

together and even come to an agreement on how to continue the functions of the Government.

Mr. President, I am concerned that many people in my home State of Louisiana are beginning to believe that the Congress is sort of a nonessential arm of the Federal Government, and they are saying that Republicans and Democrats in the Congress are really non-essential because they cannot get together to find a way to resolve this problem.

I think there is a lot of blame that should be evenly divided among all of us who have not been able to solve this problem. My Republican colleagues, because they have not been able to pass all of the appropriations bills to fund Government, have necessitated a continuing resolution to continue the functions of Government as if they were being continued last year, because we have not finished the appropriations bills. The problem is they have added a couple of little items to the continuing resolution which make major policy changes, and that is where the problem is. But it is not an irresolvable problem, in my opinion.

It should be that grown men and women can come together and say we are going to move toward a position that will allow the Government to continue, allow the functions of Government to work, and I happen to feel if we are able to do that, everybody wins. The American people win because Government works. The Congress wins because we have been able to resolve a problem.

I think we all lose if we bring this Government to a standstill. We are admitting that we are unable to govern. We are admitting that we cannot make it work. We are admitting that we are so stubborn, in my opinion, that we cannot meet somewhere in the middle.

I think there is a way to fix this problem. I know there are those who want to bring everything to a halt to make a political point, but I think the political point we all make is that we all lose.

Let me suggest this. The whole question is about Medicare premiums. Under the current law, Medicare premiums are going to fall down to about 25 percent of the cost of insurance. That is going to occur January 1. That means that if the law is not changed January 1, Medicare premiums will go down to about \$42.50 unless some changes are made. Republicans have said: Well, no, we are going to not let it go down. We are going to keep it at 31½ percent, which means that come January 1 Medicare recipients are going to have to pay about \$53.50. That is their proposal.

That is a major change. I do not think it ought to be on the CR. I think it is a back-door way to change public policy, and that is not the way we should be doing it. So there are those who say: No, it should go down to \$42.50. Others say: No, it should rise to \$53.50 because Medicare is in danger of

going bankrupt so we need to pay more to protect it.

Let me make a suggestion. Let me make a suggestion that grown men and women can agree to keep the premium just as it is, \$46.10, until we work out this problem. It does not go up. It does not go down. Keep it where it is until we resolve the major differences in the budget. Let us not make Medicare recipients hostage while we battle over what Government should do. Keep the premium exactly where it is—no increase, no decrease.

Now, the administration points out, and I think correctly, that the Republicans have also tried to do something different from the current CR, and that is that they would fund all of these other programs at the lowest level between the House and the Senate version of these appropriations bills. I think that is wrong. The current CR funds these programs at an average of what the House did and the Senate did. So why not do both of those things and fix this problem and assure the American people that we can make Government work.

My suggestion is quite simple. Keep the Medicare premium at \$46.10 and fund the rest of the programs at the average between the House and the Senate. That is not magical.

I mean, I bet a person in the eighth grade could figure that out and say that is a fair compromise. But you know what? He probably would not be a politician, because if he is a politician he is going to say, "Well, I can't do that because the other side may get an advantage, and, by God, I sure can't let that happen." So, I almost have decided the only way to solve some of these problems is to get people who are not running for reelection to come in and sit down, maybe get some of those kids in the eighth grade that know how to add and divide by two and split the difference.

I think we could bring this to a conclusion if we did just those two things, fund all of the bills that have not been completed with an average between the House and the Senate. It is easy to figure out. That is what the current continuing resolution does exactly. If it was good earlier, it is good now. And, second, freeze the Medicare premium at \$46.10 until we finish this. We can send that to the White House, a bipartisan agreement between Republicans and Democrats to get the job done. That would allow us enough time until the end of this month to work on the bigger issues. We should not hold this country hostage, neither side, because of who gets the political gain.

Again, I repeat, the people of Louisiana are beginning to believe that Congress is a nonessential Federal employee. And that is a bad statement about the ability of this Congress to get the job done. I suggest we come together and get the job done.

Mr. KENNEDY addressed the Chair. The PRESIDING OFFICER (Mr. ABRAHAM). The Senator from Massachusetts is recognized.

#### THE 7-YEAR BALANCED BUDGET RECONCILIATION ACT OF 1995

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. Would the Senator suspend while we report the motion?

Mr. KENNEDY. Fine. I would be glad to send it to the desk, if that is agreeable.

#### MOTION TO INSTRUCT—HEALTH CARE

Mr. President, I send a motion to instruct conferees on H.R. 2491 to the desk on behalf of myself, Senator PRYOR and Senator WELLSTONE.

The PRESIDING OFFICER. The clerk will report the instructions.

The bill clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY] moves to instruct the conferees on the part of the Senate to insist upon removal of the following provisions included in the House or Senate bills:

Mr. KENNEDY. I ask further reading of the instructions be dispensed with.

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

The motion is as follows:

The Senator from Massachusetts [Mr. KENNEDY] on behalf of himself, Mr. WELLSTONE, and Mr. PRYOR moves to instruct the conferees on the part of the Senate to insist upon removal of the following provisions included in the House or Senate bills:

(1) Provisions eliminating requirements in the Medicaid law providing drug discounts to State Medicaid programs, public hospitals, other programs or facilities serving low income people, such as community and migrant health centers, health care for the homeless centers, Ryan White AIDS programs, pediatric AIDS demonstrations, family planning clinics, black lung clinics, and public housing clinics;

(2) Provisions benefitting unscrupulous health care providers at the expense of Medicare and private patients by:

(a) repealing current prohibitions against additional charges (balance billing) by physicians and other providers rendering services to Medicare beneficiaries enrolled in private insurance plans;

(b) weakening current statutory provisions to prevent and combat fraud and abuse, including such abusive practices as self-referral and kickbacks, and such proposals to weaken anti-fraud efforts as establishing more lenient standards for imposing civil money penalties;

(3) Provisions threatening the quality and affordability of care in nursing homes by:

(a) weakening or eliminating Federal nursing home standards by repealing such standards or allowing state waivers from such standards and Federal enforcement of such standards;

(b) repealing prohibitions against nursing homes charging Medicaid patients fees for covered services in addition to the payment made by the State;

(c) repealing current prohibitions against States placing liens on the homes of nursing home patients.

(4) Provisions providing greater or lesser Medicaid spending in states based upon the votes needed for the passage of legislation rather than the needs of the people in those states.

Mr. KENNEDY. Mr. President, I yield myself 8 minutes.

Mr. President, in the reconciliation bill the Republicans have extended an open hand to powerful special interests

and the back of their hand to the American people. Senior citizens, students, children, and working families will suffer so that the privileged can profit. Republicans are engaged in an unseemly scheme to hide what they are doing from the American people. Their proposals are too harsh and too extreme. They cannot stand the light of day. And they know it.

The fundamental injustice of the Republican plan is plain, \$280 billion of Medicare cuts that hurt senior citizens are being used to pay for \$245 billion in tax cuts that help the wealthiest individuals and corporations in America.

The Republican bill is also loaded with sweetheart deals for special interests whose money and clout are being wielded behind closed doors to subvert the public interest and obtain undeserved favors. In particular, the sections of the legislation dealing with health care are packed with payola for the powerful.

The dishonor roll of those who will benefit from the giveaways in this Republican plan reads like a "Who's Who" of special interests in the health care industry. The pharmaceutical industry, the most profitable industry in America, benefits lavishly from the Republican program. The House bill repeals the requirement that the pharmaceutical industry must give discounts to Medicaid nursing home patients and to public hospitals and other institutions serving the poor.

The total cost to the taxpayers from these giveaways is \$1.2 billion a year. Democrats in the Finance Committee succeeded in eliminating this giveaway for the Senate bill. Our motion is designed to ensure that it is not included in the conference report. The American Medical Association also receives lavish benefits in the Republican bill in return for the AMA support of the excessive Republican cuts in Medicare.

In addition, the bill weakens the anti-fraud and conflict-of-interest rules for physicians. The Congressional Budget Office estimates that these benefits to physicians will cost the taxpayers \$1.5 billion over the next 7 years.

The Republican bill also eliminates the provision in current law that prevents doctors from charging more than Medicare permits for those enrolled in HMO's and other private plans. The Republican plan will permit doctors to collect the difference from senior citizens. As a result, senior citizens could pay as much as \$5 billion more a year for medical care because of the elimination of those protections.

Our motion directs the conferees to restore the limits on such billing and maintain strong protections against fraud and abuse.

