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No. 3

## Senate

The Senate met at 10 a.m. and was called to order by the President pro tempore (Mr. BYRD).

### PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Spirit of the Living God, infuse our minds with wisdom, our hearts with patriotism, our wills with yielded obedience, and our bodies with energizing strength. Set on fire our spirits with Your love so that we can love even those we find it difficult to love. Burn away any self-centeredness so we can care for the needs of others. Breathe Your life-giving breath into our souls so we can serve, unrestricted by self-serving attitudes. Thank You that You do not tailor our opportunities to our abilities, but rather give us courage to match life's challenges.

As this workweek comes to a close, we are amazed at what You can do through us when we put You and our Nation above partisanship, and we are alarmed by how quickly we can be divided by party spirit. Grant the Senators a special measure of greatness to unite in oneness under Your sovereignty. May they glorify You in all that is said and done this day. You are our Lord and Saviour. Amen.

### PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The Senator from Nevada.

### SCHEDULE

Mr. REID. Mr. President, this morning there will be 30 minutes of closing

debate on the Smith of Oregon amendment regarding bonus depreciation prior to a 10:30 a.m. rollcall vote in relation to the amendment.

Following this vote, the Senate will go into executive session to consider the nominations of Marcia Krieger to be a United States District Judge for the District of Colorado and James Mahan to be a United States District Judge for the District of Nevada. There will be 20 minutes for debate, followed by rollcall votes on these nominations.

Following these votes, the Senate will resume consideration of the Daschle economic recovery amendment. In working with the manager of the bill for the Republicans and Senator BAUCUS, we have worked out an arrangement for amendments this afternoon. So there will be activity on the economic stimulus package this afternoon.

### RESERVATION OF LEADER TIME

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

### HOPE FOR CHILDREN ACT

The PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of H.R. 622, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 622) to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes.

Pending:

Daschle/Baucus amendment No. 2698, in the nature of a substitute.

Smith of Oregon amendment No. 2705 (to the language proposed to be stricken), to amend the Internal Revenue Code of 1986 to provide for a special depreciation allowance for certain property acquired after September 10, 2001, and before September 11, 2004.

### AMENDMENT NO. 2705

The PRESIDENT pro tempore. Under the previous order, the time until 10:30

a.m. shall be equally divided and controlled for debate on the Smith amendment No. 2705.

The Senator from Oregon is recognized on his amendment.

Mr. SMITH of Oregon. I thank the President pro tempore.

Mr. President, it is a privilege this morning to speak about a component of the stimulus package which I think does garner wide bipartisan support. There are many good ideas. And I, as a Republican, stand in this Chamber to say I look forward to voting to extend unemployment benefits and health care benefits. I think these ideas add to the demand side of the equation by giving dollars to consumers—to taxpayers—who very much need to make ends meet and to meet life's necessities.

There is a supply side to this debate that actually is central to an economic recovery, and that is the supply side of doing things which truly stimulate the economy, because if we want to get back to surpluses, the best way we can do that is by pursuing policies that will lend themselves to growth.

The bonus depreciation amendment, which I have before the Senate this morning, does that very thing. It has won verbal support from the likes of Chairman Greenspan and former Clinton Treasury Secretary Robert Rubin, who uniformly endorse a stimulus package, and specifically the immediate stimulative effect on the economy of the temporary enactment of bonus depreciation.

I commend the majority leader for much improving his proposal as to the budget, as to the bonus depreciation from its initial offering. But for reasons I will point out, I think it still falls short of what it needs to be if we are truly serious about stimulating the economy.

Senator DASCHLE's proposal will allow 30-percent bonus depreciation from only September 11 of last year to September 11 of this current year. This

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



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means it will only stimulate business purchases for the next 8 months, assuming we can get the stimulus package passed by February 1. It is 12 months, but it is simply an inadequate period when you figure that 8 months to make business decisions is all that is allowed. So we are left with a proposal to stimulate business that just simply lacks the weight that it needs to do the job.

If you look at the facts on business investment, it has fallen precipitously since August of 2000. Consumer spending in this recession has been surprisingly resilient, but business investment has fallen off the table.

Today's recession is caused primarily by a decline in business investment. Chairman Greenspan made that clear in his remarks to the Budget Committee yesterday. It is the central reason for this recession.

