amendment No. 2999.

Mr. DOMENICI. That is the amendment that was just described?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOMENICI. Do I not have 30 seconds to respond?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOMENICI. Mr. President, the Agriculture Committee bill would repeal section 102 of the 1990 farm bill. Section 102 was put in that bill to override State operating orders. It has been in existence for 5 years and has never been used.

It seems to me we ought to remain consistent and we ought to defeat the amendment.

I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table amendment No. 2999. The yeas and nays have been ordered. The clerk will call the roll.

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

The result was announced—yeas 57, nays 42, as follows:

[Rollcall Vote No. 534 Leg.]

YEAS—57

Baucus	Ford	Lieberman
Bennett	Frist	Lott
Bond	Gorton	Lugar
Boxer	Graham	Mack
Breaux	Gramm	McConnell
Brown	Hatch	Mikulski
Campbell	Hatfield	Moynihan
Chafee	Heflin	Murkowski
Coats	Helms	Nickles
Cochran	Hollings	Roth
Cohen	Hutchison	Santorum
Coverdell	Inhofe	Shelby
Craig	Inouye	Simpson
D'Amato	Jeffords	Snowe
Dodd	Kassebaum	Specter
Dole	Kempthorne	Thomas
Domenici	Kyl	Thompson
Faircloth	Leahy	Thurmond
Feinstein	Levin	Warner

NAYS—42

Abraham	Daschle	Kennedy
Akaka	DeWine	Kerrey
Ashcroft	Dorgan	Kerry
Biden	Exon	Kohl
Bingaman	Feingold	Lautenberg
Bradley	Glenn	McCain
Bryan	Grams	Moseley-Braun
Bumpers	Grassley	Murray
Burns	Gregg	Nunn
Byrd	Harkin	Pell
Conrad	Johnston	Pressler
Pryor	Rockefeller	Smith
Reid	Sarbanes	Stevens
Robb	Simon	Wellstone

So the motion to lay on the table the amendment (No. 2999) was agreed to.

Mr. SIMON. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Are there further amendments to the bill?

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. DOLE. Mr. President, I am not quite certain where we are in the process. Some have suggested that we take a couple hours recess here to try to get the amendments into a little group. I do not know how many are left. We do not have any idea how much longer it is going to take.

We are trying to decide whether to leave here at six and come back at nine in the morning, or whether to take an hour break and see if we cannot further winnow down the number of amendments. We would like to finish it sometime tomorrow.

RECESS

Mr. DOLE. I ask that we stand in recess for 20 minutes.

There being no objection, the Senate, at 3:46 p.m., recessed until 4:17 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. COATS).

The PRESIDING OFFICER. The majority leader is recognized.

Mr. DOLE. Mr. President, I had a discussion with the Democratic leader, Senator DASCHLE. We have had discussions here with Members on both sides.

It is my understanding we can now, maybe shortly, propound a list of amendments and only those amendments would be in order. Hopefully, they will not all be offered, but that is where we are right now.

I think, in the meantime, I am prepared to consent to the request of the Senator from Maryland, Senator MIKULSKI, who made a unanimous-consent request that we might have a vote on a motion to instruct before passage rather than after passage.

I have no objection to that request. We are trying to work out the motion itself.

Ms. MIKULSKI. I thank the leader for his consideration. What, then, would he advise me to do? Just wait patiently, as is my temperament?

Mr. DOLE. The Senator has always been patient. But I would ask that the Senator be permitted to offer it before the vote rather than after the vote. I make that unanimous-consent request.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. DOLE. We will try to work it out so maybe it will go very quickly.

Ms. MIKULSKI. I thank the leader.

Mr. DOLE. In the meantime, I guess we can just continue back and forth.

Mr. DOMENICI. I think I have one here which I would like to go ahead and get done, which is an amendment of Senator GRASSLEY regarding Indian health.

Mr. EXON. It has been approved.

The PRESIDING OFFICER. The Senator from New Mexico.

AMENDMENT NO. 2955

Mr. DOMENICI. Mr. President, I send an amendment to the desk on behalf of Senator GRASSLEY.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for Mr. GRASSLEY, proposes an amendment numbered 2955.

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

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

The amendment is as follows:

On page 862, line 16.

Subsection (e) of Section 2123 is amended by adding ", other than a program operated or financed by the Indian Health Service," after "other federally operated or financed health care program".

Mr. DOMENICI. Mr. President, this has been cleared on both sides. Senator GRASSLEY has taken an interest in a concern of the Indian Health Service with reference to Medicaid and other third party reimbursement programs. This gives them permission to get involved in that program as a health delivery system.

Mr. EXON. Mr. President, I yield the remainder of my time. We agree with the amendment. I ask for the vote.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2955) was agreed to.

Mr. EXON. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. EXON. Mr. President, moving ahead in the fashion in which we have been plowing ahead and making some progress, the next amendment on this side would be by the Senator from Iowa, Senator HARKIN.

I yield our time on his amendment to him for the description and introduction of the amendment.

AMENDMENT NO. 3020

(Purpose: To support the President's promise in 1993 to not require significant additional cuts in programs that affect rural America, to preserve the safety net for family farmers which represent the backbone of American Agriculture, to maintain the competitiveness of American Agriculture, and to ensure a future supply of American Agricultural products)

Mr. HARKIN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Iowa (Mr. HARKIN), for himself, Mr. DASCHLE, Mr. DORGAN, Mr. WELLSTONE, Mr. HEFLIN, and Mr. BUMPERS, proposes an amendment numbered 3020.

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

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

(The text of the amendment appears in today's RECORD under ''Amendments Submitted.'')

Mr. HARKIN. Mr. President, I offer this amendment on behalf of myself and Senators DASCHLE, DORGAN, WELLSTONE, HEFLIN, and BUMPERS.

Basically, Mr. President, this is an agricultural substitute. It cuts $4.2 billion out of agriculture, not the $12.6 billion that is in the bill. It provides for a two-tier marketing loan system for wheat and feed grains. And we offset the cost of the bill by striking the provisions of the bill affecting the alternative minimum tax.

So basically, if you want a fairer farm bill for our farmers and rural people, this is it. It only cuts $4.2 billion, not the $12.6 billion in the bill. And we do have an offset.

Mr. DOMENICI. Mr. President, this is a rewrite of the farm bill which is in this reconciliation bill. After much concern and consideration, the Committee on Agriculture provided a farm bill which reforms much of agriculture in America.

I do not believe we ought to be undoing that here with a total substitute. It is not germane and is subject to a point of order under the Budget Act. And I raise a point of order against the pending amendment.

Mr. EXON. Mr. President, pursuant to section 904 of the Congressional Budget Act of 1974, I move to waive the applicable sections of that act for the purpose of the consideration of the pending amendment, and I ask for the yeas and nays on the motion to waive.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Nebraska. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

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

The yeas and nays resulted—yeas 31, nays 68, as follows:

[Rollcall Vote No. 535 Leg.]

YEAS—31

Akaka	Feinstein	Leahy
Baucus	Ford	Mikulski
Boxer	Glenn	Moseley-Braun
Bryan	Harkin	Moynihan
Bumpers	Heflin	Murray
Conrad	Hollings	Pryor
Daschle	Inouye	Robb
Dodd	Kennedy	Simon
Dorgan	Kerrey	Wellstone
Exon	Kerry	
Feingold	Kohl	

NAYS—68

Abraham	Frist	McCain
Ashcroft	Gorton	McConnell
Bennett	Graham	Murkowski
Biden	Gramm	Nickles
Bingaman	Grams	Nunn
Bond	Grassley	Pell
Bradley	Gregg	Pressler
Breaux	Hatch	Reid
Brown	Hatfield	Rockefeller
Burns	Helms	Roth
Byrd	Hutchison	Santorum
Campbell	Inhofe	Sarbanes
Chafee	Jeffords	Shelby
Coats	Johnston	Simpson
Cochran	Kassebaum	Smith
Cohen	Kempthorne	Snowe
Coverdell	Kyl	Specter
Craig	Lautenberg	Stevens
D'Amato	Levin	Thomas
DeWine	Lieberman	Thompson
Dole	Lott	Thurmond
Domenici	Lugar	Warner
Faircloth	Mack	

The PRESIDING OFFICER. On this vote, the yeas are 31, the nays are 68. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to.

This amendment adds new subject matter and therefore is not germane. The point of order is sustained. The amendment fails.

Mr. DOLE. Are there further amendments?

The PRESIDING OFFICER. Are there further amendments?

AMENDMENT NO. 2986

Mr. DOMENICI. Senator SPECTER has a sense of the Senate amendment.

Mr. SPECTER. Mr. President, I call up amendment 2986.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, is it in order to modify the amendment?

AMENDMENT NO. 2986, AS MODIFIED

(Purpose: To express the sense of the Senate concerning a flat tax and reform of the current Tax Code)

Mr. SPECTER. I send a modification to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER] proposes amendment numbered 2986, as modified.

Mr. SPECTER. I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place in the bill, insert the following new section: SEC. . Sense of the Senate.—

(a) FINDINGS.—The Senate finds that—

(1) The current Internal Revenue Code, with its myriad deductions, credits and schedules, and over 12,000 pages of rules and regulations, is long overdue for complete overhaul;

(2) It is an unacceptable waste of our nation's precious resources when Americans spend an estimated 5.4 billion hours every year compiling information and filing out Internal Revenue Code tax forms, and in addition, spend hundreds of billions of dollars every year in tax code compliance. America's resources could be dedicated to far more productive pursuits;

(3) The primary goal of any tax reform must be to unleash growth and remove the inefficiencies of the current tax code, with a flat tax that will expand the economy by an estimated $2 trillion over seven years;

(4) Another important goal of tax reform is to achieve fairness, with a single low flat tax rate for all individuals and businesses and an increase in personal and dependent exemptions, is preferable to the current tax code;

(5) Simplicity is another critically important goal of tax reform, and it is in the public interest to have a ten-lined tax form that fits on a postcard and takes 10 minutes to fill out;

(6) The home mortgage interest deduction is an important element in the financial planning of millions of American families and must be retained in a limited form; and

(7) Charitable organizations play a vital role in our nation's social fabric and any tax reform package must include a limited deduction for charitable contributions.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that Congress should proceed expeditiously to adopt flat tax legislation which would replace the current tax code with a fairer, simpler, pro-growth and deficit neutral flat tax with a low, single rate.

Mr. SPECTER. Mr. President—within 30 seconds—this amendment expresses the sense of the Senate that Congress should proceed to adopt a flat tax. It does not specify the precise type of a flat tax. There has been a lot of expression in favor of a flat tax as being progrowth, not regressive with a substantial exemption for individuals.

And I ask my colleagues to support this concept in general terms with this sense of the Senate resolution.

I yield back the balance of my time.

Mr. EXON. Mr. President, this amendment has no effect on reducing the deficit, which is what this bill is all about. It is a good political statement for people who are involved in politics at this particular time in the year. I think we do not have the time to look at this. I may be for a flat tax at some time in the future, but this is not the place or the time to put the Senate on record.

Therefore, Mr. President, I raise a point of order that the pending amendment is extraneous and violates the Byrd Rule, section 313(b)(1)(A) of the Congressional Budget Act of 1974.

Mr. SPECTER. Mr. President, I move to waive that section.

The PRESIDING OFFICER. The motion is made to waive.

Mr. SPECTER. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question occurs on the motion to waive the Budget Act.

The clerk will call the roll.

The assistant legislative clerk called the roll.

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

The yeas and nays resulted—yeas 17, nays 82.

[Rollcall Vote No. 536 Leg.]

YEAS—17

Baucus	Grams	Murkowski
Breaux	Grassley	Nickles
Brown	Helms	Pressler
Campbell	Inhofe	Reid
Craig	Kempthorne	Specter
Dole	Lott	

NAYS—82

Abraham	Feinstein	Mack
Akaka	Ford	McCain
Ashcroft	Frist	McConnell
Bennett	Glenn	Mikulski
Biden	Gorton	Moseley-Braun
Bingaman	Graham	Moynihan
Bond	Gramm	Murray
Boxer	Gregg	Nunn
Bradley	Harkin	Pell
Bryan	Hatch	Pryor
Bumpers	Hatfield	Robb
Burns	Heflin	Rockefeller
Byrd	Hollings	Roth
Chafee	Hutchison	Santorum
Coats	Inouye	Sarbanes
Cochran	Jeffords	Shelby
Cohen	Johnston	Simon
Conrad	Kassebaum	Simpson
Coverdell	Kennedy	Smith
D'Amato	Kerrey	Snowe
Daschle	Kerry	Stevens
DeWine	Kohl	Thomas
Dodd	Kyl	Thompson
Domenici	Lautenberg	Thurmond
Dorgan	Leahy	Warner
Exon	Levin	Wellstone
Faircloth	Lieberman	
Feingold	Lugar	

The PRESIDING OFFICER. On this vote, the yeas are 17, the nays are 82. Three-fifths of the Senators duly chosen and sworn, not having voted in the affirmative, the motion is rejected.

The amendment of the Senator from Pennsylvania presents nonbinding sense-of-the-Senate language and has no budgetary effect. Therefore, it is out of order under section 313(b)(1)(A) of the Budget Act.

The point of order is sustained. The amendment falls.

CHANGE OF VOTE

Mr. PRESSLER. Mr. President, on rollcall vote 534, I voted ''yea.'' It was my intention to vote ''nay.'' Therefore, I ask unanimous consent to change my vote. This will in no way change the outcome of the vote.

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

(The foregoing talley has been changed to reflect the above order.)

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, the next amendment will be offered by Senator WELLSTONE, the Senator from Minnesota. I yield him 30 seconds for that purpose at this time.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 30 seconds.

AMENDMENT NO. 3021

(Purpose: To target commodity-program benefits to small and moderate-sized farm operations, and to ensure that large farm operations contribute to deficit reduction, by requiring that agricultural payment limitations be directly attributed to individuals and set at a maximum of $40,000 per person for payments, with resulting savings applied to the purpose of reducing the number of unpaid flex acres for farm-program participants within the payment limitations, and for reducing the size of the budget reduction in the Conservation Reserve Program)

Mr. WELLSTONE. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Minnesota [Mr. WELLSTONE], for himself and Mr. LIEBERMAN, proposes an amendment numbered 3021.

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

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

The amendment is as follows:

At the appropriate place, insert:

SEC. 1. PAYMENT LIMITATION

Strike section 1110 and insert the following:

''SEC. 1110. EXTENSION OF RELATED PRICE SUPPORT PROVISIONS.

''(a) IN GENERAL.—Section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) is amended by striking paragraph (1) and inserting the following:

''(1) LIMITATION.—

''(A) PAYMENTS.—Subject to sections 1001A through 1001C, for each of the 1996 and subsequent crops, the total amount of deficiency payments and land diversion payments and payments specified in clauses (iii), (iv), and (v) of paragraph (2)(B) that a person shall be entitled to receive under 1 or more of the annual programs established under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) for wheat, feed grains, upland cotton, extra long staple cotton, rice and oilseeds (as defined in section 205(a) of the Act (7 U.S.C. 1446t) may not exceed $40,000.

''(B) DIRECT ATTRIBUTION.—The Secretary shall attribute payments specified in subparagraphs (A) and (B) and paragraph (2) to persons who receive the payments directly and attribute the payments received by entities to individuals who own the entities in proportion to their ownership interest in the entity.

''(b) CONFORMING AMENDMENT.—

''(1) Section 1001(2)(A) of the Act (7 U.S.C. 1308(2)(A)) is amended by striking '1991 through 1997' and inserting '1996 and subsequent'.

''(2) Section 1001(2)(B)(iv) of the Act (7 U.S.C. 1308(2)(B)(iv)) is amended by striking '107B(a)(3) or 105B(a)(3)' and insert '304(a)(3) or 305(a)(3)'.

''(3) Section 1001(2)(B)(v) of the Act (7 U.S.C. 1308(2)(B)(v)) is amended by striking '107B(b), 105B(b), 103B(b), 101B(b), 101B(b),' and insert '302, 303, 304, 305,'.

''(4) Section 1001C(a) of the Act (7 U.S.C. 1308–3(a)) is amended by striking '1991 through 1997' each place it appears and inserting '1996 and subsequent'.''

SEC. 2. COMMODITY PROGRAMS

(a) Strike section 1103(4)(c)(ii)(I) and insert the following:

''(I) by striking '85 percent' and inserting '72.5 percent';

(b) Strike section 1104(4)(C)(ii)(I) and insert the following:

''(I) by striking '85 percent' and inserting '72.5 percent';

(c) Strike section 1105(4)(c)(ii)(I) and insert the following:

''(I) by striking '85 percent' and inserting '72.5 percent'; and

(d) Strike section 1106(4)(C)(ii)(I) and insert the following:

''(I) by striking '85 percent' and inserting '72.5 percent'.''

SEC. 3. CONSERVATION RESERVE PROGRAM

Amend section 1201(a) by striking ''(1) $1,787,000,000 for fiscal year 1996'' and all that follows through ''$974,000,000 for fiscal year 2002'' and insert the following—

''(1) $1,802,000,000 for the fiscal year 1996;

''(2) $1,811,000,000 for the fiscal year 1997;

''(3) $1,476,000,000 for the fiscal year 1998;

''(4) $1,277,000,000 for the fiscal year 1999;

''(5) $1,131,000,000 for the fiscal year 2000;

''(6) $1,029,000,000 for the fiscal year 2001; and

''(7) $1,004,000,000 for the fiscal year 2002.''

Mr. WELLSTONE. Mr. President, may I have order in the Chamber first, please?

The PRESIDING OFFICER. The Senate will please be in order. Senators please take their conversations elsewhere.

Mr. WELLSTONE. Mr. President, this would limit the farm payments to $40,000 a year. Over the last 10 years, only 2 percent of the recipients have received more than that.

It saves $1.6 billion over 7 years. It assures that the larger farmers are a part of deficit reduction and from these savings, this goes back to help some of the mid-sized farmers and also the Conservation Reserve Program.

I send this amendment to the desk with Senator LIEBERMAN as a cosponsor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, this is another attempt, in a slightly different way, to restructure the agricultural reform provisions in this bill, worked on at length by our committee.

I do not believe it violates the Budget Act, so I move to table and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table amendment No. 3021. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 64, nays 35, as follows:

[Rollcall Vote No. 537 Leg.]

YEAS—64

Abraham	Bond	Campbell
Akaka	Boxer	Coats
Ashcroft	Breaux	Cochran
Baucus	Brown	Coverdell
Bennett	Bumpers	Craig
Biden	Burns	D'Amato

DeWine
Dole
Domenici
Faircloth
Feinstein
Ford
Frist
Gorton
Graham
Gramm
Grams
Gregg
Hatch
Hatfield
Heflin
Helms
Hollings
Hutchison
Inhofe
Inouye
Johnston
Kassebaum
Kempthorne
Kerrey
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Murray
Nickles
Nunn
Pryor
Roth
Santorum
Shelby
Simpson
Smith
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—35

Bingaman
Bradley
Bryan
Byrd
Chafee
Cohen
Conrad
Daschle
Dodd
Dorgan
Exon
Feingold
Glenn
Grassley
Harkin
Jeffords
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Pell
Pressler
Reid
Robb
Rockefeller
Sarbanes
Simon
Snowe
Wellstone

So the motion to lay on the table the amendment (No. 3021) was agreed to.

AMENDMENT NO. 3022

(Purpose: To make the ''manager's'' amendments to the bill)

Mr. EXON. Mr. President, I send an amendment to the desk on behalf of Senator BROWN and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for Mr. BROWN, proposes an amendment numbered 3022.

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

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

The amendment is as follows:

On page 13, strike lines 6 through 12 and insert the following:

SEC. 121. LEASE-PURCHASE OF OVERSEAS PROPERTY.

(a) AUTHORITY FOR LEASE-PURCHASE.—Subject to subsections (b) and (c), the Secretary is authorized to acquire by lease-purchase such properties as are described in subsection (b), if—

(1) the Secretary of State, and

(2) the Director of the Office of Management and Budget.

certify and notify the appropriate committees of Congress that the lease-purchase arrangement will result in a net cost savings to the Federal government when compared to a lease, a direct purchase, or direct construction of comparable property.

(b) LOCATIONS AND LIMITATIONS.—The authority granted in subsection (a) may be exercised only—

(1) to acquire appropriate housing for Department of State personnel stationed abroad and for the acquisition of other facilities, in locations in which the United States has a diplomatic mission: and

(2) during fiscal years 1996 through 1999.

(c) AUTHORIZATION OF FUNDING.—Funds for lease-purchase arrangements made pursuant to subsection (a) shall be available from amounts appropriated under the authority of section 111(a)(3) (relating to the Acquisition and Maintenance of Buildings Abroad'' account).

Mr. DOMENICI. Mr. President I think this has been cleared on both sides. This has to do with lease-purchase agreements and authority to do that interagency, between agencies, of the Government.

Mr. EXON. Mr. President, I yield back the remainder of my time. We approve of the amendment.

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

The amendment (No. 3022) was agreed to.

Mr. EXON. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. EXON. Mr. President, I believe the next amendment that we have would be by the Senator from New Jersey.

I yield 30 seconds for the purpose of an explanation of the amendment to the Senator from New Jersey.

AMENDMENT NO. 3023

(Purpose: To strike sections 5400 and 5401 of the reconciliation bill, sections which provide for the discounted prepayment of construction costs currently owed by farmers to the Federal government for irrigation water provided under the Reclamation program, thereby relieving them of the 960 acre limitation on delivery of federally subsidized water contained in the Reclamation Reform Act of 1982)

Mr. BRADLEY. I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Jersey [Mr. BRADLEY], proposes an amendment numbered 3023.

Strike sections 5400 and 5401.

Mr. BRADLEY. Mr. President, I move to strike sections 5400 and 5401 of the reconciliation bill. These provisions represent corporate welfare at its worst. They direct costly Federal irrigation subsidies—originally intended to support small family farmers—to the largest farm operations in the West. They will benefit only a handful of wealthy individuals. I oppose granting additional subsidies to those least in need of Federal handouts, and ask my colleagues to do the same.

When the Reclamation Program began in 1902, Congress provided low cost irrigation water to small, 160 acres or less, family farms. The policy was intended to help small farmers; large farms were explicitly excluded from the subsidies.

In 1982, Congress recognized that the average family farm had grown, and increased the acreage limitations from 160 acres to the present 960 acres. Holders larger than 960 acres were required to pay full cost for irrigating their excess holdings.

The reconciliation bill creates a loophole permitting the wealthiest farmers to avoid paying full cost instead of the subsidized price. It allows farmers with excess holdings to prepay for their water—nothing wrong with that—but at the subsidized rates intended for small family farms. For these large farm operations, the cost of prepaying could be less than the cost of 1 year's irrigation water. These individuals would then be exempt forever from acreage limitations and full-cost pricing, even if the Federal Government makes new investments that would enhance their water projects. The net present value of the benefits to these individuals—and loss to the U.S. Treasury—could exceed $1,000 an acre. How can we justify such welfare for the wealthiest?

As a result of this provision, the very family farmers for whom the Reclamation Program was designed will face ever-larger competitors who obtain even greater subsidies than the small farmer. This change in policy would be accomplished without hearings and without any meaningful analysis of impacts, taxpayer costs, winners or losers. It also is not fair to the many farmers throughout the West who have complied with the letter and intent of reclamation law, and did not seek additional discounts or waivers of key provisions of Federal law. I believe that allowing people to buy their way out of Federal regulations is fundamentally unfair; to offer them a discount just compounds the inequity.

Mr. CRAIG. Mr. President, I rise in strong opposition to the motion by the Senator from New Jersey to strike the provisions in the title of the Committee on Energy and Natural Resources that would repeal the prohibition on prepayment of construction charges.

I read with some interest the ''Dear Colleague'' sent around by the Senator from New Jersey. It presents a curious and inaccurate history of reclamation provisions. Its description of the committee provision is also flawed. The letter uses the rhetoric of ''corporate welfare'' and ''costly * * * subsidies'' as if they were some magic incantation that would transform the true intent of the motion. The committee language does not create a loophole; it terminates a foolish restriction inserted in the 1982 Reclamation Reform Act to prevent irrigation districts and individuals who hold repayment or water service contracts from prepaying their debt. Prior to 1982, that limitation did not exist.

The letter is not correct about the history of reclamation law that led to the 1982 act. The letter states that when the reclamation program began in 1902, Congress provided low cost irrigation water to small—160 acres or less—family farms. That sounds nice, but it simply is not true. First of all, Congress decided that unlike other public works projects that had been fully funded by the Congress, in the case of reclamation projects, the beneficiaries would have to repay the Federal Government for their allocable costs. The irrigation component would be without interest, but it would have to repaid. Contrast that with the complete subsidy given to farmers who benefit from Corps projects in New Jersey

and elsewhere who repay nothing because their benefits are called flood control.

The statement is also inaccurate in suggesting that Congress provided the water, since in many of the early projects, such as the Newlands Project, the water users held, and still hold, the water rights. What the Federal Government did was provide the financing for the storage and conveyance systems. Even where the Federal Government obtained the water rights for a project, the Reclamation Act specifically required the rights to be obtained in full compliance with State law, and the Supreme Court made it clear that the Federal Government held those rights as a trustee for the water users. Congress did not provide water. In addition, the suggestion that Congress was providing low-cost water would come as a surprise to the water users who were required to reimburse the Federal Government annually for all operation and maintenance costs as well as a portion of the capital construction costs. Granted the Federal Government was not seeking to make a profit, but repayment was a new concept imposed on the reclamation program.

The statement also says that the program was limited to ''small (160 acres or less) family farms''. In fact, the reclamation program spoke of individual ownership limitations. Each person could own 160 acres. So could that person's spouse and so could each of that person's children. A family with four children could own 960 acres. In addition, there were no limitations on how much additional land could be leased. That family could lease an additional thousand acres in addition to the 960 acres it owned. One major problem that the 1982 reclamation reform sought to resolve was whether those acreage provisions applied only on a district by district basis or Westwide. When the letter speaks of the 1982 act easing ''the acreage limitations, raising them from 160 acres to the present 960 acres'', it is not being completely honest. In the 1982 act, we set the acreage limit at 960 acres for an entire family including both owned and leased lands and then applied the limit Westwide. That was reform; it was not necessarily good news for large families.

The letter describes the provision in the committee reconciliation bill—Part I of Subtitle E—as creating a loophole for large farmers. In fact, the provision simply repeals a foolish limitation on prepayment that was inserted in the Reclamation Reform Act in 1982. That limitation excluded any contract that already contained a prepayment provision, so it was discriminatory on its face.

The letter suggests that enactment is bad for family farmers who will face ever-large competitors who obtain even greater subsidies. That statement is simply disingenuous. The reason for opposition to the committee provision has nothing whatsoever to do with concern for family farmers—or farmers in general. Prepayment eliminates the construction debt and the false accusation that the repayment is a subsidy. What the proponents of this motion fear is the loss of their rhetoric. Upon payment of the construction debt, the operation of the project is turned over to the water users. Section 6 of the 1902 Reclamation Act provides in relevant part that ''when the payments required by this act are made for the major portion of the lands irrigated from the waters of any of the works herein provided for, then the management and operation of such irrigation works shall pass to the owners of the lands irrigated thereby, to be maintained at their expense.'' That is what really bothers the authors of this motion. They fear the loss of control and their ability to load totally unnecessary costs onto the farmers in the Western States under the guise of operations.

Operation and maintenance will pass to the project beneficiaries as soon as repayment is complete, and the acreage limitations will no longer apply. It is not a concern for the family farmer that lies behind this motion, but rather a desire to keep Federal control over family farmers for as long as possible. No one should misunderstand the true motives of those who support this motion. All you have to do is look at the proposed regulations issued by Secretary Babbitt to see what the objective is. The regulations, which depend solely on continuing the construction debt, are part of the savage and unrelenting attack on water users in the West by this administration and its allies in the Congress.

The letter states that this is a change in policy that would be accomplished without hearings and without any meaningful analysis. In fact, the limitation on prepayment was specifically raised during our hearings on S. 602 earlier this year when witnesses noted the prohibition on prepayment as an obstacle to transfer of certain project features. It was implicit in our field hearings on the Department's proposed regulations that were conducted in Twin Falls, ID and in Riverton, WY. I hope my colleagues who truly care about the farmers in this Nation pay close attention to what this administration has proposed in these regulations. Under the guise of defining what constitutes a lease, Secretary Babbitt is seeking to impose a new and onerous intrusion into individual farm operations.

Reclamation law speaks to ownership, land owned or leased, and Congress explicitly adopted an economic benefits test to distinguish a lease from a management agreement. Secretary Babbitt ignored the legislation and its history to conduct his campaign of aggression on Western farmers, and it is that campaign the authors of this motion seek to perpetuate. We have gone down that road several times. We have faced efforts in the Energy Committee to use the mere sharing and equipment by farmers as an indicia of a lease, so we know what the real intent is.

Despite Congress's explicit adoption of the economic benefit test, on April 3, 1995, Secretary Babbitt proposed new regulations that would adopt a far broader and more intrusive standard.

According to the proposed regulations:

> Lease means any agreement between a landholder (the lessor) and another party (the lessee) under which possession of the lessor's land is partially or wholly transferred to the lessee. Possession means the authority to make, or prevent the lessor from making decisions concerning the farming enterprise on the land; or the assumption of economic risk with respect to the farming enterprise on the land. In situations where possession has been partially transferred from a landholder to another party, a lease will be considered to exist if the majority of possession is not held by the potential lessor. In situations where possession has been transferred from a landholder to more than one other party, a lease will be considered to exist between the lessor and the party holding the greatest degree of possession.

In its analysis of the proposed rules (60 Fed. Reg. 16924) Interior explains the lease definition change as follows:

> Lease would be substantially modified. Under the existing regulation, one of the key elements in the definition of lease is the assumption of economic risk by the reputed lessee. This definition permits the development of arrangements under which an individual or legal entity is paid a fixed fee for operating a farming enterprise. Since the operator under these arrangements assumes no economic risk, Reclamation currently does not deem the operator to be in a lease relationship. Therefore, under the existing rules, operators are not subject to full cost irrigation water rates.
>
> The new definition would make possession the singular element indicating the existence of a lease. The definition would eliminate economic interest as an essential element of a lease (although economic risk would remain a factor indicating the existence of a lease). Thus, under the proposed regulation, whenever someone other than the landowner has possession of non-exempt land, a lease would exist. Reclamation would consider fixed-fee operations leases and would subject the parties to full cost pricing if possession of the land has been transferred, and if non-full cost entitlement are exceeded.
>
> The second and third sentences of the definition would address the situation where more than one party has some degree of possession; for example, a landowner may contract with a farm manager but may retain some decisionmaking authority.
>
> Reclamation intends the proposed definition of the term lease to exclude arrangements between landowners and custom operators, employees, lenders, and other landholders with whom farm equipment is shared.

Interior's examples show that even if a landowner ''retains all economic risk associated with'' farming his land, if he does not ''make all major decisions concerning the farming operation,'' a lease will exist, and full cost will be charged. (60 Fed. Reg. 16929).

During our field hearings in Twin Falls, ID this August, Senator McClure, the chairman of the Energy

Committee when the Reclamation Reform Act was adopted, made a very eloquent statement on the effect and propriety of the proposed regulations. He stated:

Under the proposed regulations, if a farmer were to fall ill and his children or neighbors were to take over the management of the farm until he recovered, they would get a bill for full cost from Secretary Babbitt.

If a farmer were to die and his children took over the management of the farm so that their mother would not have to sell off the homestead, Secretary Babbitt would send a bill for full cost even if the children were not even reimbursed for their costs.

If a farmer were called to military service and his father took over the farm while he served his country, the President would present him a medal and Secretary Babbitt would send him a bill for full cost.

At the rate EPA is trying to regulate every aspect of our lives, I guess we could send the bill for full cost to Carol Browner.

The point I want to make is Congress settled this issue. The test is beneficial interest measured solely by economic benefit. That is the law and Secretary Babbitt lost.

Mr. Chairman, you have other witnesses who can testify to equivalency, trusts, involuntary acquisitions, and other provisions of these new rules. I will not go into them at this time. What I want to emphasize is that these rules have no foundation in law or legislative history. They are symptoms of a larger struggle of federalism in which this Administration seeks to abuse its authority and impose its social agenda on the West. While there is an underlying preoccupation with certain farm arrangements in California, there is also a philosophy that Secretary Babbitt represents that believes Washington should dictate the future of the West. It is a philosophy that wants control of water and an end to irrigated agriculture. It is a philosophy that hides behind the need for conservation in the arid west to drive its particular vision. This is an ongoing struggle that surfaces here with attempts to make farming uneconomic and municipal water supplies prohibitively expensive. It surfaces elsewhere on grazing, on mining, on mineral leasing.

I take great pride in what I was able to accomplish in returning salmon runs to portions of Idaho that had not seen salmon in years. I managed to do that while respecting State law and the primacy of State water law. I take great pride in moving the Hells Canyon legislation through the Congress, but I did that in full compliance with State law including subjecting federal reserved rights to future upstream beneficial uses. As anyone can see, we have not dried up the Snake.

Mr. Chairman, the federal-state relationship is not one of master-servant, as much as Secretary Babbitt may want it to be. Federalism means a respect for the rule of law and a recognition that this is a Republic of sovereign States with a central government of limited delegated powers. These rules violate that trust.

Mr. President, the sole reason behind the motion to strike is a desire to continue the predation undertaken by Secretary Babbitt on Western farmers. There is not the slightest concern for farmers, small or large, family or corporate. What the committee did was solely to permit individuals or districts holding repayment or water service contracts to pay off the intolerable subsidy that the proponents of the motion to strike have complained of for so long. The outrageous discount that the ''Dear Colleague'' complains of is language imposed by the Senator from New Jersey on the prepayments that he has agreed to over the past 6 years—it is his language. The language also includes a provision that requires a premium if the district were to use tax exempt bonding—as many of them could. There is no such requirement in reclamation law or in any of the existing contracts that provide for prepayment or accelerated payment. That is a requirement also insisted on by the Senator from New Jersey in our recent legislation and we have included it here.

In short, Mr. President, the cries of ''corporate welfare'' and ''unwarranted subsidies'' ring very hollow when the true motivation is simply to protect the scorched earth assault on the West being conducted by this administration through Secretary Babbitt and his allies. Even Director Rivlin plaintively objects to this provision as an unjustified provision allowing prepayment—unjustified solely because farmers might be able to go back to farming without fear that this administration will succeed in driving them off their land.

Mr. DOMENICI. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. DOMENICI. Mr. President, I yield my 30 seconds to Senator CRAIG in opposition to the amendment.

Mr. CRAIG. Mr. President I hope we could oppose this amendment.

In the bill we are attempting to pass, we are asking reclamation projects ready to prepay to repay now upon a negotiated relationship with the Bureau of Reclamation, to return money to the Treasury now.

The Senator from New Jersey is striking that. We think we have crafted good law, which is exactly the intent of the original reclamation law, only we advance the opportunity to pay it out and then turn those authorities to the owners of the property according to those within the projects.

Mr. DOMENICI. Mr. President, I move to table and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

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

The result was announced— yeas 60, nays 39, as follows:

[Rollcall Vote No. 538 Leg.]

YEAS—60

Abraham	Domenici	Kempthorne
Akaka	Dorgan	Kerrey
Ashcroft	Exon	Kyl
Baucus	Faircloth	Lott
Bennett	Feinstein	Mack
Bond	Ford	McCain
Boxer	Frist	McConnell
Breaux	Gorton	Murkowski
Brown	Gramm	Nickles
Burns	Grams	Pressler
Campbell	Grassley	Roth
Coats	Hatch	Santorum
Cochran	Hatfield	Shelby
Conrad	Heflin	Simpson
Coverdell	Helms	Smith
Craig	Hutchison	Stevens
D'Amato	Inhofe	Thomas
DeWine	Inouye	Thompson
Dodd	Johnston	Thurmond
Dole	Kassebaum	Warner

NAYS—39

Biden	Harkin	Moynihan
Bingaman	Hollings	Murray
Bradley	Jeffords	Nunn
Bryan	Kennedy	Pell
Bumpers	Kerry	Pryor
Byrd	Kohl	Reid
Chafee	Lautenberg	Robb
Cohen	Leahy	Rockefeller
Daschle	Levin	Sarbanes
Feingold	Lieberman	Simon
Glenn	Lugar	Snowe
Graham	Mikulski	Specter
Gregg	Moseley-Braun	Wellstone

So the motion to lay on the table the amendment (No. 3023) was agreed to.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. LAUTENBERG. Mr. President, I have a unanimous consent request that has been cleared by all parties, if I might make that?

The PRESIDING OFFICER. May we have order, please. I did not hear the Senator from New Jersey.

POSITION ON VOTE

Mr. LAUTENBERG. Mr. President, I have cleared a unanimous consent request with the managers of the bill. It is simply to state on rollcall 531 I was present, voted aye. The official RECORD has me listed absent. There was some confusion at the front.

Therefore, I ask unanimous consent that the official RECORD be corrected to accurately reflect my vote. There is no change in the outcome of the vote.

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

(The foregoing tally has been changed to reflect the above order.)

The PRESIDING OFFICER. The Senator from Nebraska.

AMENDMENT NO. 3024

(Purpose: To ensure the health of newborn children by allowing low-income unemployed pregnant women otherwise in compliance with food stamp work requirements and all other requirements of the Food Stamp Act to receive food stamps throughout pregnancy; to provide nutrition funding for American Samoa; and to provide an offset by implementing the reduction in the food stamp standard deduction one month earlier than otherwise would have occurred under S. 1357)

Mr. EXON. Mr. President, the following unanimous consent request has

been cleared with the majority managers.

On behalf of the Senator from Vermont, Senator LEAHY, I send an amendment to the desk and ask for its consideration, and further, I ask unanimous consent that further reading be dispensed with after it is started, the amendment be agreed to, and the motion to table the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nebraska [Mr. EXON], for Mr. LEAHY, proposes an amendment numbered 3024.

The PRESIDING OFFICER. The agreement was it not be read.

The amendment is as follows:

On page 103, on line 6, strike ''(D)'' and insert (''E)''.

On page 103, strike line 5 and insert the following:

''(D) until October 1, 1998, a pregnant woman not otherwise exempt under this paragraph; or''

On page 130, strike line 14 and insert the following:

''SEC. 1430. PROVIDING FUNDING FOR AMERICAN SAMOA.

Section 19 of the Food Stamp Act of 1977 (7 U.S.C. 2028) is amended by adding the following new subsection—

'(e) From the sums appropriated under this Act, the Secretary shall pay to the Territory of American Samoa up to $5,300,000 for each of the 1996 and 1997 fiscal years to finance 100 percent of the expenditures of a nutrition assistance program extended under P.L. 96–597 during that fiscal year.'.

SEC. 1431. EFFECTIVE DATE.''

On page 152, line 7, strike ''December 31, 1995'' and insert ''November 30, 1995''.

On page 152, line 8, strike ''January 1, 1996'' and insert ''December 1, 1995''.

The PRESIDING OFFICER. Is there any further explanation of this amendment?

Mr. BYRD. Mr. President, may we have an explanation?

The PRESIDING OFFICER. The Chair has just requested that, I say to the Senator from West Virginia.

What is the explanation of the amendment.

Mr. EXON. This amendment allows pregnant women to stay on food stamps, if they otherwise are eligible for food stamps, even after 6 months if they cannot find a job. This treats pregnant women with their first child in the same manner as women who care for dependent children. The amendment is paid for by cuts in the standard deductions. The amendment saves money.

Without this change, pregnant women will be taken off food stamps in their third trimester of pregnancy if they cannot find a job.

That is a brief explanation of the amendment that has been agreed to.

The PRESIDING OFFICER. Is there objection to the amendment?

Without objection, the amendment is agreed to.

So the amendment (No. 3024) was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Who seeks recognition?

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

POINT OF ORDER

Mr. CHAFEE. Mr. President, the reconciliation bill contains a provision which would put the Hyde language permanently into law. This is the first time that this has been done. The Hyde language has always appeared in annual appropriations bills which are open to modification.

This provision, subsection 2123(g) of the Social Security Act, as added by section 7191(a) in the reconciliation measure, does not produce a change in outlays or revenues and is not necessary to implement a provision that does change outlays or revenues.

I, therefore, raise a point of order under section 313(b)(1)(a) of the Budget Act against that provision.

Mrs. MURRAY. Mr. President, I rise in strong support for the amendment offered by the Senator from Rhode Island, Senator CHAFEE, to strike certain restrictive language from the Medicaid block grant portion of this bill, and I am proud to be a co-sponsor of this important amendment. I consider the inclusion of this language to be yet another attack on poor women waged by this Congress, and I urge my colleagues to support this motion to strike.

The Medicaid block grant proposal approved by the Senate Finance Committee includes a provision which bars States from using Federal funds to pay for most abortions for poor women. The bill allows States to use Federal dollars to fund abortions only in cases of rape, incest or where the mother's life is in danger. This is not a new idea—we have seen restrictions like this one, known as the Hyde amendment, added to appropriations bills year after year. The key difference is that, now, this discriminatory ban could be made permanent—and I urge my colleagues to join us in ensuring this does not happen.

Including this ban as a component of Medicaid law is an unprecedented and alarming evolution in the attempt to restrict women's access to abortion, and will have devastating effects on the women who rely on the Medicaid program to provide health care coverage. Even more offensive, the target in this case is low-income women, who deserve the same access to critical reproductive health services available to other women in this country. If we do not strike this language from the bill, we are allowing Congress to single out poor women, and this sends a very strong message to the women of this country.

This ban is shortsighted, careless, and insulting to women across our Nation. Voting to include the Hyde language tells these women—we do not care. Without providing coverage for abortion services, we will be sending low-income and poor women straight to the back alley where they will be forced to choose unsafe alternatives and risky procedures—and make no mistake, Mr. President—women will die.

Women who receive an average of $400 a month from public assistance cannot raise the estimated $300 for a first-trimester abortion. What do you think a woman in this position will do? Will she divert money she should be spending on rent? Will she be forced to use the money she sets aside to feed herself or her child she already has? Or will she choose the cheaper, albeit unsanitary and dangerous, alternative? I do not want to place poor women in the position of having to make this kind of choice. It is wrong and it is cold-hearted.

And lastly, Mr. President, how does this federally-mandated restriction on how States can spend block granted funds fit into the mantra of the Republican reform agenda—State flexibility? This ban does not foster State innovation, and it certainly is not about getting Washington, DC out of local policy decision-making. In fact, this ban ties the State's hands and is really nothing short of the kind of Federal micromanagement the Republicans are usually so quick to attack.

I want to commend Senator CHAFEE for his commitment and his leadership on this issue. I know he tried to strike this restrictive and discriminatory language in Committee, but was unfortunately defeated. I thank him for trying again here on the floor, and I am proud to join in his efforts. I urge my colleageus to support this amendment.

Thank you.

The PRESIDING OFFICER. The time for the debate is over.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, pursuant to section 904(d) of the Budget Act, I move to waive the Budget Act for this provision if included in the conference report on this measure.