Another unacceptable provision of the House bill is its elimination of all the Federal nursing home standards, a payoff to unscrupulous nursing home operators who seek to profit from the misery of senior citizens and the disabled. A Senate amendment purports

to restore some of the standards, but, in fact, as my friend and colleague, Senator PRYOR, has pointed out, it leaves a loophole wide enough to permit continued abuse of tens of thousands of nursing home patients. It allows States to issue waivers that could weaken Federal standards and avoid Federal oversight and enforcement. Our motion instructs the conferees to maintain the current strict standards and protections for our senior citizens in the nursing homes.

One of the cruelest aspects of the Republican proposal is its failure to protect nursing home patients or their relatives from financial abuse. The Republicans claim that they have now revised their bill to maintain financial protection for the spouses of nursing home residents. What they do not tell you is that they still allow nursing homes to charge patients more than Medicaid will pay. Spouses can still be forced to sell their home, exhaust their savings to give their loved ones the care they need. That is not financial protection. It is financial abuse.

The Republican bill also wipes out the protections that have been in Medicaid since 1965 that prevent States from forcing adult children to pay the costs of a parent's nursing home bill. The Republican bill even lets States put liens on the homes of nursing home patients if a spouse or child are still living there. Obviously, Republican family values stop at the nursing home door. Our motion will eliminate these indefensible proposals from the bill.

What a travesty it is for Republicans to call this bill a reconciliation bill. The only reconciliation is between the Republican majority and special interest lobbyists for whom this bill has become one large feeding trough. Who knows what additional giveaways will be cooked up behind the closed doors at the conference committee? Adoption of this motion is a needed step to expose those sweetheart deals and eliminate them from the bill. I urge the Senate to adopt it.

The conference report on the reconciliation will come to the floor of the Senate later this week. But today we face the possibility of a Government shutdown because the Republicans are attempting to blackmail the President of the United States into signing a Medicare premium increase as the price of keeping the Federal Government in operation. This is the only proposal in the continuing resolution that would be permanent law. It should be rejected by the Senate and vetoed by the President. It is clear that there is a new meaning to GOP—Get Old People. The Republicans are not insisting that cuts in Medicare payments to doctors and hospitals be included in the continuing resolution.

I just want to underline that, Mr. President. In the particular provisions that the Republicans have taken as part of the continuing resolution, it only applies to what will be paid for by our senior citizens. The doctors are not

being asked, nor are the hospitals, to make a contribution. Only the individual senior citizens, through higher part B premiums. That is what this battle is all about. Raising the part B premiums is one of the very objectionable provisions of the reconciliation bill, and the Republicans have tried to add that particular provision to this continuing resolution because they know it is an indefensible position. They are trying to force the President to sign this so that there can be a continuation of the funding of various government programs. It is unacceptable, and the President is absolutely right to reject it. They are not insisting that the fraud and waste be squeezed out of Medicare, though anti-fraud and abuse provisions to protect the Medicare program have been added over the last several years, and they are beginning to be effective.

I can remember hearings that we had in Faneuil Hall when we had 800 senior citizens. They said, "Before you begin to raise our premiums, Senator, before you continue to raise our deductibles, before you continue to raise our copays, let's get fraud and abuse out of the whole Medicare system." There is not a senior citizen in this country who does not understand that.

Instead of tightening those provisions that would bring billions of dollars into the Medicare system, what are our friends, the Republicans, doing but weakening those provisions, which are so essential and important to the integrity of the system.

They are not insisting that senior citizens get the preventive and outpatient services that will keep them out of the hospital and reduce unnecessary Medicare spending. If you want to do something to control the cost of the Medicare, you take those senior citizens on Medicare who are going into the hospital unnecessarily—anywhere from 25 to 30 percent—and costing the Medicare system billions of dollars, and give them preventive and outpatient care. Or try and provide some help and assistance in letting seniors remain home, if that is their choice. That can save billions of dollars.

But those types of provisions are not included. There are no programs to increase preventive or outpatient services for our senior citizens that will improve the quality of health and also save money. The only provision the Republicans are insisting on is a new tax for senior citizens in the form of higher Medicare premiums.

The Republican assault on Medicare is a frontal attack on the Nation's elderly. Medicare is part of Social Security. It is a contract between the Government and the people that says, "Pay into the trust fund during your working years and we will guarantee good health care in your retirement years." It is wrong for the Republicans to break that contract. It is wrong for Republicans to propose deep cuts in Medicare in excess of anything needed

to protect the trust fund. And it is doubly wrong for the Republicans to propose those deep cuts in Medicare in order to pay for tax breaks.

The cuts in Medicare are too harsh and too extreme: \$280 billion over the next 7 years. Premiums will double, deductibles will double, senior citizens will be squeezed hard to give up their own doctors and HMOs.

The fundamental unfairness of this proposal is plain. Senior citizen median income is only \$17,750 a year; 40 percent of the elderly Americans have incomes of less than \$10,000. Because of gaps in Medicare, they already pay too much for health care that they need. Yet, the out-of-pocket costs they must pay for premiums and deductibles will rise \$71 billion over the next 7 years, an average of almost \$4,000 for elderly couples.

The Republican premium is especially objectionable, because it breaks the national contract with senior citizens over Social Security. Every American should know about it. Every senior citizen should object to it. Medicare is part of Social Security. The Medicare premium is deducted directly from a senior citizen's Social Security check. Every increase in the Medicare premium is a reduction in Social Security benefits, and the Republican plan proposes an increase in the part B premium and a reduction in Social Security which is unprecedented in size.

The Republican plan proposes an increase in the part B premium and a reduction in Social Security which is unprecedented in size. Premiums are already scheduled to go up under current law, from \$553 a year today to \$730 by 2002. Under the Republican plan, according to the Congressional Budget Office, the premium will go up much higher—to \$1,068 a year.

As a result, over the life of the Republican plan, all senior citizens will have a minimum of \$1,240 more deducted from their Social Security checks. Every elderly couple will pay \$2,480 more.

The impact of this program is devastating for moderate- and low-income senior citizens. It is instructive to compare the premium increase next year to the Social Security cost-of-living increase that maintains the purchasing power of the Social Security check. One-quarter of all senior citizens have Social Security benefits of \$5,364 a year or less. The cost-of-living increase for a senior citizen at this benefit level will be \$139 next year.

The average senior citizen has a Social Security benefit of \$7,874. The cost-of-living increase for someone at this benefit level is \$205.

But under the Republican plan, the premium next year will be \$126 higher than under current law. Average income senior citizens will be robbed of almost two-thirds of their cost-of-living increase. Low-income senior citizens will be robbed of a massive 90 percent of their increase.

Senior citizens have earned their Social Security and Medicare benefits

through a lifetime of hard work. They have built this country and made it great. Because of their achievements, America has survived war and depression. It is wrong to take away these benefits—and it is especially wrong to take their Social Security cost-of-living increase to pay for an undeserved tax break for the wealthiest individuals and corporations in America.

The Republicans' attack on Medicare will make life harder, sicker, and shorter for millions of elderly Americans. They deserve better from Congress. This cruel and unjust Republican plan to turn the Medicare Trust Fund into a slush fund for tax breaks for the wealthy deserves to be defeated. And this attempt to sneak a Medicare premium increase into law as part of the continuing resolution needed to keep the Government running deserves the Presidential veto it will quickly receive.

It is irresponsible for the Republicans to threaten to shut down the Government if they do not get the unfair increase they want in the Medicare premium. I say, shame, shame, shame on the Republican party. Nothing more clearly demonstrates the harsh and extreme nature of their right-wing agenda for Americans than this attack on senior citizens and the willingness of Republicans in Congress to shut down the Government itself if they don't get their way.

Mr. DOMENICI. Mr. President, what is the time situation?

The PRESIDING OFFICER. The proponents have 20 minutes 10 seconds, and the Senator from New Mexico has 20 minutes.

Mr. DOMENICI. Mr. President, I yield myself 5 minutes.

First of all, I see Senator PRYOR on the floor. He offered a set of instructions to the conferees. I might tell him, I hope he wins 100 to nothing, because I am going to urge everybody to vote for him.

As a matter of fact, I think most of what the Senator from Arkansas is talking about will find its way into the reconciliation bill. I think we had this battle once before. Senator PRYOR won and we won also. It is kind of a dual win. He won on his proposal, and we turned around and in our reconciliation bill we won, with Senator COHEN being a cosponsor of Senator PRYOR's and arguing in favor of ours.

