

The bill apparently includes very expensive and unfunded new requirements on States, reducing their already limited flexibility. Meanwhile, the legislation badly underfunds the childcare that parents will need to move from welfare to work. The majority is happy to harm those with the greatest needs. They have gone out of their way to accommodate lobbyists for special interests. For example, lobbyists for HMOs won a huge victory when the conferees rejected the Senate's proposal to eliminate the discredited HMO slush fund. Lobbyists for the pharmaceutical industry saved the industry from adjustments in Medicaid rebates. And lobbyists for certain types of medical equipment won special accommodations as well.

All these favors for special interests should not come as a surprise. After all, that is what we have come to expect from this Congress. The policies being pursued by this Congress are a corruption of our Nation's values. How can it be that we are about to cut student loans, Medicare and Medicaid, and then turn around and provide even more tax breaks to special interests and multimillionaires? Have they no sense of decency? Have they no sense of shame?

The capital gains and dividend tax breaks called for in the Republican budget that are so important to President Bush and this leadership would provide almost half their benefits to those with incomes of more than \$1 million. They will get a tax break of more than \$30,000 a year.

Meanwhile, the losers won't just be the ordinary Americans who will suffer cuts in student loans, Medicaid and Medicare, all Americans will lose because the tax breaks backed by the Republican leadership will cost substantially more than their spending cuts will save. As a result, the deficit will go up, interest rates will rise, the economy will suffer, and the burdens on our children and grandchildren will increase.

Finally, this budget is wrong for many other reasons and in many other dimensions. It is wrong to target middle-class families already struggling to send their kids to college. It is wrong to target Medicare and Medicaid, which serve seniors and Americans with the greatest needs. It is wrong to use these cuts to help pay for tax breaks that largely benefit those with incomes over \$1 million. It is wrong to do all this while handing out favors to special interests and their lobbyists. And it is wrong to approve a budget that will increase the deficit and burden future generations.

This is not a budget based on mainstream American values. It is an ideologically driven, extreme budget that caters to lobbyists and an elite group of ultra-conservative ideologues in Washington, all at the expense of middle-class Americans, those with the greatest needs.

This budget will be approved unless enough reasonable Senators on the

other side stand up and do the right thing. I hope they will. And I hope we can finally persuade the leadership in this body, the Republican leadership, that it is time—it is long past time—to stop catering to special interests and to start putting the American people first.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

DEFICIT REDUCTION ACT OF 2005—CONFERENCE REPORT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of the conference report to accompany S. 1932, which the clerk will report.

The legislative clerk read as follows:

Conference report to accompany S. 1932, an act to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006.

The ACTING PRESIDENT pro tempore. Under the previous order, there will be 5 minutes each for the Senator from New Hampshire and the Senator from North Dakota.

The Senator from the great State of North Dakota.

Mr. CONRAD. Mr. President, the legislation before us suggests that it is deficit reduction. There are three chapters to this book on reconciliation. You have to read all three chapters to understand the meaning of the book. The first chapter provides spending cuts of \$40 billion over 5 years. Those spending cuts disproportionately take from those who have the least among us. Chapter 2 provides \$70 billion of tax cuts. So the combined effect of chapters 1 and 2 is not to reduce the deficit, it increases the deficit. And the tax cuts give to those who have the most among us.

The Chaplain, in his prayer this morning, asked us to lead lives that will be living sermons—lives that will be living sermons. I do not know of any church that teaches to take from those who have the least among us to give to those who have the most among us.

The third chapter in this book provides for a debt limit increase of \$781 billion—one of the largest increases in the debt of our country, in the history of our country.

This first chapter, as I have indicated, contains \$40 billion of spending cuts over 5 years. But the second chapter will cut taxes by \$70 billion over that same period. The net result is not deficit reduction; it is an increase in the deficit.

If we are to focus just on this first chapter, and put it into perspective, here is what we see: spending cuts of \$40 billion. It is almost indecipherable how much that is in relationship to what we will be spending over the next 5 years. We will be spending \$14.3 trillion over the next 5 years. So our col-

leagues on the other side have managed to cut one three-hundred fiftieth—one three-hundred fiftieth—of the spending. But then in chapter 2 they are going to come here and eliminate that deficit reduction by the tax cuts—again, spending reductions from those who have the least among us to give to those who have the most among us. And the extraordinary irony of all of this is that all of this—if this is implemented, the budget that is being passed—is building a wall of debt that is unprecedented in the history of our country.

If this budget is actually implemented over the next 5 years, it will increase the debt of our country from \$7.9 trillion to \$11.3 trillion. This is not just my estimate, this is the estimate of the people who have written this package.

This is from their own document. They say the debt of the country will increase each and every year by over \$600 billion. This is before the baby boomers retire. If you like deficits and debt, if you want to pass on a massive debt to our children, this is your chance. Vote for this package.

It took 42 Presidents 224 years to run up a trillion dollars of external debt, debt held by foreigners. This President has more than doubled that amount in 5 years. This is going in the wrong direction. The result is, we now owe Japan over \$680 billion. We owe China almost \$250 billion. We owe the "Caribbean Banking Centers" more than \$100 billion.

In addition to the explosion of deficits and debt, these provisions in this chapter of the book are unfair to those who have the least among us: Medicaid cuts targeting low-income beneficiaries, child support enforcement cuts, foster care cuts, on and on it goes. The spending cuts are being done to make room for more tax cuts. House Ways and Means Committee Chairman BILL THOMAS told a group of GOP lobbyists the spending cuts are necessary to make room for the tax-cutting legislation.

I will be making points of order against this bill because we believe this bill has violated the rules of this body in instance after instance after instance, repeated violations of the rules. At the appropriate time, I will bring a point of order.

I conclude as I began: This legislation, taken as a whole, all of the chapters of reconciliation, will increase the deficit and debt of our country, will have one of the largest increases in debt, \$781 billion, in our Nation's history. In addition to that, this has the wrong priorities, taking from the least among us to give to those who have the most among us. That is wrong.

I thank the Chair.

The ACTING PRESIDENT pro tempore. The Senator from New Hampshire.

Mr. GREGG. What is the time situation?

The ACTING PRESIDENT pro tempore. The Senator from New Hampshire has 5 minutes.

Mr. GREGG. Mr. President, every so often in this body—and it is quite rare—we come to a point where a vote must be cast in order to determine whether the words you speak are going to be complied with. That is this vote. All of us in this Congress tend to talk about fiscal responsibility. We all are concerned about our children and the type of Nation we are going to leave them. We know that because of the retirement of the baby boom generation, our children will face huge financial stress from the costs of Government. We know that we have on the books approximately \$44 to \$55 trillion of unfunded liability in the area of Medicaid, Medicare, and Social Security accounts that benefit seniors. That huge number is a result of the fact that there is a huge generation about to retire called the postwar baby boom generation.

The question for us, as stewards of this Nation and as stewards of our children and our grandchildren's future, is whether we are going to pass on to them this type of debt or whether we are going to step on to the turf of trying to address that issue before it overwhelms us. Whether our children have an opportunity to live as good as our generation has, to send their children to college, to own a home, to be able to live in an America which is prosperous, will be determined by whether we, as a government, are responsible in what debt and obligations we pass on to them.

For 8 years, we have ignored this problem. Today we have an opportunity to address it. This will be the first time that this Congress in 8 years has stepped onto the turf, put our toe in the water—actually, we are going up to our ankles—to address the issue of future responsibilities and how we control the spending of the Federal Government in the outyears.

We have addressed the issues on the appropriations side, discretionary spending, but we have refused, over the last 8 years, to address the issue of mandatory spending or entitlement programs. This is not a major step forward. I wish it was bigger. The Senator from North Dakota held up charts which show how unfortunate it is in its size, that it is not larger. He has pointed out that it is \$40 billion on \$14 trillion of spending. He calls that one three hundred fiftieth of a percent. It is actually about a half a percent of the spending during that period. But the point is, if we do not proceed at this time, if we do not go forward, it is still going to be \$40 billion of debt that we pass on to our children. That is what this vote is about.

It is not about the tax issue. This isn't a tax bill. It is not about the debt issue in the sense that it is not the debt extension vote. It is the one vote that we will have as a Congress to try to control the outyear debt of this

country through restraining spending. It will be the first time that we have stepped forward on the issue of one of the major entitlements, specifically Medicaid. We don't do a great deal on the numbers side of Medicaid. I wish we had done a lot more, and I tried to do a lot more. But we do take significant steps in the area of policy, on how we address Medicaid by essentially taking what the Governors have proposed, in a bipartisan approach, and putting that language into this bill to give the Governors more flexibility as to how they deliver Medicaid in the States, thus allowing them to deliver more services to more people at less of a rate of growth.

That is reflected in this chart. We can see that dedicated spending is going to go up 40 percent under this bill. It would go up 40 percent under the law, generally. We essentially reduce the rate of growth, not dramatically, but we put in place policies which will allow us to improve the system and care for more children more effectively.

This is it, folks. This is the only chance we are going to have this year. It is the only chance in the last 8 years to actually step forward and do something about deficit spending on the entitlement side.

This is our responsibility to our children. We should pass this bill, or else we should ask ourselves what type of public policy are we pursuing and what type of stewards are we of our children's future. This is the one vote we will have to reduce the rate of growth of the Federal Government.

I believe we have now used the 5 minutes.

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. GREGG. On both sides?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. GREGG. I ask unanimous consent that as we debate the issue of points of order, which the Senator from North Dakota is going to make, we have 4 minutes on both sides.

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

The Senator from North Dakota.

Mr. CONRAD. Has the Senator yielded?

Mr. GREGG. Yes.

Mr. CONRAD. Mr. President, could the Chair advise us, what is the parliamentary circumstance we confront? My understanding is I am to be recognized to make a point of order at this point.

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. CONRAD. I thank the Chair.

Mr. President, this bill contains many violations of the rules. We are here because the majority insisted on ramming through bad legislation at the last moment with little or no public scrutiny. This 774-page bill was written behind closed doors with no input from the minority. It was filed in

the dead of night and voted on in the House at the crack of dawn. Then House Members left town.

Let's remember that reconciliation is a special parliamentary process that allows legislation to be passed with fast-track procedures that restrict a Senator's right to debate and amend. Because of these fast-track procedures, the Byrd rule was adopted to prohibit extraneous, nonbudget-related provisions from being included.

The points of order that I am raising are all violations of the Byrd rule. I now raise these three points of order:

One, striking the Medicaid medical liability provision, which allows hospitals to deny treatment to low-income individuals who are unable to pay. Not only is the majority raising copayments on low-income Medicaid beneficiaries, but they are shielding hospitals from medical liability if they refuse to treat those low-income people who are unable to pay. That is wrong.

Two, striking the foster care provision that would prohibit grandparents from receiving foster care payments. The conference report includes a provision to overturn a Ninth Circuit Court case that allowed grandparents with limited incomes to receive foster care payments when parenting vulnerable children. That is as mean spirited as it is ill-conceived. We know that placing foster kids with their grandparents puts them in the most stable and healthy environment. Prohibiting support for grandparents who take in foster children is wrong.

Three, I am also raising points of order against reports focusing on policy matters that do not belong in a reconciliation bill. These reports have no budgetary effect whatsoever and should not be here.

I hope my colleagues will support these points of order so we can send this bill back to House. Let's use this opportunity to create a better product for the American people.

Mr. President, I raise the point of order pursuant—

Mr. GREGG. Will the Senator yield?

Mr. CONRAD. Let me conclude first.

Mr. GREGG. My question is whether I should make my statement before the Senator makes the point of order.

Mr. CONRAD. That is fine.

Mr. GREGG. Mr. President, the Senator from North Dakota has been cooperative and very fair, as he always has been when proceeding on these bills. He is a true professional. I know the Chair has been advised as to what the four points of order are.

I have a parliamentary inquiry: Does the Chair deem the foster care point of order to be well taken if that question is put to the Chair?

The ACTING PRESIDENT pro tempore. The Chair does not believe that particular point of order is well taken.

Mr. GREGG. Basically, if I may continue, we would be dealing with three points of order as being well taken if they are put to the Chair?

The ACTING PRESIDENT pro tempore. That is correct.

Mr. CONRAD. Mr. President, might I inquire, on the other three points of order that I have raised, would the Chair rule that those points of order are in fact in order and appropriate?

Mr. GREGG. Not at this time is the question.

Mr. CONRAD. Yes.

The ACTING PRESIDENT pro tempore. When it is time, under the rule, the Chair will in fact so rule.

Mr. CONRAD. I thank the Chair. I thank my colleague. We have worked in a professional and cooperative way. I thank the Chairman for his inquiry.

Mr. GREGG. Mr. President, the Democratic leader on the bill has every right to make a point of order. Clearly, the Chair will rule they are well taken. Let's talk about the substance quickly.

They are essentially technical points of order. Two deal with reports and the other with an issue of liability which is very narrow, dealing with what people are told when they come into an emergency room. Essentially, the practical effect of doing these technical attacks on this bill will be that the bill must go back to the House of Representatives and the House of Representatives is going to agree and knock that language out. But the House is not here.

So what is the real practical effect of this? It is that the Katrina money in this bill will not be spent. The TANF Program, the welfare program, will lapse. The Medicare physicians payments increase, which basically makes Medicare physicians whole, will not occur. Transitional medical assistance for families who worked their way off welfare will be lost. And the therapy caps for seniors who suffer strokes will be lost during this interim period.

Why would we want to do that simply to go through a technical exercise? It makes no sense at all, other than the fact that the other side of the aisle wants to delay the process. But in the process of delaying for purely technical reasons—I mean, two reports are being challenged. We get thousands of reports in this institution. To delay the Katrina benefits for the people in the gulf coast region who have suffered is outrageous, over two reports.

To potentially stop welfare payments for up to a month because the House cannot get back here is outrageous, over two reports. To stop transitional medical assistance is outrageous, over two reports. To say nothing of the other reports. I realize if we don't enact this bill by the end of this year, there are \$18 billion worth of subsidies that are going to flow to corporate lenders which are totally inappropriate, which the HELP Committee has said we have to stop. But those subsidies will go to those lenders. The money will potentially be lost, and that money that was going to be used to reduce debt and give students more loans will be lost, potentially, unless we get this bill done by the end of the year.

We have serious issues that have to be addressed. They should not be tied

up over technicalities. That is what these points of order are about.

Mr. BAUCUS. Mr. President, I support the point of order raised by Senator CONRAD on the budget reconciliation bill. Under the Byrd rule, any provisions in a final budget reconciliation bill that are extraneous to changing the budget can be stricken. Section 6043, the emergency room copayments for non-emergency care provisions, clearly violates the Byrd rule.

Section 6043 makes far-reaching policy changes never debated in the Senate that have no place in a budget reconciliation bill. Although the provision makes major changes to Medicaid, the Emergency Medical Treatment and Labor Act, EMTALA, and even State medical malpractice liability policy, it only generates net savings of \$11 million over 5 years, one-tenth of a percent of the original budget target.

Section 6043 allows States to impose new higher costs for Medicaid patients seeking emergency room care and allows hospitals to turn patients away if they cannot pay when the hospital says there is no emergency. Under current law, Medicaid requires hospitals to provide access to emergency care when it is medically needed. In fact, Medicaid HMOs are required to cover care in cases where the individual reasonably believes there is an emergency, even when no emergency exists. And Federal law requires hospitals to screen and stabilize patients regardless of their ability to pay.

Section 6043 turns current law on its head. It will deter emergency room use by Medicaid beneficiaries and make it harder to enforce the Federal guarantee of access to emergency care for all.

