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Senate

CONGRESSIONAL BUDGET FOR THE UNITED STATES GOVERNMENT FOR FISCAL YEAR 2009—Continued

AMENDMENT NO. 4364

(Purpose: To provide a deficit-neutral reserve fund to provide for a demonstration project regarding Medicaid coverage of low-income HIV-infected individuals)

At the appropriate place, insert the following:

SEC. ___. DEFICIT-NEUTRAL RESERVE FUND FOR DEMONSTRATION PROJECT REGARDING MEDICAID COVERAGE OF LOW-INCOME HIV-INFECTED INDIVIDUALS.

The Chairman of the Senate Committee on the Budget may revise the allocations of a committee or committees, aggregates, and other appropriate levels in this resolution for one or more bills, joint resolutions, amendments, motions or conference reports that provide for a demonstration project under which a State may apply under section 1115 of the Social Security Act (42 U.S.C. 1315) to provide medical assistance under a State Medicaid program to HIV-infected individuals who are not eligible for medical assistance under such program under section 1902(a)(10)(A)(i) of the Social Security Act (42 U.S.C. 1396a(a)(10)(A)(i)), by the amounts provided in that legislation for those purposes, provided that such legislation would not increase the deficit over either the total of the period of fiscal years 2008 through 2013 or the total of the period of fiscal years 2008 through 2018.

AMENDMENT NO. 4195

(Purpose: To provide for a deficit-neutral reserve fund for reducing the income threshold for the refundable child tax credit to $10,000 for taxable years 2009 and 2010 with no inflation adjustment to ensure that low-income working families receive the benefit of such credit)

On page 69, after line 25, add the following:

SEC. _____. DEFICIT-NEUTRAL RESERVE FUND FOR REDUCING INCOME THRESHOLD FOR REFUNDABLE CHILD TAX CREDIT TO $10,000 WITH NO INFLATION ADJUSTMENT.

The Chairman of the Senate Committee on the Budget may revise the allocations, aggregates, and other levels in this resolution by the amounts provided by a bill, joint resolution, amendment, motion, or conference report that would reduce the income threshold for the refundable child tax credit under section 24 of the Internal Revenue Code of 1986 to $10,000 for taxable years 2009 and 2010 with no inflation adjustment, provided that such legislation would not increase the deficit over either the period of the total of fiscal years 2008 through 2013 or the period of the total of fiscal years 2008 through 2018.

Mr. REID. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. GREGG. Mr. President, I understand we are now proceeding to the Boxer amendment.

Mr. CONRAD. Mr. President, if I may just review for our colleagues, that is 30 amendments that were just cleared. We now go to an amendment by Senator BOXER.

The PRESIDING OFFICER. The Senator from California.

AMENDMENT NO. 4368, AS MODIFIED

Mrs. BOXER. Mr. President, I have a modification at the desk seen by both sides. We left out the second page originally. I ask unanimous consent that the amendment be modified.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

The Senator from California [Mrs. BOXER] proposes an amendment numbered 4368, as modified.

The amendment is as follows:

(Purpose: To increase funding for the Department of Justice for the vigorous enforcement of laws protecting children)

On page 24, line 16, increase amount by $50,000,000.

On page 24, line 17, increase the amount by $50,000,000.

On page 27, line 16, decrease the amount by $50,000,000.

On page 27, line 17, decrease the amount by $50,000,000.

Mrs. BOXER. Mr. President, this is a little complicated. The only reason I am offering this amendment is as a substitute to the Ensign amendment which is coming next. The Ensign amendment does something I have never seen in all my years in the Senate. It funds a program that is not the law of the land. It funds a program that Senator ENSIGN strongly supports. It did pass the last Congress—not this Senate, the last Senate. He is setting aside $50 million in the Justice Department for this particular priority. What if we each came down here with our priority bill? I have one to fund preschool for all kids, but it is not passed. If I asked you to set aside $50 million for a bill that was not law yet, it would make no sense. When I asked Senator ENSIGN, he said: Well, it could pass. The Child Custody Protection Act could pass. It could pass here. It could pass the House. It could be signed by the President. But my friends, what I do here is just say: Let's take that same amount of money and use it for all child protection laws. I hope Members will support my amendment.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. ENSIGN. Mr. President, what we have done with the Child Custody Protection Act—Senator BOXER is correct, it is a bill that passed the U.S. Senate on a bipartisan vote of 65 to 34. What we are doing is setting up a reserve fund that says if it passes this year, the money will be there to enforce it.

We know around here a lot of times things are authorized, things are passed, but then the money is not there to enforce it. So what we want to do is set up a reserve fund so that if the law is passed, we will have the money there to enforce it. This has to do with protecting minor children. There are many States in this country that have passed laws—parental notification, parental consent laws—that want to protect the rights of parents and children from being taken across State lines by adults. That is what this bill will allow the enforcement of, to make sure the Child Custody Protection Act has the money to be enforced by law enforcement across this country.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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

Mrs. BOXER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to amendment No. 4368, as modified.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD), the Senator from Washington (Ms. CANTWELL), the Senator from Hawaii (Mr. INOUYE), and the Senator from Vermont (Mr. LEAHY) are necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Arizona (Mr. MCCAIN).

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

The result was announced—yeas 90, nays 5, as follows:

[Rollcall Vote No. 70 Leg.]

YEAS—90

Akaka	Domenici	Mikulski
Alexander	Dorgan	Murkowski
Allard	Durbin	Murray
Barrasso	Ensign	Nelson (FL)
Baucus	Enzi	Nelson (NE)
Bayh	Feingold	Obama
Bennett	Feinstein	Pryor
Biden	Graham	Reed
Bingaman	Grassley	Reid
Bond	Hagel	Roberts
Boxer	Harkin	Rockefeller
Brown	Hatch	Salazar
Brownback	Hutchison	Sanders
Bunning	Isakson	Schumer
Burr	Johnson	Sessions
Cardin	Kennedy	Shelby
Carper	Kerry	Smith
Casey	Klobuchar	Snowe
Clinton	Kohl	Specter
Cochran	Kyl	Stabenow
Coleman	Landrieu	Sununu
Collins	Lautenberg	Tester
Conrad	Levin	Thune
Corker	Lieberman	Vitter
Cornyn	Lincoln	Voinovich
Craig	Lugar	Warner
Crapo	Martinez	Webb
DeMint	McCaskill	Whitehouse
Dodd	McConnell	Wicker
Dole	Menendez	Wyden

NAYS—5

Chambliss	Gregg	Stevens
Coburn	Inhofe	

NOT VOTING—5

Byrd	Inouye	McCain
Cantwell	Leahy	

The amendment (No. 4368), as modified, was agreed to.

Mr. REID. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

CHANGE OF VOTE

Mr. CASEY. Mr. President, on rollcall vote 70, I voted ''nay.'' It was my intention to vote ''yea.'' Therefore, I ask unanimous consent I be permitted to change my vote, since it will not affect the outcome—the outcome being 89 to 6.

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 North Dakota.

Mr. CONRAD. Mr. President, did we move to reconsider and table?

The PRESIDING OFFICER. It has been done.

Mr. CONRAD. Mr. President, can we have order in the Chamber.

The PRESIDING OFFICER. The Senate will be in order.

Mr. CONRAD. We need to ask people to hold it down so we can conduct business. It will go much faster if we do that and respect the rights of Senators to be heard.

We now go to Senator ENSIGN for an amendment.

The PRESIDING OFFICER. The Senator from Nevada.

AMENDMENT NO. 4335

Mr. ENSIGN. Mr. President, the last amendment Senator BOXER offered was extra money to have laws that protect children. That is fine. That is why I voted for that last amendment. We could actually have taken that amendment by a voice vote.

What my amendment now does is create money so we will be able to enforce the Child Custody Protection Act when we enact that law. Around here, as I said before, too many times we enact laws, we authorize things, and we do not fund them. This is going to set up funding so the Child Custody Protection Act—the law that says we are going to protect young children from being taken across State lines to have a surgical procedure, a surgical abortion—we are going to make sure those people are protected.

Mr. President, I call up amendment No. 4335.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. ENSIGN] proposes an amendment numbered 4335.

Mr. ENSIGN. 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:

(Purpose: To increase funding for the Department of Justice for the vigorous enforcement of a prohibition against taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions consistent with the Child Custody Protection Act, which passed the Senate by a bipartisan vote of 65–34, with an offset)

On page 24, line 16, increase the amount by $50,000,000.

On page 24, line 17, increase the amount by $50,000,000.

On page 27, line 16, decrease the amount by $50,000,000.

On page 27, line 17, decrease the amount by $50,000,000.

Mr. ENSIGN. Mr. President, I will finish very briefly.

This amendment strictly funds the Child Custody Protection Act that passed the Senate in a bipartisan fashion by a vote of 65 to 34. We will now vote to make sure it is funded. That is simply what my amendment does.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I wish to inform all colleagues on both sides of the aisle that you voted for $50 million to enhance the enforcement of child protective laws. If Senator ENSIGN's bill becomes a law—which it is not the law; it has not passed this Senate in this Congress and I do not believe people feel it is going to become law—if it does become law, then that money is already there to be used for such a program.

But now to set aside funding for a bill that is not a law is the oddest kind of precedent. It is kind of ''Alice in Wonderland,'' to be honest with you. Every one of us could take our favorite bill and say: Let's set aside funding in case my bill becomes law.

This is not the way to legislate. We have put in $50 million to enhance the enforcement of child protective laws, including this particular bill.

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

Mrs. BOXER. I hope my colleagues will vote no.

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

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The assistant journal clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) is necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Arizona (Mr. MCCAIN).

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

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

[Rollcall Vote No. 71 Leg.]

YEAS—49

Alexander	Dole	McConnell
Allard	Domenici	Murkowski
Barrasso	Ensign	Nelson (NE)
Bennett	Enzi	Reid
Bond	Graham	Roberts
Brownback	Grassley	Sessions
Bunning	Gregg	Shelby
Burr	Hagel	Smith
Casey	Hatch	Stevens
Chambliss	Hutchison	Sununu
Coburn	Inhofe	Thune
Coleman	Isakson	Vitter
Corker	Johnson	Voinovich
Cornyn	Kyl	Warner
Craig	Landrieu	Wicker
Crapo	Lugar	
DeMint	Martinez	

NAYS—49

Akaka	Cantwell	Dodd
Baucus	Cardin	Dorgan
Bayh	Carper	Durbin
Biden	Clinton	Feingold
Bingaman	Cochran	Feinstein
Boxer	Collins	Harkin
Brown	Conrad	Inouye

Kennedy	Menendez	Schumer
Kerry	Mikulski	Snowe
Klobuchar	Murray	Specter
Kohl	Nelson (FL)	Stabenow
Lautenberg	Obama	Tester
Leahy	Pryor	Webb
Levin	Reed	Whitehouse
Lieberman	Rockefeller	Wyden
Lincoln	Salazar	
McCaskill	Sanders	

NOT VOTING—2

Byrd	McCain

Mrs. BOXER. 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. The Senator from North Dakota is recognized.

Mr. CONRAD. Mr. President, the next amendment ready to go is an amendment by the Senator from South Carolina, Mr. DEMINT.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

AMENDMENT NO. 4340

Mr. DEMINT. Mr. President, I call up my amendment No. 4340 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Carolina [Mr. DEMINT] proposes an amendment numbered 4340.

Mr. DEMINT. 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:

(Purpose: To create a point of order against bills that would raise gasoline prices)

At the end of the resolution, insert the following:

SEC. ____. LIMITATIONS ON LEGISLATION THAT WOULD INCREASE NATIONAL AVERAGE FUEL PRICES FOR AUTOMOBILES.

(a) POINT OF ORDER.—

(1) IN GENERAL.—If the Senate is considering legislation, upon a point of order being made by any Senator against legislation, or any part of the legislation, that it has been determined in accordance with paragraph (2) that the legislation, if enacted, would result in an increase in the national average fuel price for automobiles, and the point of order is sustained by the Presiding Officer, the Senate shall cease consideration of the legislation.

(2) DETERMINATION.—The determination described in this paragraph means a determination by the Director of the Congressional Budget Office, in consultation with the Energy Information Administration and other appropriate Government agencies, that is made upon the request of a Senator for review of legislation, that the legislation, or part of the legislation, would, if enacted, result in an increase in the national average fuel price for automobiles.

(3) LEGISLATION.—In this section the term ''legislation'' means a bill, joint resolution, amendment, motion, or conference report.

(b) WAIVERS AND APPEALS.—

(1) WAIVERS.—Before the Presiding Officer rules on a point of order described in subsection (a)(1), any Senator may move to waive the point of order and the motion to waive shall not be subject to amendment. A point of order described in subsection (a)(1) is waived only by the affirmative vote of 60 Members of the Senate, duly chosen and sworn.

(2) APPEALS.—After the Presiding Officer rules on a point of order described in subsection (a)(1), any Senator may appeal the ruling of the Presiding Officer on the point of order as it applies to some or all of the provisions on which the Presiding Officer ruled. A ruling of the Presiding Officer on a point of order described in subsection (a)(1) is sustained unless 60 Members of the Senate, duly chosen and sworn, vote not to sustain the ruling.

(3) DEBATE.—Debate on the motion to waive under paragraph (1) or on an appeal of the ruling of the Presiding Officer under paragraph (2) shall be limited to 1 hour. The time shall be equally divided between, and controlled by, the Majority leader and the Minority Leader of the Senate, or their designees.

Mr. DEMINT. Mr. President, with high gas prices becoming an increasingly difficult burden for all American families, it is very important that we consider all the legislation we pass here to make sure it doesn't further increase the prices of gasoline.

This is a very simple amendment that creates a 60-vote point of order against any legislation that would cause the price of gasoline to increase, as determined by the CBO in consultation with the Energy Information Agency.

I reserve the remainder of my time.

Mr. CONRAD. Mr. President, might I ask a series of questions, through the Chair, to the Parliamentarian?

The PRESIDING OFFICER. The Senator may do so.

Mr. CONRAD. Mr. President, I ask the Chair if the amendment by the Senator from South Carolina is germane to the budget resolution?

The PRESIDING OFFICER. The amendment is not germane.

Mr. CONRAD. The second question is, If this amendment is adopted, is it corrosive to the privileged standing of budget resolutions?

The PRESIDING OFFICER. It is corrosive.

Mr. CONRAD. No. 3, if this amendment were adopted and went to conference and if it came back from conference, would it be fatal to the budget resolution's privileged status?

The PRESIDING OFFICER. It would be.

Mr. CONRAD. This amendment is simply not in the jurisdiction of the Budget Committee. It is in the jurisdiction of the Energy Committee.

I raise a point of order that the amendment violates section 305(b)(2) of the Congressional Budget Act of 1974. It is not germane.

The PRESIDING OFFICER. The point of order is premature. The Senator from South Carolina still has 29 seconds.

Mr. DEMINT. Parliamentary inquiry: Mr. President, if this point of order is waived and the amendment is adopted, would it cause the budget resolution to lose its privilege at this time?

The PRESIDING OFFICER. It would not.

Mr. DEMINT. Mr. President, in that case, I move to waive the Budget Act and ask for the yeas and nays.

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

The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) is necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Arizona (Mr. MCCAIN).

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

The result was announced—yeas 39, nays 59, as follows:

[Rollcall Vote No. 72 Leg.]

YEAS—39

Allard	DeMint	Nelson (NE)
Barrasso	Dole	Roberts
Bayh	Ensign	Sessions
Bond	Enzi	Shelby
Brownback	Graham	Smith
Burr	Grassley	Snowe
Chambliss	Gregg	Specter
Coburn	Hatch	Sununu
Coleman	Hutchison	Thune
Collins	Inhofe	Vitter
Cornyn	Isakson	Voinovich
Craig	Kyl	Warner
Crapo	McConnell	Wicker

NAYS—59

Akaka	Durbin	Menendez
Alexander	Feingold	Mikulski
Baucus	Feinstein	Murkowski
Bennett	Hagel	Murray
Biden	Harkin	Nelson (FL)
Bingaman	Inouye	Obama
Boxer	Johnson	Pryor
Brown	Kennedy	Reed
Bunning	Kerry	Reid
Cantwell	Klobuchar	Rockefeller
Cardin	Kohl	Salazar
Carper	Landrieu	Sanders
Casey	Lautenberg	Schumer
Clinton	Leahy	Stabenow
Cochran	Levin	Stevens
Conrad	Lieberman	Tester
Corker	Lincoln	Webb
Dodd	Lugar	Whitehouse
Domenici	Martinez	Wyden
Dorgan	McCaskill	

NOT VOTING—2

Byrd	McCain

The PRESIDING OFFICER. On this vote, the yeas are 39, the nays are 59. 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.

The Senator from North Dakota.

Mr. CONRAD. The next amendment in order is the amendment of the Senator from Texas, Mr. CORNYN.

The PRESIDING OFFICER. The Senator from Texas.

AMENDMENT NO. 4313

Mr. CORNYN. Mr. President, I call up amendment No. 4313 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mr. CORNYN] proposes an amendment numbered 4313.

Mr. CORNYN. 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:

(Purpose: To protect the family budget from runaway Government spending by increasing the number of Senators necessary to waive the PAYGO Point of Order from 60 to 100)

At the end of title II, insert the following:

SEC. ____. INCREASING THE NUMBER OF SENATORS NECESSARY TO WAIVE PAYGO POINT OF ORDER FROM 60 TO 100.

Section 201(b) of S. Con. Res. 21 (110th Congress) is amended by striking ''three-fifths'' both places it appears and inserting ''all''.

Mr. CORNYN. Mr. President, my amendment concerns pay-go or pay-as-you-go. Right now pay-go may be waived if 60 Senators support doing so. My amendment would strengthen the pay-go provision by requiring that all 100 Members of the Senate support waiving pay-go before it may be waived.

Pay-go is so riddled with exceptions that the Wall Street Journal has referred to it as the ''pay-go farce.'' If the Senate is serious about fiscal discipline and believes that pay-go is a useful tool in helping control Government spending, then the Senate should be unanimous in passing any bill that violates pay-go, a tool the majority, including members of the Budget Committee, has advocated as a way to keep check on expanding or creating a new Government program. It has been criticized because it does not apply to discretionary spending and has failed to constrain the growth in entitlement programs.

Pay-go needs to be honest. There needs to be truth in legislating when it comes to appropriations. I ask my colleagues to support this amendment.

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

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

The PRESIDING OFFICER. Is there a sufficient second?

Mr. CONRAD. Does the Senator yield back his time?

The PRESIDING OFFICER. The time of the Senator from Texas has expired. The Senator from North Dakota has 1 minute.

Mr. CONRAD. Mr. President, I will ask a series of questions of the Parliamentarian through the Chair.

Is the amendment by the Senator from Texas germane?

The PRESIDING OFFICER. We have not seen the amendment.

Mr. CORNYN. It is amendment No. 4313.

The PRESIDING OFFICER. The amendment is not germane.

Mr. CONRAD. Would it be corrosive to the privileged status of the budget resolution if this amendment were adopted?

The PRESIDING OFFICER. It would not be corrosive.

Mr. CONRAD. Would it be fatal to the privileged status of the budget resolution if it came back from conference?

The PRESIDING OFFICER. No, it would not.

Mr. CONRAD. Mr. President, so the challenge of this amendment is it is not germane. I, therefore, raise a point of order that the amendment violates section 305(b)(2) of the Congressional Budget Act of 1974.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Mr. President, pursuant to section 904(c) of the Congressional Budget Act, I move to waive section 305(b)(2) of the Budget Act for consideration of this amendment to S. Con. Res. 70, and I ask for the yeas and nays on the motion.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion. The clerk will call the roll.

The assistant journal clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) is necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Mississippi (Mr. COCHRAN).

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

The yeas and nays resulted—yeas 27, nays 71, as follows:

[Rollcall Vote No. 73 Leg.]

YEAS—27

Alexander	Craig	Inhofe
Allard	Crapo	Isakson
Bond	DeMint	Kyl
Brownback	Dole	McCain
Burr	Ensign	McConnell
Chambliss	Graham	Sessions
Coburn	Grassley	Shelby
Corker	Gregg	Smith
Cornyn	Hatch	Sununu

NAYS—71

Akaka	Feinstein	Nelson (NE)
Barrasso	Hagel	Obama
Baucus	Harkin	Pryor
Bayh	Hutchison	Reed
Bennett	Inouye	Reid
Biden	Johnson	Roberts
Bingaman	Kennedy	Rockefeller
Boxer	Kerry	Salazar
Brown	Klobuchar	Sanders
Bunning	Kohl	Schumer
Cantwell	Landrieu	Snowe
Cardin	Lautenberg	Specter
Carper	Leahy	Stabenow
Casey	Levin	Stevens
Clinton	Lieberman	Tester
Coleman	Lincoln	Thune
Collins	Lugar	Vitter
Conrad	Martinez	Voinovich
Dodd	McCaskill	Warner
Domenici	Menendez	Webb
Dorgan	Mikulski	Whitehouse
Durbin	Murkowski	Wicker
Enzi	Murray	Wyden
Feingold	Nelson (FL)	

NOT VOTING—2

Byrd	Cochran

The PRESIDING OFFICER. On this vote, the yeas are 27, the nays are 71. 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.

The Senator from North Dakota.

Mr. CONRAD. Mr. President, let me just help people understand where we are. We have what conceivably could be 9 or 10 more rollcall votes but dozens of additional amendments that are out there pending—as many as a total of 50. So that is the circumstance we face. The only way that Senator GREGG and I can see to reach conclusion tonight is if we devise another managers' package, put together amendments that can be cleared on both sides and deal with these other votes that require rollcalls, starting with Senator KYL on his extenders.

Or do we want to go to Senator DEMINT?

Mr. GREGG. Senator KYL.

Mr. CONRAD. Senator KYL.

Mr. REID. Mr. President, 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. CONRAD. 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. CONRAD. Mr. President, let me thank all colleagues for their extraordinary patience. This will be, before the end of the day, I think, a record number of votes on a budget resolution in 1 day. I don't think that is anything particularly to be proud of, but it is the reality of what we are confronting.

We can go now to the Kyl amendment?

Mr. GREGG. Mr. President, as I understand it, the next two amendments will first be Kyl, and then we will go to the DeMint amendment, which has been anxiously awaited by large numbers of people.

Mr. REID. Prior to that time, we are going to have a finite list.

Mr. GREGG. In between we agree to have a finite list, and we will read them and that will be it.

Mr. CONRAD. We thank the leaders of both sides, and I especially thank our leader, Senator REID, for pushing to get a final definitive list.

With that, we go to Senator KYL.

The PRESIDING OFFICER. The Senator from Arizona.

AMENDMENT NO. 4348

Mr. KYL. Mr. President, I thank the chairman for his courtesy.

One of the questions we are most frequently asked is, are we, for sure, going to do the tax extenders—the R&D tax credit, the sales tax deduction, the $250 teacher deduction, and the tuition deduction. These already expired at the end of last year, and there are three more that will expire at the end of this year. We need to provide a definitive answer—yes, we are going to do the extenders package.

Now, the budget accommodates generally expiring tax provisions.

Mr. CONRAD. Mr. President, I am having a hard time hearing. I think the Senator deserves to be heard. This is a serious amendment.

Mr. KYL. While we are getting order, Mr. President, this amendment, I gather, had not been technically called up, amendment No. 4348.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. KYL] proposes an amendment numbered 4348.

Mr. KYL. I ask unanimous consent that the reading be dispensed with.

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

The amendment is as follows:

(Purpose: To provide certainty to taxpayers by extending expiring tax provisions such as the R&D Tax Credit that helps U.S. companies innovate, the combat pay exclusion for our soldiers in the field, the education deduction to make colleges more affordable and the alternative energy incentives to make the environment cleaner through the end of 2009)

On page 3, line 10, decrease the amount by $3,692,000,000.

On page 3, line 11, decrease the amount by $10,346,000,000.

On page 3, line 12, decrease the amount by $8,659,000,000.

On page 3, line 13, decrease the amount by $2,396,000,000.

On page 3, line 14, decrease the amount by $1,855,000,000.

On page 3, line 15, decrease the amount by $1,696,000,000.

On page 3, line 19, decrease the amount by $3,692,000,000.

On page 3, line 20, decrease the amount by $10,346,000,000.

On page 3, line 21, decrease the amount by $8,659,000,000.

On page 3, line 22, decrease the amount by $2,396,000,000.

On page 3, line 23, decrease the amount by $1,855,000,000.

On page 3, line 24, decrease the amount by $1,696,000,000.

On page 4, line 4, increase the amount by $28,000,000.

On page 4, line 5, increase the amount by $223,000,000.

On page 4, line 6, increase the amount by $675,000,000.

On page 4, line 7, increase the amount by $1,068,000,000.

On page 4, line 8, increase the amount by $1,277,000,000.

On page 4, line 9, increase the amount by $1,446,000,000.

On page 4, line 13, increase the amount by $28,000,000.

On page 4, line 14, increase the amount by $223,000,000.

On page 4, line 15, increase the amount by $675,000,000.

On page 4, line 16, increase the amount by $1,068,000,000.

On page 4, line 17, increase the amount by $1,277,000,000.

On page 4, line 18, increase the amount by $1,446,000,000.

On page 4, line 22, increase the amount by $3,720,000,000.

On page 4, line 23, increase the amount by $10,569,000,000.

On page 4, line 24, increase the amount by $9,334,000,000.

On page 4, line 25, increase the amount by $3,464,000,000.

On page 5, line 1, increase the amount by $3,132,000,000.

On page 5, line 2, increase the amount by $3,142,000,000.

On page 5, line 7, increase the amount by $3,720,000,000.

On page 5, line 8, increase the amount by $14,289,000,000.

On page 5, line 9, increase the amount by $23,623,000,000.

On page 5, line 10, increase the amount by $27,087,000,000.

On page 5, line 11, increase the amount by $30,218,000,000.

On page 5, line 12, increase the amount by $33,360,000,000.

On page 5, line 15, increase the amount by $3,720,000,000.

On page 5, line 16, increase the amount by $14,289,000,000.

On page 5, line 17, increase the amount by $23,623,000,000.

On page 5, line 18, increase the amount by $27,087,000,000.

On page 5, line 19, increase the amount by $30,218,000,000.

On page 5, line 20, increase the amount by $33,360,000,000.

On page 26, line 12, increase the amount by $28,000,000.

On page 26, line 13, increase the amount by $28,000,000.

On page 26, line 16, increase the amount by $223,000,000.

On page 26, line 17, increase the amount by $223,000,000.

On page 26, line 20, increase the amount by $675,000,000.

On page 26, line 21, increase the amount by $675,000,000.

On page 26, line 24, increase the amount by $1,068,000,000.

On page 26, line 25, increase the amount by $1,068,000,000.

On page 27, line 3, increase the amount by $1,277,000,000.

On page 27, line 4, increase the amount by $1,277,000,000.

On page 27, line 7, increase the amount by $1,446,000,000.

On page 27, line 8, increase the amount by $1,446,000,000.

Mr. KYL. Mr. President, just to conclude, the budget says expiring provisions are accommodated, but I don't think the Senate is going to raise $50 billion in new taxes to pay for these, to pay permanently for 1 or 2 years of these extenders. In fact, in recent times, more often than not, we have extended these tax provisions without offsets. In fact, this was done when the Democratic Party was in control of this Chamber, of this body, in the year 2002.

So what this amendment does is it simply explicitly extends all of these expiring tax provisions, which would expire at the end of this year and that have already expired, and it would not be required to have a permanent increase in taxes in order to accommodate that extension.

The PRESIDING OFFICER. Who yields time in opposition?

The Senator from North Dakota.

Mr. CONRAD. Mr. President, the budget resolution already provides for a 1-year package of extenders that is fully paid for. The Kyl amendment would add a second year without paying for it. Consequently, the Kyl amendment would drive us $28.6 billion into debt, driving us further away from the balance that we are seeking to achieve by the fourth year.

We anticipate that tax extenders will be dealt with in the regular order, and our resolution provides for longer term extensions, as long as they are paid for.

I ask colleagues to resist the Kyl amendment.

Mr. KYL. Mr. President, is there any time remaining on my side?

The PRESIDING OFFICER. The time of the Senator has expired.

The question is on agreeing to the amendment.

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

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

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia, (Mr. BYRD) is necessarily absent.

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

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

[Rollcall Vote No. 74 Leg.]

YEAS—49

Alexander	Crapo	McCain
Allard	DeMint	McConnell
Barrasso	Dole	Murkowski
Bayh	Domenici	Roberts
Bennett	Ensign	Sessions
Bond	Enzi	Shelby
Brownback	Graham	Smith
Bunning	Grassley	Snowe
Burr	Gregg	Specter
Chambliss	Hagel	Stevens
Coburn	Hatch	Sununu
Cochran	Hutchison	Thune
Coleman	Inhofe	Vitter
Collins	Isakson	Warner
Corker	Kyl	Wicker
Cornyn	Lugar	
Craig	Martinez	

NAYS—50

Akaka	Harkin	Nelson (FL)
Baucus	Inouye	Nelson (NE)
Biden	Johnson	Obama
Bingaman	Kennedy	Pryor
Boxer	Kerry	Reed
Brown	Klobuchar	Reid
Cantwell	Kohl	Rockefeller
Cardin	Landrieu	Salazar
Carper	Lautenberg	Sanders
Casey	Leahy	Schumer
Clinton	Levin	Stabenow
Conrad	Lieberman	Tester
Dodd	Lincoln	Voinovich
Dorgan	McCaskill	Webb
Durbin	Menendez	Whitehouse
Feingold	Mikulski	Wyden
Feinstein	Murray	

NOT VOTING—1

Byrd

The amendment (No. 4348) was rejected.

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

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

Mr. REID. Mr. President, this has been cleared by the minority and the majority managers.

I ask unanimous consent the following numbered amendments be the only amendments in order, that if Senator GREGG or Senator CONRAD decide they want a so-called side-by-side with these, that is at their discretion.

I would ask unanimous consent there be no second-degree amendments in order. The amendments are: 4242, 4230, 4330, 4276, 4168, 4186, 4220, 4308, 4209, 4233, 4311, 4307, 4345, 4344, 4357, 4339, 4371, 4347, 4269, 4243, 4270, 4206, 4369, 4334, 4375, 4283, 4265, 4159, 4331, 4351, 4202, 4200, 4255, 4245, 4361, 4300, 4256, 4310 and an unnumbered

amendment by Senator BROWN, an unnumbered amendment by Senator WHITEHOUSE, an unnumbered amendment by Senator BINGAMAN, an unnumbered amendment by Senator KYL, an unnumbered amendment by Senator DEMINT, an amendment No. 4268, an unnumbered amendment by Senator CONRAD, and an unnumbered amendment by Senator VITTER.

The PRESIDING OFFICER. Is there objection?

Mr. VITTER. Reserving the right to object because I have no idea off the top of my head what all of those are, I suggest the absence of a quorum.

The PRESIDING OFFICER. The majority leader has the floor.

Mr. REID. I would say to everyone, there is no one trying to take advantage of anyone. If there is a problem we will be happy to work with you. This is a finite list. If there is some misunderstanding, we have two of the most generous, patient men I have ever seen, Senator CONRAD and Senator GREGG. We will work with you. Let's get this locked down. If there is a problem, we will work with you. No one is trying to take advantage of anyone.

I ask unanimous consent that we approve this agreement. If there is something that my friend from Louisiana has a problem with, we will talk with him.

The PRESIDING OFFICER. Is there objection?

Mr. VITTER. Mr. President, point of clarification. If an amendment is not on that list, is it cut off for the evening?

Mr. REID. Yes.

Mr. VITTER. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. CONRAD. Mr. President, while that matter is being resolved, could we go to the next amendment?

And the next amendment in order is Senator DEMINT's.

AMENDMENT NO. 4347

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. DEMINT. My colleagues, it is time for some straight talk on earmarks. And it is time for some real change that all Americans can believe in. All three of our colleagues running for President are cosponsors of this moratorium on earmarks.

All three of our colleagues running for President are cosponsors of this amendment. I thank JOHN MCCAIN particularly for years of warning us of what earmarks and our earmark system were doing to undermine confidence in this Congress. I thank Senator MCCASKILL for her courage in standing up, and my Democratic cosponsors, Senators OBAMA, CLINTON, and BAYH, and all of my Republican cosponsors who know what we all know: that this earmark system is out of control.

It has undermined the faith and the confidence of the American people. It is time for a timeout. My amendment creates a 1-year moratorium on all earmarks by establishing—

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

Does the Senator offer an amendment?

Mr. GREGG. I ask unanimous consent that the Senator be given 30 seconds to discuss this very important amendment.

Mr. REID. I have no problem with that. I renew my previous unanimous consent request.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. GREGG. I ask unanimous consent that Senator DEMINT get an additional 30 seconds so he can be heard.

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

Mr. DEMINT. My amendment creates a 1-year moratorium on all earmarks by establishing a 67-vote point of order against bills with earmarks. We have heard all the excuses; we will hear some more tonight.

I encourage all of my colleagues to vote against the status quo and vote for this moratorium to give us time and a sense of urgency to reform the system.

I reserve the remainder of my time.

The PRESIDING OFFICER. Is the Senator offering an amendment?

Mr. DEMINT. I call up amendment No. 4347 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. DEMINT], for himself, Mr. MCCAIN, Mrs. MCCASKILL, Mr. COBURN, Mr. KYL, Mr. CORKER, Mr. BURR, Mr. GRAHAM, Mr. OBAMA, Mrs. CLINTON, Mr. CORNYN, Mr. BAYH, Mr. MARTINEZ, Mr. ENZI, Mr. BARRASSO, and Mr. INHOFE, proposes an amendment numbered 4347.

Mr. DEMINT. 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 (No. 4347) is as follows:

(Purpose: To establish an earmark moratorium for fiscal year 2009)

At the appropriate place, insert the following:

SEC. ___. FISCAL YEAR 2009 EARMARK MORATORIUM.

(a) BILLS AND JOINT RESOLUTIONS.—

(1) POINT OF ORDER.—It shall not be in order to—

(A) consider a bill or joint resolution reported by any committee that includes an earmark, limited tax benefit, or limited tariff benefit; or

(B) a Senate bill or joint resolution not reported by committee that includes an earmark, limited tax benefit, or limited tariff benefit.

(2) RETURN TO THE CALENDAR.—If a point of order is sustained under this subsection, the bill or joint resolution shall be returned to the calendar until compliance with this subsection has been achieved.

(b) CONFERENCE REPORT.—

(1) POINT OF ORDER.—It shall not be in order to vote on the adoption of a report of a committee of conference if the report includes an earmark, limited tax benefit, or limited tariff benefit.

(2) RETURN TO THE CALENDAR.—If a point of order is sustained under this subsection, the conference report shall be returned to the calendar.

(c) FLOOR AMENDMENT.—It shall not be in order to consider an amendment to a bill or joint resolution if the amendment contains an earmark, limited tax benefit, or limited tariff benefit.

(d) AMENDMENT BETWEEN THE HOUSES.—

(1) IN GENERAL.—It shall not be in order to consider an amendment between the Houses if that amendment includes an earmark, limited tax benefit, or limited tariff benefit.

(2) RETURN TO THE CALENDAR.—If a point of order is sustained under this subsection, the amendment between the Houses shall be returned to the calendar until compliance with this subsection has been achieved.

(e) WAIVER.—Any Senator may move to waive any or all points of order under this section by an affirmative vote of two-thirds of the Members, duly chosen and sworn.

(f) DEFINITIONS.—For the purpose of this section—

(1) the term ''earmark'' means a provision or report language included primarily at the request of a Senator or Member of the House of Representatives providing, authorizing, or recommending a specific amount of discretionary budget authority, credit authority, or other spending authority for a contract, loan, loan guarantee, grant, loan authority, or other expenditure with or to an entity, or targeted to a specific State, locality or Congressional district, other than through a statutory or administrative formula-driven or competitive award process;

(2) the term ''limited tax benefit'' means any revenue provision that—

(A) provides a Federal tax deduction, credit, exclusion, or preference to a particular beneficiary or limited group of beneficiaries under the Internal Revenue Code of 1986; and

(B) contains eligibility criteria that are not uniform in application with respect to potential beneficiaries of such provision; and

(3) the term ''limited tariff benefit'' means a provision modifying the Harmonized Tariff Schedule of the United States in a manner that benefits 10 or fewer entities.

(g) FISCAL YEAR 2009.—The point of order under this section shall only apply to legislation providing or authorizing discretionary budget authority, credit authority or other spending authority, providing a federal tax deduction, credit, or exclusion, or modifying the Harmonized Tariff Schedule in fiscal year 2009.

(h) APPLICATION.—This rule shall not apply to any authorization of appropriations to a Federal entity if such authorization is not specifically targeted to a State, locality or congressional district.

Mr. CONRAD. Mr. President, I ask, through the Chair, a question to the Parliamentarian.

Is this amendment germane to the budget resolution?

The PRESIDING OFFICER. This amendment is not germane.

Mr. CONRAD. The amendment is not germane.

Mr. President, if this amendment were adopted, is it corrosive to the privileged status of the budget resolution?

The PRESIDING OFFICER. It is.

Mr. CONRAD. Mr. President, if this amendment were adopted and came back from conference, would it be fatal to the privileged nature of the budget resolution?

The PRESIDING OFFICER. It would.

Mr. CONRAD. Mr. President, I suggest the pending amendment is not germane; therefore, I raise a point of order that the amendment violates section 305(b)(2) of the Congressional Budget Act of 1974.

Mr. DEMINT. May I ask the Chair a question?

The PRESIDING OFFICER. Yes.

Mr. DEMINT. It is not the intent to bring down the budget or compromise a privilege in any way. If the Senator is worried about privilege, I ask unanimous consent if the motion to waive is successful, that the amendment be withdrawn and deemed passed in a separate Senate resolution.

Mr. CONRAD. I would be constrained to object.

The PRESIDING OFFICER. Objection is heard.

Mr. DEMINT. If that is the case, I now move to waive the Budget Act and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The bill clerk called the roll.

The yeas and nays resulted—yeas 29, nays 71, as follows:

[Rollcall Vote No. 75 Leg.]

YEAS—29

Alexander	DeMint	Lieberman
Allard	Dole	Martinez
Barrasso	Ensign	McCain
Bayh	Enzi	McCaskill
Burr	Feingold	McConnell
Chambliss	Graham	Obama
Clinton	Grassley	Sessions
Coburn	Inhofe	Sununu
Corker	Isakson	Thune
Cornyn	Kyl	

NAYS—71

Akaka	Durbin	Nelson (NE)
Baucus	Feinstein	Pryor
Bennett	Gregg	Reed
Biden	Hagel	Reid
Bingaman	Harkin	Roberts
Bond	Hatch	Rockefeller
Boxer	Hutchison	Salazar
Brown	Inouye	Sanders
Brownback	Johnson	Schumer
Bunning	Kennedy	Shelby
Byrd	Kerry	Smith
Cantwell	Klobuchar	Snowe
Cardin	Kohl	Specter
Carper	Landrieu	Stabenow
Casey	Lautenberg	Stevens
Cochran	Leahy	Tester
Coleman	Levin	Vitter
Collins	Lincoln	Voinovich
Conrad	Lugar	Warner
Craig	Menendez	Webb
Crapo	Mikulski	Whitehouse
Dodd	Murkowski	Wicker
Domenici	Murray	Wyden
Dorgan	Nelson (FL)	

The ACTING PRESIDENT pro tempore. On this vote, the yeas are 29, 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 sustained, and the amendment falls.

Mr. CONRAD. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. CONRAD. Mr. President, the next amendment in order is an amendment by Senator LANDRIEU. It is a side-by-side to Senator KYL. This is on the estate tax. Obviously, these are important amendments. We would ask for the attention of our colleagues.

The ACTING PRESIDENT pro tempore. The Senator from Louisiana.

AMENDMENT NO. 4378

Ms. LANDRIEU. Mr. President, I ask unanimous consent for each of us to have a minute and a half.

Mr. GREGG. I object.

The ACTING PRESIDENT pro tempore. Objection is heard. Each Senator has 1 minute.

Ms. LANDRIEU. Mr. President, a group of Senators, now for several years, has been working to reduce the estate tax. With the constraints on the budget, particularly with spending $348 million a day in Iraq, this has been difficult. But some of us have been working in good faith to reduce the 55-percent rate and to raise the unified credit. The tax in its current form is onerous, in my view unnecessary, and it clouds the ability of many of our successful business owners from planning the growth and expansion of their businesses that create jobs right here at home in America. Something should be done now, something that is real and does not increase our debt.

The amendment I offer will reduce the rate to 35 percent and increase the unified credit to $10 million. Most importantly, this is paid for by the President's own offsets in the budget he submitted to us. So it is fully paid for. It reduces the tax rate to 35 percent and increases the unified tax credit to $10 million.

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

Ms. LANDRIEU. I call up the amendment.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Ms. LANDRIEU] proposes an amendment numbered 4378.

The amendment is as follows:

(Purpose: To protect family businesses and farmers without increasing our nation's debt by providing for an estate tax that sets the exemption at $5 million and the rate at 35 percent, with the benefits of the exemption recaptured for estates over $100 million, paid for by closing tax loopholes that allow offshore deferral of compensation and transactions entered into solely for the purpose of avoiding taxation)

On page 3, line 12, increase the amount by $4,297,000,000.

On page 3, line 13, decrease the amount by $655,000,000.

On page 3, line 14, decrease the amount by $2,645,000,000.

On page 3, line 15, decrease the amount by $1,030,000,000.

On page 3, line 21, increase the amount by $4,297,000,000.

On page 3, line 22, decrease the amount by $655,000,000.

