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Senate

The Senate met at 9:30 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

The PRESIDENT pro tempore. Today's prayer will be offered by our guest Chaplain, Rev. Michael Coleman, Park United Methodist Church, Hannibal, MO.

We are pleased to have you with us.

PRAYER

The guest Chaplain, Rev. Michael Coleman, offered the following prayer:

Almighty God, Your justice has shown us that the righteous observance of Your sacred law is necessary for an abiding and purposeful life. Your mercy has taught us that none stand before You in this life free of the influence of sin upon our natures. So today we call ourselves in humble obedience to this Chamber, for this session along with its purpose of caring for the welfare of Your people.

We stand here today, as a government of leaders—as well as a land of various peoples—united under Your Word. May we be inspired by Your words from II Chronicles 7:14: "If my people which are called by my name, shall humble themselves, and pray, and seek my face, and turn from their wicked ways; then I will hear from heaven, and will forgive their sin, and will heal their land."

Divine Creator, we humbly request these things, in the spirit of all that is holy, and in the power of Your creative influence. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JOHN ASHCROFT, a Senator from the State of Missouri, 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 able Senator from Virginia.

Mr. WARNER. Mr. President, on behalf of the Senate leader, I shall address the Senate momentarily about the calendar of events for the day, but I see my distinguished colleague from Missouri, Mr. ASHCROFT, who had the great foresight and wisdom to invite the Reverend Coleman as our guest Chaplain.

GUEST CHAPLAIN MICHAEL COLEMAN

Mr. ASHCROFT. Mr. President, I thank the Senator from Virginia. I thank in particular Rev. Mike Coleman, of Hannibal, MO, for coming to this Chamber today to call us to our highest and best. He prayed about justice and he prayed about mercy, he prayed about the components of attitude and spirit that will help us achieve that which the people have sent us to do. The real opportunity we have is to live at the maximums of our existence rather than to perform at the minimums. When we invite the presence of the Almighty as we begin these proceedings, we equip ourselves to point toward the maximums instead of to dwell on the minimums.

So as we approach this day, I thank Rev. Mike Coleman for coming from Hannibal, MO, hometown of Mark Twain. I think it was Mark Twain, the philosopher, who said there is nothing quite so embarrassing as a good example. Well, I do not think the Reverend is embarrassing to us, but he does set a good example as he calls us to our highest and best, and it is the prayer of all of us together with him that today we would serve the people with compassion and dignity and with justice and mercy.

I thank the Chair and I thank the Senator from Virginia for allowing me to make these remarks.

Mr. WARNER. Mr. President, I thank my colleague. It is a great pleasure for those of us who join in the opening of the Senate to have the Pledge of Allegiance to the flag. I have been here 21 years, and at long last this essential and I think necessary practice, which is celebrated all over America every day, particularly in the schools, and so forth, is now observed in the Senate.

The words of our guest Chaplain today were very stirring because this could be one of the final days in our Senate life before we go on a recess, which will enable us to join our families and spend some time with our constituents and others.

I thank the Senator.

Mr. BIDEN. Will the Senator yield for a brief comment?

Mr. WARNER. Yes.

Mr. BIDEN. I would like to welcome the guest Chaplain as well and say, in light of Mark Twain's reputation, Rev. Coleman could have helped him a great deal in his attitude with a little enlightenment in spiritual matters.

I think Hannibal could have used the Reverend back in the time of Mark Twain. It might have been a little bit different. I love Mark Twain, but he was a little wry. And I just want everyone to know I recognize the irony of the guest Chaplain being from Hannibal, MO, the home of Mark Twain.

Mr. ASHCROFT. Will the Senator yield?

Mr. BIDEN. I would be delighted.

Mr. ASHCROFT. It might have been that Mark Twain got that education after he moved out East. He did end up more in the territory of the east coast, but his roots were solid and good, nourished by the right values.

Mr. BIDEN. I have no question about that.

Mr. WARNER. Mr. President, if I may just add a little to that colloquy, it is my recollection that Mark Twain had some fairly pithy remarks on the Congress of the United States from time to time. Perhaps we should include some of those in the RECORD. My

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



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mother came from St. Louis, MO, so I feel that I am particularly blessed by the presence of this Chaplain today.

SCHEDULE

Mr. WARNER. Mr. President, by previous order, the Senate will begin 30 minutes of debate on the Holbrooke nomination; that is, the Honorable Richard Holbrooke, to be Ambassador to the United Nations, with a vote to occur at approximately 10 o'clock today. Following disposition of the Holbrooke nomination, the Senate will resume consideration of the Interior appropriations bill with amendments expected to be offered and debated. In addition, when the Senate receives the tax reconciliation conference report from the House of Representatives, it is expected that the Senate will begin consideration of that legislation. Therefore, Senators should expect votes during the day and into the evening during today's session of the Senate.

I thank my colleagues for their attention.

