

as reaching only 860,000 uninsured children. I understand that this is a complicated matter because some funds will be used for direct services and not to purchase insurance. But it just shows you that this whole area is not cheap.

We heard from Bruce Vladeck it costs about \$1,000 or so for a good, solid insurance policy. We also know that the Federal share of Medicaid this year averages about \$860 per child.

In the first year of the CHILD Program there will be an even 50/50 split between health care and deficit reduction so that \$3 billion will be used for program costs. In year five, this program component will grow to \$5 billion.

Using these numbers as a guide, it seems reasonable to expect that, depending a great deal how states chose to implement this program that our bill will be able to cover about 3.5 million or so children in the early years of the program and about 5 million children in the fifth year.

There are many variables such as which States chose to participate, what their State matching requirement is, what coinsurance and copayments they require, and so on. We must also take into account inflation which will erode the purchasing power of the yearly allocation.

Another way to look at the problem is to see how many children the \$16 billion in the budget agreement could cover. This \$16 billion amounts to an average of \$3.2 billion per year. If we used all of this money to buy Medicaid coverage at \$860 per child, it would cover about 3.7 million children.

This would still leave 1 million children under 125% of poverty with no health insurance.

Twenty-four billion dollars is about \$4.8 billion per year spread over 5 years.

Depending on how States implement the program, cost-sharing requirements and so forth, I think that would cover between 5 and 6.5 million, perhaps 7 million children.

The PRESIDING OFFICER (Mrs. HUTCHISON). Who yields time?

Mr. ROTH. Madam President, I don't see anyone requiring further time to debate this issue.

So I yield whatever time I have remaining.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Is all time yielded?

The PRESIDING OFFICER. All time has been yielded.

Mr. DOMENICI. Madam President, I raise the point of order under section 302(f) of the Budget Act that amendment No. 520 results in the Finance Committee exceeding its spending allocations under section 602(a) of the Budget Act.

Mr. ROTH. Madam President, I move to waive all points of order against the committee amendment language for consideration of this provision now,

and also for the language, if included at later stages, of the revenue reconciliation process such as in a conference report.

Mr. McCONNELL. Madam 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.

VOTE ON MOTION TO WAIVE THE BUDGET ACT

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

The bill clerk called the roll.

Mr. NICKLES. I announce that the Senator from Kansas [Mr. ROBERTS], is necessarily absent.

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

The yeas and nays resulted—yeas 80, nays 19, as follows:

[Rollcall Vote No. 135 Leg.]

YEAS—80

Abraham	Durbin	Lott
Akaka	Enzi	Lugar
Allard	Feingold	Mack
Baucus	Feinstein	McCain
Bennett	Frist	Mikulski
Biden	Glenn	Moseley-Braun
Bingaman	Gorton	Moynihan
Bond	Graham	Murkowski
Boxer	Grassley	Murray
Breaux	Hagel	Reed
Brownback	Harkin	Reid
Bryan	Hatch	Robb
Bumpers	Hollings	Rockefeller
Burns	Hutchison	Roth
Byrd	Inouye	Santorum
Campbell	Jeffords	Sarbanes
Chafee	Johnson	Shelby
Cleland	Kempthorne	Smith (OR)
Cochran	Kennedy	Snowe
Collins	Kerrey	Specter
Conrad	Kerry	Stevens
D'Amato	Kohl	Thomas
Daschle	Landrieu	Torricelli
DeWine	Lautenberg	Warner
Dodd	Leahy	Wellstone
Domenici	Levin	Wyden
Dorgan	Lieberman	

NAYS—19

Ashcroft	Grams	Nickles
Coats	Gregg	Sessions
Coverdell	Helms	Smith (NH)
Craig	Hutchinson	Thompson
Faircloth	Inhofe	Thurmond
Ford	Kyl	
Gramm	McConnell	

NOT VOTING—1

Roberts

The PRESIDING OFFICER. On this vote the yeas are 80, the nays are 19. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to. The Budget Act is waived.

Mr. ROTH. Madam President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Madam President, I ask unanimous consent that the next two first-degree amendments in order to S. 949 first be an amendment by Senator

DOMENICI regarding budget enforcement, to be followed by an amendment by Senator BYRD regarding the budget.