On page 3, line 23, decrease the amount by $2,645,000,000.

On page 3, line 24, decrease the amount by $1,030,000,000.

On page 4, line 6, decrease the amount by $91,000,000.

On page 4, line 7, decrease the amount by $180,000,000.

On page 4, line 8, decrease the amount by $114,000,000.

On page 4, line 9, decrease the amount by $35,000,000.

On page 4, line 15, decrease the amount by $91,000,000.

On page 4, line 16, decrease the amount by $180,000,000.

On page 4, line 17, decrease the amount by $114,000,000.

On page 4, line 18, decrease the amount by $35,000,000.

On page 4, line 24, decrease the amount by $4,388,000,000.

On page 4, line 25, increase the amount by $475,000,000.

On page 5, line 1, increase the amount by $2,531,000,000.

On page 5, line 2, increase the amount by $995,000,000.

On page 5, line 9, decrease the amount by $4,388,000,000.

On page 5, line 10, decrease the amount by $3,913,000,000.

On page 5, line 11, decrease the amount by $1,382,000,000.

On page 5, line 12, decrease the amount by $387,000,000.

On page 5, line 17, decrease the amount by $4,388,000,000.

On page 5, line 18, decrease the amount by $3,913,000,000.

On page 5, line 19, decrease the amount by $1,382,000,000.

On page 5, line 20, decrease the amount by $387,000,000.

On page 26, line 20, decrease the amount by $91,000,000.

On page 26, line 21, decrease the amount by $91,000,000.

On page 26, line 24, decrease the amount by $180,000,000.

On page 26, line 25, decrease the amount by $180,000,000.

On page 27, line 3, decrease the amount by $114,000,000.

On page 27, line 4, decrease the amount by $114,000,000.

On page 27, line 7, decrease the amount by $35,000,000.

On page 27, line 8, decrease the amount by $35,000,000.

The ACTING PRESIDENT pro tempore. Who yields time in opposition?

The Senator from Arizona.

Mr. KYL. Mr. President, I oppose this amendment. The reason is very simple. The provisions are essentially the same as the amendment I offered earlier and will be offering again with the 5 and $5 million exempted amount and not to exceed 35 percent rate. There are minor differences. The bottom line is that the bulk of it, all but $22 billion, is not paid for with any explicit taxes. The question has to be, what tax are you going to raise permanently in order to offset the cost of this estate tax relief? It is not real if we are not willing to answer that question. You can't say there is going to be an amorphous fund out there that somehow or other we are going to raise some taxes for. We all know it is not going to happen that way. The question is, are we serious about tax relief for estates?

The reason the NFIB and other groups support the approach I have taken is they know it is an exercise in futility if all we do is say we are going

to pay for it with a tax increase, when, in fact, everybody knows we are not going to raise taxes permanently for estate tax relief.

The ACTING PRESIDENT pro tempore. The question is on agreeing to amendment No. 4378.

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

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 23, nays 77, as follows:

[Rollcall Vote No. 76 Leg.]

YEAS—23

Baucus	Landrieu	Nelson (NE)
Bayh	Leahy	Pryor
Collins	Levin	Salazar
Conrad	Lieberman	Snowe
Feingold	Lincoln	Stabenow
Hutchison	McCaskill	Tester
Klobuchar	Mikulski	Wyden
Kohl	Nelson (FL)	

NAYS—77

Akaka	Crapo	McCain
Alexander	DeMint	McConnell
Allard	Dodd	Menendez
Barrasso	Dole	Murkowski
Bennett	Domenici	Murray
Biden	Dorgan	Obama
Bingaman	Durbin	Reed
Bond	Ensign	Reid
Boxer	Enzi	Roberts
Brown	Feinstein	Rockefeller
Brownback	Graham	Sanders
Bunning	Grassley	Schumer
Burr	Gregg	Sessions
Byrd	Hagel	Shelby
Cantwell	Harkin	Smith
Cardin	Hatch	Specter
Carper	Inhofe	Stevens
Casey	Inouye	Sununu
Chambliss	Isakson	Thune
Clinton	Johnson	Vitter
Coburn	Kennedy	Voinovich
Cochran	Kerry	Warner
Coleman	Kyl	Webb
Corker	Lautenberg	Whitehouse
Cornyn	Lugar	Wicker
Craig	Martinez	

The amendment (No. 4378) was rejected.

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

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

The motion to lay on the table was agreed to.

The ACTING PRESIDENT pro tempore. The Senator from North Dakota is recognized.

Mr. CONRAD. Mr. President, next up is the Kyl amendment.

AMENDMENT NO. 4372

Mr. KYL. Mr. President, do we need to call up amendment No. 4372 first?

The ACTING PRESIDENT pro tempore. The amendment should be called up.

Mr. KYL. If so, I ask unanimous consent to call up amendment No. 4372.

The ACTING PRESIDENT pro tempore. The clerk will report.

The bill clerk read as follows:

The Senator from Arizona [Mr. KYL] proposes an amendment numbered 4372.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To protect small businesses, family ranches and farms from the Death Tax by providing a $5 million exemption, a low rate for smaller estates and a maximum rate no higher than 35%)

On page 3, line 12, decrease the amount by $500,000,000.

On page 3, line 13, decrease the amount by $19,500,000,000.

On page 3, line 14, decrease the amount by $18,600,000,000.

On page 3, line 15, decrease the amount by $19,900,000,000.

On page 3, line 21, decrease the amount by $500,000,000.

On page 3, line 22, decrease the amount by $19,500,000,000.

On page 3, line 23, decrease the amount by $18,600,000,000.

On page 3, line 24, decrease the amount by $19,900,000,000.

On page 4, line 6, increase the amount by $11,000,000.

On page 4, line 7, increase the amount by $499,000,000.

On page 4, line 8, increase the amount by $1,453,000,000.

On page 4, line 9, increase the amount by $2,468,000,000.

On page 4, line 15, increase the amount by $11,000,000.

On page 4, line 16, increase the amount by $499,000,000.

On page 4, line 17, increase the amount by $1,453,000,000.

On page 4, line 18, increase the amount by $2,468,000,000.

On page 4, line 24, increase the amount by $511,000,000.

On page 4, line 25, increase the amount by $19,999,000,000.

On page 5, line 1, increase the amount by $20,053,000,000.

On page 5, line 2, increase the amount by $22,368,000,000.

On page 5, line 9, increase the amount by $511,000,000.

On page 5, line 10, increase the amount by $20,509,000,000.

On page 5, line 11, increase the amount by $40,563,000,000.

On page 5, line 12, increase the amount by $62,930,000,000.

On page 5, line 17, increase the amount by $511,000,000.

On page 5, line 18, increase the amount by $20,509,000,000.

On page 5, line 19, increase the amount by $40,563,000,000.

On page 5, line 20, increase the amount by $62,930,000,000.

On page 26, line 20, increase the amount by $11,000,000.

On page 26, line 21, increase the amount by $11,000,000.

On page 26, line 24, increase the amount by $499,000,000.

On page 26, line 25, increase the amount by $499,000,000.

On page 27, line 3, increase the amount by $1,453,000,000.

On page 27, line 4, increase the amount by $1,453,000,000.

On page 27, line 7, increase the amount by $2,468,000,000.

On page 27, line 8, increase the amount by $2,468,000,000.

Mr. KYL. Mr. President, this is a revote of a vote we had earlier in the day. If you supported the estate tax reform then, obviously you would want to do it now.

I appreciate the last vote. This is a better approach. This is an approach which is supported by groups such as the NFIB, which asked us—we only have 1 year to go before the estate tax is totally repealed. In the year 2010, there is no more estate tax, and then the year after that, it comes roaring back with a rate of 60 percent and an exemption of $1 million.

Clearly, we have to provide some certainty. The only way to do that is to adopt a rate not to exceed 35 percent, an exempted amount of $5 million per spouse, and to ensure that we can actually get it done this year, not require that we find some permanent tax to increase in order to offset it. If that is what we are asking for, we know it won't happen, the outside groups know it won't happen, and they know this budget exercise then is a game rather than a serious attempt to reform the estate tax.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

The Senator from North Dakota is recognized.

Mr. CONRAD. Mr. President, I thank my colleague, Senator KYL, for his courtesy during all of the debates today.

I urge my colleagues to oppose the Kyl amendment because it is not paid for. It goes onto the debt some $200 billion over 10 years. This would knock us out of balance in 2012 and in 2013. The previous amendment that had the same more generous exemptions was paid for. It didn't add to the debt, didn't add to the deficits, and it kept us in balance.

So I would urge my colleagues to vote no on the Kyl amendment.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment.

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

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) is necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Nevada (Mr. ENSIGN).

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 48, nays 50, as follows:

[Rollcall Vote No. 77 Leg.]

YEAS—48

Alexander	Collins	Hagel
Allard	Corker	Hatch
Barrasso	Cornyn	Hutchison
Bennett	Craig	Inhofe
Bond	Crapo	Isakson
Brownback	DeMint	Kyl
Bunning	Dole	Lincoln
Burr	Domenici	Lugar
Chambliss	Enzi	Martinez
Coburn	Graham	McCain
Cochran	Grassley	McConnell
Coleman	Gregg	Murkowski

Roberts	Snowe	Thune
Sessions	Specter	Vitter
Shelby	Stevens	Warner
Smith	Sununu	Wicker

NAYS—50

Akaka	Feinstein	Nelson (FL)
Baucus	Harkin	Nelson (NE)
Bayh	Inouye	Obama
Biden	Johnson	Pryor
Bingaman	Kennedy	Reed
Boxer	Kerry	Reid
Brown	Klobuchar	Rockefeller
Cantwell	Kohl	Salazar
Cardin	Landrieu	Sanders
Carper	Lautenberg	Schumer
Casey	Leahy	Stabenow
Clinton	Levin	Tester
Conrad	Lieberman	Voinovich
Dodd	McCaskill	Webb
Dorgan	Menendez	Whitehouse
Durbin	Mikulski	Wyden
Feingold	Murray	

NOT VOTING—2

Byrd	Ensign

The amendment (No. 4372) was rejected.

Mr. CONRAD. 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.

Mr. CONRAD. Mr. President, the next amendment is from the ranking member of the Finance Committee, Senator GRASSLEY.

The ACTING PRESIDENT pro tempore. The Senator from Iowa is recognized.

AMENDMENT NO. 4276, AS MODIFIED

Mr. GRASSLEY. Mr. President, I send to the desk a modification of amendment No. 4276.

The ACTING PRESIDENT pro tempore. The clerk will report.

The bill clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY] proposes an amendment numbered 4276, as modified.

The amendment is as follows:

(Purpose: To exempt from pay-as-you-go enforcement modifications to the individual alternative minimum tax (AMT) that prevent millions of additional taxpayers from having to pay the AMT)

SEC. _____. PAY-AS-YOU-GO POINT OF ORDER IN THE SENATE.

(a) POINT OF ORDER.—

(1) IN GENERAL.—It shall not be in order in the Senate to consider any direct spending of revenue legislation that would increase the on-budget deficit or cause an on-budget deficit for either of the applicable time periods as measured in paragraphs (5) and (6).

(2) APPLICABLE TIME PERIODS.—For purposes of this subsection, the term 'applicable time period' means either—

(A) the period of the current fiscal year, the budget year, and the ensuing 4 fiscal years following the budget year; or

(B) the period of the current fiscal year, the budget year, and the ensuing 9 fiscal years following the budget year.

(3) DIRECT SPENDING LEGISLATION.—For purposes of this subsection and except as provided in paragraph (4), the term 'direct spending legislation' means any bill, joint resolution, amendment, motion, or conference report that affects direct spending as that term is defined by, and interpreted for purposes of, the Balanced Budget and Emergency Deficit Control Act of 1985.

(4) EXCLUSION.—For purposes of this subsection, the terms 'direct spending legislation' and 'revenue legislation' do not include—

(A) any concurrent resolution on the budget;

(B) any provision of legislation that affects the full funding of, and continuation of, the deposit insurance guarantee commitment in effect on the date of enactment of the Budget Enforcement Act of 1990; or

(C) any provision of legislation that affects the individual alternative minimum tax exemption amount for taxable years beginning after 2007; or

(D) any provision of legislation that affects the extension of alternative minimum tax relief for non-refundable personal credits for taxable years beginning after 2007.

(5) BASELINE.—Estimates prepared pursuant to this subsection shall—

(A) use the baseline surplus or deficit used for the most recently adopted concurrent resolution on the budget; and

(B) be calculated under the requirements of subsections (b) through (d) of section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985 (as in effect prior to September 30, 2002) for fiscal years beyond those covered by that concurrent resolution on the budget.

(6) PRIOR SURPLUS.—If direct spending or revenue legislation increases the on-budget deficit or causes an on-budget deficit when taken individually, it must also increase the on-budget deficit or cause an on budget deficit when taken together with all direct spending and revenue legislation enacted since the beginning of the calendar year not accounted for in the baseline under paragraph (5)(A), except that direct spending or revenue effects resulting in net deficit reduction enacted in any bill pursuant to a reconciliation instruction since the beginning of that same calendar year shall never be made available on the pay-as-you-go ledger and shall be dedicated only for deficit reduction.

(b) SUPERMAJORITY WAIVER AND APPEALS.—

(1) WAIVER.—This section may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn.

(2) APPEALS.—Appeals in the Senate from the decisions of the Chair relating to any provision of this section shall be limited to 1 hour, to be equally divided between, and controlled by, the appellant and the manager of the bill or joint resolution, as the case may be. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

(c) DETERMINATION OF BUDGET LEVELS.—For purposes of this section, the levels of new budget authority, outlays, and revenues for a fiscal year shall be determined on the basis of estimates made by the Senate Committee on the Budget.

(d) SUNSET.—This section shall expire on September 30, 2017.

(e) REPEAL.—In the Senate, section 201 of S. Con. Res. 21 (110th Congress), the fiscal year 2008 concurrent resolution on the budget, shall no longer apply.

Mr. GRASSLEY. Mr. President, remember, before Christmas the Senate voted to make sure that middle-class America didn't pay the alternative minimum tax, and we did it without an offset by a vote of 95 to something. So here we are again with an opportunity to say to middle-class America that we are not going to tax the people who were not supposed to be hit by the AMT, and we are going to do it without an offset.

This amendment gives us an opportunity to get over that hurdle that is in this budget resolution that, under pay-go, you would have to have an offset for the AMT. So even though the resolution sets aside money to deal with this year's patch, unless my amendment is adopted, there is no guarantee the patch will be done. The 25 million families who will be hit by the AMT increase will get a tax increase of over $2,000 apiece. So they deserve a guarantee of relief.

My amendment puts the budget money where its mouth is, and that is we are going to guarantee AMT relief. The principle is applicable to this year's patch and AMT's relief in future years.

The ACTING PRESIDENT pro tempore. The Senator from North Dakota is recognized.

Mr. CONRAD. Mr. President, if you want to blow a hole in the budget as big as all outdoors, here is your opportunity—a trillion dollars not paid for, a trillion dollars that we are going to go out and borrow from the Chinese and Japanese. That makes absolutely no sense. I urge my colleagues to vote no.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment.

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

The ACTING PRESIDENT pro tempore. Is there a sufficient second. There is a sufficient second.

The clerk will call the roll.

The assistant journal clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) is necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from New Mexico (Mr. DOMENICI).

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 47, nays 51, as follows:

[Rollcall Vote No. 78 Leg.]

YEAS—47

Alexander	Craig	Martinez
Allard	Crapo	McCain
Barrasso	DeMint	McConnell
Bayh	Dole	Murkowski
Bennett	Ensign	Roberts
Bond	Enzi	Sessions
Brownback	Graham	Shelby
Bunning	Grassley	Smith
Burr	Gregg	Specter
Chambliss	Hagel	Stevens
Coburn	Hatch	Sununu
Cochran	Hutchison	Thune
Coleman	Inhofe	Vitter
Collins	Isakson	Warner
Corker	Kyl	Wicker
Cornyn	Lugar	

NAYS—51

Akaka	Durbin	Lieberman
Baucus	Feingold	Lincoln
Biden	Feinstein	McCaskill
Bingaman	Harkin	Menendez
Boxer	Inouye	Mikulski
Brown	Johnson	Murray
Cantwell	Kennedy	Nelson (FL)
Cardin	Kerry	Nelson (NE)
Carper	Klobuchar	Obama
Casey	Kohl	Pryor
Clinton	Landrieu	Reed
Conrad	Lautenberg	Reid
Dodd	Leahy	Rockefeller
Dorgan	Levin	Salazar

Sanders	Stabenow	Webb
Schumer	Tester	Whitehouse
Snowe	Voinovich	Wyden

NOT VOTING—2

Byrd	Domenici

The amendment (No. 4276), as modified, was rejected.

The ACTING PRESIDENT pro tempore. The Chair needs a clarification of the bill manager, and that is, there was an earlier unanimous consent agreement that included an amendment No. 4289. The question is, Should amendment No. 4289 have been read as amendment No. 4249?

Mr. CONRAD. That is correct.

The ACTING PRESIDENT pro tempore. It should have been amendment No. 4249.

Mr. CONRAD. That is correct. That is a Dorgan amendment. That is correct. It should have been read as amendment No. 4249.

The ACTING PRESIDENT pro tempore. The Chair thanks the Senator.

AMENDMENT NOS. 4252, 4230, 4330, 4268, AS MODIFIED, 4186, 4311, 4357, 4361, 4370, 4200, 4334, 4376, AS MODIFIED, 4159, 4333, 4255, 4283, 4345, AND 4220 EN BLOC

Mr. CONRAD. Mr. President, we have a list now of additional amendments in a managers' package we can approve: amendment No. 4252, Senator BROWN; amendment No. 4230, Senator CHAMBLISS; amendment No. 4330, Senator OBAMA; amendment No. 4268, as modified, Senator THUNE; amendment No. 4186, Senator BUNNING; amendment No. 4311, Senator ALEXANDER; amendment No. 4357, Senator GREGG; amendment No. 4361, Senator CLINTON; amendment No. 4370, Senator BINGAMAN; amendment No. 4200, Senator DORGAN; amendment No. 4334, Senator SMITH; amendment No. 4376, as modified, Senator SNOWE; amendment No. 4159, Senator ALLARD, as well as amendment No. 4333, Senator BAUCUS; amendment No. 4255, Senator KOHL; amendment No. 4283, Senator HATCH; amendment No. 4345, Senator DEMINT; and amendment No. 4220, Senator CARDIN.

The ACTING PRESIDENT pro tempore. Without objection, the amendments are agreed to en bloc.

The amendments were agreed to, as follows:

AMENDMENT NO. 4252

(Purpose: To increase Federal assistance to food banks)

On page 53, between line 16 and 17, insert the following:

(3) provides up to $40,000,000 for the emergency food assistance program established under the Emergency Food Assistance Act of 1983 (7 U.S.C. 7501 et seq.);

AMENDMENT NO. 4230

(Purpose: To increase FY 2009 funding for the Byrne/Justice Assistance Grant program to $906,000,000, with an offset)

On page 24, line 16, increase the amount by $386,000,000.

On page 24, line 17, increase the amount by $85,000,000.

On page 24, line 21, increase the amount by $116,000,000.

On page 24, line 25, increase the amount by $77,000,000.

On page 25, line 4, increase the amount by $58,000,000.

On page 25, line 8, increase the amount by $50,000,000.

On page 27, line 16, decrease the amount by $386,000,000.

On page 27, line 17, decrease the amount by $85,000,000.

On page 27, line 21, decrease the amount by $116,000,000.

On page 27, line 25, decrease the amount by $77,000,000.

On page 28, line 4, decrease the amount by $58,000,000.

On page 28, line 8, decrease the amount by $50,000,000.

AMENDMENT NO. 4330

(Purpose: To provide an additional $5 million to the military departments' respective Boards for Correction of Military Records to expedite review of cases in which service members with combat-related psychological injuries (such as PTSD) or closed head injuries (such as TBIs) were administered discharges for personality disorders or other discharges resulting in a loss of benefits or care and seek a correction of records or upgraded discharge)

On page 9, line 13, increase the amount by $5,000,000.

On page 9, line 14, increase the amount by $4,000,000.

On page 9, line 18, increase the amount by $1,000,000.

On page 27, line 16, decrease the amount by $5,000,000.

On page 27, line 17, decrease the amount by $4,000,000.

On page 27, line 21, decrease the amount by $1,000,000.

AMENDMENT NO. 4268, AS MODIFIED

On page 13, line 13, increase the amount by $25,000,000.

On page 13, line 14, increase the amount by $18,500,000.

On page 13, line 17, increase the amount by $25,000,000.

On page 13, line 18, increase the amount by $24,000,000.

On page 13, line 21, increase the amount by $25,000,000.

On page 13, line 22, increase the amount by $24,875,000.

On page 13, line 25, increase the amount by $25,000,000.

On page 14, line 1, increase the amount by $24,875,000.

On page 14, line 4, increase the amount by $25,000,000.

On page 14, line 5, increase the amount by $24,875,000.

On page 24, line 16, increase the amount by $15,000,000.

On page 24, line 17, increase the amount by $13,800,000.

On page 24, line 20, increase the amount by $15,000,000.

On page 24, line 21, increase the amount by $15,000,000.

On page 24, line 24, increase the amount by $15,000,000.

On page 24, line 25, increase the amount by $15,000,000.

On page 25, line 3, increase the amount by $15,000,000.

On page 25, line 4, increase the amount by $15,000,000.

On page 25, line 7, increase the amount by $15,000,000.

On page 25, line 8, increase the amount by $15,000,000.

On page 27, line 16, decrease the amount by $40,000,000.

On page 27, line 17, decrease the amount by $32,300,000.

On page 27, line 20, decrease the amount by $40,000,000.

On page 27, line 21, decrease the amount by $39,000,000.

On page 27, line 24, decrease the amount by $40,000,000.

On page 27, line 25, decrease the amount by $38,875,000.

On page 28, line 3, decrease the amount by $40,000,000.

On page 28, line 4, decrease the amount by $39,875,000.

On page 28, line 7, decrease the amount by $40,000,000.

On page 28, line 8, decrease the amount by $39,875,000.

AMENDMENT NO. 4186

(Purpose: To provide a point of order against any budget resolution that fails to achieve an on-budget balance within 5 years)

At the end of title II, add the following:

SEC. ___. CIRCUIT BREAKER TO PROTECT SOCIAL SECURITY.

(a) CIRCUIT BREAKER.—If in any year the Congressional Budget Office, in its report pursuant to section 202(e)(1) of the Congressional Budget Act of 1974 projects an on-budget deficit (excluding Social Security) for the budget year or any subsequent fiscal year covered by those projections, then the concurrent resolution on the budget for the budget year shall reduce on-budget deficits relative to the projections of Congressional Budget Office and put the budget on a path to achieve on-budget balance within 5 years, and shall include such provisions as are necessary to protect Social Security and facilitate deficit reduction, except it shall not contain any reduction in Social Security benefits.

(b) POINT OF ORDER.—If in any year the Congressional Budget Office, in its report pursuant to section 202(e)(1) of the Congressional Budget Act of 1974 projects an on-budget deficit for the budget year or any subsequent fiscal year covered by those projections, it shall not be in order in the Senate to consider a concurrent resolution on the budget for the budget year or any conference report thereon that fails to reduce on-budget deficits relative to the projections of Congressional Budget Office and put the budget on a path to achieve on-budget balance within 5 years.

(c) AMENDMENTS TO BUDGET RESOLUTION.—If in any year the Congressional Budget Office, in its report pursuant to section 202(e)(1) of the Congressional Budget Act of 1974 projects an on-budget deficit for the budget year or any subsequent fiscal year covered by those projections, it shall not be in order in the Senate to consider an amendment to a concurrent resolution on the budget that would increase on-budget deficits relative to the concurrent resolution on the budget in any fiscal year covered by that concurrent resolution on the budget or cause the budget to fail to achieve on-budget balance within 5 years.

(d) SUSPENSION OF REQUIREMENT DURING WAR OR LOW ECONOMIC GROWTH.—

(1) LOW GROWTH.—If the most recent of the Department of Commerce's advance, preliminary, or final reports of actual real economic growth indicate that the rate of real economic growth (as measured by the real gross domestic product) for each of the most recently reported quarter and the immediately preceding quarter is less than zero percent, this section is suspended.

(2) WAR.—If a declaration of war is in effect, this section is suspended.

(e) SUPERMAJORITY WAIVER AND APPEALS.—

(1) WAIVER.—Subsections (b) and (c) may be waived or suspended in the Senate only by an affirmative vote of three-fifths of the Members, duly chosen and sworn.

(2) APPEALS.—Appeals in the Senate from the decisions of the Chair relating to any

provision of this subsection shall be limited to 1 hour, to be equally divided between, and controlled by, the appellant and the manager of the bill or joint resolution, as the case may be. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under this subsection.

(f) BUDGET YEAR.—In this section, the term ''budget year'' shall have the same meaning as in section 250(c)(12) of the Balanced Budget and Emergency Deficit Control Act of 1985.

AMENDMENT NO. 4311

(Purpose: To improve education in the United States by providing 300,000,000 for the Teacher Incentive Fund to support State and local school district efforts to reward outstanding teaching and school leadership by improving compensation programs for teachers who have a demonstrated record of improving student academic achievement, teachers who teach in high need subjects such as mathematics and science, and teachers who teach in high need, low income schools)

On page 18, line 16, increase the amount by $300,000,000.

On page 18, line 17, increase the amount by $15,000,000.

On page 18, line 21, increase the amount by $135,000,000.

On page 18, line 25, increase the amount by $105,000,000.

On page 19, line 4, increase the amount by $45,000,000.

On page 27, line 16, decrease the amount by $300,000,000.

On page 27, line 17, decrease the amount by $15,000,000.

On page 27, line 21 decrease the amount by $135,000,000.

On page 27, line 25, decrease the amount by $105,000,000.

On page 28, line 4, decrease the amount by $45,000,000.

AMENDMENT NO. 4357

(Purpose: Point of order against using reconciliation to create new mandatory programs and 20% limit on new direct spending in reconciliation legislation)

SEC.——. POINT OF ORDER—20% LIMIT ON NEW DIRECT SPENDING IN RECONCILIATION LEGISLATION.

(a)(1) In the Senate, it shall not be in order to consider any reconciliation bill, joint resolution, motion, amendment, or any conference report on, or an amendment between the Houses in relation to, a reconciliation bill pursuant to section 310 of the Congressional Budget Act of 1974, that produces an increase in outlays, if—

(A) the effect of all the provisions in the jurisdiction of any committee is to create gross new direct spending that exceeds 20% of the total savings instruction to the committee; or

(B) the effect of the adoption of an amendment would result in gross new direct spending that exceeds 20% of the total savings instruction to the committee.

(2)(A) A point of order under paragraph (1) may be raised by a Senator as provided in section 313(e) of the Congressional Budget Act of 1974.

(B) Paragraph (1) may be waived or suspended only by an affirmative vote of three-fifths of the Members, duly chosen and sworn. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under paragraph (1).

(C) If a point of order is sustained under paragraph (1) against a conference report in the Senate, the report shall be disposed of as provided in section 313(d) of the Congressional Budget Act of 1974.

AMENDMENT NO. 4361

(Purpose: To increase funding for the Department of Agriculture by $1,000,000 in fiscal year 2009 to provide public access to information about the sources of foods distributed through the school lunch program and other nutrition programs under the jurisdiction of the Secretary of Agriculture)

On page 21, line 16, increase the amount by $1,000,000.

On page 21, line 17, increase the amount by $1,000,000.

On page 27, line 16, decrease the amount by $1,000,000.

On page 27, line 17, decrease the amount by $1,000,000.

AMENDMENT NO. 4370

(Purpose: To provide for a deficit-neutral reserve fund to make improvements to ensure access to the Medicare program for low-income senior citizens and other low-income Medicare beneficiaries)

On page 62, between lines 3 and 4, insert the following:

(3) MEDICARE LOW-INCOME PROGRAMS.—The Chairman of the Senate Committee on the Budget may revise the aggregates, allocations, and other appropriate levels in this resolution for a bill, joint resolution, amendment, motion, or conference report that makes improvements to the Medicare Savings Program and the Medicare part D low-income subsidy program, which may include the provisions that—

(A) provide for an increase in the asset allowance under the Medicare Part D low-income subsidy program so that individuals with very limited incomes, but modest retirement savings, can obtain the assistance that the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 was intended to deliver with respect to the payment of premiums and cost-sharing under the Medicare part D prescription drug benefit;

(B) provide for an update in the income and asset allowances under the Medicare Savings Program and provide for an annual inflationary adjustment for those allowances; and

(C) improve outreach and enrollment under the Medicare Savings Program and the Medicare part D low-income subsidy program to ensure that low-income senior citizens and other low-income Medicare beneficiaries receive the low-income assistance for which they are eligible in accordance with the improvements provided for in such legislation, by the amounts provided in such legislation for those purposes, provided that such legislation would not increase the deficit over either the period of the total of fiscal years 2008 through 2013 or the period of the total of fiscal years 2008 through 2018.

AMENDMENT NO. 4200

(Purpose: To provide for the use of the deficit-neutral reserve fund to invest in clean energy and preserve the environment for the 5-year extension of energy tax incentives)

On page 57, line 12, insert ''for 5 years'' after ''to extend''.

AMENDMENT NO. 4334

(Purpose: To increase the funding levels for programs carried out under the Older Americans Act of 1965 by $184,000,000 to keep pace with inflation and increasing numbers of older Americans, and comply with minimum wage requirements for the programs)

On page 18, line 16, increase the amount by $184,000,000.

On page 18, line 17, increase the amount by $91,000,000.

On page 18, line 21, increase the amount by $86,000,000.

On page 18, line 25, increase the amount by $5,400,000.

On page 19, line 4, increase the amount by $1,000,000.

On page 27, line 16, decrease the amount by $184,000,000.

On page 27, line 17, decrease the amount by $91,000,000.

On page 27, line 21, decrease the amount by $86,000,000.

On page 27, line 25, decrease the amount by $5,400,000.

On page 28, line 4, decrease the amount by $1,000,000.

AMENDMENT NO. 4376, AS MODIFIED

On page 68, line 4, insert '', and through reducing barriers to cafeteria plans'' after ''consumer protections''.

AMENDMENT NO. 4159

(Purpose: To ensure that the Secretary of Health and Human Services has continued authority to prevent fraud and protect the integrity of the Medicaid program and SCHIP and to reduce inappropriate spending under those programs)

Strike paragraph (1) of section 306(e) and insert the following:

(1) RULES OR ADMINISTRATIVE ACTIONS.—The Chairman of the Senate Committee on the Budget may revise the allocations, aggregates, and other appropriate levels in this resolution for a bill, joint resolution, amendment, motion, or conference report that includes provisions regarding the final rule published on May 29, 2007, on pages 29748 through 29836 of volume 72, Federal Register (relating to parts 433, 447, and 457 of title 42, Code of Federal Regulations) or any other rule or other administrative action that would affect the Medicaid program or SCHIP in a similar manner, or place restrictions on coverage of or payment for graduate medical education, rehabilitation services, or school-based administration, school-based transportation, or optional case management services under title XIX of the Social Security Act, or includes provisions regarding administrative guidance issued in August 2007 affecting SCHIP or any other administrative action that would affect SCHIP in a similar manner, so long as no provision in such bill, joint resolution, amendment, motion or conference report shall be construed as prohibiting the Secretary of Health and Human Services from promulgating or implementing any rule, action, or guidance designed to prevent fraud and protect the integrity of the Medicaid program or SCHIP or reduce inappropriate spending under such programs, by the amounts provided in that legislation for those purposes, provided that such legislation would not increase the deficit over either the total of the period of fiscal years 2008 through 2013 or the total of the period of fiscal years 2008 through 2018.

AMENDMENT NO. 4333

(Purpose: To express the sense of the Senate that Medicaid administrative regulations should not undermine Medicaid's role in our Nation's health care system, cap Federal Medicaid spending, or otherwise shift Medicaid cost burdens to State or local governments and their taxpayers and health providers, or undermine the Federal guarantee of health insurance coverage Medicaid provides)

At the appropriate place, insert the following:

SEC. ___. SENSE OF THE SENATE REGARDING MEDICAID ADMINISTRATIVE REGULATIONS.

(a) FINDINGS.—The Senate makes the following findings:

(1) The Medicaid program provides essential health care and long-term care services

to approximately 60,000,000 low-income children, pregnant women, parents, individuals with disabilities, and senior citizens. It is a Federal guarantee that ensures the most vulnerable will have access to needed medical services.

(2) Medicaid provides critical access to long-term care and other services for the elderly and individuals living with disabilities, and is the single largest provider of long-term care services. Medicaid also pays for personal care and other supportive services that are typically not provided by private health insurance or Medicare, but are necessary to enable individuals with spinal cord injuries, developmental disabilities, neurological degenerative diseases, serious and persistent mental illnesses, HIV/AIDS, and other chronic conditions to remain in the community, to work, and to maintain independence.

(3) Medicaid supplements the Medicare program for about 7,500,000 low-income elderly or disabled Medicare beneficiaries, assisting them with their Medicare premiums and co-insurance, wrap-around benefits, and the costs of nursing home care that Medicare does not cover. The Medicaid program spends over $100,000,000,000 on uncovered Medicare services.

(4) Medicaid provides health insurance for more than one-quarter of America's children and is the largest purchaser of maternity care, paying for more than one-third of all the births in the United States each year. Medicaid also provides critical access to care for children with disabilities, covering more than 70 percent of poor children with disabilities.

(5) More than 21,000,000 women depend on Medicaid for their health care. Women comprise the majority of seniors (64 percent) on Medicaid. Half of nonelderly women with permanent mental or physical disabilities have health coverage through Medicaid. Medicaid provides treatment for low-income women diagnosed with breast or cervical cancer in every State.

(6) Medicaid is the Nation's largest source of payment for mental health services, HIV/AIDS care, and care for children with special needs. Much of this care is either not covered by private insurance or limited in scope or duration. Medicaid is also a critical source of funding for health care for children in foster care and for health services in schools.

(7) Medicaid funds help ensure access to care for all Americans. Medicaid is the single largest source of revenue for the Nation's safety net hospitals, health centers, and nursing homes, and is critical to the ability of these providers to adequately serve all Americans.

(8) Medicaid serves a major role in ensuring that the number of Americans without health insurance, approximately 47,000,000 in 2006, is not substantially higher. The system of Federal matching for State Medicaid expenditures ensures that Federal funds will grow as State spending increases in response to unmet needs, enabling Medicaid to help buffer the drop in private coverage during recessions.

(9) The Bush Administration has issued several regulations that shift Medicaid cost burdens onto States and put at risk the continued availability of much-needed services. The regulations relate to Federal payments to public providers, and for graduate medical education, rehabilitation services, school-based administration, school-based transportation, optional case management services.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that administrative regulations should not—

(1) undermine the role the Medicaid program plays as a critical component of the health care system of the United States;

(2) cap Federal Medicaid spending, or otherwise shift Medicaid cost burdens to State or local governments and their taxpayers and health providers, forcing a reduction in access to essential health services for low-income elderly individuals, individuals with disabilities, and children and families; or

(3) undermine the Federal guarantee of health insurance coverage Medicaid provides, which would threaten not only the health care safety net of the United States, but the entire health care system.

AMENDMENT NO. 4255

(Purpose: To increase 2009 funding for Juvenile Justice Programs to $560 million, with an offset)

On page 24, line 16, increase the amount by $170,000,000.

On page 24, line 17, increase the amount by $20,000,000.

On page 24, line 21, increase the amount by $48,000,000.

On page 24, line 25, increase the amount by $43,000,000.

On page 25, line 4, increase the amount by $34,000,000.

On page 25, line 8, increase the amount by $25,000,000.

On page 27, line 16, decrease the amount by $170,000,000.

On page 27, line 17, decrease the amount by $20,000,000.

On page 27, line 21, decrease the amount by $48,000,000.

On page 27, line 25, decrease the amount by $43,000,000.

On page 28, line 4, decrease the amount by $34,000,000.

On page 28, line 8, decrease the amount by $25,000,000.

AMENDMENT NO. 4283

(Purpose: To express the sense of the Senate that none of the funds recommended by this resolution, or appropriated or otherwise made available under any other Act, to the USPTO shall be diverted, redirected, transferred, or used for any other purpose than for which such funds were intended)

At the end of the bill, insert the following:

SEC. 308. SENSE OF THE SENATE REGARDING THE DIVERSION OF FUNDS SET ASIDE FOR USPTO.

It is the sense of the Senate that none of the funds recommended by this resolution, or appropriated or otherwise made available under any other Act, to the United States Patent and Trademark Office shall be diverted, redirected, transferred, or used for any other purpose than for which such funds were intended.

AMENDMENT NO. 4345

(Purpose: To provide for a deficit-neutral reserve fund for education reform)

At the end of title III, add the following:

SEC. ____. DEFICIT-NEUTRAL RESERVE FUND FOR EDUCATION REFORM.

The Chairman of the Senate Committee on the Budget may revise the aggregates, allocations, and other appropriate levels in this resolution for one or more bills, joint resolutions, amendments, motions, or conference reports that promote flexibility in existing Federal education programs, restore State and local authority in education, ensure that public schools are held accountable for results to parents and the public, and prevent discrimination against homeschoolers, by the amounts provided in such legislation for those purposes, provided that such legislation would not increase the deficit over either the period of the total of fiscal years 2008 through 2013 or the period of the total of fiscal years 2008 through 2018.

AMENDMENT NO. 4220

(Purpose: To increase funding for water quality research programs at the United States Geological Survey, with an offset)

On page 13, line 13, increase the amount by $12,000,000.

On page 13, line 14, increase the amount by $11,000,000.

On page 13, line 18, increase the amount by $1,000,000.

On page 27, line 16, decrease the amount by $12,000,000.

On page 27, line 17, decrease the amount by $11,000,000.

On page 27, line 21, decrease the amount by $1,000,000.

Mr. REID. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. CONRAD. Mr. President, if Senator SNOWE's staff is in the Chamber, we need the modification to Senator SNOWE's amendment sent to the desk.

Senator DEMINT has an amendment on deductibility. If the Senator can describe that amendment and if he would be willing to take that amendment on a voice vote, we can accept it at this point.

AMENDMENT NO. 4339

Mr. DEMINT. Mr. President, I thank the chairman. This is amendment No. 4339. What it does is what I believe all of us in the Chamber would like to do and that is to make it easier for people without health insurance to buy health insurance. It does not accomplish all our goals or solve all the problems, but what it does is allow people who do not have health insurance through their employer to buy health insurance and deduct it the same way an employer would.

It is a very simple amendment. That is the only item in it, to allow individuals to deduct the cost of a health insurance premium from their taxes.

The ACTING PRESIDENT pro tempore. The clerk will report the amendment.

The assistant journal clerk read as follows:

The Senator from South Carolina [Mr. DEMINT] proposes an amendment numbered 4339.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide for a deficit-neutral reserve fund for providing an above the line Federal income tax deduction for individuals purchasing health insurance outside the workplace)

At the end of title III, add the following:

SEC. _____. DEFICIT-NEUTRAL RESERVE FUND FOR PROVIDING AN ABOVE THE LINE FEDERAL INCOME TAX DEDUCTION FOR INDIVIDUALS PURCHASING HEALTH INSURANCE OUTSIDE THE WORKPLACE.

The Chairman of the Senate Committee on the Budget may revise the allocations, aggregates, and other levels in this resolution

by the amounts provided by a bill, joint resolution, amendment, motion, or conference report that would provide an above the line Federal income tax deduction under section 62 of the Internal Revenue Code of 1986 for individuals who do not receive health insurance through an employer and who purchase such insurance on the private market, provided that such legislation would not increase taxes and would not increase the deficit over either the period of the total of fiscal years 2008 through 2013 or the period of the total of fiscal years 2008 through 2018.

Mr. CONRAD. Mr. President, the ranking member tells me we need to defer on this DeMint amendment because it involves another amendment, it affects another amendment, and the other amendment is still in the clearing process. So we need to defer on this amendment.

Senator DEMINT has another amendment on Semper Fi; is that correct?

Mr. DEMINT. Correct.

Mr. CONRAD. I ask the Senator from South Carolina if he can describe the amendment briefly, and if he will accept a voice vote, we can proceed to that amendment. We can accept that amendment.

Mrs. FEINSTEIN. Mr. President, if it is what I think it is, we will object. It will take all grants away from the University of California, if I understand the amendment correctly.

Mr. CONRAD. Mr. President, we were told that amendment had been cleared. It appears it has not.

Mrs. BOXER. Excuse me, if I may, Mr. President.

The ACTING PRESIDENT pro tempore. The Senator from California.

Mrs. BOXER. Mr. President, if I may have a moment, the amendment I agree with is the Vitter amendment which says that the rules surrounding FACE, which is the Freedom of Access to Clinic Entrances Act, would apply to recruiting stations because we do not want anyone hurt by demonstrators. Whether it is at a reproductive health care clinic or a recruiting station, we fully agree, and we are very happy to accept that amendment.

The amendment by the Senator from North Carolina, on the other hand, would take funds away from the University of California, would take funds away from the police and firemen in Berkeley, would take funds away from the children who go to school there, would take funds away from transit—these people who had nothing to do with anything any city councilman in Berkeley said. And, by the way, P.S., they took it back. They took back what they said.

Mr. CONRAD. Mr. President, we have to return to regular order if we can. Perhaps the best way to unwind this situation, as I understand, Senator DEMINT's amendment then will require a vote; is that the case? Then I think what we should do is ask Senator DEMINT to take his 1 minute to explain the amendment. Then we will ask for 1 minute in opposition by perhaps the two Senators from California, vote on the DeMint amendment, and then perhaps we can go to Senator VITTER's amendment, if that is OK.