That is from the distinguished majority leader, Mr. LOTT.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. HAGEL). Under the previous order, leadership time is reserved.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

The PRESIDING OFFICER. Under the previous order, the Senate will go into executive session to consider en bloc Executive Calendar Nos. 135 and 140, which the clerk will report.

DEPARTMENT OF STATE

The legislative clerk read the nomination of Richard Holbrooke, of New York, to be the Representative of the United States of America to the United Nations with the rank and status of Ambassador Extraordinary and Plenipotentiary, and the Representative of the United States of America in the Security Council of the United Nations.

The legislative clerk read the nomination of Richard Holbrooke, of New York, to be a Representative of the United States of America to the Sessions of the General Assembly of the United Nations.

The PRESIDING OFFICER. Under the previous order, there now shall be 30 minutes of debate equally divided to be followed with the vote en bloc on the nominations.

The Senator from Virginia.

Mr. WARNER. Now, Mr. President, I thank the Senate leadership with respect to this nomination. It has been a unique one for various reasons. The elements of that uniqueness are well

known to my colleagues. I shall not speak in detail about the tradition of "holds" but I think much of the general public is somewhat perplexed about the procedures in the Senate.

There has been discussion as to the procedure on this nomination and the use of what is referred to as a "hold." There is a diversity of views within this body on the use of a "hold," but, in my judgment, it is an important and proper procedure utilized by Senators in conjunction with what I view as the balance of power established by the Constitution in the coequal branches of the Government: the executive branch, the power of nomination by the President, and the Senate and its power of advice and consent.

The use of the hold is an exercise of that balance of power between the two branches. In this instance, I thank the distinguished majority leader and, of course, the minority leader, and others who have worked to bring this nomination to this point where today the Senate will render its advice and consent on this very important nomination.

Mr. SARBANES. Will the Senator yield?

Mr. WARNER. Yes. I thank many other Senators who have worked with me—Senator HAGEL, Senator GRASSLEY, Senator VOINOVICH, and my distinguished colleague from Delaware, Mr. BIDEN who will be speaking momentarily. I yield for the comments of the Senator from Maryland.

Mr. SARBANES. Mr. President, I want to put a question to the Senator on the hold because I have been reading newspaper reports that I think have completely misinterpreted how the hold process operates. These reports have alleged that the Senate rules contain a provision that enables any Member of the Senate, in effect, to hold up action either on a nominee or on legislation and sort of that is that. That is not the case.

Mr. WARNER. Mr. President, the Senator is correct; it is tradition—

Mr. SARBANES. It is a courtesy that is extended to a Member when he places a hold. The leadership can move ahead if the Member is being recalcitrant. Of course, it is up to Members to exercise a hold with some self-restraint. They may get the extra time they need, but, in my judgement, it ought not to be used as a weapon that completely submerges the nomination or the legislation.

I interjected because I am very concerned. I have read a number of newspaper reports that seem to suggest that the rules of the Senate are such that any Member can simply place a hold on a nomination and preclude any action. That is not the case. It is a courtesy that has been extended to Members by the leadership, but the leadership can always move ahead if they determine it is an urgent matter. Of course, they try to work it out so Members are willing to have it come up. That is what has happened in this instance.

I particularly express my appreciation to the distinguished Senator from

Virginia for his efforts to try to move this matter forward.

Mr. WARNER. Mr. President, I thank my colleague from Maryland. He is quite accurate in his recitation of the rules of the Senate. This is by tradition. I suggest we not deal too much with what took place in the past on this nomination, but I felt that this RECORD this morning should reflect, for those who are following the nomination, my judgment with regard to the tradition of a Senator seeking a hold.

Again, it is part of that balance of power between the two branches. For example, Senator GRASSLEY, in his case, feels very strongly about the need to protect those individuals who are commonly referred to as whistleblowers. They should be protected. Senator GRASSLEY, after having talked with him many times, recognized the Holbrooke nomination is of importance, but he carefully evaluated his responsibility as one of those leaders in the Senate who have protected the rights of whistleblowers. That is behind us.

Many Senators have worked on this nomination. I express my appreciation again to the leadership and those Senators, particularly the Senator from Delaware.

The facts about this nominee are well known. I have known him personally for a number of years. I have watched his distinguished career, and in the course of the morning, I will add some facts. But I want to yield the floor momentarily to my colleague from Delaware.

The point is that my concern about this nomination and its timeliness is because of the fact that we now have in Kosovo a force under the NATO Command of General Clark, Operation Joint Guardian. While we had hoped that this military operation would have had a smooth operational history, in fact it has encountered many unforeseen problems, problems where our troops and the troops of other nations had to perform all types of diverse duties. Many of these young men and women who are courageously participating in this operation have had no formal training in the military with respect to many of the responsibilities they are now undertaking.

The United Nations, under a force known as United Nations Mission in Kosovo, referred to as UNMIK, has had a very slow start getting organized and into the field to perform duties that are currently being performed by the NATO military.