The provision also includes language that makes it harder for patients to sue hospitals and doctors for poor treatment decisions about whether they need emergency care. This language would tip the burden of proof from a "preponderance of the evidence" to a "clear and convincing" evidence standard. The "preponderance" standard is the usual standard in State medical malpractice claims. It is a standard that strikes the balance between the patient and the provider. The "clear and convincing" standard tips the burden of proof toward the patient and makes it more difficult for a patient to prove his or her claim.

Similarly, the provision also changes the standard of liability from the usual State standard of "negligence" to a heightened standard of "gross negligence." It is more difficult for a patient to prove "gross negligence" than "negligence." Thus, the language changes the standard of liability to impose greater burdens on the injured patient and less accountability for the providers. This actually makes an end run around State medical malpractice liability law, lowering the standard of liability.

Neither State medical malpractice law nor EMTALA standards were the

subject of this bill. Neither was discussed in the Senate, even though both are of great concern to many in the Senate. This provision was never discussed or considered at any point in the Senate debate, in committee or on the floor. It was omitted from the Senate version.

Given this section's extremely small pricetag and its oversize policy effect, this provision is ripe for exclusion under the Byrd rule. For these reasons, I support Senator CONRAD's point of order to strike section 6043.

Mr. CONRAD. Mr. President, how much time do I have remaining?

The ACTING PRESIDENT pro tempore. There is 1 minute 29 seconds.

Mr. CONRAD. Mr. President, some of these matters are technical matters. But we have rules in this body for a reason. This legislation has many violations of the rules. I have chosen a few to raise today. Why? Because, colleagues, we could be voting all day on my points of order against this bill. I have tried to reduce it to one vote to accommodate colleagues. I could be here raising 12 or 15 points of order and ask for a vote on every single one of them. I have not done that. Yes, some of these matters are technical, but they are because we have rules.

I would say that the question of Medicaid liability is not a technicality. This is a question that allows hospitals to deny treatment to low-income individuals who are unable to pay. Not only is the majority raising copayments on low-income Medicaid beneficiaries, but they are shielding hospitals from medical liability if they refuse to treat those low-income people who are unable to pay. That is wrong.

Let me just say, on the foster care matter, we have a difference with the Parliamentarian. I believe there is a violation.

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

Mr. CONRAD. Again, I believe the foster care question that prohibits grandparents from receiving foster care payments is also well taken, but we understand there is a difference.

I raise the point of order pursuant to section 313(b)(1)(A) of the Congressional Budget Act of 1974 against section 5001(b)(3) and section 5001(b)(4) of the conference report because those provisions of title V regarding Medicaid produce no budgetary changes in outlays or revenues; and pursuant to section 313(b)(1)(D) of the Congressional Budget Act of 1974 against section 7404 regarding foster care, and the portion of section 6043 beginning on page 92, line 19, through page 93, line 2, which relates to the negligent standard for hospitals and physicians who treat Medicaid patients because any changes in outlays or revenues associated with those two provisions are merely incidental to the nonbudgetary components of those provisions.

I hope my colleagues will vote to sustain this point of order.

Mr. GREGG. Mr. President, I move to waive section 313 of the Congressional

Budget Act for consideration of sections 5001(b)(3), 5001(b)(4), and the relevant sections of 6043 of the conference report to accompany S. 1932.

I understand the Chair is going to rule that the fourth point of order relative to foster care is not well taken.

I ask for the yeas and nays.

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

The question is on agreeing to the motion.

The clerk will call the roll.

The bill clerk called the roll.

The yeas and nays resulted—yeas 52, nays 48, as follows:

[Rollcall Vote No. 362 Leg.]

YEAS—52

Alexander	DeWine	McCain
Allard	Dole	McConnell
Allen	Domenici	Murkowski
Bennett	Ensign	Roberts
Bond	Enzi	Santorum
Brownback	Frist	Sessions
Bunning	Graham	Shelby
Burns	Grassley	Specter
Burr	Gregg	Stevens
Chambliss	Hagel	Sununu
Coburn	Hatch	Talent
Cochran	Hutchison	Thomas
Coleman	Inhofe	Thune
Collins	Isakson	Vitter
Cornyn	Kyl	Voivovich
Craig	Lott	Warner
Crapo	Lugar	
DeMint	Martinez	

NAYS—48

Akaka	Durbin	Mikulski
Baucus	Feingold	Murray
Bayh	Feinstein	Nelson (FL)
Biden	Harkin	Nelson (NE)
Bingaman	Inouye	Obama
Boxer	Jeffords	Pryor
Byrd	Johnson	Reed
Cantwell	Kennedy	Reid
Carper	Kerry	Rockefeller
Chafee	Kohl	Salazar
Clinton	Landrieu	Sarbanes
Conrad	Lautenberg	Schumer
Corzine	Leahy	Smith
Dayton	Levin	Snowe
Dodd	Lieberman	Stabenow
Dorgan	Lincoln	Wyden

The PRESIDING OFFICER (Mr. MARTINEZ). On this vote, the yeas are 52, the nays are 48. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, am I recorded?

The PRESIDING OFFICER. The Senator is recorded.

Mr. CONRAD. Mr. President, could we have order in the Chamber?

The PRESIDING OFFICER. The Chamber will please be in order. Senators will please take their conversations off the floor.

The Senator from North Dakota.

Mr. CONRAD. Mr. President, it is my understanding I would now have the right to offer a second point of order.

The PRESIDING OFFICER. The unanimous consent agreement did authorize that.

Mr. CONRAD. Has the Chair ruled on the point of order?

The PRESIDING OFFICER. The Chair is about to do so.

Mr. GREGG. Mr. President, the Chair is about to rule on the points of order which were just offered, is that correct?

The PRESIDING OFFICER. Correct. The point of order is sustained against section 5001(b)(3), section 5001(b)(4), and that portion of section 6043(a) proposing a new subsection (e)(4) to section 1916A of the Social Security Act as added by section 6041 and as amended by section 6042 of this act. The point of order is not sustained against section 7404.

Mr. CONRAD. I thank the Chair. I now ask if it is in order that I would offer a second point of order under the unanimous consent agreement.

The PRESIDING OFFICER. The unanimous consent agreement did so authorize.

Mr. CONRAD. Mr. President, colleagues, I see no need to ask colleagues to cast another vote. Therefore, I will withhold on the second point of order and we could go right to passage of the reconciliation conference report.

Mr. GREGG. I suggest that is a good approach.

TY8RD-PARTY PAYORS

Mr. BOND. Mr. President, I rise to engage the chairman of the Finance Committee in colloquy regarding clarification of some Medicaid provisions relating to strengthening the government's ability to identify and collect payment from liable third party payors.

Under current law, Medicaid is the payor of last resort. In general, federal law requires available third parties must meet their legal obligation to pay claims before the Medicaid program pays for the care of an individual.

The conference report amends the list of third parties named in section 1902(a)(25) of the Social Security Act for which States must take all reasonable measures to ascertain the legal liability to include, among others, pharmacy benefits managers.

Once only the back office to health plans, employers, and State governments, pharmacy benefit managers have expanded their business model to include serving as risk-bearing entities under the Medicare Part D program.

I would like to clarify that the addition of pharmacy benefit managers to the definition of liable third parties is in the instance when they are at risk for the underlying benefit, such as operating as a plan sponsor for purposes of providing health benefits or as a riskbearing entity under the new Medicare Part D program as a stand-alone PDP. This addition is not meant to make pharmacy benefit managers liable when they are acting merely in an administrative capacity on behalf of a liable third party.

Mr. GRASSLEY. I thank the Senator from Missouri. Yes, I want to clarify the intent is not to create an addi-

tional liability where none exists today. Pharmacy benefit managers may not be liable third parties. It is dependent upon whether they are ultimately responsible for the payment of a claim. It is my understanding that the health plan or employer contracting with the pharmacy benefit manager is ultimately at risk for the underlying claim, so it is my belief this will not create new liability for the pharmacy benefit manager.

Mr. BOND. I thank the Chairman.

BONA FIDE SERVICES—CLARIFYING THE TREATMENT OF DISTRIBUTOR SERVICE FEES UNDER THE NEW MEDICAID PHARMACY REIMBURSEMENT METRIC

Mr. LOTT. Mr. President, I again commend Chairman GRASSLEY for the leadership role he has taken in crafting much needed reductions in the mandatory spending programs that fall under his jurisdiction as chairman of the Senate Finance Committee. Regarding the changes to the Medicaid pharmacy reimbursement formula, we both share a strong commitment to ensuring that the Federal dollar is spent in a wise and proper manner while maintaining patient access to their medicines.

I do want to take this opportunity to clarify specifically how bona fide services fees, which are negotiated between a manufacturer and pharmaceutical distributor, should be treated under the new Medicaid pharmacy reimbursement metric.

Manufacturers pay bona fide service fees for specific services provided by the distributor. Service fees are a relatively new business model to the pharmaceutical distribution industry and how they should be treated under Federal reimbursement programs first came into question as the new Average Sales Price, ASP, metric under the Medicare Modernization Act was being implemented. I am pleased to note that Congress specifically did not include service fees as a price concession to be incorporated into the ASP calculation and CMS subsequently confirmed that, "Bona fide service fees that are paid by a manufacturer to an entity, that represent fair market value for bona-fide service provided by the entity, and are not passed on in whole or in part to a client or customer of the entity should not be included in the calculation of ASP."

In light of this, I wanted to make it clear that it was not the Chairman's intent to have manufacturers include such bona fide services fees in the new Medicaid pharmacy reimbursement equation.

Mr. GRASSLEY. The Senator from Mississippi is correct. It was not the intent of the conferees to suggest that by dropping bona fide services fees from the final agreement that those service fees should be included in the calculation of the Medicaid Average Manufacturer Price, AMP, based reimbursement methodology as established in the pharmacy reimbursement provisions of the conference agreement.

I thank my colleague from Mississippi for seeking this clarification.

CONTINUED DUMPING SUBSIDY OFFSET ACT

Mr. CRAIG. Mr. President, I rise to commend Chairman GREGG on his leadership regarding the Deficit Reduction Act. The Budget Committee has had to make hard decisions and has labored to do so fairly. I have seen first-hand and appreciate the Chairman's dedication to the integrity of this process.

On behalf of myself and Senator BURNS, I would like to state for the record our understanding of the effect of the language in the bill regarding repeal of the Continued Dumping Subsidy Offset Act CDSOA.

We understand that the bill requires distribution of all antidumping and countervailing duties finally determined, ultimately assessed on any and all imports of merchandise that are entered, or withdrawn from warehouse, for consumption by the deadline of October 1, 2007.

Further, we understand that liquidation or assessment of duties need not occur prior to the deadline of October 1, 2007, as a condition of distribution and that the duties ultimately assessed will be distributed regardless of the date on which they are finally determined and collected.

In other words, while appeals to U.S. courts or NAFTA panels or other proceedings at administrative agencies may prevent final assessment and collection of the duties owed until after the deadline of October 1, 2007, so long as the imports are entered, or withdrawn from warehouse, for consumption by that date, the duties ultimately assessed will be distributed annually under the processes currently specified in law.

Finally, we understand that subsection (b) specifies that the CDSOA shall operate "as if" there had been no repeal; meaning that Customs will maintain all existing aspects of the program codified at 19 U.S.C. §1675c, and contained in accompanying regulations, including all accounting procedures, all administrative and other mechanisms, and all infrastructure in place to collect, account for, track, and distribute duties on merchandise entered, or withdrawn from warehouse, for consumption by the deadline of October 1, 2007. And at all times we would expect that collections of duties are to be pursued aggressively by U.S. Customs and Border Protection.

Mr. FRIST. It is my understanding that my colleague is correct in his interpretation of the language agreed to by the conferees. In essence, the Continued Dumping Subsidy Offset Act will remain in effect for all imports of merchandise that are entered, or withdrawn from warehouse, for consumption by the deadline of October 1, 2007. However, duties collected on products entering on or after October 1, 2007, will be deposited with the U.S. Treasury. Since the WTO has declared the CDSOA as putting us out of compliance with our WTO obligations, other nations have begun to retaliate against our exports. This will bring us into

compliance with that ruling and hopefully will bring to an end the sanctions U.S. companies are currently facing.

Mr. CRAIG. I thank the leader for that clarification and I appreciate all of his hard work in reaching this compromise language.

Mr. SANTORUM. Mr. President, I rise today in support of S. 1932, the Deficit Reduction Act of 2005, but I want to take a few minutes to discuss a specific aspect of that bill—the reauthorization of the welfare reform law. As many of my colleagues have heard me say, I believe the 1996 welfare reform law is one of the great legislative successes during my time in the U.S. Senate. Since the bill's enactment, welfare caseloads have been cut in half, more than 7 million individuals and 2 million families have exchanged a welfare check for a paycheck, and welfare reform has lifted 2.3 million children out of poverty.

We must build upon this success to move the 2 million families that remain on welfare into the workforce by ending the practice of simply extending the program and passing a legislative reauthorization of the welfare reform law. On January 24, 2005, I introduced S.6, the MORE Act, that included a reauthorization of TANF. A bipartisan reauthorization bill, S. 667, passed the Senate Finance Committee with my support on March 9, 2005. While I continue to believe that such reauthorization would have been best suited by moving the Senate Finance Committee reported bill, S. 667, under regular order; we unfortunately have been unable to reach an agreement with our colleagues on the other side of the aisle to bring this bill to the floor.

After over 3 years of trying to move forward on this reauthorization, our colleagues in the House have included TANF reauthorization in their budget reconciliation bill. Going into this process, I was concerned that some provisions in the House legislation regarding work hours, participation rates, child support enforcement and access to child care did not strike the appropriate balance needed to meet the needs of these families as they strive to move from welfare to work. I was pleased that the House had included provisions to encourage healthy marriages, promote responsible fatherhood, and support strong families. At the end of the day, the Deficit Reduction Act is not my preferred vehicle, but I am glad we are making some improvements in the program without upsetting the necessary balance.

The conference report reauthorizes the welfare program—the Temporary Assistance for Needy Families program or TANF—through fiscal year 2010 at its current funding level of \$16.9 billion annually. The bill provides an additional \$1 billion for child care over 5 years for a total of \$2.917 billion annually. While I understand and have heard from many that they want a higher amount for child care, this bill will increase the investment in child

care for working families by \$1 billion, and if we don't do this bill there will be no increase in child care at all. It is important to get this increase done this year.

I am very pleased that the conference report provides \$100 million annually for healthy marriage promotion, and \$50 million annually for the promotion of responsible fatherhood. The need for these programs is clear. Children growing up in married, two-parent homes are less likely to be victims of abuse, engage in high risk behaviors, and suffer from emotional problems. Children who live absent their biological fathers are, on average, five times more likely to be poor, and at least two to three times more likely to use drugs, to experience educational, health, emotional and behavioral problems, to be victims of child abuse, and to engage in criminal behavior than their peers who live with both parents.

However the benefits are also clear. Married families are 5 times less likely to be in poverty than are single-parent families. Adults benefit from marriage through lower mortality rates, better health, greater financial well-being, less suicide, greater happiness, and suffer less violence by intimate partners. Children with involved, loving fathers are significantly more likely to do well in school, have healthy self-esteem, exhibit empathy and pro-social behavior, and avoid high-risk behaviors such as drug use, truancy, and criminal activity compared to children who have uninvolved fathers. These grants can be used to provide information on the value of marriage, conflict resolution, relationship skills and financial management. Increasing healthy two-parent marriages is a proven means to reduce poverty and improve child well-being.