Mr. KERRY. Reserving the right to object.

The PRESIDING OFFICER. Is there objection?

Mr. KERRY. Reserving the right to object. I will not object.

Mr. DURBIN. Reserving the right to object, if I might ask the chairman before this unanimous consent is considered, I have an amendment pending, which I believe is the regular order, that I would like to have called up.

Mr. ROTH. I would say to the distinguished Senator from Illinois that we want to move ahead on a few amendments that I had mentioned here on a unanimous-consent basis. We will discuss with the Senator later his amendment.

Mr. DURBIN. Do I have the chairman's assurance that this amendment will be protected, there will be time for debate on it this evening?

Mr. ROTH. Yes. There will be time to debate it this evening. That is correct.

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

AMENDMENT NO. 520, AS AMENDED

THE PRESIDING OFFICER. The question now occurs on amendment No. 520, as amended, offered by the Senator from Delaware. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 520), as amended, was agreed to.

Mr. ROTH. Madam President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

MORNING BUSINESS

Mr. ROTH. I believe the distinguished Senator from New York would like us to go into morning business.

Mr. MOYNIHAN. Could we have 10 minutes for morning business, that we might discuss a momentous decision or nondecision by the Supreme Court this morning?

Mr. ROTH. I so move, Madam President.

The PRESIDING OFFICER. Without objection, it is so ordered. We are in 10 minutes of morning business.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

RAINES V. BYRD

Mr. BYRD. Madam President, earlier today, in a seven-to-two decision, the United States Supreme Court ruled that Members of Congress do not have the requisite constitutional standing necessary to challenge the Line Item Veto Act.

That decision overturns the April 10 ruling of the U.S. District Court, which held that the Act does, indeed, injure

Members sufficiently to confer standing. Moreover, having granted standing, the District Court went on to conclude that the Act was an unconstitutional delegation of Congress' Article I lawmaking power.

As the Senator whose name titles today's decision—*Raines v. Byrd*—I am obviously disappointed that a majority of the Supreme Court denied standing to Members of Congress. However, I remain mindful of the fact that the most important decision in this matter lies ahead. In the meantime, I am somewhat heartened by the fact that at least one member of the Court was willing to consider the merits of our argument. In what I believe will be a vindicated position, Justice John Paul Stephens wrote that "... the same reason that the [Members] have standing provides a sufficient basis for concluding that the statute is unconstitutional."

Madam President, let me take this opportunity to personally thank two groups of individuals who, I know, share my concern with the Court's decision.

First, I wish to thank my Senate colleagues—Senator MOYNIHAN, Senator LEVIN, and former Senator Hatfield—for their support, their wisdom, and their counsel throughout this process. Although this has been a collaborative effort, I, for one, have valued their contributions. And there were two Members of the other body who, likewise, joined us—Mr. SKAGGS and Mr. WAXMAN. Of course, I would be remiss if I did not acknowledge the absolutely stellar legal work provided to us by Lloyd Cutler, Louis Cohen, Alan Morrison, Charles Cooper, and Michael Davidson. Despite the temporary setback, I am convinced that no other group of attorneys could have provided us with better, or more sound, advice.

Finally, be assured that there will come a time when a State or locality, or an individual or group of individuals, will feel the brunt of the misguided legislative gimmick called the line-item veto, and will seek judicial relief. When that time comes, I will stand ready at the helm to support that effort.

Mr. MOYNIHAN. Madam President, it is characteristic of our beloved former President *pro tempore* to thank others for the efforts that have led to the Court's nondecision today. Might I take the opportunity to thank him. It is his magisterial understanding of the Constitution and his Olympian commitment to it that brought us together, and brought to us the finest legal minds of this time to prepare the briefs that first won hands down in the U.S. District Court for the District of Columbia, and now have been put aside by the Court, but only temporarily. I think it would be not inappropriate to note that one judge and one Justice have spoken to this subject, and in both cases they have spoken to the un-constitutional nature of the act.

