A REPORT PREPARED BY EUGENE B. KOGAN

HON. DIANE E. WATSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 18, 2005

Ms. WATSON. Mr. Speaker, I want to bring to the attention of my colleagues a report prepared by Eugene B. Kogan on the role of Congress in the implementation of U.S. foreign policy. Mr. Kogan is the John Kenneth Galbraith Fellow at the Americans for Democratic Action (ADA). The report is entitled The War Congress: Shouldering the Responsibilities of A U.S. Global Role.

Mr. Kogan's report is particularly timely in the aftermath of September 11, 2001, and the U.S. intervention in Iraq. The report focuses on the role of Congress in these two seminal events and its abdication of effective oversight over the Bush administration's foreign policy decisions.

Mr. Kogan states in the report: "The lack of congressional oversight over the Bush Administration's foreign policy can compromise the ability of the United States to build a more secure world. Accountability is eroded in wartime, and the war on terrorism is not any different, except that it will shape America's world role for the next half a century or more. In this critical period of U.S. history, it is important for Congress to exercise its Constitutional responsibility by holding the Executive Branch accountable for its foreign policy decisions."

Congress plays a vital role in the formulation of our Nation's foreign policy. I commend Mr. Kogan's report to my colleagues as they consider the future congressional role in the war on terrorism and U.S. intervention in Iraq.

DEFICIT REDUCTION ACT OF 2005

SPEECH OF

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, November 18, 2005

Mr. UDALL of Colorado. Mr. Speaker, this bill does not deserve to pass and I certainly will not vote for it.

That's not because I think all is well with the budget—far from it. Even before the hurricane winds and waves arrived and the levees broke, the Federal budget was already on a dangerous course marked by tidal waves of red ink and towering piles of debt. Since 2001, the budget surplus that President Clinton and a Republican Congress bequeathed President Bush had been erased and our country was now in debt to the tune of $8 trillion, or $25,000 for every American man, woman and child.

And then, as they brought death and destruction, Katrina and Rita delivered another blow to the Federal budget—and sounded a wake-up call about the fiscal and economic risks we have been running. I had hoped that the result might be recognition by both the Bush Administration and Congress that now we need to face hard reality and not continue with budget policies based on defying the laws of fiscal gravity. It's about time. But this bill—which would implement part of an overall Republican budget—goes in exactly the wrong direction.

As it comes to the floor, the bill would cut more than $50 billion over 5 years from a wide variety of programs—not because they are no longer needed and not because they are wasteful, but because the Republican leadership has decided the Americans served by these programs must sacrifice in order to help offset the cost of over $106 billion in tax cuts. And, after imposing these penalties on millions of America, the overall plan—service cuts for many Americans, tax cuts for relatively few—will not result in a balanced budget, but even bigger deficits and more delay in correcting our fiscal course.

In short, the Republican prescription for our budget problems is a toxic compound of misguided priorities and fiscal irresponsibility—in other words, more of the same mistakes as before, except worse.

And it's not like there aren't better ways to approach our budgetary problems.

For example, there is H.R. 3966, the Stimulating Leadership In Cutting Expenditures (or "SLICE") Act, a bill I introduced last month that is cosponsored by Members on both sides of the aisle and endorsed by the American Conservative Union, Americans for Tax Reform, Citizens Against Government Waste, Freedom Works, the Small Business Enterprise Council, and the National Taxpayers Union.

Its purpose is to promote Presidential leadership and Congressional accountability on proposals to reduce other spending in order to offset the costs of responding to the recent natural disasters.

Toward that end, it would authorize the President to identify specific items of Federal spending that he thinks should be cut and would require Congress to vote on each of those items. It would apply not only to regular appropriations, but also to the transportation bill that was passed and signed into law earlier this year. In each case, if the president proposes a cut, Congress would have to vote on it—we could not ignore the proposal, as can be done under current law—and if a majority approved the cut, it would take effect.

As our budget situation has grown worse, there has been a lot of talk about "earmarks," meaning funding allocations initially proposed by Members of Congress rather than by the Administration. Some people are opposed to all earmarks—but I am not one of them. I think Members of Congress know the needs of their communities, and that Congress as a whole can and should exercise its judgment on how tax dollars are to be spent. So, I have sought earmarks for various items that have benefited Colorado and I will continue to do so. But I know—everyone knows—that some earmarks might not be approved if they were considered separately, because they would be seen as unnecessary, inappropriate, or excessive.

Dealing with that problem requires leadership and accountability. The SLICE bill would promote both, and by requiring us to focus on individual spending items it would make it possible to weigh the relative costs and benefits of each. But the Republican leadership has rejected that approach. Instead, they are insisting on bringing up this omnibus bill without allowing the House to even consider any amendments—except ones they decide they must make in order to pass it with only votes by Republican Members.

That is the wrong approach, and the bill is the wrong result—for the whole country, and particularly for Colorado and the West.