This conference report also makes modest changes in the implementation of the TANF program. First, it updates work participation rates. The 1996 Welfare Reform Act, P.L. 104-193, contemplated that all states would meet a 50-percent participation rate by 2002. Because the current caseload reduction credit is based on the 1995 caseload level, most States—including my home State of Pennsylvania—have an actual participation rate standard of zero. States currently achieve their credit because of their ability to count a decade-old caseload decline. The conference report updates the credit to the more relevant date of 2005, thereby ensuring that the intent of the 1996 welfare reform act is realized.

The bill also closes a loophole on work participation rates. To avoid having to meet caseload requirements, some states set up separate programs and moved their harder-to-place clients to those programs to avoid the work requirements. The bill removes the ability to game the system by including these separate state programs in the work calculation, closing a loophole.

I have seen a number of reports that indicate that this bill changes work requirements, narrows what is considered work, et cetera. I want to be clear that this bill maintains the current work requirements. The bill does not change the current-law standard of 30 hours and maintains the separate 20-hour standard for adults with a child six years of age and under. It also maintains current-law activities that count as work, including allowing 12 months for education and training. The measure leaves it to the states to determine whether activities may be counted as work activities, and how to count and verify reported hours of work.

I have heard a number of my colleagues say that this bill "cuts" money from child support enforcement. I hope they go back and read the bill. The changes in child support actually increase child support enforcement and gets support to the families. The conference report includes provisions that increase States' ability to improve child support collection. Under current law, much of the child support that is owed to families on welfare is assigned to the State. The conference agreement would allow \$423 million owed to families on welfare and those who have left welfare to go directly to those families—a significant improvement over current law.

The supposed "cut" is a restoration of the current state-matching requirement. Currently, States are required to match certain Federal funds with state funds, showing a State investment in the child support enforcement program. However, States have been taking Federal funds from one grant and then using them as the "Federal" matching funds rather than using State funds. The conference report prevents States from "double dipping" by using Federal funds to draw down additional matching federal funds for child support enforcement.

Additionally, the conference report provides \$100 million for grants to ensure that the safety, permanence and well-being needs of children are met in a timely manner. The funds may also be used for the training of judges, attorneys, and other legal personnel in child welfare cases.

The measure also provides an increase of \$200 million for the Safe and Stable Families program. The purpose of this program is to enable States to develop, expand or operate coordinated programs of community-based family support services for family preservation services, family reunification services, and adoption promotion.

A number of organizations may have misunderstood the changes relating to the alleged "cuts" in foster care. There are two provisions relating to foster care that might have led to this misperception, so let me speak on them for a minute.

First, the conference agreement restores long-standing foster care eligibility criteria relating to the *Rosales v. Thompson* decision. That decision

from the Ninth Circuit Court of Appeals broadened eligibility for Federal foster care benefits to include almost every child in foster care in the nine affected States—California, Oregon, Washington, Arizona, Montana, Idaho, Nevada, Alaska and Hawaii—instead of only children removed from low-income homes that TANF is intended to help. The conference agreement again ensures the same policy applies nationwide. As this decision did not apply in Pennsylvania, this change does not affect my home State.

Second, the bill limits the amount of administrative expenses when States are slow to place children in safe and suitable situations. I should be clear that this proposal does not reduce foster care benefits because the funds in question do not support payments to families. Instead, the proposal addresses how much Federal funding States may claim to operate their foster care programs and under what circumstances Federal funding may be claimed. Current law requires the placement of a child in a licensed foster family home or a child care institution as a condition of eligibility for federal foster care maintenance payments. As part of meeting this duty, States may make certain administrative claims on behalf of "candidates" for federal foster care. "Candidates" are children who have not been removed from their homes but are at imminent risk of removal.

The proposal allows the State to claim Federal administrative funds for up to 12 months while children are "candidates" for Federal foster care and the State is working to license the home as safe and appropriate for the child. In January 2005, the Department of Health and Human Services, HHS, issued a proposed regulation making this change. So States have been on notice that this issue was of concern for almost a year. Fourteen States have indicated that they would be affected by the proposed regulation; however Pennsylvania was not one of those States.

In summary, millions of our fellow citizens have replaced the dependency on government handouts with the dignity and opportunity of work. Children and families will now have opportunities to strengthen their families through programs to support marriage and responsible fatherhood. Thousands of children will have access to childcare through the \$1 billion in new funding. And we have strengthened our child welfare programs. On balance, I think the reconciliation bill, as it relates to welfare reform, is a step in the right direction. I remain committed to ensuring that work remains a gateway to opportunity for all Americans and urge my colleagues to support passage of S. 1932, the Deficit Reduction Act of 2005.

Mr. KOHL. Mr. President, I once again rise to reluctantly, but adamantly, oppose the budget reconciliation bill before us today. I say reluc-

tantly because the Senate ought to use the reconciliation procedure for the purposes for which it was intended: making difficult choices to reduce spending. We have an obligation to bring our Nation's budget back into balance so we don't saddle future generations with endless debt and economic ruin. However, this budget fails on every level to achieve this goal. And even worse, the budget cuts that this bill does make fall squarely on lower-income Americans who can least afford them.

One provision in this conference agreement that I support relates to extension of the Milk Income Lost Contract, MILC, program. MILC, which expired at the end of the last fiscal year, provides countercyclical support for the Nation's dairy sector. It is targeted. It is fair. It is essential. Moreover, it enjoys the President's support. It makes sense as part of the balanced Agriculture package in this bill.

But even this one bright spot is not enough to save this bill or the budget plan of which it is a part. This bill is just one piece of a fraudulent, fiscally, and morally bankrupt budget which I cannot endorse. While the conference agreement we are now voting on cuts almost \$40 billion in spending, waiting in the wings is a tax-cut bill that will likely cost more than \$70 billion in tax cuts for the wealthy. The math simply doesn't add up. You can't pass a bill to cut spending by \$40 billion and follow it up with a tax bill that will cost more than \$70 billion and claim you are reducing the deficit it's simply untrue and irresponsible.

I am willing to make the hard choices to bring our budget deficit down, but this conference agreement does not reflect our Nation's priorities. I cannot support taking vital services away from families that need them the most—and use those cuts as a fig leaf to hide tax breaks for those who need them the least.

I am particularly disappointed that the House and Senate conference committee has come back with an agreement that is actually worse than the original Senate-passed bill. This so-called compromise causes more harm to low-income Americans while shielding powerful special interests, such as pharmaceutical companies and the managed care industry, from any sacrifice.

This conference report achieves much of its savings by requiring low-income Medicaid beneficiaries to pay more out-of-pocket for health care, and taking away health care services for which many beneficiaries are currently covered. Even more egregious, negotiators dropped a common-sense provision in the Senate-passed bill that would have saved billions of dollars by eliminating a slush fund for private insurance companies in the Medicare prescription drug program.

This bill before us also fails our Nation's students who are struggling to pay for college. Student loans help to

ensure that every student in America can choose higher education regardless of his or her financial or social background. These programs are an investment in our future and an investment in a diverse, educated population who will lead this country in the 21st century.

At a time of rising tuition costs, this conference report would actually make college less affordable. It would establish a fixed interest rate instead of maintaining today's lower variable rates—leaving the typical student borrower, who has \$17,500 in student loan debt, having to pay up to an additional \$5,800 in order to repay his or her college loans. It is simply unacceptable to make the largest raid on the student aid program in history at a time when millions of families are struggling to keep up with skyrocketing tuition costs. And it is inexcusable to do this in order to pay for tax breaks for the wealthiest in our society.

I urge my colleagues to reject this bill—and the irresponsible and cruel budget of which it is a part. It does not reflect the right budget priorities, and it certainly does not reflect the values of American families. And adding insult to injury, these harmful cuts will not even help our country dig its way out of a large and growing budget deficit. This bill will soon be combined with tax breaks for the wealthiest Americans that exceed, by tens of billions of dollars, the value of the cuts themselves, and leave our fiscal situation in even worse shape than before. We should reject this reckless budget plan and instead work to make the responsible choices that the American people expect.

EXPIRING TAX PROVISIONS

Mr. BAUCUS. Mr. President, the Senate is wrapping up legislative business shortly, but there are a few expiring tax provisions that have unfortunately not been extended yet. Chief among them is the protection from the onerous alternative minimum tax, or AMT. Both the higher exemption level and the protection for personal nonrefundable credits expire on December 31, and because of this, 17 million taxpayers face a tax increase next year if we fail to act. Further, a great number of U.S. businesses rely on important tax credits, such as the research and development tax credit and the work opportunity tax credit, both of which expire at the end of the year. This is not the first time this unfortunate situation has occurred, but it is my hope and intention that as soon as the Senate reconvenes next year, that we would take up these items and ensure that they are extended without any intervening lapse. Is that also the intention of my good friend from Iowa, Chairman GRASSLEY?

Mr. GRASSLEY. I thank you, Senator BAUCUS for raising the issue. Providing relief from the alternative minimum tax for millions of American families is critically important. The alternative minimum tax is badly in

need of reform and I know he is anxious to work with me on that important task. Until such time, we must provide annual relief to prevent further expansion of that tax's reach. I was proud that we were able to accomplish that objective as part of the tax reconciliation bill that passed the Finance Committee and the Senate at the end of November. I remain committed to seeing that AMT relief enacted into law. In addition, we should act quickly on other expiring tax provisions to provide simplification and certainty for individuals and businesses, alike.

Mr. BAUCUS. I thank the Chairman for his statement. I look forward to working with him to pass legislation as quickly as possible to provide a seamless extension of these provisions. This will ensure the fewest disruptions for taxpayers and administrative problems for the IRS.

Mr. HATCH. Mr. President, I rise today to express my support for the budget reconciliation bill conference report. As I have stated here during the different stages of debate on this year's budget, the most notable thing about this reconciliation bill is not the size of the reduction of the spending growth but rather the fact that it effectively takes the foot off the accelerator of spending growth and begins to touch on the brakes.

But to get us there, the conferees had to make some hard choices. I will be frank—I would prefer that we pass a bill similar to the one the Senate passed in November. That bill met our budgetary goals, and it struck the right balance. The conference report changes some social programs, and I understand the concerns many throughout Utah have expressed about how these changes will impact care.

That is why I spoke with Health and Human Services Secretary Michael Leavitt last night to discuss how this bill might affect social services in Utah. His assurances that the budget bill will not hurt our more vulnerable citizens were key to my decision to support S. 1932. Secretary Leavitt, who spent more than a decade serving as Utah's Governor, also committed to maintaining a watchful eye over implementation of this law to make sure that all Utahns' interests are protected.

So despite this, my paramount concern was that we act now to curb the growth in entitlement spending because it threatens every one of our children and grandchildren with an unbearable tax burden. This conference report marks the beginning of a much needed change—a change that must occur if we are to gain control of the fiscal future of this country. As many of my colleagues have pointed out, this conference report, if enacted, will represent the first time since 1997 that we have been able to reduce spending growth in entitlement programs.

The conference report before us includes a reduction in Federal outlays totaling almost \$40 billion over the

next 5 fiscal years. This, I am pleased to see, is nearly \$5 billion more than the Senate version of the bill that we passed last month. While I am certainly not happy with all of the individual changes in the conference report, I do like its direction toward more savings growth.

One reason I am so anxious to turn the corner in slowing spending growth on these entitlement programs is that the long-term projections for Federal spending on the three largest entitlement programs—Social Security, Medicare, and Medicaid—are truly alarming. In fact, a new report released last month by the Heritage Foundation states that fully funding these three programs will force Federal spending, as a share of GDP, to increase from today's level of 20 percent to almost 33 percent by 2050.

Moreover, according to the report, the cost of these three programs alone could jump from 8.4 percent of GDP today to 18.9 percent of GDP by 2050. Failing to curb the growth in these programs leaves us with three very unattractive and dangerous alternatives. The first would be to raise taxes dramatically. As we know, such a move would choke off economic growth and leave us vulnerable to economic recessions which would exacerbate rather than help the problem.

The second alternative is equally untenable—eliminate all other spending, eventually to include all discretionary spending. This, of course, is absurd since our defense, homeland security, and other vital spending is included in this category. The final alternative is to continue to allow the deficits to continue to build up as we try to keep on financing the growing debt with loans from other countries.

Therefore, our only real choice is to begin to slow down the growth in these programs. This conference report does start us on this path.

However, I acknowledge this conference report is far from perfect. It retains some flaws from the Senate version of the bill, and it came back from conference with some new flaws.

That being said, I believe this legislation is a step in the right direction. The Medicare provisions are more in line with the Senate version, and overall it targets Medicare's resources to better serve our seniors and disabled. The conference report ensures that beneficiaries don't lose their doctors because of budget cuts, and it expands services while making significant budget savings in noncritical areas.

While I do not agree with everything in this bill, I am pleased that the legislation restores the stabilization fund for the Medicare Advantage regional PPOs and allows the Medicare Part B penalty to be waived for international missionaries. It also will expand the Program of All Inclusive Care for the Elderly, PACE, to beneficiaries living in rural areas. PACE offers alternative services to individuals who may need nursing home care but want to live at

home if possible. This provision will provide another important choice for long-term care services for beneficiaries in rural areas. I filed all three of these policies as amendments when the Finance Committee considered the budget reconciliation bill.

For Medicare beneficiaries this legislation encourages preventive care for seniors and the disabled. Some of the important provisions in this area include the following: preventive screening tests for abdominal aortic aneurysm; exemption for colorectal cancer screening tests from the Medicare deductible; a 1.6-percent update to the composite rate for end stage renal disease, ESRD, services in 2006; and an expansion of Medicare reimbursement for services at federally qualified health centers, FQHC, by allowing them to provide diabetes self-management training services and medical nutrition therapy services.

In addition, this legislation makes needed reforms to home health payments in order to reduce disparities in provider payment and improve quality and transparency. First, the bill calls for a 1-year, 5-percent add-on payment for home health agencies that serve rural beneficiaries which will help many home health agencies in Utah. Rural home health agencies have much lower Medicare margins than urban home health agencies, and as a Senator who represents a primarily rural State, I believe that this needs to be addressed. The legislation freezes home health payments in 2006. In its March 2005 report to Congress, the Medicare Payment Advisory Commission recommended this freeze in home health payments because Medicare pays home health agencies approximately 17 percent more than it costs agencies to provide home health services. Finally, the legislation also provides financial incentives to home health agencies that report quality data beginning in 2007.

One of the most important provisions in this legislation protects physicians from a 4.4-percent scheduled reduction beginning on January 1, 2006 and, instead, allowed the 2005 payment rates to continue through 2006. I am still committed to fixing this problem once and for all, and I hope that we may accomplish this in 2006 since this issue will need to be addressed once again since physicians are estimated to continue to receive negative cuts of approximately 5 percent from 2006 to 2011. Congress needs to enact a long-term solution as quickly as possible.

With regard to therapy services, for years Congress has worked to find a permanent solution to the problem of overutilization of therapy services. Although I have consistently supported a moratorium on therapy caps, this bill leaves a January 2006 expiration of the moratorium in tact, and I am committed to continue encouraging my colleagues to reinstate this important moratorium.

Now, let me turn to Medicaid. This has been a tremendously successful

program but also a very costly one. We have a responsibility to address the dramatic growth in spending, but I was not happy that some of the key provisions have not been considered thoroughly by the Senate. Given expressions of concern voiced to me by my constituents, I only reluctantly give my support to the overall measure.

I would have preferred the Senate language, which did not change the law with respect to beneficiary eligibility. That is why I will be working closely with Secretary Leavitt and other Cabinet-level officials to ensure Utah is treated fairly as this law is implemented.

I would like to take a couple of minutes to share my thoughts on some aspects of the Medicaid portion of this bill. One issue that was debated in both the House and the Senate was the real asset transfer rules. Under current law, Medicaid asset transfer rules are easily skirted—courses are offered to teach attorneys how to circumvent the law. This is plain wrong. The reforms in the Deficit Reduction Omnibus Reconciliation Act will make it more difficult for these transfers to occur and will allow more Medicaid resources to go to those who are in genuine need.