I do not see why we ought to have any further argument. We are willing to accept the Senator's motion. He would like to have a vote, but I can assure him, there will be 100 in favor—well, if they are here. We are going to tell every Republican to vote for it. Senator PRYOR is making some headway, at least he thinks he is.

There has been an argument on the floor about taxation and Medicare, sort of tying the two together, implying that we are reforming Medicare to save money so we can cut taxes.

Mr. President, and fellow Americans, let me say once and for all that the

reconciliation bill, which they seek to instruct us about, does not need instruction on that issue, because what we have done in conference, that will come to us in the reconciliation bill, is nothing but a simple proposition that says none of the savings that come in part A or part B—so none of the savings in Medicare that come from anywhere in Medicare—can be used for anything other than Medicare. In other words, we have created a lockbox, a trust, if you would like, and not only did we leave in that trust fund what we saved in part A hospitals which belongs there, but the savings that will accrue because of part B—that is the everything but hospital insurance coverage for seniors—whatever we save there will all go into the trust fund.

Somebody might stand up and say, "Well, that can't be, Senator DOMENICI, because we have never done that before." And that is right. We have never taken the taxpayer part of Medicare and put it into the trust fund. It has only been the entrusted money that went there.

But what we are saying now is that all of their savings go into the trust fund to preserve, protect part A hospital coverage. What can we say when we have done that? When we have done that, there is not any need to instruct us. So if there is an instruction telling us not to use any of Medicare savings for tax cuts, we will accept the instruction, because we are not going to do that.

We have decided that we want to make the trust fund solvent for more than just a few years. So we are going to make it solvent until somewhere around 2010 and to 2015.

So, seniors, as you hear all of these things about the Republican plan, what we are doing is taking every single penny, dime, nickel, dollar, hundreds of thousands or billions, we are taking every bit of that savings and putting it into Medicare hospitalization so it will not go bankrupt.

I cannot do it any better than that. When the bill comes to the floor, we will read you the language so that you will understand unequivocally, those who want to attack this plan can still run around and say, "You are using Medicare savings to cut taxes," but if you read the law, it says you cannot do that because it says every bit of savings in Medicare stays in Medicare.

We cannot be any more certain of what our intentions are, any more certain of what we want to do on Medicare than to go the exceptional mile where never before have we put in that hospital trust fund dollars from the general taxpayer. But we are doing it here to the extent that we are savings taxpayers' dollars. We are putting the savings in that trust fund.

I am not sure what all these instructions are. My good friend, the occupant of the chair, has been here during the day, but to the extent that there is an instruction telling us to make sure we are not cutting, reforming, changing

Medicare to cut taxes, whatever that instruction is, we are going to accept that, too.

If we can sort it out here, we are going to give whoever proposed it a resounding 100 votes, because we have already done it. We have made sure that we cannot use Medicare savings to cut taxes.

Now, in a while, I will wrap up the other ones and see how I can inform our Senators as to how to vote. For now, I yield the floor.

Mr. KENNEDY. Mr. President, I yield myself 2 minutes, or until the Senator from Arkansas returns.

Mr. President, the fact of the matter remains that if they found the savings and premiums did not go up, in this particular instruction, some \$52 billion—if they did not go up, the tax breaks would not be there, would they, I ask the Senator?

Mr. DOMENICI. They might be.

Mr. KENNEDY. It is not a question of might or might not. My understanding is that in order to condition the tax breaks, the other provisions of the Republican budget had to be achieved and accomplished before the instructions went to the Finance Committee.

Mr. DOMENICI. That is correct.

Mr. KENNEDY. The point is made. If they do not have this money, you do not get the large tax breaks. So, senior citizens, understand that they are taking your money right out here, as the chairman of the Budget Committee just said, putting it in some kind of box on the way into the pockets of the wealthiest individuals and corporations.

The Senator from New Mexico has just reconfirmed what we have been saying this whole time. If they did not have this increase in the premium, you would not have the tax breaks for the very wealthy. You can describe that in whatever way.

Mr. DOMENICI. I did not agree with that. It was another statement you made. I will explain the tax cuts in just a moment.

Mr. KENNEDY. Mr. President, I yield whatever time the Senator from Arkansas wants.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. PRYOR. Mr. President, I thank my friend from Massachusetts for yielding to me. I also thank my friend, the Senator from New Mexico, for his statement about the nursing home standards. I hope that we will have a 100 to 0 vote on that in a few minutes, after the Senate resumes its voting process. I am very grateful for all of the support that we have had throughout the country to retain the present standards.

Mr. President, I want to talk about one other aspect of the Kennedy proposal that I strongly support. In fact, I support each of his very splendid proposals within this motion to instruct the conferees. But there is one specifically that I think deserves attention and emphasis at this point.

Before 1991, State Medicaid programs faced an intolerable situation. Since 1951, they were forced to pay the very highest prices for prescription drugs in the country. The irony was that these States and their Governors were buying medicines from the pharmaceutical companies for the very lowest-income families in the country. Alone, they could not afford these life-saving medications. Medicaid provided a lifeline for their well-being and their quality of life. But because the drug companies refused to negotiate with State Medicaid programs on price discounts, these programs were paying the highest prices in the country.

Something important changed in 1991, something very like the nursing home standards enacted in 1987. A coalition of individual Senators and Congressmen got together from both sides of the aisle and enacted something called the Medicaid prescription drug best-price rebate formula. Instead of being forced to pay the highest prices in the country, we told the States that they could purchase their prescription drugs at the best prevailing price in the country. We guaranteed that—if the companies would not negotiate in good faith—the States would be assured of rebates justified by the large volumes of drugs they purchased and the acutely vulnerable populations they served.

Let me emphasize, Mr. President, how important a change this was for the States. The Congress said that it would be the policy of our country to assure that States receive the best possible prices on medicines for the poorest of the poor. We struck a deal, and that deal has worked remarkably. It has been a remarkable work of efficiency and of fairness. I know of no State that does not appreciate and value this program. It has allowed the States, for the first time, to negotiate with real leverage with the pharmaceutical companies.

Since 1991 alone, the States—including Wyoming, Arkansas, Michigan, and Massachusetts—have benefited to the extent of \$5 billion in rebates from the pharmaceutical companies. These funds have gone directly to the States to help them support the poorest of the poor within our population.

That is not the end of the good aspects of this program, Mr. President. The Congressional Budget Office estimates that, over the next 7 years, the States are going to gain another \$12 billion in rebates. This is a tremendous boon to the States and their Medicaid programs.

Mr. President, this is an amazing breakthrough. It is a program that has worked, and it has worked well. The Governors have lauded this program. They have come to Washington to testify on behalf of keeping this program. The Medicaid directors—those who work daily with a diminishing number of dollars—say that Medicaid rebates are one of the best things that ever happened to them.

Let me repeat: Prior to 1991, we were paying the highest drug prices for the poor. The Medicaid rebate program was the first break that the States had in this intolerable situation. Today, billions of dollars a year are paid to the pharmaceutical companies by the Medicaid program. This is the one opportunity for the pharmaceutical companies to do their share—their fair share, I might say—of contributing to helping the poor and to assisting those who cannot afford their medicines. This is their one chance at justifying some of the very lavish tax breaks that we are about to give to some, in my opinion, who should not be getting tax breaks under the Republican proposal.

But let me tell you what has happened in the past few weeks. The drug industry has lobbied intensely to water the rebate program down. There are changes proposed by the other side of the aisle which could jeopardize the progress we made in 1991, as well as the progress we have subsequently made on behalf of the Department of Veterans Affairs, Indian Health Service, Public Health Service, and other Government programs.

The Senate language would strip flexibility and choices from the States, prohibiting them from negotiating the deepest possible discounts. The House language allows drug companies to ignore the needs of the Department of Veterans Affairs, the Public Health Service and Indian Health Service. The House would also exempt nursing home drugs from rebates outright—gutting the Medicaid program and forcing States to pay far more for 70 percent of their drug purchases.

Tens of billions of dollars are being expended every year, and we are on the verge of taking away the leverage in spending those tens of billions of dollars. We are proposing to take leverage away from the States, the Veterans Administration, the Public Health Service—they are going to be cut adrift. They will be forced to say to the public, we are sorry, we don't have the leverage anymore to negotiate. The playing field has been tilted against the poor and in favor of the most profitable industry in the world.