The bill is especially bad for Colorado because of some parts of it—developed by the Resources Committee—will directly affect our State. For example, there is the part that deals with oil shale.

Oil shale has great potential as an energy source, so it's an important part of our energy policy. And it's important to the taxpayers, who own most of it. They have an interest in what return they will get for this resource. But it's particularly important for Colorado, because our State has some of the most important deposits of oil shale, and Coloradans—particularly those on the Western Slope—will be directly affected by its development.

A new report from the Rand Corporation spells out the great benefits that can come from developing oil shale. But it also makes clear it's important for the development to happen in the right way. The report says oil shale development will have significant effects, not just on the land but also on air quality and on both the quality and quantity of our very limited water supplies. And it says what Coloradans know already—large-scale oil shale development will bring significant population growth and is likely to put stress on the ability of local communities to provide needed services.

In short, the report reminds us how much Colorado and our neighbors had at stake when Congress debated the oil shale provisions of the new Energy Policy Act that's been on the books for just over 2 months now. And while there are lots of things in that law I don't like, I think the parts dealing with oil shale are appropriate and deserve a chance to work before we rush to change them. But this legislation would tear up that part of the new law and replace it with provisions that not only would be bad public policy but would be a direct threat to Colorado.

That's why in the Resources Committee I offered an amendment that would have revised the oil shale sections in several important ways. Unfortunately, the Republican leadership of the committee opposed any changes to those sections, and my amendment was defeated.

What is the significance of that? Well, to begin with, current law says the Interior department has to consult with the Governor of Colorado and other relevant States, as well as with local governments and other interested parties, before going ahead with large-scale oil shale leasing The bill repeals that requirement for consultation. My amendment would have retained it.

Similarly, current law permits an orderly, measured program for oil shale development. But this bill would mandate a massive development program on a crash basis. It says Interior must lease a minimum of 35% of the oil shale lands in Colorado, Utah, and Wyoming within just a one-year period. It's not clear if this means 35% of the three-state total or 35% of the oil-shale lands in each state. Either way, it's a requirement for a fast and massive commercial leasing program:

The Interior Department says there are about 16,000 square miles of oil shale lands in Colorado, Utah, and Wyoming combined. That's more than 10 million acres, and about 72% of that is federal land. So, even if the intent is to require leasing 35% of the three-state total, not 35% in each state, that's more than 2.5 million acres—all in one year!

Mandating leases for that much land, that fast, risks putting a big part of Northwestern Colorado on the fast track to becoming a national sacrifice zone. It's like a trip in a time machine—back to the mistaken crash-development policy of the Carter Administration. That was a mistake then and it would be a mistake now. That's why my amendment would have deleted that requirement, allowing current law to stand.

Also, current law requires the Interior Department to prepare a programmatic environmental impact statement (EIS) on oil shale, with a tight deadline for completion. That's the right thing to do. Work has started on that EIS, and Coloradans look forward to reading it. But reading something before evaluating it must be too old-fashioned for the Republican leadership, because the bill says that the EIS is "deemed" to be good enough—meaning that it cannot be questioned or challenged—and no further environmental analysis will be done for a full 10 years—no matter what problems the State of Colorado or anyone else may have with the EIS.

That's like giving an "A" grade before a student even turns in the homework—it may be good for the student's "self-esteem," but it doesn't ensure careful work. And careful work on oil shale is essential because the stakes are so high for Colorado's land, water, and communities. That's why my amendment would have deleted that and allowed current law to stand.

Finally, current law tells the Interior Department to set oil-shale royalty rates that will do two things—encourage development of oil shale and also ensure a fair return to the taxpayers. But the bill would repeal this, replacing it with specific rates to be charged for the first 10 years of commercial oil shale production, and requiring that after that the rates must be adjusted according to a formula tied to certain oil prices. This is a blatant example of micromanagement, with nothing to show it is fair to the taxpayers. My amendment would have deleted that that attempt at long-term political price-fixing, and replaced it with the language of the current law.

The Congressional Budget Office's report on these oil shale provisions estimates that they will not do much to raise revenue or otherwise help balance the budget. So, there is no budgetary reason to include them in this bill, while from the standpoint of what is best for Colorado and its communities there is every reason to change them in the way that my amendment would have done—and I cannot support them unless such changes are made.

And that is also the case with the parts of the bill dealing with the Mining Law of 1872.

As Westerners know all too well, that law—dating from the administration of President Ulysses S. Grant—still governs the mining of gold, silver, and other "hardrock" minerals on federal lands. It still allows private companies to get a patent—an ownership deed—to public lands containing valuable minerals for a mere $2.50 to $5.00 per acre, the same prices that were set in 1872, without paying the taxpayers a fee like that paid for the Federal oil, gas, or other minerals developed under more modern law. Since 1872, more than $245 billion worth of minerals have been extracted from public lands at these bargain-basement prices, and nearly as much land as in the entire state of Connecticut has been sold to the mining industry for less than $5 an acre.