So what kind of investment can we stimulate in the 8 months that remain under the underlying proposal? It probably gives businesspeople time to buy a chair and perhaps some new wastebaskets, a rug for the front office, but 8 months is not enough time to start major projects that would, in fact, employ thousands upon thousands of people. It does not allow time to build heavy equipment, modernize a lumber mill, restart a coal mine, revamp a corporate computer system, rebuild a rail bed, or even to construct an airplane. It doesn't allow enough time to obtain building permits, perform environmental reviews, complete architectural or engineering studies.

My amendment allows bonus depreciation for farm equipment and improvements and special purpose agricultural and horticultural buildings. Farmers, unfortunately, may not see the turnaround they need in the next 8 months. I wish it were so. It may take longer than that. But when the farm economy does recover, they will need to update their equipment, and they ought to have the advantage of the bonus depreciation that we are offering long enough so they can have that advantage, too.

Consider the airplane. If you want to build an airplane, the average is it takes about 18 months. So, clearly, that important industry, that very American industry, is left out of the calculation before the Senate, if my amendment is defeated. Eight months is simply not enough time to build an airplane.

Moreover, an 8-month bonus depreciation period does not provide insurance against future down ticks in our recovery cycle. These commonly occur when an economy struggles to throw off the shackles of a recession. We need to create a booming economy, not only for today but for the next several years. So I emphasize that the majority's 8-month depreciation proposal lacks the economic weight that our economy now needs. I plead with my colleagues on both sides of the aisle, let's recognize the realities of the busi-

ness world and provide the kind of stimulus which is meaningful, weighty, and effective.

Mr. President, I have been requested to add the names of Senators COLLINS and ALLARD as cosponsors. I ask unanimous consent that they be added.

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

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

Mr. SMITH of Oregon. Mr. President, I ask unanimous consent that the following letters from the Association for Competitive Technology and the American Electronics Association in support of the Smith amendment be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

ASSOCIATION FOR  
COMPETITIVE TECHNOLOGY,  
Washington, DC, January 25, 2002.

TO ALL SENATORS: On behalf of thousands of information technology (IT) companies and professionals, I am writing to express my support for the Smith (OR) amendment that would provide a 3-year, 30% bonus depreciation provision. Like other companies in our industry, our members feel strongly about depreciation and are paying close attention to this vote.

Small business drives the IT industry. No sector has created more jobs or advances in technology. These businesses have spent nearly \$160 billion during the past two years on acquiring new products used to develop cutting edge applications and services. The end result has been a richer computing experience for businesses and consumers.

Enhanced depreciation schedules will improve small business productivity, strengthen the U.S. economy and boost the IT sector. Enhanced depreciation means small businesses will have the IT tools they need to stay competitive—obsolete IT tools will be one less obstacle in a small company's growth and success. Favorable expensing rules will free-up small business capital to grow business and increase jobs.

Modernizing expense for high technology equipment can help boost the economy at a time when we need it most. My member companies feel that the time is now to address these changes and the economic stimulus package it the right vehicle.

The one-year, 30% provision in the Democratic stimulus bill is unacceptable. The reality is that their "year" ends in September 2002, which only provides seven months at the most for companies to plan for and make technology purchases. We hope we can count on you to do what's best for the technology industry and vote "Yes" on the Smith amendment.

Sincerely,

JONATHAN ZUCK,  
President.

AEA,

Washington, DC, January 25, 2002.

DEAR SENATOR: On behalf of the high-tech industry, I write to express AeA's strong support for the Smith amendment calling for a 30 percent bonus depreciation provision for capital assets purchased over the next 36 months. We believe that this is a meaningful accelerated cost-recovery provision for American business and is essential to stimulate the economy. Our industry is unified in its support of such a measure.

Please vote in support of the Smith amendment.

A 30% bonus depreciation will stimulate greater investment and provide the kind of

stimulus that will strengthen our companies and create more jobs across the country. The current economic slowdown requires this kind of dramatic, effective action by the Congress.

AeA (American Electronics Association) is the nation's largest high-tech trade association and is comprised of more than 3,500 small, medium and large high-tech companies. Passage of an economic stimulus package is very important to the high-tech industry right now, and we hope the U.S. Senate will act quickly to approve a stimulus package that includes at least a 30 percent bonus depreciation provision.

Sincerely,

WILLIAM T. ARCHY,  
President and CEO.