Mr. DEMINT. Mr. President, I ask unanimous consent, since there has already been more than a minute in opposition, that I have 2 minutes to speak on this amendment.

Mrs. FEINSTEIN. I object.

Mr. CONRAD. No, no, that is fair. I think we need to agree to that request. That has to be done. That is fair.

The ACTING PRESIDENT pro tempore. Will the Senator call up his amendment?

AMENDMENT NO. 4380

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

The ACTING PRESIDENT pro tempore. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from South Carolina [Mr. DEMINT] proposes an amendment numbered 4380.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide for a deficit-neutral reserve fund for transferring funding for Berkeley, CA earmarks to the Marine Corps)

At the end of title III, insert the following:

SEC. ___. RESERVE FUND FOR BERKELEY RESCISSIONS AND FUNDING THE MARINE CORPS.

The Chairman of the Senate Committee on the Budget may revise the aggregates, allocations, and other appropriate levels in this resolution for one or more bills, joint resolutions, amendments, motions, or conference reports that would rescind any congressionally directed spending item for the City of Berkeley, California, and any entities located in such city, and transfer such funds to the Marine Corps, by the amounts provided in that legislation for those purposes, provided that such legislation would not increase the deficit over either the period of the total of fiscal years 2008 through 2013 or the period of the total of fiscal years 2008 through 2018.

Mr. DEMINT. Mr. President, if I may have the attention of the Chamber, I bring this Semper Fi amendment to the floor as a promise to a number of marines and their families. I admit this is somewhat unusual, but this amendment is not about free speech.

In Berkeley, CA, there were some folks protesting the Marine Recruitment Office. They have their right to protest, to speak out. My case is against the city of Berkeley, which incited hate against our marines and encouraged them to disrupt recruitment, which is their Federal responsibility.

This is a terrible precedent for a local government to take a position against our constitutional role to defend our Nation, which requires recruitment.

The things that were said by the city council about our marines were disgraceful. What we are proposing is to make a point. The earmarks that are talked about that went to Berkeley, over $2 million worth of earmarks, should not have gone there anyway, and they do involve special gourmet-type meals for the schools and money to the University of California at Berkeley, where they already have a $3.3 million endowment.

We can argue about the earmarks all night, but I am trying to make a point on behalf of marines and everyone in uniform that it is not the role of city or State governments to try to disgrace and intimidate, embarrass—whatever—our marines who are doing what we ask them to do.

So my amendment takes away those $2 million worth of earmarks as a symbol to every local government that may want to take on our Federal role and try to make an issue with our marines.

Semper Fi means ''Always Faithful.'' It is the motto of our marines. They are always faithful to us, and I promised many of their families, when I was in Iraq and back here, that I would stand up for them. I encourage all my colleagues to vote for this amendment to make a point.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. CONRAD. Mr. President, I suggest the absence of a quorum. At this moment we have, unfortunately, not yet seen the amendment of the Senator. We do need to take a moment to review it, and I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. CONRAD. Mr. President, for the purpose of helping us move along effectively, in order to get this done it is very important that both sides have copies of the amendments that are offered. We can't do business efficiently if we don't—both sides—have copies of the amendments.

I say this because both of us are in such a rush to conclusion that sometimes we neglect to make sure the other side—we have done it, which we apologize for, and it is very easy to happen in this hectic ending.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. CONRAD. Mr. President, since we have had argument on both sides, I wonder if it would be fair now to have 2 minutes for those in opposition, 1

minute by each of the Senators from California.

Mr. DEMINT. Would it be OK to add an additional 30 seconds, just to clarify the misinformation?

Mr. CONRAD. I think we have to cut this off at this point, if I can say that to my colleague.

So Senator FEINSTEIN.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered. The Senator from California.

Mrs. FEINSTEIN. Mr. President, this amendment is an overkill. My colleague and I are the first ones to say Berkeley made a huge mistake. Berkeley apologized for that mistake. Following all of this, the recruiting station wrote a letter to the University of California and thanked them for their steadfast service and accommodation of the recruiting center.

Essentially, what the Senator is trying to do is punish by rescinding any congressionally directed spending item for Berkeley, any entities located in such city, such as the Roberts Center which treats paralyzed veterans, and to transfer such funds to the Marine Corps. They would remove transportation funds, police and fire funds, and nutrition funds for children.

I mean, the point has been made. The situation is solved, but it isn't enough for the Senator. He has to come back and hit hard, and I disagree.

The ACTING PRESIDENT pro tempore. The Senator from California.

Mrs. BOXER. Mr. President and my colleagues, this is a moment we could be together because we had some outrageous statements coming out of the Berkeley City Council. They rescinded. They apologized. And what the Senator wants to do is take it out on people who, A, had nothing whatsoever to do with this in the first place; and, B, the whole thing ought to be moot because they have apologized.

Now, I don't see how you are faithful to the Marines—and by the way, I hope everyone will donate, as I do, to the Semper Fi Fund. Since you mentioned semper fi, there is a fund that takes care of our wounded vets. I hope we will all write a personal check tonight.

You want to help the Marines? How do you help the Marines and their families when you take money away from paralyzed people, including paralyzed veterans? That is what the earmark was about. How do you help the Marines when you take money away from American kids who are learning about the importance of nutrition? How do you help the Marines when you take money away from police and fire?

Please vote this down. It is mean spirited.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mrs. BOXER. And it is not in the interest of America to do this.

Mr. CONRAD. Time for the vote. I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? Seeing a sufficient second, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) is necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from New Mexico (Mr. DOMENICI).

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

The result was announced—yeas 41, nays 57, as follows:

[Rollcall Vote No. 79 Leg.]

YEAS—41

Alexander	Craig	Landrieu
Allard	Crapo	Martinez
Barrasso	DeMint	McCain
Bayh	Dole	McConnell
Bond	Ensign	Roberts
Brownback	Enzi	Sessions
Bunning	Graham	Shelby
Burr	Grassley	Smith
Chambliss	Gregg	Snowe
Coburn	Hatch	Sununu
Coleman	Hutchison	Thune
Collins	Inhofe	Vitter
Corker	Isakson	Wicker
Cornyn	Kyl	

NAYS—57

Akaka	Hagel	Nelson (FL)
Baucus	Harkin	Nelson (NE)
Bennett	Inouye	Obama
Biden	Johnson	Pryor
Bingaman	Kennedy	Reed
Boxer	Kerry	Reid
Brown	Klobuchar	Rockefeller
Cantwell	Kohl	Salazar
Cardin	Lautenberg	Sanders
Carper	Leahy	Schumer
Casey	Levin	Specter
Clinton	Lieberman	Stabenow
Cochran	Lincoln	Stevens
Conrad	Lugar	Tester
Dodd	McCaskill	Voinovich
Dorgan	Menendez	Warner
Durbin	Mikulski	Webb
Feingold	Murkowski	Whitehouse
Feinstein	Murray	Wyden

NOT VOTING—2

Byrd	Domenici

The amendment (No. 4380) was rejected.

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

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

The motion to lay on the table was agreed to.

Mr. CONRAD. Mr. President, in the previous list sent to the desk, we need to show amendment No. 4268, by Senator THUNE, as having been modified.

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

Mr. CONRAD. Mr. President, we are about to move. We are awaiting some additional amendments to clear. While we are doing that, we could go to the next amendments, which are on the unborn child. Senator BOXER has a side-by-side, followed by Senator ALLARD. These will require votes.

Senator BOXER.

AMENDMENT NO. 4379

Mrs. BOXER. Mr. President, I did not want to have to offer another amendment here to tonight. The only reason I am doing that is because the amendment that will be offered in a moment by Senator ALLARD says that the SCHIP program, our kids health program, should cover children—this is from his amendment—from the moment of conception until 19 years old. I am assuming the idea is to make sure pregnant women are covered. Yet it doesn't say that. So my side-by-side says pregnant women will be covered. That means you don't get into that whole area of when does life begin and so on.

We are saying, please vote for this. Let's cover pregnant women, and that will, indeed, cover the pregnant woman and her fetus, all the way from the minute she is pregnant.

This is what we hope you will vote aye for. We hope you will vote no on the Allard amendment. I am sorry to trouble you with another vote.

The PRESIDING OFFICER. Will the Senator from California call up her amendment?

Mrs. BOXER. I call up amendment No. 4379.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from California [Mrs. BOXER], proposes an amendment numbered 4379.

Mrs. BOXER. 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:

(Purpose: To facilitate coverage of pregnant women in SCHIP)

On page 60, line 8, insert ''or pregnant women'' after ''children''.

Mrs. BOXER. 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. ALLARD. Mr. President, I stand in opposition and ask for a ''no'' vote and ask for an ''aye'' vote on the Allard amendment.

What the Allard amendment does is redefines the child. The way the law right now reads, a pregnant woman is under the definition of a child. All we do is move the child out from the definition of the pregnant woman and say that the child is in the period from conception to birth, and then the rest of the program. If this is a health program for children, then we define the child as part of that population of children. The pregnant woman, who is the adult, would be kept separate.

As far as I am concerned, it is just a truth-in-labeling provision so we have a distinction between the child and mother. We have surgical procedures now that are just for the unborn child and not necessarily a surgical procedure, technically, on the woman.

Mrs. FEINSTEIN. Mr. President, is all time used?

The PRESIDING OFFICER. All time has been used.

Mr. ALLARD. Mr. President, can I make one more point? My amendment is a pro-life vote.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the Boxer amendment. The yeas and nays have been ordered. The clerk will call the roll.

The assistant journal clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) and the Senator from Maryland (Ms. MIKULSKI) are necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from New Mexico (Mr. DOMENICI).

The result was announced—yeas 70, nays 27, as follows:

[Rollcall Vote No. 80 Leg.]

YEAS—70

Akaka	Feingold	Murkowski
Alexander	Feinstein	Murray
Baucus	Graham	Nelson (FL)
Bayh	Grassley	Nelson (NE)
Biden	Harkin	Obama
Bingaman	Hutchison	Pryor
Bond	Inouye	Reed
Boxer	Isakson	Reid
Brown	Johnson	Rockefeller
Cantwell	Kennedy	Salazar
Cardin	Kerry	Sanders
Carper	Klobuchar	Schumer
Casey	Kohl	Smith
Chambliss	Landrieu	Snowe
Clinton	Lautenberg	Specter
Coleman	Leahy	Stabenow
Collins	Levin	Stevens
Conrad	Lieberman	Tester
Corker	Lincoln	Warner
Cornyn	Lugar	Webb
Dodd	McCain	Whitehouse
Dole	McCaskill	Wyden
Dorgan	McConnell	
Durbin	Menendez	

NAYS—27

Allard	Crapo	Martinez
Barrasso	DeMint	Roberts
Bennett	Ensign	Sessions
Brownback	Enzi	Shelby
Bunning	Gregg	Sununu
Burr	Hagel	Thune
Coburn	Hatch	Vitter
Cochran	Inhofe	Voinovich
Craig	Kyl	Wicker

NOT VOTING—3

Byrd	Domenici	Mikulski

The amendment (No. 4379) was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 4233

Mr. ALLARD. Mr. President, I call up the Allard amendment.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Colorado [Mr. ALLARD] proposes an amendment numbered 4233.

Mr. ALLARD. 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 (No. 4233) is as follows:

(Purpose: To require that legislation to reauthorize SCHIP include provisions codifying the unborn child regulation)

On page 60, line 8, insert ''and amends the definition of the term 'targeted low-income child' under title XXI of the Social Security Act to provide that such term means an individual under age 19, including the period from conception to birth, who is eligible for child health assistance under such title XXI by virtue of the definition of the term 'child' under section 457.10 of title 42, Code of Federal Regulations'' after ''children,''.

Mr. REID. Would my friend yield?

Mr. ALLARD. I will yield.

Mr. REID. Mr. President, we have a few amendments. We know everyone is very tired. We are doing very well. I would hope that those who have sense-of-the-Senate amendments would consider not moving them. I know they are important amendments, but they are sense of the Senate.

Anyway, even with those, we do not have many left. So if everyone would be patient, the staff is working very hard. The managers have another group of amendments that can be accepted. So if everyone will be very patient, final passage is going to be close. We need everybody here. So everyone please be patient.

AMENDMENTS NOS. 4270, AS MODIFIED; 4302, 4300, 4331, 4209, AS MODIFIED; 4375, 4307, AND 4371

Mr. CONRAD. Mr. President, we can now approve another group of amendments that have been cleared on both sides: 4270, as modified, Senator LEAHY; 4302, Senator GREGG; 4300, Senator CLINTON; 4331, Senator BAUCUS; 4209, as modified, Senator COLLINS; 4375, Senators SPECTER and CASEY; 4307, Senator BUNNING; and 4371, Senator GRAHAM.

I ask unanimous consent that the amendments be agreed to.

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

The amendments were agreed to, as follows:

AMENDMENT NO. 4270, AS MODIFIED

At the end of title III, insert the following:

SEC. ____. DEFICIT-NEUTRAL RESERVE FUND FOR PROCESSING NATURALIZATION APPLICATIONS.

The Chairman of the Senate Committee on the Budget may revise the allocations of a committee or committees, aggregates, and other levels in this resolution for one or more bills, joint resolutions, amendments, motions, or conference reports that would provide for the adjudication of name check and security clearances by October 1, 2008 by the Federal Bureau of Investigations for individuals who have submitted or submit applications for naturalization before March 1, 2008 or provide for the adjudication of applications, including the interviewing and swearing-in of applicants, by October 1, 2008 by the Department of Homeland Security/U.S. Citizenship and Immigration Services for individuals who apply or have applied for naturalization before March 1, 2008, by the amounts provided in such legislation for such purpose, provided that such legislation would not increase the deficit over either the period of the total of fiscal years 2008 through 2013 or the period of the total of fiscal years 2008 through 2018.

AMENDMENT NO. 4302

(Purpose: To provide for a reserve fund for legislation to provide access, coverage, and choice for every American to quality and affordable care)

At the appropriate place, insert the following:

SEC. ____. DEFICIT-NEUTRAL RESERVE FUND FOR ACCESS TO QUALITY AND AFFORDABLE HEALTH INSURANCE.

The Chairman of the Senate Committee on the Budget may revise the allocations, aggregates, and other levels in this resolution for one or more bills, joint resolutions, amendments, motions, or conference reports that—

(1) promotes choice and competition to drive down costs and improve access to health care for all Americans without increasing taxes;

(2) strengthens health care quality by promoting wellness and empowering consumers with accurate and comprehensive information on quality and cost;

(3) protects Americans' economic security from catastrophic events by expanding insurance options and improving health insurance portability; and

(4) promotes the advanced research and development of new treatments and cures to enhance health care quality;

if such legislation would not increase the deficit over either the period of the total of fiscal years 2008 through 2013 or the period of the total of fiscal years 2008 through 2018.

AMENDMENT NO. 4300

(Purpose: To provide for a reserve fund for legislation to establish a program, including medical monitoring and treatment, addressing the adverse health impacts linked to the September 11, 2001 attacks)

At the appropriate place, insert the following:

SEC. ____. DEFICIT-NEUTRAL RESERVE FUND FOR A 9/11 HEALTH PROGRAM.

If the Chairman of the Senate Committee on Health, Education, Labor, and Pensions reports out legislation to establish a program, including medical monitoring and treatment, addressing the adverse health impacts linked to the September 11, 2001 attacks, and if the Committee on Health, Education, Labor, and Pensions makes a finding that previously spent World Trade Center Health Program funds were used to provide screening, monitoring and treatment services, and directly related program support, the Chairman of the Senate Budget Committee may revise the aggregates, allocations, and other appropriate levels in this resolution, if such legislation would not increase the deficit over either the period of the total of fiscal years 2008 through 2013 or the period of the total of fiscal years 2008 through 2018.

AMENDMENT NO. 4331

(Purpose: To add a deficit-neutral reserve fund to ban abusive and inappropriate sales and marketing tactics used by private insurers offering Medicare Advantage and prescription drug plans)

At the end of Title III, insert the following:

SEC. ——. DEFICIT-NEUTRAL RESERVE FUND TO BAN MEDICARE ADVANTAGE AND PRESCRIPTION DRUG PLAN SALES AND MARKETING ABUSES.

The Chairman of the Senate Committee on the Budget may revise the allocations of a committee or committees, aggregates, and other levels in this resolution for one or more bills, joint resolutions, amendments, motions, or conference reports that would limit inappropriate or abusive marketing tactics by private insurers and their agents offering Medicare Advantage or Medicare prescription drug plans by enacting any or all of the recommendations agreed to by leaders of the health insurance industry on March 3, 2008, including prohibitions on cold calling and telephone solicitations for in-home sales appointments with Medicare beneficiaries, free meals and inducements at sales events, cross-selling of non-health products, and up-selling of Medicare insurance products without prior consent of beneficiaries, by the amounts provided in such legislation for such purpose, provided that

such legislation would not increase the deficit over either the period of the total of fiscal years 2008 through 2013 or the period of the total of fiscal years 2008 through 2018.

AMENDMENT NO. 4209, AS MODIFIED

On page 57, line 13, after ''resources,'' insert ''the biodiesel production tax credit, or''

On page 57, line 14, after ''program,'' insert ''to provide a tax credit for clean burning wood stoves, a tax credit for production of cellulosic ethanol, a tax credit for plug-in hybrid vehicles,''

On page 57, line 16, after ''plants'' insert ''Tax legislation under this section may be paid for by adjustments to Sections 167(h) of the Internal Revenue Code of 1986 as it relates to integrated oil companies.''

AMENDMENT NO. 4375

(Purpose: To express the Sense of the Senate regarding Philadelphia Housing Authority's ''Moving to Work Agreement'' with the U.S. Department of Housing and Urban Development)

At the appropriate place, insert the following

Expressing the Sense of the Senate regarding extending the ''Moving to Work Agreement'' between the Philadelphia Housing Authority and the U.S. Department of Housing and Urban Development under the same terms and conditions for a period of one year.

Whereas, the current ''Moving to Work Agreement'' between the Philadelphia Housing Authority and the U.S. Department of Housing and Urban Development is set to expire on March 31, 2008;

Whereas, Philadelphia Housing Authority has used this agreement to leverage private and public resources to develop mixed-income communities that address the needs of the very poor while reshaping entire communities, and estimates that it will lose $50 million as a result of the agreement expiring;

Whereas, the U.S. Department of Housing and Urban Development has refused to grant Philadelphia Housing Authority a 1-year extension of its current agreement under the same terms and conditions;

Whereas, the U.S. Department of Housing and Urban Development alleges that Philadelphia Housing Authority is in violation of fair housing requirements;

Whereas, Philadelphia Housing Authority denies this assertion and is challenging the matter in Federal District Court;

Whereas, there is a suspicion of retaliation with regard to the U.S. Department of Housing and Urban Development's refusal to grant a one-year extension of Philadelphia Housing Authorities current agreement under the same terms and conditions;

Whereas, it was discovered that two senior level officials at the U.S. Department of Housing and Urban Development had the following email exchange, referring to Philadelphia Housing Authority Executive Director Carl R. Greene:

Then-Assistant Secretary for Public and Indian Housing Orlando J. Cabrera wrote, ''Would you like me to make his life less happy? If so, how?''

Assistant Secretary for Fair Housing and Equal Opportunity Kim Kendrick wrote, ''Take away all of his Federal dollars?''

Then-Assistant Secretary for Public and Indian Housing Orlando J. Cabrera wrote, ''Let me look into that possibility.''

Whereas, these emails were the subject of questioning by Senator Casey to U.S. Department of Housing and Urban Development Secretary Alphonso Jackson at a March 12, 2008 hearing before the Senate Committee on Banking, Housing and Urban Affairs; and by Senator Specter to Secretary Jackson at a March 13, 2008 hearing before the Senate Appropriations Subcommittee on Transportation, Housing and Urban Development and Related Agencies;

Whereas, Philadelphia Housing Authority's allegation of retaliation appears to be substantiated by these newly discovered emails;

Whereas, the expiration of the current agreement is imminent and will negatively impact 84,000 low-income residents of Philadelphia: Now, therefore, be it:

Resolved, that it is the Sense of the Senate that Philadelphia Housing Authority should be granted a one-year extension of its ''Moving to Work Agreement'' with the U.S. Department of Housing and Urban Development under the same terms and conditions as the current agreement.

AMENDMENT NO. 4307

(Purpose: To pennanently extend the adoption tax credit and the exclusion for adoption assistance programs included in the Economic Growth and Tax Relief Reconciliation Act of 2001)

On page 3, line 13, decrease the amount by $113,000,000.

On page 3, line 14, decrease the amount by $386,000,000.

On page 3, line 15, decrease the amount by $414,000,000.

On page 3, line 22, decrease the amount by $113,000,000.

On page 3, line 23, decrease the amount by $386,000,000.

On page 3, line 24, decrease the amount by $414,000,000.

On page 4, line 7, decrease the amount by $113,000,000.

On page 4, line 8, decrease the amount by $386,000,000.

On page 4, line 9, decrease the amount by $414,000,000.

On page 4, line 16, decrease the amount by $113,000,000.

On page 4, line 17, decrease the amount by $386,000,000.

On page 4, line 18, decrease the amount by $414,000,000.

On page 27, line 24, decrease the amount by $113,000,000.

On page 27, line 25, decrease the amount by $113,000,000.

On page 28, line 3, decrease the amount by $386,000,000.

On page 28, line 4, decrease the amount by $386,000,000,

On page 28, line 7, decrease the amount by $414,000,000.

On page 28, line 8, decrease the amount by $414,000,000.

AMENDMENT NO. 4371

(Purpose: To express the Senate of the Senate regarding a Balanced Budget Amendment to the Constitution of the United States)

At the appropriate place, insert:

SEC. ——. SENSE OF THE SENATE REGARDING A BALANCED BUDGET AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES.

(a) FINDINGS.—The Senate finds that—

(1) On January 26, 1996, the House of Representatives passed H.J. Res. 1, the Balanced Budget Amendment to the Constitution of the United States, by the necessary two-thirds majority (300–132);

(2) On June 6, 1996, the Senate fell three votes short of the two-thirds majority vote needed to pass the Balanced Budget Amendment; and

(3) Since the House of Representatives and Senate last voted on the Balanced Budget Amendment, the debt held by the public has grown from $3,700,000,000,000 to more than $5,000,000,000,000.

(b) SENSE OF SENATE— It is the sense of the Senate that a Balanced Budget Amendment to the Constitution of the United States should be voted on at the earliest opportunity.

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

Mrs. BOXER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

AMENDMENT NO. 4233

Mr. ALLARD. On the Allard amendment, it will codify the current unborn child rule by amending the SCHIP reauthorization reserve fund.

Many States' definition of coverage for a pregnant woman leads to the strange legal fiction that the adult pregnant woman is a child. This amendment will clarify in statute that the term ''child'' includes the period from conception to birth and will not include a pregnant woman in the definition of a child.

I ask for an ''aye'' vote. This is a pro-life vote.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, in the Boxer amendment, we clarified SCHIP law. A pregnant woman's coverage under SCHIP law is optional. We made it obligatory so every pregnant woman has the advantage of medical insurance. This amendment undoes that. It takes it away from the woman and gives it to the fetus. Now, if the woman is pregnant in an accident, loses the child, she does not get coverage, the child gets coverage.

We solved the problem in the Boxer amendment. If you cover the pregnant woman, you cover her fetus. What Senator ALLARD does is remove the coverage from the pregnant woman and cover the fetus.

I urge a ''no'' vote.

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

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

The PRESIDING OFFICER. The yeas and nays are requested.

Is there a sufficient second? There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) is necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from New Mexico (Mr. DOMENICI).

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

The result was announced—yeas 46, nays 52, as follows:

[Rollcall Vote No. 81 Leg.]

YEAS—46

Alexander	Bunning	Coleman
Allard	Burr	Corker
Barrasso	Casey	Cornyn
Bennett	Chambliss	Craig
Bond	Coburn	Crapo
Brownback	Cochran	DeMint

Dole
Ensign
Enzi
Graham
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Isakson
Kyl
Lugar
Martinez
McCain
McConnell
Nelson (NE)
Roberts
Sessions
Shelby
Smith
Stevens
Sununu
Thune
Vitter
Voinovich
Warner
Wicker

NAYS—52

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Brown
Cantwell
Cardin
Carper
Clinton
Collins
Conrad
Dodd
Dorgan
Durbin
Feingold
Feinstein
Harkin
Inouye
Johnson
Kennedy
Kerry
Klobuchar
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
McCaskill
Menendez
Mikulski
Murkowski
Murray
Nelson (FL)
Obama
Pryor
Reed
Reid
Rockefeller
Salazar
Sanders
Schumer
Snowe
Specter
Stabenow
Tester
Webb
Whitehouse
Wyden

NOT VOTING—2

Byrd
Domenici

The amendment (No. 4233) was rejected.

Mrs. FEINSTEIN. I move to reconsider the vote and to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, we would like to take two additional amendments at this point, 4206, Senator BARRASSO; and 4299, Senator VITTER. That takes us to the DeMint amendment on deductibility.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. VITTER. Parliamentary inquiry, Mr. President: Is that a unanimous consent request to accept those amendments, because if it is, I object and would request a vote on 4299.

The PRESIDING OFFICER. Objection is heard.

AMENDMENT NO. 4339

Mr. DEMINT. Mr. President, was the chairman accepting the deductibility amendment?

Mr. CONRAD. No, sir. There has been objection by the chairman of the Finance Committee.

Mr. DEMINT. So you would like to bring it up and vote.

The PRESIDING OFFICER. The amendment is pending.

Mr. DEMINT. Mr. President, we have had some partisan and controversial amendments tonight. I hope this won't be one. This amendment simply allows individuals who buy health insurance on their own to deduct it from their taxes.

All of us talk about the uninsured. This is a chance to give a number of the uninsured the opportunity to buy health insurance on the same basis that we do in Congress, and that is to make it deductible. Some will say this is a cost. We are already paying for this, and probably much more, as people seek health care in the emergency room and other places when they are not insured.

I encourage all of my colleagues to vote for the amendment to allow Americans to deduct 100 percent of the cost of the health insurance premium.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, the effect of this amendment is not as described. It is similar to the amendment on privatizing Social Security. He said it was not; it was. He says this amendment gives people health insurance. It does not. What does it do? This is a death spiral for companies that provide health insurance for their employees because this amendment will have the effect of causing, for companies that have health insurance for their employees, those employees to leave the health insurance they have and get their own, particularly if they are young and healthy, which will mean the insurance plan the company provides will not work, and that is why it is a death spiral. This will have the effect of hurting small businesses that provide health insurance for their employees because younger, healthier people will leave to get their own, and that will cause the employer-provided coverage to disappear.

This should not be done in middle of the night. We should have overall health reform, not this pernicious amendment.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, we have a vote.

The PRESIDING OFFICER. The DeMint amendment is pending. Time has expired.

The question is on agreeing to DeMint amendment No. 4339.

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) is necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Missouri (Mr. BOND), the Senator from New Mexico (Mr. DOMENICI), and the Senator from Arizona (Mr. MCCAIN).

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

The result was announced—yeas 45, nays 51, as follows:

[Rollcall Vote No. 82 Leg.]

YEAS—45

Alexander
Allard
Barrasso
Bennett
Brownback
Bunning
Burr
Chambliss
Coburn
Cochran
Coleman
Collins
Corker
Cornyn
Craig
Crapo
DeMint
Dole
Ensign
Enzi
Graham
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Isakson
Kyl
Lugar
Martinez
McConnell
Murkowski
Roberts
Sessions
Shelby
Smith
Specter
Stevens
Sununu
Thune
Vitter
Voinovich
Warner
Wicker

NAYS—51

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Brown
Cantwell
Cardin
Carper
Casey
Clinton
Conrad
Dodd
Dorgan
Durbin
Feingold
Feinstein
Harkin
Inouye
Johnson
Kennedy
Kerry
Klobuchar
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
McCaskill
Menendez
Mikulski
Murray
Nelson (FL)
Nelson (NE)
Obama
Pryor
Reed
Reid
Rockefeller
Salazar
Sanders
Schumer
Snowe
Stabenow
Tester
Webb
Whitehouse
Wyden

NOT VOTING—4

Bond
Byrd
Domenici
McCain

The amendment (No. 4339) was rejected.

Mr. CONRAD. Mr. President, have we reconsidered the vote?

I move to reconsider the vote.

Mr. REID. 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 is recognized.

Mr. REID. Mr. President, I have talked to the managers of the bill. We have two amendments left. It is my understanding the Biden amendment, which has 16 or 17 Republican cosponsors, is going to be accepted.

Mr. GREGG. No, not necessarily.

Mr. REID. No?

Mr. CONRAD. We do not have an answer yet.

Mr. REID. We do not have an answer yet. When do you think we might have an answer?

Mr. GREGG. Why don't we just keep going?

Mr. REID. We have two left. We have the Biden amendment and we have the Vitter amendment. We have indicated that we would take the Vitter amendment without a vote. It is a sense of the Senate. We have had 40 amendments already. The average is 32. It is 1 o'clock in the morning. I think it would be appropriate if we could work something out on these last two and have final passage. Everyone has their rights, but I would say that we get an answer on the Biden amendment.

Mr. GREGG. We have an answer.

Mr. REID. We have an answer?

Mr. GREGG. We need a vote.

Mr. REID. OK, we need a vote. Listen, I am happy to vote. But I sure hope we can work to change the rules, Mr. President, next go-around. But we have not changed them yet. We keep talking about it.

So, anyway, the one thing that brought a little bit of peace and serenity to this chaotic situation has been the two managers of the bill. They have been patient and very good in everything they have done. So I appreciate the good job they are doing. They have worked together for so many years, and I think they have set an example of how people, in very adverse conditions, should work together.

Mr. CONRAD. Senator BIDEN.

The PRESIDING OFFICER. The Senator from Delaware.

AMENDMENT NO. 4245

Mr. BIDEN. Mr. President, I call up my amendment No. 4245.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Delaware [Mr. BIDEN], for himself, Mr. LUGAR, Mrs. FEINSTEIN, Mr. SMITH, Mr. DURBIN, Mr. SUNUNU, Mr. DODD, Mr. MARTINEZ, Mr. MENENDEZ, Ms. SNOWE, Mr. KERRY, Ms. COLLINS, Mr. LEVIN, Mr. VOINOVICH, Mr. OBAMA, Mr. CORKER, Mr. LEAHY, and Mr. HAGEL, proposes an amendment numbered 4245.

Mr. BIDEN. 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:

(Purpose: To restore full funding for the international affairs budget, in support of the reconstruction of Iraq and Afghanistan, nuclear nonproliferation, foreign assistance, fighting global AIDS, promoting sustainable development, and other efforts, with an offset)

On page 10, line 12, increase the amount by $4,139,000,000.

On page 10, line 13, increase the amount by $2,127,000,000.

On page 10, line 17, increase the amount by $1,142,000,000.

On page 10, line 21, increase the amount by $418,000,000.

In page 10, line 25, increase the amount by $290,000,000.

On page 11, line 4, increase the amount by $161,000,000.

On page 27, line 16, decrease the amount by $4,139,000,000.

On page 27, line 17, decrease the amount by $2,127,000,000.

On page 27, line 21, decrease the amount by $1,142,000,000.

On page 27, line 25, decrease the amount by $418,000,000.

On page 28, line 4, decrease the amount by $290,000,000.

On page 28, line 8, decrease the amount by $161,000,000.

Mr. BIDEN. Mr. President, this amendment reinstates the President's international affairs budget to the number he called for, No. 1. No. 2, it has 34 cosponsors, evenly divided, Republicans and Democrats. Everyone from Senator LUGAR to Senator VITTER and everyone in between has cosponsored this amendment.

No. 3, the point I would like to make is, Defense Secretary Gates, as well as 50 flag officers, represented by General Zinni and Admiral Smith, as well as our commanders in the field, all recognize we are spending $19 to $1—19 military dollars to every one civilian dollar we spend—to deal with international affairs. I will conclude by saying, when I was in Afghanistan last week, the commanding general made the comment the Taliban begins where the road ends.

I say to my colleagues this is critically important to our physical security to fund the international function because it is redevelopment money to go to Afghanistan.

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

The Senator from Oklahoma is recognized for 1 minute.

Mr. COBURN. Mr. President, 40 percent of the money in the United Nations is absolutely wasted. They will not report transparency in anything they do. We know on their procurement it is at least 40 percent. We know 25 percent of the last peacekeeping operation was wasted through fraud. We should not send another penny to the United Nations until they become transparent with how they are spending the money they have now.

I urge my colleagues to vote in opposition.

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

All time has expired.

The question is on agreeing to the amendment.

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

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

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) is necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Missouri (Mr. BOND), the Senator from New Mexico (Mr. DOMENICI), and the Senator from Arizona (Mr. MCCAIN).

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

The result was announced—yeas 73, nays 23, as follows:

[Rollcall Vote No. 83 Leg.]

YEAS—73

Akaka	Feingold	Murray
Alexander	Feinstein	Nelson (FL)
Baucus	Graham	Nelson (NE)
Bayh	Hagel	Obama
Bennett	Harkin	Pryor
Biden	Inouye	Reed
Bingaman	Isakson	Reid
Boxer	Johnson	Roberts
Brown	Kennedy	Rockefeller
Brownback	Kerry	Salazar
Burr	Klobuchar	Sanders
Cantwell	Kohl	Schumer
Cardin	Landrieu	Smith
Carper	Lautenberg	Snowe
Casey	Leahy	Specter
Chambliss	Levin	Stabenow
Clinton	Lieberman	Sununu
Coleman	Lincoln	Tester
Collins	Lugar	Voinovich
Corker	Martinez	Warner
Cornyn	McCaskill	Webb
Dodd	McConnell	Whitehouse
Dole	Menendez	Wyden
Dorgan	Mikulski	
Durbin	Murkowski	

NAYS—23

Allard	DeMint	Kyl
Barrasso	Ensign	Sessions
Bunning	Enzi	Shelby
Coburn	Grassley	Stevens
Cochran	Gregg	Thune
Conrad	Hatch	Vitter
Craig	Hutchison	Wicker
Crapo	Inhofe	

NOT VOTING—4

Bond	Domenici
Byrd	McCain

The amendment (No. 4245) was agreed to.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

AMENDMENT NO. 4299

Mr. VITTER. Mr. President, I call up amendment No. 4299.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Mr. VITTER] proposes an amendment numbered 4299.

Mr. VITTER. 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:

(Purpose: Expressing the sense of the Senate regarding the need for comprehensive legislation to legalize the importation of prescription drugs from highly industrialized countries with safe pharmaceutical infrastructures)

At the appropriate place, insert the following:

SEC. __. SENSE OF THE SENATE REGARDING THE NEED FOR COMPREHENSIVE LEGISLATION TO LEGALIZE THE IMPORTATION OF PRESCRIPTION DRUGS FROM HIGHLY INDUSTRIALIZED COUNTRIES WITH SAFE PHARMACEUTICAL INFRASTRUCTURES.

(a) FINDINGS.—The Senate makes the following findings:

(1) The United States is the world's largest market for pharmaceuticals, yet consumers still pay the world's highest prices.

(2) In 2000, Congress took action to legalize the importation of prescription drugs from other countries by United States wholesalers and pharmacists, and before such a program can go into effect, the Secretary of Health and Human Services (HHS) must certify that the program would have no adverse impact on safety and that it would reduce costs for American consumers.

(3) Since 2000, no Secretary of HHS has made the certification required to permit the implementation of a program for importation of prescription drugs.

(4) In July 2006, the Senate approved by a vote of 68-32 an amendment to the Department of Homeland Security Appropriations Act, 2007, that prohibits Customs and Border Protection from preventing individuals not in the business of importing prescription drugs from carrying them across the border with Canada.

(5) In July 2007, the Senate adopted language similar to the 2007 amendment in the Department of Homeland Security Appropriations Act, 2008.

(6) In October 2007, the Senate adopted language in the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2008, that prohibits anti-reimportation activities within HHS.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the leadership of the Senate should bring to the floor for full debate in 2008 comprehensive legislation that legalizes the importation of prescription drugs from highly industrialized countries with safe pharmaceutical infrastructures and creates a regulatory pathway to ensure that such drugs are safe;

(2) such legislation should be given an up or down vote on the floor of the Senate; and

(3) previous Senate approval of 3 amendments in support of prescription drug importation shows the Senate's strong support for passage of comprehensive importation legislation.

Mr. VITTER. Mr. President, this is about reimportation. There is a clear majority in the Congress to pass reimportation legislation. I think there is a clear 60-vote majority in the Senate to do so. So why aren't we getting on with that business? Let's do it. This simply says we should take up a full-blown reimportation bill, with all the necessary safety provisions, and have that debate and vote on the floor of the Senate this year. It is as simple as that. We have the votes. Let's do that.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, many of the Senators worked on this even prior to the Senator from Louisiana joining us in the Senate. I don't object to the sense of the Senate. It will have no legislative impact and it has no relationship to the budget. It is 1 o'clock in the morning, 14 hours after we started voting. And on this issue, about 30 minutes ago, the managers of the bill indicated they would approve this. Yet my colleague insists on a recorded vote. I observe this. I have fondly and affectionately pointed out that the Senate is occasionally 100 bad habits. Look, all of us have been willing to forgo recorded votes from time to time, but everybody has a right to ask for a recorded vote on anything at any point. I understand that.

Again, this is a sense of the Senate that has no legislative impact or relationship to the budget. I have no objection to it. We will vote for it. I observe again that the managers had agreed to this 30 minutes ago. I would have hoped we could have voice voted this.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. VITTER. Mr. President, I appreciate the Senator's comments. I only add my final comments that I was here Tuesday morning with this amendment, ready to briefly talk about this amendment and get a vote on the Senate rules on this amendment. For 48 hours, we did nothing in terms of votes.

I ask for the yeas and nays.

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

The question is on agreeing to the amendment.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) is necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Missouri (Mr. BOND), the Senator from New Mexico (Mr. DOMENICI), and the Senator from Arizona (Mr. MCCAIN).

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

The result was announced—yeas 73, nays 23, as follows:

[Rollcall Vote No. 84 Leg.]

YEAS—73

Akaka	Feingold	Obama
Alexander	Feinstein	Pryor
Allard	Graham	Reed
Baucus	Grassley	Reid
Bayh	Hagel	Roberts
Biden	Harkin	Rockefeller
Bingaman	Inhofe	Salazar
Boxer	Inouye	Sanders
Brown	Johnson	Schumer
Brownback	Kennedy	Sessions
Cantwell	Kerry	Shelby
Cardin	Klobuchar	Smith
Casey	Kohl	Snowe
Chambliss	Landrieu	Specter
Clinton	Leahy	Stabenow
Coburn	Levin	Tester
Coleman	Lieberman	Thune
Collins	Lincoln	Vitter
Conrad	Lugar	Voinovich
Corker	Martinez	Webb
Craig	McCaskill	Whitehouse
DeMint	Mikulski	Wicker
Dodd	Murray	Wyden
Dorgan	Nelson (FL)	
Durbin	Nelson (NE)	

NAYS—23

Barrasso	Dole	Lautenberg
Bennett	Ensign	McConnell
Bunning	Enzi	Menendez
Burr	Gregg	Murkowski
Carper	Hatch	Stevens
Cochran	Hutchison	Sununu
Cornyn	Isakson	Warner
Crapo	Kyl	

NOT VOTING—4

Bond	Domenici
Byrd	McCain

The amendment (No. 4299) was agreed to.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, quickly, I have two other items of business.

AMENDMENT NO. 4206

Mr. CONRAD. Mr. President, amendment No. 4206 by Senator BARRASSO needs to be accepted. I ask unanimous consent that the amendment be agreed to.

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

The amendment (No. 4206) was agreed to, as follows:

AMENDMENT NO. 4206

(Purpose: To provide funding to enable certain individuals and entities to comply with the Endangered Species Act of 1973)

On page 13, line 13, increase the amount by $50,000,000.

On page 13, line 14, increase the amount by $50,000,000.

On page 27, line 16, decrease the amount by $50,000,000.

On page 27, line 17, decrease the amount by $50,000,000.

VOTE EXPLANATION

Mr. BAUCUS. Mr. President, I missed the rollcall vote for amendment No. 4198, to increase the Indian Health Service by $1 billion in fiscal year 2009. Had I been present, I would have voted ''yea,'' in favor of the amendment. I have cosponsored the Medicare, Medicaid, and SCHIP Indian Health Care Improvement Act of 2007, S. 2532, and know the need to increase funding for the Indian Health Service.

Mr. LEAHY. Mr. President, on rollcall vote No. 70, if present, I would have voted ''aye.''

AMENDMENT NO. 4347

Mr. BYRD. Mr. President, in his essay on ''Politics and the English Language,'' George Orwell laments the abuse of speech by political leaders. He notes how certain words are so vague in meaning that they can be twisted and distorted into something they are not. What is entirely altruistic, he argues, can be made to seem repugnant and avaricious.

One such Orwellian word that has found its way into our political lexicon is ''earmark.'' This poor, wretched, maligned word has had scorn heaped upon it. It has been equated with corruption and invoked to describe dastardly, behind-the-scenes machinations—sometimes real, but mostly imagined.

President Bush has enthusiastically embraced this Orwellian line. In his State of the Union Address, the President asked the Congress to reduce Congressional earmarks by half and threatened to veto any bill that does not comply. He instructed executive agencies to ignore Congressional guidance on earmarks for fiscal year 2009. Let the executive agencies make the spending decisions, his argument goes.