One of the reasons for working to accelerate the consideration of this nomination is that in knowing Mr. Holbrooke and his forcefulness and his background, he, I believe, is better qualified than anyone else I know of today to take on this important post and to accelerate the functions of the United Nations in this region.

The sooner they get in, the less risk to the men and women of the Armed Forces currently undertaking many missions which they are doing quite

well, despite the fact they have had little or no formalized training in operating civil, local governments in the village of Kosovo. Fortunately, this force is under the command of the NATO Commander, General Clark. General Clark and Ambassador Holbrooke have known each other for many years. They have worked together. They participated in the Dayton accords, for which Ambassador Holbrooke deserves great credit, and I will have further comment on that later.

Also, Ambassadors, when they report for their duties, may be fortunate to have a spouse who is quite interested in those duties and perform as a team. This is going to be an extraordinary husband and wife team of Richard Holbrooke and Kati Marton, his wife. She is a noted authoress. She has roots in central Europe. She is a beautifully educated and cultured woman. I have had the privilege of knowing her for a number of years. They will be an extraordinary team in this important post.

Mr. President, I ask unanimous consent to print in the RECORD a biography of Richard Holbrooke.

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

RICHARD C. HOLBROOKE

Richard C. Holbrooke was the chief negotiator for the 1995 Dayton Peace Accord, which served to bring peace and an end to human rights abuses in Bosnia, while serving as Assistant Secretary of State for European and Canadian Affairs, from September 1994 to February 1996. Beginning June 1997, Holbrooke served as Special Presidential Envoy for Cyprus, and in 1998 he was Special Presidential Envoy for Kosovo. Prior to becoming Assistant Secretary of State, he was U.S. Ambassador to Germany.

President Carter appointed him in 1977 as Assistant Secretary of State for East Asian and Pacific Affairs, a post he held until 1981. During his tenure, among other major events, the United States established full diplomatic relations with China. He is the only person ever to hold two regional Assistant Secretary of State posts.

Holbrooke began his governmental career in 1962, joining the Foreign Service immediately after graduating from Brown University. After studying Vietnamese, he was sent to Vietnam and, in the following six years, served in a variety of posts related to Vietnam—first in the Mekong Delta as a provincial representative working on rural development, for the Agency for International Development (AID), and then as a staff assistant to Ambassadors Maxwell Taylor and Henry Cabot Lodge. In 1966 he was reassigned to the White House, working on the Vietnam staff to President Johnson. During 1967–69, he wrote one volume of the Pentagon Papers, served as a special assistant to Undersecretaries of State Nicholas Katzenbach and Elliot Richardson, and was a member of the American Delegation to the Paris Peace Talks on Vietnam, headed successively by Averall Harriman and Henry Cabot Lodge.

Following these assignments Holbrooke spent a year as a fellow at the Woodrow Wilson School at Princeton University. From 1970 to 1972 he was Peace Corps Director in Morocco. In 1972, he took leave from the Foreign Service to become Managing Editor of the quarterly magazine *Foreign Policy*, a po-

sition he held until 1976. During 1974–75 he also served as a consultant to the President's Commission on the Organization of the Government for the Conduct of Foreign Policy, and was a contributing editor of *Newsweek* magazine's International Edition. In 1976 he coordinated National Security Affairs for the Carter-Mondale presidential campaign.

In 1981 he moved to the private sector, forming a consulting firm, Public Strategies, with James A. Johnson. He became a Managing Director at Lehman Brothers in 1985. As a banker and diplomat, he has traveled to over 100 countries, including over 65 trips to China alone. He covered both domestic and foreign clients at Lehman Brothers, working on a wide variety of transactions.

In 1992 he chaired the Bipartisan Commission on Reorganizing the Government for Foreign Policy.

His most recent position in the private sector has been as Vice Chairman of Credit Suisse First Boston Corporation, based in New York.

Holbrooke has had long involvement in the non-governmental organization community. He is current Chairman of Refugees International; Chairman of the American Academy in Berlin; Chairman of the National Advisory Council of the Harriman Institute, and a member of numerous Boards of directors and committees.

Holbrooke adds the Eleanor Roosevelt Val-Kil Medal to a long list of distinguished awards and honorary degrees already received. He is the author of "To End a War," on his Balkan peacemaking experiences, and co-author of *Counsel to the President*, the memoirs of Clark Clifford, as well as numerous articles on foreign policy.

Holbrooke was born on April 24, 1941 in New York. He received a bachelor's degree from Brown University. He has two sons, both television producers. He is married to author Kati Marton and lives in New York.

Mr. WARNER. Mr. President, that concludes my opening remarks. I may have further remarks about this nominee, but I want to share the time now with my distinguished colleague from Delaware. I yield the floor.

Mr. BIDEN. Mr. President, I am pleased the Senate is finally considering the nomination of Richard C. Holbrooke to be the United States Representative to the United Nations.

Before stating my reasons why I strongly believe that Ambassador Holbrooke should be confirmed, let me briefly review the process which led us to this day.