This would be a terrible thing, Mr. President, if we were to weaken a highly successful program which was born in a bipartisan spirit, has saved billions in taxpayer's money and which has been kept together by people who truly share the belief and the commitment to raising the quality of life of those who urgently need medicines but lack the resources to obtain them.

What will we be left with, Mr. President? A hollowed-out Medicaid rebate program that serves the drug industry more than the poor. Draconian restrictions on the number of drugs we can dispense to children and families under Medicaid. A free license to companies to ignore veterans, AIDS patients, and those served in America's public hospitals and community health centers.

In conclusion, Mr. President, I ask my colleagues to consider this one fact. Rebates have allowed us to expand the reach of Medicaid and the Veterans Health Administration and the Public Health Service. They have served the neediest in our country—and have done so efficiently. What we are doing today is turning our backs on that progress. Instead, we want to give an additional windfall to the pharmaceutical companies and allow them the opportunity to escape paying rebates back to the States.

Once again, Mr. President, I do not know why we are doing this. It is a program that has worked. It is a program that the Governors support. It is a program that the Medicaid directors support. It is a program that we should keep as it was passed in 1991. We should not change it.

I am very hopeful that the Senate will adopt Senator KENNEDY's motion to instruct the conferees to keep the concept of buying Medicaid drugs at the best possible price, to preserve the States' leverage in serving taxpayers, and to allow the pharmaceutical companies of America to participate in contributing to this tremendous cause.

I understand there is a possibility that Senator DORGAN of North Dakota may want a few moments. At this time, Mr. President, I yield back my time to my distinguished colleague from Massachusetts.

Mr. KENNEDY. I will yield myself a few minutes until the Senator from North Dakota arrives.

I want to again express the appreciation of all the Members to Senator PRYOR from Arkansas. He was the Senator that really worked out a bipartisan, cooperative agreement with the pharmaceutical companies so that those whose lives depend on many of these prescription drugs, among the poorest of the poor in our country, were not going to be denied being able to receive those prescription drugs, and to work that discount out.

We have been able to extend the rebate program. It applies to the black lung clinics. It applies to the neighborhood health centers that serve 6 million of the poorest Americans. We worked that out 2 years ago, and we had bipartisan support and also had the support of the pharmaceutical industry.

Now all of that is effectively being wiped out—over \$200 million a year will be lost in terms of the public health clinics. I hope that we would say—this should be done, as I understand, with hearings or justification.

We have yet to hear why there is suddenly this very important need to wipe this kind of protection out—whether the poor are getting wealthier, whether there are less uninsured, we are moving beyond the needs of the poorest.

Quite frankly, every indication is to the contrary. The total number of uninsured are going up, the number of poor children and generally needy people in our society is going up.

I am just interested, since the Senator from Arkansas is a member of the Finance Committee, if he would just review with me and correct me if he believes I am wrong on this point, that the Medicare part B premium is really very much a part of Social Security.

I remember when we heard long speeches in this body about how we were not going to take away or touch Social Security. It is my understanding that next year the Social Security COLA would be \$139 for those Social Security recipients that are receiving \$5,300 a year. That is \$139 for a COLA to offset the increases in the cost of living, which the seniors have no ability to control.

The increase in the part B premium for next year is expected to be \$136, so if you take the \$136 which the seniors will have to pay in this new kind of tax, and put that under their \$139 in new dollars, they will have for a COLA, they end up with \$3.

In a very real way, this is diminishing or adding an additional tax on Social Security. The neediest recipients of Social Security would have received \$139; but at the end of the day they only have \$3, and effectively the increase in premiums is taking 98 percent of the COLA.

An average Social Security recipient receiving \$7,800, will receive a COLA of \$205. You subtract \$136 for their premium increase and end up with \$69, which means 66 percent of their premium will be taken.

Even those that get \$10,000 in Social Security benefits—which is about the highest level—get a COLA of \$261; take \$139 from there and that leaves \$125. So their COLA is effectively cut in half.

Does the Senator agree with me that these are real dollars for Social Security recipients, and that with the increase in the premiums that are being suggested by the Republicans, this, in effect, is an additional tax? You can call it a fee or premium or whatever, but you are taking the money out of the paychecks of Social Security recipients.

Mr. PRYOR. Mr. President, if I may respond to my friend from Massachusetts, I think he is precisely on point. He is exactly right.

In addition, I might like to add just one more factor. I believe that something like 60 percent of all of the Social Security recipients are on a fixed income. They cannot go out and sell some more shoes or sell some more cars or do this or do that to increase their resources because they are locked in to an income.

If we take this money from their Social Security by essentially adding a tax to their part B premium, and add it to the dilemma of trying to survive today, paying the costs of getting by, and paying the costs of food and the tremendous escalating costs of their medicines, we are going to impoverish many of our seniors today on Medicare.

I want to salute the Senator from Massachusetts for bringing this to our

attention. I wanted to elaborate to some extent on the number who were on fixed incomes.

Mr. KENNEDY. Mr. President, I yield myself 1 final minute and hopefully the Senator from North Dakota will be here.

Mr. President, it is irresponsible, then, for the Republicans to threaten to shut down the Government if they do not get the unfair increases they want in the Medicare premium.

I say, "shame, shame" on the Republican Party. Nothing more clearly demonstrates the harsh and extreme nature of their right-wing agenda for Americans than this attack on senior citizens and the willingness of Republicans in Congress to shut down the Government itself if they do not get their way.

I yield the floor.

Mr. DOMENICI. I yield 5 minutes to the Senator from Wyoming.

Mr. THOMAS. Mr. President, I express some concern about the continuing opposition to change that I hear here on the floor. Some concern about how in the world we are going to get a consensus in public policy when we have as much, I believe, misinformation as we have here on the floor.

I think we really need to address ourselves, do our jobs here as trustees for the American people in trying to find a way to do some things, to make this fundamental change.

You have to go back, it seems to me, each time we do this, to examining where we are. The Senator from Massachusetts who just left talked about having more poor people than we have had, more different than we have had. You cannot expect things to be different unless we make some change. If you want different results, you have to make some changes.

We have set about in this last few months coming to a culmination, coming to the end, this week, the opportunity to make fundamental change, the opportunity to balance the budget—which I suggest my friends who have been here for 20 years, 30 years, have not done it for 30 years—some fundamental change in welfare, welfare reform, the welfare plan than that which has been in place for 25 years. We have, as the Senator suggests, more poor people than we did before. We have to make some changes.

Medicare? There is no question but that we have to make a change in Medicare. The trustees say we have to make a change in Medicare. Medicare has been growing at three times the rate of inflation. You cannot continue to do that. Obviously, we have to make some change.

Someone on the floor a while ago used a parallel of having a home with no insulation and holes in the walls and cold was coming in. You have two choices. You can either buy more fuel and start a fire and let most of it go out through the hole in the wall, or you can find some insulation and try to fix the wall. That is what we are seeking to do.

There is a limit to how much money you can put into health care. But what we need to do is fundamentally reduce some of the costs, and that is what we are seeking to do here in Medicare. We are seeking to give some choices to the elderly, choices that you and I have as Government employees, so they can choose appropriately; an opportunity to go into managed care which will be less expensive and provide excellent services.

The idea that there is a tax increase, I do not quite understand. In 1990, a Democrat-controlled Senate voted to increase part B premiums from 25 percent to 31½. That is where it is. But I hear from everyone, as if by rote, that "you are raising taxes." We are not raising taxes at all. It is continuing at 31 percent of the premium. That is where we are.

What are the words—"raising taxes so you can pay for tax breaks for the rich," 90 percent of which goes to families earning below \$100,000. These are the kinds of things that make it difficult, it seems to me, to have some kind of a public policy debate when those are the kinds of things we talk about. They are not accurate.

There is a reason why this matter of the part B premium is on this continuing resolution. The reason has to do with the ability of Social Security to put it in the computer and not go back to 25, to go back to 31 in May. That is the reason it is there. It is a legitimate, logistical reason it is there. It is not a political reason, not a political reason to talk about.

So I guess I am really enthusiastic about the fact that we are going to have a chance to make some fundamental change, that we are going to have a chance to change the programs that we see have not produced the kinds of things we want to have happen, to get the results that we want. And that is what it is all about.

Mr. President, I urge my associates to vote in favor of our reconciliation and to go forward with the balanced budget proposal that the Senator from New Mexico has given such great leadership in bringing to us.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator from New Mexico has 9 minutes and 36 seconds.

Mr. DOMENICI. How much time do the Democrats have?

The PRESIDING OFFICER. They have 2 minutes and 19 seconds.