Mr. SMITH of Oregon. Mr. President, I also will note that President Bush also spoke in support of a bonus depreciation only a few days ago. I quote from him:

But any good stimulus package plan must ask the question "how do we create more jobs?" and one way to do that is to accelerate tax relief for workers, and the other way to do that is to make sure that the Tax Code doesn't punish companies like Walker.

That is the one he was visiting.

We ought to allow them to accelerate the depreciation schedule so it is more likely they will buy more equipment.

That is simply what we are doing, Mr. President. We are trying to allow this bonus with enough time that they can take enough advantage of it for the greater advantage of our entire country.

Mr. President, I think we all recognize that the No. 1 issue in the hearts and the homes of the American people is economic security, as well as national security. I, for one, was deeply disappointed that we went home for Christmas not as Santa Claus but as Scrooge. We should have done this before we left. I am glad, however, that the majority leader has brought it up and is allowing this to go forward now. I hope we are successful because I think we ought to show the American people that we are doing all we can to make this happen and are taking out the insurance policy that is necessary to support our economy and our people.

I ask unanimous consent to add Senator BROWNBAC as a cosponsor of the amendment as well.

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

Mr. SMITH of Oregon. Mr. President, I ask my colleagues to vote for this amendment. I think it will win a lot of additional Republican support for the overall effort of the majority leader, and I think for the American people's sake that is important.

I yield the floor.

The PRESIDENT pro tempore. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, how much time is reserved on our side on the Smith amendment?

The PRESIDENT pro tempore. The opposition has 11 minutes 44 seconds. The sponsor has 3 minutes 26 seconds.

Mr. GRASSLEY. We reserve the time on our side.

The PRESIDENT pro tempore. Very well. Who seeks recognition?

The Senator from North Dakota, Mr. CONRAD, is recognized.

Mr. CONRAD. Mr. President, in order to understand and evaluate this amendment, the first thing we have to do is understand our current economic condition. The day before yesterday, the Director of the Congressional Budget Office, Mr. Crippen, informed us that the projection of \$5.6 trillion of surpluses over the next 10 years that was made only 1 year ago has now been eroded dramatically, and that what is available to us over the next 10-year period is not \$5.6 trillion but \$1.6 trillion. That is a loss of \$4 trillion of projected surpluses in only 1 year.

If we look to the causes for that dramatic change in our fiscal condition, what we see, according to the Congressional Budget Office, is that tax cuts accounted for 42 percent of the reduction in projected surplus; 23 percent is the result of economic changes from the economic slowdown; 18 percent is from other legislation, mostly as a result of the attack on this country of September 11 of last year; 17 percent is the result of certain technical changes. Examples of that are increased costs of Medicare and Medicaid.

I think it is critically important, as we evaluate these amendments, to understand our current fiscal condition. The implications of this dramatic drop in the projected surpluses are that we have gone from a circumstance in which we were told last year that we would be virtually debt free as a Nation in the year 2008 to now Director Crippen telling us that instead of being debt free in 2008, we will have \$2.8 trillion of publicly held debt. As Chairman Greenspan reported to the Budget Committee yesterday, that is the tip of the iceberg because we have other liabilities—so-called contingent liabilities—of another \$10 trillion.

Mr. President, I think that should sober us in our deliberations today. The implications of all this are serious and far-ranging. It means the total Federal interest costs that we can anticipate are going up by over a trillion dollars. We were told last year we would expect interest costs to the Federal Government of \$622 billion over this forecast period. That has now been increased to \$1.6 trillion, an increase of over a trillion dollars.

Mr. President, perhaps most alarming is that the truth is there are no surpluses left—no surpluses. The only place there is surplus money is in the Social Security trust fund account. If we remove the Social Security trust fund and the Medicare trust fund, what we find—last year, we were told we would have \$2.7 trillion in non-trust-fund surpluses. Now what we see is a \$1.1 trillion deficit. What this means is any proposal before us will take the payroll taxes of our firemen, our policemen, our farmers, our carpenters, our teachers, those who work in our factories, even our own employees, and we will be taking every penny to pay for any of these provisions—however

meritorious—right out of the payroll taxes of the taxpayers of America—taxes they were told were being levied to pay for Social Security and Medicare and are now being taken not to pay for Social Security and Medicare—oh, no—but now to pay for any tax relief provision that is being considered in this Chamber.