Mr. CHAFEE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Oklahoma. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

The yeas and nays resulted—yeas 55, nays 44, as follows:

[Rollcall Vote No. 539 Leg.]

YEAS—55

Abraham	Biden	Brown
Ashcroft	Bond	Burns
Bennett	Breaux	Coats

Cochran
Conrad
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Dorgan
Exon
Faircloth
Ford
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Heflin
Helms
Hutchison
Inhofe
Johnston
Kassebaum
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Reid
Roth
Santorum
Shelby
Simpson
Smith
Thomas
Thompson
Thurmond
Warner

NAYS—44

Akaka
Baucus
Bingaman
Boxer
Bradley
Bryan
Bumpers
Byrd
Campbell
Chafee
Cohen
Daschle
Dodd
Feingold
Feinstein
Glenn
Graham
Harkin
Hollings
Inouye
Jeffords
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Robb
Rockefeller
Sarbanes
Simon
Snowe
Specter
Stevens
Wellstone

The PRESIDING OFFICER. On this vote, there are 55 yeas, 44 nays. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to.

The point of order is well taken.

Mr. EXON. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3025

(Purpose: To strike the sale of 25 millions of barrels of Strategic Petroleum Reserve oil in order to protect our national energy security and to fully offset the revenue loss by imposing a 2.5 percent net smelter return royalty on certain hardrock mines)

Mr. EXON. Mr. President, I believe the next amendment to be brought up per agreement is Senator BUMPERS with a Strategic Petroleum Reserve amendment, and I yield the 30 seconds to Senator BUMPERS for the purpose of proposing the amendment and appropriate remarks.

Mr. DOMENICI. Did not the Chair have to rule on that?

The PRESIDING OFFICER. The Chair did rule. The provision has been stricken.

Mr. DOMENICI. I apologize to the Chair.

The PRESIDING OFFICER. The clerk will report the BUMPERS amendment.

The assistant legislative clerk read as follows.

The Senator from Arkansas [Mr. BUMPERS] proposes an amendment numbered 3025.

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

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

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

Mr. BUMPERS. Mr. President, in the last 133 years, the mining companies of America have mined $254 billion worth of gold and silver off Federal lands and have not paid 1 cent in royalty.

This amendment provides for a royalty of approximately 50 percent of what they pay in the private sector, and it offsets the sale of the Strategic Petroleum Reserve, which loses $600 million.

I agree with the Senator from Texas. It is time these corporate welfare people in the back of the wagon get out and help the rest of us pull it. I strongly urge your support.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DOMENICI. Senator CRAIG.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, this Senate has asked for 4 years for major mining law reform. In this legislation for the first time is a complete rewrite of the 1872 mining law, with new royalties, new reversionary clauses, and all that you have asked for and scored by CBO to yield $150 million.

You asked for mining law reform, and we have given it to you in a fair and balanced way that allows the public land to yield to the taxpayers what you would want it to yield.

I hope you would stay with us on this very important provision.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I move to table the Bumpers amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The vote is on the motion by the Senator from New Mexico to table the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 56, nays 43, as follows:

[Rollcall Vote No. 540 Leg.]

YEAS—56

Abraham
Ashcroft
Baucus
Bennett
Bingaman
Bond
Breaux
Brown
Bryan
Burns
Campbell
Chafee
Cochran
Coverdell
Craig
D'Amato
Daschle
DeWine
Dole
Domenici
Faircloth
Ford
Frist
Gorton
Gramm
Grams
Grassley
Hatch
Hatfield
Heflin
Helms
Hutchison
Inhofe
Inouye
Kassebaum
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Reid
Roth
Santorum
Shelby
Simpson
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—43

Akaka
Biden
Boxer
Bradley
Bumpers
Byrd
Coats
Cohen
Conrad
Dodd
Dorgan
Exon
Feingold
Feinstein
Glenn
Graham
Gregg
Harkin
Hollings
Jeffords
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Robb
Rockefeller
Sarbanes
Simon
Smith
Snowe
Wellstone

So the motion to table the amendment (No. 3025) was agreed to.

Mr. EXON. Mr. President, I move to reconsider the vote by which the motion was agreed to.

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

The motion to lay on the table was agreed to.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, how long was that last vote?

The PRESIDING OFFICER. Approximately 8 minutes. The Chair stands corrected: 11 minutes.

Mr. DOLE. That is what I thought. We have been running over 4 or 5 minutes on each vote. With five or six votes, that is a half hour. Again, let me say to my colleagues, this next time, we are going to shut it down. I hope we do not make anybody upset over it.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

The clerk can call the roll and record Senators better if Senators do not block the clerks' view. I ask again Senators not come into the well during the time the clerk is tallying the vote.

Mr. DOMENICI. Mr. President, I have two unanimous consent requests that I believe will be acceptable. Senator MIKULSKI asked us to approve a unanimous consent request in her behalf, and Senator NICKLES has a similar one in terms of what we would be agreeing to.

So I want to pose these unanimous consent requests. We agreed to Senator MIKULSKI's? Correct my remarks. We want to do the same for Senator NICKLES that we did for Senator MIKULSKI.

I ask unanimous consent that it be in order for Senator NICKLES, immediately after Senator MIKULSKI offers her motion to instruct, to move to instruct the conferees with reference to the Hyde amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. EXON. Mr. President, I yield 30 seconds to the Senator from Maryland.

MIKULSKI MOTION TO INSTRUCT CONFEREES

Ms. MIKULSKI. Mr. President, I send a motion to the desk on behalf of myself, Senator KASSEBAUM, Senator SNOWE, Senator BOXER, Senator FEINSTEIN, Senator MURRAY, and Senator MOSELEY-BRAUN and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Maryland [Ms. MIKULSKI] moves to instruct the conferees on the part of the Senate to insist upon guaranteeing to the American public that the quality and effectiveness standards set forth by the Clinical Laboratory Improvement Amendments of 1988 will be maintained by striking

certain provisions in the House amendment relating to section 353 of the Public Health Service Act (standards that ensure quality in testing for risk factors such as a heart attack or stroke, kidney disease, prostate and colon cancer, gout and strep).

The PRESIDING OFFICER. The Senator is recognized for 30 seconds.

Ms. MIKULSKI. Mr. President, the purpose is to instruct conferees to reject the provisions in the House bill to repeal the Clinical Lab Improvement Amendments of 1988.

Before 1988, clinical labs lacked uniform standards. Dirty labs were tolerated. Tests were misread. Diseases were misdiagnosed. Staff was inadequately trained and overworked. People died of sloppy work.

What does the House bill do? It repeals CLIA '88 for all physicians' labs except when the labs conduct Pap smears. I urge conferees to stick with the Senate position and to reject the House repeal of CLIA '88.

Let me tell my colleagues what CLIA is. And why it is so important.

CLIA '88 set for the first time uniform quality standards for all clinical labs. I am proud that this law, which I authored, was passed with broad bipartisan support.

CLIA was passed in 1988 and implemented in 1992 to address serious and life-threatening conditions in clinical labs.

To now even suggest we turn back the clock to pre-1988 will have devastating results. Do we really want to:

Turn back to a time when tests were misread and diseases misdiagnosed.

Turn back to the bad old days of misdiagnosis of the HIV/AIDS virus, when doctors were using inferior methods of reading slides; when people with the virus went undetected because the virus was mutating and was unrecognized by physicians.

Or turn back to a time when the lab technicians were overworked and undersupervised, when slides were taken home, when dirty labs were tolerated, when lab technicians had little or no formal training, resulting in many diseases going undetected.

My colleagues, CLIA works. It works because CLIA saves lives.

Prior to CLIA, women were dying after having pap smears misread 2 or 3 years in a row.

Prior to CLIA, complex tests for heart disease, conducted improperly, put patients at risk of serious impairment or death. As we know, medical conditions like heart disease not detected early, not only are more expensive to treat but result in certain disability or death.

Today, the stakes are high for quality lab tests and diagnosis. The need for quality testing for HIV and AIDS and the impact this has on our communities is without question. We are talking here about a matter of life and death.

CLIA ensures quality testing and quality laboratories.

For the first time, all labs that perform similar tests must meet similar standards, whether located in a hospital, a doctor's office or other site.

Americans must be assured that all labs are of the highest quality and performance standards.

CLIA saves tax dollars by curbing fraud and abuse.

An unexpected benefit of the CLIA law has been to weed out the most unscrupulous of labs that run scams and take advantage of the most vulnerable members of our society.

Today, CLIA is threatened. Why?

The House Reconciliation bill repeals CLIA for all physician labs except when the lab conducts pap smears. No hearings, no review of the Inspector General's report on the impact of CLIA, no opportunity for the public to respond.

The House even recognized the importance of CLIA by carving out one exemption—for labs that conduct pap smears.

My question is this: Does the Senate really want to tell somebody facing the prospect of heart attack or diabetes, that we do not care that your tests are performed adequately?

That we only care if quality standards are met for one particular test and not the entire battery of other life-saving tests being conducted? I do not think so.

Quality standards in labs are critical to saving lives. Uniformity is the key. Safe and effective standards are the goals of CLIA—no matter where the lab is located—in a hospital, doctor's office or other health setting.

My colleagues, the Senate position is right. The Senate wisely left CLIA alone.

Changes in CLIA should not be done in the context of Reconciliation, but should be done with careful and deliberate consideration in the Labor and Human Resources Committee.

CLIA is so important. We should not act hastily. To do otherwise, puts lives in danger, puts families at risk. I am not willing to take that chance, are you?

My motion is simple. Stick with the Senate position. Leave CLIA alone.

I urge support for the Mikulski motion.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. NICKLES. Mr. President, I urge my colleagues to vote no on this motion, because the House had some provisions to allow some flexibility for physicians to conduct tests in their offices.

Frankly, we are talking about some simple tests; in some cases, strep tests or blood tests. CLIA, the Clinical Laboratory Improvement Act, drives up the cost of doing a lot of these tests, in some cases makes it prohibitive to do it, so they have to send off the test to the bigger cities. That wastes time, it wastes money, it makes health care a lot more expensive and dangerous in many areas of the country.

The PRESIDING OFFICER. Time has expired.

Ms. MIKULSKI. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

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

The result was announced—yeas 49, nays 50, as follows:

[Rollcall Vote No. 541 Leg.]

YEAS—49

Akaka	Ford	Lieberman
Biden	Glenn	Mikulski
Bingaman	Graham	Moseley-Braun
Boxer	Gregg	Moynihan
Bradley	Harkin	Murray
Breaux	Heflin	Pell
Bumpers	Hollings	Pryor
Byrd	Inouye	Reid
Chafee	Jeffords	Robb
Cohen	Johnston	Rockefeller
Conrad	Kassebaum	Sarbanes
Daschle	Kennedy	Simon
Dodd	Kerry	Snowe
Dorgan	Kohl	Specter
Exon	Lautenberg	Wellstone
Feingold	Leahy	
Feinstein	Levin	

NAYS—50

Abraham	Faircloth	McCain
Ashcroft	Frist	McConnell
Baucus	Gorton	Murkowski
Bennett	Gramm	Nickles
Bond	Grams	Nunn
Brown	Grassley	Pressler
Bryan	Hatch	Roth
Burns	Hatfield	Santorum
Campbell	Helms	Shelby
Coats	Hutchison	Simpson
Cochran	Inhofe	Smith
Coverdell	Kempthorne	Stevens
Craig	Kerrey	Thomas
D'Amato	Kyl	Thompson
DeWine	Lott	Thurmond
Dole	Lugar	Warner
Domenici	Mack	

So the motion was rejected.

Mr. DOLE. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SMITH MOTION TO INSTRUCT CONFEREES

The PRESIDING OFFICER. Under the previous order, the Senator from Oklahoma is recognized to make a motion to instruct conferees.

Mr. SMITH. On behalf of the Senator from Oklahoma, [Mr. NICKLES] and myself, I send a motion to instruct conferees to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the motion.

The legislative clerk read as follows:

The Senator from New Hampshire [Mr. SMITH] moves that the managers on the part of the Senate at the conference on the disagreeing votes of the two Houses on the amendments to the bill S. 1357 be instructed to recede to the House amendment relating to the prohibition on federal funding for Medicaid Abortions except to save the life of the mother or in cases of rape or incest.

Mr. SMITH. Mr. President, the Chafee point of order, a few minutes ago, removed the Hyde language, which

is no Federal funding for abortions except in the case of rape, incest, or life to the mother, which has been on the books a long, long time.

Basically, the Nickles and Smith motion would instruct the conferees to preserve the status quo on Federal funding of abortions.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mrs. BOXER. Mr. President, the Senate just sustained a point of order, we are only going to reverse this and bring it up when the bill comes back. I hope you will vote against the motion.

The PRESIDING OFFICER. Does the Senator yield the balance of his time?

Mr. EXON. Yes.

The PRESIDING OFFICER. The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The result was announced—yeas 56, nays 43, as follows:

[Rollcall Vote No. 542 Leg.]

YEAS—56

Abraham	Faircloth	Lugar
Ashcroft	Ford	Mack
Bennett	Frist	McCain
Biden	Gorton	McConnell
Bond	Gramm	Murkowski
Breaux	Grams	Nickles
Brown	Grassley	Nunn
Burns	Gregg	Pressler
Coats	Hatch	Reid
Cochran	Hatfield	Roth
Conrad	Heflin	Santorum
Coverdell	Helms	Shelby
Craig	Hutchison	Simpson
D'Amato	Inhofe	Smith
DeWine	Johnston	Thomas
Dole	Kassebaum	Thompson
Domenici	Kempthorne	Thurmond
Dorgan	Kyl	Warner
Exon	Lott	

NAYS—43

Akaka	Glenn	Moseley-Braun
Baucus	Graham	Moynihan
Bingaman	Harkin	Murray
Boxer	Hollings	Pell
Bradley	Inouye	Pryor
Bryan	Jeffords	Robb
Bumpers	Kennedy	Rockefeller
Byrd	Kerrey	Sarbanes
Campbell	Kerry	Simon
Chafee	Kohl	Snowe
Cohen	Lautenberg	Specter
Daschle	Leahy	Stevens
Dodd	Levin	Wellstone
Feingold	Lieberman	
Feinstein	Mikulski	

So the motion was agreed to.

Mr. EXON. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. EXON. It is my understanding and agreement with the chairman I will recognize the Senator from North Dakota and yield to him for 30 seconds.

CONRAD MOTION TO COMMIT

Mr. CONRAD. I have a fair share balanced budget plan at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Dakota [Mr. CONRAD], moves to commit.

Mr. CONRAD. I ask unanimous consent reading of the motion be dispensed with.

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

The text of the motion follows:

Mr. President, I move to commit the bill S. 1357 to the Committee on Finance with instructions that the Committee report the bill back to the Senate within 3 days (not to include any day the Senate is not in session) with the following changes to legislation in the Committee's jurisdiction:

(1) Modify the medicare provision to achieve $156,000,000,000 in savings instead of the excessive $270,000,000,000 in the Republican plan.

(2) Modify the medicaid provisions to achieve $125,000,000,000 in savings instead of the excessive $182,000,000,000 in the Republican plan.

(3) Modify the welfare provisions to achieve $26,000,000,000 in savings instead of the excessive $65,000,000,000 in the Republican plan.

(4) Modify the tax provisions by eliminating the tax cuts totalling $245,000,000,000 and instead raise revenue beyond the corporate welfare provisions in title XII be eliminating $228,000,000,000 in tax loopholes, breaks, and preferences without affecting taxpayers with incomes below $140,000.

The changes in the legislation shall be made in a manner that achieves the same deficit or surplus in fiscal year 2002 as the current bill, balances the budget without counting Social Security surpluses in 2004, and accomplishes the following:

(1) A reduction in agriculture programs by no more than $4,000,000,000 instead of the $13,000,000,000 reduction in the Republican plan.

(2) A reduction in food and nutrition programs by no more than $19,000,000,000 instead of the $35,000,000,000 reduction in the Republican plan.

(3) No reductions in student loan programs instead of the $10,000,000,000 reduction in the Republican plan.

(4) A reduction in veterans programs by no more than $5,000,000,000 instead of the $6,000,000,000 reduction in the Republican plan.

(5) No reductions in domestic discretionary programs beyond a hard freeze instead of slashing investments in our economic future $191,000,000,000 below a hard freeze as in the Republican plan.

Mr. CONRAD. Mr. President, we previously voted on my plan during consideration of the budget resolution. I received 39 votes. Today, if we held a vote, I might add a few votes to that total but I am under no illusion that I would prevail.

In order to spare my colleagues another rollcall vote and in the fleeting hope that I might inspire some of my other colleagues to withdraw amendments that are not absolutely necessary we vote on this evening, I withdraw my motion.

The PRESIDING OFFICER. The motion is withdrawn.

So the motion was withdrawn.

Mr. EXON. Mr. President, I thank my friend and colleague for his fine statement.

I might suggest we move two other matters I understand we have clearance on—the Lott amendment and the Bingaman amendment.

CHANGE OF VOTE

Mr. DOMENICI. Mr. President, I ask unanimous consent on behalf of Senator HELMS that on rollcall vote 520 wherein he voted no be changed to aye. He made a mistake, and the changing of this vote will not affect the outcome.

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

AMENDMENT NO. 3026

(Purpose: To eliminate reasonable cost reimbursement under the Medicare Program of legal fees after an unsuccessful appeal of denied claims)

Mr. DOMENICI. On behalf of Senator BINGAMAN and myself, I offer an amendment looked at by our Finance Committee, and which is obviously satisfactory on that side.

We believe the Medicare law already prohibits payments to providers for legal fees when the providers lose an appeal.

However, the GAO has reported some loopholes in the Medicare law so that this might not be the effect out in the field—even losers may collect losers' fees.

This will correct the situation. I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for himself and Mr. BINGAMAN proposes an amendment numbered 3026.

Mr. EXON. Mr. President I ask unanimous consent reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place in subtitle A of title VII, insert the following new section:

SEC. . ELIMINATION OF REASONABLE COST REIMBURSEMENT FOR CERTAIN LEGAL FEES.

Section 1861(v)(1)(R) (42 U.S.C. 139x(v)(1)(R) is amended by striking ''section 1869(b)'' and inserting ''section 1869(a) or (b)''.

Mr. BINGAMAN. Mr. President, the purpose of this amendment is to prohibit the payment of legal expenses to providers when they appeal the denial of a claim or cost adjustment and lose that appeal. Providers would still be able to recover other legal expenses, including the cost of an appeal if they prevail on the appeal under the provisions of this amendment.

The amendment would save money for Medicare part A and prevent a potentially large abuse of the current system. The Federal Government should not be paying for individuals or corporations to sue the Federal Government especially when they sue and lose their appeal.

Mr. EXON. Mr. President, I yield back our 30 seconds. I agree with the understanding that has been made.

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

So the amendment (No. 3026) was agreed to.

Mr. DOMENICI. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3027

(Purpose: To amend the Civil War Battlefield Commemorative Coin Act of 1992, and for other purposes)

Mr. DOMENICI. On behalf of Senator LOTT and Senator JEFFORDS, I send another amendment to the desk.

This is to amend the Civil War Battlefield Commemorative Coin Act of 1992, which I send to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for Mr. LOTT, for himself, and Mr. JEFFORDS proposes an amendment numbered 3027.

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

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

The amendment is as follows:

On page 205, between lines 13 and 14, insert the following:

SEC. 3005. AMENDMENTS TO THE CIVIL WAR BATTLEFIELD COMMEMORATIVE COIN ACT OF 1992.

(a) DISTRIBUTION AND USE OF SURCHARGES.—

(1) IN GENERAL.—Section 6 of the Civil War Battlefield Commemorative Coin Act of 1992 (31 U.S.C. 5112 note) is amended to read as follows:

"SEC. 6. DISTRIBUTION AND USE OF SURCHARGES.

"(a) DISTRIBUTION.—An amount equal to $5,300,000 of the surcharges received by the Secretary from the sale of coins issued under this Act shall be promptly paid by the Secretary to the Association for the Preservation of Civil War Sites, Incorporated (hereafter in this Act referred to as the 'Association'), to be used for the acquisition of historically significant and threatened Civil War sites selected by the Association.

"(b) CIVIL WAR SITES INCLUDED.—In using amounts paid to the Association under subsection (a), the Association may spend—

"(1) not more than $500,000 to acquire sites at Malvern Hill, Virginia;

"(2) not more than $1,000,000 to acquire sites at Cornith, Mississippi;

"(3) not more than $300,000 to acquire sites at Spring Hill, Tennessee;

"(4) not more than $1,000,000 to acquire sites at Winchester, Virginia;

"(5) not more than $500,000 to acquire sites at Resaca, Georgia;

"(6) not more than $250,000 to acquire sites at Brice's Cross Roads, Mississippi;

"(7) not more than $250,000 to acquire sites at Berryville, Kentucky;

"(8) not more than $1,000,000 to acquire sites at Brandy Station, Virginia;

"(9) not more than $250,000 to acquire sites at Kernstown, Virginia; and;

"(10) not more than $250,000 to acquire sites at Glendale, Virginia.".

(2) TRANSFER OF SURCHARGES.—

(A) TO TREASURY.—Not later than 10 days after the date of enactment of this Act, Civil War Trust, formerly called the Civil War Battlefield Foundation (hereafter in this section referred to as the "Foundation") shall transfer to the Secretary of the Treasury an amount equal to $5,300,000.

(B) TO THE ASSOCIATION.—Not later than 10 days after the transfer under subparagraph (A) is completed, the Secretary of the Treasury shall transfer to the Association an amount equal to the amount transferred under subparagraph (A).

Mr. LOTT. Mr. President, the Congress passed commemorative coin legislation in 1992. These funds were to be used for the preservation and acquisition of Civil War battlefields.

Proceeds from the sale of the coins have been accumulating in the trust fund, rather than being spent to purchase land.

This amendment will not add to the deficit; it merely will require that these funds be used for their original purposes.

Under this amendment, the funds would be used to purchase land only in places where there is already a commitment of private matching funds. The $4.8 million designated here will purchase $24.1 million in battlefield land; that is 20 percent coin revenues leverages the remaining 80 percent from other sources.

If these funds are not expended, options on the land will be lost and the battlefields will be developed rather than preserved.

Mr. EXON. I have to advise my colleague, I thought this was cleared. I am now advised we have one Senator that has asked to be consulted on this yet.

I am wondering if we could hold this up momentarily.

Mr. DOMENICI. Mr. President, I wonder if we could accept the amendment without reconsideration.

Mr. EXON. I apologize. I thought it was cleared. I think we can clear it if we can hold it over temporarily.

Mr. DOMENICI. I ask unanimous consent that it be temporarily set aside, Mr. President.

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

Mr. EXON. Mr. President, I believe the next amendment is another amendment by the Senator from Arkansas with regard to asset sales. For the purpose of introducing that amendment and explaining it, I yield our 30 seconds to the Senator from Arkansas.

AMENDMENT NO. 3028

(Purpose: To restore fiscal sanity to the budget process by prohibiting the scoring of asset sales to ensure that taxpayers are adequately protected)

Mr. BUMPERS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS], for himself, Mr. BRADLEY, Mrs. MURRAY, and Mr. LEAHY, proposes an amendment numbered 3028.

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

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

The amendment is as follows:

At the end of the bill add the following new title:

"TITLE XIII—BUDGET PROCESS

"For purposes of the Congressional Budget Act of 1974, the amounts realized from sales of assets shall not be scored with respect to the level of budget authority, outlays or revenues."

Mr. BUMPERS. Mr. President, from 1987 until 1995 we had a specific prohibition against scoring asset sales for a very good reason. You cannot balance the budget by selling off all our assets. It is like Rudolph Penner who talked about the lawyer coming home one night and told his wife he had a great day. She said, "What happened?" He said, "I sold my desk."

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DOMENICI. Mr. President, did we miss something?

Mr. EXON. Yes. But it is all right.

Mrs. MURRAY. Mr. President, I rise in support of the asset sale scoring prohibition amendment jointly offered by Senators BUMPERS, BRADLEY, and me.

The budget resolution before us has been termed an historic document. It certainly is. For the last decade, the Congress of the United States has recognized that our public lands and other Federal assets were too precious to sell or lease unless Congress or the Administration decided that so doing was in the best interest of the public. That is good policy and one that traditionally has enjoyed strong bi-partisan support.

But it is a new day. Today, we may well vote to sell our children's heritage to pay our debts. I reject this approach to debt reduction and I reject this approach to disposition of our Federal assets.

While this bill only puts up for sale the rights to develop oil and gas in the Arctic National Wildlife Refuge, these wilderness lands are only the beginning. Other public lands, national treasures and assets are being proposed for sale in the House budget reconciliation bill and more likely will be targeted next year and the year after. Henceforth, unless this amendment is adopted, any public lands or Federal assets can be sold for the quick cash and political capital gained from balancing the budget in a given year. It is a dangerous, bad precedent.

Mr. President, our assets should not be sold simply to reduce the deficit. Instead, our Federal assets should be sold only when, after reasoned debate and a full public airing, we decide their sale is in the best interest not only of our generation—but of every generation that follows. We owe our children much more than a balanced budget. We owe them their heritage.

Mr. President, I urge my colleagues to support our important amendment and thwart efforts to sell our heritage for quick cash.

Mr. BRADLEY. Mr. President, I rise in support of the Bumpers/Bradley amendment to restore the traditional method of scoring asset sales that the Congress changed last June in the Budget Resolution. The change allows Congress to count the sale of public assets—parks, powerplants, buildings,

the Arctic National Wildlife Refuge, even oil in national storage facilities—as deficit reductions despite the fact that such sales are actually money-losers.

This budgetary innovation opened the floodgates for proposals to unload valuable Federal assets in return for the fast buck, often at fire-sale prices. Many of these proposals, in fact, will lead to reduced revenues in the future, and higher deficits. This approach relies on political myopia—a simple-minded scoring of sales revenue within the limited budget window—and fails to withstand the straight face test. Only by railroading these proposals through the Senate, under the very restrictive and controlled conditions of budget reconciliation, would many of these proposals ever have a chance of becoming law.

The Energy Committee's title is loaded down with asset sales that follow the same pattern. While they produce deficit reductions in their first few years, as valuable assets are sold off, after a few years the pattern reverses and deficit reductions are turned into increases. In most cases the red ink continues far out into the future, easily dwarfing the deficit reductions of the early years. Thus asset sales are both short term and short sighted.

Why we produce these budget resolutions in the first place? The reason is not to balance the budget. If it were, I am sure we could create some appropriate fiction which showed budgetary balance by definition.

But that is not what we were supposed to be doing here. We are supposed to be systematic. We are supposed to be honest. We are supposed to be consistent. We are supposed to address the substantive, structural issues which keep the Federal Government spending—year in, year out—more money than it takes in.

So what do we have here, buried deep in this bill? We have a trick, a gimmick. We cut spending, by redefining what a cut is. Now, for the first time since we gave this budget process teeth—with the passage of Gramm–Rudman—we can sell off national property—national assets—and include the proceeds as deficit reduction.

Mr. President, because of these cynically clever changes, we can now propose all sorts of asset sales, from ANWR to the Strategic Petroleum Reserve, and chalk that up to deficit reduction.

This asset sale formula leads to all sorts of questionable proposals. Because even outrageously low sales prices would still score as deficit reductions for the short period of the budget window, asset giveaways could receive a budget blessing.

In fact, I doubt that any business accountant or economist would agree with the underlying budgetary premise—that liquidating public assets adds to public wealth. If I sell my stock portfolio and put the returns in my checking account, do I become wealthier? Have I protected my children? It may make sense to sell my stocks, but the transaction itself produces no wealth—except for my broker.

Consider the Arctic National Wildlife Refuge. We can lease the Refuge to oil developers and sell any oil that might be underground to them. We will get some money. The companies will get the rights to oil. If they find oil, probably it will be shipped to the Pacific rim and burned completely. Have we done a lot for our kids? You must be joking.

At best, we can claim for our children a neutral financial transaction. But what about the larger issues? If we go ahead with the development of ANWR, we damage probably irrevocably a unique, world-class ecosystem. We consume utterly a non-renewable resource. We get some cash.

If we forego the drilling of ANWR, we preserve intact this ecosystem. We preserve intact any oil underground and the possibility of future development. We do not get the cash.

I, frankly, reject any claim that our children will thank us for using up this oil and running oil rigs and oil pipelines across the Arctic Plain.

Mr. President, what the American public expects, and what our children expect, is for us to get our fiscal house in order. Our children are not asking us to sell off their collective inheritance. Our children are not asking us to look narrowly at some budget window and forget that many of these assets produce public value—and I do not just mean financial value—beyond the window.

When one Member from the other side of the aisle, Senator CRAIG, considered this issue as a House Member, he said, ''Asset sales are in fact blue smoke and mirrors at best. If they are to happen, they should be set off budget.'' Exactly right.

Mr. DOMENICI. I do not think I will even address the amendment.

Mr. President, the amendment does not produce a change in outlays or revenues and is not necessary to implement the provisions of this budget. Therefore, I raise a point of order that the amendment violates the Budget Act.

Mr. EXON. Mr. President, pursuant to section 904 of the Congressional Budget Act of 1974, I move to waive the applicable sections of that act for the consideration of the pending amendment, and I ask for the yeas and nays on the motion to waive.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Nebraska. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

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

The yeas and nays resulted—yeas 49, nays 50, as follows:

[Rollcall Vote No. 543 Leg.]

YEAS—49

Akaka	Feingold	Lieberman
Baucus	Feinstein	Mikulski
Biden	Ford	Moseley-Braun
Bingaman	Glenn	Moynihan
Boxer	Graham	Murray
Bradley	Harkin	Nunn
Breaux	Heflin	Pell
Bryan	Hollings	Pryor
Bumpers	Inouye	Reid
Byrd	Johnston	Robb
Chafee	Kennedy	Rockefeller
Cohen	Kerrey	Sarbanes
Conrad	Kerry	Simon
Daschle	Kohl	Snowe
Dodd	Lautenberg	Wellstone
Dorgan	Leahy	
Exon	Levin	

NAYS—50

Abraham	Gorton	McCain
Ashcroft	Gramm	McConnell
Bennett	Grams	Murkowski
Bond	Grassley	Nickles
Brown	Gregg	Pressler
Burns	Hatch	Roth
Campbell	Hatfield	Santorum
Coats	Helms	Shelby
Cochran	Hutchison	Simpson
Coverdell	Inhofe	Smith
Craig	Jeffords	Specter
D'Amato	Kassebaum	Stevens
DeWine	Kempthorne	Thomas
Dole	Kyl	Thompson
Domenici	Lott	Thurmond
Faircloth	Lugar	Warner
Frist	Mack	

The PRESIDING OFFICER. On the motion, the yeas are 49, the nays are 50. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to. The point of order is sustained and the amendment falls.

Mr. DOMENICI. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3027

Mr. DOMENICI. Mr. President, I believe we laid aside the Lott-Jeffords amendment with reference to Federal commemorative coins. I think we have clearance from the Senator that they have approved it; is that correct?

Mr. EXON. That is correct.

Mr. DOMENICI. So we ask we proceed with it.

I yield back my time on it.

Mr. EXON. I yield back my time and call for the vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment No. 3027 offered by the Senator from Mississippi.

The amendment (No. 3027) was agreed to.

Mr. EXON. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

AMENDMENT NO. 2942

(Purpose: To amend the Congressional Budget Act of 1974 to extend the hours of debate permitted on a reconciliation bill)

Mr. EXON. Mr. President, the next in order, according to the list that we have agreed to, is recognition of the Senator from West Virginia for an amendment.

I yield our 30 seconds to him for that purpose.

The PRESIDING OFFICER. The Senator from West Virginia is recognized for 30 seconds.

Mr. BYRD. I thank the Chair. I ask that the amendment be called up at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 2974.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. I know of no legal or constitutionally binding reason why the Senate has to ever pass a reconciliation bill. It may have some budgetary consequences if the Senate does not. But as long as we are going to pass such a bill—and I assume that we will continue to do so for a while—we should lengthen the time for debate.

This is not a partisan amendment. It is not a political amendment. It is for the good of the institution——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BYRD. The budget process, and the good of the American people.

I hope Senators will vote for this amendment.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from New Mexico.

Mr. DOMENICI. Mr. President and fellow Senators, it is with greatest respect and some degree of sorrow that I have to raise the Byrd rule against the amendment.

But Senator BYRD has made sure under the rules that you cannot change the budget or the Budget Act without sending the matter through the committee of jurisdiction. So this amendment will increase from 20 to 50 hours the time limitation on debate on future reconciliation measures; increase the time limitation from 10 to 20 hours on Senate consideration of conference reports; and, therefore, it violates the Budget Act.

I make a point of order against it.

Mr. BYRD. Mr. President, I believe the clerk read the wrong amendment.

The PRESIDING OFFICER. The Senator from West Virginia is correct. The Chair will correct it. The amendment is 2942, which the clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for himself and Mr. DORGAN, proposes an amendment numbered 2942.

The text of the amendment is as follows:

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

SEC. . DEBATE ON A RECONCILIATION BILL AND CONFERENCE REPORT.

(a) CONSIDERATION OF A BILL.—Section 310(e)(2) of the Congressional Budget Act of 1974 is amended by striking ''20 hours'' and inserting ''50 hours''.

(b) CONSIDERATION OF A CONFERENCE REPORT.—Section 310(e)(2) of the Congressional Budget Act of 1974 is amended by adding at the end the following: ''Debate in the Senate on a conference report on any reconciliation bill reported under subsection (b), and all amendments thereto and debatable motions and appeals in connection therewith, shall be limited to not more than 20 hours.''.

Mr. DOMENICI. Does the Senator want to do this one?

Mr. BYRD. I want the amendment that I wanted called up.

Mr. DOMENICI. We assumed that was the amendment.

I ask for 30 seconds.

Mr. BYRD. This is the amendment that extends the time for debate from 20 to 50 hours on reconciliation measures and from 10 to 20 hours on conference reports.

Mr. DOMENICI. Mr. President, that is what I addressed. That violates the Byrd rule, and I, therefore, raise a point of order against the amendment under section 313(b)(1)(A) of the Budget Act.

Mr. EXON. Mr. President, pursuant to section 904 of the Congressional Budget Act of 1974, I move to waive the applicable section of that act for the consideration of the pending amendment.

I ask for the yeas and nays on the motion.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

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

The clerk will call the roll.

The assistant legislative clerk called the roll.

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

The yeas and nays resulted—yeas 47, nays 52, as follows:

[Rollcall Vote No. 544 Leg.]

YEAS—47

Akaka	Feinstein	Levin
Baucus	Ford	Lieberman
Biden	Glenn	Mikulski
Bingaman	Graham	Moseley-Braun
Boxer	Harkin	Moynihan
Bradley	Heflin	Murray
Breaux	Hollings	Nunn
Bryan	Inouye	Pell
Bumpers	Jeffords	Pryor
Byrd	Johnston	Reid
Conrad	Kennedy	Robb
Daschle	Kerrey	Rockefeller
Dodd	Kerry	Sarbanes
Dorgan	Kohl	Simon
Exon	Lautenberg	Wellstone
Feingold	Leahy	

NAYS—52

Abraham	Chafee	DeWine
Ashcroft	Coats	Dole
Bennett	Cochran	Domenici
Bond	Cohen	Faircloth
Brown	Coverdell	Frist
Burns	Craig	Gorton
Campbell	D'Amato	Gramm
Grams	Lott	Simpson
Grassley	Lugar	Smith
Gregg	Mack	Snowe
Hatch	McCain	Specter
Hatfield	McConnell	Stevens
Helms	Murkowski	Thomas
Hutchison	Nickles	Thompson
Inhofe	Pressler	Thurmond
Kassebaum	Roth	Warner
Kempthorne	Santorum	
Kyl	Shelby	

The PRESIDING OFFICER. On this motion, the ayes are 47, the nays are 52. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion fails.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the motion was rejected.

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

The motion to lay on the table was agreed to.

CHANGE OF VOTE

Mr. STEVENS. Mr. President, on rollcall vote No. 539, I voted ''aye.'' It was my intention to vote ''no.'' Therefore, I ask unanimous consent to change my vote. It will not affect the outcome of the vote.

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

(The foregoing tally has been changed to reflect the above order.)

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. We have been waiting to do the Biden amendment. I understand that has been worked out. So I yield at this time to Senator BIDEN for the offering of his amendment, including the 30 seconds which is a part of my time.

The PRESIDING OFFICER. The Senator from Delaware.

AMENDMENT NO. 3029

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

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Delaware [Mr. BIDEN] proposes an amendment numbered 3029.

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

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

The amendment is as follows:

On page 1463, between lines 2 and 3, insert the following:

SEC. 11042. AUTHORITY TO PAY PLOT OR INTERMENT ALLOWANCE FOR VETERANS BURIED IN STATE CEMETERIES.

Section 2303 of title 38, United States Code, is amended by adding at the end the following:

''(c) Subject to the availability of funds appropriated, in addition to the benefits provided for under section 2302 of this title, section 2307 of this title, and subsection (a) of this section, in the case of a veteran who—

''(1) is eligible for burial in a national cemetery under section 2402 of this title, and

''(2) is buried (without charge for the cost of a plot or interment) in a cemetery, or a section of a cemetery, that (A) is used solely for the interment of persons eligible for burial in a national cemetery, and (b) is owned by a State or by an agency or political subdivision of a State,

the Secretary may pay to such State, agency, or political subdivision the sum of $150 as

a plot or interment allowance for such veteran, provided that payment was not made under clause (1) of subsection (b) of this section.''.

Mr. BIDEN. Mr. President, following the admonition of Senator Long years ago, if the amendment is accepted, I have nothing to say.

The PRESIDING OFFICER. If there is no further debate on the amendment, the question is on agreeing to the amendment.

So the amendment (No. 3029) was agreed to.

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

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

The motion to lay on the table was agreed to.

EXON POINT OF ORDER

Mr. EXON. Mr. President, the next item on the agenda is the Exon point of order with regard to the Byrd rule.

Because of the Budget Act of 1974, I raise a point of order that several provisions——

Mr. BYRD. Mr. President, may we hear the Senator on this very important matter?

The PRESIDING OFFICER. The Senator from West Virginia is correct. The Senate will please come to order. The Senator from Nebraska has 22 seconds remaining.

Mr. EXON. Mr. President, pursuant to section 313(d) of the Congressional Budget Act of 1974, I raise a point of order that several provisions in the list I now send to the desk are extraneous and violate the Byrd rule, section 313(b)(1) of that act.

My point of order objects to about 50 provisions that the Parliamentarian has confirmed violate the Byrd rule against extraneous matter in reconciliation because they have nothing to do with deficit reduction, worsen the deficit, or otherwise violate the rule.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I might request of the Senator from Nebraska, this is a very important subject matter and the Senator has been selective. There are many. I wonder, if the Senator would give us a little time to review it.

Mr. EXON. Yes, I will be glad to do that.

Mr. DOMENICI. We will not take a long time. We would like to review it and discuss it with the Senator.

Mr. EXON. That is perfectly reasonable.

Mr. DOMENICI. I thank the Senator.

Mr. EXON. We will lay that temporarily aside.

The PRESIDING OFFICER. Without objection, the point of order will be set aside.

Mr. EXON. Mr. President, the next amendment is an amendment that the Senator from Arkansas is prepared to offer—I do not see the Senator from Arkansas on the floor—with regard to mining payments and royalties. I have not been advised by the Senator he does not wish to offer the amendment.

Mr. President, I advise my friend from Arkansas that he is up next on the mining patents and royalties amendment. Does the Senator wish to offer that amendment?

Mr. BUMPERS. I do.

Mr. EXON. I yield 30 seconds of my time to the Senator from Arkansas for that purpose.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

AMENDMENT NO. 3030

(Purpose: To clarify the Senate's intent that hardrock mining companies pay fair market value for the purchase of Federal lands and minerals pursuant to the 1872 mining law and to strike the sham hardrock mining industry sponsored royalty provisions from the bill which would continue the giveaway of taxpayer owned minerals to some of the richest companies in the world)

Mr. BUMPERS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS], for himself, Mr. BRADLEY, Mr. LAUTENBERG, and Mr. LEAHY, proposes an amendment numbered 3030.

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

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

The amendment is as follows:

Strike ''for'' on line 4 of page 369 through ''thereby'' on line 19 on page 395.

Mr. BUMPERS. Mr. President, there is some confusion about what fair market value is in this bill. This amendment simply says that the mining industry, when they apply for patents from the Interior Department for land, will pay fair market value.

Fair market value means just what it says: Land and minerals. Is that fair? All you have to do is vote ''aye'' and the U.S. Government will receive fair market value.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Alaska is recognized.

Mr. MURKOWSKI. Mr. President, this is the same item we have already dealt with in budget reconciliation. In fact, we already voted on this. It will be a repeat of the same amendment my friend from Arkansas proposed previously.

Given Senator BUMPERS' rhetoric and the ''we only print one-side of the issue'' perspective of the national media, it is difficult to get a clear understanding of what's going on with mining law reform in the 104th Congress.

Senator BUMPERS, Secretary of the Interior Bruce Babbitt, and the national media are long on mining law rhetoric but short on substance.

Senator BUMPERS often argues the goal of mining law reform should be significantly revise patenting, to impose a royalty on the production of hardrock minerals, and to establish a mechanism to clean up abandoned mines throughout the country.

I happen to agree, but would quickly add one more essential point. Any reform bill passed by Congress should also aim to preserve the economic foundation of hardrock mining in this country—a critical industry that provides high-paying jobs for tens of thousands of American men and women.

It is on this point that legislation sponsored by mining critics like Mr. BUMPERS falls flat on its face. The punitive royalties and onerous environmental provisions he favors would make future mining on Federal lands nearly impossible.

Economic analyses of Senator BUMPERS' comprehensive mining law reform legislation, including in-house studies done by the Department of the Interior, conclude that the punitive royalty supported by Senator BUMPERS will cost thousands of U.S. jobs. His legislation would shift exploration and development capital over seas, export U.S. jobs, decrease our tax base, and increase our balance of trade deficit.

I take strong exception to criticisms that members representing western mining States oppose mining law reform legislation. What we oppose is punitive legislation that would cause unnecessary economic harm to rural mining communities across working America.

In our effort to impose a royalty on the hardrock mining industry we should not presume that more is better.

One would hope that Congress would learn from history. In 1990, when Congress enacted the Omnibus Budget Reconciliation Act, we imposed a significant tax on luxury items, including high-end luxury yachts. Unfortunately, instead of taxing the rich, this recklessness destroyed the yacht building industry and eliminated thousands of jobs in this country.

In addition, we should learn from our foreign competitors. In 1974, British Columbia enacted the Mineral Royalties Act, which imposed royalties on mines located on Crown Lands and the Mineral Land tax Act which subjected owners of private mineral rights to royalties equivalent to those applied to Crown Lands. The result was a disaster.

During the period the royalty was in effect, no new mines went into production and several mines closed. Two years later, after thousands of mine related jobs were lost, the royalty was repealed.