Certainly the White House budget office would like us to do that. I don't expect officials from that office to understand the critical needs of the communities we represent. They do not meet with our constituencies. They do not know our States and their people. They do not see what we see. An earmark may be pork to some political chatter box on television, but it could be an economic lifeline for a community. It may be a road that has fallen into dangerous disrepair or a bridge that is on the verge of collapse. An earmark is an economic need that many times falls between the cracks of the Washington bureaucracy. When that happens, the people we represent cannot call some unelected bureaucrat in the White House budget office. They cannot get a Cabinet Secretary on the line. When they need help, they come to us, their elected representatives. These are the working people in our society. Their priorities may be considered unimportant by some, but it's our job to make sure critical needs in our States are addressed.

Some earmarked spending has proven to be a tremendous asset to this country. Children's Hospital, here in the District of Colombia, which has served over 5 million critically-ill children, was built with earmarked funds. Human genome research was initiated by an earmark sponsored by our colleague Senator DOMENICI. The WIC program, which has provided essential nutrition to 150 million women, infants, and children, was started as an earmark. The Predator unmanned aircraft, which has been so effective in the Global War on Terror, was built with an earmark.

The DeMint amendment before the Senate today fails to acknowledge the existence of these achievements. The amendment does not recognize that Members of Congress know the needs of the people they represent better than unelected bureaucrats at the White

House budget office. The idea that an all-knowing, all-powerful executive bureaucracy is more trustworthy than the elected representatives of the people when it comes to spending taxpayer dollars challenges the most basic tenet of our political system.

Frankly, the effort to demonize earmarks is a ruse; it is a feint; it is an effort to distract Americans from horrendous budget deficits which have mushroomed under President Bush. When President Bush took office, this Nation had just completed 4 straight years of budget surpluses. The Congressional Budget Office estimated that the surplus between 2002 and 2011 would be $5.6 trillion. Now, according to the White House's own budget documents, we are facing $2.7 trillion of debt over those same 10 years. During the Bush Presidency, our government will have experienced the five largest annual deficits in the history of the Republic. The author of this amendment would like Americans to think that these deficits were caused by earmarks. What poppycock. If anyone thinks they can eliminate the $400 billion deficit by eliminating earmarks, they need to take a refresher course in arithmetic.

In fiscal year 2008, the total cost of the Bush tax cuts will be $252 billion—21 times the amount of earmark spending in question. In fiscal year 2008, the cost of the tax cuts for the wealthiest one percent of taxpayers will be almost $70 billion—6 times the amount of spending in question. In fiscal year 2008, special interest tax favors will cost $1 trillion—83 times the amount of spending in question. Corporate tax hand-outs will cost $91 billion—over 76 times the amount of spending in question. The level of Congressional earmarks is one-fiftieth of what this country has exhausted on the war in Iraq.

I implore my colleagues to look at the facts. Last year, the President proposed almost 2,000 earmarks, totaling more than $22 billion. Earmarks exploded under the Bush administration, including presidential earmarks for cattle fever ticks, fruit flies, and light brown apple moths. When President Bush signed the highway bill in 2005, it contained over 6,000 earmarks, 50 percent more earmarks than all the previous highway bills combined.

In the past year, it was the Congress that took the initiative to limit earmarks. In 2007, we had a moratorium on earmarks until rules could be enacted that would add transparency to the process of earmarking funds. Last year, Congress enacted new rules that added unprecedented transparency and accountability to the process of earmarking funds. These were needed.

Adding transparency and accountability to the earmarking process is responsible. Reducing the level of earmarks below the levels approved by President Bush for fiscal year 2005, is responsible. We have already taken these steps. But pretending that we can save money by eliminating earmarks is pure folly. It is poppycock. It is also bad policy. The Constitution gives the power over the purse to Congress. That is the most effective way to check an irresponsible President of either party. Congress must not cede decisions about how the taxpayers' money should be spent.

It's simply ridiculous to criticize Federal investments in local and State communities without having visited the neighborhoods that will benefit, without talking with the people who live there, and without understanding the local planning that is involved. The earmark is the safety net under blind formulas. It brings local concerns of average people into the funding process. A Republic cannot address its needs based on formulas and the educated guesses of bureaucrats. The earmark ushers judgment, compassion, need, humanity, decency, and common sense into the budget process. Certainly our bloated, bureaucratic Federal Government could use a whole lot more of all of those virtues.

I urge a ''no'' vote on the amendment.

Mr. LEAHY. Mr. President, I oppose the DeMint amendment to impose a year-long moratorium on congressionally directed spending projects, popularly known as earmarks, and I urge my colleagues to do the same. Rather than finding real solutions to a weakening economy and American dollar, the growing debt and job losses, and the fact that millions of Americans are losing their homes, the Senate is being asked to bow to political posturing by turning to the already much debated issue of earmarks.

Discretionary spending in the Federal budget continues to be a decreasing share of the overall budget, and appropriations provisions initiated in the Congress amount to only a sliver of that. Meanwhile, the President, and many in Congress who talk so much about earmarks, seem to find no inconsistency as they push Congress every few months to approve tens of billions of additional dollars to be sent to Iraq. An analysis by two prominent economists, published last Sunday in The Washington Post, forecast that the overall, budget and off-budget cost of the Iraq war eventually will exceed an incredible one trillion dollars. And unlike the regular appropriations bills, the periodic Iraq spending bills are off the budget altogether—they go directly onto the national debt, waiting there to be paid by our children and grandchildren.

Funny thing, but the President never bothers to point out to his audiences that these Iraq spending bills dwarf congressionally led appropriations items. Nor does he point out that regular appropriations bills are paid for, whereas his budget proposals for Iraq are not. Nor does he point out that by far the majority of earmarks suggested for appropriations bills are requested by the President, not by Congress. In Vermont, and in many of our States, we would call that kind of illogic about earmarks ''the old bait and switch.''

As a member of the Senate Appropriations Committee, I take seriously my responsibility to help craft a responsible budget for the Federal Government, and I know from long experience in working with my colleagues that this sense of responsibility is felt throughout the committee. Each of the annual appropriations bills forged by the Appropriations Committee and its 13 subcommittees comes in at or under the amount allocated under the budget process, and they often come in below the departmental amounts recommended by the President. For instance, the State and Foreign Operations appropriations bill that we brought to the Senate Floor last year for this fiscal year was $2 billion below the President's request.

Long ago I became used to seeing sensational headlines about spending priorities that are authored by Congress instead of by the executive branch. Lists are drawn up that label every line item, every program and every project not explicitly proposed by the President as ''pork-barrel spending''—regardless of their merit, need or importance to communities nationwide.

The Constitution confers the power of the purse to Congress, not to the President. As elected representatives from diverse districts, we each are closer to the needs of our states and communities than are the unelected staffers in White House's budget office. We also have an obligation to be responsive to our constituents' priorities.

As a senior member of the Appropriations Committee, I often advocate for projects that benefit Vermont and feel strongly that the carefully drawn initiatives that I have worked to secure have improved my State's infrastructure, economy and quality of life. Over the years I have secured funds to improve community wastewater systems, roads and bridges, strengthen public safety, and build affordable housing. These address real needs that often are unknown or overlooked by the federal bureaucracy. Similarly, I work each year to shape and address other priorities that are ignored in presidential budget requests, on issues ranging from developing safer antipersonnel landmines, or helping to save the lives of the poorest of the poor from preventable death or disease. Attempts to ban earmarks would limit the ability to address these and other issues.

The alternative would be to leave all spending decisions up to the executive branch, which—when given no direction by Congress—can descend into political favoritism, feasibility and retribution when it comes to choosing whose states receive Federal funding. That would also lessen accountability.

In 2007 the Democratic-led Congress added unprecedented transparency and accountability to the earmark process. More than ever before, we are now committed to openness and accountability. Projects receiving funds in fiscal year 2008 are identified by member,

amount, purpose and location. Those who make funding requests must certify that they have no financial interest in their earmarks and those letters are posted online. Never before has it been as simple for the public, for outside groups, for journalists or for Members of Congress themselves to see the spending their elected officials are advocating.

Earmark opponents mislead when they say that congressional earmarks are given no scrutiny or oversight. Actually, the money is not just handed to an award recipient, but rather carefully vetted by the appropriate federal agency to make sure the intended award recipient and project qualify under that specific program's regulations. There is an assistance agreement between the federal agency administering the grant and the award recipient on the amount of funding and a plan for how exactly those funds will be spent.

DeMint amendment proponents will tell you that earmarks tripled in number over the last decade, but they neglect to say that President Bush signed those earmarks into law. They also do not mention that the tripling in earmarks occurred under prior Republican-led Congresses. In fact, fiscal year 2008 congressional earmarks dropped significantly, with overall earmark costs cut by $14.9 billion, or 51 percent, compared with the earmarks contained in the Republican appropriations bills of 2 years ago.

A 51-percent reduction in earmark costs, total transparency and total disclosure—I could have sworn that is what earmark opponents advocated when we considered and passed the ethics bill last year.

Another thing earmark opponents do not widely broadcast is that presidents, including the current one, are champions in the earmarking process. President Bush stuffs his budgets with billions and billions for his designated projects. In fact, the President directs 20 times as much spending to special projects than Congress does. Look through the fiscal year 2008 omnibus bill or the fiscal year 2009 budget proposal and you will see page after page of special projects amounting to billions of dollars, all requested by the President. With the reforms that the Democratic-led Congress put in place last year, congressional earmarks now receive far, far more public scrutiny than do the President's.

The amendment offered by the Senator from South Carolina fails to include a moratorium on Presidential earmarks. If we are bent on doing away with congressional earmarks, then we should apply the same rules to earmarks requested by the President.

Lastly, I am struck by the tunnel vision of several of this amendment's backers who have been stalwart supporters of the biggest earmark of all: The blank checks written for hundreds of billions, if not trillions, of dollars for the war in Iraq.

The proponents of this amendment claim that they want to get our Nation's checkbook in order, but what they do not say is that congressional earmarks are already paid for—the money is there to be spent, as prioritized by the appropriations bills. They are ready and willing to support the President's request to Congress for billions in emergency funding to continue the war in Iraq. Those dollars do not score against the budget, so the White House can advance the fiction that the President is being fiscally responsible at the same time that he piles on the debt for future generations.

Democracy depends on openness and accountability in government. Last year, the new Congress moved promptly to improve accountability by dramatically reducing earmark costs, and implementing a system of total transparency and total disclosure. We would be making a mistake to impose a rash and unnecessary moratorium on congressional earmarks. We will be shirking our constitutional responsibility by ceding the power of the purse to the executive branch. I will vote no on the DeMint amendment, and I strongly urge my colleagues to do the same.

Mr. SPECTER. Mr. President, I rise today in opposition to the amendment offered by the Senator from South Carolina that would create a point of order against consideration of any legislation that contains an earmark.

I have stated in the past that I think earmark reform is a very good idea. I supported the Honest Leadership and Open Government Act, which was signed into the law last year and for the first time brought transparency into the earmark process. Additionally, I have fully supported the steps that have been taken to have greater transparency. I think to have legislation that brings light into the process is entirely appropriate.

I am concerned, however, that this amendment would cede Congress's authority to participate in the appropriations process to the executive branch. Article I, section 8 provides the Congress, not the Executive branch, with the power of the purse. As stated by the ranking member of the Senate Appropriations Committee, ''this debate is not about the level of Federal spending, the size of the deficit, or the national debt. This debate is about who decides how Federal dollars are spent and where.'' Congressional participation in the appropriations process is a fundamental constitutional issue and should not be readily yielded.

Additionally, I submit that Members of the House and Senate are intimately knowledgeable about the legitimate needs of their districts. It is important to recognize that members of Congress represent the constituents of their State, and there are a great many issues where Members of the House and Senate know more about their districts and States than the remote bureaucrats in Washington.

It is important to note the earmark allocation is a very small percent of the budget. Recognizing this fact, I was willing to make the tough decision to cut all of the earmarks in the appropriations bill when I was chairman of the Labor, Health and Human Services Subcommittee because there was insufficient funding available for healthcare, LIHEAP, and education.

For these reasons, I will oppose the amendment offered by the Senator from South Carolina, but I look forward to working with my colleagues in the future on reforms that will increase transparency in the appropriations process.

Mr. MCCAIN. Mr. President, I am pleased to lend my strong support for the amendment offered by Senator DEMINT to impose a 1-year moratorium on earmarks. I thank him for his leadership on this important, fiscally responsible proposal, and am pleased to join with Senators MCCASKILL, COBURN, KYL, CORKER, BURR, and GRAHAM in cosponsoring the amendment. Additionally, Mr. President, I understand that my colleagues from Illinois and New York, Senators OBAMA and CLINTON, have recently signed on as cosponsors of our effort. I welcome them to our cause.

All of us in Congress should be paying very close attention to the current economic realities facing our country. Almost daily, we are informed of worsening news on the market front, widening subprime mortgage delinquencies, defaults, and foreclosures, declining housing values, and a broadening credit crunch affecting all sectors of the economy. Less than a month ago we passed an economic stimulus package in an effort to help avert an even worse situation than exists now. While I have long railed against wasteful porkbarrel spending, now more than ever, we have got to establish some commonsense budgetary guidelines to live within our means, just like most American families are doing, tightening their belts and not wasting their money on ''wants'' to ensure they have the funds available to cover their ''needs.'' We need to follow their lead. The American public is counting on us to represent their interests, not the special interests, and to stop spending their hard-earned tax dollars on needless earmarks.

Just over a year ago, in January 2007, 96 Members of the Senate voted to fundamentally reform ''business as usual'' in Washington when we voted to pass S. 1, the Legislative Transparency and Accountability Act of 2007. I was very proud to support the passage of that bill because in addition to sound ethics and lobbying reforms, many which I had long championed, the bill also included the most far-reaching earmark reforms I had witnessed. Unfortunately, nearly all of the earmark reforms were gutted in the final version of the bill, causing a number of us to have to vote against its passage despite our support for some of the good reforms in the bill. We didn't just miss

the opportunity to address a broken legislative system of earmarking. The opportunity was purposely and deliberately scuttled by those who didn't want real earmark reforms, and they are the ones who had the seat at the table when the final version was drafted. And as I recall, not one of those seats was filled by a member of the minority party.

As a result, the earmarking practice continues, as proven by the more than 9,000 earmarks in the omnibus spending measure approved last December 18—3 months after S. 1 was enacted. Here is just a sampling of some of the earmarks that were included in the omnibus:

$50,000 for the construction of a National Mule and Packers Museum in Bishop, CA;

$100,000 for Cooters Pond Park in Prattville, AL;

$625,000 for the Historic Congressional Cemetery;

$1.628 million for animal vaccines in Greenport, NY;

$477,000 for Barley Health Food Benefits in Beltsville, MD;

$244,000 for Bee Research in Weslaco, TX

$10 million for the design and construction of the Derby Dam fish screen in Nevada to allow passage of fish;

$1.786 million to develop an exhibit for the Thunder Bay National Marine Sanctuary in Michigan;

$846,000 to the Father's Day Rally Committee in Philadelphia, PA;

$125,000 for International Mother's Day Shrine in Grafton, WV;

$470,000 for an Oyster Hatchery Economic Pilot Program, Morgan State University, MD;

$446,500 for Horseshoe Crab Research, Virginia Tech, VA;

$125,000 for the Polish American Cultural Center in Philadelphia, PA;

$400,000 for the National Iron Worker's Training Program;

$350,000 for leafy spurge control in North Dakota;

$1.725 million for the Hudson Valley Welcome Center in Hyde Park, NY;

Clearly, when it comes to earmarking in Congress, it is business as usual, business as usual. And that is what drives me and other sponsors of this amendment.

Not long ago, a prominent member of the majority party in the House, Congressman HENRY WAXMAN, called for exactly what this amendment calls for: a moratorium on earmarks. Representative WAXMAN was quoted in the press as saying, ''We have a problem in Congress, Congressional spending through earmarks is out of control.'' Congressman WAXMAN added ''I think our best approach would be to suspend all earmarks for the 2009 appropriations cycle while we consider the right reforms for the earmark process.'' You will not hear me say this very often, but I could not agree more with Congressman HENRY WAXMAN.

I encourage my colleagues to support this amendment. We need to start making tough choices around here—and we need to start today. We have to face the facts, and one fact is that we can't continue to spend taxpayers' dollars on wasteful, unnecessary pork barrel projects or cater to the special interests any longer. The American people will not tolerate any more ''bridges to nowhere,'' and they shouldn't.

AMENDMENT NO. 4297

Mr. HATCH. Mr. President, I rise to speak about an amendment that would ensure funding for an extremely important program, the Federal traumatic brain injury—or TBI—program. This is the only Federal program that helps the 3.5 million Americans living with TBI and their families.

In 1996, when I helped to create the Federal TBI program along with my colleague, Senator KENNEDY, most people had probably never heard of a traumatic brain injury. Many more people now are familiar with the term TBI because it has been increasingly highlighted in the media, but they may still not fully comprehend the gravity of such a condition.

TBI can strike anyone of any age without warning and with absolutely devastating results. For this reason, it is often called the ''silent epidemic.'' TBI is defined as brain damage from externally inflicted trauma to the head resulting in significant impairment to an individual's physical, psychosocial, and cognitive functional abilities. According to the CDC, brain injuries are among the most likely types of injury to cause death or permanent disability.

People ages 15 to 24 years and those over age 75 are the two age groups at highest risk for TBI. Motor vehicle accidents, sports accidents, falls, and violence are the major causes of TBI. TBI is particularly common among young males and people of both sexes who are 75 years and older. Because of its unique nature, TBI affects the whole family and often results in huge medical and rehabilitation expenses over a lifetime.

TBI may also be caused by explosives, and medical experts have described it as the signature wound of the Iraq war. Up to two-thirds of injuries in the Iraq war may be brain injuries.

TBI affects people like no other condition simply because it affects the brain. Just imagine what the consequences could be if the brain did not work properly. The brain is the control center of the central nervous system and is responsible for behavior and information processing. It controls cognition, perception, memory, and the ability to pay attention. The brain is also in command of posture, reflexes, movement, and coordination, as well as motor skills and other forms of learning. It performs a variety of body functions automatically, such as coordinating blood pressure and body temperature and breathing.

Given this, it is clear that an injury to the brain is unpredictable and has the potential to cause catastrophic results. TBI can be mild, moderate, or severe, depending on the extent of the damage to the brain and the actual location of the injury. TBI can cause a host of physical, cognitive, emotional, and social effects. Results can be anything from complete recovery to permanent disability or death.

As I mentioned, TBI is different from other disabilities due to the severity of cognitive loss. Most rehabilitation programs are designed for people with physical disabilities, not cognitive disabilities. Cognitive disabilities require more specialized accommodations than physical disabilities. Finding needed services is typically a logistical, financial, and psychological challenge for family members and other caregivers, because so few coordinated systems of care exist for individuals with TBI.

The program comprises surveillance and research activities at the CDC and NIH, respectively, as well as grants through HRSA to fund State demonstration projects to improve access to health and other services and for protection and advocacy systems.

The passage of the original Traumatic Brain Injury Act of 1996 has improved TBI service systems at the State level and also increased the overall visibility and awareness of TBI. However, more work needs to be done at both the national and State level to build an effective, durable service system for meeting the needs of individuals with TBI and their families. There are still too many dots that need to be connected. We must not stop now. We must sustain this program.

That is why I have been working with my colleague, Senator KENNEDY, to reauthorize the program once again. I am pleased that our TBI reauthorization bill—S. 793—passed the Senate by unanimous consent on December 11, 2007. Just this week, the House Energy and Commerce Subcommittee on Health acted on its companion bill, H.R. 1418, and amended it with language from our Senate bill. I am hopeful that we can secure a timely passage of this reauthorization and thereby reaffirm our commitment to helping the TBI community.

Under the President's fiscal year 2009 budget proposal, funding is eliminated for this program. I support my President, and I support the goals of funding programs with proven performance accountability while reducing the deficit; however, I disagree with the proposal to cut this important program—the only program that helps this vulnerable population.

And I know that I am not the only one. This is not the first time elimination of the program has been proposed—but it keeps getting funded because others also feel it is an incredibly important program. It is a relatively small program, budgetwise, but that should not be a reason to ignore its significance or to let it fall by the wayside. That is why I have crafted this budget-neutral amendment to create a reserve fund of $9 million for the TBI program. This amendment will ensure the sustainability of this essential program, and the availability of services for individuals with TBI, and I urge my colleagues to support it.

AMENDMENT NO. 4270

Mr. LEAHY. Mr. President, the well publicized naturalization backlog that the administration has allowed to build up over the last year threatens not just to deprive hundreds of thousands of people the right to participate in the upcoming Federal elections, but it has undermined the legitimate expectations of those who have followed the law that their government will function as it is intended.

The related issue of a backlog at the FBI in completing security name checks in connection with naturalization applications not only contributes to these delays, but undermines the very purpose of the security check itself. If a security name check is pending for as long as three years, the result is that either someone who should not be in the United States is languishing unaccounted for, or that someone who should be approved is caught in a bureaucratic gridlock. Neither result is acceptable.

Our amendment gives Congress the flexibility to legislate a solution in relation to the backlogs at both the FBI and USCIS if the administration is unable to resolve this situation. Whether it is necessary to give more resources or additional authority to these agencies, it is becoming apparent that Congress may need to intervene. The administration's efforts thus far to address this issue are too little too late. Many in Congress have been rightly concerned about this situation in light of the serious security questions it raises, and we should not tolerate the vulnerabilities we are left with. What was a foreseeable situation was not foreseen. It is disappointing that for all of the administration's rhetoric in support of fair and realistic immigration reform, it has allowed this to happen. Those individuals who have come lawfully to the United States and who have proven their commitment through hard work, perseverance, and responsibility deserve better. I urge all Senators to join us in support of this amendment.

AMENDMENT NO. 4245

Mr. DURBIN. Mr. President, I am pleased to support the Biden/Lugar amendment that restores the full amount of the President's request for the international affairs budget.

While American military engagement overseas is at an all time high, the strength of our ideas, diplomacy, generosity, and values is at an all time low.

For example, America's lead development agency, the U.S. Agency for International Development, at one point in its history had more than 5000 full time foreign service officers working on health, education, agricultural, and political development around the world.

Yet today, while engaged in a global war of ideas and values, USAID has only 1000 foreign service officers. Its budget in real dollars has been cut by 27 percent from a high in the 1980s.

Similarly, the Peace Corps, one of our most successful programs at both sharing American values and assistance while also exposing our young people to the peoples and cultures of other worlds, has seen its budget in real dollars cut by almost 40 percent since its inception in 1967.

At a time when more and more failed states are in need of international peacekeeping missions, the United States is more than $700 million in arrears in U.N. peacekeeping dues.

Tragically, we have all become more aware of what dangers failed states pose and what misery they bring to their own people.

These stark shortcomings in American nonmilitary engagement overseas—our smart power—not only threaten our own security, but also who we are as a nation and how we are viewed abroad.

Defense Secretary Gates and many former military officers have spoken publicly about the need for a greater emphasis on American smart power. They recognize that our diplomatic, development, and economic engagement around the world not only lift the lives of others but also make us safer at home.

These investments in bringing stability, maternal and child survival programs, clean water and sanitation, economic development, and sustainable democratic institutions and processes cost a fraction of potential military engagement.

This amendment will not address all our international engagement needs and challenges—that will only happen when we take such steps as closing Guantanamo, unequivocally renouncing torture, and taking responsibility for our contribution to global warming—but the amendment is an important step in the right direction.

Finally, I want to emphasize the importance of America's continued generosity in funding programs to fight HIV/AIDS, TB, and malaria, diseases that kill over 6 million people each year.

Through its contribution to the global fund, the U.S. has helped save almost 2 million lives in over 100 countries during the last 5 years. This highly successful program, which uses contributions from around the world and works directly with individual country's health care providers and organizations, is a leading force for the fight against disease, improving the lives of others, and improving America's image around the world.

I believe America must work to meet a full one-third contribution to the fund's efforts and I hope funds from this amendment can help meet this important goal.

I similarly urge the Senate to support the upcoming reauthorization of the President's Emergency Plan for AIDS Relief, commonly known as PEPFAR. The President deserves credit for supporting this effort—an effort that should be continued.

AMENDMENT NO. 4232

Mr. SPECTER. Mr. President, I voted against the Allard amendment because I am not prepared to accept the blanket assessment by OMB as to which programs are effective or not effective. In my judgment, Congress should make the assessment as to which programs are effective or ineffective and then Congress should act to eliminate all of the ineffective programs.

AMENDMENT NO. 4218

Mr. KENNEDY. Mr. President, I strongly support the amendment offered by Senator SANDERS. Budgets are vital documents that reflect our national priorities, and few things are more important than ensuring the health and well-being of all our Nation's children. Yet for the past 7 years, we have been moving in the wrong direction.

Thirteen million American children now live in poverty, an increase of 12 percent since the year 2000. Democrats have worked hard to support struggling families, especially in these difficult economic times, but we have not done enough. This amendment helps to fill the gap.

Federal investments in early childhood education and care are especially important in reducing the effects of poverty. The facts are clear. Early education unquestionably helps children achieve at higher levels when they enter school. Children from low-income families who participate in high-quality early childhood education have to repeat fewer grades. They are less likely to require special education, less likely to commit crimes, and less likely to be dependent on public assistance.

Despite these compelling facts, the United States ranks 9th among 14 developed countries in public investments in early education. Only 14 percent of eligible American families have access to quality child care for their children, and half of our neediest children still lack access to Head Start.

The Sanders amendment brings greater opportunities for high-quality early education for the children who need it most. It provides an additional $5 billion for Head Start to carry out the reforms enacted last year. It supports programs offering needed transportation services to children and families, provides cost of living increases to program staff, enables programs to offer full-day, full year services, and provides other essential support as well—such as mental health services for young children and their families.

The Sanders amendment also provides an additional $4 billion for the Child Care Development Block Grant, to reduce the shortfall in child care assistance across the nation and improve the quality of such care. With these additional funds, overwhelmed parents will be better able to balance their child care obligations with their jobs, and make sure that their children have a safe place to go after school. The funds will also mean better training and support for child care workers, and

strengthen coordination among federal, state and local programs.

We also need to do more to see that children have a safe and satisfactory environment to learn. Many schools across the country today are crumbling from disrepair, which creates a discouraging, inadequate environment for learning. The backlog on repairs is now estimated at $100 billion, and we can't afford to ignore it. This amendment makes a down payment on rebuilding the schools by authorizing $3 billion to begin the most urgently needed repairs.

Another key issue is the home heating crisis, which is also putting countless children across the country at unacceptable risk. They can't grow and develop normally if their homes are too cold, and their families can't even afford the fuel to cook their food. LIHEAP—the Low Income Home Energy Assistance Program—was intended to help families in need pay their energy bills, but it has never been fully funded. Too many families are left out of the program, and left in the cold. The funds in this amendment will support millions of additional households, and bring vital assistance to those in need.

Finally, the amendment provides funds to expand the Food Stamp Program. In these difficult economic times, more and more Americans are struggling to put food on their table. Thirty-five million Americans live in hunger or on the verge of hunger, an increase of nearly 2 million under the Bush administration. One in every six children struggle with hunger in the United States each year. How can we let that happen in the richest country in the world?

The Food Stamp Program has long provided vital support for low-income families. It improves their children's diet, their children's health, and their children's performance in school. The Sanders amendment will bring millions of additional families into the program, and give millions more children the chance for a brighter future.

Investing in our Nation's children is the best money we can spend. The Sanders amendment provides the funds we need to truly start fulfilling our commitment to America's children.

AMENDMENT NO. 4209

Mr. LEVIN. I am pleased to join Senator COLLINS today in offering the Collins-Levin energy independence amendment that sets forth important steps to be taken in the area of energy tax policy. The amendment we are offering will provide some improvements to the work already done by the Budget Committee.

The budget resolution before us includes a reserve fund for clean energy and the environment that establishes a framework for Congress to enact legislation that will reduce our dependence on foreign oil, reduce our greenhouse gas emissions, and protect the environment. Tax incentives such as extension of the renewable energy production tax credit and the Clean Renewable Energy Bond, CREB, program will be key components of such legislation. Both will expire at the end of 2008, and both are critical to the development of new renewable energy projects. Without an extension of the renewable production tax credit, many projects will be put on hold because they will be less financially viable. With the tax credit, these projects can go forward, and provide both investment in the economy and creation of new jobs. Similarly, the CREB program provides interest free borrowing by public utilities for qualified projects, by providing a tax credit for the taxpayer holding the bond. Eligible renewable projects are the same as those that qualify for the renewable production tax credit, including wind, solar, biomass, geothermal energy, landfill gas, trash combustion, and qualified hydropower facilities.

The amendment we are offering today adds several important tax incentives to those that may be included in the legislation under this reserve fund and it specifies an adjustment in the tax code that could be used to help pay for the tax credits proposed to be extended or established. The additions that we are proposing will help us take strides toward increased use of renewable sources of energy and away from our dependence on oil.

I want to mention 3 tax incentives that are included in this amendment that offer the potential to reduce significantly both our dependence on oil and our greenhouse gas emissions. We propose 2 tax incentives that address the production of ethanol from cellulosic sources and the production of biodiesel fuels, and we propose a new tax credit for plug-in hybrid vehicles.

Specifically, we propose extension of the current production tax credit for biodiesel fuel and the small-producer biodiesel tax credit, both of which will expire at the end of 2008. Extension of these tax credits were included in the 2007 energy bill but not enacted into law. Many of our small biodiesel producers are already having a hard time now because of the increasing prices of feedstock. Without this tax credit, they will not be able to stay afloat and we will lose these new sources of biodiesel fuels. We cannot afford to do that.

We also propose a new production tax credit for cellulosic ethanol. Current law provides for an ethanol blenders tax credit for ethanol from any source. Ethanol produced from cellulosic sources, however, offers the potential to reduce greenhouse gas emissions by 80 percent or more. Therefore, we propose a new per gallon production tax credit for cellulosic ethanol, up to a limit of 60 million gallons. This provision was also included in the 2007 energy bill but not enacted into law. Again, this is a necessary boost needed by those pushing the technology toward cellulosic ethanol to ensure that they are able to bring the technology to commercialization.

Finally, we propose a new tax credit for plug-in hybrid vehicles, including a tax credit for hybrid conversion kits that can modify current technologies with the latest in battery technology as it is developed. This new tax credit would provide for a base tax credit of $3,000, with up to an additional $2,000 available based upon kilowatt hours of battery power capacity. This tax credit was previously included in the 2007 energy bill but not adopted in the final package. The combination of advanced battery technology and advanced hybrid systems offer tremendous potential for reduction of oil consumption, but tax incentives will be necessary to offset the increased cost to consumers and to achieve widespread acceptance by consumers. These tax credits will accelerate significantly the availability of these new plug-in hybrid vehicles to consumers.

Lastly, I want to say something about the offset that we propose. Our amendment specifies that legislation under this reserve fund may include adjustments to the amortization of geological and geophysical expenditures for major integrated oil companies to help pay for the new tax incentives. In 2005, the major oil companies testified that they do not need all of these tax breaks. Adjustment to these tax breaks could provide billions over 5 years—with that investment put into renewable sources of energy instead, I believe we can take significant strides toward reducing our dependence on oil and protecting the environment.

Ms. COLLINS. Mr. President, the Collins-Levin energy independence amendment will help set us on a path toward energy independence and provide a more sensible energy tax policy. The Collins-Levin energy independence amendment to the budget resolution specifies that legislation under the reserve fund for investing in clean energy, preserving the environment, and providing for certain settlements may also include tax credits for the following:

Our amendment expands energy tax credits to encourage replacement of old wood stoves with clean burning, more efficient stoves. Unfortunately, many of the wood stoves purchased decades ago are outdated, inefficient, and are contributing to both indoor and outdoor air pollution. The emissions from these old wood burning stoves present a serious health concern, contributing to such respiratory ailments as asthma and bronchitis. New, EPA-certified wood and wood pellet stoves can cut emissions by more than 70 percent and use as much as a third less firewood for the same amount of heat.

The production of ethanol from cellulosic sources and production of biodiesel fuels. These technologies each offer tremendous potential for reductions in our gasoline consumption and in greenhouse gas emissions and will help move our petroleum-based economy toward a renewable, sustainable forest bio-economy.

The purchase of plug-in hybrid electric drive vehicles. The combination of advanced battery technology and advanced hybrid systems offer tremendous potential for reduction of oil consumption, but tax incentives will be necessary to offset the increased cost to consumers and to achieve widespread acceptance by consumers. It is estimated that a plug-in hybrid could get the equivalent of 100 MPG, having a large impact on reducing our use of oil.

We would pay for these by scaling back a tax preference for large oil companies which their executives have testified they do not need. The amendment also specifies that legislation under this reserve fund may include adjustments to the amortization of geological and geophysical expenditures by integrated oil companies to help pay for the tax incentives.

In 2005, the major oil companies have conceded that they do not need this tax break. Adjustments to this tax break could provide billions over 5 years. There is no reason to provide reduced tax rates for one of the world's most profitable industries at a time when so many families and small businesses are struggling and when we need to address the long-term challenge of reducing our reliance on imported oil.

AMENDMENT NO. 4196

Mr. BAUCUS. Mr. President, I have been a strong proponent for repeal of the estate tax. Over the years, I have voted repeatedly to get rid of this tax. It harms American families, farms, and businesses.

Once I realized that repeal would not be enacted immediately, however, I worked to get a compromise for the American people. I am continuing that fight.

Last fall, during the farm tax markup, I announced my goal to develop a workable estate tax compromise that could be passed this year. I continue to be committed to that goal.

As chairman of the Finance Committee, I have been using the Senate process to fully analyze what we need to do. I have been holding hearings on effective estate tax reform.

The first estate tax hearing was held in November. The hearing focused on the scope of the problem. We had a second hearing yesterday to explore alternatives to our current estate tax system.

And in April, the Finance Committee will hold a final hearing to discuss reforms to our current system that go beyond rates and exemptions.

After those hearings, we plan to roll up our sleeves and begin working on an estate tax bill—a bill that will pass in the Senate. Once we develop that bill, we will have a markup in Committee.

My goal is an estate tax bill that will get enough support to pass. That goal will take time and work on both sides.

AMENDMENT NO. 4170

Mr. MCCAIN. Mr. President, I am pleased to lend my strong support for the amendment offered by Senator GRAHAM. We should always strive keep taxes low, but the threat of higher taxes is especially damaging during this time of subpar economic growth. I thank him for his leadership on this important, fiscally responsible proposal, and am pleased to join as a cosponsor. I believe this amendment addresses the most important issue among any that will be discussed during this budget debate, and the one that most clearly defines the differing governing philosophies between the majority and minority parties: The Democrat-controlled Senate wants to raise taxes by $1.2 trillion and immediately spend those tax dollars, while the Republicans want to prevent tax increases and reduce wasteful spending. It really is that simple.

All of us should be paying very close attention to the current economic realities facing our country. Almost daily, we are informed of worsening news on the market front, widening subprime mortgage delinquencies, defaults, and foreclosures, declining housing values, and a broadening credit crunch affecting all sectors of the economy. But we also need to look beyond the economic news—we need to focus on the American families who are struggling as a consequence, some close to giving up hope, and we need to help them. Having spent the past weeks and months traveling across America, I have heard first hand of the difficulties facing so many hardworking families. I can assure you, not one of them has asked for higher taxes.

Instead, we should he focused on sound, meaningful progrowth policies that will help create jobs. But the one thing that we should not do, under any circumstances given our present economy, is to raise taxes on American workers who are already struggling to put food on their tables and gas in their cars.

I have long fought against tax increases, as have my other colleagues supporting this amendment. This Congress has the power to keep taxes low. Instead, the majority party is actively seeking damaging tax increases on a broad spectrum of Americans 116 million taxpayers—$1,833 increase; 84 million women—$2,121 increase; 48 million married couples—$3,007 increase; 43 million families with children—$2,323 increase; 12 million single women with dependents—$1,091 increase; 18 million seniors—$2,181 increase; 27 million small business owners—$4,066 increase.

I oppose these efforts because millions of middle-class families will be hit with higher taxes, not just the rich. In fact, I believe the overwhelming tax increases that will occur under this budget will hit overwhelmingly the middle class.

Let me offer just a few examples of how families will be impacted if we fail to provide tax relief that our amendment would allow for. A family of four with two children who earn $50,000 annual income today—$53,400 in 2011—would see a $2,155 increase, from $1,128 to $3,283, or a 191-percent higher tax bill. A family of four with two children who earn $60,000 annual income today—$64,100 in 2011—would see a $1,901 increase, from $2,733 to $4,634, or a 70-percent higher tax bill.

Instead of increasing taxes as the Democrats' budget resolution envisions, and in turn spending that money on more Federal programs, or worse, earmarks, we should be focusing on less government, not more. Americans want jobs, not new Federal programs. Yet this budget provides for the largest tax increase in history—$1.2 trillion. And, not surprising, it calls for the largest spending increase in history—$1 trillion. And what does that get the average American family: a $2,300 tax increase. Thanks, but no thanks. Keep their taxes low and stop spending so much of their money—that is what most Americans will say—and I know because I hear that every single day.

What we should be doing within this budget resolution is considering the best long-term economic approach and acting accordingly. We need to adopt this amendment to avoid a crippling tax increase for millions of Americans. We need to adopt the DeMint earmark moratorium amendment, which I am pleased to also cosponsor, to rein in wasteful pork-barrel spending. We should eliminate the AMT, not just provide another 1-year patch as the Democrats are suggesting. These are steps we should take now to end the uncertainty facing American families and businesses—not raising taxes by $1.2 trillion.

As I said, this is a defining moment. American families want us to fix our economy and help those along the way who struggling the most. We have much ahead of us to do, and, unfortunately, the tax-and-spend budget resolution before us does not get us to where we need to be. Even worse, it is taking the country in the wrong direction.

I urge my colleagues to support this amendment.

AMENDMENT NO. 4195

Ms. SNOWE. Mr. President, today Congress is confronted with making difficult choices in developing the budget for fiscal year 2009. Undoubtedly, there will be issues that will divide us as we consider this budget resolution, but I do believe that surely we can all come together on other issues. One such issue that I hope we can find mutual agreement is the need to expand the availability of the child tax credit to more working families. This is an issue that I have long worked with my good friend, Senator LINCOLN, the senior Senator from Arkansas.

Specifically, I have joined Senator LINCOLN on an amendment that would create a reserve fund to lower the income threshold for the refundable child tax credit to $10,000 and de-index it from inflation. This amendment is modeled after legislation that I introduced last year with Senator LINCOLN, the Working Family Child Assistance Act.

In 2001, Congress doubled the child tax credit from $500 to $1000, and I along with the Senator from Arkansas pushed to make the child tax credit refundable for workers making around the minimum wage as well. As enacted, a portion of a taxpayer's child tax credit would be refundable beginning with up to 15 percent of earnings above the indexed $10,000 threshold.

The consequences of inaction are serious for low-income Americans living paycheck-to-paycheck. It means that tens of thousands of low-income families will be completely ineligible for a credit they should receive. This year, because the income threshold is indexed, only taxpayers earning over $12,050 are eligible to receive the refundable portion of the child tax credit. Low-income families earning less than $12,050 are shut out of the child tax credit completely.

Today I am introducing legislation, the Working Family Child Assistance Act, with Senators LINCOLN, OBAMA, and ROCKEFELLER that will enable more hardworking, low-income families to receive the refundable child credit this year. My legislation returns the amount of income a family must earn to qualify for the child tax credit to $10,000. Moreover, my bill would ''de-index'' the $10,000 threshold for inflation, so families failing to get a raise each year would not lose benefits.

The staff of the Joint Committee on Taxation has estimated that this amendment will allow an additional 600,000 families to benefit from the refundable child tax credit. The Maine Department of Revenue estimates that 16,700 families in Maine alone would benefit from our proposal. Two thousand of these Maine families would otherwise be completely locked out of the refundable child tax credit under current law.

I am committed to this issue, thank the Senator from Arkansas, and urge my colleagues to join me in supporting this critical amendment that will make the child tax credit available to 2 million children who would be otherwise ineligible. Most notably, this amendment is identical to the refundable child credit proposal the Senate passed in May 2001 as part of its version of that year's tax bill.

AMENDMENT NO. 4181

Ms. SNOWE. Mr. President, I rise to speak on an amendment, which passed today, that I introduced with my colleagues Senators PRYOR and BINGAMAN. The amendment will create a deficit-neutral reserve fund for science parks. This deficit-neutral reserve fund will help highlight the need for funding so this critical industry can continue to expand. Science parks are concentrated high-tech, science, and research-related businesses, and are an important tool in strengthening America's global competitiveness. Through the development of new innovative technologies, competing and complementary companies working within close quarters are able to build on each other's ideas when entering the national and global marketplace. Unlike well known industrial parks, science parks primarily focus on innovation and product advancement. These parks are a vital part of the Nation's economy, creating 2.57 jobs for each core job in a science park.

As a strong supporter of expanding America's science parks, I am the lead cosponsor of S. 1371, legislation which provides grants and loan guarantees to promote the development and construction of science, research, and technology parks. I adamantly encourage increased investment in new and existing science, research, and technology parks throughout the U.S. This amendment highlights that science parks need more funding to help drive innovation and regional entrepreneurship by enabling existing science parks to make needed renovations while also encouraging rural and urban States to undertake studies on developing their own successful regional science clusters.

Congress recently passed, and the President signed into law, the ''America Competes Act,'' legislation authorizing $43 billion of new funding over the next three fiscal years which will boost Federal investment in math and science education programs. Building on the efforts of the America Competes Act by increasing research funding and education for our innovative workforce is vital, and this amendment will help ensure that this workforce is provided with a place in which to operate.