Mr. DOMENICI. Senator DORGAN, if I were to yield you 2 minutes, that would give you 4. Would that help you out?

Mr. PRYOR. Mr. President, I wonder if it is possible to put the Senate in a quorum call, not to have the time going against either side, for the time being? It will be very short.

Mr. DOMENICI. What is the purpose of it? We want to start voting. That is

the only reason I am reluctant, because I am going to start speaking.

Mr. PRYOR. Senator KENNEDY has been yielded this time.

Mr. KENNEDY. How much time remains?

The PRESIDING OFFICER. The Senator from Massachusetts has 2 minutes and 19 seconds.

Who yields time?

Mr. KENNEDY. Mr. President, I yield the remaining time to the Senator from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DOMENICI. Will the Senator like 2 additional? I will yield 2 of mine, just to leave me 7.

Mr. President, so Senators and staffers will know, we are getting close to the time for the first vote. My colleague will speak for 4 minutes, I will speak 7, if that is satisfactory to Senator PRYOR?

Mr. PRYOR. The leader is Senator KENNEDY from Massachusetts.

Mr. KENNEDY. We are fine. That is perfectly agreeable to me because there is no other alternative.

Mr. DOMENICI. I yield 2 minutes to Senator DORGAN.

The PRESIDING OFFICER. The Senator from North Dakota has approximately 4 minutes.

Mr. DORGAN. Mr. President, we have had a healthy discussion on the floor of the Senate today about four sense-of-the-Senate resolutions which we have been trying for some weeks actually to offer. We do this because we are concerned about the priorities. I know some have been on the floor of the Senate saying one side wants a balanced budget and the other side does not care. Of course, that is not the case. The question is not whether we ought to balance the Federal budget. Of course we ought to do that. The issue is priorities. What kind of choices do we make? How do we balance the Federal budget?

Somebody says, "Here is our destination." We say, "Fine. We agree with the destination." But there are a lot of different roads to get to the destination. Among the discussions we have had this afternoon are issues of Medicare, the use of Social Security funds, and the Senator from New Mexico and I have talked previously about the use of Social Security funds. We will probably not agree on that issue. But I do not think those of us who raise these questions have ever been wrong. I just want to go back for a couple of minutes on this issue of Social Security.

It was 1983 that we passed a Social Security reform package. I happen to know that because I was on the Ways and Means Committee in the House at the time, and I happen to remember the day we did it because in the House, when we marked it up, I offered the amendment, the amendment in the Ways and Means Committee that was defeated.

That said, if you are going to raise extra money each year for Social Secu-

rity and call it Social Security revenue and put it in a trust fund, take it out of workers' paychecks and say, "We promise you we will keep it for the Social Security system," I said let us make sure it is not misused later.

That was 12 years ago, and every year since, as we began to accrue these surpluses, every year since it has been used as an offset against operating revenue in the Federal budget. That is just a fact. That is not something we ought to debate. That is a fact.

The argument I hear on the other side is it has been done over all these years so let us keep doing it. That is an argument for business as usual. This ought not be business as usual, and we ought not continue to take money out of the Social Security trust funds to use to balance the Federal budget.

I showed a chart on the floor here 1 day. I should have brought it back today. It has a little arrow on it. It says you cannot use money for two different things. Double-entry book-keeping does not mean you can use the same money twice. Either the money is going to be in the Social Security trust funds or it is not. It is going to be used over here, in the operating revenues for the Federal budget, or the Social Security trust funds. They are going to be used one place or the other, not both. Regrettably, what we have in the coming year is the use of the Federal trust fund money over here in the operating revenues. And I have thought it was wrong since 1983. I have addressed it legislatively. I have offered amendments on it. It is wrong now. It is going to be even more wrong in the future because each year this amount of money grows.

So what you have here is a legislative sleight of hand of those who say we are going to balance the Federal budget, in effect, in the year 2002. Even under the most optimistic assumptions, you will still have a \$110 billion budget deficit.

The Senator from New Mexico knows that on page 3 of the budget report that came to the Congress, it has a section called deficits. You go to 2002, on page 3, and evaluate what is this deficit? It is \$110 billion. That is what they say, not me. Why? Because, in order for them to say zero, they had to take that money from the Social Security trust fund and use it—or misuse it. That is the issue. They are funny about their issues—the issue of education, which I think is important. The issue of part B premiums is what is holding us up at the moment.

As you know, among other things, the circumstances in which the majority party says we insist on this legislation, this stopgap legislation, insist on increasing the part B premiums, makes no sense. They ought to pass a clean stopgap bill, send it to the President, and let us stop this. This makes no sense.

Mr. DOMENICI addressed the Chair.

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

Mr. DOMENICI. Mr. President, let me first talk about the issue of whether we have a balanced budget or not. The distinguished Senator has just addressed the issue of whether we do or do not because of the trust fund.

Let me remind everyone who is listening and wondering about this contentious issue that the trust fund must not be ignored. What is in that trust fund should not be used to balance the budget. The President of the United States sent us a budget when he first went into office. He used the trust fund as part of the unfunded budget. He sent us a budget this year. He did it 3 months later, claiming it was in balance. He used the trust fund. Mr. President, every President since I have been a Senator used it in the exact same way. The Republicans used it in the exact same way.

Lo and behold, 19 Democratic Senators on the floor of the Senate, courageous Democrats, produced a balanced budget. One of them happened to have as a cosponsor along with the distinguished Senator, Senator SIMON, his fellow Senator from his State as a cosponsor. And what kind of budget was that in terms of a balance? That was the exact same kind the Republicans produced and all the Presidents produced. There was no difference. It treated everything just like it has been treated before, excepting now the distinguished Senator, Senator DORGAN, insists that we are not in balance.

Frankly, I do not think the American people understand the argument, nor do they care about it. We are making such a gigantic step in the direction of a balanced budget that I do not think anybody is going to ask us to do more. That is essentially the argument—that we ought to do more. We have not done enough.

Why are we on the floor now? The U.S. Senate passed a reconciliation bill, a big law change, to change the laws so we can get to a balance. That already passed. We voted on 58 amendments. There might have been two or three of them who were Republican. They had every opportunity to vote. They lost. They might have won one or two.

When we are all finished, they want another day on the floor of the Senate. So now they say, let us instruct the conferees, the ones who are going to go off and meet with the House who have already been meeting—who have already finished the budget—but for another meeting. They want a chance to tell them what to do by virtue of motions to instruct. This is nonbinding.

It is also a desperate act of, let us get one more opportunity on the floor of the Senate to make some charges and allegations.

So we say, fine. Have at it.

I am pleased to tell those who offered all of these instructions, including my good friend, the Senator from Florida, Senator GRAHAM, that I am going to urge that every Republican Senator vote for his instruction. So if he is wor-

ried about it, he should know that he is going to win tonight. He is going to win because, in our opinion—and we are going to tell the Republicans—nothing in our budget bill violated the Budget Enforcement Act.

Second, we do not include anything in the conference report that violates that section that he refers to. And, lo and behold, we did not use \$12 billion in Social Security cuts to balance the budget. So we are going to vote for it, and the Senator's instruction, albeit after the fact, is going to be noted and well taken. So I thank him for that.

I offered Senator KENNEDY a proposal that we take all of his, except one. So if anybody wonders how this big argument—he has about 10 provisions. We said we did all of them in our reconciliation except one with reference to balanced billing. So if we have to vote no on Senator KENNEDY's long list, it is because we do not agree on balanced billing. But on all of the rest, we agree. If he would agree to strip that, we will even vote for his instruction tonight. I will leave that for him to decide here in the next few minutes.

That leaves Senator PRYOR. I have said we are going to vote for that. And I say to the Senator, I was thinking of what I said. I am not saying we did every single thing that he is recommending in his instruction. I am saying we went as far as we could go, and we will accept the instruction since it is not binding. We will say we told the conferees to do their very best on his instructions, and I think for the most part it is going to be found to be rather close to what he wants. But I did not want him to think we adopted his exactly.

That means that we are not going to go with Senator ROCKEFELLER, who has something in his saying we should only raise \$89 billion to make part B solvent. So he would like to make it solvent for only a few years.

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

Mr. DOMENICI. Let me finish my last reasoning since I did not have any time, and I will get back to the Senator. I do not want to run out of time.

So essentially the one we cannot agree to is we cannot agree to Senator ROCKEFELLER's for one reason. He said we should only make the part A coverage solvent to the extent of \$89 billion put back into it. We are putting a lot more back into it because we want it to be solvent until the year 2010, maybe even 2015.