Should the hardrock mining industry pay a royalty to the Federal Government? The answer is yes. But let's not make it so punitive that we destroy the industry or run it off-shore. We need to remember, just like Arkansas rice farmers, the domestic mining industry must compete in a worldwide market.

At the outset of the 104th Congress, I cosponsored the Mining Law Reform

Act of 1995 (S. 506), a bipartisan bill that recognizes the world of change in which we now live. The bill balances economic reality with the environmental concerns facing today's hardrock mining industry. I've actively pursued enactment of this legislation during the past several months.

It's worth noting that Secretary of the Interior Bruce Babbitt continues to issue press releases decrying the shortcomings of the existing mining law. Yet he offers no reform proposal of his own. Why? Very simply, it is much easier to be critical than to be constructive.

It's no secret this is a divisive issue. In an effort to strike an acceptable compromise, the Senate Energy Committee included mining law reform provisions in its budget reconciliation package.

Those provisions represent significant compromise by both sides in this debate.

For the first time in history, the legislation would require miners to pay fair market value for the surface estate of patented land.

For the first time in history, the legislation requires patented land used for nonmining purposes to revert back to the Federal Government.

This would end the so-called Federal land give-away.

For the first time in history, miners would be required to pay a royalty to the Federal Government for the production of minerals on Federal land.

The Congressional Budget Office estimates the royalty will generate over $36 million dollars during the first 7 years. As new projects come into production, revenues received from the royalty are expected to increase to $25–$50 million per year.

Finally, for the first time in history, we would create an abandoned mine land fund [AML fund], establishing a mechanism to clean up old mines, many of which were abandoned in the 1800's.

The program will be financed by one half of the royalty receipts. As royalty revenues increase, funds for the AML fund will also grow.

The legislation contained in the committee's reconciliation package answers the urgent call for increased Federal revenue without adding layers of crippling new Federal regulations or usurping the rights and responsibilities of individual States to oversee mining operations within their own jurisdictions.

Simply put, it would significantly revise the existing patenting system; impose a royalty on the production of minerals; and create a mechanism to fund the cleanup of abandoned mines; all while allowing Americans to enjoy the benefits of a strong domestic mining industry.

It's time for mining critics to stop the rhetoric and begin working to enact reform.

Senator BUMPERS' amendment is not a good faith effort at enacting responsible reform. His claims of a Federal land give-away cannot hold water in the face of the dual requirements in budget reconciliation of fair market value for the surface of patented lands and a royalty on produced minerals from the subsurface.

The time is right for reform. The language in the budget reconciliation package represents comprehensive reform that ends the so-called Federal give-away, and according to CBO, raises $148 million dollars.

I urge critics of the mining industry to support the mining law provisions in the budget reconciliation package and oppose the amendment being offered by Senator BUMPERS.

Mr. DOMENICI. Mr. President, I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table amendment No. 3030. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

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

The result was announced—yeas 55, nays 44, as follows:

[Rollcall Vote No. 545 Leg.]

YEAS—55

Abraham	Dole	Mack
Ashcroft	Domenici	McCain
Baucus	Faircloth	McConnell
Bennett	Frist	Murkowski
Bingaman	Gorton	Nickles
Bond	Gramm	Pressler
Breaux	Grams	Reid
Brown	Grassley	Roth
Bryan	Hatch	Santorum
Burns	Hatfield	Shelby
Campbell	Heflin	Simpson
Chafee	Helms	Specter
Coats	Hutchison	Stevens
Cochran	Inhofe	Thomas
Coverdell	Kassebaum	Thompson
Craig	Kempthorne	Thurmond
D'Amato	Kyl	Warner
Daschle	Lott	
DeWine	Lugar	

NAYS—44

Akaka	Graham	Mikulski
Biden	Gregg	Moseley-Braun
Boxer	Harkin	Moynihan
Bradley	Hollings	Murray
Bumpers	Inouye	Nunn
Byrd	Jeffords	Pell
Cohen	Johnston	Pryor
Conrad	Kennedy	Robb
Dodd	Kerrey	Rockefeller
Dorgan	Kerry	Sarbanes
Exon	Kohl	Simon
Feingold	Lautenberg	Smith
Feinstein	Leahy	Snowe
Ford	Levin	Wellstone
Glenn	Lieberman	

So the motion to lay on the table the amendment (No. 3030) was agreed to.

Mr. EXON. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3031

(Purpose: To modify the estate tax reform proposals by striking the provisions excluding up to $3.25 million in business assets from the estate tax and by inserting a package of reforms specifically designed to ease the burden of estate taxes for true small businesses and family farms)

Mr. BRADLEY. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New Jersey [Mr. BRADLEY] proposes an amendment numbered 3031.

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

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

The amendment is as follows:

On page 1622, beginning on line 8, strike all through page 1636, line 12, and insert the following:

SEC. 12301. MODIFICATIONS TO TIME EXTENSION PROVISIONS FOR CLOSELY HELD BUSINESSES.

(a) INCREASED CAP ON 4 PERCENT INTEREST RATE.—Subparagraph (A) of section 6601(j)(2) (relating to 4-percent portion) is amended by striking ''$345,800'' and inserting ''$780,800''.

(b) PARTNERSHIP, ETC., RESTRICTIONS LIFTED.—Subparagraph (A) of section 6166(b)(7) (relating to partnership interests and stock which is not readily tradable) is amended to read as follows:

''(A) IN GENERAL.—If the executor elects the benefits of this paragraph (at such time and in such manner as the Secretary shall by regulations prescribe), then for purposes of paragraph (1)(B)(i) or (1)(C)(i) (whichever is appropriate) and for purposes of subsection (c), any capital interest in a partnership and any non-readily-tradable stock which (after the application of paragraph (2)) is treated as owned by the decedent shall be treated as included in determining the value of the decedent's gross estate.''

(c) HOLDING COMPANY RESTRICTIONS LIFTED.—Paragraph (8) of section 6166(b) (relating to stock in holding company treated as business company stock in certain cases) is amended—

(1) by striking subparagraph (A) and inserting the following new subparagraph:

''(A) IN GENERAL.—If the executor elects the benefits of this paragraph, then for purposes of this section, the portion of the stock of any holding company which represents direct ownership (or indirect ownership through 1 or more other holding companies) by such company in a business company shall be deemed to be stock in such business company.'',

(2) by striking subparagraph (B),

(3) by striking ''any corporation'' in subparagraph (D)(i) and inserting ''any entity'', and

(4) by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying after December 31, 1995.

On page 1639, beginning on line 10, strike all through page 1649, line 9, and insert the following:

SEC. 12304. OPPORTUNITY TO CORRECT CERTAIN FAILURES UNDER SECTION 2032A.

(a) GENERAL RULE.—Paragraph (3) of section 2032A(d) (relating to modification of election and agreement to be permitted) is amended to read as follows:

''(3) MODIFICATION OF ELECTION AND AGREEMENT TO BE PERMITTED.—The Secretary shall

prescribe procedures which provide that in any case in which the executor makes an election under paragraph (1) (and submits the agreement referred to in paragraph (2)) within the time prescribed therefor, but—

''(A) the notice of election, as filed, does not contain all required information, or

''(B) signatures of 1 or more persons required to enter into the agreement described in paragraph (2) are not included on the agreement as filed, or the agreement does not contain all required information,

the executor will have a reasonable period of time (not exceeding 90 days) after notification of such failures to provide such information or signatures.''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to the estates of decedents dying after the date of the enactment of this Act.

Mr. EXON. I yield 30 seconds if the Senator would like to have it.

Mr. BRADLEY. Mr. President, under the pending bill, estates worth $5 million or more would receive a tax break of $1.7 million. This is because the bill effectively shields the first $3.25 million from tax.

This amendment would strike these provisions and substitute a package of reforms that are designed to ease the burden of estate taxes on true small businesses and family farms.

Mr. DOLE. The estate tax provision of the bill has strong bipartisan support. I think 20 to 30 Senators—we had this discussion in committee. We believe we are on the right track, trying to save farms, ranches, small businesses held by one family, two families or three families.

Mr. DOMENICI. Mr. President, I move to table the amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The clerk will call the roll.

The legislative clerk called the roll.

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

The result was announced—yeas 72, nays 27, as follows:

[Rollcall Vote No. 546 Leg.]

YEAS—72

Abraham	Frist	Mack
Ashcroft	Glenn	McCain
Baucus	Gorton	McConnell
Bennett	Gramm	Murkowski
Biden	Grams	Murray
Bingaman	Grassley	Nickles
Bond	Gregg	Nunn
Brown	Harkin	Pell
Bryan	Hatch	Pressler
Burns	Hatfield	Pryor
Campbell	Heflin	Reid
Chafee	Helms	Roth
Coats	Hutchison	Santorum
Cochran	Inhofe	Shelby
Cohen	Inouye	Simon
Coverdell	Johnston	Simpson
Craig	Kassebaum	Smith
D'Amato	Kempthorne	Snowe
DeWine	Kerrey	Specter
Dole	Kohl	Stevens
Domenici	Kyl	Thomas
Exon	Lieberman	Thompson
Faircloth	Lott	Thurmond
Ford	Lugar	Warner

NAYS—27

Akaka	Dorgan	Leahy
Boxer	Feingold	Levin
Bradley	Feinstein	Mikulski
Breaux	Graham	Moseley-Braun
Bumpers	Hollings	Moynihan
Byrd	Jeffords	Robb
Conrad	Kennedy	Rockefeller
Daschle	Kerry	Sarbanes
Dodd	Lautenberg	Wellstone

So the motion to lay on the table the amendment (No. 3031) was agreed to.

Mr. EXON. Mr. President, I move to reconsider the vote by which the motion was agreed to.

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

The motion to lay on the table was agreed to.

Mr. EXON. Mr. President, I tell all that we are moving along at a reasonably rapid pace.

The next amendment is the last amendment that I have for Senator BRADLEY of New Jersey.

I yield my 30 seconds to him.

AMENDMENT NO. 3032

(Purpose: To provide additional funds to the medicaid program by using the revenues resulting from the disallowance of deductions for advertising and promotional expenses for tobacco products)

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

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New Jersey (Mr. BRADLEY), for himself and Mr. HARKIN, proposes an amendment numbered 3032.

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

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

The amendment is as follows:

On page 1772, after line 23, add the following new section:

SEC. 12809. DISALLOWANCE OF DEDUCTIONS FOR ADVERTISING AND PROMOTIONAL EXPENSES RELATING TO TOBACCO PRODUCT USE.

(a) IN GENERAL.—Part IX of subchapter B of chapter 1 of subtitle A (relating to items not deductible) is amended by adding at the end the following new section:

''SEC. 280I. DISALLOWANCE OF DEDUCTION FOR TOBACCO ADVERTISING AND PROMOTIONAL EXPENSES.

No deduction shall be allowed under this chapter for expenses relating to advertising or promoting cigars, cigarettes, smokeless tobacco, pipe tobacco, or any similar tobacco product. For purposes of this section, any term used in this section which is also used in section 5702 shall have the same meaning given such term by section 5702.''

(b) USE OF FUNDS FOR MEDICAID PROGRAM.—Section 2121(b) of the Social Security Act, as added by section 7901 of this Act is amended by adding at the end the following new paragraph:

''(3) APPROPRIATION OF ADDITIONAL AMOUNTS FOR POOL AMOUNTS.—For purposes of paragraph (1), the pool amount for each fiscal year is increased by an amount that is hereby authorized to be appropriated and is appropriated equal to the increase in revenues for such year as estimated by the Secretary of the Treasury resulting from the amendment made by section 12809(a) of the Balanced Budget Reconciliation Act of 1995.''

(c) CONFORMING AMENDMENT.—The table of sections for such part IX is amended by adding after the item relating to section 280H the following new item:

''Sec. 280I. Disallowance of deduction for tobacco advertising and promotion expenses.''

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable year beginning after December 31, 1995.

Mr. BRADLEY. Mr. President, the amendment that I have offered denies a tax deduction for the expense of advertising tobacco products. Federal savings of $3.2 billion would be used to offset cuts in Medicaid. Currently tobacco manufacturers deduct the cost of their advertisements from their taxable income. In other words, it favors the Joe Camel ad. This amendment would eliminate that deduction.

The amendment would not prohibit tobacco manufacturers from advertising their products. It only removes the Federal subsidy through the Tax Code for their advertising.

Mr. FORD. Mr. President, this denies a legitimate business from taking a deduction under legitimate costs. And it will go to all companies in the future, if we allow this one to prevail.

So, Mr. President, I raise a point of order against the pending amendment. It violates section 305(b) of the Congressional Budget Act of 1994 because it is not germane.

Mr. EXON. Mr. President, pursuant to section 904 of the Congressional Budget Act of 1994, I move to waive the applicable sections of the act for the consideration of the pending amendment, and I ask for the yeas and nays on the motion to waive.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Nebraska. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

The yeas and nays resulted—yeas 22, nays 77, as follows:

[Rollcall Vote No. 547 Leg.]

YEAS—22

Bennett	Glenn	Moseley-Braun
Bingaman	Harkin	Murray
Boxer	Hatch	Pell
Bradley	Hatfield	Rockefeller
Bumpers	Hollings	Snowe
Byrd	Kennedy	Wellstone
Cohen	Kerry	
DeWine	Lautenberg	

NAYS—77

Abraham	Craig	Grams
Akaka	D'Amato	Grassley
Ashcroft	Daschle	Gregg
Baucus	Dodd	Heflin
Biden	Dole	Helms
Bond	Domenici	Hutchison
Breaux	Dorgan	Inhofe
Brown	Exon	Inouye
Bryan	Faircloth	Jeffords
Burns	Feingold	Johnston
Campbell	Feinstein	Kassebaum
Chafee	Ford	Kempthorne
Coats	Frist	Kerrey
Cochran	Gorton	Kohl
Conrad	Graham	Kyl
Coverdell	Gramm	Leahy

Levin	Nickles	Simon
Lieberman	Nunn	Simpson
Lott	Pressler	Smith
Lugar	Pryor	Specter
Mack	Reid	Stevens
McCain	Robb	Thomas
McConnell	Roth	Thompson
Mikulski	Santorum	Thurmond
Moynihan	Sarbanes	Warner
Murkowski	Shelby	

The PRESIDING OFFICER (Mr. STEVENS). On this vote, there are 23 yeas, 76 nays. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to. The point of order has been sustained, and the provision fails.

Mr. EXON. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3033

(Purpose: To limit the capital gains deduction to gain on assets held for more than 10 years and to impose a $250,000 lifetime limit)

Mr. EXON. Mr. President, I am pleased to report that two Senators have been successful in working together to offer two amendments in a joint form. The two Senators are Senator DORGAN and Senator HARKIN. I yield each of them 30 seconds as per the previous arrangement.

Mr. DORGAN. Mr. President. I have an amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

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

The PRESIDING OFFICER. The clerk will still report.

The legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN], for himself, Mr. HARKIN, and Mr. KENNEDY, proposes an amendment numbered 3033.

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

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

Mr. DORGAN. Mr. President, this amendment is very simple. It changes the capital gains portion of the legislation. It would provide that if you hold an asset for 10 years, this would exclude up to $250,000 of capital gains—an exclusion, twice as much benefit for the first quarter of a million dollars in capital gains. But that is what the limit would be. It actually saves $10 billion over the capital gains provisions in the bill.

I yield to Senator HARKIN for the explanation of the second provision in the amendment.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, this is the so-called Benedict Arnold amendment. Many of the very wealthy individuals who renounce their U.S. citizenship then later reside in the United States for up to 180 days. Under this amendment, such individuals would resume paying taxes in the United States as if they were resident aliens similar to U.S. citizens if they would stay in the United States for 30 days.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

The Senator has 30 seconds.

Mr. DOMENICI. As to Senator HARKIN's portion of the bill, let me remind Senators, Senator MOYNIHAN had put this provision together. And it strikes an appropriate balance. This would essentially do away with the Moynihan balance in this bill.

The Dorgan part of this limits the capital gains tax to a lifetime of $250,000. This would be incredibly difficult to keep track of and almost impossible to enforce if it was fair.

I move to table both amendments. They are both en bloc.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question occurs on agreeing to the motion to table the amendment numbered 3033. This is on both amendments in tandem.

The clerk will call the roll.

The legislative clerk called the roll.

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

The result was announced—yeas 66, nays 33, as follows:

[Rollcall Vote No. 548 Leg.]

YEAS—66

Abraham	Glenn	Lugar
Ashcroft	Gorton	Mack
Baucus	Graham	McCain
Bennett	Gramm	McConnell
Biden	Grams	Moseley-Braun
Bond	Grassley	Moynihan
Bradley	Gregg	Murkowski
Breaux	Hatch	Nickles
Brown	Hatfield	Nunn
Bryan	Heflin	Pell
Burns	Helms	Reid
Campbell	Hutchison	Roth
Chafee	Inhofe	Santorum
Coats	Jeffords	Shelby
Cochran	Johnston	Simpson
Coverdell	Kassebaum	Smith
D'Amato	Kerrey	Specter
DeWine	Kohl	Stevens
Dole	Kyl	Thomas
Domenici	Levin	Thompson
Faircloth	Lieberman	Thurmond
Frist	Lott	Warner

NAYS—33

Akaka	Exon	Leahy
Bingaman	Feingold	Mikulski
Boxer	Feinstein	Murray
Bumpers	Ford	Pressler
Byrd	Harkin	Pryor
Cohen	Hollings	Robb
Conrad	Inouye	Rockefeller
Craig	Kempthorne	Sarbanes
Daschle	Kennedy	Simon
Dodd	Kerry	Snowe
Dorgan	Lautenberg	Wellstone

So, the motion to lay on the table the amendment (No. 3033) was agreed to.

Mr. EXON. Mr. President, I move to reconsider the vote by which the motion was agreed to.

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

The motion to lay on the table was agreed to.

Mr. EXON. Mr. President, the next amendment is an amendment by Senator FEINGOLD, from Wisconsin, with regard to tax loopholes. I yield to him at this time the 30 seconds we have for each amendment.

The PRESIDING OFFICER. Senator FEINGOLD.

AMENDMENT NO. 3034

(Purpose: To amend the Internal Revenue Code of 1986 to eliminate the percentage depletion allowance for mercury, uranium, lead and asbestos)

Mr. FEINGOLD. Mr. President, on behalf of myself, Senator WELLSTONE and Senator BUMPERS, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wisconsin [Mr. FEINGOLD], for himself, Mr. WELLSTONE, and Mr. BUMPERS, proposes an amendment numbered 3034.

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

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

The amendment is as follows:

At the end of chapter 8 of subtitle I of title XII add the following new section:

SEC. . CERTAIN MINERALS NOT ELIGIBLE FOR PERCENTAGE DEPLETION.

(a) General Rule.—

(1) Paragraph (1) of section 613(b) (relating to percentage depletion rates) is amended—

(A) by striking ''and uranium'' in subparagraph (A), and

(B) by striking ''asbestos,'', ''lead,'', and ''mercury,'' in subparagraph (B).

(2) Subparagraph (A) of section 613(b)(3) is amended by inserting ''other than lead, mercury, or unranium'' after ''metal mines''.

(3) Paragraph (4) of section 613(b) is amended by striking ''asbestocs (if paragraph (1)(B) does not apply),''.

(4) Paragraph (7) of section 613(b) is amended by by striking ''or'' at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting ''; or'', and by inserting after subparagraph (C) the following new subparagraph:

(D) mercury, uranium, lead, and asbestos.''

(b) CONFORMING AMENDMENTS.—Subparagraph (D) of section 613(c)(4) is amended by striking ''lead,'' and ''uranium,''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

The PRESIDING OFFICER. The Senator is recognized.

Mr. FEINGOLD. Mr. President, this amendment eliminates the special 22 percent percentage depletion allowance for certain mine substances—asbestos, lead, mercury, and uranium.

It would allow mining companies to deduct only the cost of their capital investments as other businesses have to do. The amendment would save $83 million over 5 years, and the bulk of this tax break goes to lead mining. I do not think that makes any sense to have this kind of subsidy when State and local and Federal health officials and environmental agencies are spending precious resources for lead abatement and testing.

The PRESIDING OFFICER. The Senator's time has expired. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I am not going to use my 30 seconds. I just now make a point of order against the amendment under section 305(b)(2) of the Budget Act.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, pursuant to section 904 of the Congressional Budget Act of 1974, I move to waive the sections of that act for the consideration of the pending amendment, and I ask for the yeas and nays on the motion to waive.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to waive the Budget Act. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

The yeas and nays resulted—yeas 43, nays 56, as follows:

[Rollcall Vote No. 549 Leg.]

YEAS—43

Akaka	Graham	Moseley-Braun
Biden	Gregg	Moynihan
Boxer	Harkin	Murray
Bradley	Hollings	Nunn
Bumpers	Inouye	Pell
Byrd	Jeffords	Pryor
Chafee	Kennedy	Robb
Cohen	Kerrey	Rockefeller
Conrad	Kerry	Sarbanes
Daschle	Kohl	Simon
Dodd	Lautenberg	Smith
Dorgan	Leahy	Snowe
Exon	Levin	Wellstone
Feingold	Lieberman	
Feinstein	Mikulski	

NAYS—56

Abraham	Faircloth	Lugar
Ashcroft	Ford	Mack
Baucus	Frist	McCain
Bennett	Glenn	McConnell
Bingaman	Gorton	Murkowski
Bond	Gramm	Nickles
Breaux	Grams	Pressler
Brown	Grassley	Reid
Bryan	Hatch	Roth
Burns	Hatfield	Santorum
Campbell	Heflin	Shelby
Coats	Helms	Simpson
Cochran	Hutchison	Specter
Coverdell	Inhofe	Stevens
Craig	Johnston	Thomas
D'Amato	Kassebaum	Thompson
DeWine	Kempthorne	Thurmond
Dole	Kyl	Warner
Domenici	Lott	

The PRESIDING OFFICER. On this vote, the yeas are 43, the nays are 56. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The point of order is sustained, and the amendment falls.

Mr. EXON. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York is recognized.

CHANGE OF VOTE

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that my vote on the Bradley amendment No. 3032 be changed from ''yea'' to ''nay.'' This request will not change the outcome of the vote.

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

(The foregoing tally has been changed to reflect the above order.)

Ms. MOSELEY-BRAUN addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

CHANGE OF VOTE

Ms. MOSELEY-BRAUN. On rollcall vote No. 548, I voted ''no.'' It was my intention to vote ''yea.'' Therefore, I ask unanimous consent that I be permitted to change my vote. This will in no way change the outcome of the vote.

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

(The foregoing tally has been changed to reflect the above order.)

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. DOLE. Mr. President, I wonder if we can take a short reading on what may be happening tonight or tomorrow.

I have had a discussion with the distinguished Democratic leader, Senator DASCHLE, and I think he is prepared to give us a fairly optimistic report on amendments left on that side.

I will be happy to yield to the Democratic leader.

Mr. DASCHLE. Mr. President, I have consulted with colleagues, and I think we are down to five amendments. One of those may fall. We are within reach now. That is the total on our side.

Mr. DOLE. Mr. President, I think on this side we have just the Finance Committee amendment. As I have indicated, there would be some additional debate on that—probably not more than 10 minutes will be allotted—because it is a 46-page amendment.

I know the Senator from Florida was suggesting additional debate time.

I say to my colleagues, if we can move as quickly as we can here and finish this bill at a reasonable time tonight, we will not be in tomorrow and we will be not be in on Monday. I think it would depend on how quickly we can complete action on the bill.

In addition, we are now looking at the Byrd-Exon package on different matters that have been subjected to the Byrd rule. We have not had that list very long, but we have people working on it now to match it against our list to see why some are left out and some are put in. It is a rather selective list.

I suggest that may require some additional votes. I am not certain.

Mr. DASCHLE. Would the majority leader yield?

Mr. DOLE. I yield.

Mr. DASCHLE. Did I hear the majority leader say if we can expedite this and come to final passage tonight on the bill, we would not be in session on Monday. Is that correct?

Mr. DOLE. That is correct. We have some conference reports, but I think they can be disposed of very quickly on Tuesday morning.

I have also discussed this with the distinguished Senator from West Virginia, who has a very important appointment on Monday. I want to try to accommodate every Senator where I can. I think I can.

Mr. DOMENICI. Might I discuss the points of order that were submitted as a package by Senator EXON?

Senator, as you might know, since it is a very selective list, it has caused a lot of concern on our side; some are just working with me to see what they want to do about it. The first step we are taking so we will know is, we are comparing your selected list with our list to first find out whether there are any that we do not think should be in there.

We would like to handle those in a way—by presenting those to you on the basis that if they do not properly belong in that we might drop them out. We are not sure there are a lot but there are some and they are of concern.

I might also suggest a goodly number of the motions of the Byrd rule problems come from the welfare bill—not all, but many.

I might reflect for a moment how that happened. The Senate cleared a welfare bill with how many votes? Mr. President, 87–12. That bill was put in the reconciliation bill and it has its own track going. It was never perfected by the U.S. Senate or by any committees in a way that made it absent the Byrd rule problems.

In other words, we handled that on the floor. It turns out when you put it in reconciliation, obviously it has a lot of points of order.

We are concerned because most of the Senators on the other side of the aisle and this side voted for that bill. In fact, 87 voted for it. We might want to present to the Senate a package of those Byrd rule violations and see if you all want to waive them on the basis that they got 87 votes, or if you might want to reconsider since they got 87 votes.

After all, we are the ones who vote on the 60-vote number that is required under the law. We can make that decision.

It is not simple. Frankly, it comes late, which is no one's fault. Everybody on our side knew or should have known that, as they moved their committee work law, the Byrd rule was imperative. If we did not know it on the welfare bill—because we were not preparing the welfare bill for reconciliation.

I think we may take a little time tonight because I have a lot of concern on my side for the Senators, and I want to make sure they understand and get a chance to evaluate it. I do not think you would deny us that. We will give you adequate time on our major

amendment. This is major, major to some people on our side.

With that explanation, let us proceed, and we will do the best we can.

Mr. DOLE. I indicated before, I know we will do these things, but if we do them as quickly as we can, then it will make things easier for all of us and make it possible to leave here tonight by 10:30 or 11 o'clock and not be here on Monday.

Mr. EXON. May I have 30 seconds? I simply say that I will be glad to listen and look at anything that is presented to us. I simply point out to my colleagues that the points raised were the most serious, in my view, of the violations of the Byrd rule. We believe they are all valid points of order and the Parliamentarian has so told us.

We published a comprehensive list of all budget rule violations in yesterday's RECORD. This is no surprise deal.

I certainly say that I will look forward to hearing from your side and, as usual, take a careful look at your proposition.

LAUTENBERG MOTION TO COMMIT

Mr. EXON. The next motion would be by the Senator from New Jersey, Senator LAUTENBERG.

I yield to him the 30 seconds I have as part of my time for his disposition.

Mr. LAUTENBERG. This is to commit the bill to the Finance Committee with instructions to report back on an amendment that would expand the deductibility of expenses that occurred in connection with business that one conducts in one's moment.

In 1993, the Supreme Court decision drastically reduced the deductibility of items in connection with a home/office kind of business.

If one was a plumber or electrician or an accountant and operated out of home, they would lose their deductibility because their clients would not have visited the home.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG] moves to commit S. 1357 to the Committee on Finance with instructions to report the bill back to the Senate within 3 days, not to include any day the Senate is not in session, inserting provisions to expand the deductibility of expenses incurred in connection with the business use of one's home, and to offset the resulting costs by adjusting the corporate capital gains tax rate.

MOTION TO EXPAND THE HOME OFFICE DEDUCTION

Mr. LAUTENBERG. Mr. President, I rise today to offer a motion that would benefit home-based small business owners. My motion would send the Senate reconciliation bill back to the Committee on Finance and would instruct the committee to insert language expanding the home office deduction. For a relatively small sum, to be offset by a modification to the corporate capital gains tax rate, Congress can remedy a 2-year-old court holding that interpreted a section of our Tax Code too narrowly.

Under current law, a taxpayer may only obtain a home office deduction in one of the following ways: First, If the office is the principal place of business for a trade or business; second, if the office is a place of business used to meet with patients, clients, or customers in the normal course of the taxpayer's trade or business; or third, if the office is physically separate from the home. A 1993 Supreme Court holding interpreted the principal place of business too narrowly, thus effectively denying this deduction to taxpayers unless their offices were physically separate from their homes or unless their clients physically visited their offices.

This court decision, and the IRS's subsequent application of it, have prevented taxpayers from obtaining a deduction Congress intended them to have. The Government should not be providing a disincentive to those persons who have made the decision to work at home, a decision that was most likely based upon economic constraints and family considerations.

Women-owned businesses are being disproportionately hurt by this narrow interpretation of section 280A of our Tax Code. Women are more apt to work out of their homes than men and they should not be punished for choosing to work near their families. By voting for my motion, my colleagues will be sending a profamily message to their constituents.

Expanding this deduction would also help workers who have been displaced by corporate downsizing to remain in the work force and avoid welfare by defraying some of their startup costs should they decide to go into business for themselves. My motion would also benefit the elderly and persons with physical disabilities who want to work but for whom commuting to traditional offices is simply too difficult.

Mr. President, expanding the home office deduction was endorsed by the recently held White House Conference on Small Business, which had participants from every State. The Committee on Finance held a hearing on this matter in June and it has strong support in the small business community. Legislation was introduced earlier this year that would accomplish the same goal I am seeking today. I would ask unanimous consent that a letter written to the Majority Leader DOLE by dozens of small business groups supporting this goal be inserted into the RECORD. I strongly urge my colleagues on both sides of the aisle to support my motion.

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

APRIL 11, 1995.

Hon. ROBERT DOLE,
U.S. Senate, Washington, DC.

DEAR SENATOR DOLE: The undersigned associations strongly urge you to cosponsor S. 327, the Home Office Deduction Act. The original sponsors of the bill are Senators ORRIN G. HATCH, MAX BAUCUS, CHARLES E. GRASSLEY, JAMES J. EXON, ROBERT J. KERREY, JOSEPH I. LIEBERMAN, BENNETT J. JOHNSON, and JOHN H. CHAFEE.

S. 327 will promote economic growth and help create prosperity for the nation's work force. It is designed to ameliorate the economic hardships caused by the 1993 U.S. Supreme Court decision in the *Commissioner v. Soliman* case.

Tens of thousands of persons stand to lose the home office deduction as a result of the *Soliman* decision; particularly if (a) these people visit customers outside the home and (b) they generate revenues of the business outside the home. The list of people potentially losing the deduction includes independent sales persons, plumbers, electricians, remodeling contractors, home builders, veterinarians, travel agents and others. The bill would put home-based businesses like these on a more equal footing with other businesses.

S. 327 is an excellent response to the current spate of corporate downsizings which have resulted in the layoffs of tens of thousands of workers. They, like many other people, are now attempting to live the American dream by starting businesses out of their homes.

The bill shows a clear appreciation for the convenience offered American families by home-based businesses. A home-based business provides a spouse (including a single parent) the emotional benefits of taking care of his or her children at home while earning money at the same time. S. 327 also takes into account modern telecommunications equipment (such as personal computers, facsimile machines, and modems) which can make home-based business technologically competitive with any commercially leased space.

Thank you for considering cosponsoring S. 327. If you would like to cosponsor the bill, please call West Coulam (4–0134) of Senator Hatch's office.

Sincerely,

Alliance for Affordable Health Care.
Alliance of Independent Store Owners and Professionals.
American Animal Hospital Association.
American Association of Home-Based Businesses.
American Society of Media Photographers.
American Society of Travel Agents.
American Veterinary Medical Association.
Associated Builders and Contractors, Inc.
Bureau of Wholesale Sales Representatives.
Communicating for Agriculture.
Communicating for Health Consumers.
Council of Fleet Specialists.
Direct Selling Association.
Family Research Council.
Home Office & Business Opportunities Association of California
Illinois Women's Economic Development Summit.
National Association for the Cottage Industry.
National Association for the Self-Employed.
National Association of Home Builders.
National Association of Private Enterprise.
National Association of the Remodeling Industry.
National Association of Women Business Owners.
National Electrical Manufacturers Representative Association.
National Federation of Independent Business.
National Small Business United.
National Society of Public Accountants.
Promotional Products Association International.
Retail Bakers of America.
Small Business Legislative Council.

SMC—''The Voice of Small Business.''

Mr. DOMENICI. Mr. President, this would increase corporate tax rates from 28 to 32 percent in order to expand the deduction of home business expenses, and I believe it adds new language to the bill by way of the home-business expenses.

Therefore, it is subject to a point of order on germaneness. I raise that point under the Budget Act.

Mr. EXON. Pursuant to section 904 of the Congressional Budget Act, I move to waive the sections of that Act for the consideration of the pending amendment, and I ask for the yeas and nays on the motion to waive the Budget Act.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER (Mr. SANTORUM). Are there any other Senators in the Chamber desiring to vote? The yeas and nays resulted—yeas 39, nays 60, as follows:

The result was announced—yeas 39, nays 60, as follows:

[Rollcall Vote No. 550 Leg.]

YEAS—39

Akaka	Ford	Levin
Baucus	Glenn	Lieberman
Boxer	Graham	Mikulski
Breaux	Harkin	Murray
Bumpers	Heflin	Nunn
Byrd	Hollings	Pell
Conrad	Inouye	Pryor
Daschle	Kennedy	Reid
Dodd	Kerrey	Robb
Dorgan	Kerry	Rockefeller
Exon	Kohl	Sarbanes
Feingold	Lautenberg	Simon
Feinstein	Leahy	Wellstone

NAYS—60

Abraham	Domenici	Mack
Ashcroft	Faircloth	McCain
Bennett	Frist	McConnell
Biden	Gorton	Moseley-Braun
Bingaman	Gramm	Moynihan
Bond	Grams	Murkowski
Bradley	Grassley	Nickles
Brown	Gregg	Pressler
Bryan	Hatch	Roth
Burns	Hatfield	Santorum
Campbell	Helms	Shelby
Chafee	Hutchison	Simpson
Coats	Inhofe	Smith
Cochran	Jeffords	Snowe
Cohen	Johnston	Specter
Coverdell	Kassebaum	Stevens
Craig	Kempthorne	Thomas
D'Amato	Kyl	Thompson
DeWine	Lott	Thurmond
Dole	Lugar	Warner

The PRESIDING OFFICER (Mr. SANTORUM). On this vote, the yeas are 39, the nays are 60. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to. The point of order is sustained and the motion falls.

Mr. EXON. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

AMENDMENT NO. 3035

(Purpose: To delay for 2 years the repeal of the 50-percent interest exclusion for employee stock ownership plans)

Mr. EXON. The next amendment I have is an ESOP amendment that will be offered by the Senator from Illinois [Mr. SIMON]. I yield him the 30 seconds of our time for however he wishes to use it.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, I offer this amendment in behalf of Senator STEVENS, Senator BREAUX, and myself. The employee stock option plan——

The PRESIDING OFFICER. The Senator will suspend.

The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Illinois [Mr. SIMON], for himself, Mr. STEVENS, and Mr. BREAUX, proposes an amendment numbered 3035.

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

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

The amendment is as follows:

On page 1771, line 25, strike ''1995'' and insert ''1997''.

On page 1772, line 3, strike ''1995'' and insert ''1997''.

The PRESIDING OFFICER. The Senator from Illinois is recognized for 30 seconds.

Mr. SIMON. Mr. President, I offer this in behalf of Senator STEVENS, Senator BREAUX, and myself. Our former colleague, Russell Long, helped to develop the employee stock option plan. Even the Chamber of Commerce says when it is enacted in companies, it increases productivity 3 to 17 percent.

What this bill does, without my amendment, it starts to strangle the ESOP's. CBO says it will cost $27 million. Let me just add——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SIMON. Not a single hearing has been had on this. This would just delay the date 2 years.

Mr. BINGAMAN. Mr. President, I rise today as a cosponsor and strong supporter of Senator SIMON's amendment to strike a provision ending favorable consideration for banks providing loans to employee stock ownership plans.

This provision, known as section 133, was originally put in place by Senator Long, when he was the honorable chairman of the Senate Finance Committee. It allows banks making loans for the establishment of employee stock ownership plans [ESOP's] to deduct half of the interest received from that loan from income. In practice, this provision has lowered the costs of establishing an ESOP, and thus expanded employee ownership. It is estimated that about 50 ESOP's are established in this manner each year.

Mr. President, I support the current provision because I support employee ownership. In a time when corporations are enjoying soaring profits and wages remain stagnant, employee ownership gives workers a means to share in the profits of their labor. In cases in which employee ownership is significant and in which voting rights are extended to employee owners, as required by section 133, it also can give workers an important voice in corporate decisions.

Beyond helping individual workers, there is significant evidence that employee ownership enhances the competitiveness of corporations. Several studies, including a 1995 study by Douglas Kruse of Rutgers University, have established a positive link between employee ownership and corporate performance. It is no surprise that workers are more productive when they own the fruits of that productivity. In a global economy, shouldn't we be doing everything we can to encourage corporations to be more competitive?

Beyond these substantive policy reasons for striking the anti-ESOP provision in this legislation, I believe that there are budgetary reasons for striking this language. Most notably, it is my understanding that the revenue estimates attached to this provision are grossly overstated. No hearings have been held on the provision or its revenue effects, and the ESOP Association has done an analysis showing the anticipated revenue is extremely unrealistic. I ask that a copy of that analysis be included at the conclusion of my remarks.

In summary, Mr. President, I believe that the provision in the legislation before disallowing the preferential tax treatment of ESOP loans is bad policy, and I urge support of Senator SIMON's amendment to strike it.

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

THE ESOP ASSOCIATION,
Washington, DC, October 17, 1995.

To: Tax Staff of the U.S. Senate.

From: The ESOP Association.

Re: Incredible Revenue Estimate on Repeal of ESOP Provision.

The revenue estimate for the proposed repeal of the ESOP tax provision known as the ESOP lenders interest exclusion (Code Section 133) is unbelievable for each year estimated.

Fact, the average ESOP leveraged transaction, where borrowed money is used to acquire stock for employee owners, is at most, $5 million per transaction.

Fact, at the highest, only 50 transactions a year since January 1, 1990, have used the tax incentive that is proposed to be repealed.

Fact, 50 times 5 equals 250. If the interest rate on the $250 million in ESOP loans is 10%, the interest paid on these loans is $25 million per year. The lender may exclude $12.5 million of this interest from its income tax. The revenue loss to the Treasury is $3.5 million per year.

The revenue estimates that in the year FY '99, for example, that the revenue loss is $149 million is ridiculous. To reach this level of revenue loss, the amount of 50% plus ESOP transactions would be $8.6 billion per year! Never, ever, has the value of ESOP transactions where employees acquired 50% or more, and use borrowed money, come close to this level.

The ESOP community in its wildest dreams would wish that there were that

many 50% plus ESOP transactions a year to justify such an estimate. Sadly for America there is not.

The ESOP Association knows how many transactions a year there are. Obviously those wishing to damage employee ownership are not informed as to the facts.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, this amendment would lose $500 million over 7 years. It would chip away at the deficit reduction package of corporate welfare reforms and loophole closures. This is a big, big ESOP loophole.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. DOMENICI. Whatever time we have we release.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Kansas [Mrs. KASSEBAUM] is necessarily absent.

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

The result was announced—yeas 56, nays 42, as follows:

[Rollcall Vote No. 551 Leg.]

YEAS—56

Abraham	Faircloth	Mack
Ashcroft	Feingold	McCain
Bennett	Frist	McConnell
Bond	Gorton	Moynihan
Bradley	Gramm	Murkowski
Brown	Grams	Nickles
Bryan	Grassley	Pressler
Burns	Gregg	Roth
Campbell	Hatch	Santorum
Chafee	Hatfield	Shelby
Cochran	Helms	Simpson
Cohen	Hutchison	Smith
Coverdell	Inhofe	Snowe
Craig	Jeffords	Specter
D'Amato	Johnston	Thomas
DeWine	Kempthorne	Thompson
Dole	Kyl	Thurmond
Domenici	Lott	Warner
Dorgan	Lugar	

NAYS—42

Akaka	Ford	Lieberman
Baucus	Glenn	Mikulski
Biden	Graham	Moseley-Braun
Bingaman	Harkin	Murray
Boxer	Heflin	Nunn
Breaux	Hollings	Pell
Bumpers	Inouye	Pryor
Byrd	Kennedy	Reid
Coats	Kerrey	Robb
Conrad	Kerry	Rockefeller
Daschle	Kohl	Sarbanes
Dodd	Lautenberg	Simon
Exon	Leahy	Stevens
Feinstein	Levin	Wellstone

NOT VOTING—1

Kassebaum

So the motion to lay on the table the amendment (No. 3035) was agreed to.

Mr. EXON. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, we have now had 34 amendments considered today. And I have an amendment. I am going to ask I be permitted to yield to the Senator from West Virginia, and that he may proceed for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from West Virginia is recognized for 10 minutes.

Mr. BYRD. Mr. President, I thank the distinguished majority leader.

May we have order in the Senate?

The PRESIDING OFFICER. The Senate will please come to order. Senators will take their conversations to the Cloakroom.

The Senator from West Virginia.

Mr. BYRD. Mr. President, 31 years ago the Senate, on June 16, 1964, broke the record for the number of rollcall votes cast in one calendar day by casting 34 rollcall votes. I should say that the record number of votes in any one legislative day was made in 1977, when the Senate debated the Natural Gas Deregulation Act. There were 38 rollcall votes cast on that legislative day, 26 before midnight, and 12 after midnight, so that there were parts of 2 calendar days included in one legislative day. That was 38 total votes on one legislative day.

But for the record number of votes cast on any single calendar day, that occurred, as I say, on June 16, 1964. We are about to cast the 35th rollcall vote to occur in one calendar day—a new record.

Let me reminisce, if I just might, for a moment about that occasion.

June 16th was 3 days before the final action occurred on the Civil Rights Act of 1964. I filibustered against that bill. I spoke for 14 hours and 13 minutes. I was the only non-Southern Democrat to vote against the bill. Alan Bible of Nevada and Carl Hayden and I were the only three Non-Southern Democrats to vote against cloture on June 10.

Now, so that I might not impose on the time of the Senate, let me just read from Volume II of my history of the Senate.

''When the bill arrived from the House on February 26, 1964, it went directly to the Senate calendar.'' On March 9, Majority Leader Mike Mansfield moved to take up the bill, ''and the motion was debated until March 26''—therefore, the debate on the motion to proceed required 17 days—''when the Senate voted, 67–17, for the motion [to proceed] . . . From March 26 [then, when the bill was first brought before the Senate, following the debate on the motion to proceed,] until cloture was invoked on June 10, the bill was before the Senate for a total of 77 days—including Saturdays, Sundays, and holidays—and was actually debated for 57 days, 6 of which were Saturdays. Still, the bill was not passed until 9 days after cloture was voted. Hence, 103 days had passed between March 9, the day that the motion was first made to proceed to take up the bill, ''and final passage on June 19.''

That was a very historic occasion. The vote on cloture occurred on June 10, which was the 100th anniversary of Abraham Lincoln's nomination for a second presidential term. The 34 rollcall votes occurred on June 16, and the bill passed on June 19 by a vote of 73 to 27.