Residency in science parks provides businesses numerous advantages such as access to a range of management, marketing, and financial services. At its heart, a science park provides an organized link to local research centers or universities, providing resident companies with constant access to the expertise, knowledge, and technology they need to prosper. These innovation centers are specifically geared towards the needs of new and small companies, providing a controlled environment for the incubation of firms and the achievement of high growth.

In my home State of Maine, we simply do not have the population density in any given area to support traditional science parks. However, Maine has been a national leader in providing business ''incubation'' services. Incubators, like science parks, are critical to the success of new companies. To help start-up entrepreneurial companies in Maine, centers around the State provide business support tailored to companies in their region. The benefit of business incubators in Maine has been nothing short of monumental, with 87 percent of all businesses that graduate from incubators remaining in business. The seven technology centers located throughout Maine have played a pivotal role in promoting technology-led economic development by advancing their own regional competitive advantages. Under this amendment, funding can be made available for not only science parks, but business incubators may also be eligible for assistance.

It is also vital to point out that the jobs science parks create reflect the needs of a high-tech, innovative, and global marketplace. Science parks have helped lead the technological revolution and have created more than 300,000 high-paying science and technology jobs, along with another 450,000 indirect jobs, for a total of 750,000 jobs in North America.

Our Nation's capacity to innovate is a key reason why our economy continues to grow and remains the envy of the world. Through America's investments in science and technology, we continually change our country for the better. Ideas by innovative Americans in the private and public sectors have paid enormous dividends, improving the lives of millions throughout the world. We must continue to encourage the advancement of this vital sector if America is to compete at the forefront of innovation. I thank my colleagues for their support of this amendment, and I look forward to working with my colleagues to secure additional funding to ensure the growth and prosperity of science parks.

AMENDMENT NO. 4121

Mr. GRASSLEY. Mr. Secretary, I want to talk for a moment about how important it is to encourage physicians to adopt e-prescribing. Some studies suggest that e-prescribing could save the Nation tens of billions of dollars. It can prevent doctors from prescribing a drug to a patient when he is allergic to it. It can prevent doctors from prescribing a drug that could cause dangerous interactions with a drug the patient is already taking. It can help doctors better use health plan formularies, saving themselves time and their patients money.

Senator SUNUNU knew this years ago. Well ahead of others, he was pushing to give incentives to physicians to buy and implement e-prescribing systems. Senator SUNUNU introduced a bill 3 years ago, but Congress wasn't ready to take his lead. We should be ready now. Studies show that only 11 percent of physicians are using e-prescribing.

Adopting e-prescribing isn't cost-free to doctors. Not only must they invest in the technology, but they also must reengineer their practices. This means lost time and money. And many doctors, especially rural doctors, cannot afford that. So providing some financial incentives to get them started makes a lot of sense.

There is bipartisan support for e-prescribing. Many members of the Finance Committee, Democrats and Republicans alike, have said how important they think it is. The administration, too, supports e-prescribing as an integral part of electronic health records. With all this support, it is time to get the job done. I support Senator SUNUNU'S amendment to provide financial incentives to encourage physicians to adopt e-prescribing. I urge my colleagues to support the amendment.

Mr. HATCH. Mr. President, I rise today to discuss my amendment to the fiscal year 2009 budget resolution, S. Con. Res. 70, which condemns the unwise practice of diversion of funds from the U.S. Patent and Trademark Office, USPTO.

By stopping the short-sighted practice of fee-diversion, Congress would ensure that all funds collected are available to modernize the USPTO and increase the number of examiners so that U.S. entrepreneurs receive swift, precise decisions to secure their intellectual property.

The patent system is the bedrock of innovation, especially in today's global economy. The USPTO is the sole intellectual property policy office in the U.S. Government and a leading agency for intellectual property protection and enforcement worldwide. The nature of the USPTO workload is constantly evolving and increasing year by year, and requires active, responsive management. Considering the value of our Nation's intellectual property and its contribution to building a strong and vibrant economy, it is incomprehensible to siphon these funds away from their intended use, especially during these trying economic times.

Patent applications reflect cutting-edge technology, and are increasingly complex. More than ever, resources commensurate with the burdens placed on examiners are needed to efficiently and accurately prosecute patent applications. The backlog of unfinished applications for U.S. patents might reach well over 800,000 this year alone. It makes no sense to me why Congress would siphon off funds from the USPTO at this crucial time. Now is the time to act to protect this important agency, which is so vital to our Nation's economy.

Last year alone, more than 467,000 applications were filed at the USPTO. The sheer volume of patent applications reflects the vibrant, innovative spirit that has made America a worldwide leader in science, engineering, and technology. No doubt, the number of applications is hampering the agency's ability to keep pace with the innovative thought of applicants and to be flexible with the emergence of new technologies.

By prohibiting the practice of diverting fees to pay for other programs, the agency will be able to ensure that fees paid by inventors are used solely for USPTO operations. The resource-starved agency is still trying to recover from the almost $750 million in patent and trademark application fees that were diverted away from the USPTO between 1992 and 2004. As a result, the agency has been unable to hire, train, and retain the number of qualified examiners needed to handle the ever-increasing number of patent application filings. Moreover, the practice of fee diversion has inhibited the agency from playing more of a key role in combating counterfeiting and piracy, both domestically and abroad.

I note that the Congress and the administration have permitted the USPTO to keep almost all of its fees for the last 3 fiscal years. But, there is nothing to prevent this devastating practice of fee diversion from happening in the future. This senseless starving of the USPTO must end.

I believe this sense of the Senate is the first step in acknowledging that Congress must act in short order to stop depriving the USPTO of funds it so desperately needs and give the paying applicants the quality and timeliness of service they are due.

For all of the above reasons, I encourage my colleagues to support this sense of the Senate.

Mr. SALAZAR. Mr. President, I rise in strong support of the budget resolution that is before the Senate today. I want to thank Chairman CONRAD for his leadership—he and the Budget Committee have put together a smart, fiscally disciplined budget that will help put our economy back on track while bringing our budget into balance by 2012.

This is the time of year when middle-class families across the country are sitting down at their kitchen tables with stacks of bills, tax forms, and a calculator. They are adding up expenses and incomes—and the numbers are not good.

The cost of health insurance is up. Mortgage payments are up. Gas prices are up. Food prices are up. Heating bills are up. Inflation is up. Unemployment is up.

Families' expenses are on the rise, but, for the last 7 years, wages have not kept pace. In times like these, it is hard to balance a budget, but American families don't have a choice. They either balance their budget or face debts and bankruptcy.

The Federal Government should take a lesson from American families: when pennies are tight, we need to be making smart, disciplined decisions that bring budgets into balance. That is no easy task when you consider the fiscal mess this Congress inherited.

In 2000, we were running $236 billion in budget surpluses. In 2006, the Federal budget deficit was $248 billion. The national debt will have gone from $5.8 trillion in 2001 to over $10 trillion by the end of this year. Think of that for one second: in just 8 years, this administration will have almost doubled the entire national debt. It is staggering. And it is the reason that Americans have lost trust in the fiscal policies of this administration.

But the budget resolution we passed last year and the budget resolution we are considering today rein in this recklessness.

This budget, thanks to the work of Chairman CONRAD and the Budget Committee, is the blueprint for how we fund our most important Federal programs, provide new tax relief, and bring the budget into balance within 4 years—without raising taxes.

And this budget puts the Federal Government back on a pay-as-you-go basis, meaning that if someone wants to pass a new Federal program or cut taxes—they have to find a way to pay for it. This is known as ''pay-go,'' and it is simple common sense.

It is not easy to enforce the type of fiscal restraint embodied by pay-go while addressing the most pressing challenges our country is facing, but this budget succeeds in doing just that.

I want to spend a few moments talking about the tax portions of the budget resolution because they are of direct interest to those middle class families who are feeling the squeeze of stagnant wages, rising costs, and declining home values. The underlying budget resolution offers AMT relief and measures to close the tax gap, and the amendment that Senator BAUCUS has offered would provide further relief.

The Baucus amendment would permanently extend a series of critical middle-class tax cuts and create new tax relief for two important groups: (1) middle-class homeowners burdened by high property taxes and (2) veterans and servicemembers that are giving so much. As a member of the Senate Finance Committee, I believe that Congress should use the budget resolution to demonstrate its strong support for the tax policies that provide relief for middle-class families.

The Baucus amendment makes permanent the 10-percent tax bracket, the child tax credit, the adoption credit, the dependent care credit, and marriage penalty relief.

It helps address the housing crisis by allowing middle-income taxpayers an ''above-the-line'' deduction for property taxes. This would allow homeowners to deduct their property taxes whether or not they itemize their deductions, providing relief to a segment of the population that has been hard-hit by recent economic troubles.

In addition, the Baucus amendment includes a series of targeted provisions designed to provide tax relief to veterans and servicemembers, including a provision to allow servicemembers to count combat pay as income for purposes of the earned income tax credit.

Finally, this amendment will pave the way for meaningful estate tax reform by preventing any increase in the estate tax above the 2009 rate and exemption levels. The Finance Committee is working toward the goal of enacting permanent and comprehensive reform, and this amendment is an important step in the right direction.

These are not the only tax priorities that we intend to pursue this year, but they are at the top of the list for urgency and priority.

In addition to these tax cuts for middle class families, the budget establishes and funds priorities and programs that have been neglected for far too long.

For our Armed Forces, the budget provides full funding for our troops in Iraq and Afghanistan but also helps rebuild a military that has been under intense strain for five years. The Army

Chief of Staff, General Casey, has been very clear that the current operational tempo and repeated deployments is putting the Army ''out of balance,'' and less able to respond to contingencies.

The National Guard has also been hit hard by the administration's policies—units have been short equipment for training, disaster response, and other missions. This budget, though, provides over $49.1 billion to recruit, train, equip, and sustain National Guard and Reserve units—these funds are desperately needed to reset the force. The budget also provides a 3.4-percent pay raise for military personnel, and rejects the administration's proposals for new TRICARE enrollment fees and higher deductibles for military retirees.

For our veterans, the budget provides $48.2 billion for discretionary programs, including medical care. This is $3.2 billion more than the President's proposed funding level and brings funding for the VA in line with the recommendations in the independent budget, which veterans' service organizations compile each year to guide funding for the VA.

I am particularly proud that the committee was able to fulfill my request to restore funding for major construction projects in the VA, including the Fitzsimons Hospital in Denver. The administration has been dragging its feet on the construction of major medical facilities that have been planned for years. The foot-dragging has only caused costs to rise and veterans to have to wait longer for modern medical facilities. This is unacceptable. I appreciate Chairman CONRAD's willingness to work with me to include funding and report language that will help get the VA back on track on these projects.

In addition to the good things that this budget does to rebuild our military, honor our veterans, and cut taxes for middle class families, it also provides adequate funding for domestic programs that are fundamental to Americans' economic security.

As a Senator from a State where 57 of our 64 counties rely on payment in lieu of taxes, PILT, to offset tax revenue that can not be collected from the federally owned lands in their county, I know how damaging the President's cuts to PILT are. For a county like Mineral County, CO, which has over half a million acres of Federal land, cuts to PILT are devastating to its budget. That is why I am proud that the Budget Resolution rejects the President's cuts to PILT and creates a deficit neutral reserve fund to accommodate legislation that will fully fund the program for five years.

I am also cosponsoring an amendment that Senator ENZI is offering that will help stop the Federal Government from raiding the States' share of mineral leasing revenues. Those revenues from oil and gas leases in Colorado, Wyoming, and across the West should be divided 50–50 between the state and the Federal Government. The administration succeeded in changing this formula in 2008, but the reserve fund that Senator ENZI's amendment creates would help ensure that this does not happen again.

But these aren't the only steps we can take in this budget to help rural economies. The budget resolution also makes a dramatic new investment in renewable energy development and research. It puts $2 billion into the Department of Energy EERE account, which funds research and development at labs like the National Renewable Energy Lab in Golden, CO. This is a $738 million increase over the President's budget. It will help accelerate the renewable energy revolution that is sweeping across the country, giving new life to rural economies.

On health care, the budget once again lays the groundwork for expanding health care coverage for children. On two separate occasions last year, the President vetoed bills that would have expanded the Children's Health Insurance Program. If not for those vetoes, 3.8 million more children would have health insurance today.

We are not going to give up that fight, so the budget provides up to $50 billion for CHIP so that we can expand coverage to 6 million more children.

And on law enforcement, the budget resolution rejects the President's proposal to eliminate the COPS program. This was the sixth straight year that the President has proposed massive cuts to a program that has put over 100,000 police officers on the streets. As a former attorney general, I can tell you just how misguided these cuts would be, if we allowed them to go through.

As American families sort through their finances, stack up their bills, and calculate their 2007 taxes in this period, they know they have to set priorities in their own budgets.

They expect the Federal Government to do the same: they expect Congress to assemble and pass a budget that is fiscally disciplined, that provides tax relief, and that funds those programs that are fundamental to our security and our economy.

I believe that this budget meets those objectives by putting us on track to balance the budget by 2012, despite the fiscal recklessness that will be the legacy of this administration.

I again want to thank Chairman CONRAD and the Budget Committee for all their work on this budget. I am proud to stand behind it.

Mr. KOHL. Mr. President, I will be supporting this budget resolution and would like to offer a few observations as we go forward.

I begin by expressing my appreciation to the chairman and ranking member of the Senate Budget Committee, as well as their talented staff. Plotting a fiscal roadmap is a difficult task. While everyone may not agree on the outcome, I think we all appreciate and commend the dedication and expertise of those who are at the center of the process.

Sandwiched as it was, between Super Bowl Sunday and Super Tuesday, the President's budget generated only passing scrutiny beyond the beltway when it was submitted earlier this year. I believe the budget before us improves on that plan substantially.

The President put forward a $3 trillion budget with near-record projected deficits and the biggest defense expenditure since World War II. It recycled a number of ill-advised proposals that have been roundly rejected in the past. It put the squeeze on Medicare and Medicaid. And it shortchanged future generations. Congress can and will do better in addressing the challenges Americans face on education, health care, job creation, crime prevention, and high energy costs. I look forward to working with Democrats and Republicans alike in developing bills that put the priorities of the American people first.

This budget invests in education by increasing resources for education and training programs. It provides for $13 billion in education tax cuts, which will help make college more affordable. It provides a $2 billion Education Reserve Fund to provide for school construction and facility improvements, as well as the reauthorization of the Higher Education Act and the extension of education tax credits and deductions.

This budget gives a little more hope for American families raising children with disabilities. The President's budget proposed $11.3 billion in funding for special education, which represents the lowest level of support since fiscal year 2002. Last year, over 56,000 Wisconsin students with disabilities did not receive needed services due to chronic underfunding of IDEA, and the President's budget sought to continue this shameful trend.

This budget is better for Head Start, a program that prepares low-income children to succeed in school. For every dollar invested in Head Start, Wisconsin reaps $15 in future higher earnings, fewer crimes, and less remedial education. Head Start's funding has not kept pace with inflation or had any cost of living adjustments. In fact, Head Start has been cut by 11 percent since 2002.

This budget resolution rejects the President's proposal to eliminate 48 education programs, including vital student financial aid programs like Supplemental Educational Opportunity Grants and the Perkins Vocational Education Program. The President's proposal would have translated into a loss of $24 million in Federal aid for Wisconsin career and technical education.

This budget rejects the over $200 billion in cuts to Medicare and Medicaid that the President proposed. Such large cuts to these programs cannot be sustained without our Nation's health care safety net suffering. The result

would be fewer people with access to health care, and that is not acceptable. In Wisconsin, this would have meant $1.3 billion in cuts to hospitals over 5 years, decreased enrollment in BadgerCare, and drastic cuts in Medicaid. I am pleased that my home State of Wisconsin will not see President Bush's unrealistic health care funding cuts implemented.

This budget resolution provides for more funding for the National Institutes of Health and other health care programs. I believe we must continue to invest in the NIH.

This budget anticipates a $4 billion allocation for the Community Development Block Grant Program, an increase of $68 million from last year. The CDBG Program is the largest program that helps cities and states create job opportunities and affordable housing. For Wisconsin, that would translate into approximately $74 million if the increase is enacted. Given the current housing market crisis, a program like CDBG is vital for communities to combat rising foreclosures and create more affordable housing units through rehabilitation of those properties.

This budget resolution would allow restoration of the Manufacturing Extension Partnership program, MEP, at $122 million. MEP helps manufacturers streamline operations, integrate new technologies, shorten production times and lower costs, leading to improved efficiency. At a time when we want to increase economic activity and strengthen the manufacturing base of our Nation, the MEP is a fiscally sound investment of Federal resources.

I am especially pleased that the budget resolution includes a reserve fund to address child support enforcement. This gives Congress the leeway to repair the damage done under the Deficit Reduction Act which slashed funding for the child support enforcement program. Counties in Wisconsin are feeling the crunch of those cuts—and so are families relying on child support to make ends meet. I am hopeful that Congress will take the opportunity laid out in the resolution to help these families by restoring cuts to the child support program.

And finally, as chairman of the Senate Appropriations Subcommittee on Agriculture, I would be remiss if I failed to draw some observations about the President's budget and the situation we face on the WIC Program. I would like to insert for the record a letter which I recently sent to the Secretary of Agriculture. WIC provides essential nutrition assistance to pregnant women, infants and children. It is widely recognized for the impact this has on early childhood development. It is a critical discretionary program that is underfunded in the President's budget.

Our Nation faces extraordinary challenges. War and terrorism demand resources and attention. An aging population struggles to find the money to educate the next generation while battling increased health care costs. Our economy is struggling to create jobs. We need a budget that does better on all these counts. We need one that sensibly faces these challenges. This budget may not be perfect, but it gets us closer to that goal and therefore earns my support.

I ask unanimous consent that a letter dated March 12, 2008, be printed in the RECORD.

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

U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,
Washington, DC, March 12, 2008.

Hon. ED SCHAFER,
Secretary, Department of Agriculture, Washington, DC.

DEAR SECRETARY SCHAFER: The Consolidated Appropriations Act of 2008 included the following language as part of its Explanatory Notes:

''. . . the Department is directed, beginning on the date of enactment of this Act, and thereafter, to provide monthly reports on the program performance and estimated funding requirements to fully fund the WIC program. Timeframes addressed in these estimates should include the prior year, current year, and budget year of the President's budget submission, currently under consideration by the Congress and should separately address baseline program performance from the impact of current law and legislative budget proposals. The Department shall consider, and include in these estimates, current participation trends and current Economic Research Service food cost estimates in developing updated WIC estimates.''

Although this measure was signed into law by the President on December 26, 2007, the first report pursuant to this directive was not received until March 4, 2008. It appears the Administration was either unable or unwilling to meet the established deadlines. This is unacceptable. The intent was clear, and similar disregard will not be tolerated in the future.

The letter accompanying the initial report notes that ''Since 2001, the Administration has consistently sought to ensure that all eligible women, infants and children seeking to participate in the WIC program can be served.'' Were that an entirely factual statement, this directive would not have been necessary in the first place.

Congress faced incredible difficulty fully funding WIC in FY 08 because program costs increased by more than $633 million above the President's budget request. This situation was never acknowledged by USDA in any responsible manner, nor were specific counter-measures recommended. Sadly, the Administration only recognized this problem (in the vaguest of terms and at the last possible moment) in response to a request by this Committee. That lack of responsiveness forced Congress to rely on updated estimates from an outside (and historically reliable) organization. While I value the expertise of outside organizations, I do not believe this is the best way to make important funding decisions on such a vital program. The circumstances we face demand much more meaningful cooperation between the Executive and Legislative branches of government.

As we contemplate that cooperation in the future, I am obliged as Chairman of the subcommittee to turn my attention to the Administration's FY09 budget request for WIC. Sadly, I find the Administration's proposal to be detached from reality. It is difficult to fathom, given current economic trends, that the Administration realistically believes an increase of $80 million is an appropriate amount for WIC. (The inadequacy of this request is tacitly acknowledged elsewhere in the budget which anticipates using $150 million in ''contingency'' funding for program participation, rather than reserving it for unforeseeable circumstances, which is its intended purpose.)

Outside estimates already provided to the Congress show that the WIC level requested in the budget is at least $400 million below the amount necessary to fully fund participation, assuming that Congress will continue to reject the Administration's attempt to cap administrative funding. My grave fear is that the Administration's inadequate WIC budget request will greatly diminish our ability to provide sufficient funding levels for other important functions of the Department.

Mr. Secretary, Congress did not create this WIC reporting directive to be difficult or require more work on the part of USDA. We are making an honest attempt to avoid the surprises and the dismal alternatives we faced last year when WIC costs increased suddenly and substantially, and we were forced to cut other important items at USDA in order to overcome this shortfall. Our hope was that these reports will be useful in protecting the integrity of USDA programs. They will be useless if the Administration refuses to provide the information in a timely and honest manner.

We are not asking for a budget amendment—simply information. Your initial report states that USDA believes the President's budget request is adequate, although it says participation estimates are already higher than anticipated. It further says that USDA will continue to monitor program performance. Continued monitoring means nothing unless you are willing to provide this information to the Congress. USDA employs many competent staff, including many at FNS and the Economic Research Service. I believe their expertise can provide better information than that which we have been sent so far.

It would be difficult to overstate the seriousness with which I view this issue. The WIC appropriation equals one third of this Subcommittee's entire discretionary allocation and estimate errors of only a few percentage points can mean shortfalls of hundreds of millions of dollars. You should know that if the Administration fails to provide this necessary information in the manner requested, this Subcommittee may, and likely will, take more stringent measures in the months to come. We are eagerly anticipating the next report, and hope that it will be a substantial improvement. We note that it is due to us before your testimony at the USDA budget hearing on April 8, 2008.

Sincerely,

HERB KOHL,
Chairman, Subcommittee on Agriculture, Rural Development, and Related Agencies.

Mr. LEVIN. Mr. President, this budget resolution lays out a fiscally responsible plan with the right priorities, which include job creation, tax breaks for the middle class, and programs that ensure the safety, health, and education of our Nation's children.

Our Nation is enduring hard economic times. Congress cannot neglect its responsibility to enact priorities which help our Nation return to a state of economic stability and prosperity. Through this budget, the Senate will set the blueprint for its work to help reverse the current administration's failed fiscal and economic policies.

Since 2001, we have lost over 3 million manufacturing jobs nationwide. My home State of Michigan has lost over 250,000 manufacturing-related jobs. The manufacturing industry faces pressure from international corporations that are subsidized by their respective governments; our own government needs to act to keep American manufacturing companies competitive in the global marketplace and competing on a level playing field.

That is why I am glad that the Budget Committee included in this resolution my proposal to establish a deficit-neutral reserve fund to promote American manufacturing. Congress needs to act to revitalize our domestic manufacturing sector.

The American Manufacturing Initiative, which I announced last year with a number of my colleagues, would help address critical needs in the manufacturing sector by increasing Federal support for research and development; expanding the scope and effectiveness of manufacturing programs across the Federal government; increasing support for the development of alternative fuels and leap-ahead automotive and energy technologies; and creating tax incentives to encourage continued U.S.-based production of advanced technologies and supporting infrastructure. Over the last year, we have been able to give more support to some components of the AMI—primarily increasing authorized funding levels for the Manufacturing Extension Partnership and the Technology Innovation Program and providing significant new funding for defense manufacturing programs—but much more needs to be done.

I look forward to continuing to work with my colleagues and the next president to support the manufacturing sector in a meaningful way, and make a wise investment in the long-term growth, health, and stability of the manufacturing industry.

I am also pleased that this budget paves the way for a second, much-needed, economic stimulus package. The economic stimulus package that passed in January of this year was a very modest first step toward addressing our economy's problems. Further initiatives such as an extension of unemployment insurance and housing relief are urgently needed and this budget provides $35 billion toward that effort.

The continuation of the pay-go rule, which would require any new spending or tax cuts to be paid for elsewhere in the budget unless a supermajority of at least 60 votes in the Senate agrees otherwise, shows that the Senate is committed to reversing the administration's digging into a deeper and deeper ditch of debt. I hope the Senate will live up to this important standard we set for ourselves.

This budget resolution will also allow for much-needed tax relief for middle-class families by shielding them from the alternative minimum tax. Congress has long known that this is the only fair thing to do for America's middle-class families, since the tax was never intended to impact them in the first place.

I am also pleased that we passed the Baucus amendment to pave the way for extending a number of existing tax cuts that help working families, including a tax credit provided for each child in a family and relief from the joint-filing penalty paid by America's married couples. It also extends estate tax reform at the 2009 level, meaning that married couples would be able to pass on to their beneficiaries estates worth up to $7 million before they become subject to the estate tax. The Baucus amendment also includes fully paid-for tax relief to members of America's military, including a provision allowing combat pay to count toward a refundable federal income tax credit.

I am pleased that the Senate adopted the Collins-Levin amendment that sets forth important steps to be taken in the area of energy tax policy.

Specifically, our amendment proposes extension of the current production tax credit for biodiesel fuel and the small-producer biodiesel tax credit, both of which will expire at the end of 2008. Many of our small biodiesel producers are already having a hard time now because of the increasing prices of feedstock. Without this tax credit, they may not be able to stay afloat and we could lose these new sources of biodiesel fuels. We cannot afford to do that.

We also propose a new production tax credit for cellulosic ethanol, up to a limit of 60 million gallons. Ethanol produced from cellulosic sources offers the potential to reduce greenhouse gas emissions by 80 percent or more. Again, this is a necessary boost needed by those pushing the technology toward cellulosic ethanol to ensure that they are able to bring the technology to commercialization.

Finally, we propose a new tax credit for plug-in hybrid vehicles, including a tax credit for hybrid conversion kits that can modify current technologies with the latest in battery technology as it is developed. The combination of advanced battery technology and advanced hybrid systems offer tremendous potential for reduction of oil consumption, but tax incentives will be necessary to offset the increased cost to consumers and to achieve widespread acceptance by consumers. These tax credits will accelerate significantly the availability of these new plug-in hybrid vehicles to consumers.

I am also pleased that this budget plan provides for Congress to go after the offshore tax haven and tax shelter abuses that are undermining the integrity of our tax system, and I commend Chairman CONRAD and the Budget Committee members for their willingness to address these complicated areas. Cracking down on these abuses is a critical step toward achieving fairness in our tax system.

For many years, the Permanent Subcommittee on Investigations, of which I am chairman, has been looking at the problem of offshore corporate, bank, and tax secrecy laws and practices that help taxpayers dodge their U.S. tax obligations by preventing U.S. tax authorities from gaining access to key financial and beneficial ownership information. The subcommittee has also investigated abusive tax shelters, which are complicated transactions that are entered into to provide tax benefits unintended by the Tax Code. They are very different from legitimate, congressionally-approved tax shelters, such as deducting the interest paid on your home mortgage or taking tax credits for historic building preservation. Abusive tax shelters, on the other hand, are marked by one characteristic: no real economic or business rationale other than tax avoidance. We cannot tolerate high-priced accountants, lawyers and banks concocting ways for tax cheats to offload the missing revenue from their unpaid taxes onto the backs of honest taxpayers. That is why I have introduced The Stop Tax Haven Abuse Act, on which I am proud to have as cosponsors Senators COLEMAN, OBAMA, SALAZAR and WHITEHOUSE. This bill provides a powerful set of new tools to clamp down on offshore tax and tax shelter abuses.

If Congress addresses these inequities, it would bring in billions of dollars needed to pay for many important national priorities. These priorities are recognized in this budget, including education, children's health care, veterans' medical care, community development block grants, and law enforcement. We can go a long way toward paying for these critical programs by stopping these tax dodges that rob the Treasury of up to $100 billion a year, and shift the tax burden from high income persons and companies who are principal users of offshore tax havens onto the backs of working families who pay their taxes.

This budget can provide for ample revenues by shutting them down, which is not only reasonable, but crucial to improving the integrity of our tax system. I applaud Chairman CONRAD and the Budget Committee, as well as the Finance Committee and Chairman BAUCUS and Ranking Member GRASSLEY, for their efforts on this front, and I look forward to working with them and other allies on this issue as we address these problems over the next year.

The blueprint set forth in this resolution is worthy of support. It sets us on a course of fiscal responsibility and paves the way for important investments in America's future.

Mr. LAUTENBERG. Mr. President, from 1997 to 2000, I served as ranking member of the Senate Budget Committee alongside Chairman DOMENICI, and I am proud to say that by the end of my tenure, the Federal Government had a budget surplus of $236.4 billion.

Today we face a starkly different picture. Our country is more in debt than ever, owing an astounding $9.3 trillion.

Under President Bush's watch, the national debt will have almost doubled, and he has sacrificed the stability of our economy in the process. He has effectively taken our Nation from one of economic stability and prosperity to a nation on the brink of recession, and our children and grandchildren will be stuck with the bill for generations to come.

Each year, the President has a chance to do the right thing and propose to Congress a responsible budget which addresses the needs of our country and is fair to all Americans. I have been extremely disappointed these last 8 years as President Bush has continually presented us with budget proposals that have resulted in four of the five highest deficits in our country's history, leaving us with a staggering budget deficit of hundreds of billions of dollars. At the same time, his proposals have rewarded the wealthiest members of our society at the expense of the middle class and Americans struggling to earn a living.

I am proud to have helped ensure that Congress rejected these Bush proposals. Once again this year, we find ourselves in the same process.

In rejecting President Bush's fiscal year 2009 budget proposal, we in the Senate Budget Committee under the leadership of Chairman CONRAD have brought forward a budget that is not only fiscally responsible but also morally responsible. As a member of this committee, I was pleased to be able to help shape this budget.

This budget focuses on the real problems that Americans face. It includes tax relief for the middle class, makes much needed investments in our economy and our future, and keeps America safe by responsibly funding our homeland security needs.

One of the most pressing concerns to New Jerseyans, and all Americans, is tax relief for the middle class.

New Jerseyans in particular need relief from the unfair and unintended consequences of the alternative minimum tax, AMT. This tax was first imposed on the richest 155 families to ensure they did not abuse loopholes to avoid paying any taxes at all. But it has grown to ensnare far too many people, even members of the middle class, and has become an unfair and unintended tax. That is why it is so important that our budget includes AMT relief for over 1.4 million New Jerseyans who would otherwise be forced to pay this tax. That is a significant tax cut for the middle class.

I am pleased our budget includes this AMT relief, and I will continue to work diligently to help create a lasting solution to provide sufficient tax relief—from the AMT and other Federal taxes—for those who need it in New Jersey and nationwide.

I am also proud to be a cosponsor of the Baucus amendment to the budget, which the Senate passed today, to provide further tax relief for America's working families.

Our amendment permanently extends a lowered tax rate that benefits every single wage-earning American by keeping the tax rate on the first $7,000 of income earned to only 10 percent. This provision will save taxpayers an average of $498.

Our amendment also provides for the permanent extension of marriage penalty relief. According to the latest estimates, this extension will benefit 29.5 million Americans with an average savings of $686 per year. In addition, our amendment extends the refundable child tax credit which will provide an average of $1,025 in tax relief to some 31.3 million families.

Important especially to New Jerseyans, this amendment provides new relief from high property taxes. We pay among the highest property taxes in the country, and many in our State need help.

While two-thirds of all Americans are homeowners, only one-third of homeowners itemize property tax deductions on their tax returns. That leaves 28.3 million Americans without a property tax deduction benefit, over 451,000 of whom live in New Jersey.

Our amendment provides tax relief to those who don't itemize by creating a standard property tax deduction. For single filers, this amendment will provide $500 in property tax relief and for joint filers that number increases to $1000 in property tax relief.

Aside from providing middle-class tax relief, our budget prepares for our economy's future by making the necessary investments in critical priorities, such as infrastructure, energy, and education.

To keep America moving, we must invest in our transportation infrastructure.

Last year, we saw the I–35W bridge collapse in Minneapolis, MN. Some 25 percent of our bridges are still structurally deficient or functionally obsolete. Much of our surface infrastructure is in disrepair, and it will cost billions to improve it.

But less than 1 year after the collapse in Minneapolis, President Bush wants to cut funding for high and bridge repair by almost $2 billion.

He also wants to fund transit programs at $200 million below the level that Congress authorized. These cuts hurt States like New Jersey that need transit funding the most, and working families who depend on this transportation.

All of these programs are vital to commuters and travelers in New Jersey. After all, New Jersey is the most densely populated State in the country and is even more densely populated than the countries of India and Japan.

Traffic congestion on our roads costs our country nearly $80 billion a year—twice the Federal budget for highways. Commuters cannot afford to sit in traffic when gas prices are well over $3 a gallon, and our environment cannot afford the greenhouse gas emissions from these idling cars.

Our budget restores billions of dollars President Bush proposed in cuts to transportation and provides even more money to rebuild the backbone of our economy—our bridges, highways, skyways, seaports, airports, and transit systems. Our budget is expected to create 475,000 new transportation jobs, 7,900 in New Jersey alone. I was proud to sponsor an amendment to this budget to ensure that infrastructure projects involving rail transportation, including high-speed rail, airports, and seaports are eligible for this new funding.

Airline travelers fared no better under President Bush's budget proposal. The Bush administration's failures on aviation have led to one of the worst years ever for flight delays. More than one in four flights was late. Our air traffic control system remains dangerously understaffed, and air traffic controllers are overworked and fatigued. And there is a lack of leadership in preventing runway incidents.

One billion airline passengers will be flying each year by 2015. Now is no time to be cutting funding for our Nation's airports and runways by $765 million, as President Bush proposes. Our budget restores these cuts to aviation infrastructure to keep passengers moving.

President Bush is also trying once again to bankrupt Amtrak.

In a time of record high gas prices and record airport delays, we should not be taking away this popular, energy-efficient, and convenient travel option, which people are using in record numbers.

Last October, the Senate passed my legislation with former Senator Trent Lott to provide $11.4 billion for Amtrak to expand passenger rail in the United States, and I am working with my House colleagues to get it taken up and passed into law this year. It is time that America had a world-class passenger rail system.

I want to thank Chairman CONRAD working with me to ensure Amtrak's operations and capital needs are fully funded in this budget—a total of $1.8 billion, plus an additional $250 million for State passenger rail grants.

Another key feature of our budget is tackling the extremely important energy and environmental problems we are facing. Our budget shows real commitment to tackling these challenges.

The proposal by President Bush would cut funding for the Low-Income Home Energy Assistance Program, which provides much needed assistance for many contending with expensive bills to heat their homes in the winter.

President Bush also proposed major cuts to programs that reduce our greenhouse gas emissions and help us combat global warming—the most serious environmental threat we face. At a time when the science of global warming is certain, President Bush attempted to cut the budget for renewable energy by almost 30 percent. This is not a strategy to fight the climate

crisis; this is simply the same old, ineffective energy policy.

Our budget not only restores these cuts but goes even further and calls for new programs that will reduce our dependency on foreign oil and help us fight global climate change.

When it comes to education, our budget addresses the real problems American families face with rising tuition costs. While New Jerseyans and the rest of the Nation have seen average tuition costs go up 52 percent since 2000, President Bush has continued to propose massive cuts in education programs. That is no way to ensure the future of Nation.

Not only does our budget reject these proposed cuts but it increases education funding by an additional $5 billion. That is a serious commitment to education.

Our budget puts in place policies that will help our children get the education they need to compete in a global society. It increases money for Pell grants and student loan programs so that our students can afford to go to college and achieve their dreams. Our budget also provides increased funding for early education like Head Start and puts additional resources into our public schools.

Another issue of importance to all Americans is ever-rising health care costs. Since President Bush took office, health care premiums have risen 40 percent in New Jersey. Our budget restores proposed cuts to Medicare, Medicaid, and other important programs to ensure all members of our society get the health care they need.

In addition, no responsible budget would be complete without dealing with the continuing threat of terrorism here in the United States.

While spending over $3 billion a week on the war in Iraq, President Bush has badly underfunded our homeland security needs, leaving our Nation at greater risk.

This risk is very real in New Jersey. The FBI has called the 2-mile stretch between Newark Liberty International Airport and Port Elizabeth, NJ, ''the most dangerous two miles in the country'' for terrorism.

Yet President Bush proposed cutting funding for State homeland security grant programs by almost 80 percent.

We all know that homeland security begins with hometown security. President Bush inherited a country where crime was going down thanks to successful, proven programs like COPS and Byrne Justice Assistance Grants, Byrne JAG.

But after declining for years, violent crime has gone up in each of the past 2 years. And now President Bush wants to eliminate critical funding for local law enforcement under COPS and Byrne JAG.

Thankfully, our budget restores funding for these programs and reaffirms our commitment to keeping our communities safe.

When it comes to taking care of the men and women of our military, I am very pleased that we have recognized the sacrifices our career military retirees make by rejecting President Bush's proposal for TRICARE enrollment fees and deductibles. This is something I have been working to fix permanently.

I also strongly support the 3.4-percent pay raise for military personnel that our Senate budget resolution proposes. I believe our service men and women deserve the best benefits that a grateful nation can provide.

Lastly, and perhaps most prudently, this budget provides relief to those being hit hardest by the current downturn of our economy.

It is clear that our economy is struggling. In response to that, this budget provides an additional $35 billion for a future stimulus bill to help families and businesses boost the economy.

I am hopeful that this stimulus bill will include funding for our States, including increased Medicaid funding and even more infrastructure dollars.

I commend Chairman CONRAD for his leadership on this budget resolution, and I am proud to be a coauthor. It is a much needed step in the right direction.

Ms. MIKULSKI. Mr. President, I congratulate Senator CONRAD on this budget. He has done a brilliant job, and this bill will give us a safer country and a stronger economy. It will meet compelling human needs and take care of the long-range needs of America.

This budget reflects America's priorities and my priorities: finding cures for devastating diseases, helping families with special needs, protecting our homeland and protecting our communities, supporting our troops with what they need overseas—and what they need when they come back home.

Unlike President Bush's proposal, this budget makes a difference for families. It looks out for our returning military and rejects the President's Draconian cuts that would hurt the most vulnerable people.

I am for this budget because it takes care of NIH. NIH is a jewel in the Nation's crown. It is saving lives and improving our Nation's health by bringing discoveries to patients from the lab to the bedside. NIH needs adequate resources to meet its mission.

That is why I strongly supported doubling the NIH budget from $13.6 billion in 1998 to $27 billion in 2003, but this year the President shortchanged NIH. His budget flat funds NIH at $29.5 billion which doesn't even keep up with inflation.

Shortchanging NIH means we slow down research and slow down our transition from research to treatment. We need this research to improve the treatments for autism, Alzheimer's, diabetes, cancer, and heart disease.

I am on the side of science, which is why I joined my colleagues Senator HARKIN and Senator SPECTER to cosponsor an amendment to increase the NIH budget by $2.1 billion. This additional funding will improve the health of the Nation by supporting research on causes, diagnosis, prevention, and cures. So this funding will save lives today and tomorrow.

Our budget should save lives, and it should also improve lives—especially for the most vulnerable. In December, Bush announced a new rule which said CMS won't pay for most Medicaid case management services. This cuts our most vulnerable citizens off from their social workers and nurses.

This rule is just wrong. Without case management, Medicaid falls apart. If you don't provide the right services in homes and in schools, you can't coordinate health care plans to keep kids and the elderly healthy.

In Maryland, this rule would mean 200,000 poor adults and children with disabilities or chronic health problems may not receive case management services. And in these tough fiscal times, my State will lose over $66 million and 1,400 jobs: mostly nursing and social work jobs

Our budget rejects the President's reckless rule until we have a new President and a new attitude. I am going to make sure that we keep the commitments in this budget and keep our promises to those sick adults and children who need our help.

Our budget also recognizes that families need a government that is on their side. However, the Bush budget shortchanges children with special needs and their families by not providing enough for IDEA. When Individuals with Disabilities Education Act, or IDEA, passed in 1975 Congress promised to pay 40 percent of costs. Thirty three years later, we don't even come close.

This year, IDEA should be funded at $21.5 billion, but it only got $11 billion. Bush talks about leaving no child behind, but his budget abandons a generation of children by making IDEA an unfunded mandate.

Senator SANDERS' amendment, which I cosponsor, would increase IDEA funding by $10 billion over the next 3 years and would dramatically improve services for 7 million children. These are children who can't make it on their own and who may need individual services like special attention from teacher's aides, speech therapy, and smaller classes.

These aren't ''extras.'' They are essentials that may mean the difference between self-sufficiency and a life of dependence. America needs to get behind our kids—by getting behind those kids that need us most.

The Bush budget also falls short, once again, when it comes to social services block grants. These are services that give people the tools they need to practice self-help such as child care assistance and treatment for substance abuse.

The Bush budget cuts SSBG from $1.7 billion to $1.2 billion. That is half a billion dollars that States won't have to help their most vulnerable residents. And the President wants to eliminate the program entirely in 2010. I am outraged that the President would be so

coldhearted but I am proud that the Senate budget rejects these cuts and restores funding to $1.7 billion.

My home State of Maryland will receive $32 million this year. I know our communities need it—especially during these tough times. These services help families who are scrimping and saving to stay afloat.

I know about social services block grants. Before I was ''Senator Barb,'' I was ''Social Worker Barb.'' The services provided are about more than checking boxes and pushing paper; they are about helping people with their problems and meeting them where they are.

The Democratic budget also helps families by helping them keep what they earn for things that they need with smart tax breaks for the middle class. We do it responsibly and realistically by using the budget surplus to extend the tax breaks that matter to working families like the $1000 refundable credit per child, so families can make ends meet; like marriage tax penalty relief so that we don't put a tax on getting married; and like the 10 percent tax bracket so lower income working Americans keep more of their hard-earned pay check. Finally, we also make sure that AMT doesn't hit more middle-class families.

