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

Mr. EXON. It has been approved. The PRESIDING OFFICER. The Senator from New Mexico.

AMENDMENT NO. 2955
Mr. DOMENICI. Mr. President, I send an amendment to the desk on behalf of Senator Grassley.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows: The Senator from New Mexico [Mr. Domenici], for Mr. Grassley, proposes an amendment numbered 2955.

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

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

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

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

The amendment (No. 2955) was agreed to.

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

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

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

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

AMENDMENT NO. 3020
(Purpose: To support the President’s promise in 1993 to not require significant additional cuts in programs that affect rural America, to preserve the safety net for family farmers which represent the backbone of American Agriculture, to maintain the competitiveness of American Agriculture, and to ensure a future supply of American Agricultural products)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:
The Senator from Iowa (Mr. HARKIN), for himself, Mr. DASCHLE, Mr. DORGAN, Mr. WELLSSTONE, Mr. HEFLIN, and Mr. BUMPERS, proposes an amendment numbered 3020.

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

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

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

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

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

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

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

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

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

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

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The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

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

The legislative clerk called the roll.

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

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

[Rollcall Vote No. 555 Leg.]

YEA S—31

Akaka—Feinstein—Leahy
Baucus—Feingold—Lieberman
Boren—Frist—Lieberman
Bumpers—Gorton—Lott
Conrad—Hatfield—Mack
Daschle—Hatch—Mankin
Dodd—Harkin—Markowski
Dorgan—Kennedy—Massie
Edwards—Kennedy—McCaskill
Feingold—Kerry—McCaskill
Fusco—Kerry—McCaskill

NAY S—68

Abraham—Frist—McCain
Ashcroft—Gorton—McConnell
Bennett—Graham—Markoswski
Biden—Gramm—Mayakowski
Bingaman—Grames—Nickels
Bolen—Hatch—Nunn
Bradley—Hawkins—Olegraf
Breaux—Hollings—Osborne
Brown—Hutto—Pelosi
Bums—Inhofe—Pell
Burns—Jackson—Perry
Byrd—Jennings—Perez
Campbell—Johnson—Peterson
Chafee—Johnson—Pinnell
Coats—Johnson—Pinnell
Cochran—Kennard—Pinnell
Dodd—Kennard—Pinnell
Daschle—Kennard—Pinnell
Dorgan—Kennard—Pinnell
Feingold—Kennard—Pinnell
Fusco—Kennard—Pinnell
Harkin—Kennard—Pinnell

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

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

Mr. DOLE. Are there further amendments?

The PRESIDING OFFICER. Are there further amendments?

AMENDMENT NO. 2986

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

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

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. I ask unanimous consent to strike the record.

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

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

The amendment is as follows:

At the appropriate place in the bill, insert the following new section: S ECC. 6. Sense of the Senate.—

(a) FINDINGS.—The Senate finds that—

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

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

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

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

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

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

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

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

Mr. SPECTER. Mr. President—within 30 seconds—this amendment expresses the sense of the Senate and Congress should proceed to adopt a flat tax. It does not specify the precise type of a flat tax. There has been a lot of expression in favor of a flat tax as being progrowth, not regressive with a substantial exemption for individuals. And I ask my colleagues to support this concept in general terms with this sense of the Senate resolution.

I yield back the balance of my time.

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

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

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

The PRESIDING OFFICER. The motion is made to waive.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

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

The clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desirous of voting?

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

Baucus
Breaux
Brown
Campbell
Craig
Dole

Abraham
Akaka
Ashcroft
Bennett
Biden
Bingaman
Bond
Boxer
Bradley
Bryan
Bumpers
Burns
Byrd
Chafee
Coats
Cooper
Corzine
Coverdell
D’Amato
Daschle
D’Alesandro
D’Alesandro
Dodd
Domenici
Dorgan
Eaton
Faircloth
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So the motion to lay on the table the amendment (No. 3021) was agreed to.

AMENDMENT NO. 3022

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

Mr. EXON. Mr. President, I move to lay a motion that the table shall be available from subsection (a) shall be available from subsection (b), if is authorized to acquire by lease-purchase the appropriate committee provision is also flawed. The Senator from New Jersey to strike the amendment (No. 3022) was agreed to.

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

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

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

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

The amendment (No. 3023) was agreed to.

AMENDMENT NO. 3023

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

When the Reclamation Program began in 1902, Congress provided low cost irrigation water to small, 160 acres or less, family farms. The policy was intended to help small farmers; large or less—family farms. That sounds nice, but it simply is not true. First of all, Congress decided that unlike other public works projects that had been fully funded by the Congress, in the case of reclamation projects, the beneficiaries would have to repay the Federal Government for their allocable costs. The irrigation component would be fully funded by the Congress, in the case of reclamation projects, the beneficiaries would have to repay the Federal Government for their allocable costs. The irrigation component would be without interest, but it would have to be repaid. Contrast that with the complete subsidy given to farmers who benefit from Corps projects in New Jersey.

The reconciliation bill creates a loophole; it terminates a foolish restriction inserted in the 1982 Reclamation Reform Act to prevent irrigation districts and individuals who hold repayment or water service contracts from prepaying their debt. Prior to 1982, that limitation did not exist.

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

The letter is not correct about the history of reclamation law that led to the 1982 act. The letter states that: when the reclamation program began in 1902, Congress provided low cost irrigation water to small—160 acres or less—family farms. That sounds nice, but it simply is not true. First of all, Congress decided that unlike other public works projects that had been fully funded by the Congress, in the case of reclamation projects, the beneficiaries would have to repay the Federal government for their allocable costs. The irrigation component would be without interest, but it would have to be repaid. Contrast that with the complete subsidy given to farmers who benefit from Corps projects in New Jersey.
and elsewhere who repay nothing because their benefits are called flood control. The statement is also inaccurate in suggesting that Congress provided the water; since in many of the early projects, like Newlands Project, the water users held, and still hold, the water rights. What the Federal Government did was provide the financing for the storage and conveyance systems. Even where the Federal Government obtained the water rights for a project, the Reclamation Act specifically required the rights to be obtained in full compliance with State law, and the Supreme Court made it clear that the Federal Government held those rights as a trustee for the water users. Congress did not provide water. In addition, the suggestion that Congress was providing low-cost water would come as a surprise to the water users who were required to reimburse the Federal Government annually for all operation and maintenance costs as well as a portion of the capital construction costs. Granted the Federal Government was not seeking to make a profit, but reparation was a new concept imposed on the reclamation program. The letter states that the program was limited to “small (160 acres or less) family farms.” In fact, the reclamation program spoke to individual ownership limitations. Each person could own 160 acres. So could that person’s spouse and so could each of that person’s children. A family with four children could own 960 acres. In addition, there were no limitations on how much additional land could be leased. That family could lease an additional thousand acres in addition to the 960 acres it owned. One major problem that the 1982 reclamation reform sought to resolve was whether those acreage provisions applied only on a district by district basis or Westwide. When the letter states that the 1982 act “the acreage limitations, raising them from 160 acres to the present 960 acres,” it is not being completely honest. In the 1982 act, we set the acreage limit at 960 acres for an entire family including both owned and leased lands and then applied the limit Westwide. That was reform; it was not necessarily good news for large families.

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

The letter suggests that enactment is bad for family farmers who will face ever-larger competitors who obtain even greater subsidies. That statement is simply, and I say simply, a non sequitur. The reason for opposition to the committee provision has nothing whatsoever to do with concern for family farmers—or farmers in general. Prepayment eliminates the construction debt and the false accusation that the repayment is a subsidy. What the proponents of this motion fear is the loss of their rhetoric. Upon payment of the construction debt, the management and operation of such irrigation works shall pass to the owners of the lands irrigated thereby, to be maintained at their expense.” That is what really bothers the authors of this motion. They fear the loss of control and their ability to load totally unnecessary costs onto the farmers in the Western States under the guise of operations. Operation and maintenance will pass to the party leasing or owning the land, and the acreage limitations will no longer apply. It is not a concern for the family farmer that lies behind this motion, but rather a desire to keep Federal control over family farmers for as long as possible.

The real issue is the true motives of those who support this motion. All you have to do is look at the proposed regulations issued by Secretary Babbitt to see what the objective is. The regulations, which depend on the construction debt, are part of the savage and unrelenting attack on water users in the West by this administration and its allies in the Congress.

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

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

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

Lease means any agreement between a landholder (the lessor) and another party (the lessee) under which possession of the lessor’s land is partially or wholly transferred to the lessee. Congress explicitly adopted an economic risk with respect to the farming enterprise on the land. In situations where possession has been partially transferred from a landholder to another party, a lease will be considered to exist if the majority of possession is not held by the potential lessor. In situations where possession has been transferred from a landholder to more than one other party, a lease will be considered to exist between the lessor and the party holding the greatest degree of possession.

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

Lease would be substantially modified. Under the existing regulation, one of the key elements in the definition of lease is the assumption of economic risk by the reputed lessor. This definition permits the development of arrangements under which an individual or legal entity is paid a fixed fee for operating a farming enterprise. Since the operator under these arrangements assumes no economic risk, Reclamation currently does not consider the operator as leasing the land, and such an arrangement is not treated as a lease. Therefore, under the existing rules, operators are not subject to full cost irrigation water rates.

The new definition would make possession the singular element indicating the existence of a lease. The definition would eliminate economic interest as an essential element of a lease (assuming risk would remain a factor indicating the existence of a lease). Thus, under the proposed regulation, whenever someone other than the landowner has possession of the land, a lease would exist. Reclamation would consider fixed-fee operations leases and would subject the parties to full cost pricing if the possession of the land is transferred, and if non-full cost entitlement are exceeded.

The second and third sentences of the definition would address the situation where more than one party has some degree of possession; for example, a landowner may enter into a lease agreement. Reclamation intends the proposed definition of the term lease to exclude arrangements between landlords and custom operators, employees, lenders, and other landholders with whom farm equipment is shared.

Interior’s examples show that even if a landowner “retains all economic risk associated with” farming his land, if he does not “make all major decisions concerning the farming operation,” a lease can still exist, and full cost will be charged. (60 Fed. Reg. 16929). During our field hearings in Twin Falls, ID this August, Senator McClure, the chairman of the Energy

S16018

CONGRESSIONAL RECORD — SENATE

October 27, 1995
Mr. President, the sole reason behind the motion to strike is a desire to continue the predation undertaken by Secretary Babbitt on Western farmers. There is not the slightest concern for farmers, small or large, family or corporate. What the committee did was solely to permit individuals or districts to prepay or water settlement contracts to pay off the intolerable subsidy that the proponents of the motion to strike have complained of for so long. The outrageous discount that the "Dear Colleague" complains of is language imposed by the Senator from New Jersey on the prepayments that he has agreed to over the past 6 years— it is his language. The language also includes a provision that requires a premium if the farmer foregoes a tax exempt bonding—as many of them could. There is no such requirement in reclamation law or in any of the existing contracts that provide for prepayment or accelerated payment. That is a requirement insisted on by the Senator from New Jersey in our recent legislation and we have included it here.

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

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

The PRESIDING OFFICER. The quorum is present, voted aye. The official RECORD shows aye 98, nay 0. No change in the outcome of the vote.

Mr. DOMENICI. Mr. President, I ask unanimous consent that this vote be recorded as aye.

The PRESIDING OFFICER. The motion to reconsider the vote was agreed to.

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

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

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

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

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. Mr. LAUTENBERG. Mr. President, I have cleared a unanimous consent request with the managers of the bill. It is simply to state on rolcall 531 I was not present. The official RECORD has me listed absent. There was some confusion at the front. Therefore, I ask unanimous consent that the official RECORD be corrected to accurately reflect my vote. There is no change in the outcome of the vote.

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

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

Mr. LAUTENBERG. Mr. President, I have cleared a unanimous consent request with the managers of the bill. It is simply to state on rolcall 531 I was not present. The official RECORD has me listed absent. There was some confusion at the front.

The PRESIDING OFFICER. Mr. President, I have cleared a unanimous consent request with the managers of the bill. It is simply to state on rolcall 531 I was not present. The official RECORD has me listed absent. There was some confusion at the front.

The PRESIDING OFFICER. Mr. President, I have cleared a unanimous consent request with the managers of the bill. It is simply to state on rolcall 531 I was not present. The official RECORD has me listed absent. There was some confusion at the front.

The PRESIDING OFFICER. Mr. President, I have cleared a unanimous consent request with the managers of the bill. It is simply to state on rolcall 531 I was not present. The official RECORD has me listed absent. There was some confusion at the front.

The PRESIDING OFFICER. Mr. President, I have cleared a unanimous consent request with the managers of the bill. It is simply to state on rolcall 531 I was not present. The official RECORD has me listed absent. There was some confusion at the front.
Mr. EXON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

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

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

The amendment is as follows:

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

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

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

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

SEC. 1430. PROVIDING FUNDING FOR AMERICAN SAMOA.

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

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

SEC. 1431. EFFECTIVE DATE.


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

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

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

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

What is the explanation of the amendment?

Mr. EXON. This amendment allows pregnant women to stay on food stamps, if they otherwise are eligible for food stamps, even after 6 months if they cannot find a job.

This treats pregnant women with their first child in the same manner as women who care for dependent children. The amendment is paid for by cuts in the standard deductions. The amendment saves money.

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

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

The PRESIDING OFFICER. Is there objection to the amendment?

Without objection, the amendment is agreed to.

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

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

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

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

Thank you.

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

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

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

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

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

The legislative clerk called the roll.

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

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

The point of order is well taken.

Mr. DOMENICI. I apologize to the Chair.

The SENATE agreed to the motion by the Senator from New Mexico.

The clerk can call the roll and record Senators better if Senators do not come into the well during the time the clerk is tallying the vote.

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

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

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

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

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

The PRESIDING OFFICER. The Senator from Maryland.

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Maryland [Ms. MIKULSKI] moves to instruct the conferences on the part of the Senate to insist upon guaranteeing to the American public that the quality and effectiveness standards set forth by the Clinical Laboratory Improvement Amendments of 1988 will be maintained by striking...
The PRESIDING OFFICER. The Senator is recognized for 30 seconds.

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

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

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

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

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

To now even suggest we turn back the clock to pre-1988 will have devastating results. Do we really want to: Turn back to a time when tests were misread and diseases misdiagnosed.

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

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

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

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

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

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

CLIA ensures quality testing and quality laboratories.

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

Americans must be assured that all labs are of the highest quality and performance standards. CLIA saves tax dollars by curbing fraud and abuse.

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


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

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

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

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

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

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

CLIA is so important. We should not act hastily. To do otherwise is not the entire battery of other life-saving testing being conducted? I do not think so.

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

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

So the motion was rejected.

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

The motion to lay on the table was agreed to.

SMITH MOTION TO INSTRUCT CONFEREES

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

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

The PRESIDING OFFICER. The clerk will report the motion.

The legislative clerk read as follows:

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

Mr. SMITH. Mr. President, the Chafee point of order, a few minutes ago, removed the Hyde language, which
The legislative clerk read as follows: The Senator from North Dakota [Mr. CONRAD], moves to commit.

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

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

The text of the motion follows:

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

1. Modify the agriculture provisions to achieve $156,000,000,000 in savings instead of the excessive $270,000,000,000 in the Republican plan.
2. Modify the Medicaid provisions to achieve $125,000,000,000 in savings instead of the excessive $182,000,000,000 in the Republican plan.
3. Modify the welfare provisions to achieve $26,000,000,000 in savings instead of the excessive $65,000,000,000 in the Republican plan.
4. Modify the tax provisions by eliminating the tax cuts totalling $245,000,000,000 and instead raise revenue beyond the corporate welfare provisions in title XII by eliminating $228,000,000,000 in tax loopholes, breaks, and preferences without affecting taxpayers with incomes below $140,000.

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

1. A reduction in agriculture programs by no more than $4,000,000,000 instead of the $13,000,000,000 reduction in the Republican plan.
2. A reduction in food and nutrition programs by no more than $19,000,000,000 instead of the $35,000,000,000 reduction in the Republican plan.
3. No reductions in student loan programs instead of the $10,000,000,000 reduction in the Republican plan.
4. A reduction in veterans programs by no more than $5,000,000,000 instead of the $6,000,000,000 reduction in the Republican plan.
5. No reductions in domestic discretionary programs by a hard freeze instead of slashing investments in our economic future $191,000,000,000 below a hard freeze as in the Republican plan.

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

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

The PRESIDING OFFICER. The motion is withdrawn.

Mr. CONRAD. I thank my friend and colleague for his fine statement. I might suggest we move two other matters I understand we have clearance on—the Lott amendment and the Bingaman amendment.

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

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

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

We believe the Medicare law already prohibits payments to providers for legal fees when the providers lose an appeal. However, the GAO has reported some loopholes in the Medicare law so that this might not be the effect out in the field—even losers may collect losers’ fees.

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

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

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

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

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

The amendment is as follows:

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

SEC. 2. ELIMINATION OF REASONABLE COST REIMBURSEMENT FOR CERTAIN LEGAL FEES.

Section 1681(v)(1)(R) (42 U.S.C. 1395x(v)(1)(R) is amended by striking “section 1869(b)” and inserting “section 1869(b) or (b)”.

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

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

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

The PRESIDING OFFICER. The question is on agreeing to the amendment.
So the amendment (No. 3026) was agreed to.

Mr. DOMENICI. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3027

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

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

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

The PRESIDING OFFICER. The clerk will report.

The bill clerk reads as follows:

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

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

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

The amendment is as follows:

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

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

(a) DISTRIBUTION AND USE OF SURCHARGES.—

(1) IN GENERAL.—Section 6 of the Civil War Battlefield Commemorative Coin Act of 1992 (31 U.S.C. 512 note) is amended to read as follows:

SEC. 6. DISTRIBUTION AND USE OF SURCHARGES.

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

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

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

“(2) not more than $1,000,000 to acquire sites at Appomattox Court House, Virginia;

“(3) not more than $300,000 to acquire sites at Petersburg, Virginia;

“(4) not more than $1,000,000 to acquire sites at Gettysburg, Pennsylvania;

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

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

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

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

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

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

“(2) TRANSFER OF SURCHARGES.—

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

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

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

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

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

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

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

Mr. EXON. I have to advise my colleague, I thought this was cleared. I am now advised we have one Senator that has asked to be consulted on this yet. I am not sure if we could hold this up momentarily.

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

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

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

So the amendment (No. 3027) was cleared. I think we can clear it if we can hold this up momentarily.

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

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

AMENDMENT NO. 3028

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

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

The PRESIDING OFFICER. The clerk will report.

The bill clerk reads as follows:

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

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

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

The amendment is as follows:

At the end of the bill add the following new title: 
the Arctic National Wildlife Refuge, even oil in national storage facilities—as deficit reductions despite the fact that such sales are actually money-losers.

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

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

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

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

So what do we have here, buried deep in this bill? We have a trick, a gimick. We cut spending, by redefining what a cut is. Now, for the first time in this bill, we can sell off national property—national assets—and include the proceeds as deficit reduction.

Mr. President, because of these cynically clever changes, we can now propose all sorts of asset sales, from ANWR to the Strategic Petroleum Reserve. We can sell off national property—national assets—and include the proceeds as deficit reduction.

Mr. President, of course, because of these cynically clever changes, we can now propose all sorts of asset sales, from ANWR to the Strategic Petroleum Reserve. We can sell off national property—national assets—and include the proceeds as deficit reduction.

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

The PRESIDING OFFICER. The motion is not in order.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3027

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

Mr. EXON. That is not correct.

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

I yield back my time on it.

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

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

The amendment (No. 3027) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

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

[Rollcall Vote No. 543 Leg.]

YEAS—49

Akaka               Peingold
Baucus              Lieberman
Biden               Mink
Borum               Moosely-Brumfield
Boxer               Murray
Bradley             Nunn
Brown               Pell
Bryan               Pryor
Bumpers             Reed
Byrd                Robbins
Chafee              Rockefeller
Cohen               Sarbanes
Corker              Simon
Daschle             Snowe
Dodd                Stennis
Durbin              Wease
Dorgan              Wellstone
Exon                Wylies

NAYS—50

Abraham             Gorton
Ashcroft            Gramm
Bennett             Grattan
Bond                Grasky
Brown               Gregg
Burns               Hatch
Campbell            Hatfield
Coate               Helms
Cochran             Hatchen
Coversid            Inhofe
Craig               Jeffords
DeAlo               Kassebaum
DeWeine             Kempthorne
Dole                Ketron
Domencic            Klein
Faircloth           London
Ford                Lott
Frank               Mank
The yeas and nays resulted—yeas 49, nays 50, as follows:

[Rollcall Vote No. 543 Leg.]
At the appropriate place in the bill, insert the following:

SEC. 11042. AUTHORITY TO PAY PLOT OR INTERMENT ALLOWANCE FOR VETERANS BURIED IN STATE CEMETERIES. Section 11023(b) of title 38, United States Code, is amended by adding at the end the following:

"(2) is buried (without charge for the cost of a plot or interment) in a cemetery, or a section of a cemetery, that (A) is eligible for burial in a national cemetery, and (b) is owned by a State or by an agency or political subdivision of a State, the Secretary may pay to such State, agency, or political subdivision the sum of $150 as...

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

CHANGE OF VOTE

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

The PRESIDENT OF THE SENATE. Without objection, it is so ordered.

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

The PRESIDENT OF THE SENATE. The Senator from Nebraska.

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

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

The PRESIDENT OF THE SENATE. The Senator from Delaware.

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

The PRESIDENT OF THE SENATE. The bill clerk will report the amendment.

The bill clerk read as follows:

The Senator from Delaware (Mr. Biden) proposes an amendment numbered 3029.

Mr. Biden. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with. The amendment is as follows:

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

"(2) is buried (without charge for the cost of a plot or interment) in a cemetery, or a section of a cemetery, that (A) is eligible for burial in a national cemetery, and (b) is owned by a State or by an agency or political subdivision of a State, the Secretary may pay to such State, agency, or political subdivision the sum of $150 as..."
Mr. BIDEN. Mr. President, following the announcement of Senator Long years ago, if the amendment is accepted, I have nothing to say.

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

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

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

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

The motion to lay on the table was agreed to.

EXON POINT OF ORDER

Mr. EXON. Mr. President, the next item on the agenda is the Exxon point of order with regard to the Byrd rule. Because of the Budget Act of 1974, I raise a point of order that several provisions—

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

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

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

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

The PRESIDING OFFICER. The Senator from New Mexico.

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

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

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

Mr. EXON. That is perfectly reasonable.

Mr. DOMENICI. I thank the Senator. Mr. EXON. We will lay that temporarily aside.

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

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

Mr. BUMPERS. I do.

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

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

(Purpose: To clarify the Senate's intent that hardrock mining companies pay fair market value for the purchase of Federal lands and minerals pursuant to the 1972 mining law and to strike the sham hardrock mining industry sponsored royalty provisions from the bill which would continue the giveaway of taxpayer owned minerals to some of the richest companies in the world.)

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

The PRESIDING OFFICER. The clerk will report.

The bill cleared as follows:

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

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

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

The amendment is as follows:

—— Strike "for" on line 4 of page 309 through "thereby" on line 19 on page 309.

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

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

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

The Senator from Alaska is recognized.

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

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

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

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

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

The Byrd rule sponsored by mining critics like Mr. BUMPERS falls flat on its face. The punitive royalties and onerous environmental provisions he favors would make future mining on Federal lands nearly impossible.

Economic analyses of Senator BUMPERS' comprehensive mining law reform legislation, including in-house studies done by the Department of the Interior, cax our luxury yachts, including high-end luxury yachts. Unfortunately, instead of taxing the rich, this recklessness destroyed the yacht building industry and eliminated thousands of jobs in this country.

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

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

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

At the outset of the 104th Congress, I cosponsored the Mining Law Reform Act.
Act of 1995 (S. 506), a bipartisan bill that recognizes the world of change in which we now live. The bill balances economic reality with the environmental concerns facing today’s hardrock mining industry. I’ve actively pursued enactment of this legislation during the past several months.

It’s worth noting that Secretary of the Interior Bruce Babbitt continues to issue press releases decrying the shortcomings of the existing mining law.

Yet he offers no reform proposal of his own. Why? Very simply, it is much easier to be critical than to be constructive.

It’s a secret this is a divisive issue. In an effort to strike an acceptable compromise, the Senate Energy Committee included mining law reform provisions in its budget reconciliation package.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The yeas and nays were ordered.

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

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

YEAS—55

Abraham
Ashcroft
Baucus
Bennett
Bingaman
Bond
Breaux
Brown
Burns
Campbell
Chafee
Coats
Craig
D’Amato
Daschle
DeWine

NAYS—44

Alaska
Biden
Bumpers
Burns
Bradley
Bumpers
Conrad
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Gallaher

Mikulski
Moseley-Braun
Rocer
Gregg
Holings
Inouye
Johnston
Kennedy
Kerry
Kerry
Lautenberg
Leahy
Lieberman

Murray
Byrd
Pringle
Byrd
Pryor
Byrd
Byrd
Byrd
Byrd
Byrd
Byrd
Byrd
Byrd

Rogg
Snowe
Snowe
Wollstone

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

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

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second. The yeas and nays were ordered. The clerk will call the roll. The legislative clerk called the roll. The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

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

YEAS—72

Abraham
Ashcroft
Baucus
Bennett
Biden
Bingaman
Bond
Brown
Burns
Campbell
Chafee
Coats
Cochrane
Cohen
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Enz
Faircloth
Ford

NAYs—27

Alakes
Boxer
Bradley
Bumpers
Byrd
Cromartie
Daschle
Dodd

Leahy
Feingold
Fenster
Rolands
Jeffords
Kashkashian
Kerry
Lautenberg

Levin
Mikulski
Moosley-Braun
Meynhan
Robb
Rockefeller
Sarbanes
Wellstone

Port. I think 20 to 30 Senators business and family farms.