Mr. President, I believe that sets the very high bar with respect to any of these proposals.

Now comes this well-intended amendment. I have high regard for the Senator offering this amendment. He is a respected member of the Budget Committee. I support bonus depreciation as part of a stimulus package, but bonus depreciation over 3 years defeats the purpose of a stimulus package.

Stimulus packages, as Secretary Rubin described it to us, as Chairman Greenspan described it to us, are designed to change economic behavior now—not 3 years from now but now. And if instead of doing 1-year depreciation, we do 3 years' depreciation, what we have actually done is to encourage people to wait to make the investment. That is precisely what we should not do. What we need to do is encourage people to invest now.

Mr. SARBANES. Will the Senator yield on that point?

Mr. CONRAD. I will be happy to yield.

Mr. SARBANES. Isn't it, in fact, correct that this proposal, the 3-year bonus depreciation, is contradictory within its own terms? What you want to do with a stimulus—and I am for a 1-year bonus depreciation because I think that may serve as an incentive for additional investment in order to realize the benefit of the bonus depreciation in the first year—if you make it a 3-year bonus depreciation, the latter part of the bonus depreciation is countering the front part of the bonus depreciation, which is exactly what we do not want. We want to do the 1 year.

We will see what the 1 year gives us, where the economy is at the end of the 1 year and whether an additional effort is needed. But to do 3 years so someone can say, I will not do it this year, I will not do it next year, I will do it in the third year of the bonus depreciation, is exactly contrary to what we are trying to accomplish. Isn't that, in fact, the case?

Mr. CONRAD. It is precisely the case. Again I say, I am a supporter as well of bonus depreciation. I agree with everything the Senator from Oregon said with respect to the merits of bonus depreciation, but I have to say to my colleague, I think it would be a profound mistake to do 2 or 3 years because that simply encourages people to wait rather than creating an incentive to act now, to invest now, to give lift to the economy now. The message that is being sent is wait. That is not the message we ought to send.

That is not just the conclusion of this Senator or the conclusion of the Senator from Maryland but the Con-

gressional Budget Office, which at my request did an analysis of the various stimulus proposals and concluded on this whole question that, "A longer period would give a bigger average yearly boost, but more of it would come at the end of the period than at the beginning, delaying the stimulative effect." Delaying the stimulative effect.

Is that what we want to do, delay the stimulative effect? I do not think so. That goes directly counter to what a stimulus package is supposed to do.

Mr. SARBANES. Will the Senator yield on that point?

Mr. CONRAD. I will be happy to yield.

Mr. SARBANES. In fact, as I understand it, the Congressional Budget Office said in a report evaluating the various stimulus options:

Extending the period during which such expensing could be used would reduce the bang for the buck because it would decrease businesses' incentive to invest in the first year and increase the total revenue cost.

We would lose on the stimulus front, and we would add to the deficit problem, which the Senator has so ably outlined, that we confront as we look out into the future.

Mr. CONRAD. Actually, the result of passing the Smith amendment would have the perverse result of decreasing the impact of the stimulus and increasing the debt, increasing the deficits, which is the worst stew you could cook.

Mr. President, I point out that as we started this whole question of stimulus, the budgeteers on the House side and the Senate side on a bipartisan basis agreed to a set of principles to apply. One of them was a stimulus sunset. That principle says:

All economic stimulus proposals should sunset within 1 year, to the extent practicable.

This amendment, as well intended as it is, violates that basic principle.

Yesterday we heard from Chairman Greenspan. The headline in the Washington Post today is: "Greenspan Doubts Need for Tax Cuts." While we may agree or disagree on that question, I frankly think additional stimulus would be a good insurance policy, but I think it should be, with respect to this provision, 1 year. I think that gives us the greatest stimulus and does the least damage to our long-term deficit situation.

Chairman Greenspan yesterday said he is very conflicted about a stimulus package. He said:

Since the nature of the coming recovery remains uncertain and may be relatively weak, having some additional stimulus could be helpful.

I agree with him on that.

He said:

On the other hand, such a package would deepen the budget deficit this year which would not be a good idea.

Mr. Greenspan went on:

There is a possibility, depending on the provisions of a stimulus plan, that it could have a modest negative effect on the long-term economic outlook.

Mr. President, it is very clear that the best advice we have gotten is that we should have stimulus, that we should have it limited to 1 year so we do not dig the hole deeper in the out-years in light of the dramatic change in our fiscal condition.