These are the tax breaks that help Main Street, not Wall Street, and they are tax breaks we can afford.

I am always going to fight for our first responders because we need to protect the Americans who protect us. But President Bush wants to eliminate Community Oriented Policing Program, COPS, funding. That is a $587 million cut from last year.

The COPS Program pays for cops on the beat because the way that you reduce crime is to increase cops. That is why Democrats added $599 million to our budget for COPS.

Firefighters also protect our communities. They need tools to protect themselves—and to protect us. Yet the Bush budget slashes funding for our first responders—eliminating one grant program for firefighters and cutting another grant program by $260 million.

They put their lives on the line every day; they should never be shortchanged by their government. That is why our budget rejects the administration's reckless cuts and adds $2.2 billion more for law enforcement and first responders.

The Democratic budget also supports our troops with what they need on the battlefield—and what they need when they come back home.

We fully fund the President's request for the military, and we take care of them here at home. I am so proud that Senator BAUCUS's amendment includes the Defenders of Freedom Act. These are tax breaks to reward soldiers for their service—a tax credit for businesses who keep National Guard and Reserve on their payrolls when reservists and guards are called to help their country and a tax break on money earned because of service to the Nation.

I want everyone to look at what the Bush budget does for our veterans. It is unacceptable that the President underfunded programs for vets. Promises made must be promises kept. Vets fight our enemies on foreign battlefields; they shouldn't have to fight their own Government for the services and benefits they deserve.

Democrats understand, and we keep our word to America's vets by providing an additional $3.2 billion to come up to the funding suggested by Independent Budget.

Finally, as the chairman of the subcommittee that funds science and our space program, I am pleased that the Democrats have an innovation budget. This is a strong budget for NASA: $18.7 billion for NASA. That is $1 billion more than the President's request. NASA is our premier innovation agency. It creates new technologies that create new jobs and excites our next generation of scientists and engineers.

These extra funds will allow us to reimburse NASA for the costs of returning the space shuttle to flight safely after the Columbia disaster.

I have fought for this extra funding for several years, and I hope we can make it a reality this year in the CJS bill.

The budget also says that we must have a balanced space program of science, aeronautics, and space exploration and that we should work to close the 5-year gap in our human space flight program.

I support these goals and thank Chairman CONRAD for his leadership.

Yet I am disappointed that the budget does not recommend full funding for the American Competitiveness Initiative at the National Science Foundation and the National Institutes of Standards and Technology.

That is why I am supporting the Bingaman-Alexander amendment, to provide the fully authorized levels for these science agencies as recommended by the America COMPETES Act. This funding will provide critical investments in education in science, technology, engineering, and mathematics, STEM. This is the research that creates new technologies and new jobs.

It is an important time for America. Our economy is in trouble, and we need to spend wisely. Democrats are making the hard choices to make America stronger, invest in our future, and balance the Nation's checkbook.

The budget reflects the best of our country. It keeps commitments to vets and our first responders, invests in our kids and our future, and meets our economic challenges head on.

Let's get the job done and pass this budget. Americans deserve it, and the Senate needs to deliver.

Mr. INHOFE. Mr. President, I join my colleagues in expressing great concern for families struggling during these tough economic times. Costs are going up. Prices for everyday goods are increasing. Food costs are skyrocketing. Heating and electricity prices are on the rise. The price of gas is breaking all-time records. The family budget is being strapped. We all agree this is a time of great economic uncertainty.

But we disagree about how Congress should respond to this situation. What is the Federal Government's role? I will tell you precisely how we should not respond—when the costs of food and fuel for families are going through the roof. We should not add to that burden by increasing the cost of the Federal Government. Unfortunately, that is precisely what my friends on the Democrat side plan to do with their budget. With the family budget under serious threat, the other side of the aisle plans to expand the federal budget—at the expense of the family budget. I say to my friends: if there was ever a time not to raise taxes, if there was ever a time not to increase the costs people pay for the federal government, that time is now. Yet this budget contains the largest tax increase in America's history.

We all hear about rising energy costs. However, families are also taking another big hit in the pocketbook with food prices that are increasing at their fastest rates since 1990. Prices for many groceries are rising at double-digit rates. Milk prices increased 26 percent last year. The price for eggs is up 40 percent. Cheese prices have doubled from a year ago. Beef prices are up 50 percent. Flour is up about 20 percent since last year. Taken as a whole, food and beverage prices are rising at 4 percent a year, which is the fastest rate of increase in 20 years. All indicators point to this trend continuing, if not worsening.

Food, which accounts for about 13 percent of the family budget, is not the only expense that has seen dramatic increases. Energy costs now consume about 4 percent of a family's budget. On Monday, gas prices set a record high of $3.227 per gallon—while oil prices broke the all-time, inflation-adjusted record and rose to $108 per barrel. The cost of heating and powering a home is rising. The Energy Department is forecasting sustained increases in the demand and prices of electricity and residential energy usage. It is important to remember that even modest increases in home energy prices have a significant impact on the budgets of middle-income Americans.

Undoubtedly, the costs of many items in the family budget are increasing. In this context, Democrats are rolling out their budget plan, and what do we see? Unbelievably, we see plans to radically increase the cost that families will pay for the Federal Government. With the cost of so many household essentials skyrocketing, why are we raising the cost of the Federal Government? This is the last thing the economy needs. And it is the last thing families need.

This year, the Federal Government will tax $21,604 per household, spend

$25,117 per household, and run a deficit of $3,513 per household. But it is not enough. It never is.

The budget we are considering contains a $1.2 trillion tax hike. On top of the thousands of dollars families are already paying for the Federal Government, on top of food costs and energy costs reaching stratospheric levels, the majority party is rolling out a budget plan with record tax increases. This budget plan increases taxes by more than $2,300 each year for 43 million families with children. $2,300 in addition to what these families are already paying.

I watch my colleagues on the other side come down to the floor one after another and complain that the Federal Government does not have enough money. Might I remind my friends that this budget is a $3 trillion budget. This government spends more money than the entire economies of most countries. In 2006, only two countries had entire economies—every good and service produced within their borders—bigger than $3 trillion. One was the United States. The other was Japan at $4 trillion. Germany ranked third in world GDP. Amazingly, my colleagues have proposed a budget that is bigger than Germany's entire economy in 2006.

Under the Democrat's budget, 43 million families face tax increases of $2,300. What could $2,300 buy for an American family? I started by talking about food costs, which are rising at the fastest rate in two decades. $2,300 could buy 8 month's worth of groceries for a family. Then I talked about record-setting energy costs; $2,300 could buy a family's electricity and home heating oil for an entire year.

Now more than ever, we need to protect the family budget from the Federal budget. The Democrat budget does exactly the opposite, containing massive tax increases. It deserves to be defeated.

While the family budget is under threat by Democrat's nondefense spending, our Nation is under threat by global terrorist forces. We must support our courageous men and women in uniform by adequately funding defense spending.

The greatest trust placed upon Congress by the American people is to provide for their security by maintaining a strong national defense. It is a trust we cannot betray. However, we are rapidly reaching a crossroads—a nexus that will determine America's security for the next several decades.

To better understand where we are today, it is important to understand how we arrived at this point. This Nation's historical pattern has been one of a small professional military in peacetime, rapidly supplemented by a mobilization of civilians during war, followed by a rapid demobilization at the war's end. This demobilization or downsizing occurs within a context of balancing risks and threats. The trick is to retain and fund a force of sufficient size and capability to deter or dissuade, and, if necessary, to fight and win.

In the late 1970s, the military of the United States was a hollow force—low morale, low pay, outdated equipment, and unable to maintain the equipment it possessed. In the 1980s, Ronald Reagan expanded the military budget, increased troops size, reenergized weapons procurement, and revived our intelligence capabilities . . . returning this country back to its superpower status. The Cold War officially ended in 1990.

Much of this Nation's firepower is a legacy of the Reagan years. With the demise of the Soviet Union, our military was downsized to counter a ''perceived'' diminished world threat. Unfortunately, the global strategic environment has since then become increasingly complex, dynamic, lethal, and uncertain.

During the Clinton administration, I was on the floor every 2 weeks warning that we would live to regret the massive cuts and procurement holiday of the 1990's. I believe one of the great tragedies of our national security history is the military spending during this time passed.

Between fiscal year 1994 and fiscal year 2001, the DOD budget experienced a downward trend, $313.3 billion less than if it stayed true to the rate of inflation. Clinton's proposed budget was $99 billion less than what Congress believed defense required. The Clinton/Gore administration cut the defense budget by 40 percent, reducing it to its lowest percentage of the gross national product since before World War II.

As a result of these budgetary cuts, today's force is half the size of the military in the 1990s. The Army was reduced from 18 divisions to 10, the Air Force from 37 tactical air wings to 20, and the Navy from 568 ships in the late 1980s to only 276 today.

As our forces decreased in size, the number and lengths of deployments increased and international terrorism took the forefront. Afghanistan was used as a training ground for terrorists and the Taliban regime allowed al-Qaida unfettered mobility.

On February 26, 1993, a car bomb was planted in the underground parking garage below the World Trade Center, foreshadowing the 9/11 attacks. On June 25, 1996, the Khobar towers were bombed by Hezbollah, with intelligence pointing to support by al-Qaida. On August 7, 1998, there were simultaneous bombings at the U.S. embassies in Dar Es Salaam, Tanzania, and Nairobi, Kenya. On October 12, 2000 suicide bombers used a boat to attack the USS *Cole* while it was moored in Yemen.

America's response was comparatively restrained and, at best, inconsistent. Operation Infinite Reach included cruise missile strikes against Afghanistan and Sudan, but there was no real change. This inadequate response has been cited as a factor emboldening al-Qaida to undertake further plans. WMD proliferation throughout the world reached an unprecedented level.

The Chinese government learned that it could rely on our acquiescence. They transferred prohibited weapons technology to North Korea, Pakistan, Iran, Iraq, Syria, and other countries, threatened to absorb Taiwan, and intimidated our regional treaty allies, South Korea, and Japan. During this period, our country concluded, as Secretary Gates put it, ''that the nature of man and the world had changed for the better, and turned inward, unilaterally disarming and dismantling institutions important to our national security—in the process, giving ourselves a so-called ''peace'' dividend . . .''

We were wrong. The reason I talk about this is because it highlights what can happen when we don't adequately fund our military and provide it with stability and predictability about its future. The United States must build and sustain military capabilities required to respond to possible future threats across the spectrum of conflict.

The next war will not be like the past one—history has taught us this. We cannot assume freedom of the seas, freedom of air and space, and freedom of maneuver on the ground. In order to provide stability, America must be able to deter or defeat any threat, be it an insurgency or a challenge from a near-peer competitor. In order to provide this stability, Congress needs to guarantee a baseline in funding.

Guaranteeing a baseline budget, one that is indexed to our GDP, is the best way to accomplish this. Historically, defense spending was 4.6 percent in 1991 during the gulf war; 8.9 percent in 1968 during Vietnam; and 11.7 percent in 1953 during the Korean war. Across the last century, it has averaged about 5.7 percent. The fiscal year 2009 defense budget is $541.1 billion—approximately 3.3 percent of GDP.

We can no longer afford to kid ourselves that we are still sending our sons and daughters out with the best equipment available. In some cases, we simply can't match the quality of our competitors. In other cases, while we may have developed a superior system, we have restricted the quantity to a point where many of our soldiers, sailors, airmen, and marines are forced into battle with the older, inferior equipment.

Many other countries are able to buy avionics, airframes, and weapons—often mixed and matched together—to create aircraft that rival our current F–15, F–16, or Navy and Marine F–18, such as Russian Su–30s and 35s, or upgraded MiG–21s and MiG–29s. We can solve this problem if we decide to make the investment in our F–22 and F–35 programs, and buy the number needed to ensure American air superiority in the future. Despite the Air Force's requirement for 381 F–22 Raptors, it is now slated to only obtain 183.

Some systems in the Army are overmatched by systems sold by other countries. Four other countries have

better artillery systems than the U.S. The British AS90, the Russian 2S19, the South African G6, and the German PzH 2000 are all superior in rate of fire and range to our Paladin. Though we are currently investing in Future Combat Systems, the Army has been forced to extend the production time by 4 years.

Our Navy and Marine Corps are being challenged by a variety of threats ranging from near-peer competitors, to non-state and transnational actors, to rogue nations and pirates. While trying to sustain and recapitalize their ships, submarines, aircraft, and ground equipment, they are being challenged across the globe. Russian and Chinese submarines continue to threaten our forces with China operating over 60 submarines. China, Japan, Australia, India, Malaysia, Pakistan, Indonesia, Singapore, Bangladesh, and South and North Korea either now have or are planning to acquire submarines. While most do not pose much of a threat to our more advanced fleet, that dynamic is changing. It is simply unacceptable that we have been forced into this predicament.

One can never predict future threats accurately. Our level of defense spending must consider the resources needed to meet current and future threats. A Pentagon official claimed 15 years ago that in 10 years we would no longer need a standing army. This is not the only example of flawed strategic thinking. We weren't able to predict the fall of the Soviet Union, or the rise in asymmetric warfare that we are currently engaged in. We built a force for 50 years that was predicated upon the idea that we would be fighting a conventional war against the Soviets in the heart of Europe. It doesn't matter how great our military leaders or intelligence is, our strategic thinking will always be imperfect. There will always be unknowns.

Tying defense spending to GDP accomplishes three things. First, it will allow our military to develop and build the next generation of weapons and equipment: Weapons and equipment that will be needed to maintain national security for the next 30 years; that will provide increased capability across the spectrum of warfare; and that have lower lifetime costs and increased readiness rates.

Second, it provides predictability for our military and industrial base. It allows the Department of Defense and the Services to plan and fund their acquisition programs based on a minimum known budget. We are no longer able to complete purchases of large acquisition programs in 3 to 5 years. To recapitalize the entire Air Force tanker fleet will take over 30 years. Programming from a known minimum budget for the out years will translate to less reprogramming and more stability for thousands of businesses throughout the United States at decreased costs.

Finally, a commitment to a minimum defense budget sends a clear signal to our military, allies, and enemies alike that we are committed to the security of our nation and the preservation of freedom and democracy around the world. Congress must provide the Department of Defense with the certainty and stability that comes with a long-term defense-spending plan.

Mr. LEAHY. Mr. President, I will support the Senate budget resolution brought to the Senate by the Budget Committee and Chairman CONRAD. This budget continues the long process that the new Congress started last year to restore fiscal responsibility and order to our Federal budget. I commend Chairman CONRAD and his colleagues on the Budget Committee for producing a responsible budget resolution that strives to meet the real needs of the American people and to optimize our Nation's most pressing challenges and opportunities.

As we debate the budget, it is important to recall how we got to this point. When he took office in January of 2001, President Bush inherited a record Federal budget surplus. Instead of steering the country on a prudent course that would have helped prepare for the retirement of the baby boomers, supported the aspirations of working families, met the pressing needs of those who are struggling, and paid down our large national debt, the President immediately pushed through more than $1 trillion in tax cuts aimed at the wealthiest Americans and corporations.

Since then, the Bush administration has pursued fiscal policies of recklessness and squander that have short-circuited the priorities of hard-working families, children and seniors. For the Bush administration, investments in health care, education, housing, the anticrime and antidrug work of our law enforcement community, our first responders, and the rising home heating costs of those who can least afford them have taken a back seat to a costly, misguided and mismanaged war in Iraq and to the administration's disastrous fiscal policies here at home.

Now that a worsening housing slump, high gas prices and dampened consumer confidence have caused jitters throughout our Nation's financial markets—leading to continued job losses and weaker-than-expected retail sales—the President's continued fiscal mismanagement has hamstrung the government's ability to provide needed investments in programs that will help hard-working American families weather the financial storm.

We cannot continue on the path of fiscal irresponsibility the current administration has set, by holding to a course that will cost more than $3 trillion in Iraq and ignoring the needs of our most important domestic programs. As far as the White House is concerned, anything goes when it comes to spending in Iraq, while the real priorities of the American people have been forced farther and farther back in the line.

With the budget plans of the past 2 years, the new Congress has ended the days of rubberstamping the President's budget, and the process has begun of shifting our country in a new direction that will be better for hard-working Americans everywhere. By strengthening our economy, creating jobs, investing in our infrastructure, increasing our energy independence and supporting our military veterans and first responders, the Senate's budget plan puts the concerns of the working Americans front and center. Moreover, by carefully targeting and reallocating resources, the budget resolution would return us to Federal budget surpluses in 2012 and 2013 and accomplish this without raising new taxes.

Mr. BYRD. Mr. President, I support this alternative to the President's deeply flawed budget policies.

The President submitted a budget request with a shocking price tag, $3.1 trillion. In the entire history of the Republic, the Congress has never had to grapple with such an enormous budget request. In the entire history of the Republic, the Congress has never had to reconcile such enormous deficits, the highest ever proposed by any administration. In the entire history of the Republic from George Washington, to Abraham Lincoln, through Franklin Roosevelt—in 220 years, after a Civil War, two World Wars, and the Cold War, after severe economic depressions, and stock market manipulations and crashes that eclipse anything we have seen in our lifetimes—the Congress has never, ever had to wrestle with such an alarming explosion in the national debt. No administration has ever proposed to borrow so much money. Once you look past the Orwellian rhetoric about earmarks, and see through the phony arguments about domestic programs somehow paying for everything else, you come to inexorable conclusion that this administration's policies have been an unmitigated, indisputable fiscal disaster.

What's most worrisome, is that the President's budget continues a dangerous practice of squeezing domestic agencies, and gambling that they can get by for another year, and another year, and yet another year on a starvation diet. Hurricane Katrina exposed the consequences of this kind of budgeting, when disasters inevitably occur and agencies like FEMA do not have the resources they need to respond. The same thing happened at the Mine Safety and Health Administration, where the administration chipped away at the mine safety budget for 6 years until it had lost inspectors, and teetered on the edge of disaster daily. Coal miners died because of budget decisions of this administration. Federal prisons are dangerously understaffed. Food safety inspections are alarmingly less than they should be. Our Nation is forgoing investments year after year to replace aging and deficient infrastructure, and that is going to come back to

haunt us one day. There are consequences, sometimes deadly consequences, when the necessary operations of government are denied adequate funding.

Now the administration is telling local communities they must do without Federal investments in State economies, threatening community and neighborhood projects that have been long planned and supported by the Federal Government. Some may deceptively dismiss these investments as earmarks, but they are vital stimuli for communities, especially in the midst of an economic slowdown. The President has even taken the brazen step of instructing Federal agencies and offices to ignore congressional committee report language related to future appropriations bills. To direct executive agencies to ignore the guidance of congressional committees on a spending bill, opens the door to its doing so on other bills—maybe an appropriations bill, maybe an authorization bill, maybe a revenue bill, maybe on matters that are entirely unrelated to so-called earmarks. It is a dangerous, dangerous precedent, and something that is to be resisted.

After 8 years of budgets that have burdened future generations with enormous debt and interest payments, and left behind physical infrastructure that is dangerously underfunded, let us do what we should have done many years ago, and reject this President's ill-conceived proposal. I am glad that the Budget Committee produced an alternative budget, and I look forward to supporting it.

Mr. BIDEN. Mr. President, I rise today to speak in favor of the higher education tax provisions included in the fiscal year 2009 budget resolution.

I would like to begin by commending Chairman CONRAD and the rest of the Budget Committee for their foresight in providing for $13 billion in tax relief to help make college more accessible and affordable. Prioritizing education in this year's budget, in my opinion, is a step in the right direction. If we do not change the status quo, over the next decade, an estimated 2 million students will not attend college because their families cannot afford it. We must not stand idly by while the goal of providing a better future for our children becomes unattainable. Qualified students should not be denied access to a college education because they cannot afford it.

Since my first Senate campaign in 1972, I have supported tax incentives to help families send their children to college. While we have come a long way since then, we must do more, such as enacting the bill I introduced last year—the College Affordability and Creating Chances for Educational Success for Students Act, S.1399—or ''College ACCESS Act.'' I would encourage my colleagues to consider one specific provision in the College ACCESS Act: the creation of a single $3,000 refundable tax credit, or the ACCESS credit.

The ACCESS credit would consolidate two existing tax incentives—the Hope credit and the tuition deduction—and replace them with a single $3,000 refundable tax credit. Families would no longer face the complex and varying eligibility criteria or the difficult task of determining which tax incentive has the greatest value. The ACCESS credit improves the existing tax incentives in several ways.

First, the ACCESS credit would allow families to claim the credit for each child in their household. While the Hope credit can be claimed for multiple students in a household, the tuition deduction can only be claimed once per tax return. The ACCESS credit removes this discrepancy.

Second, the ACCESS credit would be available for all 4 years of college and 2 years of graduate school. Presently, the Hope credit is available only for the first 2 years of a student's postsecondary education while the tuition deduction can be claimed for multiple years. The ACCESS credit remedies this discrepancy.

Another improvement is that the maximum value of the ACCESS credit is $3,000 per student, which covers the average cost of tuition at a public 2-year college and half the average cost of tuition at a public 4-year college. In comparison, the Hope credit's maximum value is only $1,650 per student and the tuition deduction's maximum value is only $1,120 per household.

One of the most important features of the ACCESS credit is that it would be refundable. The existing tax incentives for higher education are of limited or no benefit to low-income families who have no income tax liability. These families cannot claim either the Hope credit or the tuition deduction. The ACCESS credit's refundability provides relief for those that need it the most.

The ACCESS credit also broadens the income eligibility limits to help more middle-class families. Couples earning up to $130,000 could claim the full credit, while a reduced credit would be available for those earning up to $166,000.

A report issued by the Government Accountability Office found that 27 percent of eligible tax filers claimed neither the tuition deduction nor an education tax credit because of their complexity. Tax incentives cannot benefit students and their families if they do not know about them or understand their eligibility criteria or their value. The ACCESS credit would eliminate existing discrepancies and reduce the complexity of the existing incentives for students and their families, helping approximately 4 million more hard-working American families pay for college.

While a college education has never been more important, a college degree is fast becoming a luxury good for too many families. This budget provides us with an opportunity to reverse that trend. If we expect to maintain our status as a leader in the global economy, we must do more for our students. The ACCESS credit I have introduced would do just that, ensuring that the doors that lead to opportunity in our country remain open to all our children.

Mr. GRASSLEY. Mr. President, the budget resolution proposes that Congress delay several CMS Medicaid regulations that are unpopular with states and advocates. I know some people have concerns with the CMS Medicaid regulations. I am not going to argue they are perfect. I have issues with some of them as well.

However, the regulations do address areas where there are real problems in Medicaid. States don't have clear guidance and could be inappropriately spending taxpayer dollars. This leads to improper payments and wasteful spending.

We see this throughout the regulations in question. I have a CRS memo that shows some of the issues that exist under current law that I am going to be quoting from shortly, and ask unanimous consent at this time to have it printed in the RECORD.

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

CONGRESSIONAL RESEARCH SERVICE,
March 13, 2008.

MEMORANDUM

To: Senate Committee on Finance—Attention: Rodney L. Whitlock, Ph.D., Health Policy Advisor.

From: Elicia Herz, Specialist in Health Insurance Financing; Cliff Binder, Analyst in Health Care Financing; Jean Hearne, Specialist in Health Insurance Financing; Rick Apling, Specialist in Education Policy.

Subject: Responses to Medicaid Regulation Questions Governing: Graduate Medical Education, Intergovernmental Transfers, School-based Services, Rehabilitation, and Targeted Case Management.

Per your request, we are responding to your specific questions on Medicaid regulations recently issued by the Centers for Medicare and Medicaid Services (CMS). Also as you instructed, we have framed our responses to your request in the context you described as if the proposed regulations did not exist:

''The questions below assume that none of the regulations are allowed to go into effect. Therefore, current statute and any regulations or guidance in place prior to the issuance of these regulations remain in effect.''

Your questions focus on specific aspects of selected issues addressed in the new Medicaid regulations regarding intergovernmental transfers (IGTs), graduate medical education (GME), school-based services, rehabilitation services, and targeted case management (TCM). Therefore, the responses provided in this confidential memorandum are neither intended to be a full discussion of CMS' justifications for each new regulation, nor the counterpoints raised by opponents of the regulations. The Congressional Research Service (CRS) is preparing several reports on these new regulations that will encompass fuller discussions of these issues.

In the meantime if you have addition questions or need clarification, please contact staff as follows: IGTs, Jean Hearne or Elicia Herz, GME and school-based services,

Elicia Herz, the Individuals with Disabilities Education Act (IDEA), Rick Apling, and rehabilitation services and TCM, Cliff Binder.

1.0 Intergovernmental Transfers (IGTs)

1.1 Can a state pay a hospital and require the hospital to return a portion of the payment to the state?

Under certain circumstances, a state can require providers to transfer funds to the state and because a provider's Medicaid receipts are indistinguishable from other receipts, effectively a portion of Medicaid payments may be included in those transfers. There are two allowable methods states can use to require hospitals to transfer funds to states: intergovernmental transfers and taxes. Each method has its own set of requirements. Congress specifically protects the ability of states to collect funds from governmental providers through intergovernmental transfers as long as those transfers are certified public expenditures (Section 1903(w)(6)(A)). States are limited, however, in their ability to collect funds from non-governmental providers. States are able to collect funds from all types of providers through taxes as long as the taxes comport with federal Medicaid law.

2.0 Graduate Medical Education (GME)

2.1 Is there any guidance in statute for how states should bill CMS for IME and GME?

Most states make Medicaid payments to help cover the costs of training new doctors in teaching hospitals and other teaching programs. Historically, both Medicare and Medicaid have recognized two components of GME: (1) direct graduate medical education (DGME) (e.g., resident salaries, payments to supervising physicians), and (2) indirect graduate medical education (IME) (e.g., higher patient costs in teaching hospitals due to treating sicker patients, residents ordering more diagnostic tests than experienced physicians).

There is one explicit reference to GME in the federal Medicaid statute. Section 1932(b)(2)(D) of the Social Security Act stipulates that non-managed care organization providers (non-MCO providers) that deliver emergency care to an MCO beneficiary must accept as payment in full (up to) the maximum amount applicable in the fee-for-service (FFS) setting, minus any GME payments.

There also is one explicit reference to GME in federal regulations at 42 CFR 438.6(c)(5)(v). This regulation stipulates that if a state makes payments to providers for GME costs under an approved state plan, the state must adjust capitation rates for managed care to account for those GME payments made on behalf of MCO beneficiaries, not to exceed the aggregate amount that would have been paid under the fee-for-service (FFS) delivery system. States must first establish actuarially sound capitation rates prior to making adjustments for GME.

These provisions are intended to prevent duplicate GME payments under Medicaid managed care since states may make supplemental GME payments directly to teaching hospitals outside of provider payments assumed in capitation rates to MCOs.

2.2 Do states bill for IME and GME using a consistent methodology?

There appear to be no data that directly address how states claim federal Medicaid matching dollars for payments related to IME and DGME. These payments may be included in claims for inpatient and outpatient hospital services when made on a FFS or direct payment basis, and also may be represented in claims for capitation rates paid to managed-care organizations.

Survey data show that 48 states provided payment for DGME and/or IME costs under their Medicaid programs. States use a variety of methods to calculate IME and DGME payment amounts under both FFS and managed care. Some states use more than one method. For example, under FFS in 2005, 20 states reported following Medicare's methodology; 12 used a per-resident amount based on a teaching hospital's share of total Medicaid revenues, costs or patient volume; 5 used a lump sum amount; 4 used a per-Medicaid discharge amount; and 19 states used other methods. Also, under FFS, states typically use two methods to distribute GME payments to hospitals. Thirty-one states included GME payments as part of the hospital's per-case or per-diem rates, 20 states made a separate direct payment to teaching hospitals, and 2 states used other methods.

Under managed care, ten states recognized and included GME payments in capitation rates for MCOs, but only two of those 10 required MCOs to distribute DGME/IME payments to teaching hospitals; the other 8 states assumed MCOs provided these payments to their participating hospitals.

2.3 Do all states separate out IME and GME in billing CMS?

Data do not appear to be available with which to directly answer this question. However, according to the AAMC survey, in 2005, 11 states reported that their GME payments to providers did not distinguish between IME and DGME under at least one delivery system (FFS, managed care, or both).

2.4 Does CMS know how much they are being billed for IME and GME?

States are not required to report GME payments separately from other payments made for inpatient and outpatient hospital services when claiming federal matching payments under Medicaid. For the Medicaid GME proposed rule published in the May 23, 2007 Federal Register, CMS used an earlier version of the AAMC survey data as a base for its savings estimate and made adjustments for inflation and expected state behavioral changes, for example.

3.0 School-based Services

3.1 Based on the original intention of the program, are states under-funded by the federal government for the provision of IDEA services?

States, school districts, interest groups, and parents of children with disabilities often argue that the federal government is not living up to its obligation to 'fully fund' Part B of the Individuals with Disabilities Education Act (IDEA, P.L. 108–446) (the grants-to-states program). This argument can be made on one of two grounds.

First, when IDEA was enacted in 1975, the Congress set a goal (or made a promise—depending on one's interpretation of the legislative history) to fund up to 40% of the excess cost of providing special education and related services to children with disabilities. The metric used to measure excess cost is the national average per pupil expenditure (APPE). Appropriations for Part B have never reached the 40% level. Current appropriations represent about 17%. Based on this goal, promise, or intent, one can argue that IDEA has been under-funded.

Another argument for under-funding can be based on authorization levels contained in the Act. The 2004 reauthorization of IDEA added specific authorization levels for FY2005 to FY2011. The authorization levels were intended to provide a path to ''full funding'' by FY2011. The FY2008 authorization is $19.2 billion while the FY2008 appropriation is $10.9 billion. So the current appropriation is below the ''full funding'' level, which would be about $25 billion for FY2008, and it is significantly below the FY2008 authorization level, which was meant to be a target on the path to eventual ''full funding.''

3.2 Are school-based transportation services focused largely on children who are receiving IDEA services?

When certain conditions are met, the costs of transportation from home to school and back home again may receive federal matching funds as a Medicaid benefit. These conditions are: (1) the child receiving the transportation must be enrolled in Medicaid and receiving services pursuant to an Individualized Education Plan (IEP) or Individualized Family Service Plan (IFSP) under IDEA, (2) the need for specialized transportation must be listed in the child's IEP or IFSP, (3) the transportation is billed on a day when the child receives a medically necessary Medicaid covered service in school pursuant to the IEP or IFSP, and (4) the school or school district that is billing for the transportation must be a certified Medicaid provider. In this context, ''specialized transportation'' means the child requires transportation in a vehicle adapted to serve the needs of individuals with disabilities, including a specially adapted school bus. In addition, if a child resides in an area that does not have school bus transportation (e.g., areas in close proximity to school), but has a medical need for transportation that is noted in the IEP, that transportation may also be billed to Medicaid. Transportation from school to a provider in the community may also be billed to Medicaid for both Medicaid/IDEA children and Medicaid/non-IDEA children. These policies apply whether the state is claiming FFP for transportation as medical assistance or administration.

There does not appear to be data that show the proportion of school-based transportation services that are provided to Medicaid/IDEA versus Medicaid/non-IDEA children. It is generally assumed that such transportation is predominantly provided to Medicaid/IDEA children.

4.0 Rehabilitation Services

4.1 Do states bill CMS for rehabilitation services and how much has it increased recently?

There are two reporting mechanisms that states may use to report expenditures for optional rehabilitation services: the Form HCFA–64 and MSIS. States report expenditures on the Form HCFA–64, a quarterly financial accounting reporting form. There is a separate category on the HCFA–64 form where states may report optional rehabilitation services. States report rehabilitation expenditures through Medicaid Statistical Information System (MSIS). MSIS data are derived from individual paid Medicaid claims. Even though there is a category for reporting rehabilitative service expenditures, states have discretion in deciding which paid claims will be classified as rehabilitative services.

States report rehabilitation expenditures to CMS when claiming FFP. States or fiscal agents receive bills or Medicaid claims for payment from providers (e.g., hospitals, physicians, physical therapists, psychologists, social workers, nurses, and other providers). Claims submitted to Medicaid are verified that they meet certain requirements and electronically checked before being paid.

As shown in Table 1, in FY2005 total federal and state Medicaid expenditures reported via MSIS as rehabilitation services were approximately $6.4 billion. In FY1999, states reported MSIS rehabilitation expenditures of approximately $3.6 billion. Between FY1999 and FY2005, federal and state Medicaid rehabilitation expenditures increased by 77.7%. In FY1999, 1.2 million beneficiaries received rehabilitation services; but by FY2005, the number of beneficiaries receiving

rehabilitation had increased by 36.2% to more than 1.6 million. Further, average per beneficiary rehabilitation expenditures increased by approximately 30% between FY1999 and FY2005. In FY2005 six states reported no rehabilitation services expenditures and another state reported only 2 beneficiaries received rehabilitation services.

TABLE 1: MEDICAID REHABILITATION SERVICES EXPENDITURES AND BENEFICIARIES FY 2005 AND FY 1999

Item	FY1999	FY2005	Percent Change FY1999–FY2005
Beneficiaries	1,207,543	1,645,095	36.2
Expenditures, Federal and State (in billions)	$3.6	$6.4	77.7
Average $/Beneficiary	$3,020	$3,916	29.7%

Source: Medicaid Statistical Information System (MSIS), FY1999 and FY2005, downloaded March 6, 2008. FY2004 MSIS data for Maine were used as an estimate of state expenditures for Rehabilitation in FY2005.

4.2 Is there clear guidance to states for appropriate billing for rehabilitation services so that states bill on a consistent basis?

Guidance for claiming rehabilitation service expenditures and receiving FFP can be found in Section 1901 [42 U.S.C. 1396] of the Social Security Act (SSA) which gives states the option to cover rehabilitation services. Section 1905(a)(13) of SSA, and Medicaid regulations [42 CFR 440.130(d)] define rehabilitation services broadly as ''any medical or remedial services recommended by a physician or other licensed practitioner of the healing arts, within the scope of his or her practice under State law, for maximum reduction of physical or mental disability and restoration of a recipient to his best possible functional level.''

States may receive more explicit guidance on what specific services may be included as rehabilitation when preparing and submitting state plan amendments to CMS' Regional Central Offices. CMS' Regional and Central Office staff must review and approve all SPAs before a state may add or change a service.

In addition, a state Medicaid director letter (SMDL) was issued by CMS in June 1992 (#FME–42) that provided states some guidance on using the rehabilitation option as a vehicle for providing services to mentally ill beneficiaries. This letter reiterated regulatory guidance that rehabilitation services were intended to be ''medical and remedial in nature for the maximum reduction of physical or mental disability and restoration of a recipient to his best possible functional level.'' The letter offered some examples of services that states could cover under the rehabilitation option including: basic living skills, social skills, and counseling and therapy. The SMDL also described examples of services CMS believed to fall outside of the definition of rehabilitation including: vocational training, direct personal care services, case management (case management is covered under a separate benefit option).

There have been several attempts to clarify in statute and regulation what activities states may cover as rehabilitation services. These administrative and legislative activities strived to define how rehabilitation service benefits should be used as well as to control or reduce states' rehabilitation service expenditures. For example, the Secretary approved a few states to cover habilitative services in the 1970s and 1980s under the rehabilitation option for individuals with mental retardation. Habilitative, in contrast to rehabilitative services, are intended to help individuals acquire, retain, and improve self-help and adaptive skills, but are not intended to remove or reduce individuals' disabilities. The Secretary later withdrew approval for habilitative services, because the services were determined to not meet conditions to qualify for the rehabilitation benefit.

In 1989, with passage of the Omnibus Budget Reconciliation Act of 1989 [§6411(g), P.L. 101–239)], Congress intervened and specifically allowed states that already had received the Secretary's approval to cover habilitative services for individuals with mental retardation to continue to cover these services. Congress disallowed other states from being approved to cover habilitative services for mental retardation.

4.3 Is there clear guidance to states so that they can tell when they should be billing Medicaid for rehabilitation services or another program?

States need initial CMS' approval for state plan amendments to offer services for rehabilitation. There is limited formal guidance for states in Medicaid statutes and regulations on how to determine when medically necessary services should be billed as rehabilitation services. However, there is some informal guidance that states could utilize from GAO and HHS/OIG reports as well as audits, SPA denials, disallowances, and deferrals (see footnotes in next section).

Guidance also is often provided on a state-by-state basis from CMS' Regional Office staff. CMS' Central Office staff in the Center for Medicaid and State Operations also may provide individual state guidance on what services might be claimed as rehabilitation services.

4.4 Is there a clear definition for states of what constitutes 'rehabilitation'?

Section 1905(a)(13) of SSA, and Medicaid regulations [42 CFR 440.130(d)] define rehabilitation services broadly as ''any medical or remedial services recommended by a physician or other licensed practitioner of the healing arts, within the scope of his or her practice under State law, for maximum reduction of physical or mental disability and restoration of a recipient to his best possible functional level.''

In 2006, 47 states and the District of Columbia covered rehabilitation services. Rehabilitation services can be difficult to describe because the rehabilitation benefit is so broad that it has been described as a catchall. Services provided under the Medicaid rehabilitation optional benefit span a broad range of treatments from physical rehabilitation to behavioral health and substance abuse treatment, but there may not be consensus on one definition of Medicaid rehabilitation. GAO in particular has attributed confusion about the rehabilitation benefit to the lack of clear guidance and inconsistent enforcement of existing regulations across states and CMS Regions. Some states have been audited and faced subsequent disallowances and claim denials, while other states have been permitted to continue similar rehabilitation claiming practices.

Often Medicaid rehabilitation services assist beneficiaries who have mental-health conditions. In one study, nearly 80% of MSIS claims that states classified as rehabilitation expenditures, contained a diagnosis for mental health. Programs like the New Freedom Initiative that encouraged better integration and acceptance of mental health treatments and settings might have led states to utilize Medicaid rehabilitation benefits to reach mentally-ill beneficiaries. Also, state initiatives to close psychiatric facilities may have contributed to a surge in utilization of the Medicaid rehabilitation benefit for providing treatment to individuals with mental illness. Although mental health services are important, even dominant components of states rehabilitation service benefits, they are not the only services encompassed by the benefit. States also utilize rehabilitation to assist beneficiaries with services such as physical, occupational, and speech therapy, as well as other comprehensive services to treat and help individuals recover from substance abuse disorders.

5.0 Targeted Case Management (TCM)

5.1 How do states bill CMS for case management services and how much has it increased recently?

In 2006, only Delaware did not cover TCM. Most states report TCM expenditures in their Medicaid Statistical Information Systems (MSIS) data. MSIS data are derived from paid Medicaid claims. In FY2005, six states and the District of Columbia did not report any TCM expenditures in the MSIS data. In addition, states report Medicaid expenditures to CMS to claim FFP using a financial accounting form (Form HCFA–64). The HCFA–64 has a reporting line for targeted case management. In FY2006, total federal and state expenditures for TCM reported on the HCFA–64, were $2.8 billion (individual state-by-state expenditures were not available from this data source). Expenditures reported on the HCFA–64 and MSIS data for the same years can vary considerably, since these systems for capturing and reporting Medicaid activity are independent of each other. HCFA–64 data were for FY2006, while the most recently available MSIS data were reported for FY2005.

Medicaid expenditures for TCM have increased rapidly. As shown in Table 2, between FY1999 and FY2005, total federal and state TCM expenditures reported in MSIS more than doubled from $1.41 billion in FY1999 to $2.9 billion in FY2005. For the same period, the total number of beneficiaries increased 62.6% from approximately 1.7 million in FY1999 to approximately 2.7 million in FY2005. The average expenditures per beneficiary also increased during the period FY1999–FY2005 rising by nearly 27%, from $834 in FY1999 to $1,058 in FY2005.

TABLE 2: MEDICAID TARGET CASE MANAGEMENT EXPENDITURES AND BENEFICIARIES FY1999 AND FY2005

Item	FY1999	FY2005	Percent change FY1999–FY2005
Beneficiaries	1,687,440	2,744,027	62.6
Expenditures, Federal & State (in $ billions)	$1.41	$2.90	105.7
Average $/Beneficiary	$834	$1,058	26.9

Source: Medicaid Statistical Information System (MSIS), FY1999 and FY2005, downloaded March 6, 2008. FY2004 MSIS data for Maine were used as an estimate of state expenditures for TCM in FY2005.

5.2 Is there clear guidance to states for appropriate billing for case management services so that states bill on a consistent basis?

Guidance for states on appropriate claiming of federal financial participation for TCM can be found in a number of official and unofficial sources including: a 2001 letter to state Medicaid and child welfare directors (SMDL 01–013); the Medicaid statute, Sections 1905(a)(19) and 1915(g) of the SSA; Section 6052 of the Deficit Reduction Act of 2005 (DRA, P.L. 109–171); Medicaid regulations at 42 CFR Parts 431, 440, and 441 (§§440.169 for TCM definition); the state Medicaid manual at Section 4302, Optional Targeted Case Management Services—Basis, Scope, and Purpose; CMS' Regional Office staff and CMS' Central Office state representatives; unofficial sources, such as reports from Health and Human Services (HHS) Office of Inspector General and the U.S. Government Accountability Office (GAO); and denials and approvals of state plan amendments.