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

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

The motion to lay on the table was agreed to.

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

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

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

I yield my 30 seconds to him.

AMENDMENT NO. 3032

(Purpose: To provide additional funds to the Balanced Budget Reconciliation Act of 1995.

Amendment made by section 12809 of the act for the fiscal year is increased by an amount that is hereby authorized to be appropriated and is hereby appropriated equal to the increase in revenues for such fiscal year as did not contain all required information, or the agreement does not contain all required information, the executor will have a reasonable period of time (not exceeding 90 days) after notification of such failure to provide such information or signatures.

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

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

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

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

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

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second. The yeas and nays were ordered. The clerk will call the roll. The legislative clerk called the roll. The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

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

[Rollcall Vote No. 546 Leg.]

YEAS—72

Abraham
Ashcroft
Baucus
Bennett
Biden
Bingaman
Bond
Brown
Burns
Campbell
Chafee
Coats
Cochran
Cohen
Craig
D'Amato
DeWine
Dole
Domenici
Enz
Grams
Faircloth
Ford

NAYs—27

Alakes
Boxer
Bradley
Bumpers
Byrd
Cromartie
Daschle
Dodd

Leahy
Feingold
Fenster
Rolands
Jeffords
Kashkashian
Kerry
Lautenberg

Levin
Mikulski
Moosley-Braun
Meynhan
Robb
Rockefeller
Sarbanes
Wellstone

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

"(Sec. 2801. Disallowance of deduction for tobacco advertising and promotion expenses."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1994.

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

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

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

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

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second. The yeas and nays were ordered.

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

The bill clerk called the roll. The yeas and nays resulted—yeas 22, nays 7, as follows:

[Rollcall Vote No. 547 Leg.]

YEAS—22

Bennett
Bingaman
Baucus
Bradley
Burns
Bumpers
Byrd
Cohen
Coats
Cochran

Glenn
Graham
Harkin
Hatfield
Hollings
Kennedy
Kennerly
Kerry
Lautenberg

Moseley-Braun
Murray
Pelosi
Rockefeller
Snowe
Wellstone

GRAM.

NAYs—7

Abraham
Ashcroft
Baucus
Bennett
Biden
Burns
Campbell
Chafee
Coats
Cochran

Domenici
Dodd
Domenici
Dole
Domenici
Enz
Evans
Feingold
Fenster
Fisk

Grams
Grassley
Gregg
Greene
Heflin
Hatfield
Hutchinson
Inhofe
Inouye
Jeffords

Johnston
Kassebaum
Kempthorne
Kerry
Kyl
Leahy

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1994.

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

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

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

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

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second. The yeas and nays were ordered.

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

The bill clerk called the roll. The yeas and nays resulted—yeas 22, nays 7, as follows:

[Rollcall Vote No. 547 Leg.]

YEAS—22

Bennett
Bingaman
Baucus
Bradley
Burns
Bumpers
Byrd
Cohen
Coats
Cochran

Glenn
Graham
Moseley-Braun
Murray
Pelosi
Rockefeller
Snowe
Wellstone

GRAM.

NAYs—7

Abraham
Ashcroft
Baucus
Bennett
Biden
Burns
Campbell
Chafee
Coats
Cochran

Domenici
Dodd
Dole
Domenici
Dole
Enz
Evans
Feingold
Fenster
Fisk

Grams
Grassley
Gregg
Greene
Heflin
Hatfield
Hutchinson
Inhofe
Inouye
Jeffords

Johnston
Kassebaum
Kempthorne
Kerry
Kyl
Leahy

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

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

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

The motion to lay on the table was agreed to.

So the motion to lay on the table the amendment (No. 3030) was agreed to.
Amendment No. 3033

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

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

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

The PRESIDING OFFICER. The clerk will report.

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

The PRESIDING OFFICER. The clerk will still report.

The legislative clerk read as follows:

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

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

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

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

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

The PRESIDING OFFICER. The Senator from Iowa.

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

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

The Senator from New Mexico.

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

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

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

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

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

[Holcall Vote No. 548 Leg.]

YEAS—66

Abraham
Ashcroft
Baucus
Bennett
Biden
Bond
Bradley
Breaux
Brown
Bryan
Burns
Campbell
Chafee
Coates
Cochran
Covdell
DeWine
Dole
Domениci
DFAIRCOAT
Frist
NAYs—33

Akaka
Bingaman
Boxer
Bumpers
Byrd
Cohen
Congress
Daschle
Dodd
Dorgan
Leahy
Feingold
Feinstein
Ford
Harkin
Hollings
Kempthorne
Kennedy
Kerry
Lieberman
Lott

Amendment No. 3034

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

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

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

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

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

The amendment is as follows:

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

SEC. 8. CERTAIN MINERALS NOT ELIGIBLE FOR PERCENTAGE DEPLETION.

(a) General Rule.—

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

(A) by striking “and uranium” in subparagraph (A), and

(B) by striking “asbestos,” “lead,” “mercury,” in subparagraph (B).

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

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

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

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

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

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.
Mr. MOYNIHAN. Mr. President, I ask unanimous consent that my vote on the Bradley amendment No. 3932 be changed from “yea” to “nay.” This request will not change the outcome of the vote.

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

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

Ms. MOSELEY-BRAUN addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. Moseley-Braun. On rollcall vote No. 548, I voted “no.” It was my intention to vote “yea.” Therefore, I ask unanimous consent that I be permitted to change my vote. This will in no way change the outcome of the vote.

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

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

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. DOLE. Mr. President, I wonder if we can take a break before we get into that and do some additional votes. I am not certain.

The assistant legislative clerk called the roll.

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

[Rollcall Vote No. 549 Leg.]

YEAS—43

NAYS—56

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

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

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

Mr. MOYNIHAN. I move, I move to reconsider the vote.

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

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that my vote on the Bradley amendment No. 3932 be changed from “yea” to “nay.” This request will not change the outcome of the vote.

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

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

Ms. MOSELEY-BRAUN addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DASCHLE. Mr. President, I have a point of order against the amendment. As I have indicated, there was an additional debate on that—probably not more than 10 minutes will be allotted—because it is a 46-page amendment.

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

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

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

Mr. DASCHLE. Would the majority leader yield?

Mr. DOLE. I yield.

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

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

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

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

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

We would like to handle those in a way—by presenting those to you on the basis that if they do not properly belong in that we might drop them out. We are not sure there are a lot but there are some and they are of concern. I might also suggest a good number of the motions of the Byrd rule problems come from the welfare bill—not all, but many.

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

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

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

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

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

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

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

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

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

We published a comprehensive list of all budget rule violations in yesterday's Record. This is no surprise deal. I certainly say that I will look forward to hearing from your side and, as usual, I take a careful look at your proposition.

Lautenberg Motion to Commit

Mr. Exon. The next motion would be by the Senator from New Jersey, Senator Lautenberg.

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

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

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

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

The Presiding Officer. The clerk will report.

The legislative clerk read as follows:

The Senator from New Jersey [Mr. Lautenberg] moves to commit S. 1357 to the Committee on Finance held a hearing on September 11, 1995.

Motion to Expand the Home Office Deduction

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

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

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

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

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

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

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

Hon. Robert Dole, U.S. Senate, Washington, DC;

Dear Senator Dole: The undersigned associations strongly urge you to cosponsor S. 327, the Home Office Deduction Act. The original sponsors of the bill are Senators Orrin G. Hatch, Max Baucus, Charles E. Grassley, James J. Exon, Robert J. Kerrey, Joseph I. Lieberman, Bennett J. Johnson, and John H. Chafee.

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

S. 327 will provide a tax deduction for thousands of persons who lose their home office deduction as a result of the Soliman decision; particularly if (a) these people visit customers outside the home and (b) they generate revenues of the business outside the home. The list of people potentially losing the deduction includes independent sales persons, plumbers, electricians, remodelers, contractors, home builders, veterinarians, travel agents and others. The bill would put home-based businesses like these on a more equal footing with other businesses.

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

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

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

Sincerely,
Alliance for Affordable Health Care
Alliance of Independent Store Owners and Professionals
American Animal Hospital Association
American Association of Home-Based Businesses
American Society of Media Photographers
American Society of Travel Agents
American Veterinary Medical Association
Associated Builders and Contractors, Inc.
Bureau of Wholesale Sales Representatives
Communicating for Agriculture
Communicating for Health Consumers
Council of Fleet Specialists
Direct Selling Association
Family Research Council
Home Office & Business Opportunities Association of California
Illinois Women's Economic Development Summit
National Association for the Cottage Industry
National Association for the Self-Employed
National Association of Home Builders
National Association of Private Enterprise
National Association of the Remodeling Industry
National Association of Women Business Owners
National Electrical Manufacturers Representative Association
National Federation of Independent Business
National Small Business United
National Society of Public Accountants
Promotional Products Association International
Retail Bakers of America
Small Business Legislative Council
The PRESIDING OFFICER (Mr. SANTORUM). Are there any other Senators in the Gallery desiring to vote? The yeas and nays resulted—yeas 39, nays 60, as follows:

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

[Rollcall Vote No. 550 Leg.]

YEAS—39

Akaka—Ford
Baucus—Levin
Bayh—Lieberman
Boxer—Mukulski
Breaux—Murray
Bumpers—Nunn
Byrd—Pelosi
Conrad—Fyfe
Daschle—Reid
Dodd—Robb
Dorgan—Rockefeller
Exon—Sabanes
Feingold—Simon
Feinstein—Wallsten
NAYs—60

Abraham—Domenici
Ashcroft—McKay
Bennett—McCain
Biden—McConnell
Bingaman—Moseley-Braun
Bond—Moynihan
Bradley—Nicky
Brown—Pressler
Bryan—Roth
Burns—Santorum
Campbell—Shelby
Chafee—Simpson
Coats—Smith
Coogan—Snowe
Cohen—Specter
Coverdell—Stevens
Craig—Thomas
D’Amato—Thompson
DeWine—Thune
Dole—Warner

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

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

The PRESIDING OFFICER. The Senator from Illinois.

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

The PRESIDING OFFICER. The Senator will suspend. The clerk will report the amendment. The assistant legislative clerk read as follows:

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

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

Mr. SIMON. Mr. President, I offer this in behalf of Senator STEVENS, Senator BREAUX, and myself. Our former colleague, Russell Long, helped to develop the employee stock option plan. Even the Chamber of Commerce says when it is enacted in companies, it increases productivity 3 to 17 percent. What this bill does, without my amendment, it starts to strangle the ESOP’s. CBO says it will cost $27 million. Let me just say the PRESIDING OFFICER. The Senator’s time has expired.

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

Mr. BINGAMAN. Mr. President, I rise today as a cosponsor and strong supporter of Senator SIMON’s amendment to strike a provision ending favorable treatment for ESOP loans. This provision, known as section 133, was originally put in place by Senator Long, when he was the honorable chairman of the Senate Finance Committee. It allows banks making loans for the establishment of employee stock ownership plans [ESOP’s] to deduct half of the interest received from that loan. In practice, this provision has lowered the cost of establishing an ESOP and, thus expanded employee ownership. It is estimated that about 50 ESOP’s are established in this manner each year.

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

Beyond helping individual workers, there is significant evidence that employee ownership enhances the competitiveness of corporations. Several studies, including a 1985 study by Douglas Fanecke, have established a positive link between employee ownership and corporate performance. It is no surprise that workers are more productive when they own the fruits of that productivity. In a global economy, shouldn’t we be doing everything we can to encourage corporations to be more competitive?

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

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

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

THE ESOP ASSOCIATION,
Washington, DC, October 17, 1995.
To: Tax Staff of the U.S. Senate.
From: The ESOP Association, Re: Incredible Revenue Estimate on Repeal of ESOP Provision.
The revenue estimate for the proposed repeal of the ESOP tax provision known as the ESOP lenders interest exclusion (Code Section 133) is unbelievable for each year estimated.
Fact, the average ESOP leveraged transaction, where borrowed money is used to acquire stock for employee owners, is at most, $5 million per transaction.
Fact, at the highest, only 50 transactions a year since January 1, 1990, have used the tax incentive that is proposed to be repealed.
Fact, 50 times 5 equals 250. If the interest rate on the $250 million in ESOP loans is 15%, the interest paid on these loans is $37.5 million per year. This lender may exclude $12.5 million of this interest from its income tax. The revenue loss to the Treasury is $3.5 million per year.
The revenue estimate that in the year FY ’99, for example, that the revenue loss is $149 million is ridiculous. To reach this level of revenue loss, the amount of 50% plus ESOP transactions would be 950 a year! Never, ever, has the value of ESOP transactions where employees acquired 50% or more, and use borrowed money, come close to this level.
The ESOP community in its wildest dreams would wish that there were that
many 50% plus ESOP transactions a year to justify such an estimate. Sadly for America there is not. The ESOP Association knows how many transactions follow. There are obviously those wishing to damage employee ownership are not informed as to the facts.

The PRESIDING OFFICER. The majority leader.

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

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

Mr. DOMENICI. Whatever time we have release.

The PRESIDING OFFICER. The Senator from New Mexico.

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

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

The yeas and nays were ordered.

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

The assistant legislative clerk called the roll.

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

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

The result was announced—yeas 56, nays 22, as follows:

[Rollcall Vote No. 551 Leg.]

YEAS—56

Abraham
Ashcroft
BenNETT
Bond
Bradley
Brown
Bryan
Burns
Campbell
Chafee
Cochran
Coleman
Coverdell
Craig
D’Amato
DeWine
Dole
Domenici
Dorgan
Faircloth
Feingold
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Hattenhouser
Inhofe
Jeffords
Johnson
Kempthorne
Kyl
Leahy
Lugar
Mack
McCain
McConnell
Meynihan
Mikuriwa
Nickles
Presler
Roth
Sanburn
Shelby
Simpson
Smith
Specter
Thomas
Thompson
Thurmond
Warner

NAYS—42

Akaka
Baucus
Biden
Bingaman
Boxer
Breaux
Bumpers
Byrd
Buchanan
Byrd
Coats
Conrad
Daschle
Daschle
Davis
Eskin
Feinstein
Feinstein
Franks
Granholm
Graham
Griffith
Gorton
Grueskin
Gutierrez
Harkin
Hart
Hatch
Helms
Hatfield
Hatch
Helm
Hutchison
Inouye
Jennings
Jeffords
Johnson
Kerrey
Kassebaum

NOT VOTING—1

S. 16034

CONGRESSIONAL RECORD—SENATE

October 27, 1995

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

The motion to lay on the table was agreed to.

Mr. EXON. I move to reconsider the vote.

Hence, 103 days had passed between March 9, the day that the motion was first made to proceed to take up the bill, “and final passage on June 19.” That was a very historic occasion. The vote on cloture occurred on June 10, which was the 150th anniversary of Abraham Lincoln’s nomination for a second presidential term. The 34 rollcall votes occurred on June 16, and the bill passed on June 19 by a vote of 73 to 27.

Mr. President, this is another historic occasion today. We are about to cast 35 rollcall votes, which will, of course, set a new record, the first such new record in 31 years.

I wish we would pause just a moment and think about the contrast between the bill that was before the Senate then and the bill that is before the Senate now—not the subject matter at this point, but the procedural aspects.

On that occasion, we had one bill which was before the Senate. There had been hearings on that bill. There had been 17 days of debate on a motion to proceed to take the bill up. There had been 57 days of actual debate, including Saturdays. There had been scores of amendments offered thereon and cloture motions thereon. And then more amendments were called up and additional votes occurred.

Think of the time that it took the Senate to dispose of that bill: 103 days. It was a historic bill. I voted against it. I felt regret today that many times. But here we have a bill that has been before the Senate now 2 days—3 days; only 3 days—and we are limited to 20 hours on this bill—20 hours.

On that bill in 1964, we had 103 days; on this bill the limit is 20 hours and only 2 hours on an amendment, and the motion to proceed to this bill was non-debatable. But we are down to the point now where we have only 30 seconds to the side for debate on an amendment—30 seconds for debate. I am not criticizing either party or anybody in either party, in saying this, I am just concerned and discouraged by what we have seen taking place here in the Senate on this bill.

It is a historic bill also, but we have gone from 103 days on a massive bill—one bill—to 20 hours on what consists of a number of bills, not just one bill. No hearings. No hearings on this bill. There were hearings on committees on parts of it, but no single committee had hearings on the whole bill, 1,949 pages.

I am concerned with what we are doing to the Senate, what we are doing to the legislative process. We are inhibited from calling up amendments. We have had a very insufficient time for debate on this massive, comprehensive bill, a bill that may be even more far-reaching in some respects than was the civil rights bill of 1964.

Thank you, Mr. President, that we will, in the coming days and weeks and next year, consider revising the reconciliation process, that part of the legislative process...
Mr. BYRD. I hope Senators will now accept CBO projections instead of what we are voting for.

Mr. BYRD. I urge Senators to reject the hoax by voting for Mr. DOMENICI's amendment, which eliminates the $245 billion tax cut from this bill and applies the money to the deficit.

Mr. President, the amendment speaks for itself. It eliminates the tax cut in the bill and applies the savings that are projected—and we know how the projections have been in error so many times, and that is not to be critical of CBO—but it applies the savings to the deficit.

I thank all Senators for listening.

The PRESIDING OFFICER. The Senator from New Mexico, Mr. DOMENICI.

Mr. DOMENICI. Mr. President, I think everybody understands this amendment. It would strike all the tax cuts that were provided for children, those where we want to correct the cuts that were provided for children, and I want you for it. But I must suggest that you were part of putting this together, and we thank you for it, because if you had not helped us put this kind of process together, we could never change the country.

I guarantee you that if we did not have a reconciliation process, what we wanted to change would take 30 years. Any piece of this amendment could be subject to the exact same 69, 79, 89 days as that legislation, which the distinguished former majority leader brought to our attention. That is just too long to change things and turn things around.

So one year, we get an opportunity to proceed to change the country and vote on very large, significant, substantial changes under the privilege of a reconciliation bill.

The PRESIDING OFFICER. The Senator from West Virginia?

Mr. DOMENICI. I ask unanimous consent that I be permitted to proceed for 1 additional minute.

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

Mr. DOMENICI. Mr. President, it is true this is not the cleanest of processes, and I submit a clear reading of the Budget Act, which, again, the Senator from West Virginia had a very big hand in drawing, that clearly it was intended that when you put a budget of the United States together, that the U.S. Congress would not avail itself of delaying tactics to implement it. As a matter of fact, the implementing of it to make it reconcile with the budget is from whence the word “reconciliation” comes.

So maybe it is being used for too many things, and maybe it is too difficult, and perhaps we ought to fix that process a bit. But I guarantee you, if you do not find something to take its place and abolish it, you will not change America in important matters for year after year after year.

I like the rules. But I think once a year you ought to comply with the budget of the United States and change the laws to change the country, to comply with the fiscal policy that is why we are here. It is difficult. I am glad that I am chairman when we broke the record—I am not sure of that, although I am very pleased with the record. We won almost every vote and for that, I thank the Republicans. I think they knew what they were voting about and for. Essentially, the truth of the matter is that we have no other way to get it done, as imperfect as it is. I yield the floor.

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

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

The PRESIDING OFFICER. Is there a sufficient second.

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

The clerk will call the roll.

The legislative clerk called the roll.

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

The result was announced—yeas 53, nays 46, as follows:

[Roll Call Vote No. 532 Leg.]

YEAS—53

Abraham (by request)
Amato
Ashcroft
Baucus
Benjamin
Bond
Brown
Burns
Campbell
Chafee
Chinery
Cochran
Cornell
D'Amato
DeWine
Dole
Domenici
Fairecloth
Frist
Gorton
Gramm
Grassley
Gregg
Hatch
Hatfield
Hoeven
Hutchinson
Inhofe
Jefferies
Kennedy
Kempthorne
Kerry
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Moss
Nickles
Presler
Roth
Santorum
Shelby
Simpson
Smith
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—46

Ashcroft
Cochran
Cornell
D'Amato
DeWine
Dole
Domenici
Fairecloth
Frist
Gorton
Gramm
Grassley
Gregg
Hatch
Hatfield
Hoeven
Hutchinson
Inhofe
Jefferies
Kennedy
Kempthorne
Kerry
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Moss
Nickles
Presler
Roth
Santorum
Shelby
Simpson
Smith
Stevens
Thomas
Thompson
Thurmond
Warner
The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Minnesota [Mr. WELLSTONE], proposes an amendment numbered 304.

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

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

The amendment is as follows:

Mr. WELLSTONE. Mr. President, this amendment knocks out what is euphemistically called the deep water royalty relief. It is in fact probably the most brazen subsidy that goes to oil companies that are doing very well. So well, Mr. President, that in the House Representatives, 261 Representatives voted against this—100 Republicans.

That is why it got put in reconciliation. That is why somehow it wound up in this reconciliation bill. It ought to be knocked out.

This is not public interest. This is special interest. It is brazen. It is really a scandalous subsidy when we are asking all sorts of citizens to tighten their belt. I hope we will vote to knock this out.

Mr. DOMENICI. I yield my time to Senator JOHNSTON of Louisiana.

Mr. JOHNSTON. Mr. President, according to the Mineral Management Service, this provision which Senator WELLSTONE would seek to knock from this bill would produce 320 million barrels of oil in the central Gulf which would otherwise not be produced.

Need I remind my colleagues that the Mineral Management Service is part of the Department of the Interior. Bruce Babbitt, a Secretary who has never been shy about the interests of the oil and gas companies—this is backed by Secretary Babbitt. It is backed by Secretary O'Leary.

I ask unanimous consent that her letter backing this be printed in the RECORD.

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


Hon. J. Bennett Johnston,
Ranking Minority Member, Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C.

DEAR SENATOR JOHNSTON: The Administration reiterates its support for the title provision which Senator WELLSTONE would seek to knock from this bill.

In the energy policy plan, "Sustainable Energy Strategy: Clean and Secure Energy for a Competitive Economy" in July 1995, the Administration outlined its overall energy policy stressing the goals of increased energy productivity, pollution prevention, and enhanced national security. To achieve these goals, the Nation must make the most efficient use of a diverse portfolio of domestic energy resources that will allow us to meet our energy needs today, tomorrow, and well into the next century. The Administration continues to promote the economically beneficial and environmentally sound expansion of domestic energy resources.

In furtherance of this objective, "The Administration's policy is to improve the economics of domestic oil production by reducing, in order to protect this industry of low and volatile oil prices." One of the ways indicated to lower these costs is, "providing appropriate tax and fiscal incentives for domestic energy resource industries." Finally, the "Strategy" specifically targets the opportunities in the Gulf of Mexico.

One of our best opportunities for adding large new oil reserves can be found in the central and western Gulf of Mexico, particularly in deeper water. Royalty relief can be a large step towards making it economically attractive to the oil and gas industries, in support of our energy industrial base and our national security.

This step will help to unlock the estimated 15 billion barrels of oil-equivalent in the deepwater Gulf of Mexico, providing new energy supplies for the future, spurring the development of new technologies, and supporting thousands of jobs in the gas and oil industries, (emphasis in original, page 36)".

In conclusion, Mr. Chairman, the Administration supports targeted royalty relief to encourage the production of domestic oil and natural gas resources in deep water in the Gulf of Mexico.

This amendment provides for large oil companies to receive up to a $420 million tax giveaway over 25 years. The Treasury would forego an estimated $553 million in lost royalties that would otherwise have been collected through the year 2000. Since this amendment would result in increased bonuses of $485 million—$335 million in additional bonuses on tracts that would have been leased without relief, and $350 million in bonuses from tracts that would not have been leased until after the year 2000, if at all, without the relief. This translates to a present value of $420 million, if the time value of money is taken into account.

Nevertheless, the Administration feels that the revenue losses that would have been incurred by the Federal government would be more than offset by the increased domestic energy production that this amendment would bring.

Finally, the "Strategy" specifically targets the opportunities in the Gulf of Mexico.

Mr. JOHNSTON. Mr. President, in the reconciliation bill, there is a provision which provides yet another unneeded subsidy for the oil and gas companies. It provides for a royalty relief to the oil and gas industry. Specifically:

"For the purpose of stimulating the exploration for, and development of, domestic energy resources, the fiscal incentive provided by the Minerals Leasing Act is hereby increased. The provision reduces the royalty on energy produced from lease tracts by an amount equal to the bonus bid in the lease sale from which energy is produced."

The Minerals Management Service has estimated that the revenue losses under section 304 of S. 395 for lease sales in the central and western Gulf of Mexico between 1996 and 2000, the deepwater royalty relief provisions would result in increased bonuses of $485 million—$335 million in additional bonuses on tracts that would have been leased without relief; and $350 million in bonuses from tracts that would not have been leased until after the year 2000, if at all, without the relief. This translates to a present value of $420 million, if the time value of money is taken into account.

Nevertheless, the Treasury would forego an estimated $553 million in royalties that would otherwise have been collected through the year 2018. But again, the Administration feels that the time value of money, this offset in today's dollars is only $220 million. Comparing this loss with the gain from the bonus bids on a present value basis the Federal government would be ahead by $200 million.

It is important to note that affected OCS projects would still pay a substantial upfront bonus and then be required to pay a royalty when and if production exceeds their royalty-free period. A royalty-free period, such as that proposed in S. 395, would help enable more timely viable OCS projects to be developed, thus providing additional energy, jobs, and other important benefits to the nation.

In contrast, the absence of thorough reform of the 1872 Mining Law, hardrock mining projects on Federal lands can be initiated without paying a substantial bonus and are never required to pay a royalty on the resources developed. The end result is that the public is denied its fair share of the benefits from the resources developed.