I will conclude by showing what the amendment of the Senator will do. The revenue lost this year is \$39 billion, but that pales in comparison to the loss from 2002 to 2006 of \$82 billion.

Mr. SARBANES. Will the Senator yield on that point?

Mr. CONRAD. I will be happy to yield.

The PRESIDENT pro tempore. The time of the opposition has now expired.

Mr. SARBANES. Mr. President, I ask unanimous consent for 30 seconds.

The PRESIDENT pro tempore. Is there objection?

Mr. SARBANES. And 30 seconds for the other side.

Mr. GRASSLEY. I will not object if we have 30 seconds.

The PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

Mr. SARBANES. I thank the Chair. I thank my good friend from Iowa.

Mr. President, I want to add one dimension of this—the loss of cost in Federal revenue. There is also an impact of this on State revenue. One of the problems we are confronting by this economic downturn is what it has done to State budgets. Bonus depreciation over a 3-year period will cost significantly more to the State governments, whose revenue structures are tied to the Federal revenue structure, than the 1-year plan. It is estimated, in fact, that it will probably cost the States in the billions just in the second year of a bonus depreciation. This is a further complication that arises out of this proposal.

Mr. CONRAD. Mr. President, I ask for an additional 30 seconds on both sides.

The PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

The Senator is recognized.

Mr. CONRAD. Mr. President, I raise a point of order that the pending amendment violates section 311(a)(2)(B) of the Congressional Budget Act of 1974 and ask for the yeas and nays.

The PRESIDENT pro tempore. The point of order is immaterial while time remains.

Mr. GRASSLEY. Mr. President, I yield the remainder of our time this way: 1 minute to the Senator from Oklahoma, the remaining time to the Senator from Kansas, and the Senator from Kansas will go first.

Mr. SMITH of Oregon. Mr. President, if I may in response—

The PRESIDENT pro tempore. Time is running.

Mr. GRASSLEY. I have to yield time: 1 minute, half a minute, and the remaining time to the Senator from Kansas.

The PRESIDENT pro tempore. The Senator from Kansas.

Mr. BROWBACK. I thank the Chair.

Mr. President, I rise to speak on behalf of the Smith amendment but more to speak on behalf of the Boeing workers around my State and around the country. I have great respect for the Senator from North Dakota and the Senator from Maryland for the efforts they are putting forward.

In the proposal they are putting forward, which basically has an 8-month window, we are not going to build any additional planes based upon that.

We need the longer depreciation period because a plane is a major investment project. It takes decisionmaking time to put that forward, and we need this greater depreciation.

I have been in close touch with the Boeing workers in Wichita. We have other aircraft manufacturers that are located in Wichita, whether it is Cessna or Raytheon or Lear Jet, and they are saying we have to have this if we are actually going to stimulate people to buy airplanes.

This is a major decision they have to make, and they need the longer timeframe for it to be able to occur. We are talking about thousands of jobs in this industry that were directly hit because of September 11. That is why I speak on their behalf, and I ask my colleagues to consider what impact this has had to aircraft manufacturing workers who were directly hit by the September 11 events. They need this longer depreciation schedule for major companies to make the decision to buy the planes.

In an 8-month time period—that is the basic framework of this 1-year proposal—we will only have 8 months to act on it. Those decisions cannot and will not be made in that period of time that would be involved for a company to decide to put millions of dollars out for aircraft.

They have been contacting me and are strongly supportive of the longer depreciation time period saying that is what we need, and I ask we consider what happens to the aircraft workers. That is what we ought to be thinking about on this particular amendment. If we want to stimulate this work, if we want to stimulate manufacturing, we need the Smith amendment for the longer timeframe.

I reserve the remainder of our time, and I yield to the Senator from Oklahoma for his 1 minute.

The PRESIDENT pro tempore. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, first I wish to compliment my colleague from Oregon, Senator SMITH, for his amendment because he is trying to put some stimulus in the stimulus package. Right now, under the so-called Daschle package, there is no beef. There is nothing that is going to create jobs. The only thing that could even remotely be called a stimulus would be the depreciation section, and when one reads the depreciation section there is nothing there.