In reviewing states use of contingency contractors, GAO found that CMS has allowed some states to continue to claim for TCM services even though other states were denied approval for state plan amendments for

similar proposals to provide TCM services. In addition, some states received disallowances, deferrals, and denials for TCM services, while other states were not audited for similar practices. States received guidance on TCM claiming for foster care in a January 2001 letter to state Medicaid and child welfare directors (#01–013). This letter reiterated the statutory definition of TCM and described services ''commonly understood to be allowable'' as case management including: (1) assessment of the eligible individual to determine service needs, (2) development of a specific care plan, (3) referral and related activities to help the individual obtain needed services, and (4) monitoring and follow-up. Moreover, CMS added that, ''In general, allowable [case management] activities are those that include assistance in accessing a medical or other service, but do not include the direct delivery of the underlying service.'' Although there has been guidance for individual states and some indirect guidance and discussion on TCM claiming, states have received limited written national guidance from CMS.

HHS/OIG and GAO have documented what they describe as states' attempts to maximize FFP by claiming additional TCM. These tactics include the use of contingency contractors who allegedly assisted states in exploiting ambiguity in Medicaid statutes and regulations to claim additional FFP. Another tactic CMS and GAO cite that states use to increase Medicaid matching funds is the practice of paying for direct services delivered by staff of other state social services programs, such as schools, juvenile justice, parole, child welfare, and foster care programs. Furthermore, CMS and GAO have cited problems with states' use of cost allocation plans that duplicate claiming for administrative expenses by several programs. CMS has repeatedly cited these abuses as rationale for explicit and comprehensive TCM regulation.

5.3 Is there clear guidance to states so that they can tell when they should be billing Medicaid for case management services or another program?

States may find guidance on whether services should be billed as Medicaid case management/TCM or as components of other programs: the state Medicaid manual at Section 4302, Optional Targeted Case Management Services—Basis, Scope, and Purpose; a 2001 letter to state Medicaid and child welfare directors [(SMDL 01–013), see reference in previous section]; HHS/OIG audits, such as (A–07–06–03078) [see footnote below]; Sec. 6052 of the Deficit Reduction Act of 2005, (DRA, P.L. 109–171); denials and approvals of state plan amendments; and CMS's Regional Office staff and CMS's Central Office state representatives.

Although there may be a number of issues related to claiming FFP for Medicaid addressed in these sources, at least two issues have been sources of confusion, misunderstanding, and dispute. One issue where there has been misunderstanding is non-duplication of payments. Guidance for states on non-duplication of payments can be found in the State Medicaid Manual, ''Payment for case management services under 1915(g) of the [SSA] Act may not duplicate payments made to public agencies or private entities under the program authorities for this same purpose.'' States can not receive Medicaid FFP for services provided to beneficiaries who received these services from other state agencies, such as schools, foster care, child welfare, and juvenile justice. However, there has been misinterpretation and disagreement about claiming of a share of administrative costs attributable to other programs where there is overlap between Medicaid and other state programs (e.g., foster care, special education, and juvenile justice). The aforementioned sources advise states to allocate administrative costs between the overlapping programs in accordance with OMB Circular A–87 under an approved cost allocation plan.

Another area where there has been some disagreement is over the direct delivery of services by other programs where Medicaid is then charged for the direct services provided by the other program. A letter to state Medicaid directors (January 19, 2001, SMDL 01–013) indicates that FFP would not be available for the direct delivery of services by another program:

''Unallowable services: Medicaid case management services do not include payment for the provision of direct services (medical, educational, or social) to which the Medicaid-eligible individual has been referred. For example, if a child has been referred to a state foster care program, any activities performed by the foster care case worker that relate directly to the provision of foster care services cannot be covered as [Medicaid] case management.''

Subsequent HHS/OIG audits recommended that CMS establish policies and procedures to ensure state FFP claims do not include direct medical services.

Mr. GRASSLEY. Mr. President, I will start with the public provider regulation.

We know that in the past, many states used to recycle Federal health care dollars they paid to their hospitals to use for any number of purposes beyond health care.

It was an embarrassing scam that several administrations tried to limit.

This administration has gone a long way towards cleaning that up and the oversight of payments to public providers is part of that effort.

I have taken issue at times with the administration's methods. I don't believe they have their public provider definition right in the current regulation.

That said, simply making the CMS regulation go away opens the door for a return to the wasteful, inappropriate spending of the past.

Quoting from the CRS report, ''Under certain circumstances, a state can require providers to transfer funds to the state and because a provider's Medicaid receipts are indistinguishable from other receipts, effectively a portion of Medicaid payments may be included in those transfers.''

Intergovernmental transfers do have a legitimate role, but it is critical that states have a clear, correct understanding of what is a legitimate transfer and what is not.

If the regulation goes away, those lines will still not be adequately defined.

Now I would like to turn to the new regulation on graduate medical education. I personally think Medicaid should pay an appropriate share of graduate medical education or GME.

But I would like to see us put that in statute rather than return to the current customary practice because I don't think the taxpayers are well served by the way Medicaid GME operates today.

If we simply make the regulation go away, what are the rules for states to follow?

There are five different methods States use in billing CMS, eleven States don't separate IME from GME, and CMS can't say how much they are paying States for GME.

Let me quote from the CRS memo: ''States are not required to report GME payments separately from other payments made for inpatient and outpatient hospital services when claiming federal matching payments under Medicaid. For the Medicaid GME proposed rule published in the May 23, 2007 Federal Register, CMS used an earlier version of the AAMC survey data as a base for its savings estimate and made adjustments for inflation and expected state behavioral changes, for example.''

To make their cost estimate for the regulation, CMS relied on a report from the American Association of Medical Colleges to determine how much they are paying for GME in Medicaid. That's because the states don't provide CMS with data on how much they pay in GME.

That is simply unacceptable.

You can disagree with the decision to cut off GME, but simply leaving the current disorderly and undefined structure in place is not good public policy.

Now let me turn to the regulations governing school-based transportation and school-based administration.

Is it legitimate for Medicaid to pay for transportation in certain cases? I think the answer to that is ''yes.''

I do think it is legitimate for Medicaid to pay for transportation to a school if a child is receiving Medicaid services at school.

That said, we should have rules in place that make it clear that Medicaid doesn't pay for buses generally.

We should have rules in place that make it clear that schools can only bill Medicaid if a child actually goes to school and receives a service on the day they bill Medicaid for the service.

You can also argue that the school-based transportation and administrative claiming regulation went too far by completely prohibiting transportation, but if making this regulation go away allows States to bill Medicaid for school buses and for transportation on days when a child is not in school, we still have a problem.

It is also critical that Medicaid pay only for Medicaid services.

We all openly acknowledge the federal government does not pay its fair share of IDEA.

Quoting from the CRS memo: ''States, school districts, interest groups, and parents of children with disabilities often argue that the federal government is not living up to its obligation to 'fully fund' Part B of the Individuals with Disabilities Education Act (IDEA, P.L. 108–446) (the grants-to-states program).''

We can also acknowledge that just because IDEA funding is inadequate, States will try to take advantage of Medicaid to make ends meet.

Again quoting from the CRS memo: ''It is generally assumed that such transportation is predominantly provided to Medicaid/IDEA children.''

We should define clear lines so that States know what is and is not Medicaid's responsibility.

Now I would like to turn to the rehabilitation services regulation.

I certainly wouldn't argue that Medicaid paying for rehabilitation services is a bad thing. We want Medicaid to help beneficiaries get better.

But States must have a common understanding of what the word 'rehabilitation' means in the Medicaid program.

Again quoting from the CRS memo: ''Rehabilitation services can be difficult to describe because the rehabilitation benefit is so broad that it has been described as a catch-all.''

Also, States need clear guidance on when they should bill Medicaid or another program.

Again quoting from the CRS memo: ''There is limited formal guidance for states in Medicaid statutes and regulations on how to determine when medically necessary services should be billed as rehabilitation services.''

You can say the CMS regulation went too far, but that does not mean there is not a problem out there.

As CRS notes, billing for rehabilitation services between 1999 and 2005 grew by 77.7 percent. I am far from convinced that all of that growth in spending was absolutely legitimate.

Finally turning to the case management regulation, I first want to point out the issues relating to case management are a little different than issues associated with some of the other Medicaid regulations I have discussed so far.

The provision in the Deficit Reduction Act of 2005 (DRA) relating to case management received a full review in the Finance Committee, along with Senate floor consideration and conference debate prior to enactment of the DRA. This regulation relates to a recently enacted statutory provision.

Certainly there is reason to believe that states have been using case management to supplement state spending. An example is child welfare. The income eligibility standard for the Federal entitlement for foster care is linked to a pre-welfare reform standard. This means that every year fewer and fewer children are eligible for federally supported foster care. States must make up the difference for these children. This has caused some to believe that states are shifting some of their child welfare costs to the Medicaid program through creative uses of case management.

Concern about the inappropriate billing to Medicaid for child welfare services extends back to the Clinton administration.

There are some that would disallow most child welfare case management claims from reimbursement from Medicaid. This goes further than I would support. Children in the child welfare system are arguably some of our Nation's most vulnerable citizens, presenting with complex and multiple problems. Getting them the proper services requires thoughtful review, planning and management and I believe that Medicaid is the appropriate agency to support these activities.

On the other hand, driving a child in foster care to a court appearance and billing the caseworker's time to Medicaid is not an activity that should be billed to Medicaid.

Certainly, the regulations are not perfect. I am not convinced that limiting individuals eligible for case management to one case manager will contribute to the quality of their care and provide for access to services. Requiring case manager's to document their time in 15 minute increments seems overly burdensome and inefficient. Eliminating the 180–day period to transition from an institution into the community is contrary to a number of provisions supporting home and community based services, including the ''Money Follows the Person'' program, also included in the DRA.

But again let me quote from the CRS memo: ''Although there may be a number of issues related to claiming FFP for Medicaid addressed in these sources, at least two issues have been sources of confusion, misunderstanding, and dispute. One issue where there has been misunderstanding is non-duplication of payments. Another area where there has been some disagreement is over the direct delivery of services by other programs where Medicaid is then charged for the direct services provided by the other program.''

When CMS tried to come up with rules to increase accountability in case management, they had good reason to be trying to provide clarity and specificity for states.

Surely the answer is not to tell States they are on their own to interpret the case management provision in the DRA.

As CRS notes, billing for case management services between 1999 and 2005 grew by 105.7 percent. With spending growing that fast, we must make absolutely certain states understand how they should be billing CMS.

Mr. President, the budget resolution provides for 1.7 billion dollars to address the regulations.

This is only to delay the regulations until the end of March of next year. I know supporters hope that the next administration will pull back and undo the regulations.

What would it cost if we tried to completely prevent these regulations from ever taking effect?

Not $1.7 billion that's for sure.

It would actually cost the taxpayers 19.7 billion dollars over 5 years and 48 billion dollars over 10 years.

It is an absolute farce for anyone to argue that all of those dollars are being appropriately spent and that Congress ought to just walk away from these issues.

What we ought to do is insist the Finance Committee to REPLACE the regulations.

That's what this amendment does.

Instead of just making the regulations go away, the Finance Committee should replace them with policy that fixes the problems.

Mr. President, that's what we should be doing for the taxpayers.

Mr. President, on Monday, the chairman of the Budget Committee talked about the need for adequate funding to fight health care fraud and abuse and how they believe the budget accomplishes that.

Let me quote:

> We have program integrity initiatives to crack down on waste, fraud, and abuse in Social Security and Medicare. In fact, I received a letter from the Secretary of Health, Secretary Leavitt, thanking us for the program integrity funds that we have included so that he can continue his important investigations to shut down these Medicare fraud operations that he found in Florida and other parts of the country last year and that he is continuing to crack down on.

What the chairman failed to mention is that Democrat appropriators apparently do not think rooting out fraud and abuse in the health care system is a priority.

In fact, here is what actually happened last year. Last year, the Omnibus appropriations bill gave CMS nearly $39 million less than the prior year to fight health care fraud and abuse in the Medicare and Medicaid programs.

And they cut all the new funding for fighting fraud and abuse—that is almost 100 million dollars they took from CMS for fighting health care fraud and abuse. That is an actual cut in funding to fight fraud from the prior year.

The funding we are talking about here is for the Health Care Fraud and Abuse Control Program known as HCFAC. The HCFAC Program was created in the Health Insurance Portability and Accountability Act of 1996 and is jointly administered by the Department of Health and Human Services and the Justice Department. It is intended to help combat fraud and abuse in health care programs including Medicare and Medicaid and establishes a national framework to coordinate Federal, State and local law enforcement efforts to detect, prevent, and prosecute health care fraud and abuse.

These funds are used to pay for FBI agents, OIG investigators, as well as assistant U.S. attorneys who prosecute fraudfeasors. These funds represent the frontline defense we have for fraud against the Medicare and Medicaid programs and pay for themselves in savings.

I absolutely agree that CMS must be properly funded. Of course the agency needs funding to detect and deter fraud and abuse in health care—there are billions at stake. CMS also needs funding for general program oversight.

Congress actually cut funding last year, yet my colleagues on the other side of the aisle are given to criticizing the job CMS does.

Just to expand on this, the Finance Committee has had three hearings in the last 6 weeks that focused on how well CMS was enforcing the rules in Medicare Advantage. During those hearings, some of my colleagues on the other side of the aisle were critical of the job CMS is doing.

For example, in Medicare Advantage, some want to let the States take over enforcement of the marketing rules. They say that CMS lacks the resources and the experience to do the job.

But it is hard to conduct oversight when Congress cuts the money you need to get the job done right—and that is exactly what the other side did. It is a self-fulfilling prophesy. Without the right resources CMS can't get the job done and CMS didn't get the resources. CMS would like to improve its enforcement and oversight of Medicare Advantage plans.

For Fiscal Year 2009, CMS is requesting $198 million in new fraud and abuse discretionary funding. This would be 100 percent more than last year, when there was no funding.

The administration plans to use $147 million of the $198 million—or about three-quarters—for the Medicare Integrity Program, which is used for Medicare Advantage oversight. Without these new funds, CMS cannot undertake some of the oversight activities Congress believes it should.

I agree with my good friend Senator CONRAD that Congress must fund CMS appropriately to crack down on fraud and abuse. After all billions of dollars are at stake. But it also needs to fund CMS appropriately to ensure that Medicare beneficiaries are well served by those selling and providing Medicare services.

I urge my colleagues on the other side to avoid last year's mistake, which was to talk a good game in the budget process but zero out needed new funding in the actual funding bill. But to be blunt, the budget resolution is no better on the Medicaid side.

Allocating $1.7 billion in the budget to stop CMS Medicaid regulations aimed at providing States clarity, stopping inappropriate spending and protecting the integrity of the Medicaid Program without requiring any action to replace the regulations is irresponsible.

Money spent on fighting fraud and abuse is money saved in the long run. We have seen time and time again that when we invest money in fighting fraud, we get lots of dollars back. And rest assured that the deterrent value associated with those actions is significant too—crooks read the papers, and they will think twice when they see someone turning in their pinstripe suit for an orange jumpsuit.

While Democrats like to talk about how inexpensive Medicare administration is, that is no excuse to fund CMS at such a low level that it cannot actually oversee its own programs so that it can protect taxpayer money.

If you want to combat fraud and abuse in Medicare and Medicaid, you really do need to put your money where your mouth is. On this subject, the majority is toothless.

Mr. DURBIN. Mr. President, I am proud to support the Democratic budget that Chairman CONRAD and the Budget Committee have so ably put together. This budget lowers taxes, and it creates or maintains nearly a half million good-paying jobs here at home.

In contrast, the Bush-Republican budget that the President proposed last month promotes the same tired old ideas that got us into this fiscal mess in the first place—ideas that have weakened the economy and hurt America's middle class.

A budget is an expression of values: you choose what to spend your money on and you choose how much of it to spend now instead of later.

As families across America sit down at the kitchen table to create their own family budgets, they decide what they have to pay for now—the house, the tuition, the heating bills, the gas for the car—and then how much they can spend on other things without going too far into debt.

Creating a budget for the Federal Government is very similar. This week the Senate will decide what we have to pay for now—housing, education, energy, and infrastructure—and what we cannot afford without further burdening our children with our bills.

The Democratic budget recognizes that one of the key elements of the American economy—the housing market—is in very serious trouble, the worst we have experienced since the Great Depression.

For most families, the largest monthly expense is the mortgage or the rent, and as the housing market crumbles, increasing numbers of families are struggling to pay that bill. Our budget takes steps to support the families struggling in this housing market as well as the communities that are coping with this crisis.

Our budget allows for the four main appropriations within the Foreclosure Prevention Act, a bill the Senate attempted to debate a couple of weeks ago. We allocate funding for Community Development Block Grants, housing counselors, mortgage revenue bonds, and net operating loss carrybacks.

The Republicans filibustered that bill. Every Republican but one stated very clearly that they do not even think the housing crisis is important enough for the Senate to talk about. The Democrats are proving with this budget that we think it is time to act.

The simple fact is that our economy will not fully recover until we address the primary cause of this economic crisis. If families can't keep a roof over their heads, they aren't going to produce much for the economy or buy enough to keep the economy growing.

The Democrats will try again to pass this housing bill when we return to Washington after the recess, and I hope that our Republican friends will join us in that effort. This bill will help over 600,000 families avoid foreclosure nationwide—28,000 families in Illinois.

The housing crisis goes beyond just those families that are in danger of losing their homes. As property and sales taxes flatten when the economy slows down, local governments are stretched thin. It is more important than ever for the Federal Government to support community development programs that provide funding for critical local housing programs.

The Democratic budget includes an inflation-adjusted increase of $68 million for community development. Compare that to the President's budget. The Bush-Republican budget requested a $932 million cut in community development funding.

Under the President's budget, my home State of Illinois would lose over $40 million in Community Development Block Grants compared with this year, which would have meant that funding would be slashed for housing counseling, abandoned property maintenance, upgrading low-income housing, and many other critical programs—just as communities need funding for these initiatives most.

The Democratic budget says no to the President, and instead increases this vital community funding. We must help stabilize the housing market in order to help our economy grow, and this Democratic budget will help us do just that.

With the economy slowing and the unemployment rate creeping higher, we need to provide workers with the best retraining opportunities that we can right now. In the long term, America can only compete effectively in the global economy if we develop the best workers in the world. The Democratic budget recognizes both of these realities. The Bush-Republican budget recognizes neither.

Overall, the Democratic budget provides an additional $8.8 billion above the President's request for training and education. Workers who are trying to learn new skills and parents who are trying to pay tuition bills will all benefit from the investments made by the Democrats in this budget.

The budget allows for $414 million in job training, which will help 165,000 workers build the skills they need to compete in the economy of the 21st century.

For many working Americans worried about their current jobs and for at least some of the 1.3 million Americans who have been looking for work for longer than 6 months, this funding will provide a little hope, a little help towards a better job in the future. For students, the resolution provides an additional $5.4 billion for the Department of Education, which funds Head Start, No Child Left Behind, and Pell Grants to make a quality education more accessible to students of all ages.

Compare that to the Bush-Republican budget. The impact of the Bush-Republican budget on education in my

home State of Illinois would be severe. Mr. President, 119,871 Illinois elementary and high school students would be left without the full services promised by No Child Left Behind. Nearly 90,000 Illinois students would be hurt by the President's decision to eliminate Supplemental Educational Opportunity Grants, Leveraging Education Assistance Partnerships, and Federal Perkins Loans.

Mr. President, 10,000 Illinois students would no longer have a safe place to go after school thanks to the President's proposed cuts to afterschool programs.

The Democratic budget supports the workers of today and tomorrow. The Bush-Republican budget cares about neither.

To create good jobs in America we must invest in industries that promise growth in the short and the long term. Green-collar jobs—which help America reduce its dependence on foreign oil and push us down the path of energy independence—represent perhaps the best opportunity for meaningful job creation for millions of Americans over time.

The Democratic budget focuses on these jobs by allocating $8.45 billion towards clean energy and another $2.7 billion specifically towards green-collar jobs. This funding will support weatherizing homes and office buildings, investing in battery research and development, developing wind and biofuel power generation, and much more. And all of those jobs can be created here at home.

The Bush-Republican budget? It has a 7-percent reduction in solar energy research, a 27-percent cut in energy efficiency programs, a 79-percent cut in weatherization programs, ''intergovernmental'' programs to help local and State governments become more energy efficient, and a reneging on the earlier commitment for the FutureGen clean coal energy program in Mattoon, IL.

The Democrats believe that green-collar jobs should be the centerpiece of our economy. President Bush and the Republicans apparently do not.

Our budget also provides other forms of critical energy assistance at a time when the price of oil has reached $110 per barrel. The Democratic budget provides $2.5 billion for families who are struggling to heat their homes, $500 million more than the President's request.

The Bush-Republican budget proposes to cut LIHEAP funding by $359 million. In Illinois, 15,000 low-income families and seniors would lose heating assistance.

That is unacceptable. The Democratic budget invests properly in the energy needs of the country, which supports the long-term strength of the economy and the short-term needs of the people who need it most.

The Democratic budget would create nearly 500,000 good-paying jobs here at home, including nearly 20,000 in Illinois. How? By investing in our infrastructure.

The general rule of thumb in the transportation infrastructure industry is that for every $1 billion invested in roads, bridges, airports, and the like, around 47,500 jobs are created. The Democratic budget invests over $10 billion more than the Bush-Republican budget in rebuilding our infrastructure, which is good for short-term economic vitality and for longer term economic strength.

The demand for this funding is readily apparent, from the bridge disaster in Minneapolis last year to the crumbling roadways in Illinois and throughout the country. The American Association of State Highway and Transportation Officials reported last month that $18 billion worth of infrastructure projects were ready to go in 46 States and the District of Columbia, including 212 projects worth $831 million in Illinois. These projects are already designed and approved, and construction work could begin within 90 days from the moment that Federal funding was provided.

The Democratic budget would give the go-ahead to put Americans to work on many of these jobs. The Bush-Republican budget would not.

Overall, the Democratic budget lowers taxes and balances the budget by 2012.

Including Senator BAUCUS's amendment, which I support, middle class Americans would benefit from the extension of the alternative minimum tax patch, which will spare 20 million middle-class Americans from paying the AMT this year: the child tax credit; marriage penalty relief; the adoption credit; and the 10 percent tax bracket.

The Bush-Republican budget, on the other hand, would extend tax breaks that overwhelmingly benefit the wealthy. Households with annual incomes over $1 million would save more than $150,000 a year in tax cuts from the Bush-Republican budget, on average.

Although this group makes up just 0.3 percent of the Nation's households, its combined tax cuts would exceed the entire amount that the Federal Government spends on elementary and secondary education, or the entire amount that we devote to medical care for our veterans. That certainly doesn't reflect this Senators' priorities, and I don't think that reflects the priorities of most Americans either.

Perhaps most importantly, the Democratic budget funds America's economic priorities wisely, without running up more debts that our children will be forced to pay. Our budget balances by 2012.

The Bush-Republican fiscal record is far less sensible.

Seven years ago, President Bush inherited the largest budget surplus in our Nation's history. Since that time, when both Houses of Congress were mostly controlled by Republican majorities, Federal spending has increased by over 50 percent. The Federal debt has grown by over $3 trillion.

Enough is enough. It is time to manage the Federal budget like adults.

It is time to manage the budget more like families must manage their own finances every month around the kitchen table— pay for what you must, and don't spend what you can't afford. It is time to pass a budget like the Democratic resolution we have before us.

I urge my colleagues to do so.

Mr. GREGG. Mr. President. I rise today to recognize the senior Senator from Colorado, Mr. ALLARD, for his service as a valued member of the Senate Budget Committee. Senator ALLARD and I have served through eight budget cycles together on the Budget Committee. This will be his last budget season as he has decided to retire when his term expires at the end of this Congress.

Since he joined the Budget Committee, Senator ALLARD has been an advocate for fiscal responsibility and a good steward of the taxpayers' money. I think this was made clear through his contributions this year, especially in the constructive amendments he has offered both in committee and on the Senator floor. Senator ALLARD will be missed as an important voice for fiscal discipline in this body and most notably as a member of the Budget Committee.

I also wish to pay tribute to Senator DOMENICI, who essentially defined what it means and how to be chairman of the Senate Committee on the Budget. The Senator has announced that he is not seeking to be reelected for the sixth time. That means that last week he participated in his last markup of a Budget resolution. This week is the last vote he will take on the Senate floor on a committee-reported budget resolution.

At the start of the 108th Congress, Senator PETE V. DOMENICI stepped down as the longest serving chairman, and the only Republican chairman, in the history of the Senate Budget Committee. Senator DOMENICI has either been the chairman or ranking member of the Budget Committee for nearly two-thirds of the committee's 34-year existence.

A member of the committee from 1975, one year after its formation, Senator DOMENICI held the chairmanship for 12½ years, and was the ranking member for 9½ years. During his time on the committee, Senator DOMENICI served with its first chairman, Edmund Muskie, and Muskie's brief successor, Senator Hollings in 1980. DOMENICI first became the Committee's Chairman in 1981, remaining in that position through 1986. After serving as ranking member from 1987 to 1994, he returned as chairman in 1995 and served in that role through May 2001. Over the years, he has served as the committee's ranking member to three Democratic chairmen: Senators Chiles, Sasser, and CONRAD.

Looking back over his distinguished career on the committee, Senator

DOMENICI has been at the center of Federal budgeting. This year he is participating in his 34th congressional budget cycle. In 1981, he led the effort in the first major use of reconciliation as part of the budget process. He joined Senators Gramm, Rudman, and Hollings in 1985 to offer the first major reforms to the 1974 Budget Act. He was in the forefront guiding fiscal policy through the dark days of the stock market crash in the fall of 1987 that led to a major budget summit agreement in November 1987. Later he directed and guided the Senate in the budget summit of 1990 that resulted in the Budget Enforcement Act of 1990, which remained the basis of fiscal discipline through its expiration at the end of 2002. The pinnacle of his budget leadership occurred in 1997 with the historic bipartisan balanced budget agreement. Along the way, he helped craft the Credit Reform Act of 1990 and the Unfunded Mandates Reform Act of 1995.

For his successors as chairman—first Senator Nickles, and then myself—Senator DOMENICI's intimate knowledge of the budget process, much of which he helped invent along the way, and wise counsel have been tremendously valuable in helping us try to fill his big shoes. Senator DOMENICI will remain a legend whenever people talk about the congressional budget process, and I thank him for his service to the Senate and to the country.

Mr. President, a little more than a year ago, offices were being relocated, staffs were being reorganized, and Capitol Hill was readying itself for the change in majority in the House and Senate. The new majority's leadership and Budget Committee membership immediately set out to put in place pay-as-you-go rules that would fulfill Democrats' promise to return to ''tough, old-fashioned pay-go.'' What does ''old-fashioned'' or ''traditional'' pay-go mean?

In November 2005, during debate on a reconciliation bill that became the Deficit Reduction Act of 2005, the now Chairman of the Senate Budget Committee offered an amendment to change the Senate's pay-go point of order and stated, ''Our proposal is to go back to what has worked in the past. It is traditional pay-go.'' In March 2006, during debate on the FY 2007 budget resolution, the same Senator again offered an amendment to change the Senate's pay-go point of order and stated, ''This amendment would reestablish the budget discipline that worked so well in previous years, a rule that has been allowed to lapse by our colleagues on the other side of the aisle.''

These are just two examples. In fact, Democratic Senators have offered amendments to reinstate in the Senate ''tough, old-fashioned pay-go'' to every Republican budget resolution debated since 2004. They also proposed pay-go amendments to the 2005 tax reconciliation bill and during the Senate Budget Committee markup of the Stop Over Spending Act of 2006.

The Senate pay-go point of order amendments offered by Democrats when they were in the minority were remarkable in their consistency.

Every time Senate Democrats offered a proposal to reinstate the ''tough, old-fashioned pay-go'' point of order, the proposal required deficit neutrality in the first year of the budget, over the sum of years 1 to 5 and over the sum of years 6 to 10. For example, if such a point of order were in place for the 2008 budget resolution, it would require direct spending and revenue legislation to be deficit-neutral in 2008, 2008 to 2012, and 2013 to 2017.

Every instance of their proposal also included a cumulative pay-as-you-go scorecard, so that any net savings recorded from an enacted piece of legislation could be used to offset the cost of a future piece of legislation.

Why did Senate Democrats keep returning to the same version of the pay-go point of order? Because the Senate pay-go point of order was based on the original pay-go law, enacted in 1990 in the Budget Enforcement Act. That law put in place a 5-year pay-go scorecard that kept track of any accumulated deficit increases from enacted legislation. If, at the end of each year, the net effect of all enacted laws affecting revenues and mandatory spending was to increase the deficit, then the Office of Management and Budget was supposed to issue a sequestration order—an across-the-board cut of certain mandatory spending.

Statutory pay-go, in effect, was the original ''first-year'' test, enforced by sequestration. In 1993, Senate Democrats created a 5-year pay-go point of order, for the Senate only, that was based on and paralleled the pay-go law but relied on the sanction of a point of order instead of sequestration to encourage compliance.

But some Members sought to increase spending after the 5-year pay-go window so they would not run afoul of the initial 5-year pay-go point of order. So in a 1994 revision to this initial point of order, the Senate added a second 5-year test, which covered years 6 through 10 of the ''budget window,'' to have the point of order cover a 10-year period instead of just 5 years. Given all this activity on pay-go in the 1990s, some assert that the pay-go concept—without being specific about whether it was the pay-go law, the pay-go point of order, or both—was responsible for reducing the deficit in the 1990s.

No question about it—Democrats are on record in support of traditional pay-go, and that support was carried through as a major theme of many 2006 Democratic candidates' campaigns. We have heard again on the floor this week the familiar refrain: ''If you want to increase spending you have to pay for it. If you want to cut taxes you have to pay for it.'' And when Democrats returned to power in the Senate in 2007, their efforts appeared true to their past pay-go efforts and campaign promises—at first.

As one of their ''top 10'' legislative priorities for the 110th Congress, the new majority leader along with the new Budget Committee chairman introduced S. 10, the Restoring Fiscal Discipline Act of 2007.

S. 10 included a provision to install in the Senate the exact same ''old-fashioned'' pay-go point of order offered so many times over the previous 3 years, as summarized in Table 1. S. 10 was referred to the Budget Committee on January 4, 2007, but the chairman has scheduled no further action.

Following the pay-go promise set out in S. 10, the 2008 Senate-passed budget resolution did include the same ''old-fashioned'' pay-go point of order requiring deficit neutrality in each of the periods covering year 1, years 1 to 5 and years 6 to 10.

In contrast, the 2008 House-passed budget resolution did not include pay-go budget enforcement because a House pay-go rule had already been put in place. The House had never before had any kind of pay-go point of order—not until January 5, 2007, when the House agreed to its rules package in H. Res. 6 for the 110th Congress. Title IV of that package included the first-time-ever pay-go point of order that applies in the House.

The House pay-go rule makes it out of order to consider direct spending or revenue legislation that increases the deficit or reduces the surplus over years 1 to 6 or over years 1 to 11. So in the case of legislation considered during 2007, the relevant periods were 2007 to 2012 and 2007 to 2017; for 2008, the relevant periods in the House are now 2008 to 2013 and 2008 to 2018. Each measure is considered on a bill-by-bill basis; savings from one bill cannot be ''banked'' and used to satisfy the pay-go requirement for future legislation.

When it came time to arrive at a conference agreement on the 2008 budget resolution, there were two good reasons to think that the agreement would include the Senate pay-go point of order in the exact same form as was included in the Senate-passed budget resolution, which was the old-fashioned pay-go they advocated for years.

First, the pay-go point of order in the Senate-passed 2008 budget resolution applied only in the Senate. The House-passed budget resolution did not include any pay-go point of order for the Senate or the House because the House already had adopted one. So there was no reason for the conference agreement to compromise or deviate from the version in the Senate-passed budget resolution.

Further, Senate supporters of ''old-fashioned'' pay-go had repeatedly insisted over recent years and throughout the 2006 campaign on the same version of pay-go contained in the Senate-passed 2008 budget resolution and had pledged to return to it if they were in the majority.

Apparently, 15 years of Senate Democrats' support for ''old-fashioned'' pay-go was expendable when their conferees

on the 2008 budget resolution decided that the new, less-stringent time periods for deficit neutrality in the House rule weren't so bad after all. Currently, in the Senate's enforcement under the conference agreement on the 2008 budget resolution, the relevant time periods for measuring pay-go compliance are 2008 to 2012, the first 5 years, and 2008 to 2017, the 10-year period. The year 2007 is no longer included in the sum because 2007 is over.

But there is no test for the first year, which currently is 2008, and there is no test for just the ''second'' 5 years, which are 2013 to 2017, aka the 5 years after the first 5 years.

The rationale or excuse of the chairman of the Senate Budget Committee for this divergence from the pay-go rule that he had long promised was that the Senate wanted to be the same as the House. Of course that is nonsense.

Why does the House get to dictate the form of a point of order for the Senate? The Senate had a pay-go point of order for 13 years when the House never had one. If the Senate wanted to be like the House for all those years, the Senate never would have had a pay-go point of order in the first place.

The Senate has had, and currently has, plenty of points of order that the House does not have or that are different from the House's version of the point of order. If the Senate wanted to retain its old, tough first year test that it had from 1994–2006, it simply could have kept it, and all legislation would have had to clear that hurdle before it could be enacted, even if it was tougher than the House rule. This dynamic essentially describes the difference between the House and Senate anyway, where things can pass the House by simple majority and things almost always need 60 votes to pass the Senate.

And if the Senate really wanted to be the same as the House on the pay-go rule, then why does the Senate point of order not include some of the tougher features the House included in the House's new pay-go rule as shown in table 2.

For example, the pay-go point of order that applies only in the Senate as adopted via the 2008 budget resolution conference agreement measures any deficit effect of each bill against a pay-go scorecard. If the scorecard has a zero or negative balance on it, the legislation would have a pay-go point of order against it, unless the deficit increases are offset in the same measure. If the Senate pay-go scorecard has a sufficient positive balance on it, which represents a projected on-budget surplus or net decreases in the deficit accumulated from previously enacted legislation, then no pay-go point of order would apply against the measure.

In the House, there is no pay-go scorecard. Instead, each bill is independently evaluated by whether it increases the deficit, on net, over 6 and 11 years.

In addition, the House pay-go rule prohibits legislation that increases the on-budget deficit or reduces the surplus; the Senate rule only prohibits legislation that increases the on-budget deficit.

Despite their rhetoric about returning to good, old-fashioned pay-go enforcement, the Democrats' 2008 budget resolution changed their promised, long-sought Senate pay-go point of order to a much easier test that is now in place. Legislation cannot increase the deficit over the sum of 5 years or over 10 years. But for the first time since pay-go began back in 1990, legislation no longer has to be deficit neutral in the first year.

By throwing the first-year test overboard and swapping the old test for years 6 to 10 for a new 10-year sum, the Democrats' new pay-go point of order has encouraged timing shifts to make legislation look like it is paid for over the near-term, even if it isn't.

Consider a simple example starting with table 3A to see how this has worked. Under good, old-fashioned pay-go, let's say you wanted to increase spending or cut taxes by $9 billion in 2008 with no budgetary effect thereafter. To avoid an old-fashioned, traditional pay-go point of order, you would have had to come up with a $9 billion offset in 2008 so that there would be no net increase in the deficit, which would satisfy the first-5-year test and the first-5-years test.

But let's face it—under old pay-go, coming up with an immediate reduction in spending of $9 billion this year or increasing taxes by $9 billion this year would be supremely tough. So maybe you defer your spending to 2009 instead. Then you don't need an offset in 2008, and you could come up with an offset that reduces the deficit by $9 billion over the next 4 years—say by $2.25 billion in each of the years 2009 to 2012—and still not have a pay-go point of order, as shown in table 3B.

But maybe you don't even have an offset that is palatable over the next several years. Maybe the only offset you can come up with is to extend customs user fees past 2015, when they are currently slated to expire. For this example, table 3C shows that doing so would yield about $3 billion in customs fees in each year 2015 to 2017, for a total of $9 billion. Customs user fees have been around since 1985 and will likely continue to be extended forever since they are a favorite offset.

So under tough old pay-go, customs user fees would not save you from a pay-go point of order because extending them does not provide an offset when you need it—in the first 5 years. Good thing that Senate Democrats threw out old pay-go for a new version that would allow them to skip a first-year test and use offsets far in the future, like customs user fees, to pay for near-term spending as shown in table 3D. While this example shows the increase in spending in 2009, note that, because there is no first-year test, this approach would work just as well if you want to do your spending in 2008 instead of 2009.

But the trick of using customs user fees—which won't be collected until 7 years from now—to pay for spending today requires one more tweak. While customs user fees will satisfy the 10-year test of deficit neutrality, extending these in 2015 still would not satisfy the first 5-years test, as shown in table 3D.

So what to do? Do what many bills have already done in the 110th Congress do a timing shift as shown in table 3E. Specifically, tell corporations with assets of at least $1 billion to increase their corporate estimated tax payment due in the last quarter of fiscal year 2012 by a certain percentage. Also tell corporations that their first payment due in fiscal year 2013 should be decreased by the same percentage.

This progression of examples demonstrates that new pay-go is essentially only a 10-year test of deficit neutrality. The stricter tests of deficit neutrality in the first year and over the first 5-years have been dropped or emasculated, respectively. The corporate tax timing shift is the linchpin for meeting new pay-go's significantly weakened tests in the 110th Congress because it makes it possible to satisfy the first 5-year test when the only real offsets occur near the end of the 10-year period.

Table 4 shows that in the first session of the 110th Congress, six bills were enacted that include the corporate estimated tax shift. The Internal Revenue Code now says that corporations must send in $6.8 billion more to the Federal Treasury in 2012. Congress apparently thinks that corporations are OK with that, since corporations will send in $6.8 billion less in 2013.

In addition, there is $8 billion more in corporate tax shifts still in the wind, depending on the conference outcomes of the farm bill and energy tax provisions. Is there a point at which corporations say ''Whoa!''? Perhaps. If the House-passed ''paid for'' AMT patch for 2007 had become law, corporations may have had a hard time shifting nearly $32 billion in tax payments from 2013 into 2012.

In the past, these timing gimmicks have been occasionally used to fill in budget enforcement holes here and there by both Republicans and Democrats. However, in the 110th Congress, it seems like the corporate estimated tax payment shift is a required element in every direct spending or revenue measure.

I am surprised that timing shifts have become so prevalent, especially considering the criticism that the current chairmen of the Budget and Finance Committees have both raised in the past.

The Senator from North Dakota has argued that timing shifts don't pay for anything. During Senate floor debate on the 2004 highway bill he said: ''I believe that the spending in this bill, which occurs over six years, should be fully paid for over the same six year period. However, I do not believe that

the shift in corporate estimated tax payments is the most appropriate way to achieve the goal of fully funding this bill over six years. The provision proposed by the Chairman shifts a hole in general revenues from one year to another.'' He continued: ''I am counting on them [the Finance Committee Chairman and Ranking Member] to keep that commitment that in this Chamber, before this bill leaves the floor, that it will be paid for—and not by any timing changes; not by moving corporate receipts from 2010 to 2009, or any funny-money financing, but really paid for.''

The Senator from Montana levied similar criticism. During Senate Finance Committee debate on the 2004 highway bill, he said: ''The shift in corporate income in one year actually has moved forward, and then it is canceled out the next year. This is something that we can work [on]. To be honest, it is not something I am very comfortable with.''

Indeed, isn't pay-go supposed to be about ''paying'' for something? How does moving money 3 months forward pay for anything?

Supporters of the new pay-go who have bragged on its success throughout 2007 neglect to tell you about an important feature of their new, though not improved, rule. As the examples above demonstrate, because it no longer has a first-year test, new pay-go allows Congress to spend new money immediately, or cut taxes immediately, without an immediate offset.

Everything else being equal under our current Federal budget deficits, where does the Treasury go to get the money to pay for the new spending? To the credit markets, of course. Treasury has to go out and borrow the money to pay for the new spending or tax cuts today for as long as it takes for the offsets to kick in.

In the case of the example in table 3E, the offsets for the $9 billion in spending in 2008 do not start coming in until 2015 to 2017. The corporate tax timing shift only moves corporate payments forward by 1 month, which does not significantly affect Treasury's borrowing needs over the next 10 years. The Treasury won't be able to pay off all the principal amount of $9 billion until the end of 2017. By then, however, it will have cost Treasury $4 billion in interest to borrow that $9 billion for 8 to 10 years.

Does the new pay-go require that the $4 billion in interest costs be offset to satisfy the point of order? No.

Pay-go pretends that the Treasury does not have to borrow money in the near-term. But in fact, Treasury has no choice but to add to the debt, at least for many years, to provide for the new spending. If the ''debt is the threat,'' then why is it so virtuous that new pay-go requires the Treasury to borrow the $9 billion today and pay $4 billion in interest financing costs? This adds to the national debt forever the $4 billion in interest costs, which will never be offset under new pay-go.

By throwing away the discipline of a first-year test that had characterized all previous versions of pay-go from 1991–2006, the Democrats' current pay-go is now Wimpy's pay-go: ''I'll gladly pay you Tuesday for a hamburger today.'' What is a first-year test?—any spending increase or revenue reduction in the first year of a budget period had to be deficit neutral and therefore matched in that same year with an offsetting spending cut or revenue increase. But instead of a hamburger, Congress wants more spending today.

And instead of next Tuesday, Congress has decided to wait at least 5 or 6 years before starting to pay for the spending today.

Here are some specific examples from the first session of the 110th Congress to use in evaluating the actual experience with pay-go.

The U.S.-Peru Free Trade Promotion Agreement Implementation Act was signed into law on December 14, 2007. Over the next 5 years, the free-trade agreement part of the legislation increased outlays by exempting certain goods from customs merchandise processing fees by $27 million and reduced revenues through tariff phaseouts by $173 million, for a total 5–year deficit increase of $200 million. How was the deficit increase paid for? It wasn't paid for in 2008 or 2009 or 2010 or even 2011 and $465 million of corporate taxes were shifted into 2012 from 2013. Is it paid for yet? Well, the test for deficit neutrality in the first 5 years was satisfied, but the shift created a hole in the second 5 years. How was this hole filled? By our old friend, of course—customs user fees.