Because the mining industry doesn't need patents—they can and do mine on unpatented claims and because there are so many problems associated with patenting, annually since 1994 Congress has renewed a moratorium on the patenting of mining claims. But this bill would repeal that moratorium. And while the bill would raise the price of patents, it would not require payments that reflect the value of the minerals involved. So, according to the Congressional Budget Office, this provision would raise only about $158 million over the next five years. This is not real reform—it is a continued subsidy for the "hardrock" mining industry. But other provisions in this part of the bill are worse.

For example, the bill would allow claim holders to patent land without proving there is a valuable mineral deposit as long if they already have a permit to mine or have reported to the SEC that there is a "probable" mineral reserve there. This means that claim holders can purchase public land without having to prove that they can or will construct a viable mine. And it allows the sale of "mineral development lands"—meaning any land with a valuable mineral deposit as well as lands that were once mineralized and were previously mined—for the purpose of "sustainable economic development." According to John Leshy, who served as Solicitor of the Interior and who is an expert on the mining law, the result will be to "put in the hands of corporations the keys to privatize millions of acres of federal land"—setting the stage for a massive fire sale of Federal lands for bargain-basement prices.

And in Colorado, a state with a long and rich mining history, the results could be dramatic. As the Denver Post has noted, "Coloradans could unexpectedly see suburban sprawl on mountainsides they thought were protected open spaces . . . It's an invitation to condo developers, mini-mansion home builders and other speculators to snatch up federal lands that otherwise would never leave public ownership. . . . Just in Colorado, old mining patents encompass 123,000 acres. Most existing claims are next to or surrounded by national forests, parks or other public lands. Many also are near former mining towns that have become pricey resorts such as Aspen, Telluride, Breckenridge and Crested Butte. Twenty-three of Colorado's 24 ski areas are on national forests and so are vulnerable under the proposal."

In short, as the Denver Post's editors rightly observe, these provisions "really aren't about mining; they're about real estate speculation," which is why they have called on us to "erase them from the budget reconciliation bill."

But of course, since no amendments are permitted, we can't erase that part, or any other part of the legislation. The only choice before us is to vote yes or no on the entire bill.

And, as I said, the bill is just one part of a larger budget plan—one that insists on pushing ahead on the same course that has led to the serious fiscal problems that now confront us—setting the stage for more top-heavy tax cuts while we are putting the costs of war and everything else the government does on the national credit card. This cannot go on forever. Sooner or later, something has to give.

So, Mr. Speaker, there is an urgent need to rethink and revise our budget policies, including both taxes and spending. But this bill reflects a refusal to do that rethinking. And for me the only viable choice is to vote no—no on the oil shale provisions, no on the mining provisions, and no on all the rest of this very unnecessary, very unbalanced, very short-sighted, and very unwise legislation.

DEFICIT REDUCTION ACT OF 2005

SPEECH OF

HON. LEE TERRY

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 17, 2005

Mr. TERRY. Mr. Speaker, as the House of Representatives considers passage of the Deficit Reduction Act, I rise in overall support of H.R. 4241. As the process moves forward, I urge my colleagues in this chamber and in the conference to consider some additions and changes.

The actual estimated average cost to a community retail pharmacy to dispense prescription drugs ($9.25) is greater than the minimum multi-source dispensing fee established by H.R. 4241 ($8.00). Because H.R. 4241 does not establish a dispensing fee for single source medications, commonly known as brand-name drugs, I urge my colleagues to consider an increase in dispensing fees for both single source and multisource medications that adequately compensates community retail pharmacies for their cost to dispense prescription drugs within the Medicaid program. In addition, I urge my colleagues to encourage the states to conduct mandatory comprehensive studies to determine actual distribution expenses incurred by community retail pharmacies participating in the Medicaid program so that fair and equitable distribution reimbursement rates can be established.

We should also do all we can to provide incentives to increase the distribution of generic therapeutic equivalent drugs when they are available. While our bill provides higher dispensing fees for generics based on Retail Average Manufacturers Price (RAMP) plus cost, I still do not feel that there is enough incentive in our model to encourage effective use of generics. I encourage continued work in conference to increase the utilization of generics, which in itself has significant savings potential.

H.R. 4241 establishes a new benchmark formula for establishing reimbursement rates for community retail pharmacies participating in the Medicaid program. The benchmark formula, known as RAMP, can often be significantly out of date because it is updated on a quarterly basis and it often is not determined and posted for another quarter. Because pharmaceuticals prices are updated on a daily basis, the RAMP has the potential to be as much as six months out of date. Accordingly, I urge my colleagues to consider modifying requirements related to RAMP from a quarterly recalculation basis to a monthly basis so that community retail pharmacies do not have to absorb significant financial losses due to fluctuations in real cost.