Mr. President, this is another historic occasion today. We are about to cast 35 rollcall votes, which will, of course, set a new record, the first such new record in 31 years.

I wish we would pause just a moment and think about the contrast between the bill that was before the Senate then and the bill that is before the Senate now—not the subject matter at this point, but the procedural aspects.

On that occasion, we had one bill which was before the Senate. There had been hearings on that bill. There had been 17 days of debate on a motion to proceed to take the bill up. There had been 57 days of actual debate, including Saturdays. There had been scores of amendments offered thereon and cloture was finally invoked. And then more amendments were called up and additional votes occurred.

Think of the time that it took the Senate to dispose of that bill: 103 days. It was a historic bill. I voted against it, to my regret today. I have said that many times. But here we have a bill that has been before the Senate now 2 days—3 days; only 3 days—and we are limited to 20 hours on this bill—20 hours.

On that bill in 1964, we had 103 days; on this bill the limit is 20 hours and only 2 hours on an amendment, and the motion to proceed to this bill was nondebatable. But we are down to the point now where we have only 30 seconds to the side for debate on an amendment—30 seconds for debate. I am not criticizing either party or anybody in either party, in saying this. I am just concerned and discouraged by what we have seen taking place here in the Senate on this bill.

It is a historic bill also, but we have gone from 103 days on a massive bill—one bill—to 20 hours on what consists of a number of bills, not just one bill. No hearings. No hearings on this bill. There were hearings by committees on parts of it, but no single committee had hearings on the whole bill, 1,949 pages.

I am concerned with what we are doing to the Senate, what we are doing to the legislative process. We are inhibited from calling up amendments. We have had a very insufficient time for debate on this massive, comprehensive bill, a bill that may be even more far-reaching in some respects than was the civil rights bill of 1964.

I hope that we will, in the coming days and weeks and next year, consider revising the reconciliation process, that part of the legislative process

dealing with the Budget Act. I was here when we adopted the Budget Act of 1974. I never comprehended, never could I have imagined that the reconciliation process would have been used as it is being used here, a reconciliation process in which we bring several bills into one massive bill, on which the time for debate is severely restricted. Cloture is nothing as compared with the time limitation on the reconciliation bill. Cloture is but a speck on the distant horizon as compared with this bear trap.

It is most unfortunate. I do not think it is in the best interests of the institution. I do not think it is in the best interests of the legislative process. I do not think it is in the best interests of the American people, because we Senators do not know—to a very considerable degree—what we are voting for. There is not a Senator in this body—not one—who knows everything that is in this bill. Not one. And so that is the situation we are in. It troubles me.

I thank the distinguished majority leader for asking that I be recognized for 10 minutes. It is a special honor for me to be able to offer the amendment on which the record will be broken. I regret that we had to break the record in a situation such as I have described, but it is an honor to me. This is a historic occasion. I lived on that occasion—Senator THURMOND, Senator PELL, Senator KENNEDY, Senator INOUYE, and I are the only Senators who were here when the 1964 record vote was cast.

I say to the leader, may I proceed with my amendment?

The PRESIDING OFFICER. The Senator is recognized.

Mr. BYRD. I hope Senators will now provide the second historic occasion that will take place today. [Laughter.]

AMENDMENT NO. 2974

(Purpose: To strike the provisions in title XII reducing revenues)

Mr. BYRD. Mr. President, I call up my amendment, which is at the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for himself, Mr. FEINGOLD, Mr. HOLLINGS, Mr. SIMON, Mr. DORGAN, Mr. ROBB, and Mr. BUMPERS, proposes an amendment numbered 2974.

On page 1469, strike beginning with line 1 and all that follows through page 1650, line 9.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, How can we possibly tell the American people that the budget will be balanced in 2002, even if we carry out the provisions of this reconciliation measure? CBO's deficit estimates have been off the mark by an average of $45 billion per year since 1980.

Yet, we are not only being asked to accept CBO's projections for seven years (as opposed to the usual five-year projections)—we are being asked to then take a so-called ''fiscal dividend'' that will occur if CBO's projections of a balanced budget turn out to be correct seven years down the road and to use that as the basis for enacting a huge $245 billion tax cut for the wealthy right now. Not later, after the budget is actually balanced, but now. Let us give Americans a tax cut now and promise them a balanced budget seven years from now. Why? Because it makes good politics. It fooled the American people in 1981. Why not do it to them again in 1995? If we are serious about balancing the budget, let us use the spending cuts that will occur this year and in the coming 7 years to cut the deficit and only to cut the deficit. The current drag race that is going on between the administration and the Republican Congressional leadership to see who can get to the tax cut finish line first with the most is discouraging and will, I fear ultimately result in a repeat of the failures of Reaganomics—a return to using the American people's credit card to pay for never ending deficits.

There is no fiscal dividend with which to cut taxes. It is a hoax.

I urge Senators to reject the hoax by voting for the pending amendment which eliminates the $245 billion tax cut from this bill and applies the moneys to the deficit.

Mr. President, the amendment speaks for itself. It eliminates the tax cut in the bill and applies the savings that are projected—and we know how the projections have been in error so many times, and that is not to be critical of CBO—but it applies the savings to the deficit.

I thank all Senators for listening.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I think everybody understands this amendment. It would strike all the tax cuts that were provided for children, those where we want to correct the marriage penalty and the like.

Let me suggest rather than talk about that, I say to Senator BYRD, your speech was eloquent, and I thank you for it. But I must suggest that you were part of putting this together, and we thank you for it, because if you had not helped us put this kind of process together, we could never change the country.

I guarantee you that if we did not have a reconciliation process, what we wanted to change would take 30 years. Any piece of this amendment could be subject to the exact same 69, 79, 89 days as that legislation, which the distinguished former majority leader brought to our attention. That is just too long to change things and turn things around.

So once a year, we get an opportunity to proceed to change the country and vote on very large, significant, substantial changes under the privilege of a reconciliation bill.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DOMENICI. I ask unanimous consent that I be permitted to proceed for 1 additional minute.

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

Mr. DOMENICI. Mr. President, it is true this is not the cleanest of processes, and I submit a clear reading of the Budget Act, which, again, the Senator from West Virginia had a very big hand in drawing, that clearly it was intended that when you put a budget of the United States together, that the U.S. Congress would not avail itself of delaying tactics to implement it. As a matter of fact, the implementing of it to make it reconcile with the budget is from whence the word ''reconciliation'' comes.

So maybe it is being used for too many things, and maybe it is too difficult, and perhaps we ought to fix that process a bit. But I guarantee you, if you do not find something to take its place and abolish it, you will not change America in important matters for year after year after year.

I like the rules. But I think once a year you ought to comply with the budget of the United States and change the laws to change the country, to comply with the fiscal policy. That is why we are here. It is difficult. I am glad that I am chairman when we broke the record—I am not sure of that, although I am very pleased with the record. We won almost every vote and, for that, I thank the Republicans. I think they knew what they were voting about and for. Essentially, the truth of the matter is that we have no other way to get it done, as imperfect as it is. I yield the floor.

Mr. BYRD. Mr. President, I ask for the yeas and nays.

Mr. DOMENICI. I move to table the Byrd amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second.

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table.

The clerk will call the roll.

The legislative clerk called the roll.

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

The result was announced—yeas 53, nays 46, as follows:

[Rollcall Vote No. 552 Leg.]

YEAS—53

Abraham	Faircloth	Lugar
Ashcroft	Frist	Mack
Baucus	Gorton	McCain
Bennett	Gramm	McConnell
Biden	Grams	Murkowski
Bond	Grassley	Nickles
Brown	Gregg	Pressler
Burns	Hatch	Roth
Campbell	Hatfield	Santorum
Chafee	Helms	Shelby
Coats	Hutchison	Simpson
Cochran	Inhofe	Smith
Coverdell	Jeffords	Stevens
Craig	Kassebaum	Thomas
D'Amato	Kempthorne	Thompson
DeWine	Kyl	Thurmond
Dole	Lieberman	Warner
Domenici	Lott	

NAYS—46

Akaka	Ford	Moseley-Braun
Bingaman	Glenn	Moynihan
Boxer	Graham	Murray
Bradley	Harkin	Nunn
Breaux	Heflin	Pell
Bryan	Hollings	Pryor
Bumpers	Inouye	Reid
Byrd	Johnston	Robb
Cohen	Kennedy	Rockefeller
Conrad	Kerrey	Sarbanes
Daschle	Kerry	Simon
Dodd	Kohl	Snowe
Dorgan	Lautenberg	Specter
Exon	Leahy	Wellstone
Feingold	Levin	
Feinstein	Mikulski	

So the motion to lay on the table the amendment (No. 2974) was agreed to.

Mr. SIMPSON. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I ask unanimous consent that I may be recognized for 15 seconds out of order.

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

Mr. BYRD. A little earlier I stated that Senator THURMOND and I were the only two Senators who voted on June 16, 1964, and I inadvertently overlooked Mr. PELL who was here, Mr. KENNEDY, and Mr. INOUYE. Those three Senators also were here on that record date.

I thank the Chair.

Mr. EXON. Mr. President, when the vote was announced on the last amendment, was that reconsidered and tabled?

The PRESIDING OFFICER (Mr. STEVENS). It was.

Mr. EXON. As near as I can tell, and I stand to be corrected if I am in error, we have three amendments and possibly one that I do not think will be offered.

The three amendments upcoming are the Wellstone amendment, then the Exon amendment with regard to the violations of the Byrd rules, and then the Finance package. So I think we only have three with the possibility of one more.

At this time, then, to move along, I suggest that we recognize the Senator from Minnesota, who has an amendment to offer. I yield him the 30 seconds off of our bill.

AMENDMENT NO. 3036

(Purpose: To strike the deep water regulatory relief provision for a number of reasons, including: (1) although the provision is estimated to save $130 million over seven years, the Congressional Budget Office estimates that the provision will cost the Treasury $550 million in lost receipts over the next 25 years, leading to a net loss of $420 million; (2) the provision provides yet another unneeded subsidy for the oil and gas industry, which was described by the Wall Street Journal on October 24, 1995 as experiencing a ''Gush of Profits'', and by Business Week in the October 30, 1995 issue as benefiting from new technologies that cut the cost of deep-water drilling; and (3) a short-term savings of $130 million over seven years does not justify the ultimate giveaway of $420 million over 25 years)

Mr. WELLSTONE. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Minnesota [Mr. WELLSTONE], proposes an amendment numbered 3036.

Mr. WELLSTONE. I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

Strike sections 5930, 5931, and 5932.

Mr. WELLSTONE. Mr. President, this amendment knocks out what is euphemistically called the deep water royalty relief. It in fact is probably the most brazen subsidy that goes to oil companies that are doing very well. So well, Mr. President, that in the House of Representatives, 261 Representatives voted against this—100 Republicans.

That is why it got put in reconciliation. That is why somehow it wound up in this reconciliation bill. It ought to be knocked out.

This is not public interest. This is special interest. It is brazen. It is really a scandalous subsidy when we are asking all sorts of citizens to tighten their belt. I hope we will vote to knock this out.

Mr. DOMENICI. I yield our time to Senator JOHNSTON of Louisiana.

Mr. JOHNSTON. Mr. President, according to the Mineral Management Service, this provision which Senator WELLSTONE would seek to knock from this bill would produce 320 million barrels of oil in the central gulf which would otherwise not be produced.

Need I remind my colleagues that the Mineral Management Service is part of the Department of the Interior. Bruce Babbitt, a Secretary who has never been known as being in the pocket of the oil companies—this is backed by Secretary Babbitt. It is backed by Secretary O'Leary.

I ask unanimous consent that her letter backing this be printed in the RECORD.

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

THE SECRETARY OF ENERGY,
Washington, DC, October 19, 1995.

Hon. J. BENNETT JOHNSTON,
Ranking Minority Member, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR SENATOR JOHNSTON: The Administration reiterates its support for the title providing deepwater royalty relief to the central and western Gulf of Mexico.

In the energy policy plan, ''Sustainable Energy Strategy: Clean and Secure Energy for a Competitive Economy'' in July 1995, the Administration outlined its overall energy policy stressing the goals of increased energy productivity, pollution prevention, and enhanced national security. To achieve these goals, ''the Nation must make the most efficient us of a diverse portfolio of domestic energy resources that will allow us to meet our energy needs today, tomorrow, and well into the 21st century. The Administration continues to promote the economically beneficial and environmentally sound expansion of domestic energy resources.'' (page 33) In furtherance of this objective, ''The Administration's policy is to improve the economics of domestic oil production by reducing costs, in order to lessen the impact on this industry of low and volatile oil prices.'' (page 35) One of the ways indicated to lower these costs is, ''providing appropriate tax and other fiscal incentives to support our domestic energy resource industries.'' (page 34) Finally, the ''Strategy'' specifically targets the opportunities in the Gulf of Mexico.

''One of our best opportunities for adding large new oil reserves can be found in the central and western Gulf of Mexico, particularly in deeper water. Royalty relief can be a key to timely access to this important resource. The Administration supports targeted royalty relief to encourage the production of domestic oil and natural gas resources in deep water in the Gulf of Mexico. This step will help to unlock the estimated 15 billion barrels of oil-equivalent in the deepwater Gulf of Mexico, providing new energy supplies for the future, spurring the development of new technologies, and supporting thousands of jobs in the gas and oil industries. (emphasis in original, page 36)''

The royalty relief provision in S. 395 as adopted by the conference committee is a targeted, deepwater royalty relief provision that the Administration supports. For existing leases, it targets relief for only those leases that would not be economic to develop without the relief. For new leases, the provision is targeted for a specific time period for only a specific number of barrels of production, and could be offset by increased bonus bids.

The Minerals Management Service has estimated the revenue impacts of new leasing under section 304 of S. 395. For lease sales in the central and western Gulf of Mexico between 1996 and 2000, the deepwater royalty relief provisions would result in increased bonuses of $485 million—$135 million in additional bonuses on tracts that would have been leased without relief; and $350 million in bonuses from tracts that would not have been leased until after the year 2000, if at all, without the relief. This translates to a present value of $420 million, if the time value of money is taken into account. However, the Treasury would forego an estimated $553 million in royalties that would otherwise have been collected through the year 2018. But again taking into account the time value of money, this offset in today's dollars is only $220 million. Comparing this loss with the gain from the bonus bids on a net present value basis, the Federal government would be ahead by $200 million.

It is important to note that affected OCS projects would still pay a substantial upfront bonus and then be required to pay a royalty when and if production exceeds their royalty-free period. A royalty-free period, such as that proposed in S. 395, would help enable marginally viable OCS projects to be developed, thus providing additional energy, jobs, and other important benefits to the nation.

In contrast, in the absence of thorough reform of the 1872 Mining Law, hard rock mining projects on Federal lands can be initiated without paying a substantial bonus and are never required to pay a royalty on the resources developed. The end result is that the public is denied its fair share of the benefits from the resources developed.

The ability to lower costs of domestic production in the central and western Gulf of Mexico by providing appropriate fiscal incentives will lead to an expansion of domestic energy resources, enhance national security, and reduce the deficit. Therefore, the Administration supports the deepwater royalty relief provision of S. 395.

The Office of Management and Budget has advised that it has no objection to the presentation of these views from the standpoint of the Administration's program.

Sincerely,

HAZEL R. O'LEARY.

REVENUE IMPACT OF DEEP WATER ROYALTY RELIEF

MMS estimates—(In millions of dollars)

	Nominal dollars		Present value		Interest saved by retiring $200 mil. of debt by 2000
	Increased bonus revenues	Foregone royalties	Bonus revenues	Foregone royalties	
1996	97		97		
1997	97		90		
1998	97		83		
1999	97		77		
2000	97		71		
2001		(2.4)		(1.6)	16
2002		(7.1)		(4.5)	17
2003		(16.4)		(9.6)	19
2004		(29.6)		(16.0)	20
2005		(44.4)		(22.2)	22
2006		(57.4)		(26.6)	24
2007		(65.7)		(28.2)	25
2008		(67.2)		(26.7)	27
2009		(62.6)		(23.0)	30
2010		(54.8)		(18.7)	32
2011		(44.1)		(13.9)	35
2012		(34.9)		(10.2)	37
2013		(25.8)		(7.0)	40
2014		(18.5)		(4.6)	44
2015		(11.5)		(2.7)	47
2016		(6.7)		(1.4)	51
2017		(2.9)		(0.6)	55
2018		(1.3)		(0.2)	59
Total	485	(553)	418	(218)	599

Present Value: 8% discount rate.

The present value of a stream of revenues is the amount of current dollars that would have to be invested in a risk-free asset in order to end up with the same stream of dollars in future years. If the government were to invest $218 million in T-bonds, it could draw down the investment each year between 2001 and 2018 to offset the foregone royalties in that year. The government would still have $200 million left for deficit reduction in the five-year budget. (This is comparable to an individual planning for reduced income in retirement by investing in an annuity to replace the lost income in the future.)

To analyze fully the impact on the Treasury over 25 years, the impact of reducing the debt by $200 million has to be included. By the year 2018, the taxpayers would be ahead by an additional $599 million, the amount of interest that would not have to be paid to finance $200 million of debt from 2000 to 2018.

If you have any question, contact Shirley Neff.

Mr. JOHNSTON. It raised $200 million for the Treasury, according to the Mineral Management Service, which that report shows. It is supported by the administration.

It is necessary to meet our target, and it came out of the Energy Committee by 17 to 2.

Mr. DOMENICI. Mr. President, the pending amendment is not germane to the provisions of the reconciliation. I raise a point of order against it pursuant to the Budget Act.

Mr. EXON. Mr. President, pursuant to section 904 of the Congressional Budget Act, I move to waive the section of that Act for the consideration of the pending amendment, and I ask for the yeas and nays on the motion to waive.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

Yeas and nays were ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

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

The yeas and nays resulted— yeas 28, nays 71, as follows:

[Rollcall Vote No. 553 Leg.]

YEAS—28

Boxer	Harkin	Moynihan
Bradley	Hollings	Murray
Bryan	Jeffords	Pell
Bumpers	Kennedy	Pryor
Byrd	Kerry	Sarbanes
Cohen	Kohl	Simon
Dodd	Lautenberg	Snowe
Feingold	Leahy	Wellstone
Glenn	Levin	
Graham	Lieberman	

NAYS—71

Abraham	Exon	Mack
Akaka	Faircloth	McCain
Ashcroft	Feinstein	McConnell
Baucus	Ford	Mikulski
Bennett	Frist	Moseley-Braun
Biden	Gorton	Murkowski
Bingaman	Gramm	Nickles
Bond	Grams	Nunn
Breaux	Grassley	Pressler
Brown	Gregg	Reid
Burns	Hatch	Robb
Campbell	Hatfield	Rockefeller
Chafee	Heflin	Roth
Coats	Helms	Santorum
Cochran	Hutchison	Shelby
Conrad	Inhofe	Simpson
Coverdell	Inouye	Smith
Craig	Johnston	Specter
D'Amato	Kassebaum	Stevens
Daschle	Kempthorne	Thomas
DeWine	Kerrey	Thompson
Dole	Kyl	Thurmond
Domenici	Lott	Warner
Dorgan	Lugar	

The PRESIDING OFFICER. On this vote the yeas are 28, the nays are 71. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to. The point of order is well taken and the amendment fails.

Mr. EXON. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, we are still examining the different items of the package, the so-called Byrd-Exon package on the Byrd rule.

I wonder if we might proceed on the Finance Committee amendment. Senator ROTH I think is prepared to proceed on that amendment. We would be prepared to enter into some lengthier time agreement than the 10 minutes we were allotted under yesterday's unanimous-consent agreement. We would like to keep it as tight as possible, but we understand the Senator from Florida in particular wanted some additional time.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. I have consulted with a number of our colleagues, and I think that a half-hour on either side might accommodate the needs of Senators interested in participating in debate on the Roth amendment if that would accord with the majority leader.

Mr. DOLE. Half-hour on each side.

Mr. DASCHLE. Half-hour on each side.

Mr. DOLE. I ask unanimous consent there be an hour equally divided.

The PRESIDING OFFICER. Is there objection to an hour equally divided?

Without objection, it is so ordered.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

AMENDMENT NO. 3037

Mr. DOMENICI. Mr. President, I had been trying to clear a correcting amendment to the D'Amato amendment that had heretofore been adopted. I understand it has been cleared on both sides.

Mr. EXON. It has been cleared on both sides.

Mr. DOMENICI. I send the amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for Mr. D'AMATO, proposes an amendment numbered 3037.

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

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

The amendment is as follows:

On page 187, line 3, and on page 187, line 22, strike "5" and insert "10."

Mr. DOMENICI. Mr. President, I yield back any time I have on the amendment.

Mr. EXON. I yield back my time.

The PRESIDING OFFICER. All time is yielded back.

Is there objection to the amendment? Without objection, the amendment is agreed to.

So the amendment (No. 3037) was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, buried in this gigantic reconciliation bill is a provision, Section 12874, that would amend a carefully wrought bipartisan measure enacted in 1992 to protect the health benefits promised to retired coal miners and their dependents. This provision would jeopardize these health benefits and put the 92,000 retired miners and their dependents at risk. I understand this provision was added at the last minute and is a modification of a bill, S. 878, which has not been the subject of hearings by the Finance Committee. Hiding this provision, that has not received careful review or consideration, in a 1,949-page bill is an outrage.

Section 12874 represents a major policy change that would overturn existing statute and case law in order to provide a two-year tax break to a select group of coal companies at the expense of other coal companies. In so

doing, this provision would not only change a major provision of the Coal Act of 1992, it would also overturn dozens of district and Federal court decisions.

Under the 1992 Coal Act and case law, companies are required to pay health insurance premiums for their former workers, with whom they contractually committed to pay lifetime health benefits. Section 12874 would relieve certain coal companies from this commitment by allowing them to forego these premiums for 2 years.

According to the Congressional Budget Office (CBO), over the 7-year period, 1996–2002, this provision would produce a net increase of only $8 million.

In light of the fact that Section 12874 represents a major policy change, which would overturn existing statutory and case law, while having a minor budgetary impact of only $8 million over 7 years, it is clearly a violation of section 313(b)(1)(D) of the Congressional Budget Act of 1974, which reads as follows:

A provision shall be considered extraneous if it produces changes in outlays or revenues which are merely incidental to the non-budgetary components of the provision;.

Therefore, it is my view that Section 12874 should be stricken from the reconciliation bill as being in violation of the Byrd Rule.

In addition to the blatant violation of the Byrd rule, Mr. President, this provision is just bad policy.

The 1992 Coal Act was enacted to save the health benefits of over 120,000 miners and their dependents. The situation which led to the need for enactment of the Coal Act was the impending crisis resulting from the dwindling number of coal companies left to pay for the health benefits promised to coal miners and their dependents. This situation put miners' health benefits in jeopardy. The Coal Act averted this crisis by requiring companies to pay the health benefit premiums of their former employees, and further solidified the promises made to the miners that they would keep their lifetime health benefits.

Miners' health benefits have a unique history in that the federal government has played a role since the coal strike of 1946. Over the years, miners gave up increases in wages and pensions and in return were promised lifetime health benefits by the coal companies. Health benefits are important to coal miners. The coal miner lives dangerously, working in cramped, hazardous conditions. The brutal nature of mine work and the risks to miners' health that go hand in hand with this labor make good health benefits extremely important to miners.

The provision included in the Reconciliation legislation would, for two years, provide relief to reachback companies, those companies that were not signatories to the 1988 National Bituminous Coal Wage Agreement, by reducing the premiums they are required to pay to the Combined Fund if it is calculated that the Fund has a surplus. The calculation of a surplus would be done on the cash method of accounting, not the accrual method, and the surplus would be reduced by 10 percent of benefits and administrative costs. Requiring the calculation of a surplus using the cash method of accounting is unwise, could lead to a misleading statement of surplus, and is not the standard practice with regard to health plans. Further, the provision provides that if a shortfall in the Fund occurs, all companies' premiums would be increased, even though only a specific group of companies would get relief.

The financial status of the Combined Fund is precarious. Guy King, the former chief actuary for the Health Care Financing Administration, in an analysis of the Combined Fund, suggests that all of the net assets in the Fund will be necessary to pay benefits for the next ten years. The annual growth in the premium rates will be insufficient to cover the anticipated rate of increase in expenses of the Fund; therefore, the surplus in the Fund is necessary for the Fund to remain solvent in the years ahead. It is patently absurd to absolve certain companies, who can clearly afford to keep their promises, of responsibility for their former employees and, thus, jeopardize the financial status of the Fund. Given the uncertainty surrounding the Combined Fund, I must adamantly oppose this provision to relieve certain companies of their responsibility to their former employees.

Section 12874 is a violation of the Byrd rule because the savings attributed to the provision are solely incidental to the goal of policy change. In addition, this provision does not adequately safeguard the financial status of the Combined Fund, and would jeopardize the health benefits of 92,000 retired miners and widows, including approximately 27,000 who live in West Virginia. I hope that the Senate will vote to remove this ill-advised provision from the Reconciliation legislation.

The PRESIDING OFFICER. Who yields time?

There will be 30 minutes on a side. The Chair asks the Senate to be in order.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Mr. President, how much time does the Senator desire on the amendment? We have 30 minutes on our side.

Mr. ROTH. Five minutes.

Mr. DOMENICI. I yield 5 minutes to Senator ROTH.

The PRESIDING OFFICER. The Senator from Delaware is recognized for 5 minutes.

Will the Senate please be in order.

AMENDMENT NO. 3038

(Purpose: To make various changes in the spending control provisions in the matter under the jurisdiction of the Committee on Finance)

Mr. ROTH. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

It is very difficult for the Chair to hear even. If the staff does not stay quiet, we will order that the staff be removed.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Parliamentary inquiry. Are we about to debate the Finance Committee amendment?

The PRESIDING OFFICER. That is correct.

Mr. BUMPERS. And how much time is there on that?

The PRESIDING OFFICER. There is 1 hour equally divided.

Mr. BUMPERS. I wonder if we could get the people who are speaking on it to tell us whether they are going use the entire hour or not.

The PRESIDING OFFICER. The Chair does not think that is a parliamentary inquiry. I do not think that is within the province of the Chair, to demand in advance whether time will be used.

Mr. BUMPERS. Would I be within my rights to ask the distinguished chairman of the Finance Committee how much time he intends to take?

The PRESIDING OFFICER. Will the Senator yield for a question?

Will the Senator from Nebraska yield for a question? The Senator from Arkansas has a question.

Mr. BUMPERS. The question is, how much time does the Senator from Nebraska intend to use, if he knows?

Mr. EXON. Is the Senator asking about the half-hour time?

Mr. BUMPERS. Yes.

Mr. EXON. I will try to allocate the time as best I can.

I just have had a brief meeting with the Senator from Florida, who said he would wish to begin debate. He asked for more time. I said I will have to be a tough traffic cop. We have a half an hour. I have agreed to give 10 minutes to the Senator from Florida. I will allot the rest of the time as we can. Anybody who wishes to speak on this, I wish they would come over and visit with me about it, and I will try to accommodate as many Senators as possible.

Mr. BUMPERS. I am not asking for time. I am curious whether or not we are going to be here for another hour before we vote.

Mr. EXON. There will be at least another hour before we vote.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Delaware [Mr. ROTH] proposes an amendment numbered 3038.

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

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

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

The PRESIDING OFFICER. The Senator is recognized for 5 minutes.

Mr. ROTH. Mr. President, this amendment includes modifications in Medicare and Medicaid. The first change in the Medicare provisions establishes a fully prospective payment system for skilled nursing facilities within 2 years.

Now, until this new skilled nursing home prospective system is implemented, the amendment changes how Medicare will pay nursing homes for nonroutine services. The change establishes payments based on each nursing home's cost in 1994 with an inflation adjustment.

The second change in the Medicare provisions is a slower phase-in for changes in Medicare's indirect medical education payments to teaching hospitals.

Mr. President, this amendment also makes several modifications to the Medicaid provisions in the bill.

The PRESIDING OFFICER. Would the Senator suspend?

Would the Senators take their conversations off the floor, please?

Mr. ROTH. The——

The PRESIDING OFFICER. Will the Senator suspend? The Chair will start naming names. Please take the conversations off the floor.

Mr. THURMOND. That is right.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. The first modification would modify the Federal quality standards for nursing homes under Medicaid. We have worked with Senator COHEN on this modification, and he is supportive of these changes. The modification would reduce the costly and duplicate requirement that States perform preadmission screening and annual resident review. In addition, a modification to the nurse aide training requirements would make it easier to train nurse aides in rural areas.

The amendment would allow States with equal or stricter nursing home standards to seek a waiver from the Secretary of HHS to use the State standards in lieu of the Federal standards. However, the Secretary of HHS would continue to enforce State compliance with the Federal standards. States not in compliance with the Federal standards would be assessed a penalty of up to 2 percent of their Federal Medicaid funds.

Second, the amendment creates a Medicare-Medicaid integration demonstration project to permit Medicare and Medicaid funding to be combined to provide comprehensive services through integrated systems of care to elderly and disabled individuals who are eligible for both programs.

Third, the amendment creates a separate set-aside for low-income Medicare beneficiaries. This set-aside would be in addition to the set-asides already in the bill for pregnant women and children, the disabled and the elderly. Under this provision States would be required to spend a minimum amount on Medicare premiums for low-income Medicare beneficiaries. The amount States must spend must be at least 90 percent of the average percentage spent on Medicare premiums under Medicaid over fiscal years 1993 through 1995.

Fourth, the amendment requires States to apply the same solvency standards for health plans under Medicaid as the States set for health plans in the private sector.

And, fifth, the amendment modifies the distribution formula under the Medicaid program.

Let me start by saying we have worked very hard to improve the Medicaid formula——

The PRESIDING OFFICER. The Senator's 5 minutes has expired.

Mr. DOMENICI. I yield 2 additional minutes.

Mr. ROTH. To improve the Medicaid formula which was adopted by the Finance Committee. Under the modification, each State's base would be the higher of, first, fiscal year 1995 spending, minus all payments to disproportionate share hospitals; second, fiscal year 1994 spending, including all disproportionate share hospital payments, plus 3.4 percent; or, third, 95 percent of fiscal year 1993 spending minus all disproportionate share hospital payments.

Each State's funding would increase by 9 percent for fiscal year 1996. And beginning in fiscal year 1997, each State's base would be increased by a growth rate determined by a formula subject to floors and ceilings. The ceilings have been modified by this amendment. We have tried to give more funds to the high-growth States by raising the growth ceilings in future years. States would be able to carry over a credit of unused Federal funds for 2 consecutive years on a rolling basis. And after 2 years, unused funds from the previous years would begin to go into a redistribution pool. States can apply for additional funds from this redistribution pool.

Finally, the amendment strikes section 2116 of the bill limiting causes of action under Federal law.

Finally, the provisions in this amendment are paid for by adopting the 2.6 percent cost-of-living adjustment recently——

Thirty seconds?

Mr. DOMENICI. Fine.

Mr. ROTH. Recently announced by the administration for 1996 for programs under the Finance Committee's jurisdiction that are updated by the CPI–W. The CBO baseline assumes the CPI–W would be 3.1 percent.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. WARNER addressed the Chair.

Mr. President, could I seek 1 minute from the manager?

Mr. DOMENICI. Indeed. I yield 1 minute to the Senator from Virginia.

Mr. WARNER. I rise in support of this landmark Medicare reform provision, S. 1357, the Balanced Budget Reconciliation Act of 1995. For the first time in the 30-year history of the Medicare program, Congress is preparing to give the Nation's 38 million elderly and disabled Medicare beneficiaries the opportunity to play a greater role in the design of their health benefits. That opportunity is the Medicare Choice program.

Largely because of its status as a government program, Medicare has fallen behind the times. When it was established in 1965, Medicare was based on the prevailing private sector indemnity health insurance plan—what we have come to know as fee-for-service.

For the first 15 years or so, there was little change in the utilization of American health care, but beginning in the late 1970's, health care price inflation began to skyrocket. Within a decade, American employers were staggering under the weight of rising health care costs. It is important to remember, as well, that by far, health care costs were fully carried by employers.

By the early 1980's we began to see the advent of managed care. Basically, the American business community demanded a more affordable health insurance product, and the insurance industry responded. The best company plans were and remain those which were able to offer a choice of coverage to their employees, not unlike the manner in which the Federal Government does today in the Federal Employee Health Benefit Plan (FEHBP).

Meanwhile, in 1983, the Medicare Program also abandoned traditional cost-based reimbursement and replaced it with what we have come to know as the prospective payment system. The Health Care Financing Administration at the Department of Health and Human Services devised a special payment for every medical procedure in advance and, in general, that was all Medicare would pay. It was and is the biggest and most expensive health care regulatory system in America.

The problem we face today is that Medicare is going broke. The pre-set payments we put into place in 1983 were based on a measure of private health care costs which have continued to rise at a rate beyond any other sector of the economy. Furthermore, Americans are getting older—more beneficiaries with fewer and fewer workers paying the FICA taxes that maintain the Hospitalization Insurance [HI] trust fund.

The combination of these conditions, together with the never dreamed of costs of medical high technology, have worked to undermine the financial strength of Medicare. The major hospitalization fund goes into deficit in just a very few years, and is projected to use up whatever surplus we have accumulated by the year 2002.

So what should be our policy? The first priority is to secure the future of

the program for the beneficiaries. Medicare will have more demands upon it than ever before when the baby boom generation begins retiring around the year 2010. Our plan is to limit or cap the built-in automatic growth of the program which, as I mentioned, has been based on medical price inflation and is one of the principal contributing factors to approaching insolvency. Rather than letting the program grow, as it would, at a rate of 10 to 16 percent per year, we will hold the line at an average of 6.2 percent. I repeat, the program will grow by an average rate of 6.2 percent a year.

This translates into some important numbers that Medicare beneficiaries need to know. In 1995, Federal spending on Medicare will reach $157.7 billion. By the year 2002, the program will have grown by 52 percent to $239.6 billion. This equals for every beneficiary an annual increase in the value of their benefit from $4,800 in 1995 to over $7,000 in 2002. This is growth, Mr. President, not cuts, and we should make every effort to make sure that our constituents fully understand.

Our next priority has been to actually improve Medicare benefits, and much, much work has gone in to determining our course. Should we pursue another top-down big government strategy as we did in 1983, or should we return to the roots of the program and follow the private sector.

As I said before, the best private employers are able to offer their employees a variety of health care choices—choices which best suit the needs of their employees and their families. The Congress is now striving to do the same for Medicare, putting together an array of health insurance options second to none. Older and disabled Americans have earned their Medicare entitlement, and it is our responsibility to maintain and improve it in the best possible manner.

Older people being what they are—and I am over 65 myself so I can say it—many are naturally reluctant to change. We therefore guarantee their No. 1 option to stay in the present system. Furthermore, we guarantee that their share of the principal expense of the program—the part B Premium—will be maintained at 31 percent of program costs. The U.S. Treasury pays for 69 percent of Medicare part B today, and it will as well in the year 2002.

Medicare is not a bargain. Beneficiaries today are asked to pay for 20 percent of doctor visits. The program does not pay for prescription drugs. Millions of beneficiaries have had to purchase medigap insurance at further costs to pay for what Medicare does not.

We will offer a selection of managed care options which can be far more affordable for older Americans living on fixed incomes. These will be options for beneficiaries to study and discuss with their families to see if they would in fact present a better health care choice than the standard plan. Beneficiaries will be given an annual open season to join if they feel that it is right for them. All options will include, for a reasonable copayment, the right to see a favorite physician who might not be in their local plan.

Perhaps the most innovative option will be access to newly available medical savings accounts [MSA's].

In my State of Virginia, which has a reputation for fiscal conservatism, MSA's have prompted a great deal of interest and support by doctors and patients alike.

Medicare would offer a catastrophic health insurance policy which, for example, would cover all costs over $3,000 per year. Remember that today, Medicare hospitalization begins to run out after 60 days in the hospital.

The beneficiary would then be given an annual Medicare allotment, in this scenario, of $1,500 a year which they could use to directly pay for physician visits, prescription drugs or even new eyeglasses. There would be no redtape between the doctor and the patient, no burdensome insurance forms, no lengthy waits for reimbursement. Beneficiaries could even use a simple debit card to pay for care directly from their MSA.

Moneys not utilized by the end of the year could be rolled over to the next, without tax consequences, or withdrawn as taxable income for personal use. The only possible out-of-pocket expense, as compared with the copayments and Medigap insurance used by current beneficiaries, would be that measure of $1,500 between the MSA and the catastrophic plan. If the beneficiary chooses to save his or her unused MSA funds, as many thrifty Americans will no doubt do, the $1,500 amount could easily be accumulated in the MSA in just a few years.

While an MSA will not be suitable for everyone, I believe it can have a real impact on the medical marketplace and consumer choice. Beneficiaries can shop around for the best price, and providers will want their business. With the prospect of no Medicare redtape, I imagine that doctors will jump at the chance to care for MSA beneficiaries.

Mr. President, we are veritably on the brink of a new day in Medicare. We hope to restore long-term solvency to the program by curtailing exorbitant growth, and open the door for beneficiaries to the modern health care marketplace. Millions of Medicare beneficiaries are already educated consumers, and it is my great hope that they will lead the way in demonstrating the value of Medicare choice.

The PRESIDING OFFICER. Who yields time?

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, to start out the debate, we will yield 5 minutes to Senator ROCKEFELLER. Following that, depending on the flow of business, I intend to, at my discretion, allow 5 minutes to Senator PRYOR, 4 minutes to Senator KENNEDY, 3 minutes to Senator WELLSTONE, and then the closing arguments will be made by Senator GRAHAM from Florida.

So, at this time I yield 5 minutes to the Senator from West Virginia.

The PRESIDING OFFICER. The Senator from West Virginia is recognized for 5 minutes.

Mr. ROCKEFELLER. I thank the Senator from Nebraska and the Presiding Officer.

Mr. President, I find it noteworthy that sometime very recently all of a sudden we get 46 pages of actual legislative language, the manager's amendment. I guess we should be grateful for small deeds. The amendment magically comes up with about $10 billion. We believe there is a very good chance that comes from Social Security, which is most interesting, for more Medicare aid, more Medicaid money, parcels it out to various health care institutions, HMO's, et cetera.

I think there are a number of reasons to reject this bill, which will be my recommendation. One, to protest what is underneath this amendment, a bill that will cut Medicare and Medicaid by unprecedented amounts of money. No last-minute amendments by the managers are going to soften the blow of this combination of Medicaid and Medicare cuts put together. It is a stunning—a stunning—cut.

I think we have to question how all of a sudden this new money appeared. I suspect it came from Social Security. But we will hear more about that. HMO's, nursing homes, got money. Different people were accommodated. We had that process a little bit in the House, and it was not generally given very high marks.

I find it, again, amazing that money is falling from the sky to satisfy different folks, and yet these are the same folks who said $270 billion in cuts for Medicare, for example, was the only possible way to save Medicare.

So before yielding to three other Senators, I will say, where did all this money come from, and is it from Social Security, for example? Or is it from some other place?

There is a very bizarre formula for Medicaid in which I think the Republican States somehow end up doing much better than the Democratic States, but I may be wrong on that. Senator GRAHAM will speak on that.

Also, the amendment weakens the nursing home standards, a subject which is incredibly important to me. The Senator from Arkansas will speak on that subject.

At this point, with the permission of the Senator from Nebraska, I suggest that we go to the Senator from Arkansas, if that is all right with the Senator from Nebraska.

The PRESIDING OFFICER. The Senator does not wish to use his time.

Mr. EXON. Yes, I wish to use my time.

I yield 5 minutes to the Senator from Arkansas.

Mr. PRYOR. Mr. President, I thank the distinguished manager for recognizing me and allowing me a few moments.

This morning, by a vote of 51 to 48, the U.S. Senate voted in a bipartisan way to restore the OBRA 1987 nursing home regulations. They have worked well. They have served residents well. They have served the taxpayers well, and I am strongly committed to achieving that end once again.

Mr. President, with all due respect to the distinguished manager's amendment that we now have before the Senate, even though the distinguished manager says we are fixing or even improving upon current Federal nursing home standards, over the course of today I have been in contact with numerous consumer groups and nursing home reform advocates who are extremely critical of the language offered in the so-called manager's amendment.

First, this so-called ''fix'' does not indicate in any way the length of time for which a State could operate under a waiver and opt out of the Federal standards. Would the waiver last for 1 month where there would be no Federal standards applying to a nursing home or to a State? Would the waiver be for 1 year or 2 years or 10 years? There is nothing in the amendment to address this issue. Basic question.

Also, in the manager's amendment, there is absolutely no guidance whatsoever as to how the Director of HCFA or HHS would determine that a state's standards were sufficient to opt out of the Federal standards; there is no guidance whatsoever as to what the rules or the guidelines would be in granting making that determination.

Also, Mr. President, there is a major flaw in this amendment, I say with all due respect. I am just wondering if the distinguished manager knows that under this particular proposal that unless the Federal Government revokes a State's waiver, it could take—I repeat this—the Federal Government could take no action whatsoever against an individual facility, no matter what was going on in a particular nursing home. No action whatsoever means that the Federal Government's hands are tied, notwithstanding the fact that we are appropriating billions and billions and billions of dollars for the safety and well-keeping of the some 2 million nursing home residents out there in our country.

The very worst facilities in America could be getting away with just about anything, and the Federal Government would have absolutely no power, no recourse, no opportunity to go in and correct the wrongs in a particular home, simply because the State would have a waiver from Federal regulations and all of the Federal involvement allowing it.

Also—and finally, Mr. President—the Roth amendment provides a 120-day period during which the Secretary must review a State's waiver proposal to make sure that it contains all the essential elements, which would be insufficient time to go out and investigate that State's nursing homes or a particular nursing home.

This timeframe, 120 days, to decide whether or not a State could get a waiver, opt out of the programs, free of Federal regulations is going to be an impossible time to meet.

Let me say once again that the regulations that we adopted on a bipartisan basis in 1987 have worked and they have worked well. I do not know of one Member on either side of the aisle who can argue against that. I am very hopeful that we will make certain that when this process is over, that we will have the very strongest standards, and I truly believe that those strongest standards were supported this morning by the vote of 51 to 48 for the so-called Pryor-Cohen amendment adopted by the U.S. Senate.

I hope that will ultimately be the language that will be retained and that we will follow in the decades to come.

Mr. President, I yield the floor.

CHANGE OF VOTE

Mr. REID. Mr. President, I have a unanimous consent request.

On rollcall vote No. 553, I voted ''no.'' It was my intention to vote ''aye.'' Therefore, I ask unanimous consent that I be permitted to change my vote. This will in no way change the outcome of the vote.

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

Who yields time?

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. EXON. I yield 4 minutes to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, this amendment purports to improve a very bad bill, but it does nothing, absolutely nothing, to address the fundamental problem. This Republican program slashes Medicare and Medicaid to pay for tax cuts for the wealthy. It sacrifices working families, children and senior citizens on the altar of sweetheart deals and tax breaks for the powerful special interests.