I have heard colleagues say Senator DASCHLE's amendment has a deprecia-

tion section for 12 months. Well, 4 months of those 12 months have already expired. How many jobs are we going to create for the past 4 months? That has already happened. There are only 8 months remaining. I doubt this is going to be enacted into law today, and so it is going to be less than 8 months. So the stimulative portion of this might last for 7 months.

Senator SMITH happens to have a business background. I used to be in the private sector. We cannot pass a bill and say to the business community, go out and make investments, and by the way you have to make the investment in the next 6 months and it has to be put into action, according to the Daschle amendment, by December. One just does not do it.

One might buy a few little things but they are not going to make a significant investment. It will not happen. Jobs are not going to be created.

The PRESIDENT pro tempore. The Senator from Oklahoma has used 1 minute.

Mr. NICKLES. Mr. President, how much time do we have remaining on our side?

The PRESIDENT pro tempore. Thirty-five seconds.

Mr. NICKLES. I will use the remainder of the time unless others want it.

I, again, thank my colleague from Oregon because he is trying to put stimulus in this so-called stimulus package. If we want to strictly have a spending bill, let's have a spending bill. That is really what most of the Daschle package is.

The Smith amendment says, let us have some stimulus. This has passed the House. It was part of the bipartisan bill that we had Democrats and Republicans say we can pass. It is one of the things for which the President has asked. Let us do something that would help create jobs. If we do not pass this amendment, I do not think the underlying amendment is worth passing. That is my observation.

I urge my colleagues to support the Gordon Smith amendment.

The PRESIDENT pro tempore. The time has expired.

The Senator from North Dakota.

Mr. CONRAD. Mr. President, in my role as Budget Committee chairman, I raise a point of order that the pending amendment violates section 311(a)(2)(B) of the Congressional Budget Act of 1974 and ask for the yeas and nays.

The PRESIDENT pro tempore. Is there a sufficient second?

The Senator from Oregon.

Mr. SMITH of Oregon. Mr. President, I move to waive the respective section of the Budget Act with regard to my amendment and ask for the yeas and nays on this motion.

The 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 assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from New York (Mrs. CLINTON), the Senator from Connecticut (Mr. DODD), the Senator from North Dakota (Mr. DORGAN), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Georgia (Mr. MILLER), and the Senator from Florida (Mr. NELSON) are necessarily absent.

I further announce that, if present and voting, the Senator from New York (Mrs. CLINTON) and the Senator from North Dakota (Mr. DORGAN) would each vote "no."

Mr. NICKLES. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Oklahoma (Mr. INHOFE), the Senator from Arizona (Mr. KYL), the Senator from Alaska (Mr. MURKOWSKI), the Senator from Kansas (Mr. ROBERTS), the Senator from Alabama (Mr. SESSIONS), the Senator from Alabama (Mr. SHELBY), the Senator from Ohio (Mr. VOINOVICH), and the Senator from Arizona (Mr. MCCAIN) are necessarily absent.

I further announce that, if present and voting, the Senator from Oklahoma (Mr. INHOFE) would vote "yea."

The yeas and nays resulted—yeas 39, nays 45, as follows:

[Rollcall Vote No. 3 Leg.]

YEAS—39

Allard	Ensign	Lugar
Allen	Enzi	McConnell
Bennett	Fitzgerald	Nickles
Bond	Frist	Santorum
Brownback	Gramm	Smith (NH)
Bunning	Grassley	Smith (OR)
Burns	Gregg	Snowe
Campbell	Hagel	Specter
Cochran	Hatch	Stevens
Collins	Helms	Thomas
Craig	Hutchinson	Thompson
Crapo	Hutchison	Thurmond
DeWine	Lott	Warner

NAYS—45

Baucus	Dayton	Levin
Bayh	Durbin	Lieberman
Biden	Edwards	Lincoln
Bingaman	Feingold	Mikulski
Boxer	Feinstein	Murray
Breaux	Graham	Nelson (NE)
Byrd	Harkin	Reed
Cantwell	Hollings	Reid
Carnahan	Inouye	Rockefeller
Carper	Jeffords	Sarbanes
Chafee	Johnson	Schumer
Cleland	Kerry	Stabenow
Conrad	Kohl	Torrice
Corzine	Landrieu	Wellstone
Daschle	Leahy	Wyden

NOT VOTING—16

Akaka	Kennedy	Roberts
Clinton	Kyl	Sessions
Dodd	McCain	Shelby
Domenici	Miller	Voinovich
Dorgan	Murkowski	
Inhofe	Nelson (FL)	

The PRESIDENT pro tempore. There will be order in the Senate.