So we could not agree to that. The last part of his we would agree to. He says, do not use any of these to raise taxes. We did not. We put all of the Medicare savings back into Medicare. So, but for that, we could even vote for his but we will have to vote no on that.

If Senator KENNEDY will modify his, the Democratic Senators will have their great victory this afternoon. We will vote for them—all three.

Mr. KENNEDY. Mr. President, if the Senator will yield for 30 seconds, no

one is more accommodating than the Senator from New Mexico in attempting to try to find common ground. But the issue on the double billing is one of extreme importance.

Now, of course, beneficiaries are not permitted to be charged above the reimbursement for Medicare. And it is my understanding from reviewing the language that under the proposal that is being discussed in conference there can be additional charges to senior citizens. But we want to retain current law.

All my legislation does is effectively retain current law. But, as I understand it, that is not the position of the Senator, the chairman of the Budget Committee.

Mr. DOMENICI. We will have a vote on the Senator's instruction. I thank the Senator.

Let me close by saying that this argument that we are having on the floor has nothing to do with these instructions. It has to do with whether or not we are going to get a balanced budget in 7 years using valid economics and using valid assumptions on what Government will cost. We have done that. We have used the Congressional Budget Office, and we will actually have a balance. And we are able to give the American taxpayers \$245 billion back in taxes.

Let me say that while I cannot reveal the details of the conference, lo and behold, 90 percent of the tax cut is going back to middle-income Americans. So if there was any fear that we were going all the way to the House side, we did not. As a matter of fact, \$75,000 is the earnings for a single head of household for the child care credit. And the rest of it, 90 percent, will be for middle-income Americans.

We will have capital gains in. For those who do not like that because some of it goes to rich people, that is just going to be the issue. But essentially we are passing a budget not for today, not for seniors, not for cowboys, not for ranchers, not for schoolteachers, but for everyone in America, in particular our children. Whatever they do in their lives, we are hoping they will have a better life than we. And we do not think that is the case with \$200 billion deficits as far as the eye can see. That is the real issue.

We are delighted to have another debate on it. In a few days we will bring the bill here on the floor, and we will have another 5 hours of debate. We hope we can send to the President a real balanced budget.

Mr. PRYOR. Mr. President, parliamentary inquiry: Have we appointed conferees from this body to a conference on reconciliation? Has the Senate appointed conferees?

The PRESIDING OFFICER. The Senate has not.

Mr. PRYOR. So if we do not have any conferees, Mr. President, we do not have a conference. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. PRYOR. The Senator from New Mexico keeps talking about "we" have decided, that "we" have decided that. But yet, there is no conference because there are no conferees.

Mr. DOMENICI. The Senator is correct.

Mr. PRYOR. Who does the Senator speak of when he is talking about "we" have decided this?

The PRESIDING OFFICER. That is not an appropriate parliamentary inquiry.

Mr. DORGAN. Mr. President, may I ask the Senator from New Mexico for his comment—

Mr. DOMENICI. We are out of time. I will be pleased to correct the record.

Mr. PRYOR. Mr. President, I ask unanimous consent that the Senator from New Mexico be allowed to answer my question in 1 minute.

Mr. DOMENICI. Could I ask for 1 minute for Senator COHEN to put a statement in the RECORD?

Mr. PRYOR. I would be glad to.

Mr. DOMENICI. Does the Senator from Maine wish to include a statement in the RECORD?

Mr. COHEN. I will withhold.

Mr. DOMENICI. Mr. President, fellow Senators, just as the Democrats did last year when they put together the President's package with the largest tax increase in history, only Democrats really put the package together. I happened to have been a Member. I was not invited to that meeting. When it was finished, they called a meeting and said it is finished.

So what we have been doing is meeting informally because we know we are going to have to write this package. We worked very hard day and night, all weekend, and when we finally got together tonight we could not appoint conferees because these motions were in the way. They wanted to have this debate today first.

So as soon as it is finished, we will appoint the conferees, and in due course during this week the conferees will meet and they will put together, ratify, and approve a conference report.

Mr. DORGAN. Mr. President, if I might ask a question, as soon as the conference is finished, they will appoint conferees?

The PRESIDING OFFICER. The 1 minute has expired. Any debate at this point would require a unanimous consent.

All time has expired.

The Senator from Maine has 1 minute.

Mr. COHEN. Mr. President, during the Senate debate on the budget reconciliation bill I offered an amendment with my colleague from Arkansas, Mr. PRYOR, to retain strong Federal standards for nursing homes and I am pleased that the Senate-passed budget reconciliation bill maintains the tough Federal standards that are currently in place to protect elderly and disabled individuals living in nursing homes. The continuation of OBRA '87 nursing home standards in the Senate bill is a

major victory for today's 2 million nursing home residents, and tomorrow's growing elderly and disabled population.

A few weeks ago I chaired a hearing of the Senate Special Committee on Aging 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 to play a central role in monitoring and enforcing nursing home standards.

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 bill originally reported by the Finance Committee required that States include certain quality of care provisions in their Medicaid State plans, I had strong concerns that many of the important OBRA '87 provisions were eliminated and that the bill lacked adequate Federal oversight and enforcement of nursing home standards.

Therefore, I 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.

During the debate on the reconciliation bill and since its passage, the nursing home standards provisions contained in the Senate bill have been attacked as inadequate and a return to the days when nursing home residents were tethered and overdrugged. It is unfortunate that my colleagues on the other side of the aisle have chosen to play on the strong emotions and fears of families of nursing home residents. They argue that the waiver provision included in the Senate-passed bill is a veiled attempt to gut nursing home enforcement. I want to assure my colleagues that, while I would prefer that a waiver not exist, this is simply not true.

An article appeared today, entitled, "GOP Health Reforms Leaving Nursing Homes Behind. Both the House and Senate Budget Plans Propose a Wholesale Repeal of Important Nursing Home Standards First Passed in 1987," paints a distorted picture of the facts. The headline leaves the clear impression that both the Senate and House plans are callous and have turned their backs on nursing home residents. The article then goes on to attack the waiver process in the Senate bill as a plan to eliminate the Federal nursing home standards which we have all fought so hard to achieve.

Let me set the facts straight for the record.

First, the Senate bill continues Federal standards and enforcement. To

lump the Senate provisions as being as bad as the House bill is simply unfair. The Senate recognized the need to maintain Federal law and did so in its reconciliation bill.

Second, the Senate-passed bill does provide for States to receive waivers from the Federal nursing home reform law, but these are provided in only very limited 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 the standards are equal to or more stringent than the Federal standard. Further, the provision specifies that waivers allowed under this section in no way waive or limit the Federal Government's enforcement of tough nursing home standards, patient protections, and other provisions of OBRA '87 against the States or the nursing homes.

Under the Senate-passed bill, even if a State obtains a waiver, the Federal Government retains the authority to go into specific facilities and impose penalties. Specifically, the Federal Government can still: perform look back inspections, through which the Federal Government reinspects a percentage of nursing homes already inspected by the States to determine if the States are adequately enforcing OBRA '87; enter any nursing home facility to ensure compliance with OBRA; terminate a facility's certification for Medicaid if conditions in the facility causes an immediate harm to residents; fine a facility if the nursing home is not complying with Federal law; terminate or suspend a waiver of any State that is not enforcing the Federal nursing home standards or has standards weaker than the Federal law.

Colleagues on the other side of the aisle argue that the Secretary does not retain these rights and that the Federal Government is unable to enforce Federal standards against individual facilities. I maintain that this is simply not correct under the language of the Senate-passed provision and have been urging the leadership to clarify this in conference so there will be no doubt of the intent. Rather than working constructively to support and clarify this language, however, those on the other side of the aisle have decided that they can score more political points if they provide strained readings of the provisions, energize opposition among the nursing home patients' groups, and paint a picture of all Republicans trying to roll back standards and enforcement.

The fact is that States are now allowed to apply more stringent standards than the Federal Government under current law. So the waiver really gives nothing to a State—other than the option of requiring nursing home standards that are tougher, with the Federal Government looking over the shoulder of the State and facility every

step of the way. While I strongly share the concern of my colleague from Arkansas that States have not had a good history of enforcing standards in nursing homes, the law should not automatically assume that tough enforcement by States—with full monitoring and full enforcement by the Federal Government of standards—is absolutely impossible.