I ask the Senate if I might just indulge to read a paragraph from Justice

Stevens' dissenting opinion this morning. He says:

The Line Item Veto Act purports to establish a procedure for the creation of laws that are truncated versions of bills that have been passed by the Congress and presented to the President for signature. If the procedure were valid, it would deny every Senator and every Representative any opportunity to vote for or against the truncated measure that survives the exercise of the President's cancellation authority. Because the opportunity to cast such votes is a right guaranteed by the text of the Constitution, I think it is clear that the persons who are deprived of that right by the Act have standing to challenge its constitutionality. Moreover, because the impairment of that constitutional right has an immediate impact on their official powers, in my judgment they need not wait until after cancellation authority to bring suit. Finally, the same reason that the respondents have standing provides a sufficient basis for concluding that the statute is unconstitutional.

Madam President, I thank you for your indulgence. I think we may have overrun by a moment or two. I most appreciate that.

Again, our appreciation to Senator BYRD. I yield the floor.

Mr. DOMENICI. Has all time expired?

The PRESIDING OFFICER. There are approximately 3 minutes left in morning business.

Mr. TORRICELLI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

PRAISE FOR SENATOR BYRD

Mr. TORRICELLI. Madam President, I, too, would like to join in words of praise for Senator BYRD. Every Member of this institution knows the Senate of the United States has no finer scholar nor better defender of the U.S. Constitution than the Senator from West Virginia. I share his disappointment in the decision of the Court today that standing does not rest with Members of Congress. But, indeed, as Senator MOYNIHAN noted, this is not only not a defeat, it is not even a retreat. The only two judges who were to consider this matter on its merits have reached the inescapable conclusion that by statute the Congress of the United States cannot rearrange basic constitutional powers as contained in the Constitution itself.

There will be another day with other parties who will bring this matter before the Court on its merits. And on that date, this Court will again, as it has on so many occasions, preserve the basic structure of the U.S. Government as contained in the Constitution. On that day, Senator BYRD will have his victory. It is postponed, it is delayed, but it will not be denied.

I once again offer my congratulations to the Senator from West Virginia on what will be his ultimate victory.

I yield the floor.

Mr. BYRD. Madam President, I thank the Honorable Senator for his gracious remarks.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there anyone wishing to speak in morning business? If not, morning business is closed.

REVENUE RECONCILIATION ACT OF 1997

The Senate continued with the consideration of the bill.

AMENDMENT NO. 537

(Purpose: To implement the enforcement provisions of the Bipartisan Budget Agreement, enforce the Balanced Budget Act of 1997, extend the Budget Enforcement Act of 1990 through fiscal year 2002, and make technical and conforming changes to the Congressional Budget and Impoundment Control Act of 1974 and the Balanced and Emergency Deficit Control Act of 1985)

The PRESIDING OFFICER. The Senator from New Mexico is recognized for an amendment.

Mr. DOMENICI. Madam President, I believe it is my turn to offer an amendment. I am going to offer an amendment on behalf of myself and Senator LAUTENBERG of the State of New Jersey.

Before I send the amendment to the desk, let me just talk a little bit about what I am trying to do. In the agreement reached with the White House, on the very last page of it, the White House, members from both sides, and the House, agreed that we would, as part of enforcing this 5-year budget, that we would extend and revise the discretionary caps for 1998 to 2002 at agreed levels shown in tables included in the agreement, and to extend the current law of sequester, which had its early origins in T. Gramm-Rudman-Hollings.

We also agreed within the discretionary caps we would establish what we call firewalls. They have been in existence for some time. We struck a compromise and said for now we would only extend them for 2 years instead of for the entire agreement, meaning we will have to bring those up in about a year, but we will have an opportunity on the next budget resolution, or the one after that, for those who want to extend it beyond that time, and I do.

We also agreed, and I want everybody to understand this one, to return to current law on separate crime caps at levels shown in the agreed tables. That has to do with a matter that is of real importance to Senator BYRD, Senator BIDEN, and the distinguished Senator from Texas, Senator GRAMM. That is an extension of the trust fund for crime prevention, to fight crime, which was established here in the Senate when Senator GRAMM on one day sought to use up the savings attributable to a reduced workforce, as I recall, and then said in that, if we are going to save the money, we ought to spend it for something everybody understands and would be worthwhile.

That trust fund then came into being with the amendment of the Senator