In June 1998, the President announced his intention to nominate Ambassador Holbrooke for the job of UN Ambassador. The formal nomination was delayed, however, until February of this year by an investigation into alleged ethical violations by Ambassador Holbrooke.

That investigation culminated in a settlement with the Department of Justice in which Ambassador Holbrooke agreed to pay five thousand dollars in civil penalties.

Once the Senate received the nomination in February, the Committee on Foreign Relations conducted its own inquiry, reviewing in great detail the investigation conducted by the State Department Inspector General and the Department of Justice.

In June, the Committee conducted three separate hearings on Ambassador

Holbrooke's nomination, reviewing first the ethical matters, then reviewing issues related to the United Nations and UN reform, and then reviewing Ambassador Holbrooke's involvement in United States policy toward the Balkans.

On June 30 the Committee voted unanimously—on a voice vote—to report Ambassador Holbrooke's nomination to the full Senate.

Since the Committee reported Mr. Holbrooke's nomination, it has been subjected to a variety of reported "holds" by several senators, only one of which, as I understand it, had anything to do with Mr. Holbrooke's qualifications to be ambassador.

This delay is quite extraordinary for a position of this importance. The last two UN ambassadors were confirmed on the same day that the Committee voted, and in the last two decades, the Senate has, on average, voted within four days of the Committee's vote.

But we have now worked through all those and we are here today, for which I am grateful to the Majority Leader and the Chairman.

I believe the Senate should confirm Ambassador Holbrooke for a simple reason: he is highly qualified for the job.

There are few people who have had the kind of diplomatic experience that Ambassador Holbrooke has had.

Ambassador Holbrooke had been in public service since the early 1960s, when he entered the Foreign Service. Since then, he has served in a wide variety of diplomatic positions—in each case with distinction.

In the Carter Administration, he served as Assistant Secretary of State for East Asian and Pacific Affairs. Appointed at the age of 37, at the time he was the youngest person ever appointed as assistant secretary.

In 1993, Ambassador Holbrooke returned to government service as Ambassador to Germany.

In September 1994, he became Assistant Secretary of State for European and Canadian Affairs. Again, Ambassador Holbrooke established a precedent: he became the first person to serve as assistant secretary of state for two different geographic regions.

A key challenge facing him upon his return to the United States was the conflict in Bosnia, which by then had been raging since April 1992.

As Assistant Secretary, Mr. Holbrooke helped design and implement a strategy that culminated in the signing of the Dayton Accords in November 1995, which brought an end to the Bosnian war.

Of course, several people in the U.S. government deserve credit for the success at Dayton. But it cannot be denied that Ambassador Holbrooke—and the creativity and tenacity he brought to the task—was critical to bringing about this diplomatic achievement.

In February 1996, for personal reasons, Ambassador Holbrooke resigned from full-time government service. At

the request of Secretary of State Christopher, he remained available to undertake special missions and to advise senior officials in the State Department. In 1997, President Clinton also asked him to become special Presidential envoy for Cyprus.

Throughout the three and one-half year period since leaving full-time government service, Ambassador Holbrooke has never been paid a dime for his efforts.

Mr. President, I daresay that there are few people with the diplomatic experience that Mr. Holbrooke will bring to the job of UN ambassador. He has significant experience at high levels of government. He has deep experience in two regions. And he has recently supervised and managed a major diplomatic conference that culminated in the end of a tragic war.

Let me state it as bluntly as I know how: we need Dick Holbrooke in New York and we need him there now. It has been nearly a year since we have had a UN ambassador.

The agenda facing the next UN ambassador is a long one.

The United Nations is taking the lead in establishing a civilian administration in Kosovo. We need someone with Dick Holbrooke's skill and knowledge to make sure it gets done right.

The United Nations is greatly in need of reform. We have promised the UN that we will pay nearly one billion dollars in back dues if these reforms are made. Ambassador Holbrooke promised that UN reform will be his "highest sustained priority." We need someone with Dick Holbrooke's negotiating skills to help bring them about.

The UN Security Council remains seized with the issue of dismantling Iraq's arsenal of mass destruction. We need someone with Dick Holbrooke's toughness to carry that task forward.

In sum, I believe Ambassador Holbrooke has all the qualities necessary to be an excellent UN ambassador, and I believe that the Senate should confirm him forthwith.

Let me turn briefly to the issues that delayed Mr. Holbrooke's nomination.

Last July, soon after the President announced his intention to nominate Mr. Holbrooke, an anonymous letter arrived in the Office of the Inspector General at the Department of State alleging that Ambassador Holbrooke may have violated ethics laws and regulations.

Spurred by this letter, the Inspector General opened a wide-ranging investigation that took over five months, involved dozens of interviews, and the production of thousands of pages of records.

Earlier this year, while the nomination was pending, the Inspector General opened a second investigation, this time based only on an oped article in the Washington Post.