Some critics also question whether a State could receive a waiver if its standards as a whole—rather than each and every standard—for nursing homes were equal to or more stringent than the Federal standards. I believe that the language in the Senate-passed bill means that each standard must be equal to or more equivalent to the Federal standards in order to qualify a State for a waiver. Again, I would support language to even further clarify that this is the intent—but we should do this in an effort to clarify and strengthen the bill, rather than suggesting that there is a veiled effort to create loopholes for nursing homes.

In addition, under the Senate-passed bill the Secretary is given 120 days to approve or disapprove a waiver application from a State. Opponents challenge this provision as perhaps allowing a State waiver to go into effect by default if the Secretary does not act within this time frame. This interpretation is a far stretch, since as my colleagues well know, under current law similar waivers are not granted by default if the Secretary does not expressly approve the waiver.

As I stated on the floor during debate on the reconciliation bill, I am pleased that the amendment that I cosponsored to preserve the current Federal law on nursing home standards was adopted and I supported the Roth amendment to the bill only because I believe that the waiver provisions contained in it do not undermine strong Federal enforcement and standards. I assure my colleagues that I will continue to press for strong Federal standards and enforcement, and will not support a conference report on the budget reconciliation bill that I believe will dilute either Federal standards or Federal enforcement against States or individual facilities.

Mr. President, I intend to support the motion of the Senator from Arkansas, but I also want to indicate I believe that there has been a distortion of what the Senate did last week. The indication is that somehow the Republicans have been less than concerned about nursing home residents and their rights and the standard that will be applied to make sure that at the very highest levels we maintain Federal enforcement obligation.

I wish to assure my colleague from Arkansas that the measure which passed—both measures—and I supported, and the Republican substitute, will insist upon standards that States can measure up to are higher than Federal standards. We still retain Federal enforcement rights. I believe you are

insisting there be no waivers, but I wish to assure you that Republicans, by no means, are going to tolerate any diminution of either standards or enforcement by the Federal Government.

Mr. PRYOR. If the Senator will yield, does the proposal that the Senator has accepted contain waivers by States?

Mr. COHEN. The proposal that was voted last week in the Senate allowed for States that either had equal to or greater standards to apply for a waiver that could be granted but only if the Federal Government retained enforcement standards, enforcement rights. That is the measure we debated.

Mr. PRYOR. That is a change of which I wish to warn my colleagues.

The PRESIDING OFFICER. All time having been consumed, the question is on agreeing to the motion of the Senator from Massachusetts.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I have a unanimous consent request. I ask unanimous consent that the votes occur in the order in which they were deferred and that there be 2 minutes equally divided between each motion to instruct.

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

Mr. DOMENICI. I thank the Chair.

MOTION TO INSTRUCT—NURSING HOMES

The PRESIDING OFFICER. There is now 2 minutes to be equally divided on the Senator's motion.

Mr. PRYOR. I thank the Chair.

Mr. President, what we are faced with right now is whether we are going to retain the Federal standards as adopted in OBRA 1987. These are high standards. They are accepted standards. They are understood standards. They are standards that apply across this great country, across this wide land of ours in each of our 50 States.

In my opinion, to relax these standards is going to be a statement that we are making to 2 million nursing home residents that we do not care enough about their safety to retain these high standards.

I have just seconds ago been informed that even though I had been told earlier my motion would be accepted as is, there is going to be the possibility of relaxation of some enforcement provisions made by the Republicans in their so-called conference, and the conference does not even exist with the Democrats. So this is our last opportunity. I hope we will support the motion that is before the Senate at this time.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I waive my 1 minute.

The PRESIDING OFFICER. The question is on agreeing to the motion. The yeas and nays are already ordered on this 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 who desire to vote?

Mr. LOTT. I announce that the Senator from Texas [Mr. GRAMM], the Senator from Vermont [Mr. JEFFORDS], and the Senator from Indiana [Mr. LUGAR] are necessarily absent.

The result was announced—yeas 95, nays 1, as follows:

[Rollcall Vote No. 570 Leg.]

YEAS—95

Abraham	Feingold	Mack
Akaka	Feinstein	McCain
Baucus	Ford	McConnell
Bennett	Frist	Mikulski
Biden	Glenn	Moseley-Braun
Bingaman	Gorton	Moynihan
Bond	Graham	Murkowski
Boxer	Grams	Murray
Bradley	Grassley	Nickles
Breaux	Gregg	Nunn
Brown	Harkin	Pell
Bryan	Hatch	Pressler
Bumpers	Hatfield	Pryor
Burns	Hefflin	Reid
Byrd	Helms	Robb
Campbell	Hollings	Rockefeller
Chafee	Hutchison	Roth
Coats	Inhofe	Santorum
Cochran	Inouye	Sarbanes
Cohen	Johnston	Shelby
Conrad	Kassebaum	Simon
Coverdell	Kempthorne	Simpson
Craig	Kennedy	Smith
D'Amato	Kerrey	Snowe
Daschle	Kerry	Specter
DeWine	Kohl	Stevens
Dodd	Kyl	Thomas
Dole	Lautenberg	Thompson
Domenici	Leahy	Thurmond
Dorgan	Levin	Warner
Exon	Lieberman	Wellstone
Faircloth	Lott	

NAYS—1

Ashcroft

NOT VOTING—3

Gramm	Jeffords	Lugar
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So the Pryor motion to instruct conferees was agreed to.

MOTION TO INSTRUCT—MEDICARE

The PRESIDING OFFICER. The question now occurs on the motion to instruct conferees offered by the Senator from West Virginia [Mr. ROCKEFELLER]. The yeas and nays have not been ordered.

By a previous unanimous consent, there is 2 minutes to be equally divided to explain the amendment.

Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. I thank the Presiding Officer.

Mr. President, this particular motion to instruct is to say to conferees that Medicare should not be cut by more than \$89 billion, which is sufficient to keep it solvent to the year 2006, and that any money necessary to ensure budget neutrality would come from the tax break. That is it.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, shortly I am going to move to table the Rockefeller motion. Let me say to all Senators on the Republican side, I would have urged that you support this but for the \$89 billion limitation, because we think we can do better and we

deserve to make the fund solvent for more than just a few years.

So we are going to make it solvent to about 2010, maybe 2014. But as far as that portion of this that says we should not use Medicare to cut taxes, I can assure you that we are not doing that. We have put all the Medicare savings back into the Medicare trust fund, even those that come from the general taxpayer for part B, so we are not using any Medicare savings for tax cuts.

Mr. President, I move to table the Rockefeller motion 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 the motion of the Senator from West Virginia to instruct conferees. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Texas [Mr. GRAMM] and the Senator from Indiana [Mr. LUGAR] are necessarily absent.

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

The result was announced—yeas 51, nays 46, as follows:

[Rollcall Vote No. 571 Leg.]

YEAS—51

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

NAYS—46

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

NOT VOTING—2

Gramm	Lugar
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So the motion to lay on the table the Rockefeller motion to instruct conferees was agreed to.

MOTION TO INSTRUCT—SOCIAL SECURITY

The PRESIDING OFFICER. The question next occurs on the motion to instruct conferees offered by the Senator from Florida, Senator GRAHAM. Under previous agreement, each Sen-

ator has 1 minute to explain the position on the motion.

The Senate will please come to order.

The Senator from Florida is recognized.

Mr. GRAHAM. 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.

Mr. GRAHAM. Mr. President, this motion relates to a provision that was included in the last hour of our consideration of the reconciliation bill. That provision purported to fund \$13 billion of new spending by utilizing funds out of the Social Security trust fund.

This motion states that it is not our intention to dishonor the commitment that this Congress made in 1990 not to utilize the Social Security trust fund for financing the general purposes of Government and, therefore, instructs our conferees to desist from any actions that would have that effect.

I believe this amendment is acceptable to the chairman of the Budget Committee. I urge its adoption.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, the first portion of his instruction we have never violated, so we can be instructed on it.

The second section, we have never violated it, so we can be instructed not to.

The third one, on \$12 billion worth of Social Security, we did not think we violated it on the Senate floor. However, in the final product, we did not have to use that to get to a balanced budget, so I am recommending we vote aye on this instruction.

The PRESIDING OFFICER. All time has expired. The question occurs on the motion to instruct conferees offered by the Senator from Florida, Senator GRAHAM.

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 Texas [Mr. GRAMM] and the Senator from Indiana [Mr. LUGAR] are necessarily absent.

The result was announced—yeas 97, nays 0, as follows:

[Rollcall Vote No. 572 Leg.]