This amendment symbolizes what is worst about the 2,000 pages of the bill as a whole. Every time you turn one of those pages, something ugly scuttles out. Look at what is in the so-called perfecting amendment.

It weakens the nursing home standards we adopted just this morning. This morning we restored the strong standards that are in current law and that the Republican bill would have repealed. This evening, our Republican colleagues are trying to water those standards down.

The Medicaid formula changes are the last piece needed to put together a majority. Vote against seniors, vote against children, vote against families and, in return, we will rig the Medicaid formula so the disaster in your State is not quite as bad as in some other State. Like the underlying bill, this amendment was put together in the dark of night, and no wonder there is nothing to be proud of here.

The issue is clear: Who stands for senior citizens; who stands for working families; who stands for children; and who stands for the special interests against the interests of the Americans who work so hard to support their families, educate their children and build this country?

This amendment is a disgrace, and it does not deserve to be adopted. The underlying bill is an outrage. It deserves to be rejected by the Senate, vetoed by the President and condemned by the American people. Greed is not a family value.

I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. What is the status of the time, Mr. President?

The PRESIDING OFFICER. The majority has 21 minutes, 45 seconds; the minority has 19 minutes, 46 seconds.

Mr. DOMENICI. I yield 2 minutes to Senator D'AMATO. How much would Senator COHEN like? And 5 minutes to Senator COHEN, in that sequence.

The PRESIDING OFFICER. Senator D'AMATO is recognized for 2 minutes.

Mr. D'AMATO. Mr. President, I want to commend the manager and all those who have helped us come so far on this historic occasion.

Senator DOMENICI and Senator ROTH have done an incredible job. I believe some of us have done a rather poor job of letting the American people know exactly what is in this package. If you listen to some of the demagoguery that we hear about ''greed'' and ''special interests,'' and ''tax breaks for the wealthy,'' you would not really know what is in this package.

When I hear this business that ''they are weakening nursing home standards,'' that is nonsense. Bull. I want to know how we can weaken nursing home standards when you must meet the Federal levels that you have today. You must have at least that or better. If that is not demagoguery, I do not know what is.

It is out and out fear and deception that is being practiced. When 90 percent of the tax cuts go to families earning under $100,000, I defy you to tell me that that is going to the wealthy. Let me be a little more particular: $141 billion in tax cuts goes to families that have children. Those families have to earn under $110,000. The bulk of that goes to families in the $50,000 to $60,000 range. Now, let us stop the nonsense about greed and wealthy people. That is working middle-class families.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DOMENICI. I yield another minute to the Senator from New York.

Mr. D'AMATO. We are attempting to keep the promise that was broken by the President of the United States when he said, ''We are going to give tax cuts to the middle class.'' Then he went and raised those taxes. And now

he says, ''Well, maybe I made a mistake.''

Well, he did make a mistake. We are returning IRA's to working middle-class families. And we are doing something about the marriage penalty. We always complained about that. There has not been anybody here on the floor who has run and did not say we need to do something about the marriage penalty. That is $12 billion in relief—a move in the right direction. And in student loans, a billion dollars to help pay for the interest.

Mr. President, this is a good bill, and it deserves our support.

The PRESIDING OFFICER. Who yields time?

Mr. COHEN. Mr. President, I want to take this opportunity to address some of the Medicare and Medicaid provisions of this budget reconciliation legislation.

For the past few months, the debate on Medicare has been rife with partisan fingerpointing. Democrats accuse Republicans of ravaging Medicare, while Republicans counter with charges that the Democrats are failing to restore solvency to the program.

But the simple fact is that the Medicare hospital trust fund is going broke, and spending for Medicare part B—the optional program that covers seniors' doctor bills—is increasing at an unsustainable rate. Reasonable minds may disagree on how to resolve the looming crisis. But we cannot take the easy route and pretend to senior citizens—or Medicare providers—that the crisis will go away if we simply look the other way.

Changes in Medicare are crucial if it is to survive at all for current and future senior citizens. The Republican budget plan takes the tough steps necessary not only to restore solvency to the trust fund but also to prepare Medicare for the 21st century.

The President and congressional Democrats claim that $90 or $100 billion in savings will be sufficient to ''fix'' Medicare, and that the $270 billion in savings proposed in this bill cut too far and too deep.

What the Democrats have proposed would certainly be more politically palatable. But their proposal falls far short of the reforms that will be necessary to prepare Medicare for the future.

Guy King, the former chief actuary for the Health Care Financing Administration agrees with the Democrats that $90 billion will keep the trust fund solvent until 2006. But, by 2010, the year the baby boomers begin to retire, it will leave Medicare $309 billion in the red. It will be difficult enough to cope with this tidal wave of retirees when Medicare is solvent. It will be impossible if the program is over $300 billion short.

Under Republican budget, Medicare spending will continue to grow at an average annual rate of 6.2 percent over the next 7 years—less than the current 10 percent rate of growth, but still twice the rate of inflation. In fact, per beneficiary spending in Maine will increase by almost $2,000 over the next 7 years.

Equally important to controlling growth, the proposal will give beneficiaries more choice. The ''Medicare Choice'' plan contained in the bill closely resembles the Federal Employee Health Benefit program. Each year, Medicare beneficiaries will be given information on a number of plans available in their areas. They will then be able to elect to remain in the traditional fee-for-service plan or they can choose from a variety of other insurance options, such as health maintenance organizations, physician and hospital sponsored networks, or medical savings accounts.

The proposal does include, for the first time, an ''affluence test'' that would require the wealthiest beneficiaries to pay a fairer share of the costs of the Medicare program.

Taxpayers currently subsidize about 70 percent of the costs of Medicare beneficiaries' part B premium cost. The Republican plan phases out these taxpayer subsidies for upper-income retirees and eliminates them completely for individuals with incomes over $100,000 and couples over $175,000.

I believe that this is fair. There is no good reason why a working family with an income of $40,000 should be subsidizing wealthy retirees earning more than four times as much. Further, the vast majority of Medicare beneficiaries will be unaffected by the change—about 98 percent of all Maine Medicare beneficiaries have an income below the ''affluence test'' threshold.

I am very pleased that this budget bill includes tough anti-fraud legislation that I introduced earlier this year to help rid Medicare of the fraud and abuse that robs the program of as much as $15 billion a year.

Specifically, the proposal creates tough new criminal statutes to help prosecutors pursue health care fraud more swiftly and efficiently, increases fines and penaties for billing Medicare and Medicaid for unnecessary services, over billing, and for other frauds against these and all federal health care programs, and makes it easier to kick fraudulent providers out of the Medicare and Medicaid program, so they do not continue to rip off the system.

More importantly, the bill establishes an anti-fraud and abuse program to coordinate Federal and State efforts against health care fraud, and substantially increases funding for investigative efforts, auditors, and prosecutors by flowing back a portion of fines and penalties collected from health care fraud efforts to law enforcement.

According to the Congressional Budget Office, these provisions will yield over $4 billion in scorable savings to Medicare—without costing a penny to senior citizens. I am convinced that the long-term savings are much greater, and that billions more will be saved once dishonest providers realize that we are cracking down on fraud, and that they can no longer get away with illegally padding their bills to pad their own pockets.

The proposal also makes significant reforms in the Medicaid program. Like Medicare, Medicaid is one of our fastest growing entitlement programs. Over the past few years, Medicare spending has increased at an alarming rate. Between 1988 and 1993, program costs have more than doubled. From 1990 to 1992, Medicaid grew at an average annual rate of 28 percent, while private health care and Medicare costs grew at less than one half that rate.

The current growth in Medicaid spending clearly cannot be sustained by either Federal or State budgets. In Maine, 22 cents out of every dollar spent by the State goes to pay for Medicaid, and next year, it may be even more. We simply cannot sit back and watch the program consumer get bigger and bigger bites out of the taxpayer dollar each year.

Under this budget plan, the growth in Federal Medicaid spending—which is now just over 10 percent a year—would be limited to a 7.2 percent growth rate in 1996, 6.8 percent in 1997, and 4 percent for the remaining 5 years. The plan achieves the necessary savings by converting Medicaid into a block grant which would guarantee only a lump sum payment to the States with very little in the way of strings.

While I strongly support increased State flexibility with regard to Medicaid, I believe that some Federal standards should remain in place to help ensure quality and to maintain some protections for vulnerable populations. This is especially important given the fact that the Federal Government will be committing nearly $800 billion in Federal dollars over the next 7 years toward the Medicaid program.

Therefore, I worked to ensure that guarantees of coverage for low-income children, pregnant women and the disabled—including the disabled elderly—were included in the final package. I am pleased that the bill as amended by the Senate includes provisions to provide these minimum guarantees to our vulnerable citziens.

I am also pleased that the final bill includes provisions that I and other moderate Republican Members authored, namely, a requirement that States continue to pay Medicare premiums for low-income Medicaid beneficiaries and requirements that States apply the same solvency requirements on Medicaid providers as on private sector plans.

I am also pleased that this package provides has incorporated several of the provisions included in my legislation. The Private Long-Term Care Family Protection Act of 1995 to improve access to long-term care services. The legislation takes a big step forward in creating incentives for older Americans and their families to plan for future long-term care expenses and

removes tax barriers that stifle the private long-term care insurance market.

As Chairman of the Senate Special Committee on Aging, I know the obstacles many disabled older Americans and their families face paying for necessary long-term care. Despite heroic caregiving efforts by spouses, children and friends, many disabled Americans do not receive the appropriate medical and social services they desperately need. Families are literally torn apart or pushed to the brink of financial disaster due to the overwhelming costs of long-term care.

While approximately 38 million people lack basic health insurance, almost every American family is exposed to the catastrophic costs of long-term care. In fact, less than 3 percent of all Americans have insurance to cover long term care.

Sadly, many families are under the erroneous impression that their current insurance or Medicare will cover necessary long-term care expenses. It is only when a loved-one becomes disabled that they discover coverage is limited to acute medical care and that long nursing home stays and extended home care services must be paid for out-of-pocket.

This bill encourages personal responsibility and makes it easier for individuals to plan for their future long-term care needs. It provides important tax incentives for the purchase of long-term care insurance and places consumer protections on long-term care insurance policies so quality products will be affordable and accessible to more Americans.

A strong private long-term care market will not only give individuals greater financial security for their future, but will ease the financial burden on the Federal Government for years to come, as our population ages and more elderly persons need long-term care services.

In addition to providing better access to long-term care services, this bill incorporates a demonstration project I introduced last year to explore ways to better integrate long-term care with the rest of the health care system. Today, many of the most expensive, chronically-ill elderly and disabled Americans are eligible for both Medicare and Medicaid services. While these programs may cover most of their necessary care, patients are often faced with a bias toward institutional care and a maze of complex and often incompatible policies and rules.

The demonstration project included in this bill will allow up to 10 States to pool Medicare and Medicaid dollars for the purpose of creating a more balanced and cost-effective acute and long-term care delivery system. These projects will help States develop ways to better manage the care of high cost beneficiaries and offer elderly and disabled Americans full integration of services, including case management, preventive care and interventions to avoid institutionalization whenever possible.

I am also very pleased that this bill now maintains the tough Federal standards that are currently in place to protect elderly and disabled individuals living in nursing homes. Placing a parent, spouse, disabled child, or other loved one in a nursing home is one of the most agonizing decisions a family ever faces. Even once at peace with that decision, the nagging fear that a loved one may not receive adequate care, or may be abused or neglected in a nursing home, continues to haunt families nationwide. The continuation of OBRA '87 nursing home regulations is a major victory for today's two million nursing home residents, and tomorrow's growing elderly and disabled population.

This week I chaired a hearing of the Senate Special Committee on Aging hearing to examine the need for strong Federal quality of care standards in nursing homes. The testimony from family members and expert witnesses convinced me more than ever that the Federal Government must continue a central role in monitoring and enforcing nursing home standards. Witnesses shared with me heart-wrenching stories of how their family members were overdrugged, placed in physical restraints, and left to sit in their own waste while in nursing homes. I was also handed a picture by a daughter of one nursing home patient that showed a bloody, oozing bed sore that I will not soon forget.

The basis for this Federal nursing home standards law is simple, strong, and clear: that residents in nursing homes which receive Federal Medicare or Medicaid dollars should be treated with care and dignity. The law provides a framework through which facilities can help each resident reach his or her highest practicable physical, mental, and general well-being. It also provides critical oversight and enforcement of nursing home standards, following years of evidence that the states simply did not make enforcement of nursing home standards a high priority.

While the Finance Committee bill required that states include certain quality of care provisions in their Medigrant State plans, I had strong concerns that many of the important OBRA '87 provisions were eliminated that the bill lacked adequate Federal oversight and enforcement of nursing home standards.

Over the past few days I have worked with the Republican leadership and many of my colleagues on both sides of the aisle to ensure that this bill keeps intact the standards, enforcement and Federal oversight now contained in current law. No family member should have to lie awake at night worrying if their loved-ones are being abused or neglected in a nursing home. This bill gives nursing home residents and families peace of mind that their rights are protected and that the Federal Government will be ensuring States continue to enforce quality standards for nursing home care.

The bill provides for states to receive waivers from the Federal nursing home reform law only in tightly crafted circumstances. Specifically, a State may apply for a waiver of standards only if its standards are equal to or more stringent than the Federal requirements. The amendment clearly indicates that no such waiver is allowed unless the Secretary approves the waiver, and only if each standard is equal to or more stringent than the Federal standard. Further, the provision specifies that waivers allowed under this section in no way waives or limits the Federal Government's enforcement of tough nursing home standards, patient protections, and other provisions of OBRA 87.

Mr. President, while I believe that this package includes many important steps toward reforming Medicare and Medicaid, there are some elements of the proposals that I do not support.

During the course of the debate on the bill, I have supported amendments and worked to incorporate provisions aimed at striking a more appropriate balance between Federal responsibility and State flexibility, and ensuring protections for our most vulnerable populations. This effort is far from complete and I will continue to work toward achieving the goals of deficit reduction and Medicare and Medicaid reform.

Mr. President, let me address the issues raised by my colleague from Arkansas, since he and I have worked for many years in dealing with the nursing home reform. It was called OBRA 87, but it is basically the nursing home reform that we worked 15 to 17 years to get passed. We held a hearing this week in the Aging Committee in which we, once again, reaffirmed the need and saw the need to maintain strong Federal standards over nursing homes in our country—not only standards, but enforcement, oversight and enforcement procedures.

This is not, as some might think, a last-minute attempt to weaken and dilute what was done this morning. I should tell my colleagues that I have been working for the past 3 or 4 days with the majority leader and his staff, anticipating that we would have a debate, understanding the House of Representatives wants no standards imposed. They want to turn it over to the States entirely.

In anticipating that, I went to the majority leader saying, this is important to me, it is important to us, it is important to the country. We need to develop these standards and do it in a way that we can have broad, bipartisan support. So that has been something we have worked on for the past 3 days. In fact, we worked until last night midnight trying to work out the language.

So I just want to assure my colleagues on the other side, this is not something that has been concocted in

the dark of the night in order to weaken what was done this morning. I supported strongly what was done this morning.

This particular measure reaffirms the need to have OBRA 87 standards. We want the nursing home reform standards we passed in 1987. We finally started to get the civil monetary penalties imposed as of July of this year. We finally have some bite into those standards. I do not want to see those thrown overboard.

I said to my colleagues on this side of the aisle that we need these standards. Let us reaffirm our support for them. Let us reinsert OBRA 87, as such, and we can make some changes in some of the paperwork and the burdens that the nursing home industry has complained to us about.

I think my colleague from Arkansas will agree that we have had these complaints. No law is perfect. We have tried to modify laws over the years to make sure that, if we overreach, if something is too burdensome, too costly, or duplicative, we make changes. So we made some minor changes which I think are positive as far as I am concerned.

The one apprehension I had is in the point raised by my friend from Arkansas; that is, ''If States show that they have standards equal to or greater than. . .''—I saw that as a red flag and said, wait a minute, I do not want to create that much of an exemption. I am not sure where the enforcement is going to lie.

I worked very hard late last night with my staff and with the majority staff to make sure that any State—and I do not know of any State that has the same or better ones than the Federal ones. But assuming States come forward, as they have not in the past, and raise their standards to those at the Federal level, if they can establish that, and if they can satisfy the Secretary of Health and Human Services that they have done that, that does not mean they are free and clear to go forward and then abuse their patients. I insisted that the Federal Government still retain oversight and still retain enforcement responsibilities.

I believe that is in the law itself, in the language—that the Federal Government would still have the ability to go in to find out if there are violations and to enforce penalties. I know my colleague from Arkansas disagrees with that interpretation. But that is specifically what we worked out last evening. I believe that is in the language itself. I will yield to my friend if he has a question.

Mr. PRYOR. If my good friend from Maine, who has worked very hard on this bill, would point out where in this language it says that after a State receives a waiver—where in the world the Senator might even infer that the Federal Government would have an opportunity to impose fines, penalties, or to have any jurisdiction on individual facilities? In fact, if I might, on page 37, it says, ''. . . State oversight and enforcement authority over nursing facilities,'' not Federal.

Mr. KENNEDY. I ask unanimous consent for 2 more minutes, equally divided between the two Senators to respond.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. KENNEDY. I ask unanimous consent for 2 more minutes so that the Senators can respond.

Mr. DOMENICI. Mr. President, I yield an additional minute to Senator COHEN.

Mr. COHEN. If you look on page 38 under section (D):

> No Waiver of Enforcement. A State granted a waiver under subparagraph (A) shall be subject to (i) the penalty described in subsection (b); (ii) suspension or termination, as determined by the Secretary, of the waiver granted under subparagraph (A); and any other authority available to the Secretary to enforce the requirements of section 1919, as so in effect.

What we have done in this section is to say that just because you get a waiver, you are not free from the enforcement provisions here. The Federal Government retains the authority to go in and impose those penalties. Were that not in there, I would not be supporting this.

Let me say one other thing to my colleagues. As I indicated before, the House has no such protection. We passed the measure we supported this morning by, I think, three votes. It is my belief—and I support what we did this morning, and I reaffirm that action—that we are going to be in a much stronger position with a majority endorsing what we are doing here and going to the conferees and saying we want this provision, and it will remain in the bill, and we will have it when it goes to the President.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. EXON. I yield 1 minute to the Senator from Arkansas.

Mr. PRYOR. Mr. President, I thank the manager. Mr. President, on page 38 in section (C)—let me say to my good colleague and friend from Maine that, according to this section and the sections preceding it, if a State has opted out, if they have been granted a waiver for an indeterminate amount of time—and it could be 30 days or 30 years; who knows?—but if that State is under a waiver of the requirement, the Federal Government cannot fine any nursing home in that particular State, the Federal Government cannot penalize, cannot say you cannot take in any more Medicaid patients. Only the State has this jurisdiction.

I am trying to impress upon my friend that, he not knowingly, not willingly, is helping to weaken drastically the nursing home standards that have worked so well since 1987.

The PRESIDING OFFICER. All time has expired.

Mr. EXON. I yield 1 minute to the Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I do not think we should be voting on this amendment.

In the last several hours, my State of Minnesota just discovered that it will be faced with $500 million more in reductions on top of the $2.4 billion. What happened, Senators, in the last several hours? What kind of decision-making process is this?

It does seem to me that people in Minnesota and across this country have a right to know what in the world is going on here. These are the lives of our children—they are covered. These are the lives of elderly people, nursing homes—they are covered. These are the lives of people with disabilities—they are covered.

We should not even be voting tonight. This is back-room deals. This is not a democratic—with a small ''d''—process.

The PRESIDING OFFICER. All time has expired.

Mr. EXON. I yield 1 minute to the Senator from California.

Mrs. FEINSTEIN. I thank the Senator from Nebraska.

I have listened carefully to the debate this evening, but I think the simple fact is that no State in the Union is impacted by this amendment and this bill to the extent that California is.

Senator ROCKEFELLER asked earlier where the money comes from to pay for this amendment. Mr. President, I'll tell you where the money comes from.

$4.2 billion of it comes from Medicaid that in the earlier version went to California. California is the biggest loser in this amendment. This will affect more than 8.6 million people in the State of California.

This bill, I believe, is immoral, egregious, and in my 2½ years I never thought I would stand here on the floor of the Senate and see the largest State in the Union treated the way it is in this bill.

The PRESIDING OFFICER. The majority has 12 minutes and 32 seconds remaining, and the Democrats have 16 minutes and 32 seconds.

Mr. EXON. Mr. President, in the time that I have remaining, I wish to allocate 2 additional minutes whenever he wishes to use it to the Senator from West Virginia, and I yield 12 minutes to the Senator from Florida for use whenever he thinks appropriate.

Mr. GRAHAM. Mr. President, when Harry Truman was running for President in 1948, at one of his whistle stops the people cried out, ''Give 'em hell, Harry.'' He said, ''Friend, I don't have to give them hell. I just tell them the truth and the truth gives them hell.''

That is what we are talking about tonight. The truth gives them hell.

We have heard from Senator PRYOR what this does to rape the standards that have made life tolerable for hundreds of thousands of persons—our most vulnerable people—in nursing homes.

Let me talk about two other features of this bill. Let me talk about how we

are going to allocate over $770 billion of your American taxpayers' money over the next 7 years and the standards by which those allocation decisions were made.

There is no rationale to the allocation formula which is in this bill. I have been asking for better than 36 hours to get the legislative language. Finally, at 6:25 p.m., we got the first version of the legislation but not the last version. The last version came at 9:45.

Let me direct your attention, if you have the 6:25 version, to page 36. I ask someone on the Republican side to explain the theory and philosophy behind this allocation.

On page 36, line 11, it says, ''Additional Amounts Described. The additional amounts described in this paragraph are as follows,'' these are additional amounts that go to States just because they are the States.

Arizona gets $63 million; Florida gets $250 million, thank you; Georgia gets $34 million; Kentucky, $76.5 million; South Carolina, $181 million; the State of Washington, $250 million.

That was the list as of 6:25. But by 9:45, Vermont has come on for $50 million.

Friends, we have talked a lot about balanced budget, about fiscal prudence and responsible use of taxpayers' money. That is how your money is being used.

Let me tell you another little fact in terms of the rationale of distribution. Of the States which have two Democratic Senators, the difference between what those States would have received out of a pool of dollars that was $10 billion less—$10 billion less—total money to be distributed. Those States which have two Democratic Senators lost $3.605 billion. Of the States that have two Republican Senators, they gained $11.222 billion.

That is the rationale way in which we are distributing $770 billion of the taxpayers' money.

Now, how did we arrive at these absurd allocations? We did it largely because, unlike the Finance Committee which very thoughtfully made the decision to restrict the amount of money that a State could continue to take into its base for allocation, those funds which were derived from what is called disproportionate share, disproportionate share.

What is disproportionate share? It was the amount of money that was distributed to States over the periods of the 1970's and 1980's theoretically to make up for the hospitals that had a high incidence of poor and underserved populations. That became the fastest growing element of the Medicare program. In fact, in 1990, disproportionate share was only $1 billion; by 1992, it had gone to $17.4 billion.

Why had we seen this enormous increase? We had seen the enormous increase according to a GAO report, General Accounting Office report, dated April of this year, because there were States which were scheming this money. The swapping and redirecting of revenues among providers, the State and the Federal Government resulted in increased Federal spending, increased funds for providers, and in some cases additional revenue for State treasuries.

So States were manipulating this disproportionate share to their benefit. Under the original Finance Committee, we would have retained and limited the benefit that could have been gained by that previous predatory action. We have now taken all of the constraints off. We have now said that a State can go back to 1994 and count every dollar that they had gotten under that disproportionate share.

Let me tell you something, Mr. President, that may be surprising. The GAO did a report, a special report, on three States. I will be blunt and say who they were: Michigan, Tennessee and Texas. Michigan, Tennessee, and Texas.

Of all of the new money that came into this plan in the last 24 hours, the $10 billion, how much do you think Michigan, Texas and Tennessee got? Mr. President, $6.5 billion. They got almost 2 out of every 3 new dollars that went to those States which have been identified as the principal perverters of the system.

What kind of policy is that? We are going to reward and benefit those States which have been ripping off the Federal taxpayers? What kind of a plan is this? I would be very interested to get a response from our Republican colleagues on that issue.

Friends, the fact that we are about to rape the elderly nursing home, the fact we are raping the Federal Treasury and rewarding inappropriate, I would say criminal past behavior is not the end of it.

Where are we getting the $10 billion from? We are getting the $10 billion by raiding Social Security.

The last position of this legislation states that how we are going to fund this $10 billion, where it will come from, is because we are going to say that we will break our previous practice of using the Congressional Budget Office as the means of calculating what our deficit position is, and we will for this year take the lower cost-of-living number, which has just recently been reported, leave everything else in our revenue estimates the same, but plug in that new number, which is a 2.6 cost-of-living factor rather than a 3.1.

Now, we are not going to do this as it relates to revenue. You know there are some rich people that benefit by this cost of living because their taxes are indexed. They get held down by virtue of a higher cost of living. We are only going to use this against the old folks—primarily Social Security and other Federal retirement programs—who are going to have their money used as the basis of funding this raid in order to benefit a handful of politically powerful—and I would say probably politically greedy—States in order to pass this atrocious proposition.

What has the Congressional Budget Office had to say about this particular raid on the Federal Treasury? The Congressional Budget Office has stated—this is Paul Van de Water, who is the Assistant Director for Budget of the Congressional Budget Office. He states that the Congressional Budget Office and the Office of Management and Budget ''do not score savings for legislating a COLA that would happen anyway under current law. This rule was applied to veterans compensation in 1991 and to food stamps in 1992.''

In other words, we are changing our previous Congressional Budget Office policy.

But, friends, it gets worse. Mr. Van de Water goes on to say that:

> At the request of the Budget Committees, the CBO has from time to time updated the baseline to reflect recent economic and technical developments. In such circumstances, however, we insist on incorporating all relevant new information, not just selected items, such as COLAs. In this instance . . .

Friends, listen to this sentence.

> . . . if we were to include all of the information in our August baseline, plus the actual 1996 COLA, our estimate of the 2002 deficit . . . would be higher.

It would be higher, not lower.

So we are using a fraudulent method in order to calculate what is presented to be savings in order to fund this atrocious raid on the public Treasury when the Congressional Budget Office said, if they were asked the right question they would not only not have scored this as creating any additional money, but they would have said that we would have a greater deficit than we started with.

So, friends, that is what we are about with this amendment in the Finance Committee that we have waited 36 hours to get. If you want to know why this stealth bomber was out there all those hours when we kept asking, Can we see what is in this proposal, can we see the legislative language, can we see the State-by-State numbers—we could not get any answer. Sorry, it is too complicated. It is being worked. The technicians are pouring over it.

I am certain the technicians came up with a formula that gave $11 billion of additional funds to States that just happened to be represented by Republicans and cut the funds from the States that happened to be represented by Democrats. That was just a technical oversight.

And then to have the gall to raid our Social Security fund as a means of financing this, is there no limit to what we ask our older people to do? We are cutting their Medicare. We are eliminating other important programs for the elderly. And now we are using their Social Security in this back-door means as the basis to fund an additional $10 billion which does not exist, which is going to add further to the deficit, to give money to a few favorite States so that they can corral the votes to pass this steamy mess.

My friends, I wish this thing would stay the stealth bomber. It is better if we did not see it than if it finally appeared on the radar scope and we are able to look and appreciate the details.

Mr. President, fellow colleagues, the answer tonight is a simple answer; that is, to defeat this amendment. As bad as the proposal passed by the Finance Committee was, it looked so much better than what we are about to vote upon. We have converted a frog into a beauty with this amendment.

So I urge my colleagues to vote this amendment down, and let us at least send the conference something that we in the Senate can have some degree of satisfaction as it is taken up in conference.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

The Senator from New Mexico has 12 minutes and 32 seconds, and the Senator from Nebraska has 4 minutes, 24 seconds.

Mr. DOMENICI. I yield myself 6 minutes.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, with reference to the formula, let me just state for the record that 46 States are better off under this formula than the House formula. Many of those have Democratic Governors and many of those have Democratic Senators. Many of those have Republican Governors and Republican Senators.

Let me repeat. Under this formula, 46 States are better off than in the House formula.

Mr. President, Senator COHEN has adequately answered the remarks with reference to nursing homes. I do not know how anybody could stand on the floor of the U.S. Senate and say that we are raping the nursing homes when we have just heard Senator COHEN, one of the strongest and best advocates, say that has been fixed in this bill. He just said it. He repeated it. He read the language. And so we hear it from that side over and over again.

Let me tell you with reference to the money in this budget that is used for some of the reallocation, that there is nothing wrong with it. It is not phony. It is plain and simple, the fact: We have already established in the United States of America that the Consumer Price Index is not 3.1 percent, but, rather, 2.6 percent. We are not talking about 3 years from now. We are talking about right now. It is not 3.1, as estimated in this budget. It is 2.6. The reality is that is not going to change. It is 2.6 for the rest of the year. It just happens, if you do the numbers, that saves $13.1 billion. That means $13.1 billion less is being spent because of the real Consumer Price Index—not speculation and not changing anything. That is where you get $13.1 billion.

The reason we only use $13.1 billion is because we did not want to use the tax revenues and spend them. We left them there. So we only used the revenues that I have just described. It does not mean we changed anything on the Tax Code. The taxes are going to come out at the 2.6 level in terms of the bracket creep that will be adjusted. So that argument just misunderstands what we have done and what the reality is.

Having said that, Mr. President, I am led to believe that, in spite of this interoffice memorandum, there is nothing from the Director of the Congressional Budget Office. This is somebody that works there named Paul Van de Water, writing to somebody named Sue Nelson, who is on the staff of the Budget Committee, and gives a little history of what has and has not been done.

The truth of the matter is that Chairman Sasser last year came to the floor—in 1993, excuse me—and he said, ''I want to adjust the numbers for reality, for the real thing.'' And, in fact, he adjusted two items in the budget for what he perceived to be the real numbers. In doing that, revenues and moneys were found to make their budget come out as planned.

Frankly, ours is absolutely real because the Consumer Price Index is not 3.1 percent. The checks are going out at 2.6. We are not taking money away from anyone.

I am led to believe this is not subject to a point of order, and we decided that we were going to reallocate some money because a number of States felt that they had not been treated fairly here. Some said they had been treated fairly in the House. Others said they had not, and we still have to go to conference in order to come out with the final formula and final distribution.

So as far as that part is concerned, how the allocations came about, I was not part of that committee. I trust them. I think they did a good job. And the chairman is here. They all worked together on it. Perhaps he wants to explain in more detail.

But let me suggest that we in no way—in no way—are attempting to defraud anyone. As a matter of fact, this budget will be balanced in the year 2002, and if you need a letter on that from June O'Neill, we will get it for you.

This does not unbalance the budget, because we have a $13 billion surplus in 2002, and we do not use up that surplus. You do not even come close to using it, so we will still be in balance.

If I have not used my time, I wish to yield it back. And I want to ask Senator ROTH if he wants to talk for a couple minutes, or Senator DOLE.

The PRESIDING OFFICER. The Senator has 7 minutes 35 seconds.

Mr. DOMENICI. How much time do we have?

The PRESIDING OFFICER. Seven minutes 35 seconds.

Mr. DOMENICI. We will reserve our time.

The PRESIDING OFFICER. Who yields time?

Mr. EXON. How much time do we have remaining?

The PRESIDING OFFICER. The Senator has 4 minutes 24 seconds and previously yielded time, I believe 2 minutes.

Does the Senator wish to reallocate his time?

Mr. EXON. The Senator from West Virginia is not interested in additional time.

I wish to yield 2 minutes to the Senator from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas is recognized for 2 minutes.

Mr. PRYOR. Mr. President, I will not use all my 2 minutes.

Mr. President, I rise to ask a parliamentary inquiry.

Mr. President, this morning by a vote of 51 to 48, the Senate voted for an amendment offered by myself and Senator COHEN of Maine. The amendment was adopted and agreed to. Presently pending is another amendment with different language proposed by the distinguished chairman of the Finance Committee, Senator ROTH, in the manager's amendment. Should the manager's amendment pass, does the manager's amendment encompassing or including the nursing home provisions of Senator ROTH, does it prevail over the amendment passed this morning by a vote of the Senate?

The PRESIDING OFFICER. The Chair is informed that by virtue of the fact that this amendment covers a broader spectrum of the bill, if the Senate adopts this amendment, it would prevail over the previous text that was included in the smaller reaching amendment that was voted upon this morning.

Mr. PRYOR. Mr. President, then if I have any time remaining, I would simply ask my colleagues on the other side of the aisle, why? Why are we obliterating these nursing home standards that have worked so well for these years, that my colleague from Maine was saying just now are having their bite? Why are we taking that bite out?

I think, Mr. President, we are going to be committing a terrible mistake if we do. I hope we will not adopt the chairman's amendment.

Mr. EXON. How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 2 minutes 50 seconds.

Mr. EXON. I yield 2 minutes 50 seconds to the Senator from Florida.

The PRESIDING OFFICER. The Senator from Florida is recognized for 2 minutes 50 seconds.

Mr. GRAHAM. Mr. President, I would like to make a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state the inquiry.

Mr. GRAHAM. Are outlay reductions to Social Security used to offset the spending of this amendment?

The PRESIDING OFFICER. The Chair is not in a position to answer that question.

Mr. GRAHAM. Would the Chair like to be informed on that matter so that he might be in a position to answer that question?

The PRESIDING OFFICER. The Chair would be happy to listen to the Senator from Florida.

The Senator has 2 minutes 30 seconds. The parliamentary inquiry does not come out of the time.

Mr. GRAHAM. Mr. President, I send to the desk for the review of the Chair as well as for inclusion in the RECORD the 1996 COLA versus conference resolution baseline assumptions data, October 16, 1995.

I would like to ask that these be compared with the projections which are utilized to produce the revenue for purposes of supporting the funding contained in this amendment.

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

All Cash Benefit Programs Indexed to the CPI

ACTUAL 1996 COLA VERSUS CONFERENCE RESOLUTION BASELINE ASSUMPTIONS

[Outlays shown by fiscal year, In millions of dollars]

	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005
Social Security	−1,273	−1,729	−1,769	−1,782	−1,788	−1,788	−1,795	−1,811	−1,836	−1,867
Railroad Tier I	−18	−25	−26	−26	−26	−26	−27	−27	−28	−28
Railroad Tier II	−4	−5	−5	−5	−5	−5	−5	−5	−5	−5
SSI	−83	−110	−127	−135	−215	−150	−217	−248	−260	−271
Food Stamp Offset	16	23	24	25	34	27	34	38	39	41
Military Retirement	−11	−144	−150	−160	−167	−174	−182	−190	−198	−206
Vets Compensation	−50	−81	−78	−74	−90	−100	−111	−124	−138	−153
Vets Pensions	−10	−13	−12	−11	−12	−12	−12	−12	−12	−12
Civilian Retirement	−94	−188	−189	−191	−193	−196	−198	−201	−203	−206
FECA	−3	−5	−3	−1	−1	−1	−1	−1	−1	−1
Foreign Service	−1	−2	−2	−3	−3	−3	−3	−3	−3	−3
PHS Retire	0	−1	−1	−1	−1	−1	−1	−1	−1	−1
Coast Guard Retire	0	−2	−3	−3	−3	−3	−3	−3	−3	−3
SMI Offset	0	0	0	0	0	0	0	0	0	0
Medicaid Offset	0	0	0	0	0	0	0	0	0	0
Total	−1,529	−2,290	−2,340	−2,365	−2,468	−2,431	−2,520	−2,587	−2,648	−2,716
Cola Assumptions (in percent):										
Actual 1996	2.6	3.4	3.4	3.2	3.2	3.2	3.2	3.2	3.2	3.2
Resolution Baseline	3.1	3.4	3.4	3.2	3.2	3.2	3.2	3.2	3.2	3.2

The PRESIDING OFFICER. The Senator's time is running.

Mr. GRAHAM. Mr. President, it was my understanding that time for points of order and parliamentary inquiry is not charged against the time. Is that correct?

The PRESIDING OFFICER. Respectfully, the Senator has been answered as far as the parliamentary inquiry is concerned. The Chair is not capable of making the comparisons the Senator wishes.

Mr. GRAHAM. I wonder if the Senator from New Mexico or the Senator from Delaware as chairs of the respective committees would like to comment whether they believe there are outlay reductions to Social Security used to offset the spending in this amendment.

Mr. DOMENICI. I am satisfied with the ruling of the Chair. I have no comment on that.

Mr. GRAHAM. Mr. President, I raise a point of order under section 310(d) of the Congressional Budget Act of 1974 against the pending amendment.

The PRESIDING OFFICER. The Chair might inform the Senator from Florida, and will not use the time but give back his time, until the time is all used, it is not yet in order to make a point of order.

Mr. GRAHAM. Mr. President, I will withhold, but reserving the time to make a point of order at the appropriate time.

The PRESIDING OFFICER. The Senator will have that time. He has 45 seconds remaining.

Mr. GRAHAM. Mr. President, just to prepare for the consideration of the point of order that will be made, I would draw the attention of the Chair to subtitle (c) of the Social Security Act, section 13301 which states:

Off budget status of Social Security Trust Funds. Exclusion of Social Security from all budgets. Notwithstanding any other provisions of law, the receipts and disbursements of the Federal Old Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund shall not be counted as new budget authority, outlays, receipts, for deficit or surplus, for the purposes of the budget of the U.S. Government submitted by the President, the Congressional Budget or the Balanced Budget and Emergency Deficit Control Act of 1985.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Mr. President, I wonder who wants time on this side.

I yield 2 minutes to the chairman of the Finance Committee.

The PRESIDING OFFICER. Two minutes to the Senator from Delaware.

Mr. ROTH. First of all, Mr. President, I think it is important to understand that 45—45—of the 50 States are better off under the Senate amendment than they are under the House. And I would just like to make passing reference to the three States that are said to have Democratic Senators.

Just let me point out that in the case of California, it is up $700 million from the House; Florida is up $1.3 billion from the House, and Minnesota is up $500 million from the House.

Now, one of my distinguished colleagues on the other side mentioned the treatment for seven States on page 36. And I just want to point out that six of these seven States that get additional amounts have one Republican Senator and one Democratic Senator. That was not based on partisanship. It was based upon need. And that is the point I wish to make.

In concluding, the statement was made that we are using the savings from Medicare and Medicaid for a tax cut. That is pure demagoguery. There is no truth to that.

As a matter of fact, the President's board of trustees, long before we talked about tax cuts, said we had to do something about the trust funds for Medicare. And that is what we are doing with this legislation.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DOMENICI. How much time is left on our side?

The PRESIDING OFFICER. Five minutes twelve seconds.

Mr. DOMENICI. The other side has used all their time?

The PRESIDING OFFICER. Yes.

Mr. DOMENICI. I yield 3 minutes to Senator COHEN.

The PRESIDING OFFICER. The Senator from Maine is recognized for 3 minutes.

Mr. COHEN. I thank the Senator for yielding.

If I could point out what is also in this measure that has not been talked about in the last few moments.

No. 1, there are set-asides for the QMB program. I think everyone is familiar with what I am talking about. That is in the manager's amendment. There is a requirement that States impose strong solvency standards on Medicaid providers. That is in this amendment. There is an increase in Medicaid funding. That is in this amendment. There is more money for Medicare in direct education payments, and allows for more causes of action to enforce Medicaid provisions.

What was not talked about in terms of this measure is the following: We, under this measure, are imposing the nursing home reforms on the States. OBRA 1987 will remain in effect. That is what this amendment contains.

No. 2, not only do we have the same standards in effect, we also have enforcement in effect. Those two key points have to be made. The States are required to comply with the national standards, and those enforcement standards remain in effect.

There is a waiver provision contained on page 38. And I call all of the attention of my colleagues to it. What it says is, if a State does in fact have equal to or greater standards, they

may qualify or try to apply for a waiver. They can do that. If they have penalties that are equal to or greater than what is in the Federal law, they can apply for the waiver.

The Secretary of HHS has 120 days, in which time he either grants it or denies it. And assuming he or she grants it, he or she still retains the authority to go in there and impose penalties upon the State if there is any deviation from the standards. They can suspend and terminate the institution. They can terminate the waiver.

No. 3, at the bottom of the page, please look at it. ''Any other authority available to the Secretary to enforce requirements of section 1919.'' That is OBRA. That says the Secretary of HHS still has all of the authority to enforce every single provision in OBRA '87, all the way up to the change we made as of this date.

So, I want to assure my colleagues I would not be supporting this if I did not believe that we for the first time have the majority saying we want to maintain OBRA '87. We want the same standards. We want the same enforcement levels. We will provide some opportunities for a waiver, but only if they measure up to what we expect, and then the Secretary retains the authority to impose every single penalty. So in many ways we give more authority to the Secretary under these circumstances.

So, please, I hope everyone will not mischaracterize what is being done here.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from New Mexico has 2 minutes 13 seconds.

Mr. DOMENICI. I yield 2 minutes to Senator DOLE.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. I just want to say I think we had a fair discussion of this amendment, and we indicated to the Senator from Florida this morning we would have that discussion. He did have access, as he indicated, to the information at about 6:27. So, I believe we had adequate time to take a look at it.

We made a lot of changes. Changes are always made in a big, big package like this by either party, both parties, whatever. I believe the Senator from Maine and the Senator from Delaware and others pointed out these have been very constructive changes.

We always have these formula fights. And there is always someone running around with a sheet of paper saying how much one State got over the other State. I can name a State with two Republican Senators where they are getting $500 million less than they had in the middle of the week. They were not very happy about it, but that is the way the formula worked. Florida gets $1 billion more, California $700 million more than we had in the committee. Minnesota gets $508 million more than we had on the House side.

So we believe we are making progress. We are going to go to conference. We discussed this with the Senator from Minnesota, I might add. He is aware of it. He was concerned we were going to adopt a House formula which was $508 million less.

So, I say to my colleagues, it is time, I think, we wrap it up around here. And I hope that we will have every—all the votes. Everybody ought to vote for this amendment. This is a very constructive amendment, whether it is nursing homes, whatever it is. I know there is a lot of politics about nursing homes. I know the liberal media bought into the spin put on by the Democrats.

But the Senator from Maine would not be standing up here making these statements if they were not accurate. If anybody wants to question the integrity or the credibility of the Senator from Maine, they ought to stand up and do it. They are not going to do it because he has total integrity and total credibility on this issue.

I believe that we have made constructive changes. I hope we will have, if not any support from that side, solid support on this side of the aisle for this amendment.

The PRESIDING OFFICER. All time has expired.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, I am directing my attention to section 7482 of the legislation, which begins on page 45 and states:

> Cost-of-Living Adjustments During Fiscal Year 1996.
>
> Notwithstanding any other provision of law, in the case of any program within the jurisdiction of the Committee on Finance of the United States Senate which is adjusted for any increase in the consumer price index for all urban wage earners and clerical workers (CPI-W) for the United States city average of all items, any such adjustment which takes effect during fiscal year 1996 shall be equal to 2.6 percent.

It is to that section, Mr. President, that I direct the point of order. I raise the point of order under section 310(d) of the Congressional Budget Act of 1974 against the pending amendment because it counts $12 billion in cuts to Social Security which is off budget to offset spending in the amendment.