The first investigation culminated in a civil settlement between Ambassador Holbrooke and the Department of Justice in which Ambassador Holbrooke

agreed to pay five thousand dollars to settle allegations that he violated Section 207(c) of Title 18 of the United States Code.

To this day, Ambassador Holbrooke denies that he violated the law, but he settled the matter in order to avoid further delay of the nomination. The second investigation was closed almost as quickly as it was opened, with no punishment imposed against Ambassador Holbrooke.

The Committee obtained the thousands of pages of documents that were produced in the investigations of Ambassador Holbrooke, and has reviewed them independently.

I have reviewed all these matters closely, and I do not believe that they even begin to rise to the level where they should be considered disqualifying.

I do not make this statement lightly. I am a strong supporter of the ethics laws, and believe they must be rigorously enforced. Government employees, as Ambassador Holbrooke stated in his first hearing before the Committee, must maintain the public trust.

I have known Richard Holbrooke for two decades, and am presumptuous enough to call him a friend. I do not believe that he is an unethical person, and I find totally inconsistent with his character any suggestion that he is.

On the contrary: Dick Holbrooke is a dedicated public servant who, as the record compiled by the Committee demonstrates, willingly devoted dozens—if not hundreds—of hours to assisting the government in the past several years, to the detriment of his commitment to his private employer.

Every senator can be assured that the Committee has left no stone unturned.

The Committee sought and received access to every document reviewed by the investigators, and received access to internal documents of the White House, the Department of State, and the Department of Justice, including the memorandum setting forth the reasons why a criminal prosecution of Mr. Holbrooke was not warranted.

Mr. President, my friend from Virginia is very diplomatic. My friend from Virginia is a man of grace and elegance. My friend from Virginia is a man who is able to get things done not merely because of his intellect but because of his style.

I am not as elegant as my friend from Virginia, so I will just say it out loud. This would not have happened without my friend from Virginia. The truth of the matter is, it took a Republican of stature, seniority, and influence in this area to break this loose. He is going to get mad at my saying this, but I think it is a shame that was required, but I thank him for it because he was relentless over the last 5 months in trying to get us to this point today.

I will ruin his reputation here, but the President owes him a debt of gratitude, the Nation owes him a debt of gratitude, the Senate owes him a debt

of gratitude, and Mr. Holbrooke, I know, is grateful for his effort. Because as the Senator from Virginia indicated, there is a significant agenda facing our next Ambassador to the United Nations.

Mr. WARNER. Mr. President, if the Senator will yield, I appreciate his thoughtful remarks, but, again, it was a team effort by a number of us, including the Senator from Delaware.

I want to make the point here, the distinguished chairman of the Foreign Relations Committee, Mr. HELMS, and Senator BIDEN's colleagues on that committee held a hearing. There was a unanimous vote, and Mr. HELMS reported this nomination to the floor. It did pass through there with the approval of the committee on which the Senator serves.

Mr. BIDEN. Mr. President, I never had a doubt, nor did any of my colleagues, that if we ever got any forum in which we could discuss the qualifications of Richard Holbrooke, he would win unanimously. We never doubted that. But it took a lot to get it to the Foreign Relations Committee, to get a vote in the Foreign Relations Committee, and once it got to the floor, to move it forward.

I want to say something about these holds. I have been here 27 years. I have been a sitting Senator longer than the Senator from Virginia. There are only seven people who have been in the entire Senate longer than I. We have lost our sense of proportion. Holds have nothing to do with—nothing to do with—the balance of power here when used in the fashion they were used.

Let me explain what I mean by that. It is one thing to say, I am going to hold up that bill from passing because the bill left out two bridges in my State that are critical to the commerce of my State. There is a correlation between the spending of money and the impact on my State—a sense of proportion.

If I say that I am going to hold up the next Director of NASA because I want answers on how the space program is going to work, that is reasonable. There is a sense of proportion. There is a relationship between NASA and the head of NASA.

But when I was chairman of the Judiciary Committee for several years, or were I to become chairman of the Foreign Relations Committee, and I said: By the way—and, by the way, the chairman of the Foreign Relations Committee did not do this—were I to say: You know, I realize the President's nominee for the Supreme Court may be a good guy, or good woman, but I'm going to hold her up because the Dover Air Force Base is being closed, that is no sense of proportion, that is an abuse of power—an abuse of power. That is totally unreasonable.

Let's get straight what this was about. We held up one of the single most important foreign policy personnel decisions to be made by this administration. And not a person in this

Senate would disagree with that assertion. Why? Because one Senator wanted someone on the Federal Election Commission whom he did not get, and another Senator thought that some second-tier person who worked at the U.S. mission to the U.N., who in fact was disciplined, should not have been disciplined.

The process in the law that calls for review of that person's case is underway. The person who helped write that process into the law decides that the process isn't working quickly enough or getting the result he wants, so they hold up the Ambassador to the United Nations at this moment in our history.

I respect both the gentlemen who did those things personally, but I respectfully suggest—as we Catholics say, when you are a little kid and you go to confession, they say you learn to examine your conscience. Go examine your conscience and tell me whether there is any sense of proportion.