The ability to lower costs of domestic production in the central Gulf of Mexico by providing appropriate fiscal incentives will lead to an expansion of domestic energy resources, enhance national security, and reduce the deficits of the Federal government. The Administration supports the deepwater royalty relief provision of S. 395.

Mr. JOHNSTON. Mr. President, as near as I can tell, and I stand to be corrected if I am in error, we have three amendments and possibly one that I do not think will be offered.

The three amendments upcoming are the Wellstone amendment, then the Exon amendment, with regard to the violations of the Byrd rules, and then the Finance package. So I think we only have three with the possibility of one more.

At this time, then, to move along, I suggest that we recognize the Senator from Minnesota, who has an amendment to offer. I yield him the 30 seconds off of our bill.

AMENDMENT NO. 304

(Purpose: To strike the deep water regulatory relief provision for a number of reasons, including: (1) although the provision is estimated to save $130 million over seven years, the Congressional Budget Office estimates that the Treasury $550 million in lost receipts over the next 25 years, leading to a net loss of $420 million; (2) the provision provides yet another unneeded subsidy for the oil and gas industry, which was described by the Wall Street Journal on October 24, 1995 as experiencing a "Gush of Profits"; and by Business Week in the October 30, 1995 issue as benefiting from new technologies that cut the cost of deep-water drilling; and (3) a short-term savings of $130 million over seven years will not justify the ultimate giveaway of $420 million over 25 years)

Mr. WELLSTONE. Mr. President, I send an amendment to the desk.
The Office of Management and Budget has advised that it has no objection to the presentation of these views from the standpoint of the Administration’s program.

Sincerely,

Hazel R. O’Leary.

REVENUE IMPACT OF DEEP WATER ROYALTY RELIEF

| Nominal dollars saved by investing $200 million in T-bonds by 2000 | Present value | Interest
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<td>2004: $200 million in T-bonds by 2008</td>
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The clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote? The yeas and nays resulted — yeas 28, nays 71, as follows: [Roll Call Vote No. 553 Leg.]

YA EAS — 28

Abraham Exxon Mack
Akaka Faircloth McCain
Ashcroft Feinste In McNellis
Baucus Ford Mikulski
Bennett Frist Moseley-Braun
Biden Gorton Moseley
Bingaman Gramm Nickles
Bond Gramm Nunn
Breaca Grayle Pryor
Brown Gregg Reid
Burns Hatch Singletary
Campbell Hatfield Rockefeller
Cha fer Hadlin Roth
Coats Helms Roth
Cochran Hutchinson Santorum
Conrad Inhofe Shelby
Corzine Isakson Simpson
Craig Johnston Smith
D’Amato Kassebaum Specter
Daschle Kempthorne Stevens
DeWine Kerrey Thomas
Dole Kyi Thompson
Domenici Leahy Thurmond
Dorgan Lugar Warner

The PRESIDING OFFICER. On this vote the yeas are 28, the nays are 71. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to. The point of order is well taken and the amendment fails.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, we are still examining the different items of the package, the so-called Byrd-Exon package on the Byrd rule. I wonder if we might proceed on the Finance Committee amendment. Senator Roth I think is prepared to proceed on that amendment. We would be prepared to enter into some lengthier time agreement than the 10 minutes we were allotted under yesterday’s unanimous-consent agreement. We would like to keep it as tight as possible, but we understand the Senator from Florida in particular wanted some additional time.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. I have consulted with a number of my colleagues, and I think that a half-hour on either side might accommodate the needs of Senators interested in participating in debate on the Roth amendment if that would accord with the majority leader.

Mr. DOLE. Half-hour on each side.

Mr. DASCHLE. Half-hour on each side.

Mr. DOLE. I ask unanimous consent there be an hour equally divided.

The PRESIDING OFFICER. Is there objection to an hour equally divided? Without objection, it is so ordered.

Mr. Domenici addressed the Chair.

The PRESIDING OFFICER. The Senate from New Mexico.

AMENDMENT NO. 3037

Mr. DOMENICI. Mr. President, I had been trying to clear a correcting amendment to the D’Amato amendment that had heretofore been adopted. I understand it has been cleared on both sides.

Mr. EXON. It has been cleared on both sides.

Mr. DOMENICI. I send the amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. Domenici], for Mr. D’Amato, proposes an amendment numbered 3037.

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

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

The amendment is as follows:

On page 187, line 3, and on page 187, line 22, strike “5” and insert “10.”

Mr. DOMENICI. Mr. President, I yield back any time I have on the amendment.

Mr. EXON. I yield back my time.

The PRESIDING OFFICER. All time is yielded back.

Is there objection to the amendment? Without objection, the amendment is agreed to.

So the amendment (No. 3037) was agreed to.

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

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

The motion to lay on the table was agreed to.

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doing, this provision would not only change a major provision of the Coal Act of 1992, it would also overturn dozens of district and Federal court decisions.

Under the 1992 Coal Act and case law, companies are required to pay health insurance premiums for their former workers, with whom they contractually committed to pay lifetime health benefits. Section 12874 would relieve certain coal companies from this commitment by allowing them to forego the premiums for 2 years.

According to the Congressional Budget Office (CBO), over the 7-year period, 1996–2002, this provision would produce a net increase of only $8 million.

In light of the fact that Section 12874 represents a major policy change, which would overturn existing statutory and case law, while having a minor budgetary impact of only $8 million over 7 years, it is clearly a violation of the Byrd Rule.

Therefore, it is my view that Section 12874 should be stricken from the reconciliation bill as being in violation of the Byrd Rule.

In addition to the blatant violation of the Byrd rule, Mr. President, this provision is just bad policy. The 1992 Coal Act was enacted to save the health benefits of over 120,000 miners and their dependents. The situation which led to the need for enactment of the Coal Act was the impending crisis resulting from the dwindling number of coal companies left to pay for the health benefits promised to coal miners and their dependents. This situation put miners’ health benefits in jeopardy. The Coal Act averted this crisis requiring companies to pay the health benefit premiums of their former employees, and further solidified the promises made to the miners that they would keep their lifetime health benefits.

Miners’ health benefits have a unique history in that the federal government has played a role since the coal strike of 1946. Over the years, miners gave up increases in wages and pensions and in return were promised lifetime health benefits by the coal companies. Health benefits are important to coal miners. The coal miner lives dangerously, working in cramped, hazardous conditions. The brutal nature of mine work and the risks to miners’ health that go hand in hand with this labor make good health benefits extremely important to miners.

The provision included in the Reconciliation legislation would, for two years, provide relief to reachback companies, those companies that were not signatories to the 1988 National Bituminous Coal Wage Agreement, by reducing the premiums they are required to pay to the Combined Fund if it is calculated that the Fund has a surplus. The calculation of a surplus would be done on the cash method of accounting, not the accrual method, and the surplus would be reduced by 10 percent of benefits and administrative costs. Requiring the calculation of a surplus using the cash method of accounting is unwise, could lead to a misleading statement of surplus, and is not the standard practice with regard to health plans. Further, the provision provides that if a surplus of the Fund occurs, all companies’ premiums would be increased, even though only a specific group of companies would get relief.

The financial status of the Combined Fund is precarious. Guy King, the former chief actuary for the Health Care Financing Administration, in an analysis of the Combined Fund, suggests that all of the net assets in the Fund will be necessary to pay benefits for the next ten years. The annual growth in the premium rates will be insufficient to cover the anticipated rate of increase in expenses of the Fund; therefore, the surplus in the Fund is necessary for reasonable solvency in the years ahead. It is patently absurd to absolve certain companies, who can clearly afford to keep their promises, of responsibility for their former employees and, thus, jeopardize the financial status of the Fund. Given the uncertainty surrounding the Combined Fund, I must adamantly oppose this provision to relieve certain companies of their responsibility to their former employees.

Section 12874 is a violation of the Byrd rule because the savings attributed to the provision are solely incidental to the non-budgetary purpose of the provision. Therefore, it is my view that Section 12874 is extraneous to the provision.

The 1992 Coal Act was precariously enacted in the face of an impending crisis. It was necessary for the Fund to remain solvent in the years ahead. It is patently absurd to absolve certain companies, who can clearly afford to keep their promises, of responsibility for their former employees and, thus, jeopardize the health benefits of 92,000 retired miners and widows, including approximately 27,000 who live in West Virginia. The care that they receive is the result of the financial status of the Combined Fund, and would jeopardize the health benefits of 92,000 retired miners and widows, including approximately 27,000 who live in West Virginia. The annual growth in the premium rates will be insufficient to cover the anticipated rate of increase in expenses of the Fund; therefore, the surplus in the Fund is necessary for reasonable solvency in the years ahead. It is patently absurd to absolve certain companies, who can clearly afford to keep their promises, of responsibility for their former employees. The provision does not adequately safeguard the financial status of the Fund, and would jeopardize the health benefits of 92,000 retired miners and widows, including approximately 27,000 who live in West Virginia. The Senate will vote to remove this ill-advised provision from the Reconciliation legislation.

The PRESIDING OFFICER. Who yields time? There will be 30 minutes on a side. The Chair asks the Senate to be in order.

Mr. ROTH addressed the Chair. The PRESIDING OFFICER. Who yields time? Mr. DOMENICI. Mr. President, how much time does the Senator desire on the amendment? We have 30 minutes on our side.

Mr. ROTH. Five minutes.

Mr. DOMENICI. I yield 5 minutes to Senator ROTH. The PRESIDING OFFICER. The Senator from Delaware is recognized for 5 minutes.

Will the Senate please be in order. AMENDMENT NO. 3038 (Purpose: To make various changes in the spending control provisions in the matter under the jurisdiction of the Committee on Finance)

Mr. ROTH. Mr. President, I send an amendment to the desk.
The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROTH. Mr. President, this amendment includes modifications in Medicare and Medicaid. The first change in the Medicare provisions establishes a fully prospective payment system for skilled nursing facilities within 2 years.

Now, until this new skilled nursing home prospective system is implemented, the amendment changes how Medicare will pay nursing homes for nonroutine services. The change establishes payments based on each nursing home's cost in 1994 with an inflation adjustment.

The second change in the Medicare provisions is a slower phase-in for changes in Medicare's indirect medical education payments to teaching hospitals.

Mr. President, this amendment also makes several modifications to the Medicaid provisions in the bill.

The PRESIDING OFFICER. Would the Senator take his seat?

Mr. ROTH. Would the Senators take their conversations off the floor, please?

Mr. ROTH. The PRESIDING OFFICER. Will the Senators stop the clock? The Chair will start naming names. Please take the conversations off the floor.

Mr. THURMOND. That is right.

Mr. ROTH. Mr. President from Delaware.

Mr. ROTH. The first modification would modify the Federal quality standards for nursing homes under Medicaid. We have worked with Senator COHEN on this modification, and he is supportive of these changes. The modification would reduce the costly and duplicate requirement that States perform preadmission screening and annual resident review. In addition, a modification of nurse aide training requirements would make it easier to train nurse aides in rural areas.

The amendment would allow States with equal or stricter nursing home standards to seek a waiver from the Secretary of HHS to use the State standards in lieu of the Federal standards. However, the Secretary of HHS would continue to enforce State compliance with the Federal standards. States not in compliance with the Federal standards would be assessed a penalty of up to 2 percent of their Federal Medicaid funds.

Second, the amendment creates a Medicare/Medicaid integration demonstration project to permit Medicare and Medicaid funding to be combined to provide comprehensive services through integrated systems of care to elderly and disabled individuals who are eligible for both programs.

Third, the amendment creates a separate set-aside for low-income Medicare beneficiaries. This set-aside would be in addition to the set-asides already in the bill for pregnant women and children, the disabled and the elderly. Under this provision States would be required to spend a minimum amount on Medicare premiums for low-income Medicare beneficiaries. The amount would be at least 90 percent of the average percentage spent on Medicare premiums under Medicaid over fiscal years 1993 through 1995.

Fourth, the amendment requires States to apply the same solvency standards for health plans under Medicaid as the States set for health plans in the private sector.

And, fifth, the amendment modifies the distribution formula under the Medicaid program.

Let me start by saying we have worked very hard to improve the Medicaid formula.

Mr. ROTH. To improve the Medicaid formula which was adopted by the Finance Committee. Under the modification, each State's base would be the higher of, first, fiscal year 1995 spending, minus all payments to disproportionate share hospitals; second, fiscal year 1994 spending, including all disproportionate share hospital payments, plus 3.4 percent; or, third, 95 percent of fiscal year 1993 spending minus all disproportionate share hospital payments.

Each State's funding would increase by 9 percent for fiscal year 1996. And beginning in fiscal year 1997, each State's base would be increased by a growth rate determined by a formula subject to floors and ceilings. The ceilings have been modified by this amendment. We have tried to give more funds to the high-growth States by raising the growth ceilings in future years. States would be able to carry over credit of unused Federal funds for 2 consecutive years on a rolling basis. And after 2 years, unused funds from the previous years would begin to go into a redistribution pool. States can apply for additional funds from this redistribution pool.

Finally, the amendment strikes section 2116 of the bill limiting causes of preventable hospital readmission to the high-growth States by raising the growth ceilings in future years. States would be able to carry over credit of unused Federal funds for 2 consecutive years on a rolling basis. And after 2 years, unused funds from the previous years would begin to go into a redistribution pool. States can apply for additional funds from this redistribution pool.

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Mr. WARNER. I rise in support of this landmark Medicare reform provision, S. 1357, the Balanced Budget Recconciliation Act of 1995. For the first time in the 30-year history of the Medicare program, Congress is preparing to give the Nation's 38 million elderly and disabled Medicare beneficiaries the opportunity to play a greater role in the design of their health benefits. That opportunity is the Medicare Choice program.

Largely because of its status as a government program, Medicare has fallen behind the times. When it was established in 1965, Medicare was based on the prevailing private sector indemnity health insurance plan—what we have come to know as fee-for-service.

For the first 15 years or so, there was little change in the utilization of American health care, but beginning in the late 1970's, health care price inflation began to skyrocket. Within a decade, American employers were staggering under the weight of rising health care costs. It is important to remember, as well, that by far, health care costs were fully carried by employers.

By the early 1980's we began to see the advent of managed care. Basically, the American business community demanded a more affordable health insurance product, and the insurance industry responded. The best company plans were and remain those which were able to offer a choice of coverage to their employees, not unlike the manner in which the Federal Government does today in the Federal Employee Health Benefit Plan (FEHBP).

Meanwhile, in 1983, the Medicare Program also abandoned traditional cost-based reimbursement and replaced it with what we have come to know as the prospective payment system. The Health Care Financing Administration at the Department of Health and Human Services devised a special payment provision which every company in advance in, and, in general, that was all Medicare would pay. It was and is the biggest and most expensive health care regulatory system in America.

The problem we face today is that Medicare is going broke. The pre-set payments we put into place in 1983 were based on a measure of private health care costs which have continued to rise at a rate beyond any other sector of the economy. Furthermore, those plans are being used more and more by Medicare beneficiaries with fewer and fewer workers paying the FICA taxes that maintain the Hospitalization Insurance [HI] trust fund.

The combination of these conditions, together with the never dreamed of costs of medical high technology, have worked to undermine the financial strength of Medicare. The major hospitalization fund went into deficit in just a very few years, and is projected to use up whatever surplus we have accumulated by the year 2002.

So what should be our policy? The first priority is to secure the future of
the program for the beneficiaries. Medicare will have more demands upon it than ever before when the baby boom generation begins retiring around the year 2010. Our plan is to limit or cap the built-in automatic growth of the program which, as I mentioned, has been fueled by medical price inflation and is one of the principal contributing factors to approaching insolvency. Rather than letting the program grow, as it would, at a rate of 10 to 16 percent per year, we will hold the line at an average of 6.2 percent. I repeat, the program will grow by an average rate of 6.2 percent a year.

This translates into some important numbers that Medicare beneficiaries need to know. In 1995, Federal spending on Medicare will reach $157.7 billion. By the year 2002, the program will have grown by 52 percent to $239.6 billion. This equals for every beneficiary an annual increase in the value of their benefit from $4,800 in 1995 to over $7,000 in 2002. Mr. President, I repeat, the program by curtailing exorbitant cuts, and we should make every effort to make sure that our constituents fully understand.

Our next priority has been to actually improve Medicare benefits, and much work has gone into determining our course. Should we pursue another top-down big government strategy as we did in 1983, or should we return to the roots of the program and follow the private sector.

As I said before, the best private employers are able to offer their employees a variety of health care choices—choices which best suit the needs of their employees and their families. The Congress is now striving to do the same for Medicare, putting together an array of health care options second to none. Older and disabled Americans have earned their Medicare entitlement, and it is our responsibility to maintain and improve it in the best possible manner.

Older people being what they are—and I am over 65 myself so I can say it—many are naturally reluctant to change. We therefore guarantee their No. 1 option to stay in the present system. Furthermore, we guarantee that their share of the principal expense of the program—the part B Premium—will be maintained at 31 percent of program costs. The U.S. Treasury pays for 69 percent of Medicare part B today, and it will as well in the year 2002.

Medicare, like a bargain. Beneficiaries today are asked to pay for 20 percent of doctor visits. The program does not pay for prescription drugs. Millions of beneficiaries have had to purchase medigap insurance at further costs to pay for what Medicare does not.

We will offer a selection of managed care options which can be far more affordable for older Americans living on fixed incomes. These will be options for beneficiaries to study, to discuss with their families to see if they would in fact present a better health care choice than the standard plan. Beneficiaries will be given an annual open season to join if they feel that it is right for them. All options will include, for a reasonable copayment, the right to see a favorite physician who might not be in their local plan.

Perhaps the most innovative option will be to newly available medical savings accounts [MSA’s]. In my State of Virginia, which has a reputation for fiscal conservatism, MSA’s have prompted a great deal of interest and support by doctors and patients alike.

Medicare would offer a catastrophic health insurance policy which, for example, would cover all costs over $3,000 per year. Remember that today, Medicare hospitalization begins to run out after 60 days in the hospital.

The beneficiary would then be given an annual Medicare allotment, in this scenario, of $1,500 a year which they could use to directly pay for physician visits, prescription drugs or even new HMOs, without tax consequences, or with- out as taxable income for personal use. The only possible out-of-pocket expense, as compared with the copay- ments and Medigap insurance used by current beneficiaries, would be that measure of $1,500 between the MSA and the catastrophic plan. If the benefi- ciary chooses to save his or her unused MSA funds, as many thrifty Americans will no doubt do, the $1,500 amount could easily be accumulated in the MSA in just a few years.

While an MSA will not be suitable for everyone, I believe it can have a real impact on the health care marketplace and consumer choice. Beneficiaries can shop around for the best price, and providers will want their business. With the prospect of no Medicare redtape, I imagine that doctors will jump at the chance to care for MSA beneficiaries.

Mr. President, we are veritably on the brink of a new day in Medicare. We hope to restore long-term solvency to the program by curtailing exorbitant growth, and open the door for bene- ficiaries to the modern health care marketplace. Millions or Medicare beneficiaries are already educated con- sumers, and it is my great hope that they will lead the way in demonstrat- ing the value of Medicare choice.

The PRESIDING OFFICER. Who yields time?

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Sen- ator from Nebraska.

Mr. EXON. Mr. President, to start out the debate, we will yield 5 minutes to Senator ROCKEFELLER. Following that, depending on the flow of business, I intend to, at my discretion, allow 5 minutes to Senator Pryor, 4 minutes to Senator Kennedy, 3 minutes to Senator Wellstone, and then the closing arguments will be made by Senator Graham from Florida.

So, at this time I yield 5 minutes to the Senator from West Virginia.

The PRESIDING OFFICER. The Sen- ator from West Virginia is recognized for 5 minutes.

Mr. ROCKEFELLER. I thank the Senator from Nebraska and the Pres- iding Officer.

Mr. President, I find it noteworthy that sometime very recently all of a sudden we get 46 pages of actual legis- lative language, the manager’s amend- ment, I guess we should be grateful for small deeds. The amendment magically comes up with about $10 billion. We believe there is a very good chance that comes from Social Security, which is most interesting, for more Medicare aid and, I find it, again, amazing that money is falling from the sky to satisfy dif- ferent folks. Some folks who said $270 billion in cuts for Social Security, for example, was the only possible way to save Medicare, and yet those same folks have prompted a great deal of interest and support by doctors and patients alike.

I find it, again, amazing that money is falling from the sky to satisfy dif- ferent folks, and yet these are the same folks who said $270 billion in cuts for Medicare, for example, was the only possible way to save Medicare. Mr. President, before yielding to other Senators, I will say, where did all this money come from, and is it from Social Security, for example? Or is it from some other place?

There is a very bizarre formula for Medicaid in which I think the Republican States somehow end up doing much better than the Democratic States, but I may be wrong on that. Senator Graham will speak on that.

Also, the amendment weakens the nursing home standards, a subject, which is incredibly important to me. The Senator from Arkansas will speak on that subject.

At this point, with the permission of the Senator from Arkansas, I suggest that we go to the Senator from Arkan- sas, if that is all right with the Senator from Nebraska.

The PRESIDING OFFICER. The Sen- ator from West Virginia does not wish to use his time.

Mr. EXON. Yes, I wish to use my time.

I yield 5 minutes to the Senator from Arkansas.
Mr. PRYOR. Mr. President, I thank the distinguished manager for recognizing me and allowing me a few moments.

This morning, by a vote of 51 to 48, the U.S. Senate voted in a bipartisan way to reject the OBRA 1997 nursing home regulations. They have worked well. They have served residents well. They have served the taxpayers well, and I am strongly committed to achieving that end once again.

Mr. President, all due respect to the distinguished manager’s amendment that we now have before the Senate, even though the distinguished manager says we are fixing or even improving upon current Federal nursing home standards, over the course of today I have been in contact with numerous consumer groups and nursing home reform advocates who are extremely critical of the language offered in the so-called manager’s amendment.

First, this so-called “fix” does not indicate in any way the length of time for which a State could operate under a waiver and opt out of the Federal standards. Would the waiver last for 1 month where there would be no Federal standards applying to a nursing home or to a Federal waiver for 1 year or 2 years or 10 years? There is nothing in the amendment to address this issue. Basic question.

Also, in the manager’s amendment, there is absolutely no guidance whatsoever on how the Director of HCFA or HHS would determine that a state’s standards were sufficient to opt out of the Federal standards; there is no guidance whatsoever as to what the rules or the guidelines would be in granting making that determination.

Also, Mr. President, there is a major flaw in this amendment, I say with all due respect. I am just wondering if the distinguished manager knows that under this particular proposal that unless the Federal Government revokes a State’s waiver, it could take—I repeat—the Federal Government could take no action whatsoever against an individual facility, no matter what was going on in a particular nursing home. No action whatsoever means that the Federal Government’s hands are tied, notwithstanding the fact that we are appropriating billions and billions and billions of dollars for the safety and well-being of the some 2 million nursing home residents out there in our country.

The very worst facilities in America could be getting away with just about anything, and the Federal Government would have absolutely no power, no recourse, no opportunity to go in and correct the wrongs in a particular home, simply because the State would have a waiver from Federal regulations and all of the Federal involvement allowing it.

Also and finally, Mr. President—the Roth amendment provides a 120-day period during which the Secretary must review a State’s waiver proposal to make sure that it contains all the essential elements, which would be insufficient time to go out and investigate that State’s nursing homes or a particular nursing home.

This timeframe, 120 days, to decide whether or not a State could get a waiver, opt out of the programs, free of Federal regulations is going to be an impossible time to meet.

Let me say once again that the regulations that we adopted on a bipartisan basis in 1987 have worked and they have worked. We do not know of one Member on either side of the aisle who can argue against that. I am very hopeful that we will make certain that when this process is over, that we will have the very strongest standards, and I truly believe that those strongest standards were supported this morning by the vote of 51 to 48 for the so-called Pryor-Cohen amendment adopted by the U.S. Senate.

I hope that will ultimately be the language that will be retained and that we will not take decades to come.

Mr. President, I yield the floor.

Mr. REID. Mr. President, I have a unanimous consent request.

Mr. President, I yield 4 minutes to the Chair.

Mr. REID. The PRESIDING OFFICER. Without objection, it is ordered.

Mr. REID. Mr. President, this amendment purports to improve a very bad bill, but it does nothing, absolutely nothing, to address the fundamental problem. This Republican program slashes Medicaid and cuts in Medicaid to pay for tax cuts for the wealthy. It sacrifices working families, children and senior citizens on the altar of sweet-heart deals and tax breaks for the powerful special interests.

This amendment symbolizes what is worst about the 2,000 pages of the bill as a whole. Every time you turn one of those pages, something ugly scuttles out. Look at what is in the so-called perfecting amendment.

It weakens the nursing home standards we adopted just this morning. This morning we restored the strong standards that are in current law and that the Republican bill would have repealed. This evening, our Republican colleagues are trying to water those standards down.

The Medicaid formula changes are the last piece needed to put together a majority. Vote against seniors, vote against children, vote against families and, in return, we will rig the Medicaid formula, the disaster in your State is not quite as bad as in some other State. Like the underlying bill, this amendment was put together in the dark of night, and no wonder there is nothing to be proud of here.

The issue is clear: Who stands for senior citizens; who stands for working families; who stands for children; and who stands for the special interests against the interests of the Americans today? We have to allow our families, educate their children and build this country?

This amendment is a disgrace, and it does not deserve to be adopted. The underlying bill is an outrage. It deserves to be rejected, rejected by the President and condemned by the American people. Greed is not a family value.

I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. What is the status of the time, Mr. President?

The PRESIDING OFFICER. The majority has 21 minutes, 46 seconds; the minority has 19 minutes, 46 seconds.

Mr. DOMENICI. I yield 2 minutes to Senator D’AMATO. How much would Senator COHEN like? And 5 minutes to Senator COHEN, in that sequence.

The PRESIDING OFFICER. Senator D’AMATO is recognized for 2 minutes.