Our current asset transfer policy is flawed. The policy not only allows for exploitation, it encourages it. The current statute has loopholes that allow wealthy seniors to qualify for Medicaid. Let me make one point clear—Medicaid exists to protect the most vulnerable, not the most wealthy.

We need a fair, equitable policy. We need to protect the Medicaid Program for those who need it most. The legislation before us today addresses this situation by closing the loopholes in Medicaid. First, it prevents seniors from intentionally protecting their assets—people should not be allowed to hide their money in order to receive Medicaid nursing home coverage. Second, the bill changes the lookback period as well as the penalty period. Today, an older American can shelter half of his or her assets the day before applying for Medicaid.

The conference report starts the penalty period clock when a senior applies for Medicaid, and the lookback period is changed from 3 years to 5 years. Currently, an older person will face a penalty if assets are transferred for the purposes of qualifying for Medicaid within 5 years of applying for Medicaid. This provision significantly strengthens the asset transfer policy.

The new law does not allow an individual with more than \$500,000 in home equity to be able to qualify for Medicaid. It does provide State flexibility to increase the cap to \$750,000. This is sound policy. Those with home equity over \$500,000 should not take Medicaid money from those for whom the Medicaid Program was designed: low-income children, pregnant women, and individuals with disabilities. Also, the policy only applies to individuals. It does not apply to applicants who have

a spouse or a dependent child at home. In theory, the State is supposed to be able to put a lien on that home anyway.

Finally, seniors who have a hardship can apply for a waiver. The policy strengthens protections for seniors seeking an undue hardship waiver beyond current law or the Senate-passed version. I don't want to make it harder for people who really need the Government's help. But I do want to prevent seniors from intentionally taking advantage of the system. We need to protect Medicaid for those who need it most.

I discussed this matter in great detail with the Utah Medicaid Director and was assured that, in my home State of Utah, individuals who are under suspicion for transferring assets inappropriately are always given the right to appeal if their request for Medicaid coverage is in question. I understand there are several States, such as Utah, who handle this matter in fair and thoughtful way.

The budget reconciliation conference agreement also makes existing Federal reimbursement rates for drugs more accurate. It makes the average manufacturer price, AMP, of drugs available to the public so that pharmacists and wholesalers will get lower prices through greater competition, and excludes prompt pay discounts paid to wholesalers from the new pharmacy reimbursement rates.

AMP is the average price at which manufacturers sell their drugs to wholesalers, but starting in 2007, the Federal Government will not pay more than 250 percent of the AMP of the lowest cost version of a generic drug. Under current law, the Federal upper limit is 150 percent of the lowest published price. The new payment rates are based on the existing rules governing generic drugs.

The AMP data will also be made available to States and the public. This will create more transparency and competition in drug pricing. CBO has estimated that transparency will help reduce drug costs by hundreds of millions of dollars. Competition and transparency will bring prices down for consumers and protect the taxpayer from needless waste.

The final bill also requires the Secretary to work with private companies that routinely monitor and track drug payment rates for private health plans. The Secretary will then be required to share this information, known as retail sales prices, with States. This will provide State officials with better information about actual market-based prices, such as the rates paid by the Federal Employee Health Benefit Plans pay for prescription drugs. All of this information will provide greater accountability and ensure that Medicaid is paying pharmacists fairly for all drugs, and I am pleased that these provisions were included in the legislation.

The Deficit Reduction Omnibus Reconciliation Act also contains important reforms that will provide Medicare beneficiaries, seniors, and the disabled with better options to manage their care. Under the Deficit Reduction Omnibus Reconciliation Act, States will now be able to provide home and community-based services as an optional benefit to seniors, the disabled, persons with a developmental disability, mental retardation, or a related condition. Coverage of these services will allow more individuals to receive better health care and other assistance. These services will also mean that more persons can remain in their homes, without needing to go into nursing homes. These reforms will help reduce spending by allowing individuals to receive the kinds of care they want, in the settings they prefer, at prices far below what Medicaid usually pays for nursing home care. In addition, no one who currently is receiving care through an institution will be forced to leave that institution in order to receive community-based care.

The final conference report also will allow every State to establish a Long-Term Care Partnership Program. Long Term Care Partnership Programs allow individuals to protect a portion of their assets from Medicaid recoveries if they purchase long-term care insurance. Currently only four States (California, Connecticut, Indiana and New York) are allowed to have these programs. By expanding access to these programs, the new law will help create incentives for people to purchase long term-care insurance. Encouraging the purchase of long-term care insurance will mean that more people will be able to pay for their own nursing care, and fewer will have to rely on Medicaid as a safety net to meet their long-term care needs.

Another area that is addressed in this legislation is Medicaid beneficiary cost-sharing. There is a lot of misinformation about this provision, and I would like to explain this provision in more detail. Under current law, States may require cost-sharing but it is not enforceable. In other words, if a beneficiary does not pay his or her copayment, the health care provider is forced to absorb the beneficiary's copayment. This is why we have such difficulty encouraging providers to participate in the Medicaid Program. Many will not, and all Medicaid beneficiaries suffer as a result.

I believe that the conference report includes reasonable policy that allows States to ask beneficiaries over the poverty line to participate in the cost of their own care. Let me make one clarification—the House-passed legislation required States to impose cost-share requirements on beneficiaries with no income. I do not agree with that policy, and it is included in this bill.

A beneficiary who is above the poverty line may pay up to percent of his or her monthly income to the cost of their care, but that is only if the State

decides to impose additional cost-sharing requirements. And let me assure my colleagues that no state is required to impose cost-sharing requirements on these beneficiaries. I will add that even the National Governors Association support reasonable responsible cost-sharing. In fact, Governors testified before the Senate Finance Committee earlier this year and told committee members that they support this policy.

I am aware that substantial concerns have been raised about the provision permitting States to provide Medicaid coverage to children under age 19 through "benchmark" or "benchmark equivalent" coverage. In short, some fear this language might abrogate the right of those children to receive Early Periodic Screening, Diagnostic and Testing, EPSDT, benefits.

For the benefit of my colleagues, I will ask unanimous consent that a statement just issued by Centers for Medicare and Medicaid Services Administration, Mark McClellan, M.D., Ph.D., be printed in the RECORD.

As Dr. McClellan has made quite clear, children through age 18 will continue to receive EPSDT. It is my hope this assurance will make many child advocates more comfortable with this bill.

With regard to the welfare portion of the conference report, I was disappointed to see Congress's efforts to reduce the budget contain limitations on welfare, childcare, and child support policy. These vital programs should have been reauthorized through the normal legislative process, not tucked away in a protected budget reconciliation bill which is designed to reduce the Federal deficit. The welfare, childcare, and child support language included in the budget reconciliation bill has almost nothing to do with reducing the deficit and everything to do with changing the rules of these important programs without proper legislative scrutiny or debate.

While I am completely frustrated with the Senate's inability to reauthorize the Temporary Assistance for Needy Families, TANF, legislation using the normal legislative process, I do not believe it is in the best interest of the participants of these programs to include sweeping policy changes in a bill designed to reduce the deficit.

However, I am appreciative of Chairman GRASSLEY's efforts to ensure that childcare funding was increased. Although the increase is limited to \$1 billion over the next 5 years, I am hopeful we will be able to secure even larger increases in childcare funding in the near future. Providing quality childcare to low-income families is crucial when we are scrambling to help families become self-sufficient, and I am committed to ensuring the Federal Government continues to help these children and families.

As well, I am appreciative of the chairman's efforts to secure 3 years of supplement TANF grants. The State of Utah has been a large beneficiary of

these grants, and as we work to meet the stricter TANF work requirements outlined in this bill, we will continue to have supplemental grants from HHS to help us train and prepare our TANF recipients.

Now I would like to discuss the portion of the deficit reduction conference report that addresses the Continued Dumping and Subsidy Offset Act, which is commonly referred to as the Byrd amendment. The Byrd amendment amended the Tariff Act of 1930 to require that duties, collected as a result of antidumping and countervailing duty laws, be distributed to the affected entities. At the time it was introduced, I supported this measure as a commonsense proposal.

However, since that time, the World Trade Organization has allowed our trading partners to impose tariffs on various U.S. goods, and the Byrd amendment has gone from a commonsense solution to an impediment to U.S. companies' ability to sell their goods abroad.

First, I must reemphasize my strong support for laws that not only make trade free but fair. Accordingly, I have spoken directly to the Secretary of Commerce, Carlos Gutierrez, and United States Trade Representative, Ambassador Rob Portman, about the vital importance of vigorous enforcement of our trade laws.

Though I have never and will never advocate modifying our laws because of outside pressure, American companies and employees in Utah and all over the country have come to me and asked for my help in repealing the Byrd amendment. Currently, the United States is negotiating, as part of the Doha Round talks, a new trade regime in which international markets would become even more open to U.S. goods and services. If completely successful, the Institute for International Economics estimates that American households could gain as much as an additional \$5,000 per year. If today's international trade barriers were reduced by just a third, the average American family of four would enjoy \$2,500 per year in additional income, according to a University of Michigan study.

Freer trade helps more than just Americans. The poorest countries stand to gain considerably. According to a Center for Global Development study, a successful conclusion to the Doha Round would result in an additional \$200 billion flowing to developing nations, reducing poverty and economic hardship. Not to mention, the Institute for International Economics estimates that trade liberalization over the last 50 years has brought an additional \$10,000 per year to the typical American household.

In order to achieve our objectives in the Doha Round, many of our trading partners will be required to make substantial concessions on import duties and subsidies. However, those who oppose our noble goals could use our refusal to repeal the Byrd amendment as

a means to hinder our negotiating strategy. Simply put, these opponents will state that if the United States cannot follow the existing rules of trade, rules which our Nation largely crafted and implemented, how can we be trusted if most trade barriers are repealed?

Therefore, as I said before, I admire the Byrd amendment's commonsense approach, but I believe under the present circumstances the time has come for this legislation to be modified, in order to strengthen the ability of our Nation to achieve the larger goal of bringing down foreign barriers to U.S. goods and services.

Therefore, I support the changes incorporated in the Deficit Reduction Conference Report. This legislation achieves a fair compromise by repealing the Byrd amendment; however, at the same it would permit Byrd amendment payments to U.S. companies through October 1, 2007. This should provide an adequate time for companies to plan for the future while preserving a strong negotiating position for U.S. interests.

Despite its shortcomings in some areas, this reconciliation package contains several very important provisions in the intellectual property area that benefit the Nation and my home State of Utah.

I am pleased that a hard date for the transition from analog to digital television was included in the final package. This important provision will free up crucial radio spectrum that is currently occupied by broadcaster's analog television signals. Although the digital transition inevitably resolves a number of difficult issues, it also has several important benefits. It is my understanding that over \$7 billion of the proceeds from the eventual auction of spectrum licenses is expected to be used for deficit reduction. Perhaps more importantly, the transition will provide both the necessary funding and available spectrum for public safety officials and emergency personnel across the country to upgrade their communications infrastructure. And, finally, a portion of the anticipated proceeds will be used for various programs intended to minimize any negative financial impact on consumers, rural broadcasters, and others affected by the transition.

I am particularly pleased that a provision setting aside a small fraction of the proceeds to help fund the upgrade of television translator stations was included. This provision responds to a serious concern that I have had regarding the financial viability of upgrading the network of translator stations across Utah that are used to serve many of the rural communities in my home State. In the context of the debate over the digital transition, it came to my attention that upgrading these translators, which retransmit television signals to communities beyond the reach of the primary broadcast towers, would impose a substantial—and dispropor-

tionate—financial burden on broadcasters that were primarily located in mountainous western States. Due to the vast area covered by the Salt Lake City television market and the high concentration of translator stations in the State, there was a substantial concern that upgrading the cost of these translators would be prohibitive. The approach taken in the reconciliation package is similar to the proposal contained in S. 1600, which I cosponsored with Senator SNOWE, and I would like to take this opportunity to thank Senators SNOWE, STEVENS, and INOUE—and their respective staffs—for their help on this issue.

As with other portions of this bill, there are aspects to the education provisions I support and others I don't. However, I am pleased overall with the significant amount of savings while still allowing for spending on important programs.

The major area of savings comes from the reduction in corporate lender profits on student loans, in the form of a requirement that lenders rebate the Federal Government the difference between the borrower rate and the lender rate when the borrower rate exceeds the lender rate. In addition, guaranty agencies are required to deposit 1 percent of their collections in the Federal Reserve Fund; there is a reduction of borrower origination fees by .50 percent for each award, and there is an elimination of the recycling of 9.5 percent loans.

Even with these much needed savings, I disagreed with fixing the interest rate for undergraduate and graduate nonconsolidation borrowing at 6.8 percent, preferring a choice of a fixed or variable rate.

However, I am very pleased with increasing grant aid for students studying math and science, named SMART grants. I was involved in the original creation of the SMART Grants Program through my work on the HELP Committee. These grants will give first year students awards of \$700 and \$1,300 for second year students, provided they have completed rigorous programs at the secondary level. Third and fourth year students may receive up to \$4,000 in grant aid if they major in math, science, or foreign language.

I know these programs will give Utah students, particularly those of low or moderate means, greater access to a college education and will boost our local and national economy as we seek to meet the demands of the 21st century workforce.

Again, this legislation is not perfect. It is not a perfect answer to several of the social policy problems that confront our Nation. It is not a perfect answer to the growing Federal budget deficit either. It is not Draconian and it is not mean-hearted. This deficit reduction conference report is merely a good first step in stemming the tide of red ink that runs down the pages of the Federal budget, stealing taxpayer dollars to service a monstrous Federal

debt and robbing our children of a safe and secure financial future. For these important and self evident reasons, I support this bill.

I ask unanimous consent the statement issued by the Centers for Medicare and Medicaid Services Administration to which I referred earlier be printed in the RECORD.

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

STATEMENT BY MARK B. MCCLELLAN, M.D.,
PH.D., ADMINISTRATOR, CENTERS FOR MEDICARE & MEDICAID SERVICES

Questions have been raised about the new section 1937 of the Social Security Act (SSA) (as added by the Deficit Reduction Act of 2005) that permits states to provide Medicaid benefits to children through benchmark coverage or benchmark equivalent coverage. If a state chooses to exercise this option, the specific issue has been raised as to whether children under 19 will still be entitled to receive EPSDT benefits in addition to the benefits provided by the benchmark coverage or benchmark equivalent coverage. The short answer is: children under 19 will receive EPSDT benefits.

After a careful review, including consultation with the Office of General Counsel, CMS has determined that children under 19 will still be entitled to receive EPSDT benefits if enrolled in benchmark coverage or benchmark equivalent coverage under the new section 1937. CMS will review each State plan amendment (SPA) submitted under the new section 1937 and will not approve any SPA that does not include the provision of EPSDT services for children under 19 as defined in section 1905(r) of the SSA.

In the case of children under the age of 19, new section 1937(a)(1) is clear that a state may exercise the option to provide Medicaid benefits through enrollment in coverage that at a minimum has two parts. The first part of the coverage will be benchmark coverage or benchmark equivalent coverage, as required by subsection (a)(1)(A)(i), and the second part of the coverage will be wrap-around coverage of EPSDT services as defined in section 1905(r) of the SSA, as required by subsection (a)(1)(A)(ii). A State cannot exercise the option under section 1937 with respect to children under 19 if EPSDT services are not included in the total coverage provided to such children.