As I stated earlier, since 1981, in the case of nominations for UN ambassador, the average amount of time—the number of days between the time that nominee was reported by the Foreign Relations Committee and the time that that nominee was voted on in the Senate was 4 days—4 days.

The reason I mention this is, you know what I am afraid of? I say to my friend from Virginia and my Republican colleagues. When the Democratic Party takes control, we are going to learn wrong lessons from you all, we are going to learn the wrong lessons.

I remember when I was chairman of the Judiciary Committee, we had the Clarence Thomas nomination. Before Anita Hill came along we had a vote, and it was 7-7. Guess what. Technically, that means he did not get enough votes to be voted out. I had some very liberal Democrats, hard-edged Democrats, like your hard-right Republicans, say: Mr. Chairman, it's within your power not to report him to the floor.

How responsible would it have been for me, as the chairman of the committee—which I could have done—to prevent the Senate from voting on a Supreme Court nominee? The Republicans would have done that, based on their conduct on this nomination. And guess what. If it happens again, mark my words, Democrats are going to join this place who are going to learn all the wrong lessons from this abuse of power, this lack of proportionality.

I am not going to say any more about it. The reason I am not is that it is done. But I really, truly hope and plead with my colleagues, on both sides of the aisle, have a sense of proportion here. We dodged a bullet here because of the incredible work of Senator HELMS and Senator WARNER on the Republican side and the eventual yielding on the part of others. Reason ultimately prevailed. But this is a bad, bad, bad practice; and this is a good, good, good nominee.

I will conclude, because others want to speak, by stressing two points about

Mr. Holbrooke. One, in all my years in the Senate, no one in the Senate who has come before our committee is more qualified to do the job for which he has been nominated than this man—none; not one.

Secondly, this is an ethical man. This man's ethics have been questioned under what I believe to be an aberration. We put in the law—and I voted for inspectors general, but guess what. The law can be triggered by an article in a newspaper. That can hold up a nomination for months and months, requiring intensive investigation. This is the most investigated man we have had for the United Nations, and there is not an unethical drop of blood in this guy's veins.

So I think there are three things we have to do.

Let's put this man in place. Let this incredible energy and intellectual horsepower that this fellow has go to work on behalf of America. Two, let's reexamine whether or not we exercised any proportionality here in holding this up. And three, I would ask my colleagues on both sides of the aisle to consider joining with me and going back and relooking at the way in which the inspector general's office is triggered and worked so we avoid this kind of thing in the future.

Mr. SARBANES. Will the Senator yield me 2 minutes?

Mr. BIDEN. Yes.

Mr. WARNER. If I might just advise my colleagues, the previous order is that the Senate will vote at 10. I ask unanimous consent that that be extended to, say, 10 minutes after 10, to afford other colleagues an opportunity to contribute their remarks. I am sorry, but the leader is very anxious, given the heavy calendar of work today, and I think it is important we proceed to this nomination. So if each of the remaining Senators can take 1 or 2 minutes, that would be helpful.

The PRESIDING OFFICER. Is there objection?

Mrs. HUTCHISON. Yes. I object. Mr. President, I am sorry, but I would like to have up to 5 minutes, and I did not realize I would be shut off.

Mr. WARNER. We will just accommodate the 5 minutes, then. I ask unanimous consent that the Senator from Texas have 5 minutes. What are the requests of the other Senators? Two or three minutes? So I ask unanimous consent that we go to the hour of 10:15, at which time we then, hopefully—have the yeas and nays been ordered, Mr. President?

The PRESIDING OFFICER. Yes, they have.

Is there objection to the unanimous consent request?

Without objection, it is so ordered.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, I rise in strong support of the nomination of Richard Holbrooke to be the United

States representative to the United Nations with the rank of Ambassador. Ambassador Holbrooke has rendered superb service to our Nation during the course of his career. His diplomatic experience makes him an ideal choice for this very important position.

We need good, strong leadership at the United Nations. We have been without a permanent representative now for an extended period of time. An able, competent, skillful diplomat can make a big difference in terms of serving the national interests of our country.

Dick Holbrooke has had an illustrious career. He joined the Foreign Service in 1962. He had assignments in Vietnam, where he worked closely with Ambassador William Porter, Ambassador Maxwell Taylor, and Ambassador Henry Cabot Lodge. From the very beginning he was right in the middle of the decisionmaking arena and was recognized for his extraordinary talents. He was the Director of the Peace Corps in Morocco. He then left the Government for a while and was a managing editor of Foreign Policy magazine, one of our leading foreign policy think magazines, where he did an outstanding job. In the mid-1970s, he was senior consultant to the President's Commission on the Organization of the Government for the Conduct of Foreign Policy.

This is a man who has committed his entire career to analyzing and enhancing the foreign policy of the United States in the name of serving our national security interests. He held two assistant secretaryships within the Department of State: Assistant Secretary for East Asian and Pacific Affairs and Assistant Secretary for European and Canadian Affairs. He has also served in a very distinguished way as our Ambassador to Germany.