Mr. D’AMATO. Mr. President, I want to commend the manager and all those who have helped us come so far on this historic occasion.

Mr. DOMENICI and Senator ROTH have done an incredible job. I believe some of us have done a rather poor job of letting the American people know exactly what is in this package. If you listen to some of the demagoguery that we hear about “greed” and “special interests,” and “tax breaks for the wealthy,” you would not really know what is in this package.

When I hear this business that “they are weakening nursing home standards,” that is nonsense. Bull. I want to know how we can weaken nursing home standards when you must meet the Federal levels that you have today. You must have at least that or better. If that is not demagoguery, I do not know what is.

It is out and out fear and deception that is being practiced. When 90 percent of the tax cuts go to families earning under $100,000, I defy you to tell me that that is going to the wealthy. Let me be a little more particular: $141 billion in tax cuts goes to families that have children. Those families have to earn under $110,000. The bulk of that goes to families in the $50,000 to $60,000 range. Now, let us stop the nonsense about greed and wealthy people. That is weakening middle-class families.

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

Mr. DOMENICI. I yield another minute to the Senator from New York.

Mr. D’AMATO. We are attempting to keep the promises we won by the President of the United States when he said, “We are going to give tax cuts to the middle class.” Then he went and raised those taxes. And now...
he says, "Well, maybe I made a mistake."

Well, he did make a mistake. We are returning IRA's to working middle-class families. And we are doing something about the marriage penalty. We always complained about that. There has never been anybody here on the floor who has run and did not say we need to do something about the marriage penalty. That is $12 billion in relief—a move in the right direction. And in student loans, a billion dollars to help pay for college.

Mr. President, this is a good bill, and it deserves our support.

The PRESIDING OFFICER. Who yields time?

Mr. COHEN. Mr. President, I want to take this opportunity to address some of the Medicare and Medicaid provisions of this budget reconciliation legislation.

For the past few months, the debate on Medicare has been rife with partisan finger-pointing. Democrats accuse Republicans of ravaging Medicare, while Republicans counter with charges that the Democrats are failing to restore solvency to the program.

But the simple fact is that the Medicare crisis has been going on for years. We cannot take the easy route and pretend to senior citizens—or Medicare providers—that the crisis will go away if we simply look the other way.

Changes in Medicare are crucial if it is to survive at all for current and future senior citizens. The Republican budget plan takes the tough steps necessary not only to restore solvency to the trust fund but also to prepare Medicare for the 21st century.

The President and congressional Democrats claim that $90 or $100 billion in savings will be sufficient to "fix" Medicare, and that the $270 billion in savings proposed in this bill will cut too far and too deep.

What the Democrats have proposed would certainly be more politically palatable. But their proposal falls far short of the reforms that will be necessary to prepare Medicare for the future.

Guy King, the former chief actuary for the Health Care Financing Administration agrees with the Democrats that $90 billion will keep the trust fund solvent until 2006. But, by 2010, the year the baby boomers begin to retire, it will leave Medicare $300 billion in the red. It will hit difficult economic times and it will be impossible if the program is over $300 billion short.

Under Republican budget, Medicare spending will continue to grow at an average annual rate of 6.2 percent over the next 7 years—less than the current 10 percent rate of growth, but still twice the rate of inflation. In fact, per beneficiary spending in Maine will increase by almost $2,000 over the next 7 years.

Equally important to controlling growth, the proposal will give beneficiaries a choice. Like the Medicare Trust Fund Choice plan contained in the bill, the "Medicare Choice" plan is a program that closely resembles the Federal Employee Health Benefit program. Each year, Medicare beneficiaries will be given information on a number of plans available in their areas. They will then choose to participate in traditional fee-for-service plan or they can choose from a variety of other insurance options, such as health maintenance organizations, physician and hospital sponsored networks, or medical savings accounts.

The proposal does include, for the first time, an "affluence test" that would require the wealthiest beneficiaries to pay a fairer share of the costs of the Medicare program. Taxpayers currently subsidize about 70 percent of the costs of Medicare beneficiaries' part B premium cost. The Republican plan phases out these taxpayer subsidies for higher-income retirees and eliminates them completely for individuals with incomes over $100,000 and couples over $175,000. I believe that this is fair. There is no good reason why a working family with an income of $40,000 should be subsidizing wealthy retirees earning more than $100,000.

Further, the vast majority of Medicare beneficiaries will be unaffected by the change—about 98 percent of all Maine Medicare beneficiaries have an income below the "affluence test" threshold.

I am very pleased that this budget bill includes tough anti-fraud legislation that I introduced earlier this year to help rid Medicare of the fraud and abuse that robs the program of as much as $15 billion a year.

Specifically, the proposal creates tough new criminal statutes to help prosecutors pursue health care fraud more swiftly and efficiently, increases fines and penalties for billing Medicare and Medicaid for unnecessary services, over billing, and for other frauds against these and all federal health care programs, and makes it easier to kick fraudulent providers out of the Medicare and Medicaid program, so they do not continue to rip off the system.

More importantly, the bill establishes an anti-fraud and abuse program to coordinate Federal and State efforts against health care fraud, and substantially increases funding for investigative efforts, auditors, and prosecutors by floors, thus as portion of fines and penalties collected from health care fraud efforts to law enforcement.

According to the Congressional Budget Office, these provisions will yield $9 billion in scorable savings to Medicare—without costing a penny to senior citizens. I am convinced that the long-term savings are much greater, and that billions more will be saved once dishonest providers realize that we are cracking down on fraud, and that they can no longer get away with illegally padding their bills to pad their own pockets.

The proposal also makes significant reforms in the Medicaid program. Like Medicare, Medicaid is one of our fastest growing entitlement programs. Over the past few years, Medicaid spending has increased at an alarming rate.

Under Republican plan, the growth in Federal Medicaid spending—which is now just over 10 percent a year—would be limited to a 7.2 percent growth rate through 1992, with an average annual rate of 4 percent for the remaining 5 years. The plan achieves the necessary savings by converting Medicaid into a block grant which would guarantee only a lump sum payment to the States with very little in the way of strings.

While I strongly support increased State flexibility with regard to Medicaid, I believe that some Federal standards should remain in place to help ensure quality and to maintain some protections for vulnerable populations. This is especially important given the fact that the Federal Government will be committing nearly $800 billion in Federal dollars over the next 7 years toward the Medicaid program.

The President and congressional Democrats claim that States will continue to pay Medicaid premiums for low-income Medicare beneficiaries and that States apply the same solvency requirements on Medicaid providers as on private sector plans.

I am also pleased that the final bill includes provisions that I and other moderate Republican Members authored, namely, a requirement that States continue to pay Medicare premiums for low-income Medicare beneficiaries and requirements that States apply the same solvency requirements on Medicaid providers as on private sector plans.

I am also pleased that this package provides has incorporated several of the provisions included in my legislation. The Private Long-Term Care Family Protection Act of 1995 to improve access to long-term care services. The legislation takes a big step forward in creating incentives for older Americans and their families to plan for future long-term care expenses and
removes tax barriers that stifle the private long-term care insurance market.

As Chairman of the Senate Special Committee on Aging, I know the obstacles many disabled older Americans and their families face paying for necessary long-term care. Despite heroic caregiving efforts by spouses, children and friends, many disabled Americans do not receive the appropriate medical and social services they desperately need. Families are literally torn apart or pushed to the brink of financial disaster due to the overwhelming costs of long-term care.

While approximately 38 million people lack basic health insurance, almost everyone in this country is exposed to the catastrophic costs of long-term care. In fact, less than 3 percent of all Americans have insurance to cover long term care.

Sadly, many families are under the erroneous assumption that their current insurance or Medicare will cover necessary long-term care expenses. It is only when a loved-one becomes disabled that they discover coverage is limited to acute medical care and that long-term care stays and extended home care services must be paid for out-of-pocket.

This bill encourages personal responsibility and makes it easier for individuals to plan for their future long-term care needs. It provides important tax incentives for the purchase of long-term care insurance and places consumer protections on long-term care insurance policies so quality products will be more affordable and accessible to more Americans.

A strong private long-term care market will not only give individuals greater financial security for their future, but will ease the financial burden on the rest of the health care system. Today, many of the most expensive, chronically-ill elderly and disabled Americans are eligible for both Medicare and Medicaid services. While these programs may cover most of their necessary care, patients are often faced with a bias toward institutional care and a lack of complex and long-term care services.

In addition to providing better access to long-term care, this bill incorporates a demonstration project I introduced last year to explore ways to better integrate long-term care with the rest of the health care system. Today, many of the most expensive, chronically-ill elderly and disabled Americans are eligible for both Medicare and Medicaid services. While these programs may cover most of their necessary care, patients are often faced with a bias toward institutional care and a lack of complex and long-term care services.

The demonstration project included in this bill will allow up to 10 States to pool Medicare and Medicaid dollars for the purpose of creating a more balanced, patient-centered, cost-effective adult day care delivery system. These projects will help States develop ways to better manage the care of high cost beneficiaries and offer elderly and disabled Americans full integration of services, including case management, long-term care services, including preventive care and interventions to avoid institutionalization whenever possible.

I am also very pleased that this bill now maintains the tough Federal standards that are currently in place to protect elderly and disabled individuals living in nursing homes. Placing a parent, spouse, disabled child, or other loved one in an understaffed nursing home is one of the most agonizing decisions a family ever faces. Even once at peace with that decision, the nagging fear that a loved one may not receive adequate care, or may be abused or neglected in a nursing home, is a haunting family nationwide. The continuation of OBRA '87 nursing home regulations is a major victory for today's two million nursing home residents, and tomorrow's growing elderly and disabled population.

This week I chaired a hearing of the Senate Special Committee on Aging hearing to examine the need for strong Federal quality of care standards in nursing homes. The testimony from family members and expert witnesses confirmed my belief that the Federal Government must continue a central role in monitoring and enforcing nursing home standards. Witnesses shared with me heart-wrenching stories of how their family members were overmedicated, placed in physical restraints, and left to sit in their own waste while in nursing homes. I was also handed a picture by a daughter of one nursing home patient that showed a bloody, oozing bed sore that I will not soon forget.

The basis for this Federal nursing home standards law is simple, strong, and clear: that residents in nursing homes which receive Federal Medicare or Medicaid dollars should be treated with care and dignity. The law provides a framework through which facilities can help each resident reach his or her highest practicable physical, mental, and general well-being. It also provides critical oversight and enforcement of nursing home standards. Following years of evidence that the states simply did not make enforcement of nursing home standards a high priority.

While the Finance Committee bill required that states include certain quality of care provisions in their Medigrant State plans, I had strong concerns that many of the important OBRA '87 provisions were eliminated that the bill lacked adequate Federal oversight and enforcement of nursing home standards. Over the past few days I have worked with the Republican leadership and many of my colleagues on both sides of the aisle to ensure that this bill keeps intact the standards, enforcement and Federal oversight now contained in current law. No family member should have to lie awake at night worrying if their loved-ones are being abused or neglected in a nursing home. This bill gives nursing home residents and families peace of mind that their rights are protected.

The amendment clearly indicates that no such waiver is allowed unless the Secretary approves the waiver, and only if each standard is equal to or more stringent than the Federal standard. Further, the provision specifies that waivers allowed under this section in no way waives or limits the Federal Government's enforcement of tough nursing home standards, patient protections, and other provisions of OBRA 87.

Mr. President, while I believe that this package includes many important steps toward reforming Medicare and Medicaid, there are some elements of the proposals that I do not support.

During the course of the debate on the bill, I have supported amendments and worked to incorporate provisions aimed at striking a more appropriate balance between Federal responsibility and State flexibility, and ensuring protections for our most vulnerable populations. This effort is far from complete and I will continue to work toward achieving the goals of deficit reduction and Medicare and Medicaid reform.

Mr. President, let me address the issues raised by my colleague from Arkansas, since he and I have worked for many years in dealing with the nursing home reform. It was called OBRA 87, but it is basically the nursing home reform that we worked 15 to 17 years to get passed. We held a hearing this week in the Aging Committee in which we, once again, reaffirmed the need and saw the need to make Federal standards over nursing homes in our country—not only standards, but enforcement, oversight and enforcement procedures.

This is not, as some might think, a last-minute attempt to weaken and dilute what was done this morning. I should tell my colleagues that I have been working for the past 3 or 4 days with the majority leader and his staff, anticipating that we would have a debate, understanding the House of Representatives wants no standards imposed. They want to turn it over to the States entirely.

In anticipating that, I went to the majority leader saying, this is important to me, it is important to us, it is important to the country. We need to develop these standards and do it in a way that we can have broad, bipartisan support. So that has been something we have worked on for the past 3 days. In fact, we worked until last night midnight trying to work out the language.

So I just want to assure my colleagues on the other side, this is something that has been concocted in
the dark of the night in order to weak-
en what was done this morning. I sup-
ported strongly what was done this
morning.

This particular measure reaffirms the need to have OBRA 87 standards. We are talking about money we standards we passed in 1987. We finally started to get the civil monetary pen-
alties imposed as of July of this year. We finally have some bite into those standards. I do not want to see those thrown overboard.

I see now my colleague on this side of the aisle that we need these standards. Let us reaffirm our support for them. Let us reinsert OBRA 87, as such, and we can make some changes in some of the paperwork and the burdens that the nursing home industry has com-
plained to us about.

I think my colleague from Arkansas will agree that we have had these com-
plaints. No law is perfect. We have tried to modify laws over the years to make sure that, if we overreach, if something is too burdensome, too cost-
ly, or duplicative, we make changes. So we made some minor changes which I think are positive as far as I am con-
cerned.

The one apprehension I had is in the point raised by my friend from Arkan-
sas; that is, “If States show that they have standards equal to or greater than . . . ”—I saw that as a red flag and said, “Well, a minute, I do not want to create that much of an exemption. I am not sure where the enforcement is going to lie.”

I worked very hard late last night with my staff and with the majority staff to make sure that any State—and I do not know of any State that has the same or better ones than the Federal ones. But assuming States come for-
ward, as they have not in the past, and raise their standards to those at the Federal level, if they can establish that, then I think I can satisfy the Sec-
retary of Health and Human Services that they have done that, that does not mean they are free and clear to go for-
ward and then abuse their patients. I insisted that the Federal Government still retain oversight and still retain enforcement responsibilities.

I believe that is in the law itself, in the language—that the Federal Gov-
ernment would still have the ability to go in to find out if there are violations and to enforce penalties. I know my colleague from Arkansas disagrees with that interpretation. But that is specifically what we worked out last evening. I believe that is in the lan-
guage itself. I will yield to my friend if he has a question.

Mr. PRYOR. If my good friend from Maine, who has worked very hard on this bill, would point out where in this language it says that after a State re-
ceives a waiver—where in the world the Senator might even infer that the Fed-
eral Government would have an oppor-
tunity to impose fines, penalties, or to have any jurisdiction on individual fa-
cilities? In fact, if I might, on page 37, it says, “. . . State oversight and en-
forcement authority over nursing fa-
cilities,” not Federal.

Mr. KENNEDY. I ask unanimous con-
sent for 2 more minutes, equally di-
vided between the two Senators to re-
spond.

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

Mr. KENNEDY. I ask unanimous con-
sent for 2 more minutes so that the Senators can respond.

Mr. DOMENICI. Mr. President, I yield an additional minute to Senator COHEN.

Mr. COHEN. If you look on page 38 under section (D):

No Waiver of Enforcement. A State grant-
ed a waiver under subparagraph (A) shall be subject to (i) the penalty described in sub-
section (b); (ii) suspension or termination, as determined by the Secretary, of the waiver granted under subparagraph (A); and any other authority available to the Secretary to enforce the requirements of section 1919, as so in effect.

What we have done in this section is to say that just because you get a waiver, you are not free from the en-
forcement provisions here. The Federal Government authority to go in and impose those penalties. Were that not in there, I would not be sup-
porting this.

Let me say another thing to my colleagues. As I indicated before, the House has no such protection. We passed the measure we supported this morning by, I think, three votes. It is my belief—and I support what we did this morning, and I reaffirm that ac-
tion—that we are going to be in a much better situation, if you go to the conferes and saying we want this provision, and it will remain in the bill, and we will have it when it goes to the President.

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

Mr. EXON. I yield 1 minute to the Senator from Arkansas.

Mr. PRYOR. Mr. President, I thank the manager. Mr. President, on page 38 in section (C)—let me say to my good colleague and friend from Maine that, according to this section and the sec-
tions preceding it, if a State has opted out, if they have been granted a waiver for an indeterminate amount of time—
and it could be 30 days or 30 years; who knows? if that State is under a waiver of the requirement, the Federal Government cannot fine any nursing home in that particular State, the Fed-
eral Government cannot penalize, can-
not say you cannot take in any more Medi-
care patients. Only the State has this jurisdic-
tion.

I am trying to impress upon my friend that, he not knowingly, not will-
ingly, is helping to weaken drastically the nursing home standards that have worked so well since 1987.

The PRESIDING OFFICER. All time has expired.

Mr. EXON. I yield 1 minute to the Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I do not think we should be voting on this amendment.

In the last several hours, my State of Minnesota just discovered that it will be faced with $500 million more in re-
sources. What happened, Senators, in the last several hours? What kind of decision-
making process is this?

It does seem to me that people in Minnesota and across this country have a right to know what in the world is going on here. These are the lives of our children—they are covered. These are the lives of elderly people, nursing homes—they are covered. These are the lives of people with disabilities—they are covered.

We should not even be voting to-
night. This is back-room deals. This is not a democracy—with a small “d”—
process.

The PRESIDING OFFICER. All time has expired.

Mr. EXON. I yield 1 minute to the Senator from California.

Mrs. FEINSTEIN. I thank the Sen-
ator from Nebraska.

I have listened carefully to the de-
bate this evening, and I think the sim-
ple fact is that no State in the Union is impacted by this amendment and this bill to the extent that California is.

Senator ROCKEFELLER asked earlier where the money comes from to pay for this amendment. Mr. President, I’ll tell you where the money comes from. It is $4.2 billion of it comes from Medicaid that in the earlier version went to Cali-
ifornia. California is the biggest loser in this amendment. This will affect more than 8.6 million people in the State of California.

This bill, I believe, is immoral, egre-
gious, and in my 2½ years I never thought I would stand here on the floor of the Senate and see the largest State in the Union treated the way it is in this bill.

The PRESIDING OFFICER. The ma-
jority has 12 minutes and 32 seconds re-
main, and the Democrats have 16 minutes and 32 seconds.

Mr. EXON. Mr. President, in the time that I have remaining, I wish to allo-
cate 2 additional minutes whenever he wishes to use it to the Senator from West Virginia, and I yield 12 minutes to the Senator from Florida for use whenever he thinks appropriate.

Mr. GRAHAM. Mr. President, when Harry Truman was running for Presi-
dent in 1948, at one of his whistle stops the people cried out, “Give ’em hell, Harry.” He said, “Friend, I don’t have to give them hell. I just tell them the truth and the truth gives them hell.”

That is what we are talking about tonight. The truth gives them hell.

We have heard from Senator PRYOR what this does to rape the standards that have made life tolerable for hun-
dreds of thousands of persons—our most vulnerable people—in nursing homes.

Let me talk about two other features of this bill. Let me talk about how we
are going to allocate over $770 billion of your American taxpayers' money over the next 7 years and the standards by which those allocation decisions were made.

There is no rationale to the allocation formula which is in this bill. I have spent the last 36 hours trying to get a better understanding of what is behind this legislation. Finally, at 6:25 p.m., we got the first version of the legislation but not the last version. The last version came at 9:45.

Let me direct your attention, if you have the 6:25 version, to page 36. I ask someone on the Republican side to explain the theory and philosophy behind this allocation.

On page 36, line 11, it says, "Additional amounts described in this paragraph are as follows," these are additional amounts that go to States just because they are the States.

Arizona gets $83 million; Florida gets $290 million; Georgia gets $34 million; Kentucky, $76.5 million; South Carolina, $181 million; the State of Washington, $250 million.

That was the list as of 6:25. But by 9:45, Vermont has come on for $30 million.

Friends, we have talked a lot about balanced budget, about fiscal prudence and responsible use of taxpayers' money. That is how your money is being used.

Let me tell you another little fact in terms of the rationale of distribution. Of the States which have two Democratic Senators, the difference between what those States would have received out of a pool of dollars that was $10 billion less—$10 billion less—total money to be distributed. Those States which have two Democratic Senators lost $3.605 billion. Of the States that have two Republican Senators, they gained $11.222 billion.

This is the rationale way in which we are distributing $770 billion of the taxpayers' money.

Now, how did we arrive at these absurd allocations? We did it largely because, unlike the Finance Committee which very thoughtfully made the decision to restrict the amount of money that a State could continue to take into its base for allocation, those funds which were derived from what is called disproportionate share, disproportionate amounts.

What is disproportionate share? It was the amount of money that was distributed to States over the periods of the 1970’s and 1980’s theoretically to make up for the hospitals that had a high incidence of poor and underserved populations. That became the fastest growing element of the Medicare program. In fact, in 1990, disproportionate share was only $1 billion; by 1992, it had gone to $17.4 billion.

What is the rationale for this enormous increase? We had seen the enormous increase according to a GAO report, General Accounting Office report, dated April of this year, because there were States which were scheming this money. The swapping and redirecting of revenues among providers, the State and the Federal Government resulted in increased Federal spending, increased funds for providers, and in some cases additional revenue for State treasuries.

So States were manipulating this disproportionate share to their benefit. Under the original Finance Committee, we would have retained and limited the benefit that could have been gained by that decision. We have now taken all of the constraints off. We have now said that a State can go back to 1994 and count every dollar that they had gotten under that disproportionate share.

Let me tell you something, Mr. President, that may be surprising. The GAO did a report, a special report, on three States. I will be blunt and say who they were: Michigan, Tennessee and Texas. Michigan, Tennessee, and Texas.

Of all of the new money that came into this plan in the last 24 hours, the $10 billion, how much do you think Michigan, Texas and Tennessee got? Mr. President, $6.5 billion. They got all of the savings dollars that went to those States which have been identified as the principal perverts of the system.

What kind of policy is that? We are going to reward and benefit those States which have been ripping off the Federal taxpayers? What kind of a plan is this? I would be very interested to get a response from our Republican colleagues on that issue.

Friends, the fact that we are about to rape the elderly nursing home, the fact we are raping the Federal Treasury and rewarding inappropriate, I would say criminal past behavior is not the end of it.

Where are we getting the $10 billion from? We are getting the $10 billion by raiding Social Security.

The last position of this legislation states that how we are going to fund this $10 billion, where it will come from, is because we are going to say that we will break our previous practice of using the Congressional Budget Office as the means of calculating what our deficit position is, and we will for this year take the lower cost-of-living number, which has just recently been approved here in this Congress and the Office of Management and the Budget, and the Office of Management and the Budget said that in our revenue estimates the same, but plug in that new number, which is a 2.6 cost-of-living factor rather than a 3.1.

Now, we are not going to do this as it relates to revenue. You know there are some rich people that benefit by this cost of living because their taxes are indexed. They get held down by virtue of a higher cost of living. We are only going to use this against the old folks—primarily Social Security and the Federal retirement programs— who are benefiting from this mechanism.

We are using the mechanism as the basis of funding this raid in order to benefit a handful of politically powerful—and I would say probably politically greedy—States in order to pass this atrocious proposition.

What has the Congressional Budget Office had to say about this particular raid on the Federal Treasury? The Congressional Budget Office has stated that the Congressional Budget Office and the Office of Management and Budget ‘do not score savings for legislative changes that would happen anywhere under current law. This rule was applied to veterans compensation in 1991 and to food stamps in 1992.’

In other words, we are changing our previous Congressional Budget Office policy.

But, friends, it gets worse. Mr. Van De Water goes on to say that:

At the request of the Budget Committees, the CBO has from time to time updated the baseline to reflect recent economic and technical developments. In such circumstances, however, we insist on incorporating all relevant new information, not just selected items, such as COLAs. In this instance...

Friends, listen to this sentence.

. . . if we were to include all of the information in our August baseline, plus the actual 1996 COLA, our estimate of the 2002 deficit would be higher.

It would be higher, not lower.

So we are using a fraudulent method in order to calculate what is presented to be savings in order to fund this atrocious raid on the public Treasury when in fact, it is not. Mr. President, what we would have said is, if they were asked the right question they would not only not have scored this as creating any additional money, but they would have said that we would have a greater deficit than we started with.

So, friends, that is what we are about with this amendment in the Finance Committee that we have waited 36 hours to get. If you want to know why this stealth bomber was out there all those hours when we could see what is in this proposal, can we see the legislative language, can we see the State-by-State numbers—we could not get any answer. Sorry, it is too complicated. It is being worked. The technicians are pouring over it.

I am certain the technicians came up with a formula that gave $11 billion of additional funds to States that just happened to be represented by Republicans and cut the funds from the States that happened to be represented by Democrats. That was just a technical oversight.

And then to have the gag to raid our Social Security fund as a means of financing this, is there no limit to what we ask our older people to do? We are cutting their Medicare. We are eliminating other important programs for the elderly. And now we are using their Social Security in this back-door means as the basis to fund an additional $10 billion, which does not exist, which is going to further add to the deficit, to give money to a few favorite States so that they can corral the votes to pass this steamy mess.
My friends, I wish this thing would stay the stealth bomber. It is better if we did not see it than if it finally appeared on the radar scope and we are able to look and appreciate the details.

Mr. President, fellow colleagues, the answer tonight is a simple answer; that is, to defeat the amendment. As has the proposal passed by the Finance Committee was, it looked so much better than what we are about to vote upon. We have converted a frog into a beauty with this amendment.

So I urge my colleagues to vote this amendment down, and let us at least send the conference something that we in the Senate can have some degree of satisfaction as it is taken up in conference.