YEAS—97

Abraham	Cochran	Gorton
Akaka	Cohen	Graham
Ashcroft	Conrad	Grams
Baucus	Coverdell	Grassley
Bennett	Craig	Gregg
Biden	D'Amato	Harkin
Bingaman	Daschle	Hatch
Bond	DeWine	Hatfield
Boxer	Dodd	Heflin
Bradley	Dole	Helms
Breaux	Domenici	Hollings
Brown	Dorgan	Hutchison
Bryan	Exon	Inhofe
Bumpers	Faircloth	Inouye
Burns	Feingold	Jeffords
Byrd	Feinstein	Johnston
Campbell	Ford	Kassebaum
Chafee	Frist	Kempthorne
Coats	Glenn	Kennedy

Kerrey	Moynihan	Shelby
Kerry	Murkowski	Simon
Kohl	Murray	Simpson
Kyl	Nickles	Smith
Lautenberg	Nunn	Snowe
Leahy	Pell	Specter
Levin	Pressler	Stevens
Lieberman	Pryor	Thomas
Lott	Reid	Thompson
Mack	Robb	Thurmond
McCain	Rockefeller	Warner
McConnell	Roth	Wellstone
Mikulski	Santorum	
Moseley-Braun	Sarbanes	

NOT VOTING—2

Gramm	Lugar
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So, the Graham motion to instruct conferees was agreed to.

MOTION TO INSTRUCT - HEALTH CARE

The PRESIDING OFFICER (Mr. SANTORUM). The question is on agreeing to the motion to instruct conferees offered by the Senator from Massachusetts [Mr. KENNEDY]. Each side has 1 minute of debate.

Mr. KENNEDY. 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. There is 1 minute of debate time on each side on this motion before the vote.

The Senator from Massachusetts.

Mr. KENNEDY. I thank the Chair.

Mr. President, this motion retains existing law in four important areas: In the discounts which are currently available for prescription drugs for our senior citizens; second, in the prohibition against double billing that is in existing law, so that the senior citizens will not be charged a cost above that designated, for example, in Medicare; third, in anti-fraud and abuse, to make sure that the existing provisions to prevent fraud and abuse to deal with those exigencies are preserved, which they are not preserved in the reconciliation bill at the current time; and fourth, in protections against additional costs in Medicaid, to make sure that there will not be additional costs for nursing home residents on Medicaid, spouses and their families.

We preserve existing law in all four areas. This will save seniors and seniors' families billions of dollars and save billions of dollars for the taxpayer, and I urge its acceptance.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I thank the Chair.

Mr. President and fellow Senators, frankly, it is very difficult to ascertain from this long litany of instructions to the conferees which of these we really can do and which ones we cannot, and because I cannot discern that with certainty—and a couple of them I know we cannot get done in the conference in the next 24 hours—I am going to recommend we table the motion.

Frankly, I believe we are going to get a lot of these good provisions done. I do not think we need to be instructed at this point.

So, 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.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Let me advise Members, this is the last of the four votes on the instructions. I would recommend you take a beeper with you because if we do work out something on the CR, the vote could come any time between now and tomorrow morning.

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

The legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Texas [Mr. GRAMM] and the Senator from Indiana [Mr. LUGAR] are necessarily absent.

The result was announced—yeas 48, nays 49, as follows:

[Rollcall Vote No. 573 Leg.]

YEAS—48

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

NAYS—49

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

NOT VOTING—2

Gramm           Lugar

So the motion to lay on the table the Kennedy motion to instruct conferees was rejected.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Rollcall vote be vitiated on this motion.

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

The question occurs on agreeing to the motion to instruct offered by the Senator from Massachusetts.

So, the motion was agreed to.

Mr. KENNEDY. 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. DOMENICI. Mr. President, I just want to comment in the presence of Senator KENNEDY, one of the reasons we let this happen and did not fight any harder is because we are so appreciative on the Republican side for all the help he has been in getting the reconciliation bill passed.

Mr. KENNEDY. I thank the Senator. I want to be of similar help and assistance on—

Mr. DOMENICI. That kind of help we do not need. In spite of what it was, he prevailed.

The PRESIDING OFFICER. Under the previous order, the Chair appoints the following conferees.

Thereupon, the Presiding Officer (Mr. SANTORUM) appointed:

From the Committee on the Budget for consideration of all titles: Mr. DOMENICI, Mr. GRASSLEY, and Mr. EXON;

From the Committee on Agriculture, Nutrition, and Forestry for consideration of title I: Mr. LUGAR, Mr. DOLE, Mr. HELMS (for consideration of section 1113 and subtitle D of title I), Mr. COCHRAN (for consideration of title I, except sections 1106, 1108, 1113, and subtitle D), Mr. CRAIG (for consideration of sections 1106 and 1108 of title I), Mr. LEAHY; and Mr. PRYOR;

From the Committee on Armed Services for consideration of title II: Mr. THURMOND, Mr. MCCAIN, and Mr. BINGAMAN;

From the Committee on Banking, Housing and Urban Affairs for consideration of title III: Mr. D'AMATO, Mr. GRAMM, and Mr. SARBANES;

From the Committee on Commerce, Science, and Transportation for consideration of title IV: Mr. PRESSLER, Mr. STEVENS, Mr. MCCAIN, Mr. HOLLINGS, and Mr. INOUE;

From the Committee on Energy and Natural Resources for consideration of title V: Mr. MURKOWSKI, Mr. HATFIELD, Mr. NICKLES, Mr. CRAIG, Mr. JOHNSTON, Mr. BUMBERS, and Mr. FORD;

From the Committee on Environment and Public Works for consideration of title VI: Mr. CHAFEE, Mr. WARNER, Mr. SMITH, Mr. BAUCUS, and Mr. REID;

From the Committee on Finance for consideration of title VII and title XII: Mr. ROTH, Mr. DOLE, and Mr. MOYNIHAN;

From the Committee on Governmental Affairs for consideration of title VIII (and for consideration of the title of the House bill relating solely to abolishing the Department of Commerce): Mr. STEVENS, Mr. COHEN, Mr. THOMPSON, Mr. GLENN, and Mr. PRYOR;

From the Committee on the Judiciary for consideration of title IX: Mr. HATCH, Mr. GRASSLEY, and Mr. BIDEN;

From the Committee on Labor and Human Resources for consideration of title X: Mrs. KASSEBAUM, Mr. JEFFORDS, Mr. COATS, Mr. FRIST, Mr. KENNEDY, Mr. PELL, and Mr. SIMON (for ERISA and other matters);

From the Committee on Veterans' Affairs for consideration of title XI:

Mr. SIMPSON, Mr. MURKOWSKI, and Mr. ROCKEFELLER.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I ask unanimous consent to speak as in morning business not to exceed 15 minutes.

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

POISED FOR A SHUTDOWN

Mrs. BOXER. Thank you very much, Mr. President. I take to the floor late this evening, and I know there is other business that will be coming before the body, to talk about where we are as a country at this point when everyone seems to be poised for a shutdown, representing the largest State in the Union where, I daresay, Senator FEINSTEIN and I have more people who will be impacted by this shutdown than any other State in the Union. It is of grave concern to me. I believe the time has come for us to work together and keep this Government functioning. I believe if we cannot do that, then we are not doing our jobs.

The time has come for the Republican Congress to admit to something they do not want to admit to, and that is the occupant of the White House happens to be a Democrat. There is a Democrat in the White House, a Democrat who has said in every possible way that we can make bipartisan progress on the budget if Republicans moderate their extreme cuts in four areas: Medicare is one area; Medicaid is the second; education is the third; and environment is the fourth. And on the tax break side, that the Republican Congress not give huge tax breaks to the wealthiest to pay for those mean-spirited cuts.

Those are the main areas of disagreement: Medicare, Medicaid, environment and education and huge tax breaks for the wealthiest among us.

There are other smaller areas of disagreement, but those are the major ones. When you stop and think about the thousands of things that we deal with in this budget, if it can come down to four or five areas, I think there is room for us to work together. I do not think it is unreasonable for the President to simply ask for moderation on four areas crucial to all Americans, and I do not believe that the majority of Americans think that President Clinton is being unreasonable.

Why do I say that? Because it is clear, when you take \$270 billion out of Medicare, you are hurting this very important and popular program. And you know that what Speaker GINGRICH said is true, they cannot kill it outright, but this will allow it to "wither on the vine."

"Wither on the vine," the very words of Speaker GINGRICH. And you know something, he cannot get out of it. That is what he said.