I have worked closely with him in his capacity as Presidential Special Envoy to Cyprus, where he has striven mightily to try to move that issue forward.

He will do a terrific job at the United Nations. He has done an excellent job in every government position he has held. His commitment and dedication are obvious for all to see. I think the Senator from Delaware was right in saying that there were attacks on Dick Holbrooke's character which were extremely unfortunate and without basis or justification. To his credit, he withstood all of that. A lesser person might have walked away and said: Who needs to put up with this? But he has a driving sense of serving the country and serving the national interest.

Dick Holbrooke has addressed difficult, complex foreign policy issues in an extremely incisive and competent way. We need that skill at the United Nations. That is the skill he will bring. I am relieved that the nomination is finally before us for judgment.

I urge my colleagues to support the nomination of Dick Holbrooke to be our Ambassador to the United Nations. He will serve our Nation and, indeed, the world well in this position.

I yield the floor.

The PRESIDING OFFICER (Mr. ROBERTS). The Senator from Connecticut.

Mr. DODD. Mr. President, today we consider the nomination of Richard Holbrooke to the position of United States Permanent Representative to the United Nations. I would say that this debate is long overdue.

The United Nations is a very important tool in America's foreign policy arsenal and our ambassador to the U.N. is the key to unlocking that power. For the past ten months, however, that post has stood vacant, thereby degrading our influence at the U.N. Today we have an opportunity to correct that omission and restore some of the United States' leadership in that world body.

There are few things the United States as a nation holds more dear than the ideals our country was founded on nearly 223 years ago. We continue to lead the global fight for freedom, for democracy, for peace, and for respect for human rights. For the past five decades, it has been the United States' strong, clear and persistent voice in both the Security Council and the General Assembly which has convinced other nations to support those same ideals.

Looking back on those fifty years, it is clear that our work at the United Nations has, by and large, been a success. Today, the United Nations is one of the most powerful champions of human rights, freedom and peace around the world. The U.S. has used the United Nations to support our foreign policy in places as far flung as Korea, Libya, Iraq, and Bosnia.

Without the United Nations, the two suspects in the bombing of Pan Am Flight 103 would probably never have faced a judge to account for their actions. Similarly, Saddam Hussein would still be free to terrorize both his neighbors and his own citizens. If it were not for the United Nations sponsored Implementation Force in Bosnia, war, bloodshed and genocide would still rule that nation. Today, the United Nations is engaged in helping to implement certain aspects of the peace settlement in Kosovo—which we all hope and pray will put an end to the bloodshed there as well.

While we are all familiar with United Nations peace keeping efforts in Bosnia and Iraq, we must not forget that men and women wearing the U.N.'s signature blue helmets are keeping the peace in places as disparate as Angola and Tajikistan. In all, there are currently 16 different on-going peace keeping operations on four continents.

As we embark on the next stage of involvement in Kosovo—one in which the United Nations will have an important role—it is tremendously important that we are represented in that world body. We must not allow any additional delay to further erode our leadership.

Last fall, President Clinton tapped an exceedingly qualified diplomat to

head our delegation to the United Nations. Richard Holbrooke has served our nation well in a wide variety of posts—from Assistant Secretary of State for two different regions to Ambassador to Germany.

Today, many of our thoughts are focused on the Balkans and this first real chance to bring peace to Kosovo. It is particularly fitting, therefore, that among Ambassador Holbrooke's greatest achievements are the Dayton Peace Accords which ended the civil war and genocide in Bosnia.

Five years ago, it was the war and ethnic cleansing in Bosnia, not Kosovo, that captured the world's attention. Innocent civilians were murdered and raped simply on the basis of their ethnicity. Venturing into the market to buy food entailed the risk of instant death at the hands of snipers or soldiers with a mortar on a nearby hill-top. Each day was a fight for survival.

Today, however, Bosnia is rebuilding. In 1995, talks held thousands of miles away from the battlefields—in Dayton, Ohio—silenced the sounds of gunfire and ended the massive human rights abuses. The man who brought the Serbs, Bosnians and Croats together for those talks and fought hard to reach a settlement is sitting before us today.

As Ambassador Holbrooke well knows, it is often easier to wage war than to make peace. In spite of the daunting odds, however, Ambassador Holbrooke did make peace and for that he deserves our praise.

Following his return to the private sector in 1996, Ambassador Holbrooke continued to serve his country. Without any compensation from the government, Ambassador Holbrooke focused his efforts on trying to end the dispute on the island of Cyprus and the bloodshed in Kosovo.

The success or failure of the Kosovo agreement it will be determined by whether the United States, our NATO allies and Russia stay the course together. The job of bringing this broad coalition together and keeping it together will not be an easy one, but it is one with which Ambassador Holbrooke has experience—experience we need at the United Nations at this critical juncture.