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

Who yields time?

The Senator from New Mexico has 12 minutes and 32 seconds, and the Senator from Nebraska has 4 minutes, 24 seconds.

Mr. DOMENICI. I yield myself 6 minutes.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, with reference to the formula, let me just state for the record that 46 States are better off under this formula than the House formula. Many of those have Democratic Governors and many of those have Democratic Senators. Many of those have Republican Governors and Republican Senators.

Let me repeat. Under this formula, 46 States are better off than in the House formula.

Mr. President, Senator COHEN has adequately answered the remarks with reference to nursing homes. I do not know how anybody could stand on the floor of the U.S. Senate and say that we are raping the nursing homes when we have just heard Senator COHEN, one of the strongest and best advocates, say that has been fixed in this bill. He just said it. He repeated it. He read the language. And so we hear it from that side over and over again.

Let me tell you with reference to the money in this budget that is used for some of the reallocation, that there is nothing wrong with it. It is not phony. It is plain and simple, the fact: We are not talking away under this formula. Many of those have Republican Governors and many of those have Republican Senators.

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The PRESIDING OFFICER. The Senator’s time is running.

Mr. GRAHAM. Mr. President, it was my understanding that time for points of order and parliamentary inquiry is not charged against the time. Is that correct?

The PRESIDING OFFICER. Respectfully, the Senator has been answered as far as the parliamentary inquiry is concerned. The Chair is not capable of making the comparisons the Senator wishes.

Mr. GRAHAM. I wonder if the Senator from New Mexico or the Senator from Delaware as chairs of the respective committees would like to comment whether they believe there are outlay reductions to Social Security used to offset the spending in this amendment.

Mr. DOMENICI. I am satisfied with the ruling of the Chair. I have no comment on that.

Mr. GRAHAM. Mr. President, I raise a point of order under section 310(d) of the Congressional Budget Act of 1974 against the pending amendment. The PRESIDING OFFICER. The Chair might inform the Senator from Florida, and will not use the time, but give back his time, until the time is all used, it is not yet in order to make a point of order.

Mr. GRAHAM. Mr. President, I will withhold, but reserving the time to make a point of order at the appropriate time.

The PRESIDING OFFICER. The Senator will have that time. He has 45 seconds remaining.

Mr. GRAHAM. Mr. President, just to prepare for the consideration of the point of order that will be made, I would draw the attention of the Chair to subtitle (c) of the Social Security Act, section 13801 which states:

Off-budget status of Social Security Trust Funds. Inclusion of Social Security from all budgets. Notwithstanding any other provisions of law, the receipts and disbursements of the Federal Old Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund shall not be counted as new budget authority, outlays, receipts, for deficit or surplus, for the purposes of the budget of the U.S. Government submitted by the President, the Congressional Budget or the Balanced Budget and Emergency Deficit Control Act of 1985.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Mr. President, I wonder who wants time on this side.

I yield 2 minutes to the chairman of the Finance Committee.

The PRESIDING OFFICER. Two minutes to the Senator from Delaware.

Mr. ROTH. First of all, Mr. President, I think it is important to understand that 45–45 of the 50 States are better off under the Senate amendment than they are under the House. And I would just like to make passing reference to the three States that are said to have Democratic Senators.

Just let me point out that in the case of California, it is up $700 million from the House: Florida is up $1.3 billion from the House, and Minnesota is up $500 million from the House.

Now, one of my distinguished colleagues on the other side mentioned the treatment for seven States on page 30. And I just want to point out that six of these seven States that get additional amounts have one Republican Senator and one Democratic Senator. That was not based on partisanship. It was based upon need. And that is the point I wish to make.

In concluding, the statement was made that we are using the savings from Medicare and Medicaid for a tax cut. That is pure demagogy. There is no truth to that.

As a matter of fact, the President’s board of trustees, long before I talked about what we had to do something about the trust funds for Medicare.

And that is what we are doing with this legislation.

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

Mr. DOMENICI. How much time is left on our side?

The PRESIDING OFFICER. Five minutes twelve seconds.

Mr. DOMENICI. The other side has used all their time?

The PRESIDING OFFICER. Yes.

Mr. DOMENICI. I yield 3 minutes to Senator COHEN.

The PRESIDING OFFICER. The Senator from Maine is recognized for 3 minutes.

Mr. COHEN. I thank the Senator for yielding.

If I could point out what is also in this measure that has not been talked about in the last few moments.

No. 1, there are set-asides for the QMB program. I think everyone is familiar with what I am talking about. That is in the manager’s amendment. There is a requirement that States impose strong solvency standards on Medicaid providers. That is in this amendment.

There is an increase in Medicaid funding. That is in this amendment. There is more money for Medicare in direct education payments, and allows for more causes of action to enforce Medicaid provisions.

What was not talked about in terms of the QMB program, we are imposing the nursing home reforms on the States. OBRA 1987 will remain in effect. That is what this amendment contains.

No. 2, not only do we have the same standards in effect, we also have enforcement in effect. Those two key points have to be made. The States are required to comply with the national standards, and those enforcement standards remain in effect.

There is a waiver provision contained on page 49. And I call all of the attention of my colleagues to it. What it says is, if a State does in fact have equal to or greater standards, they
may qualify or try to apply for a waiver. They can do that. If they have penalties that are equal to or greater than what is in the Federal law, they can apply for the waiver.

The Secretary of HHS has 120 days in which to terminate the waiver. If the Secretary grants it or denies it. And assuming he or she grants it, he or she still retains the authority to go in there and impose penalties upon the State if there is any deviation from the standards. They can suspend and terminate the institution. They can terminate the waiver.

No. 3, at the bottom of the page, please look at it. “Any other authority available to the Secretary to enforce requirements of section 1919.” That is OBRA. That says the Secretary of HHS still has all of the authority to enforce every single provision in OBRA ’87, all the way up to the change we made as of this date.

So, I want to assure my colleagues I would not be supporting this if I did not believe that we for the first time have the majority saying we want to maintain OBRA ’87. We want the same standards. We want the same enforcement levels. We will provide some opportunities for a waiver, but only if they measure up to what we expect, and then the Secretary retains the authority to impose every single penalty. So in many ways we give more authority to the Secretary under these circumstances.

So, please, I hope everyone will not mischaracterize what is being done here.

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

The Senator from New Mexico has 2 minutes 13 seconds.

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

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. I just want to say I think we had a fair discussion of this amendment, and we indicated to the Senator from Florida this morning we would have that discussion. He did have access, as he indicated, to the information at about 6:27. So, I believe we had adequate time to take a look at it.

We made a lot of changes. Changes are always made in a big, big package like this by either party, both parties, whatever. I believe the Senator from Maine and the Senator from Delaware and others pointed out these have been very constructive changes.

We have each of these formula fights. And there is always someone running around with a sheet of paper saying how much one State got over the other State. I can name a State with two Republican Senators where they are getting $1 billion less than they had in the middle of the week. They were not very happy about it, but that is the way the formula worked. Florida gets $1 billion more, California $700 million more than we had in the committee. Minnesota gets $350 million more than we had on the House side.

So we believe we are making progress. We are going to go to conference. We discussed this with the Senator from Minnesota. I might add. He is aware of it. He was concerned we were going to adopt a House formula which was $508 million less.

So, I say to my colleagues, it is time. I think this is terrific. We have found out. And I hope that we will have every—all the votes. Everybody ought to vote for this amendment. This is a very constructive amendment, whether it is nursing homes, whatever it is. I know there is a lot of interest in nursing homes. I know the liberal media bought into the spin put on by the Democrats.

But the Senator from Maine would not be standing up here making these statements if they were not accurate. If anybody wants to question the integrity or the credibility of the Senator from Maine, they ought to stand up and do it. They are not going to do it because he has total integrity and total credibility on this issue.

I believe we have made constructive changes. I hope we will have, if not any support from that side, solid support on this side of the aisle for this amendment.

The PRESIDING OFFICER. All time has expired.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, I am directing my attention to section 7482 of the legislation, which begins on page 45 and states:

Cost-of-Living Adjustments During Fiscal Year 1996.

Notwithstanding any other provision of law, in the case of any program within the jurisdiction of the Committee on Finance of the United States Senate which is adjusted for any increase in the consumer price index for all urban wage earners and clerical workers (CPI-W) for the United States city average of all items, any such adjustment which takes effect during fiscal year 1996 shall be equal to 2.6 percent.

It is to that section, Mr. President, that I direct the point of order. I raise the point of order under section 310(d) of the Congressional Budget Act of 1974, as that section states:

Notwithstanding any other provision of law, that provision of law shall be interpreted as referencing anything. That is all I want to say.

The PRESIDING OFFICER. The Chair is informed that the provisions in the act cited are not applicable to this instance and that the point of order is not well taken.

The PRESIDING OFFICER. The Chair is informed that the point of order under section 310(d) of the Budget Act is under the control of the Chair and the precedents of the Senate do not go beyond that. The point of order is not well taken.

Mr. DOMENICI addressed the Chair.

Mr. DOMENICI. I ask for the yeas and nays.
Mr. HARKIN. One last parliamentary inquiry.

The PRESIDING OFFICER. The regular order is for the Chair to determine if there is a bona fide parliamentary inquiry being presented to the Chair. One further inquiry.

Mr. HARKIN. If that is the ruling of the Chair, the Social Security law must be nacked to attack under reconciliation.

Would not section 310(g) of the Budget Act be now rendered meaningless by the precedent the Chair is now setting?

The PRESIDING OFFICER. The Chair has no intention of rendering meaningless any provision of the Budget Act. We are attempting to comply with the Budget Act. The Chair is informing that the chairman of the Budget Committee has the authority, as did the previous chairman, to make the determination that has been made with regard to this aspect of this bill.

Mr. DOMENICI. I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

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

The legislative clerk called the roll.

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

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

[Rollcall Vote No. 554 Leg.]

YEAS—57

Abraham
Ashcroft
Bennett
Biden
Bond
Bradley
Brown
Burns
Campbell
Chafee
Coats

Cochran
Cohen
Corker
Craig
D’Amato
DeWine
Dole
Domenici
Faircloth
Frist
Gorton

Graham
Graham
Granasey
Gregg
Hatch
Heflitt
Helm
Hutchison
Inhofe
Jeffords
Kassebaum

McConnell
Markowitz
Nickeys
Roth
Sanorum
Shaylock
Simpson
Smith
Snower
Specter
Stereves
Thomass
Thompson
Thurmond
Warner

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

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

The motion to lay on the table was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Are there any other amendments to this bill?

Mr. EXON. Mr. President, I think we may be down to the last vote. Our bipartisan staffs have visited with the office of the Parliamentarian. That office has confirmed that the chairman of the Parliamentarian’s office has indicated it has reviewed the presentation made concerning extraneous provisions, some 49 provisions. On the basis and advice of the Parliamentarian, the Chair sustains 46 of those.

TITL VII.—FINANCE, MEDICAID AND WELFARE EXTRANEIOUS PROVISIONS, RECONCILIATION 1995

<table>
<thead>
<tr>
<th>Subtitle and Section</th>
<th>Subject</th>
<th>Budget Act Violation</th>
<th>Explanation</th>
</tr>
</thead>
<tbody>
<tr>
<td>2174</td>
<td>Individual Entitlement</td>
<td>313(b)(1)(A)</td>
<td>Extraneous, no budgetary impact. This title shall not be construed as providing for an entitlement.</td>
</tr>
<tr>
<td>Subtitle C—Welfare:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4013(b)</td>
<td>Supplemenal Grant for Population Increases in Certain States.</td>
<td>313(b)(1)(B)</td>
<td>Extraneous, costs. Provides additional grants to states with higher population growth and average spending less than the national average.</td>
</tr>
<tr>
<td>4013(b)</td>
<td>Treat Interstate Immigrants Under Rules of Former States</td>
<td>313(b)(1)(A)</td>
<td>Extraneous, no budgetary impact. A State may apply to a family some or all of the rules, including benefit amounts, or the program operated by the family’s former state if the family has resided in the current state less than 12 months.</td>
</tr>
<tr>
<td>4015(b)</td>
<td>No Assistance for More Than Four Years</td>
<td>313(b)(1)(A)</td>
<td>Extraneous, does not score. States may not provide assistance for more than 5 years on a cumulative basis; can opt to provide for less than 5 years.</td>
</tr>
<tr>
<td>4016</td>
<td>State Option to Deny Assistance For Births of Certain Births.</td>
<td>313(b)(1)(B)</td>
<td>Extraneous, does not score. States may provide assistance for more than 5 years on a cumulative basis; can opt to provide for less than 5 years.</td>
</tr>
<tr>
<td>4016(c)</td>
<td>State Option to Deny Assistance For Births of Certain Births.</td>
<td>313(b)(1)(A)</td>
<td>Extraneous, does not score. States may provide assistance for more than 5 years on a cumulative basis; can opt to provide for less than 5 years.</td>
</tr>
<tr>
<td>4017</td>
<td>Grant Increased to Reward States That Reduce Out-of-Wedlock Births.</td>
<td>313(b)(1)(A)</td>
<td>Extraneous, costs. Provides additional funds to states that reduce out-of-wedlock births by at least 1 percent below 1995 levels, and whose rates of abortion do not increase. Secretary can deny the funds if the State changes methods of reporting data.</td>
</tr>
<tr>
<td>418</td>
<td>Performance Bonus and High Performance Bonus</td>
<td>313(b)(1)(B)</td>
<td>Extraneous, costs. Provides additional grants to states with higher population growth and average spending less than the national average.</td>
</tr>
<tr>
<td>7020</td>
<td>Services Provided by Charitable, Religious, or Private Organizations</td>
<td>313(b)(1)(B)</td>
<td>Extraneous, no budgetary impact. A State may apply to a family some or all of the rules, including benefit amounts, or the program operated by the family’s former state if the family has resided in the current state less than 12 months.</td>
</tr>
<tr>
<td>7007</td>
<td>Disclosure of Receipt of Federal Funds</td>
<td>313(b)(1)(A)</td>
<td>Extraneous, costs. Provides additional grants to states with higher population growth and average spending less than the national average.</td>
</tr>
<tr>
<td>Subtitle D—SSI:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>7115</td>
<td>Repeal of Maintenance of Effort Requirements Applicable to Optional State Programs for Supplementation of SSI.</td>
<td>313(b)(1)(A)</td>
<td>Extraneous, no cost impact. Allows states to provide services through contracts with charitable, religious, or private organizations.</td>
</tr>
<tr>
<td>Chapter 6:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>7295</td>
<td>Eligibility for SSI Benefits Based on Soc. Sec. Retirement Age.</td>
<td>313(b)(1)(A)</td>
<td>Extraneous, no cost impact. Provides additional grants to states with higher population growth and average spending less than the national average.</td>
</tr>
</tbody>
</table>

Mr. DOMENICI. Mr. President, I move to waive some or all of these.

The PRESIDING OFFICER. The Senator has that right.

Mr. EXON. Mr. President, could we have a ruling of the Chair?

Mr. DOMENICI. If you do the ruling, we cannot appeal it.

The PRESIDING OFFICER. The Chair is informed the motion to waive would take precedence over the ruling. The Chair is prepared to rule.

Mr. DOMENICI. The Senate is in order.

Mr. DOMENICI. If I move to waive and send that to the desk with an attached list of the points of order but not all of them, what governs the debate on that proposal?

Is there any debate?

The PRESIDING OFFICER. There is no time left for debate without agreement. The point of order has been raised. The motion to waive is in order. The motion to waive is not debatable. It is subject to a vote by the Senate.

Mr. DOLY. I wonder if the Democratic leader would have, say, 10 minutes equally divided.

Mr. DASCHLE. We have no objection.

The PRESIDING OFFICER. Is there objection to the request of 10 minutes equally divided on this issue?

Does the Chair interpret the leader to mean on the motion to waive the point of order? Is there objection?

Five minutes on a side, then, on this issue.

DOMENICI MOTION TO WAIVE THE BUDGET ACT

Mr. DOMENICI. Mr. President, I send a list of the points of order that I am moving to waive—a partial list of the Exon points of order.

Mr. President, pursuant to section 904(c) of the Budget Act, I move to waive the Budget Act for the consideration of the following provisions and for the language of the provisions if included in the conference report:
Mr. DOMENICI. Let me explain what is in it: only provisions included in the welfare bill.

The reason I did that is because the Senate approved the welfare bill—87 votes on the final vote side.

The PRESIDING OFFICER. There is no time for debate.

Mr. DOMENICI. I send it to the desk.

The PRESIDING OFFICER. The Chair will have to look and see whether any of these provisions not covered by the ruling that the Chair was prepared to make.

Mr. KERRY. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. I yield 30 seconds to the OFFICER. Hold up for a minute, please.

What is the parliamentary inquiry?

Mr. KERRY. The parliamentary inquiry was whether or not the Chair was in the process of giving a ruling which would assist us to know what the relevancy of the waiver is. The Senator would certainly appreciate hearing the ruling.

The PRESIDING OFFICER. The Chair will inform the Senate that the Parliamentarian has indicated the proper procedure would be to act on the motion of the Senator from New Mexico to waive the point of order.

It is a partial waiver, he sees. During the vote on that matter, we will assert where there are any of these provisions not covered by the ruling, that the Chair was prepared to make.

If they are not, we will then proceed to rule. There were three items that the Parliamentarian indicated should be dropped from the statement of extraneous provisions provided by the Senator from Nebraska.

There is now 10 minutes equally divided, 5 minutes on a side.

Mrs. BOXER. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. Who yields time?

We have a time agreement now. There can be no further parliamentary inquiry without using the time.

Mr. EXON. I yield 1 minute.

Mrs. BOXER. I want to know which three the Chair has ruled on.

The PRESIDING OFFICER. The Chair has not ruled and will not rule under the Parliamentarian’s advice until the Chair acts on the motion to waive the point of order on a series of these items.

Mr. DOMENICI. I yield 3 minutes to the Senator from Pennsylvania.

Mr. KERRY. Parliamentary inquiry.

The PRESIDING OFFICER. There is no time until we use this 10 minutes, except for that purpose.

Mr. KERRY. Parliamentary inquiry takes precedence over request for time. The PRESIDING OFFICER. Not unless—

Mr. DOMENICI. I yield 3 minutes to the Senator from Pennsylvania.

Mr. SANTORUM. I want to let people know what is in this motion. What this motion would do, what the motion of the Senator from Nebraska would do is strike the 5-year limit. There will no longer be a time limit on welfare.

Some people would like that, but we voted 87 to 12. You want to end welfare as we now know it, in what the President said he campaigned on, put a time limit on welfare. If this motion is not waived, we will not have a time limit on welfare.

The growth formula—we worked very long and hard on trying to find money to be able to give to the States as they grow under the welfare system. All the growth formulas are struck—no more money. Whatever you get in the original formula, you do not get any additional money. We do not take into account any growth in welfare population. They strike it all.

Want to provide for assisted suicide payments? You can do that. Under the original bill, you cannot actually reimburse people who actually tried to go out and help people kill somebody else. Now you can. You can do it because we will strike it under this provision.

There is a laundry list of things here that are just punitive. We had a vote, an overwhelming vote, on doing something about illegitimacy. We talked long and hard about how we wanted to do something on illegitimacy. The bonus for States who reduce their out-of-wedlock birth rate is struck from the welfare. Everyone will come back home and say we care about it and strike it.

So, no time limit on welfare. No growth formula for States—and many of you profit very well on both sides of the aisle from the growth formula put in place—for more money. It is gone.

I just want people to think long and hard. You have basically gutted the welfare bill. There is no way this thing will be able to survive and States will be able to survive under the rules that you will put into effect here.

I hope that we would stand by the 87–12 vote on this welfare and stand by the Senate vote before and vote with the Chair of the Budget Committee on this motion.

The PRESIDING OFFICER. The Senator has 3 minutes and 12 seconds left. The Senator from Nebraska has 4 minutes and 47 seconds left.

Mr. EXON. Mr. President, I yield myself 2 minutes.

I rise to oppose a motion to waive, including a major welfare bill in this massive, multi-page bill under a fast-track procedure. It is a gross violation of the process. It is extremism.

Yes, most of us voted for the welfare bill, as did this Senator. But putting this major policy change in a bill whose sole purpose is to reduce the deficit is not just the sort of thing that the Byrd rule was designed to prevent.

I urge my colleagues to reject this motion to waive.

Mr. MOYNIHAN. Mr. President, about 2 weeks ago we made a profound mistake in voting the welfare measure we did. A report now surfaces from the White House that says it will instantly plunge 1.1 million children into poverty.

If that is the desire of this body, vote not to waive. You have a chance of redemption.

The PRESIDING OFFICER. The Senator has 3½ minutes remaining.

Mr. EXON. I yield 2 minutes to the Senator from South Dakota.

Mr. DASCHLE. Mr. President, I voted for the welfare bill, as well.

Let me say I do not hold the same view as the distinguished Senator from New York about the consequences of the bill that we passed here in the Senate.

Obviously, I would like to see a lot more done in welfare reform, and ultimately I think we will do a lot more. If we feel strongly about welfare, it is important enough to separate out from reconciliation. It ought to stand on its own. It ought to be considered policy for policy sake, not a source of revenue, referred out of current welfare programs into other things.

That is what we are doing in the reconciliation package. That is why I support the point of order raised by the ranking member, the Senator from Nebraska.

Mr. DOMENICI. I yield back the balance of our time. I ask for the yeas and nays on the motion to waive.

The PRESIDING OFFICER. The Senator from Nebraska has 2 minutes remaining.

Mr. EXON. I yield 2 minutes to the Senator from West Virginia.

Mr. BYRD. Mr. President, I voted for the welfare bill, but I did not vote on each of the items, which may be in violation of the Byrd rule on this bill. That is what we are narrowing it down...
to at this point. Is it extraneous to the reconciliation bill?

A point of order has been made against certain areas, against certain amendments, as being in violation of the Byrd rule. That is the question to be decided.

The Senator from New Mexico, the distinguished manager, has moved to waive this Byrd rule point of order.

The Senate will vote one way or the other. If the Senate votes to waive the point of order, then there is no point of order. It falls. But if the Senate votes not to waive the point of order, then the Chair will rule on each of the amendments, either en bloc, or, if there are one or two that the Chair disagrees with, he can so state, as he sees it.

I hope the Senate will uphold the Byrd rule, the intention of which was to rule out extraneous matter in reconciliations. But no matter what your thinking is on the welfare bill—and the point of order has now been made—that bill extraneous in the context of the interpretations that have been made, the precedents, the definitions, and the rule itself?

I hope the Senate will vote against the motion to waive so that the Chair may rule on the point of order.

Mr. DOMENICI. Mr. President, I wonder if I could reclaim 45 seconds of my time.

The PRESIDING OFFICER. The objection?

Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, every rule, including the Byrd rule, is made for waiver. It is not a rule that Senators cannot apply any judgment to. And the reason we think this is appropriate is because 87 Senators have already voted for these provisions. I mean, I do not bring a waiver of the Byrd rule here willy-nilly just to defy the very admirable efforts of the Byrd rule to keep a bill rather clean. But I do not think leaving in a welfare bill, which is in this reconciliation bill, provisions that you already voted for with 87 votes, I do not believe that is a trivial matter for those who voted for them, that they are going to vote the opposite way tonight as they choose to strip the welfare bill of provisions they voted for before.

If I have any time remaining, I yield it back.

Mr. CONRAD. Will the Senator yield for a question?

Mr. President, I ask unanimous consent for just a moment for a question of the Senator from New Mexico?

The PRESIDING OFFICER. State the request.

Mr. CONRAD. The question that I would have—

The PRESIDING OFFICER. How much time?

Mr. CONRAD. Thirty seconds.

The PRESIDING OFFICER. Is their objection?

Mr. CONRAD. Does the waiver of the Senator from New Mexico only apply to welfare provisions?

Mr. DOMENICI. That is correct. I have taken out of the large package purposefully only those that apply to welfare and ask that we waive them. Then we will go on to vote and see what we want to do about it.

Mr. CONRAD. Do we have a list of what those provisions are?

Mr. DOMENICI. Yes, we do.

Mr. CONRAD. Could Senators have a copy of that before they vote?

Mr. DOMENICI. Sure. I had 10 or 12 made. I will be happy to give them to you.

The PRESIDING OFFICER. Did the Senator say he wished to deliver a copy to every Senator before the Senate votes?

Mr. DOMENICI. No. I said if any Senators want to see it, we have it available.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

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

The assistant legislative clerk called the roll.

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

The yeas and nays resulted—yeas 53, nays 46, as follows:

[Rollcall Vote No. 555 Leg.]

The legible text follows:

<table>
<thead>
<tr>
<th>YEAS</th>
<th>NAYS</th>
</tr>
</thead>
<tbody>
<tr>
<td>53</td>
<td>46</td>
</tr>
</tbody>
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Abraham  
Ashcroft  
Bennett  
Bond  
Brown  
Burns  
Campbell  
Chafee  
Coates  
Cochran  
Cohen  
Curvendil  
Craig  
D’Amato  
DeWine  
Dole  
Domenech  
Faircloth  
Finkenbauer  
Frist  
Graham  
Hatch  
Helms  
Humphrey  
Jeffords  
Kempthorne  
Kyl  
Lugar  
Mack  
McCains  
McConnell  
Markoski  
Nickles  
Presler  
Roth  
Santorum  
Shelby  
Simpson  
Smith  
Specter  
Stevens  
Thomas  
Thompson  
Thurmond  
Warner  

The PRESIDING OFFICER. The Chair prepares to rule pursuant to the general order provisions that were added to the Byrd rule in 1990. And the Chair, on the advice of the Parliamentarian, does rule that of the 49 items listed on extraneous provisions, 46 are well taken, 3 are not.