Subparagraph (C) of section 1937(a)(1) permits states to also add wrap-around or additional benefits. In the case of children under 19, wrap-around or additional benefits that a state could choose to provide under subparagraph (C) must be a benefit in addition to the benchmark coverage or benchmark equivalent coverage and the EPSDT services that the state is already required to provide under subparagraph (A) of that section. Subparagraph (C) does not in any way give a state the flexibility to fail to provide the EPSDT services required by subparagraph (A)(ii) of section 1937(a)(1).

Mr. BINGAMAN. Mr. President, across the country, more than 6 million children live with relatives, and of those, 4.5 million live with grandparents. A majority of relatives providing care for children are not part of the child welfare system. In fact, only a quarter of all relatives caring for a child receive either a foster care payment or another source of payment. Most relatives do not receive any Federal financial support, and sadly, nearly 20 percent of all grandparents raising their grandchildren live in poverty.

Unfortunately, the conference agreement on the Deficit Reduction Act of 2005 severely cuts Federal assistance to foster care funding and makes it significantly harder for relatives to provide care for a child. I believe this is a step in the wrong direction, and I oppose these cuts.

Kinship care is an important option for permanency for children in the child welfare system and often appropriate when adoption is not possible. Subsidized guardianship makes it possible for a relative to step in and care for a child. In my State of New Mexico, subsidized guardianship is available, and nearly 10 percent of children live with nonparent relatives. Grandparents and other relative caregivers are often the best chance for a loving and stable childhood for a child in their care, and it is important that we acknowledge their hard work and dedication.

I commend grandparents and other relatives who step forward to care for a child. Their efforts help keep children out of foster care and provide safe, permanent and stable homes, often at great personal sacrifice. Supportive programs like subsidized guardianship allow caring relatives to provide care that they may not otherwise be able to give, and help children exit foster care into the care of nurturing relatives. I would like to express my gratitude and appreciation for the invaluable care provided by relatives for children in need.

Mr. KOHL. Mr. President, I join many of my colleagues today in expressing sincere disappointment in the conference report to the budget reconciliation legislation. I could certainly echo the sentiments that we have already heard regarding the Medicaid and TANF provisions included in this conference report—two sections that will directly penalize hard working families, and prevent many from moving towards self-sufficiency. Or I could repeat the comments that this report represents not a compromise between the House and Senate bills, but an abuse of power that will harm rather than help, millions of families.

While I share my colleagues' dissatisfaction with this conference report, I would like to highlight a section that may have been overlooked. The conferees made interesting decisions in the area of child support—they chose to include provisions that would allow States to "pass through" child support payments to families, provisions that I have fought to pass for several years. Yet in the same conference report, they chose to make deep cuts to the Child Support Enforcement Program, cuts that may inhibit States ability from actually passing through those child support dollars.

I believe the inclusion of the child support "pass through" provisions is one of the few successes of this legislation. These provisions are similar to those included in S. 321, the Child Support Distribution Act. Senator SNOWE and I have worked together for the past

several years on this legislation, which allows States to "pass through" more child support collections to the families that need them, rather than send those dollars to the Federal Government.

Specifically, the conference report has three major provisions related to the Child Support Distribution Act. The conference report eliminates pre-assistance assignment rules—families applying for the Temporary Assistance to Needy Families program would no longer be required to turn over their right to child support that accrues before they are receiving assistance. In addition, the Conference Report gives states the option to distribute more child support to families who have left assistance. Finally, for families currently receiving assistance, it allows States to let families keep more child support, rather than sending it to the Federal Government.

These changes were included in the bipartisan, Senate Finance Committee-passed welfare reauthorization legislation. It is unfortunate, given the wide support for these provisions, that the cuts contained in this bill will place such a financial burden on the States that they will unlikely be able to actually pass through the funding to the families.

The original House bill included a 40-percent cut to Federal child support funding. Thus, it would seem that the \$5 billion cut included in the conference report before us is somehow less significant. This could not be further from the truth. According to the Congressional Budget Office, this conference report would mean that more than \$8 billion in child support payments would go uncollected over the next 10 years. I will say that again so that my colleagues are clear: \$8 billion in funds will not go to hardworking, single parent families; \$8 billion that is owed to these families, that they rely on to meet their children's needs.

These payments would go uncollected because the conference report retains a provision that 74 of my colleagues voted against last week. I offered a motion to instruct that asked conferees to reject the provisions in the House bill that would restrict the ability of States to draw down matching funds on child support incentive payments. In addition, I sent a letter to conferees that was signed by 49 Senators asking that this restriction not be included in the conference report.

I have heard some of my colleagues argue that this is simply closing a loophole, that this funding source was not what Congress intended. I say to my colleagues that this is not the case. The reforms made to the child support system in 1998 created the performance-based system that has been proven to be so successful. Since this system was put in place, States have doubled their collection rates and have significantly improved their performance on every other measure.

The changes in this conference report would undo these successes. In fact, the

cuts will actually drive up costs in other programs, such as TANF, food stamps, and Medicaid. That is why these cuts are opposed by the National Governors Association, the National Association of Attorneys General, and the National Conference of State Legislatures, among others.

It is highly ironic that the conference report gives States the option to pass through more child support to families that deserve it, while also passing on a financial burden that will directly restrict their ability to do so. This bill will hurt millions of families, and it should have been defeated.

Mr. LEVIN. Mr. President, we all know that times have been getting tougher for low- and middle-income working families. Compared to 5 years ago, more Americans now live in poverty, the median household income has dropped, and more live without the security of health insurance. Clearly, Congress should be adopting budget policies aimed at improving these troubling trends. But instead, this misguided budget reconciliation conference report would make things worse.

This legislation takes funds from important programs like Medicaid, student loans, child support enforcement, foster care assistance, and Supplemental Security Income for the elderly and disabled poor. The stated purpose of these nearly \$40 billion in cuts and harmful program changes is to trim the deficit, but we all know that these savings will not ultimately be used toward that goal; they are designed to pave the way for the \$50 billion to \$100 billion in new tax cuts that the majority will attempt to push through early next year. We should not be making cuts to vital services simply so the President and the majority can finance more tax cuts that mainly benefit the wealthiest among us.

Under this bill, families that rely on Medicaid will face significant increases in the costs for access to health care services and medications, which will lead many of our most vulnerable citizens to forgo needed care. The Congressional Budget Office, CBO, estimates that the increases in Medicaid copayments and premiums and the reductions in Medicaid benefits will total \$16 billion over the next 10 years. Also of particular concern to Michigan is a provision that eliminates the State's provider managed care assessment. When that provision goes into effect, it will cost Michigan \$280 million per year.

The conference agreement also makes things worse for those who use student loans. Despite already soaring education costs, this conference report cuts funding for student loan programs by \$12.7 billion over 5 years, nearly one-third of the total cuts imposed by this legislation. Most of these reductions are achieved by increasing interest rates and fees paid by students and parents. In the fight for global competitiveness, a highly educated workforce is one of America's best assets. It

is shortsighted to cut investments in education.

This legislation will make also substantial changes to the Temporary Assistance for Needy Families, TANF, program. The changes include imposing harsh new work requirements without providing nearly enough childcare assistance. The CBO estimates that States will need over \$12 billion in new funding over the next 5 years to maintain current childcare programs and meet the new work requirements by increasing participation in welfare-to-work programs. The conference agreement, however, includes just \$1 billion in childcare funding over the next 5 years. The shortfall means that many States will need to scale back childcare slots for poor working families not on welfare, forcing families to choose between lower quality, less stable childcare or not working at all.

Unfortunately, this conference agreement also contains a House provision that would repeal the Continued Dumping and Subsidy Offset Act, CDSOA, of 2000, despite an overwhelming 71 to 20 Senate vote instructing conferees to reject the provision. The CDSOA was enacted in 2000 to enable U.S. businesses and workers to survive in the face of continued unfair trade by allowing Customs to distribute duties collected on unfairly traded imports to those U.S. companies and workers injured by continued dumped and unfairly subsidized imports. I do not believe we should repeal this law, nor do a bipartisan majority of Senators.

Additionally, under this bill, Federal funding for child support enforcement will be cut about \$1.5 billion over the next 5 years. As a result, the CBO estimates that \$2.9 billion in child support owed to children will go uncollected over 5 years.

The hardships that will be caused by this legislation are significant and broad-reaching. Yet the three-part budget reconciliation package that includes this conference report will not even make a dent in our deficits. Both the House and Senate have passed tax reconciliation bills that cut revenues far more than this bill cuts spending. As most grade school math students can tell you, when you bring in less money than you spend, you will end up in trouble. And that is where the President's tax policies have put us today.

We have got over \$8 trillion in debt. Financing further tax cuts with debt is simply fiscally irresponsible. In the most recent fiscal year, we spent over \$350 billion just to pay the interest on our debt. That is 14 percent of the Federal Government's spending last year. We simply cannot afford to continue building up this massive debt.

One of a few positive aspects about this conference report is the inclusion of an extension of the Milk Income Loss Compensation, MILC, Program, which was set to expire this year. Milk is Michigan's largest agricultural commodity, and the MILC Program has been essential in preserving our dairy farms in times of dairy price declines.

Mr. President, the reconciliation process is supposed to bring Government programs and tax policies passed over the years in line with the broader budgetary goals of the Congress. It should be a fiscal sanity check, making sure our policies support our goals. At a time when one in six American children lives in poverty, our budget goals should be to help, not hurt, the neediest among us. Our goals should also focus on reducing the mountain of debt that we are leaving for our children and grandchildren. Unfortunately, by cutting vital programs to finance tax cuts that mainly benefit the wealthy, this legislation moves us in the wrong direction on both counts. I will oppose this conference report.

Mr. ALEXANDER. Mr. President, today the Senate approved the Deficit Reduction Omnibus Reconciliation Act of 2005. I voted in favor of this bill because it is the first comprehensive deficit reduction legislation approved by the Senate since 1997, and it will save \$39.7 billion over the next 5 years. This is an important first step toward containing the unsustainable growth of entitlement programs and putting us on the road to a balanced budget.

None of us is happy about everything that is included in a big bill like this. One area in which I am disappointed is language reauthorizing the welfare reform program, also known as Temporary Assistance for Needy Families, TANF. This is a program that needs to be reauthorized on a more permanent basis, instead of the temporary extensions that have been approved year after year.

In thinking about reauthorization of welfare reform, I believe three things need to happen. First, States need more authority to decide what will work best in their State. Second, States need more flexibility to allow educational activities to count toward work hours. I have been told by TANF offices in Tennessee that if they can get TANF recipients into school, they do not see them on the welfare rolls again. Third, we need more money for child care. If the TANF program is going to require poor parents—including single mothers—to work, these parents must have safe child care for their children. Last year, I supported—and the Senate passed by a vote of 78 to 20—an amendment to increase child care funding by \$6 billion. This bill only includes a \$1 billion increase for child care.

Unfortunately, the welfare reform language included in the deficit reduction bill falls short in all three of these areas. I would have preferred that the Senate hold a full debate on TANF reauthorization, with Senators able to offer amendments. However, I understand that the Senate conferees felt that the deficit reduction bill represented the best chance of reauthorization after years of delay and temporary extensions.

In the coming year, I look forward to working with Chairman GRASSLEY and

other colleagues to craft legislation that addresses some of these shortcomings and continues the successful transformation of the TANF program that began with enactment of the landmark welfare reform law in 1996.

Mr. FEINGOLD. Mr. President, this budget reconciliation package that arrived from the House-Senate conference will leave our country's budget and the American people in a far worse state of affairs than they are today. I am disappointed that congressional leaders have chosen to use the budget reconciliation process to achieve controversial goals that will make life harder for those Americans in greatest need of help, and I will oppose this legislation.

As I stated when this bill passed the Senate, using reconciliation to push through legislation that will worsen our budget deficit and add billions more to the mountain of debt our children and grandchildren will have to pay is a perversion of a process designed to expedite measures to reduce the deficit.

Reconciliation was intended to help facilitate the enactment of measures to reduce the deficit and therefore secure the Nation's financial stability. It is ironic that it should be used to enact measures that not only aggravate our budget deficits and increase our massive debt, but also makes cuts to programs that help many Americans maintain their financial security.

There are substantial and unprecedented changes to the Medicaid program included in this bill. Rather than cut the wasteful, \$10 billion Medicare Advantage slush fund that gives superfluous payments to insurance companies, conferees have chosen to cut benefits and shift costs onto the poorest in America. Usage of Medicaid is expected to drop significantly, forcing beneficiaries to become sicker and eventually utilize emergency room care. In fact, the Congressional Budget Office estimates that 17 million people will pay more for health services under Medicaid over 10 years, half of whom would be children. Is this how we want to take care of the needy in our society? This will be harmful not only to those in need of health care, but also to our hospitals, which will be burdened with more patients who are unable to pay. This shift of health care costs from the Government to Medicaid beneficiaries will only cost our hospitals and taxpayers more money in the long run—and this is being done under the guise of saving money and balancing our budget.

Perhaps the most worrying changes to our health care programs are the statutory changes to Medicaid and Medicare. This conference agreement institutes systemic limitations on services that will have effects for decades to come. Included in the bill are provisions that will force unlimited charges onto the poor for their health care where previously there were protections for those in near poverty. As if

loss of these protections were not enough, this will also allow health care providers to deny health care to people too poor to afford these charges.

This legislation also freezes Medicare payments to home health care providers. Home health is the most cost-efficient and comfortable way to provide long term care. By freezing home health care payments, access will drop, and many of the sickest in our country will be denied this option.

In addition to cutting into people's health care, this report cuts into welfare and child care funding on which many American families depend. Last week, the Senate passed a motion to instruct conferees that urged welfare reauthorization to be removed from the budget package. I voted for this motion, which passed overwhelmingly. Despite the success, the House chose to include welfare reauthorization anyway. This was done under the radar in a move that was largely unseen by people who will be affected by the changes. And the changes are significant. This reauthorization represents the largest change in welfare policy since 1996, and it will impose expensive new work requirements on states with no additional funding provided. So those on welfare will be working more hours, and what will they do with their children? Child care funds have been cut by \$1 billion in this bill. This is \$7.4 billion less than CBO estimates to be the cost to states of meeting the new work requirements, and more than \$11 billion less than what states will need to ensure that their current child care programs can stay afloat through all the additional changes in the budget package. These are unconscionable cuts to programs that serve as safety nets for the most vulnerable.

I am also deeply troubled that almost one-third of the savings in the budget reconciliation bill come at the expense of the student loan program. I regret that a portion of the savings within the student loan program is achieved by increasing fees paid by student and parent borrowers. While I may support provisions in this agreement that eliminate unnecessary subsidies for lenders, the money saved through this elimination should go toward making college more affordable and increase grant aid such as Pell Grants. I regret that this money is not funneled back towards increased aid for America's students.

This agreement also increases the maximum subsidized loan amounts that first and second year students can borrow and increases the maximum amount of unsubsidized loans that graduate students can borrow. While increasing loan limits will help students cover the costs of their education, I find it disheartening that we as a Congress are pushing more of a financial burden on these students as tuition rates around the country increase. Rather than cutting money from the student loan program and requiring students to borrow more and

pay more in fees, we should instead be working to find ways to make a college education affordable to all students.

While I welcome the addition of some new grant aid for Pell-eligible students, I have heard concerns from my constituents in Wisconsin that the requirements accompanying the increased aid will make the program difficult to administer and could exclude many of the Pell-eligible students from receiving this aid. One requirement for freshman and sophomore Pell-eligible students to receive this aid is the condition that the student must have completed a "rigorous secondary school program". Under the agreement, the Secretary of Education determines whether or not the student has fulfilled that requirement. What is not clear, however, is how the Secretary will actually measure which programs are deemed rigorous and therefore which students will receive the aid. I am concerned that students who attend disadvantaged schools will not be eligible for the aid under the wording in this agreement.