Under the law that existed at the beginning of the 110th Congress, customs user fees were set to expire on September 30, 2014. So far this Congress, five bills have been enacted that have extended these fees for 1 week, 2 weeks, and 2 months. The U.S.-Peru Free Trade Agreement increased the fees for 2 months through December 13, 2014, resulting in $485 million additional fee collections in 2015. Subsequently, the Andean Trade Preference Extension Act extended the fees through December 27, 2014.

Table 5 illustrates that the only real offset for the new spending that happens in years 2008 through 2015 is the customs user fee extension in 2015.

The Senator from North Dakota is fond of saying that prior to enactment of the 2007 AMT patch in December 2007, there was a ''surplus'' on the pay-as-you-go scorecard.

Consider in table 6 all of the bills with pay-go effects, except the AMT patch, that were enacted during the 1st session of the 110th Congress. The first line summarizes the pay-go effects of the six enacted bills that used the corporate tax timing shift. You can see that bills with the shift increased the deficit in each and every year until 2012. In 2012, the six bills reduced the deficit on net by $8.7 billion, then increased the deficit by $5.3 billion in 2013.

The second line of table 6 summarizes the pay-go effects of all the other bills enacted during the first session. You can see that these bills increased the deficit in 2008, 2009, and 2010, and only begin to reduce the deficit in 2010.

The total line shows that in 2007 to 2010, all of these bills increased the deficit by a total of $10.7 billion. Then how can there be a ''surplus'' on the pay-go scorecard? Because of the big, bumpy deficit reduction that takes place in 2012, thanks mostly to the corporate tax payment shifts. If the interest impacts of spend now, pay later were taken into account, there would be only a very small surplus on the scorecard in the first 6 years and a deficit of $1.5 billion over 11 years.

Nonetheless, the chairman of the Senate Budget Committee is fond of saying, as he did during Senate floor debate on the Food and Energy Security Act of 2007 on November 16, 2007, that ''pay-go is not full of holes . . .[but] don't take my word for it. We can look to the nonpartisan Congressional Budget Office.''

Actually, when you look at the cost estimates that the nonpartisan Congressional Budget Office has prepared during the 110th Congress, you will not find one word about pay-go. CBO's job is straightforward: it prepares estimates of the budgetary effects of legislation and displays them in each year for a 10–year period. A CBO cost estimate has never ever evaluated whether a House or Senate point of order applies against legislation or determined whether a piece of legislation complies with the budget resolution. That is the job of the chairmen of the House and Senate Budget Committees, most often using CBO estimates to inform those determinations, but sometimes using alternate estimates.

For example, last year, the House Budget Committee chairman overrode a scorekeeping rule and directed CBO to score savings for a particular provision in the House farm bill—without this directed scoring, the House farm bill would have violated pay-go. It was the House Budget chairman who decided whether the House pay-go point of order applied against the House farm bill. CBO did not decide. In addition, it was CBO's estimate of the farm bill that let Congress know that some of the cost of the Senate farm bill was deferred to after the period of pay-go enforcement. So the Senate was dodging pay-go by hiding new spending from the enforcement period. CBO did not say that the Senate complied with pay-go, nor did it say that the Senate dodged pay-go. But any user of CBO's estimates would come to the conclusion that pushing spending outside the enforcement window is avoiding pay-go.

In addition, CBO does not evaluate the merits of ''policy'' in its cost estimates. CBO estimates the budgetary incidence of early sunsets and payment shifts exactly as written in legislation, gimmicks though they are. CBO's job is

to simply provide the estimates of budgetary effects year by year. It is the budget chairmen who then say ''CBO estimates this bill reduces the deficit'' while abdicating themselves from responsibility for the gimmicks.

Finally, the Senate Budget Committee chairman likes to point to the bottom line of table 6 to illustrate how well pay-go has worked because there was a pay-go scorecard surplus for a brief period in the fall. But was there really a surplus? Over the 2008 to 2012 and 2008 to 2017 periods, respectively, the pay-go surplus was $1.988 billion and $1.311 billion.

But what the scorecard omits is a cost of spending now and paying later that the Treasury does not have the luxury of ignoring. Because of enactment of all of these bills, the deficit is now increasing by $10.7 billion over 2007 to 2010. The Treasury has no choice but to go out right now to the credit markets and borrow $10.7 billion, and will have to pay $2.8 billion in interest costs over the next 10 years until all the offsets in these bills finally come in and allow the Treasury to pay off that borrowing. Not only does that unrecognized interest cost get added permanently to the debt, but it is also so large that it more than wipes out the supposed and ephemeral pay-go scorecard surplus of just over $1 billion.

But another bill wiped out the surplus on the pay-go scorecard first. The enacted AMT patch increased the deficit by $50.6 billion in 2008 because it was not offset and it did not comply with pay-go. Before it passed both the Senate and the House without an offset, the House passed a ''paid for'' AMT patch with the deficit increase in 2008 and actual offsets in later years. The House bill only satisfied the 2008 to 2012 deficit-neutrality test for pay-go by using a corporate estimated tax shift of $32 billion from 2013 into 2013.

Finally, let me address some of the protestations of the Budget Committee chairman about my criticisms about the spotty enforcement of his vaunted pay-go rule after this past year.

For example, I have criticized the gimmick of enacting a one-month extension of MILC in the 2007 supplemental in order to get mandatory MILC spending in the baseline and avoid pay-go enforcement to the tune of $2.4 billion over 10 years. My summary of this gimmick is as follows:

The story starts with confusion about how budget rules work. Consider a recent example, fueled by misinformation from congressional sources, from a daily Capitol Hill publication dealing with a provision to extend subsidies to certain dairy farmers—known as the Milk Income Loss Contract Program, or MILC—in the House- and Senate-passed versions of the 2007 supplemental:

CBO has not included MILC in the baseline for the new farm bill because [MILC] was scheduled to [expire at the end of August 2007], but [Senator] Kohl said in a release that the extension to the end of . . . fiscal year [2007] ''will also build the cost of the dairy program into the baseline budget for the next farm bill.'' The [House-passed] version [of the 2007 supplemental] . . . extends the MILC program for 13 months at a cost of $283 million, but the extension is as a discretionary program, which means CBO would not include it in the baseline. A Democratic House aide said the House did not include it as a mandatory program because under budget rules the bill had to account for the full 10-year cost of the program, which CBO estimated at $4.2 billion. But the Senate did not have that problem because it does not have similar budget rules.

To understand why this is a confused statement requires minitutorials on several facets of budget enforcement history and rules.

The Budget Enforcement Act of 1990 established a two-sided budget enforcement system designed to measure the budgetary effects of every piece of legislation enacted by Congress and compare those effects against a standard of enforcement.

One ''side'' of enforcement was defined as discretionary spending—that is, spending provided in annual appropriation bills. The enforcement standard was discretionary caps or limits set out in law for a period of 5 years. If appropriations for a year exceeded the discretionary cap for that year, then the Office of Management and Budget would order a sequester—an across-the-board reduction of appropriations of a sufficient magnitude so that the remaining appropriations could fit within the cap.

The other ''side'' of enforcement was pay-as-you-go, or pay-go, which covered all spending provided in all legislation that is not an appropriation bill, aka mandatory spending, and all legislated changes in Federal revenues. If, at the end of a year, all the mandatory spending and revenue legislation enacted by Congress cumulatively increased the deficit relative to the OMB baseline, then OMB would order a sequester of mandatory spending. All mandatory spending that was not exempted would be cut across-the-board to achieve savings corresponding to the amount of deficit increase enacted by Congress that year.

That sounds easy since there are only two kinds of enforcement discipline to worry about. To make things even easier, the joint explanatory statement of managers in the conference report on BEA included a list of all accounts at that time that were to be considered mandatory. Of course, the universe of spending accounts in the budget never remains static. So to anticipate future changes, as well as the likelihood that Congress may occasionally decide to make changes in mandatory spending programs in appropriation bills, or vice-versa, the statement of managers also included the following scorekeeping rule number 3 in a larger set of scorekeeping guidelines:

Entitlements and other mandatory programs, including offsetting receipts, will be scored at current law levels as defined in section 257 of the Balanced Budget and Emergency Deficit Control Act, unless Congressional action modifies the authorization legislation. Substantive changes to or restrictions on entitlement law or other mandatory spending law in appropriations laws will be scored against the Appropriations Committee section 302(b) allocations in the House and the Senate.

Put another way, rule number 3 means that if an appropriation bill makes a change in what has in the past been a mandatory program, then the appropriation bill is the bill that gets charged with the cost or gets credit for the savings. That change is counted against the bill's discretionary limit, aka the 302(b) allocation.

If an authorization bill, which is any bill that is not an appropriation bill, makes a change to mandatory spending or previously enacted discretionary appropriations, then that authorization bill is scored with the cost or credit and that bill is measured under pay-go. Scorekeeping rule 3 has often been colloquially paraphrased in the following way: ''He who does the deed gets charged with the cost or the credit.''

So how did this work in practice? Consider in the following table some stylized discretionary caps roughly equivalent to the levels enacted for the last 5 years for which BEA discretionary caps and pay-go were in effect. Those statutory enforcement mechanisms expired at the end of fiscal year 2002; similar, but not equivalent, mechanisms for discretionary caps and pay-go that are enforced by points of order rather than sequesters have continued in the Senate since then. Last year the House adopted a pay-go point of order for the first time.

Assume all the appropriation bills for 1998 provided in aggregate the exact level of discretionary spending allowed for that year—$530 billion. Since the enacted level for all appropriation bills did not exceed the cap, there would be no sequester.

Out of this total, what if the Agriculture appropriation bill for 1998 included a $2 billion annual increase in a mandatory program that had been created by the agriculture authorizing committee in the 1996 farm bill? Budget experts will recognize this concept as a CHIMP, or Change In Mandatory Program. For purposes of scoring the 1998 Agriculture appropriations bill, the $2 billion increase would be considered discretionary spending in every year, even though it was for an existing mandatory program, because it was enacted in an appropriations bill, not an authorizing bill. This $2 billion increase in a mandatory program would not count against pay-go.

So where would it count? For 1998, the answer is straightforward—the $2 billion cost of increasing the mandatory program in 1998 would count against the discretionary cap of $530 billion for that year.

But what about subsequent years? Since the appropriation bill for 1998 is only measured against the 1998 discretionary cap, how would the ''do-er'' get charged for the ''deed'' of increasing

the cost of a mandatory program by $2 billion in 1999 and each year thereafter? By reducing the amount that the appropriations committee would be able to spend in future years under their discretionary caps.

OMB would simply reduce the discretionary cap in each of those subsequent years by $2 billion. In 1999, the $2 billion in higher spending on farm bill programs would appear back on the mandatory side of the budget, which is known as ''re-basing'' in budget-speak, but its effects would not have escaped enforcement because the 1999 discretionary cap would be reduced from $535 billion to $533 billion and so on for as many subsequent years as there are statutory caps. Under this system, no one could get away with free mandatory spending by hiding it in a different legislative vehicle to avoid pay-go.

When BEA and some supermajority budget points of order in the Senate were about to expire late in 2002, many Senators were concerned that there would no longer be any budget enforcement, especially since there was no budget resolution for 2003.

After several failed attempts to extend the statutory enforcement of BEA, the Senate settled for adopting S. Res. 304 by unanimous consent on October 16, 2002. For a 6-month period, until the next budget resolution could be agreed to, S. Res. 304 extended the 60-vote requirement for waiving certain points of order, extended the Senate's pay-go point of order, and applied the pay-go point of order to appropriation bills.

Why suddenly apply pay-go to spending in appropriation bills? Because there was no budget resolution or deemer for 2003, the chairman of the Senate Appropriations Committee did not have a discretionary allocation for 2003 and was concerned that members would want to load up new mandatory-type, permanent, automatic spending programs or increases in existing mandatory programs on his appropriation bills to avoid pay-go.

If those mandatory programs were enacted in authorizing bills, they would have continued to face a pay-go point of order because S. Res. 304 also extended the expiration date for the pay-go point of order. But since there was no discretionary allocation for appropriation bills for 2003, there was no budget enforcement for appropriation bills. Mandatory spending programs attached to appropriation bills would not have to be counted against anything. There would have been no 60-vote point of order to thwart them.

In addition to persuading the Senate to adopt S. Res. 304 to discourage such behavior, the chairmen of the Appropriations Committee and the Budget Committee went so far as to issue a warning to members: If a provision to increase a mandatory program for later years was somehow enacted on an appropriation bill, those two chairmen promised to see to it that whatever allocation that would have occurred for future years would be reduced by the amount of the mandatory spending added to the appropriation bills. But remember, there were no longer discretionary caps set out in law in advance for future years; instead, discretionary allocations were set on a year to year basis. This saber rattling seemed to do the trick, but only temporarily since S. Res. 304 expired on April 15, 2003.

For the next 4 years, 2003 to 2006, the only supermajority point-of-order tool available to prevent increases in mandatory spending programs from hitching a ride on appropriation bills was the advance appropriation point of order. Remember that until very recently, since enactment of BEA in 1990, when changes to a mandatory spending program are added to an appropriation bill, even if the changes seem mandatory-like, they have been considered as discretionary spending for purposes of budget enforcement on that bill.

Therefore, budget authority for mandatory spending activities provided for future years in an appropriation bill is considered a discretionary appropriation. The advance appropriation point of order in section 401 of the 2006 budget resolution, H. Con. Res. 95, 109th Congress, has included a definition of the term that captures this scoring practice: ''the term 'advance appropriation' means any new budget authority provided in a bill . . . making general appropriations . . . for fiscal year 2007, that first becomes available for any fiscal year after 2007.''

With the advent of the 110th Congress and a new chairman of the Senate Budget Committee, however, the Senate Parliamentarians—contrary to precedent in the 108th and 109th Congresses—have decided that this definition of advance appropriation somehow no longer applies to budget authority in appropriation bills when that budget authority results from changes in mandatory programs. As a result, folks in the Senate have flocked to the 2007 supplemental appropriations bill to augment their favorite mandatory programs for free.

For example, the Senate-passed version of the supplemental included the Wyden amendment, adopted on the Senate floor, that would extend ''county payments'' under the Secure Rural Schools and Community Self Determination Act from 2008 to 2012 at a cost of $2.2 billion. Proponents of this program, which was initially enacted as a temporary, transitional program in 2000, have fretted for the past several years about the imminent expiration of the program and how they could find sufficient offsets to pay for its extension.

The proponents were not able to convince the authors of the 2008 budget resolution to include a sufficient allocation to the Energy Committee to cover authorizing legislation to extend the program. But adding the extension to the supplemental means they did not have to pay for it under pay-go. The sponsors of the county-payments amendment claimed that they ''offset'' the cost by increasing various revenues, but the revenue provisions add up to only $0.2 billion over 2008 to 2012, which is $2.0 billion short of offsetting the cost of the amendment.

The amendment did include other provisions that pretended to raise revenues, but those provisions—amounting to $1.4 billion over 2008 to 2012—had already been incorporated by unanimous consent into the supplemental through the minimum wage amendment, and you cannot use the same offsets twice in one piece of legislation. Regardless of the amount of the supposed revenue offsets, any revenue increases enacted in the supplemental will go on the Senate's pay-go scorecard to be available to be spent on some other authorizing legislation in the future. Revenues cannot be used to offset spending in an appropriation bill.

Finally, also consider the confusing tale of MILC. MILC is a farm-bill program that makes payments to certain dairy farmers. MILC was intentionally scheduled to expire on August 31, 2007, unlike most of the other farm bill programs that were scheduled to expire on September 30, 2007, with some variation depending on the type of crop. When Congress first enacted the MILC Program, it designed it that way on purpose so MILC would not be continued in the CBO baseline; consequently, MILC was not continued in the CBO baseline for 2008 to 2017, while the rest of the farm bill was by and large continued in the baseline.

In an authorization bill reported from the Agriculture Committee, an extension of MILC for 1 month—making it expire at the same time as the rest of the farm bill—would have allowed the program to receive the same continuing-in-the-baseline treatment as the rest of the farm bill. But then that authorization bill and the Agriculture Committee would have had to pay for the extension with an offset for the last month of 2007 as well as for the subsequent 10 years or else be subject to the 60-vote scrutiny of the pay-go point of order. Proponents of MILC were not able to convince the authors of the 2008 budget resolution to include a sufficient allocation to the Agriculture Committee to cover authorizing legislation to extend the MILC Program. But with the option of the 2007 supplemental, it appears they did not need to.

While a 1-month extension of MILC was added to the Senate supplemental, it is not automatic—contrary to the suggestion in Senator KOHL's press release cited earlier—that CBO will ''build the cost of the dairy program into the baseline budget for the next farm bill.''

What happens instead is that CBO consults the chairman of the Senate Budget Committee on whether the Budget Committee wants CBO to continue an expiring mandatory program in the baseline. Note that in the case of

county payments mentioned above, the current Budget chairman had advised CBO not to extend the payments in the baseline after they would have expired under the supplemental at the end of 2012.

But in the case of the 1-month extension of MILC in the Senate-passed supplemental, the current chairman of the Senate Budget Committee has instructed CBO to parlay that 1-month extension, which cost $31 million, into a $1.2 billion increase in the 5-year allocation to the Agriculture Committee, or $2.4 billion over the 10-year enforcement period under pay-go, all without any offset or any 60-vote budget enforcement opportunity.

The chairman could have just as easily directed CBO not to assume continuation of MILC in the baseline, which is what Budget Committee chairmen have advised CBO to do about MILC in the past and what the current chairman did in the case of county payments. That would have prevented a $2.4 billion dodge around pay-go. Instead, the chairman chose to exempt MILC from the pay-go discipline.

The House-passed supplemental also included an extension of MILC, although it did so without amending the existing MILC law. In contrast to the Senate, the House supplemental simply appropriated money to USDA to make MILC-like payments to dairy farmers as if MILC were still in effect for the 13 months after August 31, 2007.

Even so, the distinction made in the news article cited earlier about the House extending MILC as a discretionary program and the Senate extending it as a mandatory program is misleading. MILC is by definition a mandatory program because it was created by an authorizing committee. However, any changes made to the MILC Program in an appropriation bill are considered discretionary for purposes of evaluating that appropriation bill for budget enforcement, regardless of whether MILC is extended by tweaking language in existing law or by creating parallel new language.

Further, the Democratic House aide cited in that article is not correct that ''under [House] budget rules that [House supplemental] bill had to account [with an offset] for the full 10–year cost of the [MILC] Program'' if the MILC program were going to be extended for that long. Note that the House supplemental did not ''pay for'' the $283 million cost of extending MILC through 2008; it just designated it as an emergency to avoid budget enforcement.

Why was the House aide incorrect? Because the House pay-go point of order does not apply to appropriation bills in the House. After the House adopted its pay-go rule in January 2007, there was some initial confusion and unsettledness about which legislation its pay-go rule would apply to. But now it is clear that the House pay-go rule applies to authorization bills only.

The House appropriators, however, do not want their bills to become the vehicle of choice to carry increases in mandatory spending programs that cannot find offsets in authorization bills to fit under the House pay-go rule. So, it is only the persuasive jawboning by interested parties, such as the chairman of the House Appropriations Committee, that has thus far been able to keep House appropriation bills nearly free and clear of multiyear changes in mandatory spending.

At least the House seems committed as a matter of practice, even if not as a result of its rules, to preventing its appropriation bills from becoming a huge loophole for avoiding pay-go enforcement. However, the Senate has shown no such restraint since it added $4.6 billion in mandatory spending increases over the next 10 years for county payments and MILC alone to its version of the 2007 supplemental.

There is a way to close this pay-go loophole. One way would be to reinstate the enforcement of pay-go for appropriation bills that the chairman of the Appropriations Committee succeeded in providing for six months in 2002 to 2003 through S. Res. 304. The Appropriations chairman, however, now opposes that approach.

Another way would be if the conference report on the 2008 budget resolution had included an amendment offered by the chairman of the Budget Committee and myself, which was adopted by UC during Senate debate on that budget resolution. The amendment would have created a 60–vote point of order against net increases in spending for mandatory spending programs on an appropriation bill.

In fact, the conference report did include a weakened version of the Gregg-Conrad point of order that the Senate passed. But that weakened point of order exempted the 2007 supplemental. So there was no 60–vote point of order available to strip the MILC provision out of the supplemental. The Budget Committee chairman's excuse is that he did not want to change the rules in the middle of the game while the supplemental was being considered at the same time as the 2008 budget resolution.

But this is nonsense. If the MILC provision had instead been in an authorizing bill at that time, the pay-go point of order that was already in place in the Senate would have made it possible to subject the MILC provision to 60-vote scrutiny. That was the rule already in place at the time. By hiding the MILC provision in the supplemental and getting the Parliamentarian to change the precedent on what constituted an advance appropriation, that was changing the rules in the middle of the game in order to protect the MILC provision and, even more importantly, to stock the farm bill baseline with $2.4 billion more in spending that would never be subject to pay-go.

Some other things that the Budget chairman has wrong about pay-go are as follows.

He said this week that pay-go matters only when bills are enacted. This is exactly the opposite of the truth. Pay-go is a point of order. A Senator cannot raise a point of order after a bill has been enacted into law. The pay-go point of order is only worth anything when the Senate considers a bill before sending it on to conference; seldom do conference reports get blown up by a point of order.

The chairman also said pay-go has been defended nine times since the 2008 budget resolution was put in place and that it was never waived, so that is an indication of how successful and wonderful it has been. But I count only eight times that a pay-go point of order was raised since adoption of the 2008 budget resolution conference report, and in each and every instance it was raised against amendments offered to bills brought to the floor. The pay-go point of order has not yet been raised in its current incarnation against any of the several bills brought to the floor that by themselves violated pay-go.

The Budget chairman is defensive about pay-go. He should be. The pay-go he defends is not the pay-go that he promised for years that we would have if only his party were in charge. Now that he is in charge, pay-go is watered down and incredibly easy to gimmick or avoid.

I ask unanimous consent that the tables to which I have referred be printed in the RECORD.

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

TABLE 1.—PROPOSED PAY-GO AT START OF THE 110TH CONGRESS

	S. 10	House (H. Res. 6)
Description	Would create a point of order in the Senate against measures that increase or create an on-budget deficit in the current year, the budget year (1st year), the first 5 years, or the second 5 years (would not apply if sufficient on-budget surpluses were projected)..	Makes it out of order to consider legislation that increases the deficit or reduces the surplus for the first 6 years (2007–2012) or the first 11 years (2007–2017)
Votes Needed to Waive Point of Order	60 votes	Simple majority through adoption of a rule that waives the point of order.
Scorecard	Uses a cumulative scorecard, so that savings in earlier enacted bills could offset deficit increases in later bills..	House point of order applies on a bill-by-bill basis. No scorecard maintained.
Sequestration	No sequestration enforcement.	House point of order is not a law and therefore can not include sequestration.
Expiration date	September 30, 2012.	House point of order is effective for the 110th Congress only.
In effect?	Must be enacted to go into effect. (Pay-go provision in S. 10 could be put into effect if written into a new budget resolution that Congress agrees to)..	House point of order is in effect now.

TABLE 2.—PAY-GO IN EFFECT IN THE 110TH CONGRESS

	Senate (Sec. 201 of S. Con. Res. 21, 2008 Budget Resolution Conference Agreement	House (H. Res. 6)
Description	Point of order against direct spending or revenue legislation that increases or creates an on-budget deficit..	Makes it out of order to consider direct spending or revenue legislation that increases the deficit or reduces the surplus.
Period covered	Must be deficit-neutral for the first 6 years (2007–2012) and the first 11 years (2007–2017). No first-year test and no test for years 6–10.	Must be deficit-neutral for the first 6 years (2007–2012) and the first 11 years (2007–2017). No first-year test and no test for years 6–10.
Application	Would not apply if sufficient on-budget surpluses were projected.	Applies regardless of whether on-budget surpluses are projected.
Votes Needed to Waive Point of Order	60 Votes	Simple majority—via adoption of a rule that waives the point of order.
Scorecard	Uses a cumulative scorecard, so that savings in earlier enacted bills could offset deficit increases in later bills..	House point of order applies on a bill-by-bill basis. No scorecard maintained.
Expiration date	September 30, 2017 or until changed by a subsequent resolution.	House point of order is effective for the 110th Congress only.
In effect?	Current pay-go point of order became effective on adoption of the conference agreement on S. Con. Res 21 (May 17, 2007)..	House point of order has been in effect since January 5, 2007.

a. In the House these were the periods covered for the first session of the 110th Congress. With the start of the 2nd session, the House pay-go rule required the enforcement periods to change to 2008–2013 for the first six years and 2008–2018 for the 11 years.

TABLE 3A.—TOUGH FIRST-YEAR OFFSET REQUIREMENT UNDER OLD-FASHIONED PAY-GO

($ billions)

	1st year 2008	2009	1st 5 years 2008–12	2nd 5 years 2013–17
Increase in Spending	9	0	9	0
Needed Offset (tax increase or spending decrease)	−9	0	−9	0
Net Deficit Effect [1]	0		0	0

1. Old Pay-go test would have been satisfied since each of these three periods is zero or less.

TABLE 3B.—UNDER OLD PAY-GO, OFFSETS EASIER TO ACHIEVE OVER 5 YEARS BY SHIFTING COST PAST FIRST YEAR

($ billions)

	1st year 2008	2009	1st 5 years 2008–12	2nd 5 years 2013–17
Increase in Spending	0	9	9	0
Needed Offset (tax increase or spending decrease)	0	−2.25	−9	0
Net Deficit Effect [1]	0		0	0

1. Old Pay-go test would have been satisfied since each of these three periods is zero or less.

TABLE 3C.—UNDER OLD PAY-GO, OFFSETS IN YEARS 6–10 COULD NOT PAY FOR NEAR-TERM SPENDING

($ billions)

	1st year 2008	2009	1st 5 years 2008–12	2nd 5 years 2013–17
Increase in Spending	0	9	9	0
Needed Offset—Customs Fees	0	0	0	−9
Net Deficit Effect (+ = deficit increase/minus=deficit decrease)	0		+9	−9

[1]. Old Pay-go test would have not been met because deficit increases in 2008–2012.

TABLE 3D.—NEW PAY-GO NEEDS MORE THAN LONG-TERM OFFSET TO PAY FOR SPENDING TODAY

($ billions)

	1st year 2008	2009	1st 5 years 2008–12	2nd 5 years 2013–17	all 10 years 2008–17
Increase in Spending	0	9	9	0	9
Needed Offset—Cust. Fees	0	0	0	−9	−9
Net Deficit Effect [1]	0		9		0

[1] New Pay-go test would not be met because deficit increases over 5 years (note that over 10 years this example is budget neutral).

TABLE 3E.—NEW PAY-GO, ALONG WITH CORPORATE TAX TIMING SHIFT, ALLOWS SPENDING TODAY WITH OFFSETS FAR IN THE FUTURE

($ billions)

	1st year 2008	2009	1st 5 years 2008–12	2nd 5 years 2013–17	all 10 years 2008–17
Increase in Spending	0	9	9	0	9
Needed Offset-Customs Fees	0	0	0	−9	−9
Needed Timing Shift Corporate est. tax payments			−9	9	0
Net Deficit Effect [1]	0		0		0

[1]. New Pay-go test is met because deficit does not increase over 5 years or 10 years.

TABLE 4.—CORPORATE ESTIMATED TAX SHIFT USED IN LEGISLATION IN THE 110TH CONGRESS

	Public Law	($ billions) 2012	2013
Enacted legislation:			
2007 Supplemental (incl. minimum wage increase)	110–28	+5.0	−5,0
Andean Trade Preference Act extension	110–42	+0.2	−0.2
Burmese Freedom and Democracy Act	110–52	+0.2	−0.2
Trade Adjustment Assistance extension	110–89	+0.2	−0.2
US-Peru Free Trade Agreement	110–138	+0.5	−0.5
Mortgage Forgiveness Debt Relief Act	110–142	+0.9	−0.9
Total enacted tax shift		+6.8	−6.8
Pending legislation:			
H.R. 2419, Farm Bill, as passed by the Senate (in conference)		+4.2	−4.2
Possible agreement on energy tax provisions (not included in H.R. 6)		+3.8	−3.8
Total tax shift in pending legislation		+8.0	−8.0
Tax shift in passed, but not enacted, legislation (H.R. 4351, House-passed 2007 AMT patch)		+31.7	−31.7

Details do not add to totals due to rounding.
Source: CBO/JCT cost estimates.

TABLE 6.—DEFICIT IMPACT OF PAY-GO LEGISLATION

	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2007–2012	2007–2017
Subtotal, bills that included the corporate estimated tax shift	190	573	802	3,918	2,362	−8,682	5,296	−1,267	−1,792	−897	−688	−838	−192
Other enacted pay-go bills	3	4,320	2,478	−1,572	−3,561	−2,817	2,524	882	−921	−1,350	−1,107	−1,150	−1,119
Total deficit impact	193	4,893	3,280	2,346	−1,199	−11,499	7,820	−385	−2,713	−2,247	−1,795	−1,988	−1,311

NOTE: Positive numbers indicate increase in deficit and negative numbers indicate decrease in deficit.

ILLUSTRATION OF HOW CHANGES IN MANDATORY SPENDING ENACTED IN AN APPROPRIATION BILL COUNT FOR BUDGET ENFORCEMENT

[Budget authority in $ billions]

	1998	1999	2000	2001	2002
Illustrative Statutory Discretionary Caps	530	535	540	545	550
5-year Increase in Mandatory Spending:					
Program Enacted in a 1998 Appropriation Bill Counts against 1998 Discretionary Cap	.....	2	2	2	2
–and–					
Outyear Statutory Discretionary Caps Reduced to Reflect Mandatory Increase	.....	533	538	543	548

Mr. CONRAD. Mr. President, I ask unanimous consent that the enrolling clerk be authorized to make technical and conforming changes to levels in title I of S. Con. Res. 70 at the direction of the majority staff of the Budget Committee to reflect the effects of amendments agreed to by the Senate.

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

Mr. REID. Mr. President, for the information of all Members, we will not be in session today. We will have final passage. I said this just a few minutes ago, but it really speaks volumes. This bill has been managed in a very professional way, and we appreciate the good work.

We will be out now for 2 weeks. There will be no votes on Monday, March 31, but there will be votes—it is more apropos to what we have done today—on April Fools' Day, April 1. We are going to have votes before lunch on Tuesday, April 1. We will have votes before lunch. So everyone should be advised there will be votes before noon on Tuesday. I hope everyone will keep that in mind and have a happy and successful 2-week break period.

The PRESIDING OFFICER. The senior Senator from New Hampshire is recognized.

Mr. GREGG. Mr. President, I know everybody wants to head off quickly, but I have to take a minute to first thank Senator CONRAD for his professionalism in leading this bill. Although we disagree, I greatly admire the way he managed this bill. He did an extraordinary job.

I also thank his staff, led by Mary Naylor. They are extremely professional. Everybody's staff around here spends extraordinary time, a lot of time away from family. We thank them for everything they have done.

In particular, I wish to thank all my staff, first and foremost, Denzel McGuire, who wears many hats for me. In addition, the rest of my Budget Committee staff have worked tirelessly:

Cheri Reidy, Allison Parent, Jim Carter, David Fisher, Jay Khosla, Melissa Pfaff, Liz Wroe, Amy Tenhouse, Matt Giroux, Nancy Perkins, Kevin Bargo, Greg McNeil, Mike Lofgren, Betsy Holahan, Emma Post, David Myers, Jim Hearn, Giovanni Gutierrez, Winnie Chang, and David Pappone.

I wish to acknowledge that this is the last budget in which PETE DOMENICI—regrettably, he is not here right now—will participate. He is, obviously, the father of the budget process, along with Senator BYRD. His commitment to this budget process is extraordinary, and his impact on this Congress is extraordinary. I wanted to acknowledge that.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, first, thanks to all of our colleagues for their extraordinary patience. I thank Senator GREGG, the ranking member, for being so decent, reasonable, and fair-minded. I think that helped the process.

Special thanks to my staff director, Mary Naylor, John Righter, Joel Friedman, and Lisa Konwinski. I also thank Steve Bailey, Jamie Morin, Mike Jones, Joan Huffer, Jim Miller, Jim Esquea, Cliff Isenberg, Sarah Kuehl, Robyn Hiestand, Brodi Fontenot, Matt Salamon, Kobye Noel, Steve Posner, Stu Nagurka, David Vandivier, Anne Page, Jackie Keaveny, Josh Ryan, Ben Soskin, and Brock Ramos. I will just say they have worked tirelessly 7 days a week for months.

I also want to give great regard to Senator GREGG's staff, led by Denzel McGuire—a truly professional team.

Mr. REID. Mr. President, I apologize to everyone. Everyone, please be patient.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

The question is on agreeing to S. Con. Res. 70, as amended.

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. Mr. President, on this vote, I have a pair with the Senator from West Virginia, Mr. BYRD. If he were present and voting, he would vote ''yea.'' I withhold my vote, which is ''nay.''

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) is necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Missouri (Mr. BOND), the Senator from New Mexico (Mr. DOMENICI), and the Senator from Arizona (Mr. MCCAIN).

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

The result was announced—yeas 51, nays 44, as follows:

[Rollcall Vote No. 85 Leg.]

YEAS—51

Akaka	Feinstein	Murray
Baucus	Harkin	Nelson (FL)
Biden	Inouye	Nelson (NE)
Bingaman	Johnson	Obama
Boxer	Kennedy	Pryor
Brown	Kerry	Reed
Cantwell	Klobuchar	Reid
Cardin	Kohl	Rockefeller
Carper	Landrieu	Salazar
Casey	Lautenberg	Sanders
Clinton	Leahy	Schumer
Collins	Levin	Snowe
Conrad	Lieberman	Stabenow
Dodd	Lincoln	Tester
Dorgan	McCaskill	Webb
Durbin	Menendez	Whitehouse
Feingold	Mikulski	Wyden

NAYS—44

Alexander	Crapo	Martinez
Allard	DeMint	McConnell
Barrasso	Dole	Murkowski
Bayh	Ensign	Roberts
Bennett	Enzi	Sessions
Brownback	Graham	Shelby
Bunning	Grassley	Smith
Burr	Gregg	Specter
Chambliss	Hagel	Sununu
Coburn	Hatch	Thune
Cochran	Hutchison	Vitter
Coleman	Inhofe	Voinovich
Corker	Isakson	Warner
Cornyn	Kyl	Wicker
Craig	Lugar	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Stevens, against

NOT VOTING—4

Bond	Domenici
Byrd	McCain

The concurrent resolution (S. Con. Res. 70), as amended, was agreed to.

(The concurrent resolution will be printed in a future edition of the RECORD.)

Mr. REID. I move to reconsider, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. Mr. President, I now ask unanimous consent to proceed to Calendar No. 340, H.R. 3221, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

Mr. REID. Mr. President, I ask now that there be a period of morning business, with Senators permitted to speak therein for a period of up to 10 minutes each.

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

SPRINGTIME AND EASTER

Mr. BYRD. Mr. President, this week, as the Senate debates proposed changes to the budget resolution, our minds are focused keenly on the pros and cons of various amendments and on the consequences of the budget resolution for the authorization and appropriations process that lies ahead. We have much to do this year, and less time than usual in which to do it.

Personally, I am glad to be back amid the controlled chaos of the annual budget debate. As many people know, I fell last week. Fortunately, I only gave my back a good wrench, but my family and my doctors insisted on a lot of care and physical therapy, which was both therapeutic and frustrating. I do not like to be poked and prodded and cajoled any more than the next person, especially after I begin to feel better and am ready to get back to work. Nevertheless, the rest did let me spend a little time staring out the windows, watching the beauty of springtime steal across Washington. I hope that each of my colleagues will have a chance to enjoy the springtime show as the Senate breaks for the Easter recess.

This year, the vernal equinox falls in the middle of the Easter Holy Week, on Maundy Thursday. Therefore, the first day of spring is also the day that marks the Last Supper between Jesus and his disciples, the evening before the crucifixion Good Friday and the miracle of resurrection on Easter Sunday. It is fitting that the dawning of the spring and the resurrection of Christ occur in close conjunction. Both events celebrate renewal and rebirth, the awakening of new life. I, too, feel a sense of renewal this year, of restored health and energy that only enhances my usual affection for the springtime of year.

I welcome spring with the words of the English poet, William Blake (1757–1827) in his poem, ''To Spring:''

O thou with dewy locks, who lookest down
Through the clear windows of the morning, turn
Thine angel eyes upon our western isle,
Which in full chorus hails thy approach, O Spring!

The hills tell one another, and the listening
Valleys hear; all our longing eyes are turn'd
Up to thy bright pavilions: issue forth
And let thy holy feet visit our clime!

Next week, as Christians step through the liturgical calendar of Easter, observing and commemorating great events of two millennia past, the occupants of the northern hemisphere also count down the days to Spring. In these first warm and fragrant days, we can most fully appreciate the beauty of the season, so easily compared to the cold and wet weather of the previous weeks. With each trumpeting daffodil, each nodding crocus, each arching branch of yellow forsythia, and each dainty petal of blooming pear and cherry tree, we find the undeniable evidence of the approaching season. In the ever-lengthening evening light, we spy the house wren flitting about as she seeks a sheltered spot to build her nest. We hear, clear and strong, the first evening chorus of frogs, a song that will be lost in the background noise later in the season. But this week, we hear it ''a capella,'' unaccompanied by the evening singing of crickets and the hum of air conditioners on hot summer evenings.

Each sign of spring, each glory of the Easter-tide, is a gift from the Creator, a promise made to each of us that there is life after death, and beauty after the dark days of winter. I urge my colleagues in the Senate and those listening at home to step outside and revel in the glory and the beauty of spring.

Mr. President, I close with a poem by the great American poet, Robert Frost (1874–1963), called ''A Prayer in Spring.'' I thank my colleagues for their many kind wishes for my renewed health.

Oh, give us pleasure in the flowers to-day;
And give us not to think so far away
As the uncertain harvest; keep us here
All simply in the springing of the year.

Oh, give us pleasures in the orchard white,
Like nothing else by day, like ghosts by night;
And make us happy in the happy bees,
The swarm dilating round the perfect trees.

And make us happy in the darting bird
That suddenly above the bees is heard,
The meteor that thrusts in with needle bill,
And off a blossom in mid air stands still.

For this is love and nothing else is love,
The which it is reserved for God above
To sanctify to what far ends He will,
But which it only needs that we fulfill.

TRIBUTE TO DR. HARRY CARLOSS

Mr. MCCONNELL. Mr. President, I rise today to pay tribute to a good friend and respected Kentuckian, Dr. Harry Carloss. Dr. Carloss has worked diligently for over 32 years to treat thousands of his patients who face one of life's most terrible illnesses, cancer.

Originally from Lexington, KY, Dr. Carloss went to the University of Louisville Medical School and later worked at the Scripps Clinic and Research Foundation in San Diego, CA. Dr. Carloss, along with and his wife Barbara, returned a few years later to Kentucky and settled in Paducah to practice as an oncologist. Dr. Carloss worked in Paducah for 28 years, choosing to help those who oftentimes were facing a death sentence.

Along with helping his patients, he became a point man in the campaign to battle cancer. He has written medical scientific papers, been involved in many research and clinical trials over his career, and been given numerous accolades in the form of honors and awards from his peers.

Mr. President, I ask my colleagues to join me in honoring a man who worked tirelessly and gave so much of himself to the people he served. Recently the Paducah Sun published a story about Dr. Harry Carloss, which admirably illustrates the work, sacrifice and commitment Dr. Carloss gave to his patients, and to finding a cure for cancer. I ask unanimous consent that the full article be included in the CONGRESSIONAL RECORD.

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

[From the Paducah Sun, Mar. 12, 2008]

CARLOSS STANDING DOWN—AFTER A RELUCTANT WITHDRAWAL, COMBATANT IN WAR ON CANCER LOOKS BACK ON CAMPAIGN

(By Steve Vantreese)

PADUCAH, KY.—A cancer doctor dying of cancer—that sort of story has a dark irony.

In the case of Paducah oncologist Harry Carloss, happily it isn't true.

''I've heard the rumor,'' he said, not particularly offended. ''I don't have cancer. I have physical limitations that forced me to retire.''

Instead of his primary foe over 32 years as a cancer fighter, a fall from a ladder stopped the 57-year-old Carloss in his oncological tracks. He broke his back, had it surgically repaired as best as could be done—ruined spinal parts removed, at least—and now is debilitated. Not dead, not totally paralyzed, both of which he could have been. Just limited.

He returned to his practice after injury and surgery, but found after a trial period that he couldn't remain on his feet for any length of time, or sit in most circumstances, for that matter. He makes little reference to ongoing pain, loss of sensation and difficulties in walking that came with the nerve damage.

''Other people have far worse problems,'' Carloss notes in self-deferring fashion.

He's seen enough to know. As once the sole oncologist in a void west of Louisville, south of St. Louis and north of Nashville, Carloss saw a steady parade of patients in dire straits.

The Lexington native and University of Louisville medical school graduate went to the Scripps Clinic and Research Foundation (San Diego, Calif.) to work in primarily hematology. He and his wife, Barbara, returned to Kentucky, coming to Paducah as a smaller town in which to raise their kids.

''I came here to be an oncologist, but I had doubts at first that a town the size of Paducah could support an oncologist,'' Carloss said. ''That turned out to be the joke of the century.''