One is the provision regarding elimination of agriculture and horticultural organizations from unrelated business income tax on associate dues. The second is the tree assistance program under the Committee on Agriculture.

And the third is the provision of the Committee on Commerce Committee dealing with the Spectrum language on page 207. Those are the three items.

The Chair must advise that after such a ruling any Senator may appeal the ruling of the Chair.

Mr. DASCHLE. Mr. President, just a point of inquiry.

If this material would be incorporated in the conference report, when it comes back would it be subject to the same point of order?

The PRESIDING OFFICER. The Chair is advised it would be.

Mr. DASCHLE. I thank the Chair.

Mr. DOMENICI. Did you rule?

The PRESIDING OFFICER. The Chair ruled that 46 items listed on the extraneous provisions are subject to the Byrd rule. Those items are individually appealable.
To implement the recommendation of the Senate Committee on Finance, the draft人大conference agreement would include the following extraneous provisions:

<table>
<thead>
<tr>
<th>Title</th>
<th>Budget Act Violation</th>
<th>Explanation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1113</td>
<td>(c)</td>
<td>Makes available additional peanuts if market price exceeds 120% loan rate.</td>
</tr>
<tr>
<td>1115</td>
<td></td>
<td>Savings adjustments to prorate payments to farmers if deficit targets aren’t met.</td>
</tr>
<tr>
<td>Sec 2001</td>
<td></td>
<td>Sale of Naval Petroleum Reserves</td>
</tr>
<tr>
<td>3002</td>
<td></td>
<td>Deposit Insurance Study, Requires Secretary of the Treasury to conduct a study on converting the FIDC into a self-funded deposit insurance system.</td>
</tr>
<tr>
<td>4002</td>
<td></td>
<td>Annual Regulatory Fees</td>
</tr>
<tr>
<td>Title IV</td>
<td></td>
<td>Commerce, Science, and Transportation</td>
</tr>
<tr>
<td>Title V</td>
<td></td>
<td>Energy and Natural Resources</td>
</tr>
<tr>
<td>Title VI</td>
<td></td>
<td>Finance, Medicaid and Welfare</td>
</tr>
<tr>
<td>Title VII</td>
<td></td>
<td>Environment and Public Works</td>
</tr>
<tr>
<td>Subtitle A, Indo</td>
<td></td>
<td>California Land Directed Sale</td>
</tr>
<tr>
<td>Park,</td>
<td></td>
<td>Radio and TV Site Communication Fees</td>
</tr>
<tr>
<td>Subtitle B, Oil and Gas</td>
<td></td>
<td>Royalty in Kind</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Royalty Simplification</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Delegation to States</td>
</tr>
<tr>
<td>Section 6002</td>
<td></td>
<td>Recession of highway demonstration projects</td>
</tr>
<tr>
<td>Title VII</td>
<td></td>
<td>Finance, Spending</td>
</tr>
<tr>
<td>1895</td>
<td>(b)(1)(ii)</td>
<td>Medical savings accounts of the Social Security Act as added by sec. 7001 of the bill.</td>
</tr>
<tr>
<td>716</td>
<td></td>
<td>Anti-kickback penalties</td>
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<tr>
<td>7175</td>
<td></td>
<td>Budget Expenditure Limitation Tool (BELT)</td>
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<tr>
<td>Subtitle II, Medicaid</td>
<td></td>
<td>Medicaid Task Force</td>
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<tr>
<td>2122</td>
<td>(g)</td>
<td>Authority to Use Portion of Payment for Other Purposes</td>
</tr>
<tr>
<td>2123</td>
<td>(h)</td>
<td>Treatment of Assisted Suicide</td>
</tr>
<tr>
<td>Title VII</td>
<td></td>
<td>Finance, Medicaid and Welfare</td>
</tr>
<tr>
<td>Subtitle C, Welfare</td>
<td></td>
<td>Individual Entitlement</td>
</tr>
<tr>
<td>403(a)(1)</td>
<td></td>
<td>Supplemental Grant for Population Increases in Certain States</td>
</tr>
<tr>
<td>403(b)(2)</td>
<td></td>
<td>Treat Interstate Immigrants Under Rules of Former State</td>
</tr>
<tr>
<td>403(b)(3)</td>
<td></td>
<td>No assistance for More Than Five Years</td>
</tr>
<tr>
<td>403(b)(4)</td>
<td></td>
<td>State option to Deny Assistance For Out of Wedlock Births to Minors</td>
</tr>
<tr>
<td>403(c)</td>
<td></td>
<td>State option to Deny Assistance For Children Born to Families Receiving Assistance</td>
</tr>
<tr>
<td>418</td>
<td></td>
<td>Performance Bonus and High Performance Bonus</td>
</tr>
<tr>
<td>7202</td>
<td></td>
<td>Services Provided by Charitable, Religious, or Private Organizations</td>
</tr>
<tr>
<td>7207</td>
<td></td>
<td>Disclosure of Receipt of Fed Funds</td>
</tr>
<tr>
<td>Subtitle D, SSI</td>
<td></td>
<td>Repeal of Maintenance of Effort Requirements Applicable to Optional State Programs for Supplementation of SSI</td>
</tr>
<tr>
<td>Chapter 6, 7295</td>
<td></td>
<td>Eligibility for SSI Benefits Based on Soc. Sec. Retirement Age</td>
</tr>
<tr>
<td>Subtitle E, Other welfare</td>
<td></td>
<td>Reductions in Federal Bureau</td>
</tr>
<tr>
<td>4742</td>
<td></td>
<td>Abstinence Education in Welfare Reform Legislation</td>
</tr>
<tr>
<td>7481</td>
<td></td>
<td>Self Concerning Correctness of Costs of Living Adjustments</td>
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<tr>
<td>$10002</td>
<td>(c) (11) “(a)(2)(a)”</td>
<td>Participation of Institutions and Administration of Loan Programs, Limitation on Certain (Administrative) Expenses</td>
</tr>
<tr>
<td>$10005</td>
<td>(b)</td>
<td>Loan Terms &amp; Conditions, Use of Electronic Forms</td>
</tr>
<tr>
<td>$10008</td>
<td>(a)</td>
<td>Loan Terms &amp; Conditions, Application for Part B Loans Using Fire Federal Application</td>
</tr>
</tbody>
</table>
Mrs. MURRAY. President, we have been debating this budget reconciliation for several days now, and I must say it looks no better now than it did when we were debating the budget resolution 5 months ago. In fact, its flaws are more troubling than I could have imagined, and, not surprisingly, the concern in my home State is much greater than I ever predicted.

What concerns me most is this budget seems to have no core values or principles that mean anything to American families. Its principles seem to be program cuts for the sake of program cuts, and tax cuts for the sake of tax cuts, with little regard for the consequences. I cannot understand the philosophy that prevails here that we have to somehow scourch the Earth in order to balance the budget.

Mr. President, I, too, want to balance this budget. In fact, I am proud to say I supported the 1995 budget package. That plan has this Nation on the right track; since its passage, our annual deficits have declined in each consecutive year. Earlier in this debate, I supported a balanced budget proposal put forth by my colleague from North Dakota, Senator CONRAD. His plan would have balanced our Nation’s deficit in a fair and equitable manner, and it would have maintained a commitment to education, health care and retirees. It would have brought our spending in line with our national priorities, and it would have postponed the tax breaks until we can afford them. It was a responsible and realistic alternative; most importantly, it had core values and principles that are important to every citizen in this country.

And, I, too, want to reduce taxes. Believe me, I know what it takes to raise a family, balance the family books and pay taxes. I know how badly my friends and neighbors want tax relief, and I understand how difficult it can be for families to cope with their tax burdens. I also know how expensive it is for small, family-owned businesses to keep their businesses in the family, and I believe targeted estate tax relief is one example of good tax reform; as is allowing first-time homebuyers to make tax-free IRA withdrawals for the purchase of a new home.

But, there is a right way and there is a wrong way to balance the budget, and the plan before us balances our budget the wrong way. We cannot afford to balance this Nation’s budget on the backs of our children and the elderly, so that those who are already better off can put more cash in their checking accounts and enjoy a tax cut for somebody else. We cannot afford to give tax breaks to people who don’t need them, and then increase taxes on the working poor and health insurance on the elderly. It is interesting to note that many of my colleagues argue on behalf of this budget package by claiming it will benefit our children and grandchildren in the long run. They claim we will give our children a better economy and lower interest rates tomorrow by balancing the budget today. They fail to note that this plan cuts our investments in the future to do so; programs like head Start and WIC and college loans and AmeriCorps.

I ask, why will lower interest rates do for my children and grandchildren if we reduce their access to higher education and vocational training, ultimately limiting their ability to acquire the skills they will need to find a family wage? Moreover, the proponents argue these tax breaks will enable families to save more for the future. However, current estimates reveal that these tax breaks will increase our Nation’s debt by roughly $93 billion. That’s $93 billion our children and grandchildren will be paying back through higher taxes later. This sounds like the 1980’s all over again.

It is imperative that we understand how this budget plan really impacts our children and families. How does it impact average Americans? Does this budget provide hope, or does it tell hardworking Americans they’re on their own to provide security and safety for our children and elderly, or does it lead to uncertainty and anxiety? These are just a few of the important questions I considered when looking at this budget reconciliation. We should be providing hope for the families that are struggling to pay their rent, feed their children and care for their elderly parents. Instead, we are showing these families and their children that the only way to address these difficult issues is to cut the heart out of what they need to survive—education, health care and good jobs.

Last month, I held a forum back in Washington State to talk about the varied issues surrounding Medicare. I expected one or two dozen to attend. Instead, over 500 people showed up to express their views, people are concerned. They are anxious, and not quite certain what a $270 billion Medicare cut means to them. How much more money will be taken out of their Social Security check each month? And what are seniors on a fixed income going to do for their sacrifice? I hope it is more than a tax break for somebody else. This budget is not providing certainty or hope. My constituents see difficult times ahead. They are wondering how they will pay for health care.

And then there’s Medicaid. This program serves the elderly in nursing homes, the adult disabled, pregnant women, and children—the most vulnerable in our society, and the working families that support them and care for them every day. This budget will take $187 billion out of Medicaid, do away with the standards of care, block grant the program, and let States decide who won’t have their medical costs covered. The fears that working families have about the Medicaid cuts can best be summed up by a letter I recently received from a worried mother:

What will happen to our family when my mother, who has Alzheimer’s disease and lives with us, has no more funds and we can no longer care for her at home? My children’s education depends on both my husband and me working. If one of us becomes unemployed or must take on full-time care taking responsibilities, we risk grave financial consequences for all of us.

The lack of social priorities isn’t the only problem in this budget. It fundamentally stalls the best economic development initiatives this country has in order to compete in the global marketplace.

There are over 30,000 Boeing employees in my home State on strike as we speak. There No. 1 issue is job security. The global economy and increased competition has made these employees, and many others like them, uncertain about the future. They increasingly look to us for support. They want to know what the Federal Government will do to help them compete in the global marketplace.

This budget provides no security or hope. Instead, it proposes deep cuts in trade promotion programs and trade adjustment assistance. It demolishes the Commerce Department at a time when Secretary Brown has maximized...
its effectiveness on behalf of American businesses. This budget sends the message that the Federal Government will provide no leadership in international competition, and has no role in cultivating good, high-paying jobs that will lead our families into the 21st century.

And what about the tax increases in this budget? This budget says working families do not count in the scope of principles governing this budget.

Many families will see tax increases because of the proposed cuts to the earned income tax credit. We all know how important the EITC is, and we’re all aware of the bipartisan support it has received over the years. As President Reagan once said, “this credit is one of the most successful profamily, pro-work initiatives ever to come out of Congress.” The budget before us will reduce the EITC by $49.5 billion over 7 years. In my home State, low-income working families with two children will see a $452 tax increase in 2002 and a $524 tax increase in 2005.

The worst aspect of this tax proposal is that it increases taxes on approximately 17 million hard-working Americans while the top 13 percent of income earners will reap 40 percent of the tax breaks. Does this provide security and hope for our low- and middle-income taxpayers? It does not. Reducing the EITC simply will drop many working families into poverty, and make it more difficult for families to take care of their children and parents.

The environment doesn’t escape this budget, either.

I am concerned about the impacts this bill will have on public lands and other national assets. For decades, the Congress of the United States has recognized that our public lands and assets are too precious to sell unless their sale is in the best interest of the public. But it appears to be a new day. Today, this committee may vote to sell—perhaps our children’s heritage—to pay our debts. The leasing of the Arctic National Wildlife Refuge in particular is not an issue of revenues. It’s a question of values. It’s a question of whether we are willing to trade off open space, parks, wilderness, and wildlife values—the natural legacy for our children—for a short-term payment toward the bills we have accumulated—or worse, for a tax cut for ourselves.

There truly is a right way to balance the budget: a way that provides security and hope and a way that assures average Americans that we are looking out for them. I tried to instill some of this common sense into the budget resolution, and I am pleased the Senate responded to my amendment calling for an appropriate level of Impact Aid funding. I only wish we could have had more cooperation across the board on other education needs like Head Start, School-to-Work, and Safe and Drug Free Schools, and AmeriCorps.

Mr. President, given the fundamentally disrespectful for families in this budget, I am forced to oppose this reconciliation package. It does not have important core principles, and I’m afraid it is leading together an America far different from the one I grew up in. I am alarmed at its shortsightedness. I fear it was motivated by a desire to balance the budget by a given date, regardless of the consequences.

This budget leads us down a new road; a road none of us have traveled. It says the Federal Government is no longer responsible for the welfare of its people. But, yet, who will be? Who will rise to the occasion? Who will pick up the slack? None of us know, but each of us should be prepared. Prepared, because this budget is calling each of us to be more vigilant, more aware of the needs of our families and neighbors, more willing to pay for the health care needs of our parents, children, and friends. Those of us in this room may be able to pick up the slack, but many in our home States will be hard pressed to meet this challenge.

This budget is not good public policy. It is not why I was elected, and it’s certainly not what the families in Washington State want.

Mr. HOLLINGS. Mr. President, once again, we are lying to the American people. This budget is a serious attempt to get our fiscal house in order, the reconciliation bill that we are now considering is little more than a political document. It is more about getting a Republican in the White House than getting rid of red ink. The American people will not be fooled. The Republican reconciliation bill does not balance the budget—it merely front loads goodies such as the tax cuts and back loads all the tough decisions. Mr. President, I ask unanimous consent that two tables that I have prepared expressing the realities of the GOP budget be included in the Record at this time.

There being no objection, the tables were ordered to be printed in the Record, as follows:

"Here We Go Again": Senator Ernest F. Hollings

<table>
<thead>
<tr>
<th>Year</th>
<th>1996 CBO outlays</th>
<th>1,583</th>
<th>1996 CBO outlays</th>
<th>1,583</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Increased spending</td>
<td>+53</td>
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</table>

Budget tables: Senator Ernest F. Hollings

<table>
<thead>
<tr>
<th>Year</th>
<th>Government budget (outlays in billions)</th>
<th>Trust funds</th>
<th>Unified deficit</th>
<th>Real deficit</th>
<th>Gross Federal debt</th>
<th>Gross interest</th>
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<td>+2.9</td>
<td>358.5</td>
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<td>-8.7</td>
<td>629.0</td>
<td>37.1</td>
</tr>
</tbody>
</table>
services from private entities. Am I correct that this provision is targeted at saving tax dollars and stopping Government waste?

Mr. MURKOWSKI. The Senator is correct.

Mr. CRAIG. Mr. President, an independent study of the Bureau of Reclamation’s Government-owned, Government-operated aircraft service in Boise, ID, found that it saved more tax dollars than other options, including contracting out. Would the chairman agree that the committee did not intend to eliminate truly cost-effective programs that happen to be Government-owned and operated, such as that of the Bureau of Reclamation in Idaho?

Mr. MURKOWSKI. The Senator is correct. Let me assure the Senators from Idaho that we are committed to achieving the best and fairest deal for American taxpayers. We will work in conference to further clarify the changes in S. 1357 to address the concerns of my colleagues from Idaho.

Mr. KEMP THORNE. Mr. President, I thank the chairman for making a clarification that I believe will serve the best interests of taxpayers and the efficient delivery of Government services.

Mr. CRAIG. Mr. President, I also thank my chairman for accommodating our concerns while preserving the fairness and cost savings of the Energy Committee’s provisions.

Mr. LIEBERMAN. Mr. President, I am pleased that this bill contains the essential elements of S. 959, the Capital Formation Act of 1995.

That bill, which I cosponsored with Senator Harkin, had over 40 cosponsors. I am pleased that the bill before us contains a broad-based capital gains tax cut as well as a targeted provision which provides a sweetened incentive to invest in small businesses. I would have liked it if the real estate loss provision had been included by the Senate Finance Committee and I intend to work to see that that provision is included in conference.

I think it is important to understand that the benefits of a capital gains cut are felt by real American taxpayers. Anyone who has stock, who has money invested in a mutual fund, who has investment property, who has a stock option plan has a state in this debate. We are talking about millions and millions of American families.

Unlike most other industrialized nations, we strive savings and investment by taxing that savings and investment.

This capital gains bill rewards those who are willing to invest their money and not spend it. It is people who put their money in places where it will add to our national pool of savings. Businesses can draw on this pool of savings to meet their capital needs, expand their businesses, and hire more workers.

Of course, people who are wealthy can benefit from this proposal capital gains cut but only because they are willing to put their money in places where that money will create wealth.

I would like to close with a quote from this year’s Nobel Prize winner in economics, Robert Lucas. He said, and I quote, “When I left graduate school in 1963, I believed that the single most desirable change in the U.S. tax structure would be the taxation of gains as ordinary income. I now believe that neither capital gains nor any of the income from capital should be taxed at all.” Professor Lucas goes on to say that his analysis shows that even under conservative assumptions, eliminating capital gains taxes would increase available capital in this country by about 35 percent.

I could not agree more on the need to increase available capital and I would invite anyone who does not think we have a problem with available capital to visit any of the thousands of economically distressed urban and rural countries across this country. While the capital gains provision before us reduces, but does not eliminate the tax on capital gains, as Professor Lucas would prefer, I hope that you will join in supporting this provision.

AMENDMENT NO. 2985

Mr. BAUCUS. Mr. President, I voted for the resolution offered by the senior Senator from Pennsylvania which expresses the sense of the Senate that this body should enact a flat tax.

Our current Tax Code is complicated and almost incomprehensible to many of our citizens who must comply with its provisions.

Mr. CRAMER. Ms. Administrator, I agree that the revenue estimate in the National Treasury Management Agency, for example, is at least $8.5 billion different from the estimates of the Committee on Finance or the Budget Committee, and I would like to refer to that.

I do not believe that we should have a flat tax, but I think we might have a transitional tax which would allow the American people to transition to the flat tax over a period of time.

Mr. CRAMER. Mr. President, I know that is not a popular position with Senator Baucus, but I think it is the right position to take.
It is high time that we simplify the Tax Code. Simplification should and must be on the front burner.

We need to consider a flat tax in our search for simplification. But, whatever we do, we must not abandon fundamental fairness and progressivity.

The train wreck is not so much the inability to reconcile differences between the House and the Senate over the budget...
one exception: children would be allowed to take a 10-year loan against this money for their higher education. Thanks to the wonders of compound interest, $500 a year set aside from birth to age 18 would, at 10 percent interest a year, grow to $1.3 million by the time the child reached age 59%23, the age at which IRA funds can start to be withdrawn with no penalty.

One of our greatest challenges is how to create opportunities and wealth for the working families of this country. I believe KidSave helps us meet that challenge in an affordable, responsible way. If there is going to be a tax credit to help families with children, I believe there is no better way to provide that help than to offer parents the opportunity to ensure a sound financial future for their children.

That is good news for the future. But KidSave is good news for the present, as well. KidSave will help our economy today by creating a pool of savings available for investment. As you know, savings and investment rates in the United States are at historic lows: our household savings rate is 4.6 percent of disposable income, compared to Japan’s 14.8 percent and Germany’s 12.3 percent. When government deficits are factored in, U.S. net national savings falls to 2.07 percent. When our historic trade deficits are added to our plummeting savings rates, the result is an immense disinvestment in our economic future.

While the Social Security trust fund is locked into Federal securities, KidSave is a savings tool that would soon be the largest in the country, available for investment directly in our economy. It would deal directly with our national savings problem by assuring a long term capital source for economic growth and job creation. In other words, KidSave can help children when they retire, and it can help them find work until they retire.

The proposal speaks to the problems we will face from changing national demographics. Because the baby boom is such a large population group, we will be imposing a vast financial burden on our children’s generation to fund upcoming social security, pension and health care obligations. Jeopardizing the long term availability of those programs to the following generations of Americans. This will create what Professor Rudy Dornbusch of MIT calls a true world economic crisis. The intangible benefits of this approach provide not only future jobs but an improving standard of living for today’s children when they are grown. The impressive results of compound earnings over 65 or 70 years would serve as an assurance of security for a generation whose prospects today appear uncertain. Since private pensions today cover fewer than half of all workers, and since economic surveys show most households with inadequate or more or less worthless retirement funds, it is clear that we need a new approach. The income from these individualized equity funds would permit everyone in future generations to supplement Social Security benefits, as originally intended.

In order to minimize unnecessary risk and overhead, these retirement accounts could be administered in the same way as the federal employee retirement-savings program. There could be a wide range of contributions combined with the efficiencies and safety of large pools of investment funds.

There will inevitably be pressure to permit non-retirement withdrawals from such accounts. Withdrawals for education or health care needs may very well be in the child’s best long-term interests, but any exceptions permitting early withdrawals must be narrowly defined. The full retirement-income benefit to the individual will be at risk for early withdrawal, and one exception leads to pressures for another, undermining the long-term benefit of this approach.

A PHASE-OUT FOR THE RICH

There is no need, of course, to give a $500 per-child contribution to children whose parents can already provide for their futures. So the tax credit should be phased out for higher-income families with the option for those parents to contribute $500 yearly on an after-tax basis.

The intangible benefits of this approach may be hard to measure, but may ultimately be more important. Children may see little prospect for their future will have a tangible stake in thinking longer term. The fact that these accounts exist in their names and are growing will underscore the importance of other types of deferred-gratification behavior. We shouldn’t discount the
impact that such accounts will have on our children, even though they cannot use them immediately. Any legislative proposal must be evaluated in context as part of a budget package. We need to be especially sensitive to the impact of proposed spending reductions and other tax changes for children, the elderly, and the visibly and vulnerable seniors. Again, our organizations do not think we should be considering major tax cuts at this point. But if Congress is determined to enact such tax cuts, we think it should consider this proposal first. It’s good for our children, for the economy and for the long-term needs of future retirement-age Americans.

The concept that Senators Kerrey, Lieberman and others are working on hasn’t been introduced as legislation, and we may well disagree with the particulars they finally devise. But at bottom, the general proposal remains a very compelling option. Properly structured, the children’s savings credit offers a way to leave a legacy of savings, responsibility and security to Americans of all ages and income levels.

STOP THE BILLION DOLLAR GOLDEN GIVEAWAY

Mr. BIDEN. Mr. President, the reconciliation process to help in corporate welfare, save taxpayers’ money and balance the Federal budget. Yet, tucked away, deep in the more than 2,000 pages of the bill, is a golden giveaway of billions of taxpayers’ dollars to a powerful special interest lobby. In this case, the lobby is dedicated to getting rid of hundreds of acres of public land, 18 national parks, and tens of thousands of acres of other Federal land, including the Teapot Dome area and dozens more.

Initially passed to encourage settlement of the West, the anachronistic 1872 mining law enables gigantic mining interests—many of which are foreign-owned—to purchase the right to mine Federal land for as little as $5 per acre. Literally, for the price of a McDonalds’ value meal you can buy an acre of Federal land, loaded with gold, silver, platinum and palladium. If this was not enough of a ripoff, the law does not require mining concerns to pay any royalties to American taxpayers for these minerals, an annual loss of roughly $100 million. The net effect of this law is simple: Foreign mining companies get the gold, and American taxpayers get the shaft.

The provision contained in the bill does little to change the current situation. Though the bill requires that fair market value be paid, it only applies this standard to the surface of, what is often times, barren desert land. No consideration is given to the minerals, to the gold, silver and platinum, which are buried underneath the ground. It sounds good on its face—paying fair market value—but this alleged reform is nothing more than face-saving andwindow dressing.

Our conservative colleagues argue endlessly that we need to run the Federal Government, more like a business. But how could any business survive, even for a day, by opening its warehouse doors and giving away its products?

On top of these fraudulent prospective changes, the bill’s grand fathering of provisions guarantee the status quo for over 200 claims currently pending with the Interior Department. These claims involve over 130,000 acres of public land, 18 national parks, and more than $15 billion in precious minerals, would be granted without the rightful payment to the taxpayers who own the land. Again, billions of taxpayers’ money is given away, just handed over due to this antiquated law.

Just last month, Secretary of the Interior James Watt signed away over 100 acres of land, containing 1 billion dollars’ worth of minerals to a Danish mining conglomerate that paid an embarrassing $275—Federal cough change. This century-old practice has become eerily reminiscent of the Teapot Dome scandal during the 1920’s.

Unlike farmers and ranchers who have a vested interest in preserving their land, miners have virtually no stake in using the land in an environmentally sound manner. After the gold is taken, the shaft is plugged, and the company abandons the land, often times we are left with dangerous, toxic abandoned mines, which require millions of taxpayers’ dollars to clean up. In fact, the EPA superfund list of hazardous and toxic waste sites contains 59 properties associated with mining.

The cosmetic mining law reform in this bill is exactly the type of nonsensical policy that has angered many Americans over the years and caused us to lose faith in Government’s ability to improve the lives of ordinary people. It ought to be rejected: The pot of gold should be found at the end of the rainbow, not at the end of a patent application. Americans deserve better. EITC

Mr. LIEBERMAN. Mr. President, I rise with a few thoughts on this bill overall, and on the cuts we are contemplating in the earned income tax credit (EITC) in particular.