The PRESIDING OFFICER. Does the Senator from New Mexico wish to be heard on this point of order?

Mr. DOMENICI. I want to say the dollar numbers being referred to are actual. That is all I want to say.

Mr. GRAHAM. Mr. President, could I respond to the—do you wish further debate on the point of order?

The PRESIDING OFFICER. It is not debatable. I note the Senator from New Mexico wishes not to make a statement.

The scoring of this bill under the Budget Act is under the control of the chairman of the Budget Committee, and the precedents of the Senate do not go beyond that. The point of order is not well taken.

Mr. HARKIN addressed the Chair.

Mr. DOMENICI. I ask for the yeas and nays.

Mr. HARKIN. I raise a point of order under section 310(g) of the Budget Act because the pending amendment achieves its savings by changing the cost-of-living provisions of section 215 of the Social Security Act, and changing title II of that act violates section 310(g) of the Congressional Budget Act.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. CPI was not changed as referred in that act.

The PRESIDING OFFICER. The Chair is informed that the provisions in the act cited are not applicable to this instance and that the point of order is not well taken.

Mr. HARKIN. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. State the inquiry.

Mr. HARKIN. Section 7482 on page 45 of the pending amendment, line 22, states: ''Notwithstanding any other provision of law . . .'' Parliamentary inquiry. Is this not referencing title II of Social Security?

The PRESIDING OFFICER. The Chair is informed that that would not be interpreted as referencing anything. That is to indicate that without regard to any other provision of law, this provision of this bill would become law.

Mr. HARKIN. Further parliamentary inquiry.

Is the Chair then ruling that by that very sentence, ''Notwithstanding any other provision of law,'' that that would, in fact, cover title II of Social Security since it is law? And that, ''Notwithstanding any other provision of law,'' therefore, that overcomes title II of Social Security?

The PRESIDING OFFICER. The Chair would state that that interpretation—I must yield to the Senator's inquiry. The Senator is asking this Chair to act as a court and make a determination of law and the conflicts of law, and that is not within the proper prerogative of this Chair.

Mr. HARKIN. Further parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. Yes.

Mr. HARKIN. Is the Chair ruling, as pertains to the ruling on Senator GRAHAM's point of order, is the Chair ruling that the Social Security Act, title II, may be changed within the reconciliation process by drafting a provision to read, ''notwithstanding any other provision of law''?

The PRESIDING OFFICER. The Chair's ruling with regard to the point of order of the Senator from Florida was on the basis of the issues he stated. The Chair is not ruling—the Chair is not ruling—as the Senator indicated, that there is any indication here before the Chair of a provision to change the Social Security Act.

Mr. HARKIN. One last——

Mr. GREGG. What is the regular order?

Mr. HARKIN. One last parliamentary inquiry.

Mr. GREGG. I am asking for the regular order.

Mr. HARKIN. One last parliamentary inquiry.

The PRESIDING OFFICER. The regular order is for the Chair to determine if there is a bona fide parliamentary inquiry being presented to the Chair. One further inquiry.

Mr. HARKIN. If that is the ruling of the Chair, the Social Security law must be naked to attack under reconciliation.

Would not section 310(g) of the Budget Act be now rendered meaningless by the precedent the Chair is now setting?

The PRESIDING OFFICER. The Chair has no intention of rendering meaningless any provision of the Budget Act. We are attempting to comply with the Budget Act. The Chair is informing that the chairman of the Budget Committee has the authority, as did the previous chairman, to make the determination that has been made with regard to this aspect of this bill.

Mr. DOMENICI. I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

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

The result was announced—yeas 57, nays 42, as follows:

[Rollcall Vote No. 554 Leg.]

YEAS—57

Abraham	Cochran	Gramm
Ashcroft	Cohen	Grams
Bennett	Coverdell	Grassley
Biden	Craig	Gregg
Bond	D'Amato	Hatch
Bradley	DeWine	Hatfield
Brown	Dole	Helms
Burns	Domenici	Hutchison
Campbell	Faircloth	Inhofe
Chafee	Frist	Jeffords
Coats	Gorton	Kassebaum
Kempthorne	McConnell	Smith
Kyl	Murkowski	Snowe
Lautenberg	Nickles	Specter
Levin	Pressler	Stevens
Lott	Roth	Thomas
Lugar	Santorum	Thompson
Mack	Shelby	Thurmond
McCain	Simpson	Warner

NAYS—42

Akaka	Feinstein	Lieberman
Baucus	Ford	Mikulski
Bingaman	Glenn	Moseley-Braun
Boxer	Graham	Moynihan
Breaux	Harkin	Murray
Bryan	Heflin	Nunn
Bumpers	Hollings	Pell
Byrd	Inouye	Pryor
Conrad	Johnston	Reid
Daschle	Kennedy	Robb
Dodd	Kerrey	Rockefeller
Dorgan	Kerry	Sarbanes
Exon	Kohl	Simon
Feingold	Leahy	Wellstone

So the amendment (No. 3038) was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Are there any other amendments to this bill?

Mr. EXON. Mr. President, I think we may be down to the last vote. Our bipartisan staffs have visited with the office of the Parliamentarian. That office has confirmed——

The PRESIDING OFFICER. If the Senator will withhold. The Senate is not in order.

Mr. EXON. Mr. President, our bipartisan staffs have visited with the office of the Parliamentarian. That office has confirmed that each and every provision in our point of order is indeed a violation of the Byrd rule. So I renew my point of order under the Byrd rule.

The PRESIDING OFFICER. The chair is informed that the Parliamentarian's office has indicated it has reviewed the presentation made concerning extraneous provisions, some 49 provisions. On the basis and advice of the Parliamentarian, the Chair sustains 46 of those.

Mr. DOMENICI. Mr. President, I move to waive some or all of these.

The PRESIDING OFFICER. The Senator has that right.

Mr. EXON. Mr. President, could we have a ruling of the Chair?

Mr. DOMENICI. If you do the ruling, we cannot appeal it.

The PRESIDING OFFICER. The Chair is informed the motion to waive would take precedence over the ruling.

The Chair is prepared to rule.

Mr. DOMENICI. Parliamentary inquiry.

The PRESIDING OFFICER. State the inquiry.

Mr. DOMENICI. If I move to waive and send that to the desk with an attached list of the points of order but not all of them, what governs the debate on that proposal?

Is there any debate?

The PRESIDING OFFICER. There is no time left for debate without agreement. The point of order has been raised. The motion to waive is in order. The motion to waive is not debatable. It is subject to a vote by the Senate.

Mr. DOLE. I wonder if the Democratic leader would have, say, 10 minutes equally divided.

Mr. DASCHLE. We have no objection.

The PRESIDING OFFICER. Is there objection to the request of 10 minutes equally divided on this issue?

Does the Chair interpret the leader to mean on the motion to waive the point of order? Is there objection?

Five minutes on a side, then, on this issue.

DOMENICI MOTION TO WAIVE THE BUDGET ACT

Mr. DOMENICI. Mr. President, I send a list of the points of order that I am moving to waive—a partial list of the Exon points of order.

Mr. President, pursuant to section 904(c) of the Budget Act, I move to waive the Budget Act for the consideration of the following provisions and for the language of the provisions if included in the conference report:

TITLE VII.—FINANCE, MEDICAID AND WELFARE EXTRANEOUS PROVISIONS, RECONCILIATION 1995

Subtitle and Section	Subject	Budget Act Violation	Explanation
2174	Individual Entitlement	313(b)(1)(A)	Extraneous; no budgetary impact. This title shall not be construed as providing for an entitlement.
Subtitle C—Welfare:			
403(a)(3)	Supplemental Grant for Population Increases in Certain States.	313(b)(1)(B)	Extraneous; costs. Provides additional grants to states with higher population growth and average spending less than the national average.
403(b)(2)	Treat Interstate Immigrants Under Rules of Former States	313(b)(1)(A)	Extraneous; no budgetary impact. A State may apply to a family some or all of the rules, including benefit amounts, or the program operated by the family's former state if the family has resided in the current state less than 12 months.
405(b)(1)	No Assistance for More Than Five Years	313(b)(1)(A)	Extraneous; does not score. States may not provide assistance for more than 5 years on a cumulative basis; can opt to provide it for less than 5 years.
406(6)	State Option to Deny Assistance For Out-of-Wedlock Births to Minors.	313(b)(1)(A)	Extraneous; does not score. States may deny assistance for a child born out-of-wedlock to an individual who has not attained 18 years of age, or for the individual.
406(c)	State Option to Deny Assistance For Children Born to Families Receiving Assistance.	313(b)(1)(A)	Extraneous; does not score. States may deny assistance for a minor child who is born to a recipient of assistance.
406(f)	Grant Increased to Reward States That Reduce Out-of-Wedlock Births.	313(b)(1)(B)	Extraneous; costs. Provides additional funds to states that reduce out-of-wedlock births by at least 1 percent below 1995 levels, and whose rates of abortion do not increase. Secretary can deny the funds if the State changes methods of reporting data.
418	Performance Bonus and High Performance Bonus	313(b)(1)(B)	Extraneous; costs. 5 States with highest percentage performance improvement receive a bonus. Note: this is paid for with previous year's penalties so some might claim it is deficit neutral. However, it is a separate and discrete section.
7202	Services Provided by Charitable, Religious, or Private Organizations.	313(b)(1)(A)	Extraneous; no cost impact. Allows states to provide services through contracts with charitable, religious, or private organizations.
7207	Disclosure of Receipt of Fed Funds	313(b)(1)(A)	Extraneous; no cost impact.
Subtitle D—SSI:			
Chapter 5:			
7291	Repeal of Maintenance of Effort Requirements Applicable to Optional State Programs for Supplementation of SSI.	313(b)(1)(A)	Extraneous; no cost impact. Savings accrues to the state.
Chapter 6:			
7295	Eligiblity for SSI Benefits Based on Soc. Sec. Retirement Age.	313(b)(1)(A)	Extraneous; no cost impact within the 7-year budget window.

TITLE VII.—FINANCE, MEDICAID AND WELFARE EXTRANEOUS PROVISIONS, RECONCILIATION 1995—Continued

Subtitle and Section	Subject	Budget Act Violation	Explanation
Subtitle G—Other welfare:			
Chapter 1:			
7412	Reductions in Federal Bureaucracy	313(b)(1)(A)	Extraneous; no direct spending impact. Reduction is on the discretionary side of the budget.
7445	Abstinence Education in Welfare Reform Legislation	313(b)(1)(A)	Extraneous; no direct spending impact. Authorization of appropriations.
Subtitle J—COLA's:			
7481	SoS Regarding Corrections of Cost of Living Adjustments	313(b)(1)(A)	Extraneous; no direct spending impact. Finds that the CPI overstates the cost of living in the US, and that the overstatement undermines the equitable administration of Federal benefits. Expresses the Sense of the Senate that Federal law should be corrected to accurately reflect future changes in the cost of living.

Mr. DOMENICI. Let me explain what is in it: only provisions included in the welfare bill.

The reason I did that is because the Senate approved the welfare bill—87 votes on the welfare side.

The PRESIDING OFFICER. There is no time for debate.

Mr. DOMENICI. I send it to the desk.

The PRESIDING OFFICER. The Chair will have to look and see whether there are any of these provisions not covered by the ruling that the Chair was prepared to make.

Mr. KERRY. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. Hold up for a minute, please.

What is the parliamentary inquiry?

Mr. KERRY. The parliamentary inquiry was whether or not the Chair was in the process of giving a ruling which would assist us to know what the relevancy of the waiver is. The Senator would certainly appreciate hearing the ruling.

The PRESIDING OFFICER. The Chair will inform the Senate that the Parliamentarian has indicated the proper procedure would be to act on the motion of the Senator from New Mexico to waive the point of order.

It is a partial waiver, he sees. During the vote on that matter, we will assert whether the items that the Parliamentarian informed the Chair were not acceptable were covered by this motion.

If they are not, we will then proceed to rule. There were three items that the Parliamentarian indicated should be dropped from the statement of extraneous provisions provided by the Senator from Nebraska.

There is now 10 minutes equally divided, 5 minutes on a side.

Mrs. BOXER. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. Who yields time?

We have a time agreement now. There can be no further parliamentary inquiry without using the time.

Mr. EXON. I yield 1 minute.

Mrs. BOXER. I want to know which three the Chair has ruled on.

The PRESIDING OFFICER. The Chair has not ruled and will not rule under the Parliamentarian's advice until the Chair acts on the motion to waive the point of order on a series of these items.

Mr. DOMENICI. I yield 3 minutes to the Senator from Pennsylvania.

Mr. KERRY. Parliamentary inquiry.

The PRESIDING OFFICER. There is no time until we use this 10 minutes, except for that purpose.

Mr. KERRY. Parliamentary inquiry takes precedence over request for time.

The PRESIDING OFFICER. Not unless——

Mr. DOMENICI. I yield 3 minutes to the Senator from Pennsylvania.

Mr. SANTORUM. I want to let people know what is in this motion. What this motion would do, what the motion of the Senator from Nebraska would do is strike the 5-year limit. There will no longer be a time limit on welfare.

Some people would like that, but we voted 87 to 12. You want to end welfare as we know it, in what the President said he campaigned on, put a time limit on welfare. If this motion is not waived, we will not have a time limit on welfare.

The growth formula—we worked very long and hard on trying to find money to be able to give to the States as they grow under the welfare system. All the growth formulas are struck—no more money. Whatever you get in the original formula, you do not get any additional money. We do not take into account any growth in welfare population. They strike it all.

Want to provide for assisted suicide payments? You can do that. Under the original bill, you cannot actually reimburse people who actually tried to go out and help people kill somebody else. Now you can. You can do it because we will strike it under this provision.

There is a laundry list of things here that are just punitive. We had a vote, an overwhelming vote, on doing something about illegitimacy. We talked long and hard about how we wanted to do something on illegitimacy. The bonus for States who reduce their out-of-wedlock birth rate is struck from the welfare. Everyone will come back home and say we care about it and strike it.

So, no time limit on welfare. No growth formula for States —and many of you profit very well on both sides of the aisle from the growth formula put in place—for more money. It is gone.

I just want people to think long and hard. You have basically gutted the welfare bill. There is no way this thing will be able to survive and States will be able to survive under the rules that you will put into effect here.

I hope that we would stand by the 87–12 vote on this welfare and stand by the Senate vote before and vote with the chairman of the Budget Committee on his motion.

The PRESIDING OFFICER. The Senator has 3 minutes and 12 seconds left. The Senator from Nebraska has 4 minutes and 47 seconds left.

Mr. EXON. Mr. President, I yield myself 2 minutes.

I rise to oppose a motion to waive, including a major welfare bill in this massive, multi-page bill under a fast-track procedure. It is a gross violation of the process. It is extremism.

Yes, most of us voted for the welfare bill, as did this Senator. But putting this major policy change in a bill whose sole purpose is to reduce the deficit is abuse. This is just the sort of thing that the Byrd rule was designed to prevent.

I urge my colleagues to reject this motion to waive.

I yield 30 seconds to the Senator from New York.

Mr. MOYNIHAN. Mr. President, about 2 weeks ago we made a profound mistake in voting the welfare measure we did. A report now surfaces from the White House that says it will instantly plunge 1.1 million children into poverty.

If that is the desire of this body, vote not to waive. You have a chance of redemption.

The PRESIDING OFFICER. The Senator has 3½ minutes remaining.

Mr. EXON. I yield 2 minutes to the Senator from South Dakota.

Mr. DASCHLE. Mr. President, I voted for the welfare bill, as well.

Let me say I do not hold the same view as the distinguished Senator from New York about the consequences of the bill that we passed here in the Senate.

Obviously, I would like to see a lot more done in welfare reform, and ultimately I think we will do a lot more. If we feel strongly about welfare, it is important enough to separate out from reconciliation. It ought to stand on its own. It ought to be considered policy for policy sake, not a source of revenue, referred out of current welfare programs into other things.

That is what we are doing in the reconciliation package. That is why I support the point of order raised by the ranking member, the Senator from Nebraska.

Mr. DOMENICI. I yield back the balance of our time. I ask for the yeas and nays on the motion to waive.

The PRESIDING OFFICER. The Senator from Nebraska has 2 minutes remaining.

Mr. EXON. I yield 2 minutes to the Senator from West Virginia.

Mr. BYRD. Mr. President, I voted for the welfare bill, but I did not vote on each of the items, which may be in violation of the Byrd rule on this bill. That is what we are narrowing it down

to at this point. Is it extraneous to the reconciliation bill?

A point of order has been made against certain areas, against certain amendments, as being in violation of the Byrd rule. That is the question to be decided.

The Senator from New Mexico, the distinguished manager, has moved to waive this Byrd rule point of order.

The Senate will vote one way or the other. If the Senate votes to waive the point of order, then there is no point of order. It falls. But if the Senate votes not to waive the point of order, then the Chair will rule on each of the amendments, either en bloc, or, if there are one or two that the Chair disagrees with, he can so state, as he sees it.

I hope the Senate will uphold the Byrd rule, the intention of which was to rule out extraneous matter in reconciliation bills. No matter what your thinking is on the welfare bill—and the point of order has now been made—is that bill extraneous in the context of the interpretations that have been made, the precedents, the definitions, and the rule itself?

I hope the Senate will vote against the motion to waive so that the Chair may rule on the point of order.

Mr. DOMENICI. Mr. President, I wonder if I could reclaim 45 seconds of my time.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, every rule, including the Byrd rule, is made for waiver. It is not a rule that Senators cannot apply any judgment to. And the reason we think this is appropriate is because 87 Senators have already voted for these provisions. I mean, I do not bring a waiver of the Byrd rule here willy-nilly just to defy the very admirable efforts of the Byrd rule to keep a bill rather clean. But I do not think leaving in a welfare bill, which is in this reconciliation bill, provisions that you already voted for with 87 votes, I do not believe that is a trivial matter for those who voted for it, if they are going to vote the opposite way tonight as they choose to strip the welfare bill of provisions they voted for before.

If I have any time remaining, I yield it back.

Mr. CONRAD. Will the Senator yield for a question?

Mr. President, I ask unanimous consent for just a moment for a question of the Senator from New Mexico?

The PRESIDING OFFICER. State the request.

Mr. CONRAD. The question that I would have——

The PRESIDING OFFICER. How much time?

Mr. CONRAD. Thirty seconds.

The PRESIDING OFFICER. Is their objection?

Mr. CONRAD. Does the waiver of the Senator from New Mexico only apply to welfare provisions?

Mr. DOMENICI. That is correct. I have taken out of the large package purposefully only those that apply to welfare and ask that we waive them. Then we will go on to vote and see what we want to do about it.

Mr. CONRAD. Do we have a list of what those provisions are?

Mr. DOMENICI. Yes, we do.

Mr. CONRAD. Could Senators have a copy of that before they vote?

Mr. DOMENICI. Sure. I had 10 or 12 made. I will be happy to give them to you.

The PRESIDING OFFICER. Did the Senator say he wished time to deliver a copy to every Senator before the Senate votes?

Mr. DOMENICI. No. I said if any Senators want to see it, we have it available.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from New Mexico. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

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

The yeas and nays resulted—yeas 53, nays 46, as follows:

[Rollcall Vote No. 555 Leg.]

YEAS—53

Abraham	Frist	McCain
Ashcroft	Gorton	McConnell
Bennett	Gramm	Murkowski
Bond	Grams	Nickles
Brown	Grassley	Pressler
Burns	Gregg	Roth
Campbell	Hatch	Santorum
Chafee	Hatfield	Shelby
Coats	Helms	Simpson
Cochran	Hutchison	Smith
Cohen	Inhofe	Snowe
Coverdell	Jeffords	Specter
Craig	Kassebaum	Stevens
D'Amato	Kempthorne	Thomas
DeWine	Kyl	Thompson
Dole	Lott	Thurmond
Domenici	Lugar	Warner
Faircloth	Mack	

NAYS—46

Akaka	Feinstein	Lieberman
Baucus	Ford	Mikulski
Biden	Glenn	Moseley-Braun
Bingaman	Graham	Moynihan
Boxer	Harkin	Murray
Bradley	Heflin	Nunn
Breaux	Hollings	Pell
Bryan	Inouye	Pryor
Bumpers	Johnston	Reid
Byrd	Kennedy	Robb
Conrad	Kerrey	Rockefeller
Daschle	Kerry	Sarbanes
Dodd	Kohl	Simon
Dorgan	Lautenberg	Wellstone
Exon	Leahy	
Feingold	Levin	

The PRESIDING OFFICER. On this vote, there are 53 yeas, 46 nays. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to.

Now, if the Senate will be in order.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. I suggest the absence of a quorum.

The PRESIDING OFFICER. Will the Senator withhold for the Chair to state one problem?

Mr. DOLE. The Chair is not going to rule.

The PRESIDING OFFICER. No, but I wish to state that the Chair has been informed that each of these extraneous provisions is subject to a motion to waive. It would be incumbent on the Chair somehow to get an agreement with the Senate how to handle this. We have never handled such a massive list of extraneous provisions before.

The majority leader has suggested a quorum. The clerk will call the roll. There is this problem.

The legislative clerk proceeded to call the roll.

Mr. DOLE. I ask unanimous consent that further proceedings under the quorum call be dispensed with.

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

The Senate will be in order. Will Senators please take their seats?

Mr. DOLE. I ask to proceed for 2 minutes.

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

Mr. DOLE. Mr. President, I think rather than take further time of the Senate tonight, we can knock all the other provisions out in conference with the Byrd rule, the very selective list sent up by the Democrats. We can take care of the other provisions in a conference. They are also subject to the Byrd rule. So, I think rather than do that here this evening, we will take care of those in conference.

Let the Chair rule, en bloc.

The PRESIDING OFFICER. The Chair is prepared to rule pursuant to the general order provisions that were added to the Byrd rule in 1990. And the Chair, on the advice of the Parliamentarian, does rule that of the 49 items listed on extraneous provisions, 46 are well taken, 3 are not.

One is the provision regarding exemption of agriculture and horticultural organizations from unrelated business income tax on associate dues.

The second is the tree assistance program under the Committee on Agriculture.

And the third is the provision of the Commerce Committee dealing with the Spectrum language on page 207.

Those are the three items.

The Chair must advise that after such a ruling any Senator may appeal the ruling of the Chair.

Mr. DASCHLE. Mr. President, just a point of inquiry.

If this material would be incorporated in the conference report, when it comes back would it be subject to the same point of order?

The PRESIDING OFFICER. The Chair is advised it would be.

Mr. DASCHLE. I thank the Chair.

Mr. DOMENICI. Did you rule?

The PRESIDING OFFICER. The Chair ruled that 46 items listed on the extraneous provisions are subject to the Byrd rule. Those items are individually appealable.

The clerk will enter in the RECORD those items presented to the Chair and those that were ruled upon pursuant to the advice of the Parliamentarian.

The extraneous provisions are as follows:

EXTRANEOUS PROVISIONS, RECONCILIATION, 1995

Subtitle and Section	Subject	Budget Act Violation	Explanation
		TITLE I.—AGRICULTURE	
1113(e)(2)	Makes available additional peanuts if market price exceeds 120% loan rate.	313(b)(1)(A)	No budgetary impact.
1115	Savings adjustments to prorate payments to farmers if deficit targets aren't met.	313(b)(1)(A)	No budgetary impact.
		TITLE II.—ARMED SERVICES	
Sec 2001	Sale of Naval Petroleum Reserves	313(b)(1)(E)	The sale of Naval Petroleum Reserve Numbered 1 (Elk Hills), as provided in 7421a., and the sale of naval petroleum reserves other than Naval Petroleum Reserve Numbered 1 (Elk Hills), as provided in 7421b., produce a loss of offsetting receipts in the outyears that is not offset within the title. Specifically, CBO estimates that selling the NPR will result in a loss of offsetting receipts in years 2003–05 of $1.02 billion. Thus, the provision produces revenue losses in years not covered by the budget resolution.
		TITLE III.—BANKING AND URBAN AFFAIRS	
3002	Deposit Insurance Study, Requires Secretary of the Treasury to conduct a study on converting the FDIC into a self-funded deposit insurance system.	313(b)(1)(A)	Instituting a study does not have an impact on the deficit. (Not in cost estimate).
		TITLE IV.—COMMERCE, SCIENCE, AND TRANSPORTATION	
4002	Annual Regulatory Fees	313(b)(1)(A)	Authorizing regulatory fees has no impact on the deficit until after appropriations. (not in cost estimate).
		TITLE V.—ENERGY AND NATURAL RESOURCES	
Subtitle B, DOI:			
5100	California Land Directed Sale	Byrd 313(b)(1)(D)	Savings are merely incidental to the transfer of Federal land (Ward Valley) to the state of California for the purpose of creating a low-level radioactive waste site.
Park K:			
5920	Radio and TV Site Communication Fees	Byrd 313(b)(1)(A)	Extraneous, no budgetary impact. Enactment of this section would have no impact on receipts because the baseline already assumes that the BLM and the Forest Service would raise fees by the level beginning in 1996.
Subtitle F, Oil and Gas:			
5509	Royalty in Kind	Byrd 313(b)(1)(A)	Non-budgetary. Clarifies the Secretary's option to take royalty of oil and gas in kind.
5510	Royalty Simplification	Byrd 313(b)(1)(A)	Non budgetary. Requires the Secretary to streamline royalty management requirements, and submit a report to Congress.
5512	Delegation to States	Byrd 313(b)(1)(A)	Delegates various auditing responsibilities to the States.
		TITLE VI.—ENVIRONMENT AND PUBLIC WORKS	
Section 6002(c)	Rescission of highway demonstration projects	313(b)(1)(C)	This section is not within EPW's jurisdiction.
		TITLE VII.—FINANCE, SPENDING	
1895A(b)(1)(B)(iii)	Medical savings accounts of the Social Security Act as added by sec. 7001 of the bill.	313(b)(1)(B)	Creates Medical Savings Accounts. Increases the deficit by $3.5 billion over 7 years.
7116	Anti-kickback penalties	313(b)(1)(A)	Directs Secretary to study benefits of volume and combination benefits under Medicare. Produces no change in outlays or revenues.
7175	Budget Expenditure Limitation Tool (BELT)	313(b)(1)(A)	Produces no change in outlays or revenues.
		TITLE VII.—FINANCE, MEDICAID AND WELFARE	
Subtitle B, Medicaid:			
2106	Medicaid Task Force	313(b)(1)(A)	Extraneous; no budgetary impact. The Secretary is to establish and provide administrative support for a Medicaid Task Force; membership is specified. An advisory group is to be established for the Task Force; the membership of the advisory group is specified.
2122(g)	Authority to Use Portion of Payment for Other Purposes	313(b)(1)(A)	Extraneous; no budgetary impact. Superwaiver. Allows State to use up to 30 percent of the grant during a fiscal year to carry out a State program pursuant to a waiver granted under Section 1115 involving the new Temp. Assistance block grant, MCH block grants, SSI, Medicare, Title XX (SSBG) and the Food Stamp program. States required to approve or disapprove waiver within 90 days and State are to encourage waivers.
2123(h)	Treatment of Assisted Suicide	313(b)(1)(A)	Extraneous; no budgetary impact. No payments made to pay for or assist in the purchase in whole or in part of health benefit coverage that includes payment for any drug, biological product or service which was furnished for the purpose of causing, or assisting in causing, the death, suicide, euthanasia, or mercy killing of a person.
2174	Individual Entitlement	313(b)(1)(A)	Extraneous; no budgetary impact. This title shall not be construed as providing for an entitlement.
Subtitle C, Welfare:			
403(a)(3)	Supplemental Grant for Population Increases in Certain States.	313(b)(1)(B)	Extraneous; costs. Provides additional grants to States with higher population growth and average spending less than the national average.
403(b)(2)	Treat Interstate Immigrants Under Rules of Former State	313(b)(1)(A)	Extraneous; no budgetary impact. A State may apply to a family some or all of the rules, including benefit amounts, or the program operated by the family's former State if the family has resided in the current State less than 12 months.
405(b)(1)	No assistance for More Than Five Years	313(b)(1)(A)	Extraneous; does not score. States may not provide assistance for more than 5 years on a cumulative basis; can opt to provide it for less than 5 years.
406(b)	State option to Deny Assistance For Out of Wedlock Births to Minors.	313(b)(1)(A)	Extraneous; does not score. States may deny assistance for a child born out-of-wedlock to an individual who has not attained 18 years of age, or for the individual.
406(c)	State option to Deny Assistance For Children Born to Families Receiving Assistance.	313(b)(1)(A)	Extraneous; does not score. States may deny assistance for a minor child who is born to a recipient of assistance.
406(f)	Grant Increased to Reward States That Reduce Out-of-Wedlock births.	313(b)(1)(B)	Extraneous; costs. Provides additional funds to States that reduce out-of-wedlock births by at least 1 percent below 1995 levels, and whose rates of abortion do not increase. Secretary can deny the funds if the State changes methods of reporting data.
418	Performance Bonus and High Performance Bonus	313(b)(1)(B)	Extraneous; costs. 5 States with highest percentage performance improvement receive a bonus. Note: this is paid for with previous year's penalties so some might claim it is deficit neutral. However, it is a separate and discrete section.
7202	Services Provided by Charitable, Religious, or Private Organizations.	313(b)(1)(A)	Extraneous; no cost impact. Allows States to provide services through contracts with charitable, religious, or private organizations.
7207	Disclosure of Receipt of Fed Funds	313(b)(1)(A)	Extraneous; no cost impact.
Subtitle D, SSI:			
Chapter 5: 7291	Repeal of Maintenance of Effort Requirements Applicable to Optional State Programs for Supplementation of SSI.	313(b)(1)(A)	Extraneous; no cost impact. Savings accrues to the State.
Chapter 6: 7295	Eligibility for SSI Benefits Based on Soc. Sec. Retirement Age.	313(b)(1)(A)	Extraneous; no cost impact within the 7-year budget window.
Subtitle G, Other welfare:			
Chapter 1:			
7412	Reductions in Federal Bureaucracy	313(b)(1)(A)	Extraneous; no direct spending impact. Reduction is on the discretionary side of the budget.
7445	Abstinence Education in Welfare Reform Legislation	313(b)(1)(A)	Extraneous; no direct spending impact. Authorization of appropriations.
Subtitle J, COLAs:			
7481	SoS Regarding Corrections of Cost of Living Adjustments	313(b)(1)(A)	Extraneous; no direct spending impact. Finds that the CPI overstates the cost of living in the U.S., and that the overstatement undermines the equitable administration of Federal benefits. Expresses the Sense of the Senate that Federal law should be corrected to accurately reflect future changes in the cost of living.
		TITLE X.—LABOR AND HUMAN RESOURCES	
§ 10002(c) (1) ''(a)(2)(C)''	Participation of Institutions and Administration of Loan Programs, Limitation on Certain [administrative] Expenses.	313(b)(1)(A)	Total administrative funds are fixed in 1002(c)(1)''(a)(1)(A)'', therefore the limitation on indirect expenses and the use of funds for promotion does not score.
§ 10003(d)	Loan Terms & Conditions, Use of Electronic Forms	313(b)(1)(A)	Permitting development of forms does not score. [Not in cost estimate.]
§ 10003(e)	Loan Terms & Conditions, Application for Part B Loans Using Free Federal Application.	313(b)(1)(A)	Clarifying use of electronic forms does not score. [Not in cost estimate.]

EXTRANEOUS PROVISIONS, RECONCILIATION, 1995—Continued

Subtitle and Section	Subject	Budget Act Violation	Explanation
§ 10005(g)	Amendments Affecting Guarantee Agencies, National Student Loan Clearinghouse.	313(b)(1)(A)	Permitting authority to use clearinghouse is not a term and condition. [Not in cost estimate.]
§ 10005(h)	Amendments Affecting Guarantee Agencies, Prohibition Regarding Marketing, Advertising, and Promotion.	313(b)(1)(A)	Only recovery of reserves scores. [Not in cost estimate.] Not term or condition of § 10005(b), (c), (d), or (f).
		TITLE XII.—FINANCE	
12104	Distribution to collectibles	313(b)(1)(A)	No budgetary impact.
12401	Requires Secretary of Labor to implement a program to encourage small businesses to find qualified employees.	313(b)(1)(A)	No budgetary impact.
12431	Exempts Alaska from diesel dyeing requirements	313(b)(1)(D)	Merely incidental budgetary impact. Joint Tax Committee scores as a $1 million loss over seven years.
12705	Provides exceptions to the notification requirements to beneficiaries of charitable remainder trusts.	313(b)(1)(A)	No budgetary impact. Joint Tax Committee scores as ''negligible.''
12874	Reduces insurance premiums to reachback companies	313(b)(1)(D)	Merely incidental.
12131b	Exempts Simple retirement from ERISA	313(b)(1)(A), 313(b)(1)(C)	No budgetary impact. Jurisdiction of Labor Committee.
12202d	Medicare Consumer Protection Act—regulation of health care insurance duplication.	313(b)(1)(A), 313(b)(1)(D)	No budgetary impact. Merely incidental.

Mrs. MURRAY. President, we have been debating this budget reconciliation for several days now, and I must say it looks no better now than it did when we were debating the budget resolution 5 months ago. In fact, its details are more troubling than I could have imagined, and, not surprisingly, the concern in my home State is much greater than I ever predicted.

What concerns me most is this budget seems to have no core values or principles that mean anything to American families. Its principles seem to be program cuts for the sake of program cuts, and tax cuts for the sake of tax cuts, with little regard for the consequences. I cannot understand the philosophy that prevails here that we have to somehow scorch the Earth in order to balance the budget.

Mr. President, I, too, want to balance this Nation's budget. In fact, I am proud to say I supported the 1993 budget package. That plan has this Nation on the right track; since its passage, our annual deficits have declined in each consecutive year. Earlier in this debate, I supported a balanced budget proposal put forth by my colleague from North Dakota, Senator CONRAD. His plan would have balanced our Nation's deficit in a fair and equitable manner. It would have maintained a commitment to education, health care and retirees. It would have brought our spending in line with our national priorities, and it would have postponed the tax breaks until we can afford them. It was a responsible and realistic alternative; most importantly, it had core values and principles that are important to every citizen in this country.

And, I, too, want to reduce taxes. Believe me, I know what it takes to raise a family, balance the family books and pay taxes. I know how badly my friends and neighbors want tax relief, and I understand how difficult it can be for families to cope with their tax burdens. I also know how expensive it is for small, family-owned businesses to keep their businesses in the family, and I believe targeted estate tax relief is one example of good tax reform; as is allowing first-time homebuyers to make tax-free IRA withdrawals for the purchase of a new home.

But, there is a right way and there is a wrong way to balance the budget, and the plan before us balances our budget the wrong way. We cannot afford to balance this Nation's budget on the backs of our children and the elderly, so that those who are already better off can put more cash in their checking accounts. We cannot afford to give tax breaks to people who don't need them, and then increase taxes on the working poor and health insurance on the elderly.

It is interesting to note that many of my colleagues argue on behalf of this budget package by claiming it will benefit our children and grandchildren in the long run. They claim we will give our children a better economy and lower interest rates tomorrow by balancing the budget today. They fail to note that this plan cuts our investments in the future to do so; programs like head Start and WIC and college loans and AmeriCorps.

I ask, what good will lower interest rates do for my children and grandchildren if we reduce their access to higher education and vocational training, ultimately limiting their ability to acquire the skills they will need to find a family wage job?

Moreover, the proponents argue these tax breaks will enable families to save more for the future. However, current estimates reveal that these tax breaks will increase our Nation's debt by roughly $93 billion. That's $93 billion our children and grandchildren will be paying back through higher taxes later. This sounds like the 1980's all over again.

It is imperative that we understand how this budget plan really impacts our children and families. How does it impact average Americans? Does this budget provide hope, or does it tell hardworking Americans they're on their own? Does it provide security and safety for our children and elderly, or does it lead to uncertainty and anxiousness? These are just a few of the important questions I considered when looking at this budget reconciliation. We should be providing hope for the families that are struggling to pay their rent, feed their children and care for their elderly parents. Instead, we are showing these families and their children that the only way to address these difficult issues is to cut the heart out of what they need to survive—education, health care and good jobs.

Last month, I held a forum back in Washington State to talk about the varied issues surrounding Medicare. I expected one or two dozen to attend. Instead, over 500 people showed up to express their views. people are concerned. They are anxious, and not quite certain what a $270 billion Medicare cut means to them. How much more money will be taken out of their Social Security check each month? And what are seniors on a fixed income going to get for their sacrifice? I hope it is more than a tax break for somebody else. This budget is not providing certainty or hope. My constituents see difficult times ahead. They are wondering how they will pay for health care.

And then there's Medicaid. This program serves the elderly in nursing homes, the adult disabled, pregnant women, and children—the most vulnerable in our society, and the working families that support them and care for them every day. This budget will take $187 billion out of Medicaid, do away with the standards of care, block grant the program, and let States decide who won't have their medical costs covered.

The fears that working families have about the Medicaid cuts can best be summed up by a letter I recently received from a worried mother:

> What will happen to our family when my mother, who has Alzheimer's disease and lives with us, has no more funds and we can no longer care for her at home? My children's education depends on both my husband and me working. If one of us becomes unemployed or must take on full-time care taking responsibilities, we risk grave financial consequences for all of us.

The lack of social priorities isn't the only problem in this budget. It fundamentally stalls the best economic development initiatives this country has in order to compete in the global marketplace.

There are over 30,000 Boeing employees in my home State on strike as we speak. There No. 1 issue is job security. The global economy and increased competition has made these employees, and many others like them, uncertain about the future. They increasingly look to us for support. They want to know what the Federal Government will do to help them compete in the global marketplace.

This budget provides no security or hope. Instead, it proposes deep cuts in trade promotion programs and trade adjustment assistance. It demolishes the Commerce Department at a time when Secretary Brown has maximized

its effectiveness on behalf of American businesses. This budget sends the message that the Federal Government will provide no leadership in international competition, and has no role in cultivating good, high-paying jobs that will lead our families into the 21st century.

And what about the tax increases in this budget? This budget says working families do not count in the scope of principles governing this budget.

Many families will see tax increases because of the proposed cuts to the earned income tax credit. We all know how important the EITC is, and we're all aware of the bipartisan support it has received over the years. As President Reagan once said, ''this credit is one of the most successful profamily, prowork initiatives ever to come out of Congress.'' The budget before us will reduce the EITC by $43.5 billion over 7 years. In my home State, low-income working families with two children will see a $452 tax increase in 2002 and a $522 tax increase in 2005.

The worst aspect of this tax proposal is that it increases taxes on approximately 17 million hard-working Americans while the top 13 percent of income earners will reap 40 percent of the tax breaks. Does this provide security and hope for our low- and middle-income taxpayers? It does not. Reducing the EITC simply will drop many working families into poverty, and make it more difficult for families to take care of their children and parents.

The environment doesn't escape this budget, either.

I am concerned about the impacts this bill will have on public lands and other national assets. For decades, the Congress of the United States has recognized that our public lands and assets are too precious to sell unless their sale is in the best interest of the public. But it appears to be a new day. Today, this committee may vote to sell—or lease—our children's heritage to pay our debts. The leasing of the Arctic National Wildlife Refuge in particular is not an issue of revenues. It's a question of values. It's a question of whether we are willing to trade off open space, parks, wilderness, and wildlife values—the natural legacy for our children—for a short-term payment toward the bills we have accumulated—or worse, for a tax cut for ourselves.

There truly is a right way to balance the budget; a way that provides security and hope and a way that assures average Americans that we are looking out for them. I tried to instill some of this common sense into the budget resolution, and I am pleased the Senate responded to my amendment calling for an appropriate level of Impact Aid funding. I only wish we could have had more cooperation across the board on other education needs like Head Start, School-to-Work, and Safe and Drug Free Schools, and AmeriCorps.

Mr. President, given the fundamental disrespect for families in this budget, I am forced to oppose this reconciliation package. It does not have important core principles, and I'm afraid it is leading toward an America far different from the one I grew up in. I am alarmed at its shortsightedness. I fear it was motivated by a desire to balance the budget by a given date, regardless of the consequences.

This budget leads us down a new road; a road none of us have traveled. It says the Federal Government is no longer responsible for the welfare of its people. But, yet, who will be? Who will rise to the occasion? Who will pick up the slack? None of us know, but each of us should be prepared. Prepared, because this budget is calling each of us to be more vigilant, more aware of the needs of our families and neighbors, more willing to pay for the health care needs of our parents, children, and friends. Those of us in this room may be able to pick up the slack, but many in our home States will be hard pressed to meet this challenge.

This budget is not good public policy. It is not why I was elected, and it's certainly not what the families in Washington State want.

Mr. HOLLINGS. Mr. President, once again, we are lying to the American people. Instead of a serious attempt to get our fiscal house in order, the reconciliation bill that we are now considering is little more than a political document. It is more about getting a Republican in the White House than getting rid of red ink. The American people will not be fooled. The Republican reconciliation bill does not balance the budget—it merely front loads goodies such as the tax cuts and back loads all the tough decisions. Mr. President, I ask unanimous consent that two tables that I have prepared exposing the realities of the GOP budget be included in the RECORD at this time.

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

''Here We Go Again'': Senator Ernest F. Hollings

[In billions of dollars]

1995 CBO outlays	1,530
1996 CBO outlays	1,583
Increased spending	+53

GOP ''SOLID,'' ''NO SMOKE AND MIRRORS'' BUDGET PLAN

[In billions of dollars]

Year	CBO outlays	CBO revenues	Cumulative deficits
1996	1,583	1,355	−228
1997	1,624	1,419	−205
1998	1,663	1,478	−185
1999	1,718	1,549	−169
2000	1,779	1,622	−157
2001	1,819	1,701	−118
2002	1,874	1,884	+10
Total	12,060	11,008	−1,052

DEBT ([1] OFF CBO'S APRIL BASELINE)

[In billions of dollars]

	National debt	Interest costs
1995	4,927.0	336.0
1996	5,261.7	369.9
1997	5,551.4	381.6
1998	5,821.6	390.9
1999	6,081.1	404.0
2000	6,331.3	416.1
2001	6,575.9	426.8
2002	6,728.0	436.0
Increase 1995–2002	1,801.0	100.0

	1996	2002
[1] Debt includes (off CBO's August-baseline):		
1. Owed to the trust funds	1,361.8	2,355.7
2. Owed to Government accts	81.9	([2])
3. Owed to additional borrowing	3,794.3	4,372.7
[Note: No ''unified'' debt; just total debt]	5,238.0	6,728.4
''Paper'' Balancing:		
1. By borrowing and increasing debt (1995–2002)—Includes $636 billion ''embezzlement'' of the Social Security Trust Fund		1,801.0
2. Smoke and Mirrors		

[2] Included above.