On this vote, the yeas are 39, the nays are 45. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The amendment of the Senator from Oregon would result in a breach of the revenue floor set out in the budget resolution. The point of order is sustained. The amendment falls.

The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I ask for the yeas and nays on amendment No. 2698.

The PRESIDENT pro tempore. Will the Senator withhold briefly?

EXECUTIVE SESSION

NOMINATIONS OF MARCIA S. KRIEGER, OF COLORADO, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF COLORADO AND JAMES C. MAHAN, OF NEVADA, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF NEVADA

The PRESIDENT pro tempore. Under the previous order, upon the disposition of the Smith amendment No. 2705, the Senate will now go into executive session and proceed with the consideration of Executive Calendar Nos. 644 and 645.

The nominations will be stated.

The assistant legislative clerk read the nomination of Marcia S. Krieger, of Colorado, to be United States District Judge for the District of Colorado, and James C. Mahan, of Nevada, to be United States District Judge for the District of Nevada.

The PRESIDENT pro tempore. Under the previous order, there will now be 10 minutes for debate to be equally divided between the chairman and ranking members of the Judiciary Committee, and 10 minutes for debate under the control of the Senator from Iowa, Mr. HARKIN.

The Senator from Vermont.

Mr. LEAHY. Mr. President, I ask unanimous consent that I be recognized after these two votes for such time as I may need to speak about the nominations. I know a number of Senators have schedules they want to keep.

Mr. HATCH. Mr. President, reserving the right to object—I will not object—I would like to be given time immediately following the distinguished Senator from Vermont.

The PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, I say to my colleagues here in the Chamber today that I announced last year before we adjourned for the holiday recess that because of the failure of the Senate to provide for cloture on the farm bill so that we could have a reasonable amount of time for debate and come to closure on it, the Senator from Iowa, this Senator, was not going to agree to any unanimous consent on any judges or anything else that came before the Senate until we completed the farm bill.

I was approached the other day and was asked if we would let a couple of these judges go. It was my intention at that time to say no. I am not interested in anything passing here until we

got a farm bill finished and sent to conference. But it has come to my attention that there seems to be some movement towards reaching some agreement to have either a defined list of amendments and/or a time limit so that we could bring this farm bill to some closure.

So in the spirit of trying to work on a bipartisan basis and trying to reach some agreement, I withdrew my objection so we could go ahead and permit these two judges to go through. I asked for this 10 minutes of time only to hope that in the ensuing few days—I know that next week we are not going to be here much more than 1 day, and I think we are out Wednesday, Thursday, and Friday for the party conferences. That means we will have a short day Monday, a day Tuesday, and that is it. Then we are in the week after that. I am hopeful that sometime before we adjourn next week for our party conferences the leadership on the Republican side and on the Democratic side can reach an agreement on a defined list of amendments on the farm bill and/or some time limit so we can reach closure on it. Hopefully we will do that the week after next.

This is becoming even more important because the Department of Agriculture just came out last week with their economic forecast for agriculture this year. I will read from the AP report on their forecast.

With crop prices mired near record lows, the government says farm income will drop nearly 20 percent this year unless Congress enacts a new farm program quickly, or approve more emergency payments.

There you have it.

There are three things we can do: Sit back, do nothing, and let farm income drop 20 percent, we can come up with more emergency payments, or we can enact a new farm bill, go to conference with the House, and have a more reasonable approach.

I hope we can do the latter; that is, pass the farm bill, go to conference, come back, and let the House and the Senate work its will.

We have had a lengthy debate on the farm bill already. We have been here 12 days; 1 more day on the farm bill means we will have broken all records for length of time for the farm bill to be considered in this Chamber. Just 1 more day and we will have that. It looks as if we are going to break the record.

We had three substitutes for this farm bill. It was well debated. We had the Lugar substitute, we had the Roberts-Cochran substitute, and we had the Hutchison substitute, which is basically the House bill. None of them got over 40 votes. One got 30, one got 38, one got 40. So it looks as if the bipartisan bill that we came out of committee with is the bill that has the most votes.

I know there are things in the bill not everyone likes. There are some things in the bill I personally as chairman of the committee do not like. But