This bill has a lot to recommend it. It provides incentives in the tax code for positive goals. The super IRA provisions will encourage savings. That is a constructive step forward. The capital gains tax provision will encourage people to put money where it will create wealth—that is to say it will encourage investment. While I’ve supported a middle-class tax credit, I think we could have made the credit even better by giving it to parents who set up retirement accounts for their kids. These accounts would be governed by IRA rules with one exception—children would be allowed to take a 10-year loan against their account for higher education. And I’m not enthusiastic about choosing Congress as the bank—no! But because this bill does too much, but because it does too little to change the built-in flaws in this program.

Overall, I’m encouraged by what this bill does to provide incentives for savings and investment and the creation of jobs and capital. However, in terms of incentives it falls woefully short in one area. That is in the dramatic and misguided cuts this bill makes in the earned income tax credit (EITC). Let me tell you why I like the EITC and why I think that the Republican Party should embrace, not eviscerate this program. Put simply, the EITC provides an incentive to work. It promotes work over welfare and it does so through the Tax Code, not through a new social service program run by bureaucrats in Washington. That is something both parties should be able to support, and indeed, in the past, both supported the EITC.

President Reagan championed this program as the “best antipoverty, the best pro-family, the best job-creation measure to come out of Congress.” Last week in testimony before the Senate Finance Committee, former HUD Secretary Kemp cautioned against cutting back too far on the EITC “because that is a tax increase on low income workers and the poor which is unconscionable at this time.”

I am particularly troubled that the Senate has cut $43 billion out of this program over 7 years—this figure is nearly double what the House has cut from the EITC in their reconciliation package. And this cut of $43 billion is a cut that not only reduces this program of hazardous and toxic waste sites contains 59 properties associated with mining.

The cosmetic mining law reform in this bill is exactly the type of nonsensical policy that has angered many Americans over the years and caused us to lose faith in Government’s ability to improve the lives of ordinary people. It ought to be rejected: The pot of gold should be found at the end of the rainbow, not at the end of a patent application. Americans deserve better.

The Democratic Leadership Council, which I am pleased to chair, has a long history of support for this program. The research and writing arm of the DLC, the Progressive Policy Institute...
October 27, 1995

CONGRESSIONAL RECORD — SENATE

S16059

PPP has done a lot of excellent work on the issue. At this point, I ask unanimous consent that an article by Mr. Jeff Hammond on the EITC, which appeared in the September 29 Washington Times, be printed in the RECORD.

The leading article, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Times, Sept. 29, 1995]

RELIEF FOR THE HARD-WORKING POOR

(By M. Jeff Hammond)

This year, both House and Senate have proposed the Earned Tax Credit (EITC) with the intent to save money, rather than make the program work better. The EITC—which helps millions of low-income families escape poverty—is an example of Congress targeting the good as well as the bad in its quest to reduce social welfare spending.

This is a program that should not go quietly into the night. Unlike traditional welfare programs, the EITC is based on the principle of reciprocal responsibility: It says that the government will help, but only if you give something back or help yourself in the process. Republicans have supported the credit in the past; in fact, its biggest one-year boost occurred under President Reagan, in 1986. Why change now?

Specifically, the EITC assists low-wage workers by providing a wage supplement up to a certain level of earnings, at which point the credit reaches a maximum and then begins to phase out. President Clinton’s five-year, $21 billion expansion of the EITC, approved in 1993, was designed to guarantee that families with full-time, year-round workers would not live in poverty.

By promoting work over welfare with virtually zero offset to low-income or added bureaucracy, the EITC provides the foundation for any serious effort at welfare reform. The program could use some fine-tuning, but most of the charges leveled by critics are exaggerated or plainly incorrect.

Rising costs. Some critics of the EITC, most notably Sen. Don Nickles, Oklahoma Republican, depict it as another out-of-control entitlement program, since its costs have grown quickly. “The EITC is the fast-growth entitlement program,” period. Mr. Nickles has said. “It’s growing much faster than Medicare or Medicaid.”

Detractors conveniently ignore, however, that the EITC not only expand the program in 1986, 1990, and 1993, in part as an alternative to increasing the minimum wage. This is in stark contrast to the major entitlement programs such as Medicare, which automatically grow every year with no congressional action. To depict the EITC as simply another exploding entitlement program is simply wrong.

Waste, Fraud and Abuse. Critics of the EITC claim the program has a fraud rate of 35 to 45 percent, costing taxpayers billions of dollars in refunds. This statistic is based on a January 1994 IRS study, and is inaccurate and misleading for several reasons.

First, that statistic is an error rate, not a fraud rate. If a worker claimed the credit but was $1 off—or claimed too little—this was included in the statistic. Many of these inadvertent mistakes are corrected by the IRS. Nearly half of the supposed “fraudulent” claims were unintentional errors of this type.

Second, some taxpayers who claimed the credit in error (i.e., when they did not qualify) may have done so unintentionally, due to the IRS’s rules.

Third, the study was based on 1993 returns. Since then, the IRS has implemented new procedures to cut down on fraud, such as double-checking the Social Security numbers of all dependents claimed. Thus, the fraud and error rate will be much lower for 1994 and futures.

Work Incentive. Some critics assert that the EITC is actually a net subsidy, because the phase-out of the credit is in effect a tax on earnings. One recent estimate shows that if Congress wanted to make sure the Federal government would not affect recreation or any other multiple use of the national forest, and the agencies also wanted to avoid the creation of private inholdings within the Federal land base. To get action on those issues through the annual operating plan for the project. The State and I have agreed, that the State contributed by the districts toward the recovery of endangered fish be spent on recovery efforts in Colorado.

Many folks in the Plateau Valley have raised a concern with me that there will be insufficient opportunity for the public to be involved in the operation of the project. I understand this concern, it is legitimate, and I have tried to address it in various ways. The Forest Service and BLM wanted to make sure the bill would not affect recreation or any other multiple use of the national forest, and the agencies also wanted to avoid the creation of private inholdings within the Federal land base.

First, the bill states that “the power component and facilities of the project shall be operated in substantial conformance with the historic operations of the power component and facilities.” That will be the law. The language is clear.

Second, the bill requires annual reporting to the Secretary of the Interior and Agriculture as to the operating plan for the project in the coming year. The purpose of this provision is for full public disclosure of annual operations.

I will amend that provision to increase accountability by requiring full consultation with the Mesa County commissioners and with the Forest Service in preparation of the annual operating plan. This will allow the public to raise issues through the Commissioners and through the Forest Service and get action on those issues through the annual planning procedures.

Part of the issue is to the extent to which the bill can affect the disposition of water between the Plateau Valley and the Grand Valley, and this is an issue on which I have broadly consulted with state officials and water lawyers. There are several reasons that federal legislation on this point would be unworkable.
First, all changes in water use are subject to state water law and are adjudicated through the state water court process. The water court is charged with protecting the interests of all associated water users when a change in use is considered or requested.

Second, the holding of a water right is a private property right and one in which I frankly would oppose Federal interference.

And third, the Ute and Colorado Water Conservation Districts are publicly accountable organizations created in accordance with Colorado law. Colorado Law includes a number of provisions providing for public accountability, including the ability to elect board members. It would be inappropriate for the Congress to interfere with that structure.

I will, however, amend my bill to prohibit any out of state transaction involving water from this project.

I have appreciated the willingness of citizens and agency staff to work with me on the development of this legislation. I am open minded about making further changes to the bill, in addition to the many that have already been made.

Thank you, Mr. President. I yield the floor.

HORMONAL CANCER DRUGS

Mr. D’AMATO. Mr. President, I rise today to discuss Senator OLYMPIA SNOWE’s amendment that I and my colleagues sponsored and the Senate passed last night as part of the Budget Reconciliation bill.

With prostate cancer striking 1 out of every 11 American men and breast cancer attacking 1 out of every 8 American women, we have an obligation to do everything we can to ensure that the best, most effective treatments are available to as many patients as possible.

The amendment expresses the sense of the Senate that Medicare should cover oral hormonal cancer drugs. Oral hormonal drug therapy is critical in treating cancers that have spread beyond the prostate and in treating estrogen-receptor-positive breast cancer tumors. These drugs can play a vital role in the postsurgical treatment of this type of breast and prostate cancer because they help prevent the recurrence of these tumors and improve the quality of life for thousands of cancer patients each year.

In the Omnibus Reconciliation Act of 1993, we directed Medicare to cover some oral cancer drugs. However, the statute requires that those drugs be chemotherapeutic in nature and have been available in an injectable or intravenous form. Oral hormonal cancer drugs do not fall within this category. I believe this is an unintended result of a well-intentioned provision.

The bill is that Medicare currently discriminates against half of all women afflicted with breast cancer by denying coverage for postsurgical drug treatments to those with estrogen receptor-positive tumors. Because estrogen-sensitive tumors are more likely to strike post-menopausal women, this type of cancer disproportionately afflicts Medicare beneficiaries. Denying Medicare coverage for orally administered hormonal therapy is as obvious an example of penny-wise and pound-foolish.

Hormonal therapy is a less expensive treatment option when measured against the risk of treating new tumors which can result in the absence of such therapy.

This relatively simple and straightforward amendment puts the Senate on record in support of correcting this oversight from the 1993 reconciliation bill. I believe that the conference report on the 1995 reconciliation bill should include a provision to cover oral cancer drugs used in hormonal therapy. I am glad that the Senate passed this amendment, and I am glad to have been an original cosponsor.

Mr. CAMPBELL. Mr. President, I am delighted that the Finance Committee adopted a provision that would allow tax exempt organizations to be eligible to maintain pensions under section 401(k). It is my understanding that tribal governments would be allowed to maintain 401(k) plans under the budget reconciliation proposal reported by the Finance Committee.

In order to ensure that I am clear that tribal governments would, in fact, be included under this provision I would like to ask the distinguished chairman of the Finance Committee a question to clarify the Finance Committee’s budget reconciliation proposal.

Mr. ROTH. I thank Senator CAMPBELL. I would be happy to answer his question.

Mr. CAMPBELL. Is my understanding correct that tribal governments are eligible to sponsor 401(k) plans under the Finance Committee budget reconciliation proposal?

Mr. ROTH. Yes; that is a correct statement.

Mr. CAMPBELL. I note the presence of the chairman of the Indian Affairs Committee, Senator McCaIN, and ask if he would have any comments.

Mr. McCaIN. Senator CAMPBELL, has long been a great advocate for Indian people. I would also like to extend my thanks to Senator ROTH for his efforts to clarify this portion of the pension simplification measure included in the budget reconciliation measure.

I also wish to take this opportunity to thank Chairman ROTH for including language affecting section 403(b) plans in the pension simplification section of the bill that will remove a very difficult problem that arose from a misunderstanding about earlier authority provided to tribal education organizations. Several years ago some tribal governments began to purchase plans provided under section 403(b) of the Code administered by independent companies only later to find that such plans were not expressly intended for the use of government employees involved in activities other than education. Those retirement funds, affecting several tribes and the retirement savings of thousands of tribal employees, are now in jeopardy. I introduced S. 1304 to fix this problem. Chairman ROTH included a section in section 12941 of the bill, and I thank him for that.

MPN STATUS FOR CAMBODIA

Mr. McCaIN. For the past 2 years, I have been involved in an effort to grant most favored nation status to Cambodia. Today, I intended to accomplish this by offering an amendment identical to the language already approved by the House. The chairman of the Finance Committee, Senator ROTH, has informed me, however, that he would prefer that trade provisions not be included in the reconciliation bill. In deference to his opinion and his responsibility for guiding this bill through the process, I have decided to withhold my amendment.

Mr. ROTH. I thank the Senator from Arizona. I know that this is a very important issue for him. It is among a number of trade issues which must be dealt with by the conference committee. The Senator from Arizona has my assurance that the Finance Committee will take up H.R. 1642—the House-passed bill dealing with this issue—the next time it meets to deal with trade issues, and that I will make every effort to have it reported out favorably.

Mr. McCaIN. I thank the chairman for his cooperation and for his interest in the issue. Cambodia has come a long way from the dire situation it faced just a few years ago. We can help the Cambodian people overcome the remaining challenges they face by empowering them to help themselves. Economically developed, prosperous Cambodia will be better able to create the foundations for democracy and contribute to the stability of Southeast Asia.

Mr. SMITH. Mr. President, this is a historic moment in the history of our country. Over the past several weeks, we have heard vicious attacks on the balanced budget bill that is before the Senate today. The Republican balanced budget has been called immoral and irresponsible. The American people have been warned of devastating cuts in spending. To the casual observer, it might appear that the sky is about to fall.

The truth is quite different. In fact, the budget before the Senate today is the only chance to save our country from an immoral, irresponsible, and devastating future. I urge every American to support the budget.

Mr. ROTH. I thank the Senator from Arizona. With his amendment that I and my colleagues sponsored and the Senate passed last night as part of the Budget Reconciliation bill, we have taken important steps to address the nation’s fiscal crisis.

Mr. CAMPBELL. Mr. President, I note the presence of the chairman of the Indian Affairs Committee, Senator McCaIN, and ask if he would have any comments.

Mr. McCaIN. Senator CAMPBELL, has long been a great advocate for Indian people. I would also like to extend my thanks to Senator ROTH for his efforts to clarify this portion of the pension simplification measure included in the budget reconciliation measure.

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Mr. President, our balanced budget plan is not perfect. If there was an easy solution to our fiscal problems, you can rest assured that Congress would have found it along ago. I do not agree with every provision in the bill before the Senate, but I do agree there are many priorities that I would change. On the balance, however, I think the product is a good one. It gets the job done. To my colleagues who disagree, I would say the following: you can’t do nothing with nothing. If you do not like our balanced budget, you have an obligation to produce an alternative. President Clinton’s plan was recently rejected by the Senate, 96 to 0.

The benefits of a balanced budget far outweigh any temporary pain. The Congressional Budget Office estimates that a balanced budget will result in a reduction of long-term interest rates between .5 and 1 percent. On typical student loan, that reduction would save American students $8,885. On a typical car loan, it would save the consumer $676. On a 30-year, $30,000 mortgage, lower interest rates would save the homeowner $38,653 over the life of the mortgage.

The bill before the Senate will balance the Federal budget in 7 years. That fact has been certified by the Congressional Budget Office. The budget will save Medicare from bankruptcy, and strengthen and protect the program for future generations. The legislation completely overhauls our broken welfare system. It transfers power away from Washington bureaucrats and returns it to State and local officials.

Mr. President, the Senate bill also provides significant tax relief. I know that many of my colleagues have expressed disad with the idea of cuttal taxes. They find it offensive to let American taxpayers keep more of their hard-earned money. I would ask, is it offensive to provide a $500 per child tax credit? Is it offensive to create a tax credit for interest on student loans? Is it offensive to provide a tax credit for interest paid on a student loan? I certainly do not think so.

The critics of tax cuts think Members of Congress can spend money better than a family of four in Berlin, NH, or Cleveland, OH, or Atlanta, GA. I find that position arrogant, and I am not alone. As is now well known, the President now regrets his decision to raise taxes. Presumably, the President realized that the Government in Washington has enough tax dollars to spend.

Those who oppose the tax cuts contained in the bill before the Senate today should understand this fact: the budget we have today is not enough. We need to reduce taxes by $245 billion. It does not even completely refund the Clinton tax increase.

Mr. President, we are witnessing the last gasp of the big-government, Washington-knows-best liberalism. It may come as a shock to many, but Uncle Sam is not the solution to every problem in America. I have held a good many town meetings in New Hampshire to talk about the budget, taxes, welfare reform, and Medicare. Often, when I say that Congress intends to balance the budget in 7 years, my constituents ask why we are waiting that long. The danger is that we would not go about it in a manner that would have us believe. The real risk to all Americans is the risk that we will not get the job done.

I urge my colleagues to support this budget bill today, and it stands alone as the only solution to our Nation’s fiscal problems. The time for talking is over. The time for acting is now.

**USEC PRIVATIZATION**

Mr. WARNER. In title V of the bill before the Senate there are provisions that will provide for the privatization of the U.S. Enrichment Corporation. I understand the Energy Committee is also reporting this language out as a substitute to S. 755, a bill originally introduced by Mr. Garcia, to accomplish the same purpose.

Mr. President, I commend Senators DOMENICI, MURKOWSKI, JOHNSTON, FORD, and others for their efforts to produce legislation that balances our country’s needs. The private uranium enrichment company with a non-proliferation solution that assists Russia in its weapons disarmament. However, I seek a few clarifications, as well as your assurance, that the language in the reconciliation bill will allow the Russian Federation an opportunity to be able to fulfill its obligations easily with options, perhaps those offered by U.S. private industry to assist where possible.

With regard to section 5007(c) of the reconciliation bill, the exclusion of U.S. Department of Energy facilities from production of highly enriched uranium, I want to urge the U.S. Enrichment Corporation to make use of such facilities in order to making any contractual work agreements with the U.S. Government.

Mr. MURKOWSKI. Mr. President, it is true that our language allows USEC to contract with existing DOE facilities for activities and services other than the production of highly enriched uranium. To the extent that there is a longstanding government policy that the Federal Government not compete for work that the private industry can supply, I agree that the DOE should defer opportunities to the private sector.

Mr. WARNER. I thank the Senator, I wish now for clarification of section 5012(b), regarding Russian HEU. Does this language provide for contingency private industry provisions to assist the Russians in meeting their obligations in the government-to-government agreement of providing the United States with low enriched uranium derived from highly enriched uranium?

Mr. MURKOWSKI. The government-to-government agreement for the 500 metric tons of highly enriched uranium contemplates the participation of the United States private sector and Russian enterprises in implementation of the agreement. Section 5012(b) facilitates this implementation by providing mechanisms for private sector entities to purchase the natural uranium compounds of LEU derived from Russian HEU, either directly from Russia or through an auction process, in an open and competitive manner. The United States and Russia also have the ability to increase the quantities delivered in any given year and accelerate the delivery schedule of this material to the United States, provided that this material is introduced into the U.S. commercial fuel market in full accordance with this legislation.

Furthermore, neither this legislation nor the government-to-government agreement limits the ability of Russia to sell additional quantities of enriched uranium, in excess of 500 metric tons called for by the government-to-government agreement, to third parties for delivery to the United States, subject to the market forces as stated in the bill before us and other applicable law.

Overall, this legislation and its provisions will: First, advance the world’s non-proliferation goals; second, provide the Russian Federation immediate hard currency; third, assist the Russians in meeting future continuing obligations.

Mr. WARNER. My last question. Are there provisions in this bill to allow either the change of executive agent or nominating more than one U.S. executive marketing agent to help facilitate these uranium transactions?

Mr. MURKOWSKI. Our language recognizes and does not change the right of the U.S. Government under the government-to-government agreement to evaluate its option of changing the U.S. executive agent or allowing for more than one after consultation with and upon 30 days notice to the Russian Federation.

Mr. WARNER. Again, I commend you on this legislation that will promote the United States and Russia’s non-proliferation goals, offer each country an opportunity to use private industry to meet these goals, and present to the world a concerted effort to de-nuclearize.

Mr. LIEBERMAN. Mr. President, I would like to set the record straight on the need to reform the corporate alternative minimum tax. What have we under current law is a nightmare for investment for businesses of all sizes. The AMT is not working as Congress intended when it was adopted in 1986. We never intended to so harshly penalize investment in equipment needed to modernize our factories; nor did we intend to force companies that have no profit to bor- row money to pay the tax. This is precisely what current law does to some companies.

There is bipartisan agreement on the need to fix AMT. President Clinton in
1993 recognized the need to fix the AMT and proposed shortening AMT depreciation recovery periods. To date, we have not adopted the President's proposal in full. For this reason, earlier this year, I joined with Democrats and Republican cosponsors of S. 1000, a reasonable piece of legislation, to help correct this antiinvestment tax system.

While I commend the Finance Committee for taking some action on this issue, that action falls short of what ultimately needs to be done. There are two parts to AMT depreciation—method and recovery period. This bill fixes the method of depreciation, but does not do enough for the recovery period. Yet it is the unreasonably long recovery period for most investments under the AMT that creates the severe penalty on investment.

S. 1000 fixes both parts of the AMT depreciation problem and I believe it is the right policy on AMT. I hope in conference and in negotiations with the White House, we can come up with a bill that will truly fix the antiinvestment nature of the AMT depreciation rules. This can be done in a way that preserves the integrity of the tax collection process by not letting truly temporary items totally escape taxation while at the same time encouraging economic growth and job creation which I believe is essential to an improved standard of living for all Americans.

Mr. CAMPBELL. I would like to confirm with my colleague from Alaska the committee's intent with respect to part E, subpart III of S. 1357, which provides for the sale and transfer of the Collbran project located in western Colorado. This legislation directs the Secretary of the Interior to transfer the Collbran project to the Collbran Conservancy District and Ute Water Conservancy District in the last fiscal quarter of the year 2000 in return for the payment of $600,000 by the districts for use as a part of the Colorado River Endangered Species Fish Recovery Program, and whether a section 7 consultation will be required for the transfer. My understanding of the legislation is that it has no effect on the Endangered Species Act and that no determination has been made regarding the existence of any obligation or liability of the Collbran project or other existing water supply projects in the Colorado River Basin in Colorado or elsewhere with the critical habitat designated under the Endangered Species Act. In addition, because the transfer is mandatory, and will not involve any change in project operations or additional review or approval by any Federal agency, there is no need for a section 7 consultation on the transfer.

Mr. MURKOWSKI. That is correct. The legislation provides that, as a condition of the mandatory transfer, $600,000 of the total payment of $12.9 million be provided to the U.S. Fish & Wildlife Service for use in the Recovery Implementation Program for the endangered fish species in the Upper Colorado River Basin, which is intended to serve as a reasonable and prudent alternative to no longer serve its intended purpose, the Collbran project will be treated the same as any other existing, similarly situated nonfederal project in western Colorado, and the districts will be able to claim credit for this contribution to the same extent as any other entities which have made cash contributions to the Recovery Implementation Program.

Mr. CAMPBELL. The transfer of the Collbran project is based on the reasonable power requirements and resources produced by the project will continue to be used for the purposes for which the project was authorized for a period of 40 years from the date of enactment of the legislation. This requirement ensures that the transfer will not cause any significant change in project operations or distribution of benefits, and obviates any need for any further study or review of the transfer. However, some have sought assurance that the legislation does not interfere with the districts' ability to negotiate a contract with preference power customers in the Salt Lake City Area Integrated projects office of WAPA or their designee for operation and maintenance of the power features of the Collbran project.

Mr. MURKOWSKI. The legislation does not affect the ability of the districts to obtain additional cost savings by contracting with third parties in order to achieve more efficient operation of the power features of the project or for other purposes.

Mr. CAMPBELL. I would also like to confirm my understanding that the transfer renders moot the pending litigation by the Department of Justice regarding water rights for Vega Reservoir.

Mr. MURKOWSKI. That is correct. The pending litigation initiated by the Department of Justice for the purpose of obtaining water rights in the name of the United States for the Collbran project should be dismissed in light of the mandatory requirement for the transfer of the Collbran project to the districts.

Mr. CAMPBELL. Finally, the legislation provides that the Vega recreation facilities be transferred to the State of Colorado at a future date, which includes lands currently owned by the United States in sections 31, 32, and 33 of township 9 south, range 93 west, 6th principal meridian, and sections 4, 5, 6, and 7 of township 10 south, range 93 west, 6th principal meridian. Does the transfer of these facilities to the State include any of Collbran project facilities, and does the transfer of the project provide the districts with any land that could be sold in the future for residential development?

Mr. MURKOWSKI. No, the Collbran project facilities, and the lands upon which they are located, are transferred to the districts. However, the lands to be conveyed to the districts do not include the undeveloped lands surrounding Vega Reservoir, as these lands are to be conveyed to the State of Colorado.

Mr. CAMPBELL. I thank my colleague for his excellent questions on this measure because I wholeheartedly believe that this program is critical to the future of our economy. We are the world leader in research and development, and I believe that technology is the engine for growth and prosperity. This measure helps keep our competitive advantage on the world R&D market. The bill before us today extends the R&E tax credit for 20 months, retroactive to July 1, 1995. Ideally, we wanted to extend the credit permanently and thus remove the uncertainty that has characterized the credit in recent years. Unfortunately, due to limited resources, we have had to go with a temporary extension instead. However, this is still a significant step forward, and I am glad to be a part of this effort.

I want to express my concern for the companies engaged in significant research and development activity in the United States that are unable to qualify for the current credit. Several of my colleagues share this concern, and I would now like to engage Senator Baucus from Montana and Senator Lieberman from Connecticut on this...
Mr. LIEBERMAN. Mr. President, I wanted to express my concerns about one provision that the Finance Committee was unable to include in its final tax package. It is a provision that was contained in the bipartisan capital gains legislation that Senator HATCH and I introduced, S. 959. The provision would change current law in ways that would be extremely helpful to families in my region of the country. Under current law, when an individual or family sells its principal residence for a gain, and for whatever reason, does not reinvest all of the proceeds in another home, any gain from that transaction is generally treated as a capital gain, and is taxed at more favorable capital gains rates. Special rules apply to individuals over age 55. They are permitted to completely exclude from tax up to $125,000 of their gains from sales of their residences. By contrast, if an individual or family sells a residence at a loss, that loss is treated as a personal loss, and no part of the loss may be recovered. No capital loss rules for losses on residences are provided under current law. Nor are there any present rules to recognize the research and development activity.