[In billions of dollars]

	Outlays	Revenues
2002 CBO BASELINE BUDGET	1,874	1,884
This assumes:		
1. Discretionary freeze plus discretionary cuts (in 2002)		−121
2. Entitlement cuts and interest savings (in 2002)		−226
[1996 cuts, $45 B] spending reductions (in 2002)		−347
Using SS Trust Fund		−115
Total reductions (in 2002)		−462
+ Increased Borrowing from tax cut		−93
Grand total		−555

Promised balanced budgets

[In billions of dollars]

1981 budget	[1] 0
1985 GRH budget	[2] 0
1990 budget	[3] 20.5

[1] By fiscal year 1984.
[2] By fiscal year 1991.
[3] By fiscal year 1995.

BUDGET TABLES: SENATOR ERNEST F. HOLLINGS

Year	Government budget (outlays in billions)	Trust funds	Unified deficit	Real deficit	Gross Federal debt	Gross interest
1968	178.1	3.1	−25.2	−28.3	368.7	14.6
1969	183.6	−0.3	+3.2	+2.9	365.8	16.6
1970	195.6	12.3	−2.8	−15.1	380.9	19.3
1971	210.2	4.3	−23.0	−27.3	408.2	21.0
1972	230.7	4.3	−23.4	−27.7	435.9	21.8
1973	245.7	15.5	−14.9	−30.4	466.3	24.2
1974	269.4	11.5	−6.1	−17.6	483.9	29.3
1975	332.3	4.8	−53.2	−58.0	541.9	32.7
1976	371.8	13.4	−73.7	−87.1	629.0	37.1

BUDGET TABLES: SENATOR ERNEST F. HOLLINGS—Continued

Year	Government budget (outlays in billions)	Trust funds	Unified deficit	Real deficit	Gross Federal debt	Gross interest
1977	409.2	23.7	−53.7	−77.4	706.4	41.9
1978	458.7	11.0	−59.2	−70.2	776.6	48.7
1979	504.0	12.2	−40.7	−52.9	829.5	59.9
1980	590.9	5.8	−73.8	−79.6	909.1	74.8
1981	678.2	6.7	−79.0	−85.7	994.8	95.5
1982	745.8	14.5	−128.0	−142.5	1,137.3	117.2
1983	808.4	26.6	−207.8	−234.4	1,371.7	128.7
1984	851.8	7.6	−185.4	−193.0	1,564.7	153.9
1985	946.4	40.6	−212.3	−252.9	1,817.6	178.9
1986	990.3	81.8	−221.2	−303.0	2,120.6	190.3
1987	1,003.9	75.7	−149.8	−225.5	2,346.1	195.3
1988	1,064.1	100.0	−155.2	−255.2	2,601.3	214.1
1989	1,143.2	114.2	−152.5	−266.7	2,868.0	240.9
1990	1,252.7	117.2	−221.4	−338.6	3,206.6	264.7
1991	1,323.8	122.7	−269.2	−391.9	3,598.5	285.5
1992	1,380.9	113.2	−290.4	−403.6	4,002.1	292.3
1993	1,408.2	94.2	−255.1	−349.3	4,351.4	292.5
1994	1,460.6	89.1	−203.2	−292.3	4,643.7	296.3
1995	1,530.0	121.9	−161.4	−283.3	4,927.0	336.0
1996 estimate	1,583.0	121.8	−189.3	−331.1	5,238.0	348.0

Source: CBO's January, April, and August 1995 Reports

[In billions of dollars]

	Year 2002
1996 budget:	
Kasich Conf. Report, p. 3 [Deficit]	−108
1996 budget outlays (CBO est.)	1,583.0
1995 budget outlays	1,530.0
Increased spending	+53.0

[In billions of dollars]

	Outlays	Revenues
CBO baseline assuming budget resolution	1,874	1,884
This assumes:		
1. Discretionary freeze plus discretionary cuts (in 2002)		−121
2. Entitlement cuts and interest savings (in 2002)		−226
3. Using SS Trust Fund (in 2002)		−115
Total reductions (in 2002)		−462

ENERGY PROVISIONS

Mr. CRAIG. Mr. President, as a member of the Energy and Natural Resources Committee, I am pleased the distinguished chairman, Mr. MURKOWSKI, has agreed to participate in a colloquy with me and my colleague from Idaho, Senator KEMPTHORNE, concerning the energy provisions of S. 1357. Has the chairman reviewed our proposed amendment concerning aircraft services for the Department of the Interior?

Mr. MURKOWSKI. Mr. President, I have reviewed the amendment submitted by the Senators from Idaho, and it reads as follows:

On page 395, line 24, after ''shall'' insert '', unless it would be more cost-effective for the Department to use government-owned and operated aircraft,''.

On page 396, lines 8 and 9, after ''suppression'' insert ''and those that it would be more cost effective to retain under subsection (a).''.

Mr. KEMPTHORNE. As the chairman knows, the Energy provisions of S. 1357 would change Department of the Interior practices relating to aircraft services by requiring the Secretary to sell all DOI aircraft and related equipment and facilities—except those whose primary purpose is fire suppression—and instead contract necessary aircraft services from private entities. Am I correct that this provision is targeted at saving tax dollars and stopping Government waste?

Mr. MURKOWSKI. The Senator is correct.

Mr. CRAIG. Mr. President, an independent study of the Bureau of Reclamation's Government-owned, Government-operated aircraft service in Boise, ID, found that it saved more tax dollars than other options, including contracting out. Would the chairman agree that the committee did not intend to eliminate truly cost-effective programs that happened to be Government-owned and operated, such as that of the Bureau of Reclamation in Idaho?

Mr. MURKOWSKI. The Senator is correct. Let me assure the Senators from Idaho that we are committed to achieving the best and fairest deal for American taxpayers. We will work in conference to further clarify the changes in S. 1357 to address the concerns of my colleagues from Idaho.

Mr. KEMPTHORNE. Mr. President, I thank the chairman for making a clarification that I believe will serve the best interests of taxpayers and the efficient delivery of Government services.

Mr. CRAIG. Mr. President, I also thank my chairman for accommodating our concerns while preserving the fairness and cost savings of the Energy Committee's provisions.

Mr. LIEBERMAN. Mr. President, I am pleased that this bill contains the essential elements of S. 959, the Capital Formation Act of 1995.

That bill, which I cosponsored with Senator HATCH, had over 40 cosponsors.

I am pleased that the bill before us contains a broad-based capital gains tax cut as well as a targeted provision which provides a sweetened incentive to invest in small businesses. I would have liked it if the real estate loss provision had been included by the Senate Finance Committee and I intend to work to see that that provision is included in conference.

I think it is important to understand that the benefits of a capital gains cut are not limited to the wealthy. Anyone who has stock, who has money invested in a mutual fund, who has investment property, who has a stock option plan has a state in this debate. We are talking about millions and millions of American families.

Unlike most other industrialized nations, we stifle savings and investment by overtaxing that savings and investment.

This capital gains bill rewards those who are willing to invest their money and not spend it. It rewards people who put their money in places where it will add to our national pool of savings. Businesses can draw on this pool of savings to meet their capital needs, expand their businesses, and hire more workers.

Of course, people who are wealthy can benefit from this proposal capital gains cut but only because they are willing to put their money in places where that money will create wealth.

I would like to close with a quote from this year's Nobel Prize winner in economics, Robert Lucas. He said, and I quote, ''When I left graduate school in 1963, I believed that the single most desirable change in the U.S. tax structure would be the taxation of gains as ordinary income. I now believe that neither capital gains nor any of the income from capital should be taxed at all.'' Professor Lucas goes on to say that his analysis shows that even under conservative assumptions, eliminating capital gains taxes would increase available capital in this country by about 35 percent.

I could not agree more on the need to increase available capital and I would invite anyone who does not think we have a problem with available capital to visit any of the thousands of economically distressed urban and rural countries across this country. While the capital gains provision before us reduces, but does not eliminate the tax on capital gains as Professor Lucas would prefer, I hope that you will join in supporting this provision.

AMENDMENT NO. 2985

Mr. BAUCUS. Mr. President, I voted for the resolution offered by the senior Senator from Pennsylvania which expresses the sense of the Senate that this body should enact a flat tax.

Our current Tax Code is complicated and almost incomprehensible to many of our citizens who must comply with its provisions.

It is high time that we simplify the Tax Code. Simplification should and must be on the front burner.

We need to consider a flat tax in our search for simplification. But, whatever we do, we must not abandon fundamental fairness and progressivity.

A number of questions remain to be answered with respect to the flat tax. What will be the impact of disallowing the mortgage interest deduction or the charitable deduction? If companies can no longer deduct their contributions to employee pension plans or health care plans—will they continue to make those contributions?

There are a lot of questions that need to be answered about a flat tax. But it does have one thing going for it. It has to be simpler than our current code.

As we develop an alternative to the current tax structure, we want to keep an eye on simplicity and fairness.

We need an alternative to our current Tax Code. This sense-of-the-Senate resolution starts us on our way to structuring a simplified tax system.

ENHANCED ENTERPRISE ZONE

Mr. LIEBERMAN. Mr. President, I had intended to offer an amendment with Senator ABRAHAM to supercharge the enterprise communities and empowerment zones we created in 1993

This amendment builds on S. 1252, the Enhanced Enterprise Zone Act of 1995, which I have introduced with Senator ABRAHAM. Our effort has been very bipartisan—to date Senators SANTORUM, MOSELEY-BRAUN, DEWINE, BREAUX, and FRIST have all agreed to sign on as cosponsors of 1252.

Across this country, there are differing views on the state of race relations, affirmative action, and minority set-aside programs like the 8(a) program. Racial divisions in this country have been highlighted by the O.J. Simpson trial and to some extent, I believe, healed by the message that came out of the Million Man March.

The differences across America on issues like affirmative action and 8(a) also exist among Members of the U.S. Senate. That being said, I believe that each and every Member of the Senate believes the following: that regardless of what we each believe we should do about the racial divisions in this country, what to do about affirmative action, and what to do about minority set-aside programs, we all believe that not enough is being done to help those people who live and work in and want to start business in the economically distressed urban and rural areas of this country. Any response to the economic distress in urban and rural areas which does not include a mechanism to attract businesses and jobs back to these areas is a response that is destined for failure.

Last week the Senate Small Business Committee held a hearing on S. 1252 and former Housing Secretary Jack Kemp had this to say:

The train wreck is not so much the inability to reconcile the differences between the House and the Senate over the budget . . . The real train wreck is what those 400,000 men were saying on the Mall a few days ago: that there are not enough jobs in America. We are not creating enough opportunities for people to become entrepreneurs, to become owners, to become homeowners, to become business owners. To get jobs not only as truck drivers, but someday to own the truck and maybe start a little trucking company.

We took a step toward identifying and helping these areas of economic distress by passing the Empowerment Zone and Enterprise Communities Act in 1993 with much-needed help from this President. With the passage of that legislation, Congress recognized something that our States have acknowledged for many years: Government loses the war on poverty when it fights alone. What we really need to do is figure out a way to pull the people and the places with little or no stake in our economic system, into our system.

The 1993 legislation was a fundamental change in urban policy. It was a recognition that American business can and must play a role in revitalizing poor neighborhoods.

The 1993 legislation was a critical step in the right direction. But we need to go further, particularly in helping the existing 94 enterprise communities. This amendment is designed to supercharge these zones. We propose to add tax incentives and other Federal assistance to these zones with an eye toward the creation of economic opportunities for the urban and rural poor.

Very briefly, this amendment provides a zero capital gains tax on the sale of any qualified zone stock, business property, or partnership interest that has been held for at least 5 years within an EZ or EC; it allows individuals to deduct the purchase of qualified enterprise zone stock from their incomes—up to $100,000 in 1 year and $500,000 in their lifetime and it allows businesses to double the maximum allowable expensing for purchases of plant and equipment in enterprise zones.

This amendment also includes a modified version of a proposal which Senator HUTCHISON has been working on to provide a limited tax credit to businesses to help defray the cost of construction, expansion, and renovation. While revenue constraints have forced us to scale back that proposal we hope it will work so well that we will want to expand it in the future.

A third initiative embraced by this package is low-income home ownership and residential management of public housing. Jack Kemp has been instrumental in pressing us to make this happen.

Setting down a stake in the system has been out of reach for the poorest among us for far too long. We believe this amendment will create opportunity for those who work hard, ownership opportunities for those who want to own property and support for those families who need it.

Last week, the New York Times carried a story about Mr. Lavale Thomas, a former Green Bay Packer running back and current black entrepreneur, speaking to a group of high school students in Washington, DC. And here are the questions the students asked Thomas: ''How did you get a loan? Was it harder for a black man to get banks to lend money than a white man? Would blacks buy from other blacks? What did he give back to the community?''

These are great questions for kids to be asking. They all get at the issue of, ''How do I become part of the system?'' This amendment is designed to make it easier for these students to become part of the system and to build a better future for themselves.

While we will not be offering this amendment today, I hope my colleagues will join me in supporting much-needed help for our economically distressed areas by supporting S. 1252.

NURSING HOME STANDARDS

Mr. BAUCUS. Mr. President, I voted yes today on the Cohen-Pryor amendment to reinstate Federal nursing home standards. I did so in part because the so-called Finance Committee manager's amendment, which included a provision on nursing home standards, was not completed and available at the time of the vote on Cohen-Pryor. The language in the manager's amendment may be preferable over Cohen-Pryor. But, because the amendment was not available for review, I was not able to compare the language of Cohen-Pryor with the manager's amendment to see which is the better version for seniors and nursing homes in Montana.

My vote on Cohen-Pryor in no way means that I favor the Cohen-Pryor amendment over the nursing home provisions in the manager's amendment, which the Senate hopefully will be able to review later today.

Mr. LIEBERMAN. Mr. President, I would like to take a moment to talk about a proposal I have been working on to make the child tax credit better. This proposal, called Kid$ave, would do much to address a number of the fundamental problems we face today as well as the problems our children will face in the future. I had hoped to offer this proposals as an amendment to the bill before us but I am not convinced there is adequate time in this process to give this proposal a thorough airing. For this reason, I would like to outline this proposal and ask that the conferees on this bill review this proposal in conference.

Kid$ave would transform the $500 middle-class tax credit being considered by the Finance Committee into a long-term retirement savings account. In addition to providing for the economic security of the next generation, the proposal would buttress savings and investment for the economic security of this generation.

Kid$ave allows parents to set aside an annual $500 credit in an IRA in their child's name. The tax-deferred account would be governed by IRA rules, with

one exception: children would be allowed to take a 10-year loan against this money for their higher education. Thanks to the wonders of compound interest, $500 a year set aside from birth to age 18 would, at 10 percent interest a year, grow to $1.3 million by the time the child reached age 59½, the age at which IRA funds can start to be withdrawn with no penalty.

One of our greatest challenges is how to create economic opportunity and wealth for the working families of this country. I believe Kid$ave helps us meet that challenge in an affordable, responsible way. If there is going to be a tax credit to help families with children, I believe there is no better way to provide that help than to offer parents the opportunity to ensure a sound financial future for their children.

That is good news for the future. But Kid$ave is good news for the present, as well. Kid$ave will help our economy today by creating a pool of savings available for investment. As you know, savings and investment rates in the United States are at historic lows: our household savings rate is 4.6 percent of disposable income, compared to Japan's 14.8 percent and Germany's 12.3 percent. When government deficits are factored in, U.S. net national savings falls to 2.07 percent. When our historic trade deficits are added to our plummeting savings rates, the result is an immense disinvestment in our economic future.

While the Social Security trust fund is locked into Federal securities, Kid$ave would create a savings pool that would soon be the largest in the country, available for investment directly in our economy. It would deal directly with our national savings problem by assuring a long term capital source for economic growth and job creation. In other words, Kid$ave can help children when they retire, and it can help them find work until they retire.

The proposal speaks to the problems we will face from changing national demographics. Because the baby boom is such a large population group, we will be imposing a vast financial burden on our children's generation to fund upcoming social security, pension and health care obligations, jeopardizing the long term availability of those programs to the following generations of Americans. This will create what Professor Rudy Dornbusch of MIT calls a true crunch in world capital markets, since we share that demographics problem with our industrial competitors in Europe and Asia. That capital shortage—which means major government and private sector borrowing to meet social and pension obligations and resulting sky high interest rates—will have serious ramifications for future economic growth unless we act now to head it off. The best course to take is to encourage a large buildup in private savings rates. Kid$ave tackles that problem head on.

One additional advantage of Kid$ave should be noted, although it is harder to quantify at this time. This is the effect of encouraging Americans to save. The ethic of thriftiness seems to have been lost in recent decades, replaced by a credit car mentality. We would compound our problems if we pass such bad habits on to future generations. Kid$ave can help us turn the tide of indebtedness into a groundswell of savings and can transform our whole attitude toward money and how to use it to best advantage. That will yield incalculable dividends for our nation down the road.

I would like to offer Kid$ave to all children in America. But I understand that revenue targets may require limits on who receives the credit, at least at the outset. I also understand that the Senate is divided between those who would like to cut taxes for middle-class families now and those who would prefer to balance the budget first. I believe Kid$ave can bridge that divide because it is a better kind of tax cut, one that helps us address the Nation's savings and investment crisis even as it provides tax relief.

But best of all, unlike any other proposal on the table, Kid$ave gives our children a tangible, financial head start on the rest of their lives.

In closing, let me say that whether or not you believe a family tax cut is a good idea at this time, this is an idea that improves on that credit. Last week's Baltimore Sun carried an article coauthored by an unlikely pair: John Rother of the AARP and Martha Philips of the Concord Coalition As they point out, they do not agree on much, but they do agree that a Kid$ave-like approach to a tax cut makes sense. Mr. President, I ask unanimous consent that the text of their article be printed in the RECORD and I would encourage my colleagues to take a close look at this idea.

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

[From the Baltimore Sun, Oct. 17, 1995]

IF WE MUST HAVE A TAX CREDIT FOR CHILDREN, DO IT THIS WAY

(By Martha Phillips and John Rother)

WASHINGTON.—You can probably count on half the fingers of one hand the number of times recently that the Concord Coalition, which works for a balanced budget, and the American Association of Retired Persons, which advocates for the elderly, have been on the same side of a public-policy battle. The current debate over the child tax credit is one of those rare instances of common ground.

We are dismayed at the prospect of enacting an unnecessary and large tax cut at this time—even one benignly labeled a ''child tax credit.'' A large tax cut only makes the job of reducing the deficit that much tougher and leads to deeper program cuts than otherwise would be necessary, including cuts in programs that help children. The economy is not faltering, so there is little justification for stimulating it by pumping another $500 a year per child into consumer spending. Over the long term, the economy needs more savings, which is the chief rationale for balancing the budget in the first place.

Congress and the president nevertheless have signed on to the child tax credit notion, so some version seems likely to be enacted. If there is to be a new children's tax credit, we think an idea that Senators Bob Kerrey and Joe Lieberman and several others have been working on is much better than anything else we have seen.

Although the specific details remain to be worked out, their central idea is simple. Allow a $500 tax-refundable credit for children under age 18 only if the money is invested in qualified retirement accounts for that child's old-age security. Funds in the accounts would not be taxed until they were withdrawn by the child at retirement age.

If the child saves the $500 credit every year from birth for 18 years, there would be a retirement nest egg of $9,000, plus another $4,000 to $16,000 in compounded earnings by the time the child reached age 18. That's nice, but it gets much better. Over every 40-year period since the Great Depression, diversified equity funds have generated returns of somewhere between 6 percent and 10 percent. Even if another penny were never added to the account after age 18, by the time the child reached age 65, the account would be worth a quarter of a million dollars at a 6 percent real rate of return, and three quarters of a million dollars at 8 percent. Leaving the initial $9,000 untouched until age 70 would result in $1.1 million at an average 8 percent return.

These savings would be available to fuel long-term economic growth and could help provide not only future jobs but an improving standard of living for today's children when they are grown. The impressive results of compound earnings over 65 or 70 years would help assure old-age economic security for a generation whose prospects today appear uncertain. Since private pensions today cover fewer than half of all workers, and since economic surveys show most households with inadequate levels of private retirement savings, it is clear that we need a new approach. The income from these individually-owned retirement savings would permit everyone in future generations to supplement Social Security benefits, as originally intended.

In order to minimize unnecessary risk and overhead, these retirement accounts could be administered in the same way as the federal-employee retirement-savings program. There could be a wide range of investment options combined with the efficiencies and safety of large pools of investment funds.

There will inevitably be pressure to permit non-retirement withdrawals from such accounts. Withdrawals for education or health-care needs may very well be in the child's best long-term interests, but any exceptions permitting early withdrawals must be narrow. The full retirement-income benefit to the individual will be at risk for early withdrawal, and one exception leads to pressures for another, undermining the long-term benefit of this approach.

A PHASE-OUT FOR THE RICH

There is no need, of course, to give a $500-per-child contribution to children whose parents can already provide for their futures. So the tax credit should be phased out for higher-income families with the option for those parents to contribute $500 yearly on an after-tax basis.

The intangible benefits of this approach may be hard to measure, but may ultimately be more important. Children who today see little prospect for their future will have a tangible stake in thinking longer term. The fact that these accounts exist in their names and are growing over time will reinforce the importance of other types of deferred-gratification behavior. We shouldn't discount the

impact that such accounts will have on our children, even though they cannot use them immediately.

Any legislative proposal must be evaluated in context as part of a budget package. We need to be especially sensitive to the impact of proposed spending reductions and other tax changes on programs for children, working families and vulnerable seniors. Again, our organizations do not think we should be considering major tax cuts at this point. But if Congress is determined to enact a tax cut, we think it should consider this proposal first. It's good for our children, for the economy and for the long-term needs of future retirement-age Americans.

The concept that Senators Kerrey, Lieberman and others are working on hasn't been introduced as legislation, and we may well disagree with the particulars they finally devise. But at bottom, the general proposal remains a very compelling option. Properly structured, the children's saving credit offers a way to leave a legacy of savings, responsibility and security to Americans of all ages and income levels.

STOP THE BILLION DOLLAR GOLDEN GIVEAWAYS

Mr. BIDEN. Mr. President, the reconciliation bill promises to cut corporate welfare, save taxpayers' money and balance the Federal budget. Yet, tucked away, deep in the more than 2,000 pages of the bill, is a golden giveaway of billions of taxpayers' dollars to a powerful special interest lobby.

Initially passed to encourage settlement of the West, the anachronistic 1872 mining law enables gigantic mining interests—many of which are foreign-owned—to purchase the right to mine Federal land for as little as $5 per acre. Literally, for the price of a McDonalds value meal you can buy an acre of Federal land, loaded with gold, silver, platinum and palladium. If this was not enough of a ripoff, the law does not require mining concerns to pay any royalties to American taxpayers for these minerals, an annual loss of roughly $100 million. The net effect of this law is simple: Foreign mining companies get the gold, and American taxpayers get the shaft.

The sham reform contained in the bill does little to change the current situation. Though the bill requires that fair market value be paid, it only applies this standard to the surface of, what is often times, barren desert land. No consideration is given to the minerals, to the gold, silver and platinum, which are buried underneath the ground. It sounds good on its face—paying fair market value—but this alleged reform is nothing more than face-saving.

Our conservative colleagues argue endlessly that we need to run the Federal Government, more like a business. But how could any business survive, even for a day, by opening its warehouse doors and giving away its products?

On top of these fraudulent prospective changes, the bill's grand fathering provisions guarantee the status quo for over 200 claims currently pending with the Interior Department. These applications, involving over 130,000 acres of public land, 18 national parks, and more than $15 billion in precious minerals, would be granted without the rightful payment to the taxpayers who own the land. Again, billions of taxpayers' money is given away, just handed over due to this antiquated law.

Just last month, Secretary of the Interior Babbitt was forced to sign away over 100 acres of land, containing 1 billion dollars' worth of minerals to a Danish mining conglomerate which paid an embarrassing $275—Federal couch change. This century-old practice has become eerily reminiscent of the Teapot Dome scandal during the 1920's.

Unlike farmers and ranches who have a vested interest in preserving their land, miners have virtually no stake in using the land in an environmentally sound manner. After the gold is taken, the shaft is plugged, and the company abandons the land, often times we are left with dangerous, toxic abandoned mines, which require millions of taxpayers' dollars to clean up. In fact, the Superfund national priority list of hazardous waste sites contains 59 properties associated with mining.

The cosmetic mining law reform in this bill is exactly the type of nonsensical policy that has angered many Americans and caused them to lose faith in Government's ability to improve the lives of ordinary people. It ought to be rejected: The pot of gold should be found at the end of the rainbow, not at the end of a patent application. Americans deserve better.

EITC

Mr. LIEBERMAN. Mr. President, I rise with a few thoughts on this bill overall, and on the cuts we are contemplating in the earned income tax credit [EITC] in particular.

This bill has a lot to recommend it. It provides incentives in the tax code for positive goals. The super IRA provisions will encourage savings. That is a constructive step forward. The capital gains piece will encourage people to put money where it will create wealth—that is to say it will encourage investment. While I've supported a middle-class tax credit, I think we could have made the credit even better by giving it to parents who set up retirement accounts for the kids. Those accounts would be governed by IRA rules with one exception—children would be allowed to take a 10-year loan against their account for higher education. And I'm not enthusiastic about what this bill does to Medicare—not because this bill does too much, but because it does too little to change the built-in flaws in this program.

Overall, I'm encouraged by what this bill does to provide incentives for savings and investment and the creation of jobs and capital. However, in terms of incentives it falls woefully short in one area. That is in the dramatic and misguided cuts this bill makes in the earned income tax credit [EITC].

Let me tell you why I like the EITC and why I think that the Republican Party should embrace, not eviscerate this program. Put simply, the EITC provides an incentive to work. It promotes work over welfare and it does so through the Tax Code, not through a new social service program run by bureaucrats in Washington. That is something both parties should be able to support and indeed, in the past, both supported the EITC.

President Reagan championed this program as the ''best antipoverty, the best pro-family, the best job-creation measure to come out of Congress.'' Last week in testimony before the Senate Small Business Committee, former HUD Secretary Kemp cautioned against cutting back too far on the EITC ''because that is a tax increase on low income workers and the poor which is unconscionable at this time * * *''

I am particularly troubled that the Senate has cut $43 billion out of this program over 7 years—this figure is nearly doublt what the House has cut from the EITC in their reconciliation package. And this cut of $43 billion is a dramatic increase in the cuts this Chamber agreed on during consideration of the budget resolution just 5 months ago. That resolution assumed $21 billion in EITC cuts. I found that proposed cut distressing. We are now talking about nearly tripling that cut. I find that downright alarming.

Here are the people we will hurt the most with these proposals: Workers without children who receive the EITC. These are workers with incomes under $10,000; EITC families with one child and incomes above $12,000 and; EITC families with two or more children regardless of how low their income.

In practical terms, about 17 million low- and moderate-income families—including nearly 13 million low-income families with children will feel the impact of these changes. In my home State of Connecticut alone, these changes would amount to an average increase of $311 for over 92,000 families. This simply makes no sense. It takes us further away from our goal of encouraging work and self-sufficiency.

Of course we ought to get rid of waste and fraud in this program. I believe the administration has done a commendable job in helping in that effort. But the increase in this program in recent years has been by design not by fraud and deviousness. Congress voted to expand this program in 1986, 1990, and 1993. When the changes we made to the program in 1993 are fully phased in at the end of fiscal year 1996, the EITC will actually grow by very modest rate of 4.5 percent a year.

This program has had bipartisan support because both sides of this aisle have been able to agree that we should use both hands to applaud those who are working to lift themselves out of poverty and then use one of those hands to give them the help and support they deserve.

The Democratic Leadership Council, which I am pleased to chair, has a long history of support for this program. The research and writing arm of the DLC, the Progressive Policy Institute

[PPI] has done a lot of excellent work on the issue. At this point, I ask unanimous consent that an article by Mr. Jeff Hammond on the EITC, which appeared in the September 29 Washington Times, be printed in the RECORD.

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

[From the Washington Times, Sept. 29, 1995]

RELIEF FOR THE HARD-WORKING POOR

(By M. Jeff Hamond)

This year, both House and Senate have proposed reforms to the Earned Income Tax Credit (EITC) with the intent to save money rather than make the program work better. The EITC—which helps millions of low-income working families escape poverty—is an example of Congress targeting the good as well as the bad in its quest to reduce social welfare spending.

This is a program that should not go quietly into the night. Unlike traditional welfare programs, the EITC is based on the principle of reciprocal responsibility: It says that the government is there to help, but only if you give something back or help yourself in the process. Republicans have supported the credit in the past; in fact, its biggest one-year boost occurred under President Reagan, in 1986. Why change now?

Specifically, the EITC assists low-wage workers by providing a wage supplement up to a certain level of earnings, at which the credit reaches a maximum and then begins to phase out. President Clinton's five-year, $21 billion expansion of the EITC, approved in 1993, was designed to guarantee that families with full-time, year-round workers would not live in poverty.

By promoting work over welfare with virtually no overhead costs or added bureaucracy, the EITC provides the foundation for any serious effort at welfare reform. The program could use some fine-tuning, but most of the charges leveled by critics are exaggerated or plainly incorrect.

Rising costs. Some critics of the EITC, most notably Sen. Don Nickles, Oklahoma Republican, depict it as another out-of-control entitlement program, since its costs have grown quickly. ''The EITC is the fastest-growing government program, period,'' Mr. Nickles has said. ''It's growing much faster than Medicare or Medicaid.''

Detractors conveniently ignore, however, that Congress voted to expand the program in 1986, 1990, and 1993, in part as an alternative to increasing the minimum wage. This is in stark contrast to the major entitlement programs such as Medicare, which automatically grow every year with no congressional action. To depict the EITC as simply another exploding entitlement program is simply wrong.

Waste, Fraud and Abuse. Critics of the EITC claim the program has a fraud rate of 35 to 45 percent, costing taxpayers billions of dollars in fraudulent refunds. This statistic is based on a January 1994 IRS study, and is inaccurate and misleading for several reasons.

First, that statistic is an error rate, not a fraud rate. If a worker claimed the credit but was $1 off—or claimed too little—this was included in the statistic. Many of these inadvertent mistakes are corrected by the IRS. Nearly half of the supposed ''fraudulent'' claims were unintentional errors of this type.

Second, some taxpayers who claimed the credit in error (i.e., when they did not qualify) may have done so unintentionally, due to the complicated tax laws.

Third, the study was based on 1993 returns. Since than, the IRS has implemented new procedures to cut down on fraud, such as double-checking the Social Security numbers of all dependents claimed. Thus, the fraud and error rate will be much lower for 1994 and future tax years.

Work Disincentive. Some critics assert that the EITC is actually a net work disincentive, because the phase-out of the credit in effect applies an additional 16 to 21 percent tax to earnings within the phase-out range.

It is true that effective marginal tax rates are high in this range, and that the maximum allowable income to be eligible for the credit may be set too high. Nevertheless, recent research shows that the EITC still provides a large net positive work incentive. One recent estimate shows that if market entrants work only 400 hours annually, the expanded credit will increase the labor supply of low-income workers by 20 million hours per year. Since the average EITC recipient worked 1,300 hours in 1993, the final net benefit is probably much larger.

Suggested Reforms. We can get people to move from welfare to work only if work pays, and the EITC ensures that it will. This is why many Republican governors insist that the EITC is an indispensable part of welfare reform. Yet, the program is not perfect. Sensible reforms include:

Adjusting the phase-in and phase-out ranges to maximize the number of families in the former and minimize the number in the latter. These changes will place more families in the work incentive range of the EITC without increasing its total cost. (Shortening the phase-out will increase the marginal tax rate within the range, but it will affect fewer families. Texas Republican Rep. Bill Archer's tax proposal—which passed the Ways and Means Committee last Tuesday—does shorten the phase-out range.)

Implementing further policies designed to cut down on fraud, such as requiring valid Social Security numbers for all applicants to prevent undocumented workers from claiming the credit.

Finally, requiring firms to notify their low-wage workers that the credit can be applied to each paycheck, rather than collected at year's end. Less than one percent of EITC recipients utilize this option. Since firms have an incentive to verify hours worked (or else they will overpay payroll taxes), such a requirement could further reduce fraud.

At a time when phrases like ''shared sacrifice'' and ''welfare-to-work'' are wielded on both sides of the isle, the EITC stands as an item that should unite both parties. The program needs some changes, but it has been one of our most successful social policies. If conservatives are serious about promoting work and ensuring that full-time workers escape poverty, they will help improve and preserve this program—not cut it simply to reach a budget target.

Mr. CAMPBELL. Mr. President, this bill includes a measure directing the sale and transfer of the federally owned Collbran Project, located near Grand Junction, Colorado. The provision is similar to S. 1109, which I introduced earlier this year with Senator BROWN.

Since the introduction of this legislation I have worked with the citizens of the Plateau Valley, with Mesa county officials, with various departments of the State of Colorado, and with the local and national staff of the Federal Reclamation, Forest Service, and BLM.

In that process I have agreed to make dozens of changes to the bill; however, at the request of my colleagues on the Energy and Natural Resources Committee I will not take up the Senate's time and will instead have the changes made during conference on the budget bill.

I do want to take a moment to describe the changes to the Collbran bill that I intend to make in conference.

From the start I have wanted to make sure the bill protects the longstanding commitment to provide top quality public recreation at Vega Reservoir. I have worked with the State to make sure that the Federal commitment to make major improvements at Vega is retained, and to provide for State ownership of the recreation facilities and open space at the reservoir.

The Forest Service and BLM wanted to make sure the bill would not affect recreation or any other multiple use of the national forest, and the agencies also wanted to avoid the creation of private inholdings within the Federal lands. In response, the bill will provide for easements to the water facilities, and provide a specific role for the Forest Service in preparing the annual operating plan for the project.

The State asked, and I have agreed, that money contributed by the districts toward the recovery of endangered fish be spent on recovery efforts in Colorado.

Many folks in the Plateau Valley have raised a concern with me that there will be insufficient opportunity for the public to be involved with the operation of the project. I understand this concern, it is legitimate, and I have tried to address it in various ways. The issue is ''To what extent will the Ute and Collbran Water Conservancy Districts be publicly accountable in their operation of this Federal water project?''

First, the bill states that ''the power component and facilities of the project shall be operated in substantial conformity with the historic operations of the power component and facilities.'' That will be the law. The language is plain.

Second, the bill requires annual reporting to the Secretaries of the Interior and Agriculture as to the operating plan for the project in the coming year. The purpose of this provision is for full public disclosure of annual operations.

I will amend that provision to increase accountability by requiring full consultation with the Mesa County Commissioners and with the Forest Service in preparation of the annual operating plan. This will allow the public to raise issues through the Commissioners and through the Forest Service and get action on those issues through the annual planning process.

Part of the concern that has been raised involves the extent to which the bill can affect the disposition of water between the Plateau Valley and the Grand Valley, and this is an issue on which I have broadly consulted with state officials and water lawyers. There are several reasons that federal legislation on this point would be unworkable.

First, all changes in water use are subject to state water law and are adjudicated through the state water court process. The water court is charged with protecting the interests of all associated water users when a change in use is considered or requested.

Second, the holding of a water right is a private property right and one in which I frankly would oppose Federal interference.

And third, the Ute and Collbran Water Conservation Districts are publicly accountable organizations created in accordance with Colorado law. Colorado Law includes a number of provisions providing for public accountability, including the ability to elect board members. It would be inappropriate for the Congress to interfere with that structure.

I will, however, amend my bill to prohibit any out of state transaction involving water from this project.

I have appreciated the willingness of citizens and agency staff to work with me on the development of this legislation. I am open minded about making further changes to the bill, in addition to the many that have already been made.

Thank you, Mr. President. I yield the floor.

HORMONAL CANCER DRUGS

Mr. D'AMATO. Mr. President, I rise today to discuss Senator OLYMPIA SNOWE's amendment that I and my colleagues sponsored and the Senate passed last night as part of the Budget Reconciliation bill.

With prostate cancer striking 1 out of every 11 American men and breast cancer attacking 1 out of every 8 American women, we have an obligation to do everything we can to ensure that the best, most effective treatments are available to as many patients as possible.

The amendment expresses the sense of the Senate that Medicare should cover oral hormonal cancer drugs. Oral hormonal drug therapy is critical in treating cancers that have spread beyond the prostate and in treating estrogen-receptor-positive breast cancer tumors. These drugs can play a vital role in the postsurgical treatment of this type of breast and prostate cancer because they help prevent the recurrence of these tumors and improve the quality of life for thousands of cancer patients each year.

In the Omnibus Reconciliation Act of 1993, we directed Medicare to cover some oral cancer drugs. However, the statute requires that those drugs be chemotherapeutic in nature and have been available in injectable or intravenous form. Oral hormonal cancer drugs do not fall within this category. I believe this is an unintended result of a well-intentioned provision.

The result is that Medicare currently discriminates against half of all women afflicted with breast cancer by denying coverage for postsurgical drug treatments to those with estrogen receptor positive tumors. Because estrogen-sensitive tumors are more likely to strike post-menopausal women, this type of cancer disproportionately afflicts Medicare beneficiaries. Denying Medicare coverage for orally administered hormonal therapy is an obvious case of being penny-wise and pound-foolish. Hormonal therapy is a less expensive treatment option when measured against the risk of treating new tumors which can result in the absence of such therapy.

This relatively simple and straightforward amendment puts the Senate on record in support of correcting this oversight from the 1993 reconciliation bill. I believe that the conference report on the 1995 reconciliation bill should include a provision to cover oral cancer drugs used in hormonal therapy. I am glad that the Senate passed this amendment, and I am glad to have been an original cosponsor.

Mr. CAMPBELL. Mr. President, I am delighted to learn the Finance Committee adopted a provision that would allow tax exempt organizations to be eligible to maintain pensions under section 401(k). It is my understanding that tribal governments would be allowed to sponsor 401(k) plans under the budget reconciliation proposal reported by the Finance Committee.

In order to ensure that I am clear that tribal governments would, in fact, be included under this provision I would like to ask the distinguished chairman of the Finance Committee a question to clarify the Finance Committee's budget reconciliation proposal.

Mr. ROTH. I thank Senator CAMPBELL. I would be happy to answer his question.

Mr. CAMPBELL. Is my understanding correct that tribal governments are eligible to sponsor 401(k) plans under the Finance Committee budget reconciliation proposal?

Mr. ROTH. Yes; that is a correct statement.

Mr. CAMPBELL. I note the presence of the chairman of the Indian Affairs Committee, Senator MCCAIN, and ask if he would have any comments.

Mr. MCCAIN. Senator CAMPBELL, has long been a great advocate for Indian people. I would also like to extend my thanks to Senator ROTH for his efforts to clarify this portion of the pension simplification proposal included in the budget reconciliation measure.

I also wish to take this opportunity to thank Chairman ROTH for including language affecting section 403(b) plans in the pension simplification section of the bill that will remove a very difficult problem that arose from a misunderstanding about earlier authority provided to tribal education organizations. Several years ago some tribal governments began to purchase plans provided under section 403(b) of the code and promoted by insurance companies only later to find that such plans were not expressly intended for the use of government employees involved in activities other than education. Those retirement funds, affecting several tribes and the retirement savings of thousands of tribal employees, are now in jeopardy. I introduced S. 1304 to fix this problem. Chairman ROTH included a similar provision in section 12941 of the bill, and I thank him for that.

MFN STATUS FOR CAMBODIA

Mr. MCCAIN. For the past 2 years, I have been involved in an effort to grant most favored nations [MFN] trade status to Cambodia. Today, I intended to accomplish this by offering an amendment identical to the language already approved by the House. The chairman of the Finance Committee, Senator ROTH, has informed me, however, that he would prefer that trade provisions not be included in the reconciliation bill. In deference to his opinion and his responsibility for guiding this bill through the process, I have decided to withhold my amendment.

Mr. ROTH. I thank the Senator from Arizona. I know that this is a very important issue for him. It is among a number of trade issues which must be dealt with by the committee in coming months. The Senator from Arizona has my assurance that the Fiance Committee will take up H.R. 1642—the House-passed bill dealing with this issue—the next time it meets to deal with trade issues, and that I will make every effort to have it reported out favorably.

Mr. MCCAIN. I thank the chairman for his cooperation and for his interest in the issue. Cambodia has come a long way from the dire situation it faced just a few years ago. We can help the Cambodian people overcome the remaining challenges they face by empowering them to help themselves through economic development. This is what makes MFN such an important issue. An economically developed, prosperous Cambodia will be better able to create the foundations for democracy and contribute to the stability of Southeast Asia.

Mr. SMITH. Mr. President, this is a historic moment in the history of our country. Over the past several weeks, we have heard vicious attacks on the balanced budget bill that is before the Senate today. The Republican balanced budget has been called immoral and irresponsible. The American people have been warned of devastating cuts in spending. To the casual observer, it might appear that the sky is about to fall.

The truth is quite different. In fact, the budget before the Senate today is the only chance to save our country from an immoral, irresponsible, and devastating future. We are acting now only because previous Congresses have failed the American people.

At the end of this year, our national debt will exceed $5 trillion. We are adding to the debt at the rate of $9,600 per second. Right now, every man, woman, and child in America is more than $18,000 in debt. The current trends are not sustainable.

Mr. President, our balanced budget plan is not perfect. If there was an easy solution to our fiscal problems, you can rest assured that Congress would have found it along ago. I do not agree with every provision in the bill before the Senate. If I could pick and choose, there are many priorities that I would change. On the balance, however, I think the product is a good one. It gets the job done. To my colleagues who disagree, I would say the following: you can't beat something with nothing. If you do not like our balanced budget, you have an obligation to produce an alternative. President Clinton's plan was recently rejected by the Senate, 96 to 0.

The benefits of a balanced budget far outweigh any temporary pain. The Congressional Budget Office estimates that a balanced budget will result in a reduction of long-term interest rates between 1 and 2 percent. On a typical student loan, that reduction would save American students $8,885. On a typical car loan, it would save the consumer $676. On a 30-year, $80,000 mortgage, lower interest rates would save the homeowner $38,653 over the life of the mortgage.

The bill before the Senate will balance the Federal budget in 7 years. That fact has been certified by the Congressional Budget Office. The budget will save Medicare from bankruptcy, and strengthen and protect the program for future generations. The legislation completely overhauls our broken welfare system. It transfers power away from Washington bureaucrats and returns it to State and local officials.

Mr. President, the Senate bill also provides significant tax relief. I know that many of my colleagues have expressed disdain at the idea of cutting taxes. They find it offensive to let American taxpayers keep more of their hard-earned money. I would ask, is it offensive to provide a $500 per child tax credit? Is it offensive to create a tax credit for adoption expenses? Is it offensive to provide a tax credit for interest paid on a student loan?

I certainly do not think so.

The critics of tax cuts think Members of Congress can spend money better than a family of four in Berlin, NH, or Cleveland, OH, or Atlanta, GA. I find that position arrogant, and I am not alone. As is now well known, the President now regrets his decision to raise taxes. Presumably, the President realized that the Government in Washington has enough tax dollars to spend. Those who oppose the tax cuts contained in the bill before the Senate today should understand this fact: the budget before the Senate today would reduce taxes by $245 billion. It does not even completely refund the Clinton tax increase.

Mr. President, we are witnessing the last gasp of air of big-government, Washington-knows-best liberalism. It may come as a shock to many, but Uncle Sam is not the solution to every problem in America.