Another troubling aspect of the new grant aid is the requirement that students attend school full-time during their first year of college. This provision would eliminate many Pell-eligible students who attend school part-time and work part-time. Again, I think this sends the wrong message to our youth who are considering attending college and attempting to finance their education.

We can do better for young Americans in Wisconsin and around the nation by working to increase aid in an inclusive manner and working to make a college education more affordable to all. These cuts to the student loan program are another reason that I will vote to oppose this conference agreement.

If there is a silver lining to this sham of a budget reconciliation package, it is the conference committee's decision to retain the Senate's extension of the Milk Income Loss Contract, MILC, program and reject cuts to Food Stamps. Even this support for these two vital programs is tempered by short-sighted cuts to other agriculture programs such as the limits placed on conservation programs that assist farmers in their stewardship of the land.

I will not support using reconciliation to enact harmful, controversial policies that will worsen budget deficits and increase the debt. No matter how many pieces you slice it into, the reconciliation instruction in the budget resolution will leave us with bigger deficits, not smaller ones.

This budget sends the message that those living in poverty are Congress' lowest priority; and this reveals a profound lack of empathy and kindness for the most defenseless in our society. When Congress and the White House become serious about cleaning up the fiscal mess they created, and when they are willing to spread the burden of that clean up across all programs—de-

fense and non-defense discretionary programs, entitlements, and the spending done through the Tax Code—I am ready to help. But so long as we see reconciliation measures that cut aid to those most vulnerable, and cuts to Government spending is done on the backs of the poor, I must oppose them.

Mr. SPECTER. On a close call I have decided to vote for the conference report on the reconciliation bill because the benefits slightly outweigh the disadvantages in evaluating the tradeoffs.

I start with the proposition that the savings of \$40 billion over 5 years in the conference report is closer to the \$35 billion passed by the Senate than to the \$50 billion cuts passed by the House of Representatives. This deficit reduction amounts to less than one-half of 1 percent of total Federal spending, an estimated \$13.8 trillion over the next 5 years.

Medicaid was a special concern where the conference report of a \$4.8 billion reduction was much closer to the Senate figure of \$4.3 billion than to the House cut of \$11 billion. While I would have preferred targeting different reductions, the conference report does give the States flexibility in the use of Medicaid funds so that the States will be in a position to ameliorate hardships resulting from the proposed reductions.

It was important that the conference report included \$1 billion in additional budget authority in fiscal year '07 for the Low Income Home Energy Assistance Program, LIHEAP, which the Congressional Budget Office estimates will result in \$625 million in outlays as we approach the fiscal year '07 winter season which is likely to be very harsh. It is anticipated that there will be an additional \$2 billion for fiscal year '06 added to LIHEAP in the Defense appropriations bill although that is not a certainty because the Senate will not act on that bill until after the vote on reconciliation.

I am further encouraged by the elimination of some \$700 million on cuts for the Food Stamp Program and the rejection of the House passed \$5 billion reduction in child support enforcement to aid local governments which finally came in at a \$1.5 billion cut.

After visiting many first responders around the State, I was pleased to see the reconciliation bill add \$1 billion for first responders who will be very important in any prospective emergency situation.

I was also pleased to see the one year moratorium on inpatient rehabilitation hospital provisions which require 50 percent of Medicare beneficiaries to meet certain ailment criteria for 2 years.

I was opposed to the repeal of the Continued Dumping and Subsidiary Offset Act, CDSOA, program but there was finally a compromise to give the program 2 more years.

Of special significance to Pennsylvania was the addition of \$998 million

for the Milk Income Loss Compensation, MILC, Program which is very important to the financial status of nearly 9,000 dairy farms in the State.

In making judgments on legislation like the reconciliation bill, we are really faced with a Hobson's choice. None of the options is desirable. We are constantly choosing among the lesser of the evils.

In the overall context of discretionary spending which is involved in the reconciliation bill and in the appropriations bill for Labor, Health and Human Services and Education, there are palpably insufficient funds available for such domestic programs. As chairman of the Subcommittee on Labor, Health and Human Services and Education, it was my responsibility to structure legislation that came within the allocations approved by the Budget Committee and Appropriations Committee.

With a 1-percent cut at the outset and another projected one percent across the board cut and the failure to keep up with inflation, the subcommittee sustained a cut in real dollars approaching \$7 billion. At the conference on the bill for the Departments of Labor, Health and Human Services, and Education, I said publicly that I would not support the bill unless my vote was indispensable for its passage. If the bill is not passed, we face the alternative of a continuing resolution which will be \$3 billion less than the bill, so there is no alternative, as a matter of basic arithmetic, but to support the bill.

I have already put my Senate colleagues on notice, including the leadership, that I will not support next year's budget unless there is adequate funding for domestic discretionary programs with special emphasis on Labor, Health and Human Services, and Education. I will also work to correct any inequities or hardships which result from the reconciliation bill.

Mr. WYDEN. Mr. President, I cannot support the devastating cuts to health care that are in the budget reconciliation conference report. I have fought to slow health care spending, but that is not what is in this conference report. This conference report slashes and bums the health care countryside like the barbarians descending on Rome. This conference report is not about reform or creating a decent health system for the poor and for seniors—it is about dismantling the system as we know it.

For starters, the Senate-passed bill increased drug rebates so that Medicaid beneficiaries would get better prices on their drugs. The Senate bill increased the minimum rebates that drug manufacturers are required to pay the Medicaid Program for drugs. The Senate package also contained a provision that would have expanded the rebate to include managed care drug plans. None of these improvements, which would have produced savings of \$10.5 billion over 10 years and have

helped ensure Medicaid participants get better prescription drug prices, is included in the conference report.

The conference report reopens the Medicare Modernization Act, MMA,—not to make improvements in the drug benefit but to push those with a little more income to pay higher Part B premiums sooner. It seems to me that given the confusion, the unhappiness, the need for more and better counseling for seniors on their choices, and the need to assure cost containment in the Part D drug benefit, you should have gone farther than what is in the product before us and made real improvements. One improvement that won a majority of 51 votes on the Senate floor was an amendment I offered with Senator SNOWE to allow Medicare to use its purchasing power to benefit seniors. Giving Medicare that power would have produced a real benefit for seniors, but that is not included here. “

The home health cuts in this conference report will hurt a service that is vital to seniors. The conference report freezes home health payments for a year. Home health care has been demonstrated to be cost effective alternative to institutional care in both the Medicare and Medicaid Programs. In Oregon, what is proposed here will compound the negative impact of other cuts. Since 1997, when Congress first enacted cuts in home health, Oregon has lost 30 home health agencies. Oregon's home health agencies' profit margins are already at a negative 21.75 percent, and 33 of 60 home health agencies are in rural areas. I fear what will happen to Oregon's seniors when home health agencies' payments are frozen, but their costs keep going up.

The conference report increases copayments and premiums for the poor. I happen to believe that everyone should pay something on the spot for care unless they destitute, but the increases required here will force people who can get care today to forgo care tomorrow. Oregon has learned from experience in this area. When Oregon instituted strict copayment and premium payment policies 55,000 people dropped off Medicaid, and most of those were people with chronic health problems, like high blood pressure and diabetes. The reconciliation bill says States can increase substantially the copayments that many Medicaid beneficiaries are required to pay to access health services and medications. Sure, there will be savings, but they will be achieved because people just won't get care or just won't seek care. That is not, in my view, good public health policy, and completely undermines the purpose of Medicaid.

The conference report makes it harder for people to qualify for Medicaid long-term care. The conference report embraces the House provisions that restrict eligibility for Medicaid long-term care services and squeeze more savings out of those who need Medicaid. These provisions are far more onerous than the Senate passed bill, cast-

ing a wide net that will force every applicant to prove they had not transferred assets years before a disabling accident, stroke, heart attack, broken hip, or diagnosis of Alzheimer's disease simply in order to catch a few who intentionally transfer assets. These provisions even go after to middle-class Americans who make modest gifts to relatives like their grandchildren or who contribute to charity. How can anyone expect the average American who experiences a decline in their health years after having made a contribution to charity or given their grandchild some money toward a college fund to keep records on all of this? People won't be able to document many of the things they will be required to so that families or nursing homes will end up eating the money during the period in which their loved ones are not qualified.

Lastly, the conference report negates a court decision concerning disproportionate share payments. One of the lawsuits brought on this issue was brought by a number of Oregon hospitals. The result of overturning the decision in this case is that many hospitals will be harmed because those people who are part section 1115 waivers as an “expansion population” would no longer be counted for the purposes of calculating Medicare disproportionate share payments. This harms safety net hospitals.

There are many other reasons to reject this conference report, but the truly harmful health care provisions stand out starkly among a sea of damaging provisions. These, alone, are reason enough to reject this budget document.

Mr. CORZINE. Mr. President, I rise today to pay tribute to the 2½ million grandparents acting as primary caregivers to their grandchildren. The situation may occur as a result of a death in the family, a parent being away in the military, or the effect of abuse and neglect.

I commend grandparents and other relatives who step forward to care for these children, often at great personal sacrifice, providing an alternative to foster care and giving them a safe, stable home. Supportive programs like subsidized guardianship help children exit foster care into the permanent care of caring and nurturing relatives.

In my State of New Jersey, 8 percent of the children live with nonparent relatives. Grandparents and other relative caregivers are often the best chance for a loving and stable childhood for the children in their care, but their hard work and dedication often go unnoticed.

I am deeply saddened that today the Senate made cuts in the budget that would deprive so many kinship caregivers of critical Federal support. We should be expanding support for these caregivers, not reducing it.

Mr. President, today I offer my formal acknowledgement and deepest appreciation for the ongoing service of

these caregivers to our country and our Nation's most valuable asset, our children. I commend Generations United for their hard work in helping improve the lives of our children.

Mr. LEAHY. Mr. President, it has been said that a great test of morality is what people do when they have power. The fast-track budget reconciliation rules mean that the majority party can essentially do whatever it wants in a reconciliation bill if they act in lockstep. The reason is simple. Reconciliation debates in the Senate can only last 20 hours and the final version of the bill—a reconciliation conference report—only can be debated for 10 hours.

The majority party can even orchestrate a single meeting with conferees and immediately gavel it over almost when it starts, doing everything behind-the-scenes with no consultation and without sharing drafts of even sweeping policy changes in proposed major laws.

They not only can do such things, they just did them.

But let me start at the beginning. The President's budget proposal for programs under the oversight of the Judiciary Committee, issued in February of this year, called for a user fee on the manufacture and importation of gunpowder and other explosives of two cents per pound. The President requested that Congress enact these user fees—some called it a tax—to raise \$600 million over the next five years. Because of that White House proposal on gunpowder and other explosives, the budget resolution of the other body called for the Judiciary Committee to meet a target of \$600 million.

The Senate-passed budget resolution did not require any cuts to be made by the Judiciary Committee. This is the usual approach for the Judiciary Committee since the Committee controls few, yet very important, mandatory spending programs. For example, it is difficult to make significant reductions to mandatory programs, including: pensions for U.S. Judges; the Crime Victim's Trust Fund; salaries of U.S. Marshals; the Radiation Exposure Compensation Trust Fund; the Copyright Owners' Fund; the diversion control fee account of the Drug Enforcement Agency; border patrol salaries and expenses; the assets forfeiture fund for U.S. Marshals, and other sources. It is also difficult to increase Patent and Trademark Office fees or Copyright Office fees since there is not a compelling reason to do so.

In the end, in order to comply with the budget resolution, the Judiciary Committee of the Senate and the Judiciary Committee of the other body were required to come up with \$300 million in revenue or to make \$300 million in cuts.

The first casualty in this process was the White House proposal to tax gunpowder and other explosives. There was little support by the majority party for even making half the President's pro-

posed increases in the gunpowder tax. Many other alternatives were considered by the majority party.

Finally, a proposal was worked out in the Judiciary Committee that had my support, and the strong support of universities and many business leaders. For example, the National Association of State Universities and Land-Grant Colleges, Motorola, Oracle, Sun Microsystems, Texas Instruments, Intel, Microsoft, Hewlett-Packard, Qualcomm, for high-tech workers. The House also included immigration fees in their proposal.

However, after an aborted conference meeting which started at 9 p.m. last Friday night, and ended a few minutes later, what has the Majority party proposed as a compromise on the immigration fees? They came up with increasing fees on all citizens to get into federal courts and into bankruptcy court. The bankruptcy fee increase raises some ironies. The increase in fees for citizens trying to seek judicial relief narrows access to courts.

So we have gone from the President's proposal to tax gunpowder and other explosives and mysteriously ended up with a tax on citizens to get into federal court and bankruptcy court. Nevertheless, the majority party—as long as they are in lockstep together—has nearly absolute power in a reconciliation bill that enjoys only limited debate. History will record what they have done with that power.

What is especially unfortunate is that the version of the reconciliation bill reported out by the Senate Judiciary Committee, and approved by the full Senate by unanimous consent to the Budget Reconciliation Act, was a bipartisan amendment offered by Senator SPECTER and myself to allocate the extra \$278,000,000 in revenue provided from the Judiciary Committee markup on reconciliation to supplement funding that is demonstrably needed for the Bulletproof Vest Partnership Fund, programs authorized by the Justice For All Act, and a Copyright Royalty Judges Program.

The Judiciary Committee markup on its reconciliation title provided \$278,000,000 more in revenue than was mandated by the Budget Resolution instructions.

The Specter-Leahy Senate proposal approved by the full Senate—would have provided \$60,000,000 over the next five years for such initiatives as the Bulletproof Vest Partnership Program, to help law enforcement agencies purchase or replace body armor for their rank-and-file officers.

Recently, concerns over body armor safety surfaced when a Pennsylvania police officer was shot and critically wounded through his new vest outfitted with a material called Zylon, which is a registered trademark. The Justice Department has since announced that Zylon fails to provide the intended level of ballistic resistance.

Unfortunately, an estimated 200,000 vests outfitted with that material have

been purchased—many with Bulletproof Vest Partnership funds—and now must be replaced. Law enforcement agencies nationwide are struggling to find the funds necessary to replace defective vests with ones that will actually stop bullets and save lives. Our Senate Judiciary provisions would have funded those efforts. Unfortunately, the majority party dropped this language.

Our Senate Judiciary language—approved by the full Senate—also provided more than \$216,000,000 for programs authorized by the Justice For All Act of 2004, a landmark law that enhances protections for victims of Federal crimes, increases Federal resources available to State and local governments to combat crimes with DNA technology, and provides safeguards to prevent wrongful convictions and executions.

The Senate Judiciary Committee language also would have funded training of criminal justice and medical personnel in the use of DNA evidence, including evidence for post-conviction DNA testing. It would have promoted the use of DNA technology to identify missing persons. With these funds, State and local authorities would have been better able to implement and enforce crime victims' rights laws, including Federal victim and witness assistance programs.

State and local governments would have been able to apply for grants to develop and implement victim notification systems to share information on criminal proceedings in a timely and efficient manner. That language would have helped improve the quality of legal representation provided to both indigent defendants and the public in State capital cases.

Last, but certainly not least, our amendment provided \$6,500,000 over five years for the Copyright Royalty Judges Program at the Library of Congress. The Copyright Royalty Distribution Reform Act of 2004 created a new program in the Library to replace most of the current statutory responsibilities of the Copyright Arbitration Royalty Panels program. The Copyright Royalty Judges Program was supposed to determine distributions of royalties that are disputed and set or adjust royalty rates, terms and conditions, with the exception of satellite carriers' compulsory licenses. The Senate-passed language would have helped pay the salaries and related expenses of the three royalty judges and three administrative staff required by law to support this program.