A strong R&E tax credit not only maintains research and development activity here in the United States, but it also contributes to the development of high-skilled jobs. It is my understanding that a substantial portion of the R&E credit is comprised of wages and salaries paid to our research employees. We need to continue this trend. In this age of global markets we need a research and development strategy that is competitive and strong. R&D grows our economy, it raises our living standards and develops a high skilled work force.

Mr. LIEBERMAN. Mr. President, I echo my colleagues’ sentiments and add that while our current R&E programs may encourage fine research and development activities, a number of significant R&D investors are ineligible to use this credit under our current law. The alternative incremental credit approved by the House enables those companies to take advantage of this resource, and while I am disappointed that the alternative credit is not part of the package before us today, I hope that the conference will look kindly on this proposal.

I am concerned that many U.S. companies engaged in high-technology research are unable to stay competitive in the global market due to declining Federal research dollars. By extending the tax credit for 20 months and offering the AIRC program, we can provide our industries with some certainty in helping them plan their research and development strategy.

Mr. HATCH. Mr. President, I hope that our colleagues, the chairman of the Senate Finance Committee, shares many of the concerns that we have expressed. I would respectfully ask that he take a careful look at the alternative incremental credit in the House package when the bill goes to conference.

Similarly, the median purchase price for an existing home in the New Haven-Meriden Metropolitan Area was $163,400 in 1989. The median home price in New Haven-Meriden, metropolitan areas has since declined to $139,600. The purchaser of a median priced home in Hartford, in 1989, has lost, on average $32,800 or over 24 percent of their home value over a 5-year period. This represents a loss of roughly $6,500 per year.

If people sell their homes at a loss, they have suffered a true economic loss. Moreover, it is a loss that may represent the loss of their biggest source of savings. They may experience a loss on the sale of their home that is often wiped out financially. The provision that Senator HATCH and I included in S. 959 permits capital loss treatment for these painful situations. Because of the mechanical operation of the current rules, it may take many years for a family to recoup the true losses they have experienced.

Still, the relief in S. 959 is only partial relief for some individuals. Because of the serious impact on families of these losses, it is only fair that we provide at least the capital loss relief as a form of rough justice so that these families can have some relief from the true losses they have incurred.

This important provision is contained in the House bill. It is my hope that the chairman and the conference will be able to accept this provision during the conference. It would provide critical relief to families that have sustained genuine losses, and is in the best interests of fairness and family.
the amendment were crafted differently and was more limited in scope, I would support it.

For example, I have consistently supported efforts to eliminate funding for the Market Promotion Program [MPP], a program that provides subsidies to companies that advertise American agricultural products abroad. Such promotional activities are a reasonable and fundamental cost of doing business for any industry.

If the revenue every dollar spent on export promotion is as good as MPP for any industry.

In my opinion, the marginal gains do not justify the additional cost. Once the industry defines that point of diminishing returns, it is not appropriate to ask taxpayers to subsidize additional promotional efforts. Nor does the industry itself be unwilling to finance.

The amendment also eliminates funding for 266 highway demonstration projects. I strongly support that. The projectings for politically well-connected projects is one of the most unfair, least efficient, ways of allocating scarce transportation dollars.

The earmarkings in the House version of last year’s National Highway System bill totaled more than $2 billion—funds that would otherwise have been allocated according to the more equitable distribution formula established by ISTEA. I am talking about the House version because I served in the House of Representatives when that bill was passed, and I was 1 of only 12 who voted against it at the time.

The regular formula for distributing highway dollars is based on such objective factors as population, miles of roads, and vehicle miles traveled. Earmarking, however, is based largely on politics. For example, last year’s House bill, just 10 States got 55 percent of the total funds available. Not coincidentally, those States were represented by 36 of the 64 Public Works Committee members, home State of the chairman of the House Public Works and Transportation Committee which produced the bill, took 15 percent of the total, about $290 million, for 51 projects. Arizona, by contrast, got just three projects, for a total of $15 million.

Had the earmarkings been eliminated and the funding been distributed according to the ISTEA formula instead, Arizona would have gotten between $600,000 and $7 million instead of it did under the bill. The three Arizona projects would most certainly be funded under this alternative approach—they all have merit, and are all of high priority—but the State would have had more to devote to other worthy projects as well. Twenty-seven other States would also have done better under the formula than they did under earmarking.

The Senate refrained from such earmarking last year, and I am pleased that both the House and Senate have refrained this year. I support the provisions of the McCain amendment that would terminate 266 unstarted highway demonstration projects that were authorized or appropriated in prior years.

The amendment also eliminates funding for the U.S. Travel and Tourism Administration [USTTA]. Like the Market Promotion Program that offers subsidies to the agricultural industry, the USTTA offers subsidies to the travel industry for promotional activities that I believe the industry ought to bear on its own.

There are other programs, however, that, in my opinion, should not be part of the economic interest in its production. I do not differ with my colleague from Arizona very often, but on this issue, I must.

Mr. President, the Nation’s long range bomber force consists primarily of two aircraft: the B-52 and the B-1. The 95 B-52’s are all over 30 years old, and their ability to penetrate modern air defenses is doubtful. The 96 B-1’s were procured as an interim bomber until B-2’s were available.

For 40 years, the United States relied on forward presence, or the deployment of large forces in bases around the world engaged in almost constant maneuvers or exercises. With the decline in the number of forward-deployed U.S. forces for overseas bases, the United States will rely increasingly on smaller military forces, operating principally from North America. In the past 6 years alone, the U.S. Air Force has reduced its major overseas bases from 38 to 15—a reduction of 61 percent. Rather than forward presence, current strategy calls for American power to be projected abroad in response to aggression in regional conflicts. The mixing of offensive weaponry with defense, or the adoption of the new generation of weapons, will enable us to destroy numerous targets in a single attack that would occur in a conflict and the eventual need to retire the B-52’s. As the number of forward-deployed aircraft carriers declines and the U.S. gradually withdraws from its overseas bases, it will become increasingly difficult to use tactical aircraft in bombing missions. It therefore is essential that steps be taken now to preserve an adequate long-range bomber force.

The B-52 was originally conceived to be the nation’s next generation bomber, and it remains the most-effective and rapidly projecting force over great distances. Its range will enable it to reach any point on earth within hours after launch while being deployed at only three secure bases around the world. Its payload and array of munitions will permit it to destroy numerous time-sensitive targets in a single sortie. And perhaps most importantly, its low-observable characteristics will allow it to reach intended targets without fear of interception. The logic of continuing low-rate production of the B-2 thus is both fiscal and operational. It is already apparent that the end of the Cold War was neither the end of the conflicts nor the end of danger. I hope it also will not be the end of B-2. We urge you to consider the purchase of more such aircraft while the option still exists.

MELVIN LIEB. DONALD RUMSFELD. CASPAR WEINBERGER. DICK CHENEY. HAROLD BROWN. FRANK CARLUCCI.

Hon. Strom Thurmond. U.S. Senate, Washington, DC.

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S16064 CONGRESSIONAL RECORD — SENATE October 27, 1995

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Hon. Strom Thurmond. U.S. Senate, Washington, DC.

Dear Mr. Chairman: Earlier this month I wrote to your colleagues in the House of Representatives about the need to continue
the B-2 program. The debate has now shifted to the Senate and my concern with our future security compels me to share the same thoughts with you. This is a difficult letter for many more than the three services of our Air Force, I have always concentrated on military operations, and refrained from commenting on issues such as the decision to purchase a stealth bomber aircraft. However, the Pentagon recently released a study based on assumptions, constraints, and methodology that can lead to the conclusion that the United States may need to safely terminate B-2 Stealth bomber production at 20 aircraft. As the former Air Command and Staff College’s Airland center at Air University, I feel a duty to put the B-2 debate in perspective, and sound a warning on any recommendation to stop production of this fine aircraft. It is true that, bluntly, the nation’s B-2 production capability is dangerously short-sighted and would lead ultimately to the extinction of the long-range bomber force, at the very time when bombers are emerging as America’s most critical 21st Century military asset.

Since B-2 is the only bomber in production or development, and the Pentagon has no plans for a new bomber program in the future, the B-2 program and America’s bomber production are one and the same. If this sole remaining bomber capability is lost, replacing our aging bombers will become unaffordable. Inevitably, the nation may not have a bomber force with the unique capabilities it provides. A new bomber would take 15-20 years to go from the drawing board to the battlefield and cost tens of billions of dollars just to design. With the current administration balking at spending a fraction of this amount on a finished, proven product, there is little likelihood of a future program investing many trillions of dollar amount into a new program. Even if a new program was initiated in the near term, most of our existing bombers would be obsolete before the first “B-3” entered service.

The next Desert Storm Air Commander could be sending Americans into war aboard a 70-year-old bomber, an act I find unconscionable.

In my opinion, the B-2 is now more important than ever. Heavy bombers have always possessed two capabilities—long range and large payload in other words the long-range persistence of our military forces. As we base more and more of our forces in our homeland, the bomber’s intercontinental range enables us to respond to regional tension with a rapid, conclusive military capability. Just as important, this capability may deter aggressors even as the bombers sit on the air base parking ramps in the United States. In war, the large bomber payloads provide a critical punch throughout the conflict—just ask General Schwarzkopf what he wanted from the Air Force when he was under attack in Vietnam, or whenever our ground forces faced danger during Desert Storm.

When the B-2 adds to this equation are two revolutionary capabilities not available in any other long-range bomber—precision and stealth. The Gulf War showed how effective weapons delivery from stealthy platforms provide a devastating military capability. The F-117 stealth fighter proved its effectiveness on the air base parking ramps in the United States. In war, the large bomber payloads provide a critical punch throughout the conflict—just ask General Schwarzkopf what he wanted from the Air Force when he was under attack in Vietnam, or whenever our ground forces faced danger during Desert Storm.

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with both surprise and near impunity. Analysis of the Gulf War air campaign reveals that each F-117 sortie was worth approximately eight non-stealthy sorties. To put B-2 capabilities into perspective, assume that the B-2 carries eight times the precision payload of the F-117, has up to six times the range, and will be able to accurately deliver anywhere we choose. What does all of this mean? It means that a single B-2 can accomplish missions that required dozens of non-stealthy aircraft in the past. Many defense experts believe the Department of Defense would advocate terminating the most advanced weapon system ever developed. The Bush Administration for budget-related political reasons, and some concern that the program would not meet expectations. Since then, delivery schedule, without qualification, that the B-2 is a superb weapon system—performing even better than expected.

Yet, defense spending has declined, bomber expertise has been funneled out of the Air Force, and people’s careers have been vested in other programs. Unfortunately, some in the Army and Navy believe the B-2’s revolutionary capability is a threat to their own services’ continuing relevance. Just the opposite, the B-2 will contribute to the effectiveness of the shorter range carrier air by striking those targets which pose the greatest threat to our ships while ships have long recognized the value of air support, especially the tremendous impact that large bomb loads have on enemy soldiers. This was again demonstrated by the B-52 strikes used to demoralize the Iraqi Army. If anyone needs B-2s, it’s our soldiers and sailors. Some people harp on the issue of the B-2’s cost. The Air Force recommends at odds about asking for this much needed aircraft because they fear it could endanger their number one priority program, the F-22. All miss the point. True the B-2 has a high initial cost, but its capabilities allow it to accomplish mission objectives at a lower total cost than other alternatives. And keep in mind, the true cost of any weapons system is how many or how few lives of our service personnel are lost. The B-2 lowers the risk to our men and women. The B-2 will allow us to accept increased risk and compromise our security.

As we approach this year’s critical defense budget decisions, it is important that we understand the long-term national and international security ramifications of the quantum leap in military capabilities afforded by the B-2 program. Every year when we need it most, and can buy it most cheaply. Make no mistake about this: the B-2 is designed to extend America’s defense capabilities well into the 21st Century. Can we afford to do less?

Sincerely,

CHARLES A. HORNER, RADM (Ret.),
LOW-INCOME HOUSING TAX CREDIT

Mr. D’AMATO. Mr. President, I would like to express to my colleagues my deep concern regarding the House Ways and Means Committee’s proposal to sunset the low-income housing tax credit. This credit is the result of a GAO review of the management of the program.

The low-income housing tax credit is the Federal Government’s principal rental housing production program that results in significant private capital for affordable rental housing. Since its inception, as part of the 1986 Tax Reform Act, the low-income housing tax credit has enjoyed broad bi-partisan support in both the House and the Senate. In fact, that support became very clear when 75 percent of the House and nearly 90 percent of the Senate voted to extend it as recently as 1992 in support of legislation to make the credit permanent. It was made permanent in 1993.

Since 1986 the credit has mobilized private capital for public benefit, attracting more than $12 billion in private investment. Nearly 800,000 units of rental housing for lower income working families and the elderly have been constructed or rehabilitated with the low-income housing tax credit. This has lead to the creation of 90,000 jobs each year and resulted in $2.8 billion in wages and $1.3 billion in additional tax revenues.

According to the New York State Housing Finance Agency, in 1994, in our home State, over 6,100 units of rental housing were made possible because of the credit. Over 77 percent of those units, 4,700, were for low-income families, and the production of those units directly resulted in $520 million of housing investment in the State of New York.

That being said, does the Senator from New York find it as puzzling as I do that the Ways and Means Committee would propose to terminate the low-income housing tax credit without benefit of hearings; without any authoritative evidence that the program is not working in an effective manner, and, especially before any review or study?

Mr. MOYNIHAN. Mr. President, I agree with the comments of my friend and colleague, Senator D’AMATO, and I share his concern of the proposed sunset of the low-income housing tax credit.

The credit is a principal incentive which Congress makes available to individuals and corporations to invest in apartment construction and rehabilitation devoted to low-income renters. In fact, when the credit became permanent in 1993, it attracted many new, high quality developers to the construction of lower income housing. Today, the credit accounts for one out of every four apartments constructed nationwide and virtually all of the production of affordable rental housing.

More importantly, State agencies, acting under Federal guidelines, manage the low-income housing tax credit program with a minimum of red tape. Under current law, the credit is limited to $1.25 per capita per State and is administered by the States on behalf of the Federal Government. Investors provide equity to projects in exchange for the credits to facilitate the development of affordable units. For 1995, based on our Nation’s current population, the States will allocate $325 million in credits, resulting in approximately $750 million in equity being invested in affordable housing. I could not agree more that to sunset one of the best examples of public-private
Mr. D'AMATO. Mr. President, I would like to express my strong disagreement with the concerns raised in this debate. I have received many letters from Senators D'AMATO and MOYNIHAN. I have received a number of letters from Members of both sides of the Senate. In addition, I have received many letters from Governors noting their strong opposition to terminating the low-income housing tax credit.

Mr. ROTH. Mr. President, I certainly understand and sympathize with the concerns raised in this debate. I have received many letters from Senators D'AMATO and MOYNIHAN. I have received a number of letters from Members on both sides of the Senate. In addition, I have received many letters from Governors noting their strong opposition to terminating the low-income housing tax credit.

Mr. JOHNSTON. Mr. President, I strongly support the provisions of this legislation. The coastal plain of the Arctic National Wildlife Refuge in Alaska for oil and gas leasing, exploration and development.

Mr. President, the Arctic National Wildlife Refuge (ANWR) is as beautiful as any as a place of great beauty. It is a place of vastness, a place where the land stretches farther than the eye can see. It provides important habitat for muskoxen, brown bears, polar bears, wolves, a multitude of migrating and other birds. It is a place where, in the summer months, the porcupine caribou herds roam, and snows arch over the Arctic Sea.

But a different kind of national treasure is thought to underlie the surface of a small portion of ANWR. That national treasure is oil—huge quantities of oil. Simply put, the coastal plain of ANWR represents the most highly prospective onshore oil and gas region in the coastal plain. Mr. President, if developing the large quantities of oil thought to underlie the coastal plain would, as some suggest, destroy the 19 million-acre Arctic National Wildlife Refuge, then the question of proceeding would be much more difficult. But that is not the issue. The coastal plain can and should be developed in an environmentally sound and sensitive way that does not despoil the wildlife and other environmental values of ANWR.

Mr. President, the case for authorizing oil and gas leasing in ANWR is as compelling as it is straightforward. Producing activity would be limited to only a small portion of the refuge—the 1.5 million-acre coastal plain—also known as the “1002 area.” An area some 30 miles wide by 100 miles long. Absolutely no oil and gas activity would take place on the remaining 17.5 million acres that comprise the refuge. In fact, approximately eight million acres of ANWR, have already been designated as wilderness, including 450,000 acres of the coastal plain region between the Alchilk River and the Canadian border.

In addition, the technology and the environmental sensitivity of oil field development in the Arctic have evolved steadily over the years. The oil and gas facilities at Prudhoe Bay, which are located directly west of ANWR, were designed and constructed. Given these advances, and with the environmental safeguards that are currently applicable to all oil and gas activities in the Arctic, development can take place on the coastal plain in an environmentally sound manner without lasting effects.

It is a serious misconception that oil and gas development would destroy the habitat functions of the coastal plain. In reality, full leasing, development and production from three oil fields, for example, would affect less than 1 percent of the area's land surface by both direct habitat alteration and by indirect effects such as road dust or local impoundments of water along a road. Ninety-nine percent of the area would remain untouched; and the area's habitat will not be altered sufficiently to significantly affect the growth rate, or regional distribution of fish and wildlife populations. The area will continue to be used by caribou for calving and will continue to provide habitat for polar bears, brown bears, wolves, muskoxen, and birds.

The only significant change on the coastal plain would be aesthetic. If oil is discovered, widely spaced roads, pipelines, drilling structures, and support facilities would be visible on the coastal plain. Even these facilities would be removed and graved areas rehabilitated when production ceased. During the years of exploration and production, the coastal plain region will still support wildlife, provide recreational opportunities, and be home to the Inupiat Eskimo.

Mr. President, the vegetation and wildlife inhabiting the coastal plain are well adapted to the extreme Arctic environment. Biological evidence does not support the popular notion that wildlife and plants in the region are fragile things, living on the edge of survival. After a decade of study, there is no evidence that oil development at Prudhoe Bay had an adverse effect on significant numbers of wildlife. The central arctic caribou herd uses Prudhoe Bay and the surrounding area for calving. This herd has grown from 3,000 to 18,000 animals since oil development activities began at Prudhoe Bay in 1971. The central arctic caribou live alongside the structures related to oil and gas activity, such as roads, pipelines, and drilling pads, with no ill effects.

While it is true that the porcupine caribou herd uses a portion of the coastal plain for 6 to 8 weeks each year, it is not true that this area contains core calving areas critical to the survival of the 150,000 animals which currently comprise the herd. In the first place, the herd calves throughout the spring in a huge expanse of territory in Canada and Alaska, including portions of ANWR. In some years, probably as a result of snow conditions or the presence of predators, only a very few caribou calve in the coastal plain at all. In other years, there is a higher concentration of calving in certain areas of the coastal plain. The widespread and annually variable distribution of calving strongly suggests that no one small portion of the calving area is critical to maintaining the viability of the porcupine caribou herd.

Finally, the human activity resulting from oil production would not be new to the coastal plain. Although human presence in the coastal plain region has been relatively light, there has been, and continues to be, evidence of man in the area. There have been three DEW line stations—one of which is still active—there is a Native village, Kaktovik, which has been relocated in the area. There have been three DEW line stations—one of which is still active—there is a Native village, Kaktovik, which has been relocated in the area. There have been three DEW line stations—one of which is still active—there is a Native village, Kaktovik, which has been relocated in the area. There have been three DEW line stations—one of which is still active—there is a Native village, Kaktovik, which has been relocated in the area.
for domestic onshore oil and gas exploration in the United States. The opponents of opening the coastal plain argue that the amount of oil at stake is not significant, that it is only a 200-day supply. However, a single field larger than any currently thought possible with all of the oil it consume for 200 days represents a huge reservoir of oil. Eighty percent of all onshore oil fields discovered in the lower 48 States over the last 100 years have contained less than 1 day’s supply.

According to the BLM, the mean estimate of oil thought to be economically recoverable from the coastal plain of the ANWR is 3.2 billion barrels. The range of estimated economically recoverable reserves runs from 400 million barrels to over 9 billion barrels. The probability of discovering economically recoverable oil has been estimated by that agency at 46 percent. The oil industry routinely considers probabilities of discovery in the range of 10 percent worth the payment of substantial bonuses—the right to explore for oil.

As many of my colleagues know, the USGS has recently completed its 1995 assessment of onshore oil and gas resources in the United States. In that report, the assessment shows an increase in the amount of natural gas thought to be present in northern Alaska and a decrease in the amount of oil thought to be present in that area. The USGS has preliminary data analysis of the oil potential of the coastal plain and has concluded in a draft memorandum that the mean estimate for oil in the 1002 area is slightly less than a billion barrels, with a 1 in 20 chance that some 4 billion barrels are present. The agency is currently in the process of gathering more information from the 1002 area to refine its very preliminary estimate. The BLM, it should be noted, continues to have confidence in its earlier mean estimate of 3.2 billion barrels for the 1002 area.

Since 1980, when we began to debate the issue of opening the coastal plain of ANWR, there have been numerous studies and estimates of the amount of oil likely to be found if the area is opened to leasing. These estimates have been made by the BLM, USGS, the Energy Information Administration, the GAO, the State of Alaska, the American Association of Petroleum Geologists, and others. These estimates vary considerably due to different methodologies employed, different interpretations of geologic data, and differing geologic engineering and economic assumptions that are made relative to the methodology.

As a result, it is very difficult to directly compare these estimates. However, two important conclusions can be drawn from these estimates.

First, they all reflect a wide range of uncertainty, which is characteristic of an area that has not been drilled. Until we have reliable well data from the 1002 area, we simply have no way of knowing how great the potential of the area is. Second, all these estimates show a very large potential for oil and gas, with even the lowest estimates that have been made having an upside potential of at least 4 billion barrels.

In addition to the benefits to the coastal plain and the nation itself, the Federal Treasury will also benefit. Under the ANWR provisions contained in the bill currently before the Senate, the CBO estimates that two lease sales in the coastal plain will occur between now and the year 2000 which will result in bonus bids totalling $2.6 billion. The legislation requires a 50-50 revenue split with the State of Alaska—the same as other western States—which will mean that the Federal Treasury will receive $1.3 billion in new revenue during the next 7 years if the coastal plain is leased. Should oil be discovered and produced from ANWR in significant amounts, a steady stream of royalty income will also accrue to the Federal Treasury for many years to come.

In addition to the direct budget plus for the Treasury, this measure provides that the Federal share—50%—of bonus bid revenues in excess of $2.6 billion will be made directly available for maintaining and developing recreation projects at our Nation’s national parks and refuges. This provision will provide a significant funding source for our parks that so desperately need more money.

Mr. President, oil and gas development on the coastal plain is a step that must not be postponed any longer. Most experts agree that it will take up to 10 or 15 years before commercial production could begin if the area is leased this year. Sometime between 2008 and 2014, the DOE estimates that production from Prudhoe Bay and adjacent fields, which currently account for nearly 25 percent of our domestic oil production, is projected to decline to approximately 200,000 barrels per day. When that happens, the minimum level needed to operate the Trans-Alaska Pipeline System [TAPS]. If we continue to delay exploring for oil on the coastal plain and developing what we find there, the TAPS could be forced to shut down, and we will have lost our ability to transport billions of barrels of Alaskan oil to waiting consumers.

When Congress enacted the Alaska National Interest Lands Conservation Act in 1980, we declined to designate this portion of ANWR as wilderness and specifically reserved for ourselves the decision on whether that area should be made available for oil and gas leasing. We directed the Secretary of the Interior to study the area and make recommendations on whether to allow oil and gas development. In 1987, the Secretary recommended that oil and gas development be allowed to take place. Since that report was issued, the Senate Energy and Natural Resources Committee has conducted 11 hearings and built a solid and thorough record on this issue. Our committee has voted on three separate occasions, on a bipartisan basis, to proceed with oil and gas leasing.

It is now time for the Senate to exercise its responsibility and make a decision with respect to oil and gas development on the coastal plain. Our Nation can have the benefit of the oil found in ANWR, the revenue it will generate, and still preserve the beauty and the vastness of the Refuge.

THE BUDGET RECONCILIATION BILL—A MISSED OPPORTUNITY TO MAKE SMART CHOICES

Mr. DORGAN. Mr. President, during the past few days, we have had extensive debate on the bill. The question is what this budget reconciliation package will mean for the Medicare and Medicaid programs. Now, as we reach the conclusion of this debate, I want to explain some of the reasons why I must oppose it.

I want to say right off that I am deeply committed to ensuring that the Medicare and Medicaid programs will be here for the millions of older Americans, children, and individuals with disabilities who rely on the services they provide. Thanks to Medicare, 99 percent of senior citizens, who have paid into the program during their working years, now have affordable, guaranteed health care coverage. Likewise, Medicaid provides a much-needed safety net for 36 million low-income elderly nursing home patients, the disabled, and pregnant women and children.

WHAT IS THIS DEBATE ABOUT

The debate on Medicare and Medicaid has centered not so much around whether projected spending for these programs should be reduced, because Members of both parties agree that this should be done. Instead the focus has been on how much spending should be cut. I believe we should limit the rate of growth of both Medicare and Medicaid programs to a more sustainable level so that they will continue to be here for the beneficiaries who depend on them.

However, I am convinced that the bill before us—which will cut projected Medicare spending by $270 billion and Medicaid spending by $182 billion—goes far beyond what should be done to achieve this goal, and instead will jeopardize the very programs the reductions are intended to protect. This drastic level of cuts would require that Medicare spend less money than it does today on people than it does today. Medicare would cut the benefits it provides by $182 billion—goes far beyond what should be done to achieve this goal, and instead will jeopardize the very programs the reductions are intended to protect. This drastic level of cuts would require that Medicare spend less money than it does today on the beneficiaries who depend on them.

We have been told repeatedly by the majority that these $450 billion in cuts are necessary, particularly to save the Medicare program from insolvency.