I have held a good many town meetings in New Hampshire to talk about the budget, taxes, welfare reform, and Medicare. Often, when I say that Congress intends to balance the budget in 7 years, my constituents ask why we are waiting that long. The danger is not going ''too far, too fast,'' as many would have us believe. The real risk to all Americans is the risk that we will not get the job done.

I urge my colleagues to support this budget. It is bold; it is real, and it stands alone as the only solution to our Nation's fiscal problems. The time for talking is over. The time for acting is now.

USEC PRIVATIZATION

Mr. WARNER. In title V of the bill before the Senate there are provisions that will provide for the privatization of the U.S. Enrichment Corporation. I understand the Energy Committee is also reporting this language out as a substitute to S. 755, a bill originally introduced by Senator DOMENICI to accomplish the same purpose.

Mr. President, I commend Senators DOMENICI, MURKOWSKI, JOHNSTON, FORD, and others for their efforts to produce legislation that balances our country's need for a private uranium enrichment company with a nonproliferation solution that assists Russia in its weapons dismantlement. However, I seek a few clarifications, as well as your assurance, that the language in the reconciliation bill will allow the Russian Federation an opportunity to be able to fulfill its obligations easily with options, perhaps those offered by U.S. private industry to assist where possible.

With regard to section 5007(c) of the reconciliation bill, the exclusion of U.S. Department of Energy facilities from production of highly enriched uranium, I want to urge the U.S. Enrichment Corporation to make use of sector services and facilities prior to making any contractual work agreements with the U.S. Government.

Mr. MURKOWSKI. Mr. President, it is true that our language allows USEC to contract with existing DOE facilities for activities and services other than the production of highly enriched uranium. To the extent that there is a longstanding government policy that the Federal Government not compete for work that the private industry can supply, I agree that the DOE should defer opportunities to the private sector.

Mr. WARNER. I thank the Senator, I wish now for clarification of section 5012(b), regarding Russian HEU. Does this language provide for contingency private industry provisions to assist the Russians in meeting their obligations in the government-to-government agreement of providing the United States with low enriched uranium derived from highly enriched uranium?

Mr. MURKOWSKI. The government-to-government agreement for the 500 metric tons of highly enriched uranium contemplates the participation of the United States private sector and Russian enterprises in implementation of the agreement. Section 5012(b) facilitates this implementation by providing mechanisms for private sector entities to purchase the natural uranium component of LEU derived from Russian HEU, either directly from Russia or in an auction process, in an open and competitive manner. The United States and Russia also have the ability to increase the quantities delivered in any given year and accelerate the delivery schedule of this material to the United States, provided that this material is introduced into the U.S. commercial fuel market in full accordance with this legislation.

Furthermore, neither this legislation nor the government-to-government agreement limits the ability of Russia to sell additional quantities of enriched uranium, in excess of 500 metric tons called for by the government-to-government agreement, to third parties for delivery to the United States, subject to the market restrictions as stated in the bill before us and other applicable law.

Overall, this legislation and its provisions will: First, advance the world's nonproliferation goals; second, provide the Russian Federation immediate hard currency and; third, assist the Russians in meeting future continuing obligations.

Mr. WARNER. My last question. Are there provisions in this bill to allow either the change of executive agent or nominating more than one U.S. executive marketing agent to help facilitate these uranium transactions?

Mr. MURKOWSKI. Our language recognizes and does not change the right of the U.S. Government under the government-to-government agreement to exercise its option of changing the U.S. executive agent or allowing for more than one after consultation with and upon 30 days notice to the Russian Federation.

Mr. WARNER. Again, I commend you on this legislation that will promote the United States and Russia's nonproliferation goals, offer each country an opportunity to use private industry to meet these goals, and present to the world a concerted effort to denuclearize.

Mr. LIEBERMAN. Mr. President, I would like to set the record straight on the need to reform the corporate alternative minimum tax.

What we have under current law is a nightmare for investment for businesses of all sizes. The AMT is not working as Congress intended when it was adopted in 1986. We never intended to so harshly penalize investment in equipment needed to modernize our factories; nor did we intend to force companies that have no profit to borrow money to pay their AMT. Yet this is precisely what current law does to some companies.

There is bipartisan agreement on the need to fix AMT. President Clinton in

1993 recognized the need to fix the AMT and proposed shortening AMT depreciation recovery periods. To date, we have not adopted the President's proposal in full. For this reason, earlier this year, I joined with Democrats and Republican cosponsors of S. 1000, a reasonable piece of legislation, to help correct this antiinvestment tax system.

While I commend the Finance Committee for taking some action on this issue, that action falls short of what ultimately needs to be done. There are two parts to AMT depreciation—method and recovery period. This bill fixes the method of depreciation, but does not do enough for the recovery period. Yet it is the unreasonably long recovery period for most investments under the AMT that creates the severe penalty on investment.

S. 1000 fixes both parts of the AMT depreciation problem and I believe it is the right policy on AMT. I hope in conference and in negotiations with the White House that we can come up with a bill that will truly fix the antiinvestment nature of the AMT depreciation rules. This can be done in a way that preserves the integrity of the tax collection process by not letting truly profitable firms totally escape taxation while at the same time encouraging economic growth and job creation which I believe is essential to an improved standard of living for all Americans.

Mr. CAMPBELL. I would like to confirm with my colleague from Alaska the committee's intent with respect to part E, subpart III of S. 1357, which provides for the sale and transfer of the Collbran project located in western Colorado. This legislation directs the Secretary of the Interior to transfer the Collbran project to the Collbran Conservancy District and Ute Water Conservancy District in the last fiscal quarter of the year 2000 in return for the payment of $12.9 million by the districts to the United States. The transfer to the districts includes the listed facilities and other assets that comprise the Collbran project, but excludes the Vega recreation facilities owned by the United States or the State of Colorado. Several questions have been raised regarding the legislation. First, some have raised a concern that it may include or affect the Plateau Creek pipeline replacement project which has been proposed independently by the Ute Water Conservancy District.

Mr. MURKOWSKI. The Committee carefully defined the scope of the transfer so that this legislation will have no affect on the proposed Plateau Creek pipeline replacement project, which will be subject to all requirements of Federal and State law which would exist if the transfer did not occur.

Mr. CAMPBELL. Another issue that has arisen is regarding the relationship between the legislation and the Endangered Species Act. In particular, questions have been raised regarding the effect of the payment of $600,000 by the districts for use as a part of the Colorado River Endangered Species Fish Recovery Program, and whether a section 7 consultation will be required for the transfer. My understanding of the legislation is that it has no effect on the Endangered Species Act, and that no determination has been made regarding the existence of any obligation or liability of the Collbran project or other existing water supply projects in the Colorado River Basin in Colorado with respect to species listed and critical habitat designated under the Endangered Species Act. In addition, because the transfer is mandatory, and will not involve any change in project operations or additional review or approval by any Federal agency, there is no need for a section 7 consultation on the transfer.

Mr. MURKOWSKI. That is correct. The legislation provides that, as a condition of the mandatory transfer, $600,000 of the total payment of $12.9 million be provided to the U.S. Fish & Wildlife Service for use in the Recovery Implementation Program for the endangered fish apecies in the Upper Colorado River Basin, which is intended to serve as a reasonable and prudent alternative for water depletions from all existing and future water projects in the Colorado River Basin in Colorado. In the event that any such determination is made in the future, and if the Recovery Implementation Program no longer serves its intended purpose, the Collbran project will be treated the same as any other existing, similarly situated nonfederal project in western Colorado, and the districts will be able to claim credit for this contribution to the same extent as any other entities which have made cash contributions to the Recovery Implementation Program.

Mr. CAMPBELL. The transfer of the Collbran project is based on the requirement that the water and power resources produced by the project will continue to be used for the purposes for which the project was authorized for a period of 40 years from the date of enactment of the legislation. This requirement ensures that the transfer will not cause any significant change in project operations or distribution of benefits, and obviates any need for any further study or review of the transfer. However, some have sought assurance that the legislation does not interfere with the district's ability to negotiate a contract with preference power customers in the Salt Lake City Area Integrated projects office of WAPA or their designee for operation and maintenance of the power features of the Collbran project.

Mr. MURKOWSKI. The legislation does not affect the ability of the districts to obtain additional cost savings by contracting with third parties in order to achieve more efficient operation of the power features of the project or for other purposes.

Mr. CAMPBELL. I would also like to confirm my understanding that the transfer renders moot the pending litigation by the Department of Justice regarding water rights for Vega Reservoir.

Mr. MURKOWSKI. That is correct. The pending litigation initiated by the Department of Justice for the purpose of obtaining water rights in the name of the United States for the Collbran project should be dismissed in light of the mandatory requirement for the transfer of the Collbran project to the districts.

Mr. CAMPBELL. Finally, the legislation provides that the Vega recreation facilities be transferred to the State of Colorado at a future date, which includes lands currently owned by the United States in sections 31, 32, and 33 of township 9 south, range 93 west, 6th principal meridian, and sections 4, 5, 6, and 7 of township 10 south, range 93 west, 6th principal meridian. Does the transfer of these facilities to the State include any of Collbran project facilities, and does the transfer of the project provide the districts with any land that could be sold in the future for residential development?

Mr. MURKOWSKI. No, the Collbran project facilities, and the lands upon which they are located, are to be transferred to the districts. However, the lands to be conveyed to the districts do not include the undeveloped lands surrounding Vega Reservoir, as these lands are to be conveyed to the State of Colorado.

Mr. CAMPBELL. I thank my colleague.

TAX CREDIT FOR RESEARCH AND DEVELOPMENT PROJECTS

Mr. HATCH. Mr. President, I rise today to speak in support of a bipartisan effort to extend the tax credit for research and development projects engaged in by American industry. I want to commend the chairman of the Finance Committee for his excellent leadership on this measure because I wholeheartedly believe that this program is critical to the future of our economy. We are the world leader in research and development, and I believe that technology is the engine for economic growth. This measure helps keep our competitive advantage on the world R&D market. The bill before us today extends the R&E tax credit for 20 months, retroactive to July 1, 1995. Ideally, we wanted to extend the credit permanently and thus remove the uncertainty that has characterized the credit in recent years. Unfortunately, due to limited resources, we have had to go with a temporary extension instead. However, this is still a significant step forward, and I am glad to be a part of this effort.

I want to express my concern for the companies engaged in significant research and development activity in the United States that are unable to qualify for the current credit. Several of my colleagues share this concern, and I would now like to engage Senator BAUCUS from Montana and Senator LIEBERMAN from Connecticut on this

point. We support extending the R&E tax credit for another 20 months. We also support providing those companies that currently do not qualify for the R&E credit, and that are engaged in significant R&D activity, with an elective alternative incremental research credit [AIRC], as provided in the House tax bill. I look forward to my colleagues' remarks on this point.

Mr. BAUCUS. Mr. President, research and development keeps us competitive with our foreign trading partners. It supports high wage and high skilled jobs in the United States and enables us to compete in developing products that increase our quality of life. We must support our American industry here at home or face losing our edge in research and development to our foreign trading partners. Other countries offer much more generous R&E tax incentives: for example, Canada has a 20-percent credit for all R&E expenditures; Japan and our European competitors all offer significant tax incentives to encourage research and development activity.

A strong R&E tax credit not only maintains research and development activity here in the United States but it also contributes to the development of high-skilled jobs. It is my understanding that a substantial portion of the R&E credit is comprised of wages and salaries paid to our research employees. We need to continue this trend. In this age of global markets we need a research and development strategy that is competitive and strong. R&D grows our economy, it raises our living standards and develops a high skilled work force.

Mr. LIEBERMAN. Mr. President, I echo my colleagues' sentiments and add that while our current R&E program supports many fine research and development activities, a number of significant R&D investors are ineligible to use this credit under our current law. The alternative incremental credit approved by the House enables those companies to take advantage of this resource, and while I am disappointed that the alternative credit is not part of the package before us today, I hope that the conferees will look kindly on this proposal.

I am concerned that many U.S. companies engaged in high-technology research are unable to stay competitive in the global market due to declining Federal research dollars. By extending the tax credit for 20 months and offering the AIRC program, we can provide our industries with some certainty in helping them plan their research and development strategy.

Mr. HATCH. Mr. president, I hope that our colleague, the chairman of the Senate Finance Committee, shares many of the concerns that we have expressed. I would respectfully ask that he take a careful look at the alternative incremental credit in the House package when the bill goes to conference.

BIPARTISAN CAPITAL GAINS

Mr. LIEBERMAN. Mr. President, I wanted to express my concerns about one provision that the Finance Committee was unable to include in its final tax package. It is a provision that was contained in the bipartisan capital gains legislation that Senator HATCH and I introduced, S. 959. The provision would change current law in ways that would be extremely helpful to families in my region of the country.

Under current law, when an individual or family sells its principal residence for a gain, and for whatever reason, does not reinvest all of the proceeds in another home, any gain from that transaction is generally treated as a capital gain, and is taxed at more favorable capital gains rates. Special rules apply to individuals over age 55. They are permitted to completely exclude from tax up to $125,000 of their gains from sales of their residences. By contrast, if an individual or family sells a personal residence at a loss, that loss is treated as a personal loss, and no part of the loss may be recovered. No capital loss rules for losses on residences are provided under current law. No way presently exists for a family to be made whole from a genuine economic loss.

S. 959, a bipartisan bill that has 45 cosponsors, included a provision to provide some relief to individuals who have experienced these true losses. S. 959 would permit capital loss treatment for loss on the sale of a principal residence. This proposal is fair, because it provides that both losses and gains on sale will be treated as capital, not ordinary.

Until the 1980's, the possibility of suffering a loss on the sale of a principal residence was all but unthinkable. Then, starting with the oil price shocks of the early 1980's, we have experienced a series of regional economic slowdowns and recessions that have caused the prices of housing to fall. These occurred first in the Southwest, and more recently in California and New England.

Several things—all bad—can happen when the value of a residence falls. In southern California and in New England in the early 1990's, homeowners began to experience what came to be known as the upside-down mortgage. Homeowners found that the value of their homes had fallen so much that the home was worth less than the outstanding debt of the mortgage. Thus, if the homeowners were forced to sell, they would come out of the deal actually owing their lender more money than they had from the sale. Then, if the banker forgave some portion of the debt, the homeowners actually owned income tax on the transaction. In 1992, it was estimated that 41 percent of the sales in California were in this upside down position. The problem of upside down mortgages in resolving itself in California, but it is a disaster for people caught in that bind. In New England, the downward trend in home values continues; thus, the problem of upside down mortgages persists.

In my home State of Connecticut, many areas have experienced steep price declines since 1989. For example, the median sales price for an existing home in Hartford was $165,900 in 1989. The median home price has since declined to $133,400. The purchaser of a median priced home in Hartford, in 1989, has lost, on average $32,500 or over 24 percent of their home value over a 5-year period. This represent a loss of roughly $6,500 per year.

Similarly, the median purchase price for an existing home in the New Haven-Meriden Metropolitan Area was $163,400 in 1989. The median home price in New Haven-Meriden metro areas has since declined to $139,600. The purchaser of a median priced home in New Haven-Meriden, in 1989 would have lost $23,800 or slightly more than 17 percent of their home value by 1994. This represents an average annual decline in home equity of $4,760.

If people sell their homes at a loss, they have suffered a true economic loss. Moreover, it is a loss that may represent the loss of their biggest source of savings. People who experience a loss on the sale of their home are often wiped out financially. The provision that Senator HATCH and I included in S. 959 permits capital loss treatment for these painful situations. Because of the mechanical operation of the capital loss rules, it may take many years for a family to recoup the true losses they have experienced. Still, the relief in S. 959 is only partial relief for some individuals. Because of the serious impact on families of these losses, it is only fair that we provide at least the capital loss relief as a form of rough justice so that these families can have some relief from the true losses they have incurred.

This important provision is contained in the House bill. It is my hope that the chairman and the conferees will be able to accept this provision during the conference. It would provide critical relief to families that have sustained genuine losses, and is in the best interests of fairness and family.

Mr. HATCH. Mr. President, I understand the concerns of my friend and colleague from Connecticut and am sympathetic to his position. This provision is an important one and is the right thing to do. A home is often the biggest and most significant investment that most families ever make. It is only fair that an economic loss on that investment be treated the same as economic losses on other investments. This is especially so since we tax the gain from a sale of that home. Like Senator LIEBERMAN, I urge the chairman and the conferees to adopt this provision when it is considered in conference.

AMENDMENT NO. 297

Mr. KYL. Mr. President, there are a number of good things in this amendment, which was offered by my colleague from Arizona, JOHN MCCAIN. If

the amendment were crafted differently and was more limited in scope, I would support it.

For example, I have consistently supported efforts to eliminate funding for the Market Promotion Program [MPP], a program that provides subsidies to companies that advertise American agricultural products abroad. Such promotional activities are a reasonable and fundamental cost of doing business for any industry.

If the return on every dollar spent on export promotion is as good as MPP proponents suggest in terms of jobs and exports, then it would seem to be in the industry's own best interest to bear that cost itself.

I understand that the industry's resources are finite. One more dollar could always be spent on promotional activities, particularly if each dollar produces significant gains in sales. But at some point, the agricultural industry, like any other industry, decides that it cannot expend any more; that the marginal gains do not justify the additional cost. Once the industry defines that point of diminishing returns, it is not appropriate to ask taxpayers to subsidize additional promotional efforts that the industry itself is unwilling to finance.

The amendment also eliminates funding for 266 highway demonstration projects. I strongly support that. Earmarking scarce dollars for politically well-connected projects is one of the most unfair, least efficient, ways of allocating scarce transportation dollars.

The earmarkings in the House version of last year's National Highway System bill totaled more than $2 billion—funds that would otherwise have been allocated according to the more equitable distribution formula established by ISTEA. I am talking about the House version because I served in the House of Representatives when that bill arose, and I was 1 of only 12 who voted against it at the time.

The regular formula for distributing highway dollars is based on such objective factors as population, miles of roads, and vehicle miles traveled. Earmarking, however, is based largely on politics. For example, last year's House bill, just 10 States got 55 percent of the total funds available. Not coincidentally, those States were represented by 36 of the 64 Public Works Committee members. California, home State of the chairman of the House Public Works and Transportation Committee which produced the bill, took 15 percent of the total, about $290 million, for 51 projects. Arizona, by contrast, got just three projects, for a total of $15 million.

Had the earmarkings been eliminated and the funding been distributed according to the ISTEA formula instead, Arizona would have gotten between $800,000 and $7.6 million more than it did under the bill. The three Arizona projects would most certainly be funded under this alternative approach—they all have merit, and are all of high priority—but the State would have had more to devote to other worthy projects as well. Twenty-seven other States would also have done better under the formula than they did under earmarking.

The Senate refrained from such earmarking last year, and I am pleased that both the House and Senate have refrained this year. I support the provisions of the McCain amendment that would terminate 266 unstarted highway demonstration projects that were authorized or appropriated in prior years.

The amendment also eliminates funding for the U.S. Travel and Tourism Administration [USTTA]. Like the Market Promotion Program that offers subsidies to the agricultural industry, the USTTA offers subsidies to the travel industry for promotional activities that I believe the industry ought to bear on its own.

There are other programs, however, that, in my opinion, should not be a part of this package. They are not pork. They are not corporate subsidies.

I am talking primarily about the B–2 bomber. This is a program that is in the national interest. This is not an Arizona project, so I am not here to defend it because my State has a major economic interest in its production. I do not differ with my colleague from Arizona very often, but on this issue, I must.

Mr. President, the Nation's long-range bomber force consists primarily of two aircraft: the B–52 and the B–1. The 95 B–52's are all over 30 years old, and their ability to penetrate modern air defenses is doubtful. The 96 B–1's were procured as an interim bomber until B–2's were available.

For 40 years, the United States relied on forward presence, or the deployment of large forces in bases around the world engaged in almost constant maneuvers or exercises. With the decline in defense spending and the withdrawal of U.S. forces for overseas bases, the United States will rely increasingly on smaller military forces, operating principally from North America. In the past 6 years alone, the U.S. Air Force has reduced its major overseas bases from 38 to 15—a reduction of 61 percent.

Rather than forward presence, current strategy calls for American power to be projected abroad in response to aggression in regional conflicts. The combination of a bomber with stealthy low observable, long-range, and precision strike capabilities provides the Nation with a competency never before achieved. With its range and large payload, B–2's can penetrate enemy air defenses and disrupt enemy advances in the critical early hours of conflict, before other forces arrive. Later in the conflict, B–2's can strike deep to interdict enemy follow-on forces or high-value strategic targets without fight escort.

I have two letters that I ask unanimous consent be printed in the RECORD—one from seven former Secretaries of Defense, and the other from the former air commander of the Desert Shield/Desert Storm Air Forces—that further expand on the vital importance of the B–2 bomber to the future Armed Forces of the United States.

For these reasons, I believe that the B–2 remains an integral component of our future national security, and I must, therefore, oppose the amendment.

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

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: We are writing you to express our concern about the impending termination of the B–2 bomber production line. After spending over $20 billion to develop this revolutionary aircraft, current plans call for closing out the program with a purchase of only twenty bombers. We believe this plan does not adequately consider the challenges to U.S. security that may arise in the next century, and the central role that the B–2 may play in meeting those challenges.

At present the nation's long-range bomber force consists primarily of two aircraft the B–52 and the B–1. The 95 B–52's are all over thirty years old, and their ability to penetrate modern air defenses is very doubtful. The 96 B–1's were procured as an interim bomber until B–2's were available.

Even after all twenty B–2's are delivered, the inventory of long-range bombers will total barely 200 aircraft. This is not enough to meet future requirements, particularly in view of the attrition that would occur in a conflict and the eventual need to retire the B–52's. As the number of forward-deployed aircraft carriers declines and the U.S. gradually withdraws from its overseas bases, it will become increasingly difficult to use tactical aircraft in bombing missions. It therefore is essential that steps be taken now to preserve an adequate long-range bomber force.

The B–2 was originally conceived to be the nation's next generation bomber, and it remains the most-effective means of rapidly projecting force over great distances. Its range will enable it to reach any point on earth within hours after launch while being deployed at only three secure bases around the world. Its payload and array of munitions will permit it to destroy numerous time-sensitive targets in a single sortie. And perhaps most importantly, its low-observable characteristics will allow it to reach intended targets without fear of interception.

The logic of continuing low-rate production of the B–2 thus is both fiscal and operational. It is already apparent that the end of the Cold War was neither the end of history nor the end of danger. We hope it also will not be the end of the B–2. We urge you to consider the purchase of more such aircraft while the option still exists.

MELVIN LAIRD.
DONALD RUMSFELD.
CASPAR WEINBERGER.
DICK CHENEY.
JAMES SCHLESINGER.
HAROLD BROWN.
FRANK CARLUCCI.

JUNE 22, 1995.

Hon. STROM THURMOND,
U.S. Senate,
Washington, DC.

DEAR MR. CHAIRMAN: Earlier this month I wrote to your colleagues in the House of Representatives about the need to continue

the B–2 program. The debate has now shifted to the Senate and my concern with our future security compels me to share the same thoughts with you. This is a difficult letter for me to write as in more than thirty years of service in the Air Force, I have always concentrated on military operations, and refrained from commenting on issues such as whether or not to purchase a specific aircraft. However, the Pentagon recently released a study based on assumptions, constraints, and methodology that can lead to the conclusion that the United States can safely terminate B–2 stealth bomber production at 20 aircraft. As the former Air Commander of the Desert Shield/Desert Storm Air Forces, I feel a duty to put the B–2 debate in perspective, and sound a warning on any recommendation to stop production of this aircraft. To put it bluntly, halting this nation's B–2 production capability is dangerously short-sighted and would lead ultimately to the extinction of the long-range bomber force, at the very time when bombers are emerging as America's most critical 21st Century military asset.

Since B–2 is the only bomber in production or development, and the Pentagon has no plans for a new bomber program in the future, the B–2 program and America's bomber production capability are one and the same. If this sole remaining bomber capability is lost, replacing our aging bombers will become unaffordable. Inevitably, the nation may lose its manned bomber force, and the unique capabilities it provides. A new bomber would take from 15–20 years to go from the drawing board to the battlefield and cost tens of billions of dollars just to design. With the current administration balking at spending a fraction of this amount on a finished, proven product, there is little likelihood of a future government sinking many times that amount into a new program. Even if a new program was initiated in the near term, most of our existing bombers would be obsolete before the first ''B–3'' entered service. The next Desert Storm Air Commander could be sending Americans into war aboard a 70-year-old bomber, an act I find unconscionable.

In my opinion, the B–2 is now more important than ever. Heavy bombers have always possessed two capabilities—long range and large payload—not found in other elements of our military forces. As we base more and more of our forces in our homeland, the bomber's intercontinental range enables us to respond immediately to regional aggression with a rapid, conclusive military capability. Just as important, this capability may deter aggressors even as the bombers sit on the air base parking ramps in the United States. In war, the large bomber payloads provide a critical punch throughout the conflict—just ask General Schwarzkopf what he wanted from the Air Force when he was under attack in Vietnam, or whenever our ground forces faced danger during Desert Storm.

When the B–2 adds to this equation are two revolutionary capabilities not available in any other long-range bomber—precision and stealth. The Gulf War showed how precision weapons delivery from stealthy platforms provides a devastating military capability. The F–117 stealth fighter proved its effectiveness on the first day of the war when 36 aircraft flew just 2.5 percent of the sorties, but attacked almost 31 percent of the targets.

In the past, employing bombers for critical missions against modern air defenses required large, costly packages of air escort and defense suppression aircraft. The B–2's unmatched survivability reduces the need for escorts and defense suppression aircraft. As we found in the Gulf War with the F–117, stealth allows the U.S. to strike any target with both surprise and near impunity. Analysis of the Gulf War air campaign reveals that each F–117 sortie was worth approximately eight non-stealth sorties. To put B–2 capabilities into perspective, consider that the B–2 carries eight times the precision payload of the F–117, has up to six times the range, and will be able to accurately deliver its weapons through clouds or smoke. What does all of this mean? It means that a single B–2 can accomplish missions that required dozens of non-stealthy aircraft in the past.

Many may wonder why the Department of Defense would advocate terminating the most advanced weapon system ever developed. The B–2 program was cut by the Bush Administration for budget-related political reasons, and some concern that the program would not meet expectations. Since then, delivered aircraft have demonstrated, without qualification, that the B–2 is a superb weapon system—performing even better than expected.

Yet, defense spending has declined, bomber expertise has been funneled out of the Air Force, and people's careers have been vested in other programs. Unfortunately, some in the Army and Navy believe the B–2's revolutionary capability is a threat to their own services' continuing relevancy. Just the opposite is true, long-range, survivable bombers will contribute to the effectiveness of the shorter range carrier air by striking those targets which pose the greatest threat to our ships. The troops on the ground have long recognized the value of air support, especially the tremendous impact that large bomb loads have on enemy soldiers. This was again demonstrated by the B–52 strikes used to demoralize the Iraqi Army. If anyone needs B–2s, it's our soldiers and sailors. Some people harp on the issue of the B–2's cost. The Air Force, at times, seems at odds about asking for this much needed aircraft because they fear it could endanger their number one priority program, the F–22. All miss the point. True the B–2 has a high initial cost, but its capabilities allow it to accomplish mission objectives at a lower total cost than other alternatives. And keep in mind, the true cost of any weapons system is how many or how few lives of our service personnel are lost. The B–2 lowers the risk to our men and women. The B–2 will allow us to accept lower levels of overall military spending without compromising our security.

As we approach this year's critical defense budget decisions, it is important that we understand the long-term national and international security ramifications of the quantum leap in military capabilities offered by the B–2. If we don't, it may disappear when we need it most, and can buy it most cheaply. Make no mistake about this: the B–2 is designed to extend America's defense capabilities into the next Century. Can we afford to do less?

Sincerely,

CHARLES A. HORNER,
General, USAF (Ret.).

LOW-INCOME HOUSING TAX CREDIT

Mr. D'AMATO. Mr. President, I would like to express to my colleagues my deep concern regarding the House Ways and Means Committee's proposal to sunset the low-income housing tax credit in 1997, pending a GAO review of the management of the program.

The low-income housing tax credit is the Federal Government's principal rental housing production program that results in significant private capital for the development of affordable rental housing. Since its inception, as part of the 1986 Tax Reform Act, the low-income housing tax credit has enjoyed broad bi-partisan support in both the House and the Senate. In fact, that support became very clear when 75 percent of the House and nearly 90 percent of the Senate went on record as recently as 1992 in support of legislation to make the credit permanent. It was made permanent in 1993.

Since 1986 the credit has mobilized private capital for public benefit, attracting more than $12 billion in private investment. Nearly 800,000 units of rental housing for lower income working families and the elderly have been constructed or rehabilitated with the low-income housing tax credit. This has lead to the creation of 90,000 jobs each year and resulted in $2.8 billion in wages and $1.3 billion in additional tax revenues.

According to the New York State Housing Finance Agency, in 1994, in our home State, over 6,100 units of rental housing were made possible because of the credit. Over 77 percent of those units, 4,700, were for low-income families, and the production of those units directly resulted in an estimated $520 million of housing investment in the State of New York.

That being said, does the Senator from New York find it as puzzling as I do that the Way and Means Committee would propose to terminate the low-income housing tax credit without benefit of hearings; without any authoritative evidence that the program is not working in an effective manner, and, especially before any review or study?

Mr. MOYNIHAN. Mr. President, I agree with the comments of my friend and colleague, Senator D'AMATO, and I share his concern of the proposed sunset of the low-income housing tax credit.

The credit is a principal incentive which Congress makes available to individuals and corporations to invest in apartment construction and rehabilitation devoted to low-income renters. In fact, when the credit became permanent in 1993, it attracted many new, high quality developers to the construction of lower income rental housing. Today, the credit accounts for one out of every four apartments constructed nationwide and virtually all of the production of affordable rental housing.

More importantly, State agencies, acting under Federal guidelines, manage the low-income housing tax credit program with a minimum of red tape. Under current law, the credit is limited to $1.25 per capita per State and is administered by the States on behalf of the Federal Government. Investors provide equity to projects in exchange for the credits to facilitate the development of affordable units. For 1995, based upon our Nation's current population, the States will allocate $325 million in credits, resulting in about $1.85 billion of private equity being invested in affordable housing. I could not agree more that to sunset one of the best examples of public-private

partnership and Federal-State partnership would be a grave error.

Mr. D'AMATO. Mr. President, I would like to express to Chairman ROTH and Senator MOYNIHAN my hope that when we go into Conference on this matter, that the Senate will be firm in its resolve not to recede to the House on any proposal that would sunset the low-income housing tax credit.

Mr. ROTH. Mr. President, I certainly understand and sympathize with the concerns raised by Senators D'AMATO and MOYNIHAN. I have received a number of letters from Members on both sides of the aisle that reflect the concerns you have voiced today. In addition, I have received many letters from Governors noting their strong opposition to terminating the low-income housing tax credit.

ANWR

Mr. JOHNSTON. Mr. President, I strongly support the provisions of this legislation opening the coastal plain of the Arctic National Wildlife Refuge in Alaska for oil and gas leasing, exploration and development.

Mr. President, the Arctic National Wildlife Refuge [ANWR] is seen by many as a place of great beauty. It is a place of vastness, a place where the land stretches farther than the eye can see. It provides important habitat for muskoxen, brown bears, polar bears, wolverines and a multitude of migrating and other birds. It is a place where, in the summer months, the porcupine caribou herd roams, and rainbows arch over the Beaufort Sea.

But a different kind of national treasure is thought to underlie the surface of a small portion of ANWR. That national treasure is oil—huge quantities of oil. Simply put, the coastal plain of ANWR represents the most highly prospective onshore oil and gas region remaining in the United States.

Mr. President, if developing the large quantities of oil thought to underlie the coastal plain would, as some suggest, destroy the 19 million-acre Arctic National Wildlife Refuge, then the question of proceeding would be much more difficult. But that is not the issue. The coastal plain can and should be developed in an environmentally sound and sensitive way that does not despoil the wildlife and other environmental values of ANWR.

Mr. President, the case for authorizing oil and gas leasing in ANWR is as compelling as it is straightforward.

First, oil and gas activity would be limited to only a small portion of the refuge—the 1.5 million-acre coastal plain—also known as the ''1002 area—'' an area some 30 miles wide by 100 miles long. Absolutely no oil and gas activity would take place on the remaining 17.5 million acres that comprise the refuge. In fact, approximately eight million acres of ANWR, have already been designated as wilderness, including 450,000 acres of the coastal plain region between the Aichilik River and the Canadian border.

In addition, the technology and the environmental sensitivity of oil field development in the Arctic have evolved steadily in the 25 years since the oil and gas facilities at Prudhoe Bay, which are located directly west of ANWR, were designed and constructed. Given these advances, and with the environmental safeguards that are currently applicable to all oil and gas activities in the Arctic, development can take place on the coastal plain in an environmentally sound manner without lasting effects.

It is a serious misconception that oil and gas development would destroy the habitat functions of the coastal plain. In reality, full leasing, development and production from three oil fields, for example, would affect less than 1 percent of the area's land surface by both direct habitat alteration and by indirect effects such as road dust or local impoundments of water along a road. Ninety-nine percent of the area would remain untouched; and the area's habitat will not be altered sufficiently to affect the size, growth rate, or regional distribution of fish and wildlife populations. The area will continue to be used by caribou for calving and will continue to provide habitat for polar bears, brown bears, wolves, muskoxen, and millions of birds.

The only significant change on the coastal plain would be aesthetic. If oil is discovered, widely spaced roads, pipelines, drilling structures, and support facilities would be visible on the coastal plain. Of course, even these facilities would be removed and graveled areas rehabilitated when production ceased. During the years of exploration and production, the coastal plain region will still support wildlife, provide recreational opportunities, and be home to the Inupiat Eskimo.

Mr. President, the vegetation and wildlife inhabiting the coastal plain are well adapted to the extreme Arctic environment. Biological evidence does not support the popular notion that wildlife and plants in the region are fragile things, living on the edge of survival. After a decade of study, there is no evidence that oil development at Prudhoe Bay had an adverse effect on significant numbers of wildlife. The central arctic caribou herd uses Prudhoe Bay and the surrounding area for calving. This herd has grown from 3,000 to 18,000 animals since oil development activities began at Prudhoe Bay in the early 1970's. The caribou live alongside the structures related to oil and gas activity, such as roads, pipelines, and drilling pads, with no ill effects.

While it is true that the porcupine caribou herd uses a portion of the coastal plain for 6 to 8 weeks each year, it is not true that this area contains core calving areas critical to the survival of the 150,000 animals which currently comprise the herd. In the first place, the herd calves throughout a huge expanse of territory in Canada and Alaska, including portions of ANWR. In some years, probably as a result of snow conditions or the presence of predators, only a very few caribou calve in the coastal plain at all. In other years, there is a higher concentration of calving in certain areas of the coastal plain. The widespread and annually variable distribution of calving strongly suggests that no one small portion of this huge calving area is critical to maintaining the viability of the porcupine caribou herd.

Finally, the human activity resulting from oil production would not be new to the coastal plain. Although human presence in the coastal plain region has been relatively light, there has been, and continues to be, evidence of man in the area. There have been three DEW. line stations—one of which is still active—there is a Native village, Kaktovik, which has been relocated in the area three times in recent history, and there have been, and continue to be considerable subsistence activities in the area.

Mr. President, let me now turn to the crucial importance to our Nation of the oil thought to underlie the coastal plain. For the foreseeable future, oil will remain a critical fuel for the United States and other industrialized nations. Currently, the United States consumes approximately 17 million barrels of oil per day. The Department of Energy projects that under current policies, this may well increase to almost 23 million barrels per day by the year 2010. At the same time, domestic production will decline, resulting in a significant increase in foreign oil imports. DOE projects that domestic production of crude oil will fall from today's level of 6.8 million barrels per day to 5.4 million barrels per day in 2010, a decrease of 21 percent.

Imports of foreign oil are projected to increase substantially by the year 2010, making our Nation dependent on foreign oil for more than 60 percent of our oil needs. This level of import dependence is extremely dangerous for our country.

More significantly, as the Persian Gulf war tragically demonstrated, oil is an important strategic resource, and the struggle to control that region's vast oil reserves can disrupt the delicate balance of peace in the Middle East.

United States oil imports are so massive, and the use of oil is so ingrained in our economy, that a substantial demand for oil will exist for the foreseeable future—certainly well into the early decades of the 21st century. This conclusion remains firm in the face of even the most optimistic assumptions about increases in energy efficiency and the substitution of alternative fuels. These policies alone will not suffice. Unless domestic oil production is encouraged and pursued, oil imports will continue to rise, and rise significantly.

By any measure, the coastal plain of ANWR represents the primary prospect

for domestic onshore oil and gas exploration in the United States. The opponents of opening the coastal plain argue that the amount of oil at stake is not significant, that it is only a 200-day supply. However, a single field large enough to supply this country with all of the oil it consumes for 200 days represents a huge reservoir of oil. Eighty percent of all onshore oil fields discovered in the lower 48 States over the last 100 years have contained less than 1 day's supply.

According to the BLM, the mean estimate of oil thought to be economically recoverable from the coastal plain of the ANWR is 3.2 billion barrels. The range of estimated economically recoverable reserves runs from 400 million barrels to over 9 billion barrels. The probability of discovering economically recoverable oil has been estimated by that agency at 46 percent. The oil industry routinely considers probabilities of discovery in the range of 10 percent worth the payment of substantial bonuses for the right to explore for oil.

As many of my colleagues know, the USGS has recently completed its 1995 assessment of onshore oil and gas resources for the United States. In general, the assessment shows an increase in the amount of natural gas thought to be present in northern Alaska and a decrease in the amount of oil thought to be present in that area. The USGS has prepared a preliminary analysis of the oil potential of the coastal plain and has concluded in a draft memorandum that the mean estimate for oil in the 1002 area is slightly less than a billion barrels, with a 1 in 20 chance that some 4 billion barrels are present. The agency is currently in the process of gathering more information from the 1002 area to refine its very preliminary estimate. The BLM, it should be noted, continues to have confidence in its earlier mean estimate of 3.2 billion barrels for the 1002 area.

Since 1980, when we began to debate the issue of opening the coastal plain of ANWR, there have been numerous studies and estimates of the amount of oil likely to be found if the area is opened to leasing. These estimates have been made by the BLM, USGS, the Energy Information Administration, the GAO, the State of Alaska, the American Association of Petroleum Geologists, and others. These estimates vary considerably due to different methodologies employed, different interpretations of geologic data, and differing geologic engineering and economic assumptions that are made relative to the methodology.

As a result, it is very difficult to directly compare these estimates. However, two important conclusions can be drawn from these estimates.

First, they all reflect a wide range of uncertainty, which is expected for an area that has not been drilled. Until we have reliable well data from the 1002 area, we simply have no way of knowing how great the potential of the area is. Second, all these estimates show a very large potential for oil and gas, with even the lowest estimates that have been made having an upside potential of at least 4 billion barrels.

In addition to the benefits to the country provided by the oil itself, the Federal Treasury will also benefit. Under the ANWR provisions contained in the bill currently before the Senate, the CBO estimates that two lease sales in the coastal plain will occur between now and the year 2000 which will result in bonus bids totalling $2.6 billion. The legislation requires a 50–50 revenue split with the State of Alaska—the same as other western States—which will mean that the Federal Treasury will receive $1.3 billion in new revenue during the next 7 years if the coastal plain is leased. Should oil be discovered and produced from ANWR in significant amounts, a steady stream of royalty income will also accrue to the Federal Treasury for many years to come.

In addition to the direct budget plus for the Treasury, this measure provides that the Federal share—50%—of bonus bid revenues in excess of $2.6 billion will be made directly available for maintenance, repair and rehabilitation projects at our Nation's national parks and refuges. This provision will provide a significant funding source for our parks that so desperately need more money.

Mr. President, oil and gas development on the coastal plain is a step that must not be postponed any longer. Most experts agree that it will take up to 10 or 15 years before commercial production could begin if the area is leased this year. Sometime between 2008 and 2014, the DOE estimates that production from Prudhoe Bay and adjacent fields, which currently account for nearly 25 percent of our domestic oil production, is projected to decline to approximately 300,000 barrels per day, the minimum level needed to operate the Trans-Alaska Pipeline System [TAPS]. If we continue to delay exploring for oil on the coastal plain and developing what we find there, the TAPS could be forced to shut down, and we will have lost our ability to transport billions of barrels of Alaskan oil to waiting consumers.

When Congress enacted the Alaska National Interest Lands Conservation Act in 1980, we declined to designate this portion of ANWR as wilderness and specifically reserved for ourselves the decision on whether that area should be made available for oil and gas leasing. We directed the Secretary of the Interior to study the area and to make recommendations on whether to allow oil and gas development. In 1987, the Secretary recommended that oil and gas development be allowed to take place. Since that report was issued, the Senate Energy and Natural Resources Committee alone has conducted 11 hearings and built a solid and thorough record on this issue. Our committee has voted on three separate occasions, on a bipartisan basis, to proceed with oil and gas leasing.

It is now time for the Senate to exercise its responsibility and make a decision with respect to oil and gas development on the coastal plain. Our Nation can have the benefit of the oil from ANWR, the revenues leasing will generate, and still preserve the beauty and the vastness of the Refuge.

THE BUDGET RECONCILIATION BILL—A MISSED OPPORTUNITY TO MAKE SMART CHOICES

Mr. DORGAN. Mr. President, during the past few days, we have had extensive debate on the Senate floor about what this budget reconciliation package will mean for the Medicare and Medicaid programs. Now, as we reach the conclusion of this debate, I want to explain some of the reasons why I must oppose it.

I want to say right off that I am deeply committed to ensuring that the Medicare and Medicaid programs will be here for the millions of older Americans, children, and individuals with disabilities who have come to rely on the services they provide. Thanks to Medicare, 99 percent of senior citizens, who have paid into the program during their working years, now have affordable, guaranteed health care coverage. Likewise, Medicaid provides a much-needed safety net for 36 million low-income elderly nursing home patients, the disabled, and pregnant women and children.

WHAT IS THIS DEBATE ABOUT

The debate on Medicare and Medicaid has centered not so much around whether projected spending for these programs should be reduced, because Members of both parties agree that this should be done. Instead the focus has been on how much spending should be cut. I believe we should limit the rate of growth of both of these programs to a more sustainable level so that they will continue to be here for the beneficiaries who depend on them.

However, I am convinced that the bill before us—which will cut projected Medicare spending by $270 billion and Medicaid spending by $182 billion—goes far beyond what should be done to achieve this goal, and instead will jeopardize the very programs the reductions are intended to protect. This drastic level of cuts would require that Medicare spending per beneficiary be held to a growth rate of 4.9 percent, while private health insurance will continue to grow at a rate of 7.6 percent per person. It is just not reasonable to expect Medicare to grow by such a small amount, especially when you consider that 200,000 Americans become eligible for the program each month. Just within the 7 years covered by this budget reconciliation bill, Medicare will insure 3.7 million more people than it does today.

We have been told repeatedly by the majority that these $450 billion in cuts are necessary, particularly to save the Medicare program from insolvency.