Unfortunately, instead of raising more funds than we needed through widely supported increases in immigration fees and using them for these law enforcement and other programs we are instead going to increase the cost of access to federal courts and not fund any of these other priorities.

What may be the most troubling aspect of this abuse of power is that by substantially increasing fees to get

into federal courts the majority party raised \$253 million more in revenue than it needed to meet the reconciliation target. That means that all the above priorities in the Senate-passed bill including bulletproof vests for law enforcement, use of DNA technology to identify missing persons, and better enforcement of crime victims' rights laws could have been included at only slightly reduced levels of support.

The Republican Congress has missed a great opportunity in this abuse of power.

Mr. LEAHY. Mr. President, I also must express my opposition to the irresponsible domestic budget policy that has been forwarded by the majority party. The Senate is being asked to approve spending and budget bills that make deep cuts to programs that serve some of our country's neediest citizens. A time of year typically signified by wishes of goodwill towards all, it is difficult to be anything but outraged by this attack on critical components of our social safety net.

While many in the majority party have claimed that these bills are needed in order to reduce the deficit, with the knowledge that the leadership will make passing massive tax cuts benefiting some of the wealthiest among us a priority during the next session, this argument is simply disingenuous.

Instead of putting the country on the road to fiscal security, these bills expose the agenda of the majority that blatantly undermines American families and make clear where the priorities of the majority party lie. It is not with the family that relies on Medicaid for their health insurance, the student who, without student aid, cannot afford to attend college, or the mother who needs childcare so that she can go to work and put food on the table for her family. Nor is it with the single mother who has been abandoned without child support, the grandparent raising their grandchild on a fixed income, or the worker who has lost his or her job and is trying to be retrained.

No, the priorities of this majority party consistently lie with the powerful special interests and big drug companies. At every opportunity the Republican leadership has had to choose between supporting the American people or wealthy corporate interests, and they have sided with the corporate interests. Even by the standards of this first session of the 109th Congress, with the consistent erosion of consumer protections and support for American working families, these bills sink to new lows. As a result, dozens of health, education, labor, and human services programs will be cut and millions of people who rely on these programs will suffer.

Some of the most egregious policies in these bills expose the disparity between the treatment of big drug companies and those individuals who must rely on Medicaid as their primary form of health care. With numerous options on the table, the Republican leadership

chose to use the budget reconciliation bill to increase Medicaid co-payments and premiums, potentially eliminated federal standards for comprehensive Medicaid care, and created highly restrictive rules governing the transfer of assets for those who require care in a nursing home. Rather than do away with an unnecessary multi-billion dollar slush fund for insurers and drug companies, a small group of Congressional budget writers has chosen to freeze home health payments that ensure seniors are able to receive care in the comfort of their own homes.

In addition, this year's Labor, Health and Human Services, Labor-HHS, appropriations bill shortchanges our country's rural health programs. For instance, the bill eliminates five programs, including funding for Rural EMS and Health Education Training Centers, which are critical to the fragile network of the rural health care infrastructure.

One of the most disappointing aspects of the Labor-HHS Bill was the treatment of the National Institutes of Health, NIH. Not since 1970 has the NIH been provided an increase as small as the one contained in this bill. As a result, the vital medical research being done around the country, including in my home state at the University of Vermont, will suffer. The search for cures to innumerable diseases will be slowed and foreign competitors will be given a chance to exploit our shortsightedness.

Not only will this Congress take the step of cutting education for the first time in ten years, these will be the biggest cuts in history to student loan programs. A remarkable \$12.7 billion will be cut from student aid programs so that there will be no increase to the Pell Grant for an astonishing fourth year in a row. While making changes to eliminate loopholes in student loan lending laws, it appears that small lenders that specialize in providing comprehensive loan counseling to students have been given short-shrift. It appears that from almost every angle, students are assaulted by these policies.

For those education programs that are lucky enough to escape the knife, they will either be frozen or given minimal increases. I am curious to know how our Nation's schools can be expected to meet and exceed the standards set forth in the No Child Left Behind Act, when Congress is content to slash funding by three percent, leaving these programs to sink more than \$13 billion below their authorized levels. It has been almost 5 years since Congress passed this legislation, and we have consistently failed to meet our commitment to students, parents and teachers.

In what is becoming a hallmark of this Republican leadership, these conference reports are loaded down with controversial legislation approved by neither body. Despite bipartisan support for legislation approved by the

Senate Finance Committee earlier this year, Senators are being asked to approve a five-year reauthorization of the Temporary Assistance to Needy Families Program that would impose strict new working requirements with only nominal new funding for child care support. At the same time Congress asks single mothers to work longer hours, it cuts money for child support enforcement, dollars that are used to track down deadbeat dads.

Though it is a sad commentary on the current state of affairs when one of the lone bright spots for health and human service programs is that this bill includes no cuts to the Food Stamp program, I would be remiss if I did not mention my appreciation that this program remained unscathed. While protecting Food Stamps should be hailed as a victory, the Community Food and Nutrition Program, a modestly sized program that helps support anti-hunger advocacy groups, was not so fortunate. The work being done on the local levels by these groups is extremely important, and it is my hope that these funds will be restored next year.

The programs and services I have mentioned are but a few of the dozens of cuts that will negatively impact families across the country. As we usher out the final days of 2005 and the 1st Session of the 109th Congress, I am saddened that the last actions of this body will be to pass such harmful bills. After more than 30 years in the Senate, I know that we can do better and it is my sincere hope that when we return next year, we will reverse the wayward direction set by such policies and implemented by such legislation.

Mr. DODD. Mr. President, for most Americans, the holiday season is a time for giving. But for the Congress, it seems, the holiday season is also a time for taking, at least judging by the budget reconciliation legislation before this body.

Americans around the country, are concerned about their economic security. Whether they work in a factory or behind a desk, they are feeling increasingly vulnerable to the volatilities of the global economy. While American families are concerned about economic security, this budget reconciliation legislation would cut the safety net that protects them. The burden would fall most heavily on working Americans, in particular, on low-income parents and children, the elderly, and people with disabilities. Moreover, while supporters of this bill cite fiscal discipline as the rationale for making harmful cuts, when this bill is considered in combination with its companion tax reconciliation legislation, the total package would increase the deficit rather than reduce it. For these reasons I cannot support this funding cut reconciliation bill.

I have been a strong proponent of fiscal responsibility throughout my service in this body. I have introduced and supported pay-as-you go budget rules; supported the landmark Gramm-Rudman-Hollings budget process reforms;

and, during the 1990's, voted to balance the budget for the first time in 30 years. This budget reconciliation legislation, does not advance the cause of fiscal responsibility. Every penny saved in funding cuts and then some will be spent on new tax breaks, most of which will benefit a small number of affluent individuals who neither need nor seek such reckless largesse from their leaders in Washington. The Senate has already approved \$60 billion worth of tax cuts over the next 5 years, and the House has approved more than \$90 billion.

Under the Bush administration, our National debt has grown from \$5.7 trillion to more than \$8 trillion. The portion of that debt held by foreign creditors has more than doubled. And our Federal budget has fallen from a \$236 billion surplus in 2000 to a \$319 billion deficit in 2005. The Republican budget reconciliation package would only make this record of fiscal recklessness worse.

The cuts in this bill, if enacted, would make it harder for working Americans to find a job and afford such basic needs as health care and child care. At a time when international competition demands that we invest in our people and our society, this bill radically scales back our Nation's crucial commitments. At a time when we should be expanding access to higher education for all Americans, this bill puts college further out of reach for many students. And at a time when many businesses and millions of Americans cannot afford even the most basic health care coverage, this bill passes the buck, and the burden of paying, onto those who are already struggling to afford care. Instead of offering solutions, this bill offers more lip service to a failed, partisan ideological agenda that weakens our Nation's long-term strength.

Perhaps most controversially, the bill before us would make the biggest changes to Temporary Assistance to Needy Families, TANF, policy since 1996, going even beyond the provisions in the House-passed reconciliation bill. The Republican majority hopes to ram through these changes without any debate or consideration by this body. This is no way to run a country by not just ignoring those in the minority, but actively trampling over dissenting views.

Children in low-income families will suffer the most. This section of the bill creates new, unrealistic work requirements for TANF recipients that would effectively amount to a backdoor way of cutting funds. It authorizes \$2.5 billion less this year for child care than what is necessary to keep pace with inflation, which, over the next 10 years, will create a more than \$11 billion shortfall and cause an estimated 255,000 children to lose care. It cuts child support enforcement, which will reduce child support collections by \$3.4 billion over 10 years. And it completely eliminates Federal foster care support for

grandparents and other relatives who care for children who have been abused or neglected and removed from their parents.

These cuts reflect a fundamental lack of understanding by the Republican majority of the struggles most Americans face every day. Moreover, they are based upon a faulty economic rationale. Though our overall economy grew somewhat between 2000 and 2004, those who benefited from that growth are mostly at the top of the income pyramid. Indeed, the number of children living below one-half of the poverty line rose by nearly 1.5 million. Somewhere, the link has been broken, and not all families are sharing in our Nation's economic growth. Instead of looking for solutions, the cuts in this bill would exacerbate the problems faced with courage every day by American families. If history is any guide, the families forced off of TANF would be those who, without a lifeline, are the most likely to fall into deep poverty. Child care assistance helps working parents keep their jobs and parents who have lost their jobs find new ones. If adequate child care and other supports are not available to low-income workers, the TANF rolls will increase again. We would be taking a step backward in helping people move from welfare to work. We should be constantly innovating and strengthening our policies in this area, not blindly cutting them in favor of unaffordable tax policies, as this reconciliation package would do.

In addition, this reconciliation bill would also reduce health care coverage and increase costs for some of the most vulnerable members of our society. Most troublingly, this conference agreement proposes to increase co-payments and premiums for Americans who rely on Medicaid for their health care. Under this agreement, low-income Medicaid beneficiaries would be forced to pay more for their needed health care services and medicines. This, despite the fact that a recognized and growing body of evidence demonstrates that ill Medicaid beneficiaries will likely forego medical treatment in the face of increases in co-payments. Such decisions often lead to greater health problems, and larger health care costs, later on. On top of these co-payment increases, this package will additionally allow States to increase the premiums that Medicaid beneficiaries must pay to enroll in the program in the first place.

Also deeply troubling about this agreement is its granting to States the ability to decrease the scope of their Medicaid programs. The Federal Government currently requires State Medicaid programs to adhere to a set of standards that ensure comprehensive health care coverage for Medicaid beneficiaries. This agreement will significantly lower these standards and will allow States to lessen needed coverage for those most in need.

As alarming as these provisions are, just as galling is what this bill lacks.

The Senate-passed reconciliation package rightly contained two significant and cost-saving provisions that are absent from the package currently before us. First, the Senate bill sought to increase the rebates that pharmaceutical manufacturers must pay the Federal Government for medicines provided to Medicaid beneficiaries. Second, the same bill achieved \$10 billion in savings by eliminating the so-called "stabilization" fund designed to encourage preferred provider organizations to participate in the Medicare program. Both of these valuable provisions have gone missing in this conference agreement.

Finally, in addition to weakening the safety net that allows Americans to weather tough times, this budget reconciliation legislation also shortchanges the millions of families trying to send their children to college. It provides no general increase in need-based aid. Instead, it limits the increase to a narrowly defined subset of students who may or may not demonstrate as much need as their peers. In fact, there are so many restrictions on who qualifies for the increased Pell funds that I question how many students will actually receive it.

This version of reconciliation also ignores a number of other provisions that were important to the Senate: loan forgiveness for child care workers, protections as we open up distance learning, and more consumer information for students that are consolidating loans. All of these provisions have disappeared. Instead we are left with a narrowly crafted bill that does not help all students achieve their college dreams. In my opinion, this bill represents a lost opportunity for students and a lost opportunity for this body to assist them.

The conference agreement before us today ignores the values and concerns of ordinary Americans. Instead of investing our resources intelligently in the priorities that will make America strong and secure into the future like education, health care and the fight against terrorism it weakens important safety net provisions, decreases health care coverage and increases cost burdens, and reduces access to higher education. America needs priorities that reflect our values as a country and that prepare our people, especially our children, for a future of freedom, prosperity and security. Regrettably, this reconciliation legislation falls far short.

Ms. MIKULSKI. Mr. President, the spending cut bill before us is shameful. I have always said that it is my job to look out for the day-to-day needs of Marylanders and the long-term needs of the Nation. I am sorry to say this bill does neither. In the holiday season, this bill makes draconian spending cuts in critically important programs. This is not done for balancing the budget, which I support. It is done to pay for more tax cuts to the super-wealthy.

These spending cuts don't only hurt hard-working Americans. They chip

away at the very foundation of the American dream and do so at the worst possible time. For example, we face unprecedented challenges from increased global competition. Our country has always had the ability to rise above these challenges because of America's incredible capacity to innovate. It is our responsibility to empower Americans to innovate. Unfortunately, this bill represents the wrong priorities for this country, not those held by the vast majority of Americans.

Nowhere do individual and national priorities more closely converge than funding for education. Education has always been our country's greatest engine for climbing the ladder of opportunity. It is also the greatest engine for our national aspiration: that each generation will have a better life than the one that came before. International trade and outsourcing have already shuttered several of our industries and threaten to do the same to others. Other countries are investing heavily to train and educate their people. They are manufacturing products less expensively than could be done here at home, often due to their weak labor and environmental protections. That is why we must preserve America's remarkable lead in the amazing race to innovate. To do this, we must realize that innovation starts with a well-educated population.

Unfortunately, this bill makes the biggest cuts to student loan programs in history. For the fourth year in a row, the maximum Pell grant will remain the same. And while Pell grants stagnate, interest rates for student loans will increase. Republicans have also made it more difficult for students to consolidate their loans so that they will end up paying more for college. So not only is there less student aid available but this bill actually makes it tougher to qualify for need-based aid so that it will only go to a small group of students, decreasing the number of low-income people who are eligible to receive aid. It also gives private lenders and banks an unfair advantage over more cost efficient Federal loan programs, which increases costs for taxpayers.

These cuts couldn't come at a worse time. College tuition is on the rise and financial aid isn't keeping up. Pell grants cover only 40 percent of average costs at a 4-year public college. Twenty years ago, they covered 80 percent. Our students are graduating with so much debt it is like their first mortgage. College is part of the American dream; it shouldn't be part of the American financial nightmare. Families are looking for help. And I am sad to say the Republicans don't offer them much hope. This bill has all the wrong priorities. Instead of easing the burden on middle-class families and increasing student aid for all students, they want to help out big business cronies with lavish tax breaks.

We need to do more to help middle-class families afford college. We need

to increase the maximum Pell grant to \$4,500 and double it over the next 6 years. We need to make sure student loans are affordable. And we need a bigger tuition tax credit for the families in the middle who aren't eligible for Pell grants but still can't afford college.

My family believed in the American dream. They believed there is no barrier to having hopes. Through hard work and sacrifice, everyone should be able to pursue a higher education. But belief in the American dream is shrinking. There is not a dream deficit, there is a wallet deficit. There is not a talent deficit, there is an opportunity deficit. And at a time when the opportunity ladder is already creaky and shaky, the Republicans are trying to tear down this ladder by making massive cuts to student aid. Sadly, this will cripple our Nation's ability to innovate and compete in the global market.

Those aren't the only bad things in this bill. It also slashes health care. I believe that every American should have the right to affordable health care, especially as they get old and need it the most. Unfortunately, this conference report cuts a net \$6.9 billion in existing Medicaid spending. This will force beneficiaries to pay higher premiums and receive less health care coverage.

I am particularly alarmed by the bill's changes to eligibility for long-term care coverage for elderly Americans needing care. This bill would require the government to look back at a senior's assets for the past 5 years and consider the value of their home to be eligible for long-term care. This is unfair. We should be supporting our elders, not punishing them.

And that is not all. As temperatures drop and heating prices rise, this bill will literally leave Marylanders and Americans in the cold. Oil companies are now making record profits. Republicans beat back each of our attempts to eliminate tax giveaways to these same companies. Now energy prices are soaring and the bill falls \$1.3 billion short in funding the Low-Income Home Energy Assistance Program. LIHEAP helps hard-working Americans afford to stay warm. But it won't have enough funds to do this next year.

The reconciliation bill also suspends important Federal housing programs that preserve affordable housing. Republicans are prioritizing additional tax cuts for the superwealthy by killing a program to preserve affordable housing for working families. They too will be left out in the cold. The Millennium Housing Commission cited a lack of affordable housing as the primary cause of homelessness. So here again, the spending cut bill serves to squash our aspirations.

When many of our families first moved to the United States, they were drawn to the promise of a better life—the "American dream." They could aspire to a better life for themselves, their families, and their kids. They

knew that hard work could make that dream a reality. For many generations, this country allowed each generation to be better off than the one before it. If we follow the course laid out before us today, our children are not going to be able to say the same thing.

Mr. President, America can do better. We must look out for both the day-to-day needs of those who have elected us and also the Nation's long-term interests. This bill does neither. I strongly oppose this bill and urge my colleagues to do the same.

Mr. KENNEDY. Mr. President, as we all know, the Budget Reconciliation Act contains an appalling number of devastating cuts that will hurt millions of Americans. But I do commend the conferees for including the Family Opportunity Act, which will remove the barriers in current law that penalize families struggling to stay together and make ends meet when their children have high health costs because of disabilities.

For the past 6 years, Senator GRASSLEY and I have worked with many parents and leaders in communities across the country to reach this milestone. Countless parents, family members, citizens, friends, neighbors, and colleagues face this problem today. As they make very clear, the Nation is failing families with severely disabled children by not giving them access to the health care they need to stay home and live in their communities. Many of them have been on the front lines in raising the Nation's awareness of their plight, and they have been fearless and tireless warriors for justice, and this legislation could not have happened without them. Today, their long wait is nearly over.

The Family Opportunity Act is for them. It allows families of children with severe disabilities to purchase health care coverage under Medicaid, without first having to impoverish themselves or give up custody of their disabled children.

Almost 1 in 10 children in America has significant disabilities. But many do not have access to even the most basic health care they need, because their private health insurance won't cover them. Often, their needs are treated as "exclusions" in their policies—no coverage for hearing aids, for services related to mental retardation, for physical therapy, for services at school, and on and on.

That is why this legislation is so important—these children will now have access to these needed services and have a genuine opportunity at least to achieve full potential.

When we think of disabled children, we tend to think of them as disabled from birth. But fewer than 10 percent of such children are born with their disabilities. A bicycle accident or a serious fall or illness can suddenly disable even the healthiest of children. Many of them with significant disabilities do not have access to even the most basic health services, because their families can't afford them.

No longer will these families be forced to become poor, stay poor, or even do the unthinkable by putting their children in institutions or giving up custody of them, so that their children can qualify for Medicaid.

Families of special needs children often have to turn down jobs, turn down raises, or turn down overtime pay to keep a child eligible for benefits under Medicaid.

No longer will parents be forced to give up their children or give up being part of our Nation's economy.

This bill will change the life of 13-year-old Alice in Oklahoma, who was disabled because of multiple dystrophy. Under this bill, she will be able to have a personal assistant living at home with her family. She will be able to go to her neighborhood school.

This bill will change the life of Johnny in Indiana, who has a severe mental illness and needs numerous mental health therapies and drugs. His mother will no longer be forced to give up custody of him in order to obtain the treatment he needs. Her goal of being a productive citizen and keeping her son at home will no longer be denied because her son will now have the health care and support he needs.

This bill will transform the life of Abby in Massachusetts, who is 6 years old and has multiple disabilities. Her parents are deeply concerned about her future if the existing buy-in State program for Medicaid is weakened. Without the buy-in, her parents would be bankrupted by her current medical bills. Now Abby and her family will have real opportunity to grow and work and prosper.

The legislation also gives States greater flexibility to enable children with mental health disabilities to obtain the health care they need in order to live at home and in their communities, instead of being placed in institutions.

It establishes Family to Family Information Centers in each State to help parents find the resources they need to meet the unique health care requests of their disabled children.

Six years ago this week, President Clinton signed the Ticket to Work Act into law. That legislation demonstrates our commitment to give adults with disabilities the right to lead independent and productive lives, without giving up their health care.

Today we make the same commitment to children with disabilities and their families.

These provisions will undoubtedly be among the most important bills passed by this Senate. It closes the health care gap for the Nation's most vulnerable population, and enables families of disabled children to be equal participants in the American dream. It will truly change lives, and I commend my colleagues in both the House and the Senate on both sides of the aisle for their dedicated and their leadership that have made this day possible at long last.

Mr. ROCKEFELLER. Mr. President, last week I came before this body to highlight the potentially harmful effects of budget reconciliation on our Nation's working families. I asked my colleagues to hold firm against the special interests in order to protect the Federal guarantee of Medicaid benefits for the 50 million Americans who depend on this vital program for health care. When the Medicaid motion to instruct conferees passed by a vote of 75 to 16, I thought the Senate was serious about preserving access to health coverage for children, pregnant women, the elderly, and disabled across our country.

However, my hope quickly faded when the budget reconciliation conference report was released earlier this week. Instead of providing more assistance to families in need, the reconciliation conference report includes even greater cuts than those passed in the House of Representatives to vital safety net programs like Medicaid.

Under this conference bill, the early and periodic screening, diagnostic, and treatment, EPSDT, benefit, which provides children with access to necessary immunizations, checkups, and preventive services, is eliminated. This means that low-income children—no matter how poor—will no longer be guaranteed vision, hearing and dental screenings; coverage for eyeglasses; therapy services, medical equipment that will allow them to attend school; or any other Medicaid services. Without access to this comprehensive benefit, many children will not get the vital medical care they need and will develop medical conditions that could have been prevented.

The reconciliation language also begins to erode Federal laws protecting Medicaid recipients from burdensome cost-sharing. Under this bill, States would be allowed to index nominal cost sharing amounts by medical inflation, which grows at least twice as fast as wages. States would also be allowed to charge co-insurance up to four times higher than the 5 percent co-insurance allowed today. This means that Medicaid beneficiaries could pay as much as 20 percent of the cost of any Medicaid service—which for some would consume their entire monthly income. Such cost-sharing requirements are unacceptable for a safety-net program designed to help working families when times get tough.

This bill gives States the green light to vary benefit packages based on factors such as geography and disease. If enacted, Medicaid recipients will no longer have equal protection under the law. Instead, residents in rural areas of a State could receive fewer Medicaid benefits than those living in more populated, urban areas. Individuals with diseases that are expensive to treat may receive a narrower set of benefits than those with diseases that are less expensive to treat. And, if residents and diseases are treated differently in a State, then providers can also be reim-

bursed differently depending on their geographic location and the types of patients they treat. Such a haphazard benefit system will lead to more emergency room visits by beneficiaries and decreased provider participation in the Medicaid program. It would appear that, for some of my colleagues on the other side of the aisle, the vote in favor of the motion to instruct conferees was nothing more than a procedural motion—more rhetoric than substance, more posturing than true concern—because many of the Medicaid provisions included in the budget reconciliation package got even worse after the Senate voted overwhelmingly in opposition to increased beneficiary cost-sharing, barriers to eligibility and enrollment, and any other provisions that would undermine the Federal guarantee of Medicaid coverage.

In all my time in the Senate, I cannot remember a time when we have considered such drastic cuts to safety-net programs that threaten to devastate working families. These are families who struggle to eat and pay their bills, let alone pay for much needed health care services; families of limited means who have done their best to contribute to a system that is now essentially turning its back on them. The cuts contained in this budget reconciliation conference report are reprehensible.

This country has a moral obligation to help our fellow Americans in their time of need. We should not offer billions of dollars in additional giveaways to the wealthiest Americans and special interests at the expense of working families already struggling to make ends meet.

I believe we can do better. Hard-working Americans deserve better; low-income children deserve better; the elderly, the disabled and parents who want to see their children go to college and succeed deserve better. We have a responsibility, Mr. President, and I would hope we would live up to that responsibility.

Mr. VITTER. Mr. President, I am pleased that we have passed the Deficit Reduction Act today. It is a good first step to curbing runaway spending in our entitlement programs, and it provides essential Medicaid relief to hurricane victims in my state.

However, I am deeply concerned with the provision in the bill that repeals the Continued Dumping and Subsidy Offset Act, also known as the Byrd amendment. Many of my colleague and I signed a letter to the conferees urging that this repeal be excluded from the final bill. This important law helps counter unfair trade practices of other countries by using revenues from duties collected to compensate injured industries. In Louisiana, most of our seafood industries have been severely affected by illegal dumping from China and other nations, and the Byrd amendment is one of the few things that could effectively help the families in these industries, who are now also reeling from Hurricanes Katrina and Rita,

to survive in their business and maintain our unique culture and way of life.

I have been very frustrated with the Commerce Department and the Customs Department efforts to comply with the Byrd amendment as it stands now. Commerce does not properly set the duty collection rates, and Customs is severely lax in collecting tariffs that are due. Seafood tariffs uncollected stand at over \$200 million from China alone right now. As these tariffs are not collected as they should be, illegal dumping continues, and our seafood and other industries are not being paid what they are due under the law.

This bill supposedly has a phase out of CDSOA for 2 years, in which pending cases are supposed to be paid. I fear with the current record of collections and distribution, this 2 year phaseout won't give much relief. I do not feel that this phaseout is adequate, and the repeal this important law should not have been included in this bill. It is not right to use industries that are victims of illegal trade practices to carry a large burden of balancing the budget.

I urge my colleagues to help me force the bureaucrats to do their work, collect these tariffs, and make the already due payments under the Byrd amendment. While the law may be unwisely repealed in this bill, the previously due payment should be paid and paid quickly.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion to concur in the House amendment with the Senate amendment.

The clerk will call the roll.

The legislative clerk called the roll.

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

[Rollcall Vote No. 363 Leg.]

YEAS—50

Alexander	Dole	McCain
Allard	Domenici	McConnell
Allen	Ensign	Murkowski
Bennett	Enzi	Roberts
Bond	Frist	Santorum
Brownback	Graham	Sessions
Bunning	Grassley	Shelby
Burns	Gregg	Specter
Burr	Hagel	Stevens
Chambliss	Hatch	Sununu
Coburn	Hutchison	Talent
Cochran	Inhofe	Thomas
Coleman	Isakson	Thune
Cornyn	Kyl	Vitter
Craig	Lott	Voinovich
Crapo	Lugar	Warner
DeMint	Martinez	

NAYS—50

Akaka	DeWine	Leahy
Baucus	Dodd	Levin
Bayh	Dorgan	Lieberman
Biden	Durbin	Lincoln
Bingaman	Feingold	Mikulski
Boxer	Feinstein	Murray
Byrd	Harkin	Nelson (FL)
Cantwell	Inouye	Nelson (NE)
Carper	Jeffords	Obama
Chafee	Johnson	Pryor
Clinton	Kennedy	Reed
Collins	Kerry	Reid
Conrad	Kohl	Rockefeller
Corzine	Landrieu	Salazar
Dayton	Lautenberg	

Sarbanes	Smith	Stabenow
Schumer	Snowe	Wyden

The VICE PRESIDENT. On this vote, the yeas are 50, the nays are 50. The Senate being equally divided, the Vice President votes in the affirmative, and the motion to concur in the House amendment with a further amendment is agreed to.

Mr. FRIST. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

ORDER OF PROCEDURE

Mr. FRIST. Mr. President, the next hour, we will spend in our precloture period before proceeding to the cloture vote on the Defense appropriations bill. I believe the Democrat leader spelled out how that time will be used.

At this point, I ask unanimous consent that the time on our side be divided as follows: Senator MURKOWSKI, 5 minutes; Senator COCHRAN, 2 minutes; Senator LOTT, 3 minutes; Senator DOMENICI, 5 minutes; Senator GREGG, 5 minutes; Senator STEVENS be given the last 5 minutes of the debate; and 5 minutes to be designated by Senator STEVENS.

The VICE PRESIDENT. Without objection, it is so ordered.

The Senator from North Dakota.

Mr. CONRAD. Mr. President, I thank colleagues for their cooperation during the consideration of budget reconciliation. I especially thank the staffs on both sides, who spent several sleepless nights working on this matter. I very much thank my staff director, Mary Naylor, and all of my staff for their extraordinary effort.

I also salute my colleague, the chairman of the Committee on the Budget, for his professionalism as we considered the matter. Special thanks to his staff, as well. I know this has been an extraordinarily trying period. We appreciate so much the effort and work they put into it.

The PRESIDENT pro tempore. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I join the Senator from North Dakota in especially thanking our staffs, most of whom have not slept for a series of nights. They have done an exceptional job, led by Scott Gudes on our side and, obviously, Mary on the Democrat side. We have staff who put in huge hours to make us look effective and efficient around here, and they do an extraordinary job on our behalf.

I also thank the Senator from North Dakota. This bill has reappeared in the Senate sort of like Haley's Comet: it comes through about every 3 months as we try to deal with it and move forward in the reconciliation budget process. In each instance, the Senator from North Dakota has been extraordinarily professional, has moved forward in what I consider to be the tradition of this Senate, which is comity and co-

operation, in order to make the Senate accomplish its business. I only wish he had more charts.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2006—CONFERENCE REPORT—Resumed

The PRESIDENT pro tempore. Under the previous order, there will now be 1 hour of debate equally divided between the two leaders or their designees on H.R. 2863. The time has been allocated by the two leaders. The first will be designated to Senator FEINGOLD who is recognized for 2 minutes.

Mr. FEINGOLD. Mr. President, I hope today the Senate will side with rules, history, and future when it is time for this Senate to go on record as to whether it is okay to break the rules to do something you cannot otherwise get done.

My colleagues know I do not support drilling in the Arctic Refuge. But this is not simply a debate about oil, wildlife, and energy policy. The debate we are having and the vote we are about to have is about how this institution and this democracy operate. Some have said there is precedent for violating rule XXVIII. My response is simple: Abusing the process and breaking the rules in the past does not justify doing so now, especially knowing it was a mistake.

We worked in a bipartisan fashion to reinstate these very rules in 2000. We did this because these rules are designed to protect all of us against abuses of power. If Senators do not stand up to the current and very troubling tactics we are seeing, what hope is there of stopping future attempts to hijack other legislation to pass proposals that cannot stand on their own merits?

There are clearly Members who are determined to open the Arctic Refuge to drilling. I suspect every Member also has a couple of things we desperately want signed into law. However, we have a responsibility to respect the rules and traditions of the Senate. I urge my colleagues to vote against cloture and to vote to uphold the rules of this institution in which we are honored to serve.

I yield the floor.

The PRESIDENT pro tempore. Senator BOXER is recognized for 2 minutes.

Mrs. BOXER. Mr. President, if this Senate is going to operate and function, it has to follow its own rules. It is very obvious that including drilling in a wildlife refuge in a military bill is not following our own rules. It is no wonder the people in the country are cynical. It is wrong to do this.

Members should stand on line, do it the right way. If Members want a bill passed, do it the right way. This is not a Senate where one person can dictate how things get done.

I hope the Senate would understand when you are discussing a wildlife refuge, which was first set aside by President Eisenhower, that we would do better than putting it into a military bill