It is important to mention the other critical issue which is damaging our reputation and effectiveness at the U.N.: our failure to pay our dues. The funds we owe the U.N. are formal treaty obligations, not optional contributions. Today, we are in grave danger of losing our vote in the General Assembly. Imagine the irony if the United States, one of the founders of the United Nations, loses its vote in that organization's primary decision making body. The compromise Chairman HELMS and Senator BIDEN worked out with respect to our dues will go a long way to repairing the damage if we are able to convince our colleagues in the House to refrain from attaching poison pills to this bill. We already missed one

opportunity to pass that compromise, namely the emergency supplemental appropriations bill. I remain hopeful, however, that the compromise, which is a part of the Senate passed State Department Authorization bill and now in conference with the House will become law before the end of this session of Congress.

Now is the right time to confirm a new ambassador to the U.N. He has the requisite experience for the job and, even more importantly, is a proven peacemaker.

Mr. President, in conclusion I add my voice to those who have already spoken expressing their gratitude to Senator HELMS and Senator BIDEN, who are the chair and ranking member of the Senate Foreign Relations Committee, for the leadership that my friend and colleague from Virginia, the chairman of the Armed Services Committee, has shown on this nomination, and for many others who have spoken on behalf of Richard Holbrooke, in many cases, not because they agree with the politics of Richard Holbrooke or necessarily agree with every position he has taken on various public matters, but because there is an understanding that in our country, regardless of administration and politics, we need good, talented people, who analyze issues well and bring an energy and a passion and a commitment to public policy.

For those reasons, I am particularly grateful to our friends on the other side who may not agree with Richard Holbrooke but understand he is a talented human being.

I underscore the point that Senator SARBANES made. Too often we discourage good people in this country from serving their Nation because we have created a gauntlet that one has to go through prior to confirmation that will discourage other people from even thinking about going through this process. What you expose yourself and your family to to take on positions to serve your country is becoming far too much. I think as a body we ought to take a closer look at what we ask people to go through whom we ask to serve their Nation.

Richard Holbrooke has a distinguished career, as Senator SARBANES and Senator WARNER and others have pointed out, going back more than 30 years. He has been through an awful lot over the last year and a half, almost 2 years now.

I particularly am concerned about the inspector general at the State Department, as my colleagues on the Foreign Affairs Committee know. I have written an amendment, which was adopted, that requires that those people in the State Department who are accused of wrongdoing have a right—I know this sounds like a radical thought—to know what they are accused of and have an opportunity to respond to the accusation before the reports are written. That is not the case today.

Mr. SARBANES. Will the Senator yield?

Mr. DODD. I am glad to yield.

Mr. SARBANES. Does the Senator mean that at the moment you are not permitted to find out what the charges are and the nature of the accusations?

Mr. DODD. That is absolutely correct. In the case of Richard Holbrooke, he was not allowed to find out what the charges were against him for well over a year. A common criminal accused of a felony in this country has that right. It seems to me if we have a system inside our government where a mere accusation of someone can result in months and months of delay or public retribution, not to mention legal costs to defend yourself, something is terribly wrong with that process. We are trying to correct it.

Again, I don't want to spend the time talking about the problems we have but to commend one individual for persistence, who wants to serve his country, who is going to do, in my view, a remarkably fine job for all of us. I am sorry it took so long for him to arrive at this point, but I am grateful he has. Again, for those who made it possible, I thank them and am confident that Richard Holbrooke will serve our Nation well.

I yield the floor.

The PRESIDING OFFICER. The distinguished Senator from Texas is recognized for 5 minutes.

Mrs. HUTCHISON. Mr. President, I will speak about why I am going to vote against the Holbrooke nomination. I start by saying, I have never put a hold on this nomination. I thought the process should go forward in due course. I think Richard Holbrooke is a principled man. I think he is a committed public servant. I admire his tenacity, his dedication. I have nothing personal against Richard Holbrooke.

I am voting against him because I disagree with the policy that he has put forward in the Balkans. I just can't, in good conscience, vote for someone who I think is taking our country in the wrong direction.

This is his policy: that the United States should spend billions of dollars, wear and tear on our equipment and our troops, stretching our military for a goal that I believe is not achievable.

I would commit our military immediately if I thought the goal and the mission were the correct one, but I believe our policy in the Balkans is to force factions to live together in an American model, when the circumstances are different from any we have ever had in our country. I don't think we can put American requirements into the Balkans with any chance to succeed.

We have had a policy that the United States could use force of vast proportions without strategically assessing what would be more proportional responses in line with our own security threat and our other responsibilities in the world. Richard Holbrooke did not allow the United States, through his

policies, to lift the arms embargo on one faction in Bosnia, so one group was unarmed against two groups that were armed. I think if we had lifted the arms embargo 3 years before the Dayton accords, those people would have had a fair chance. I don't think we would have seen the mass slaughter of the Moslems that we did. I disagree with that policy.

We never looked at the opportunity for self-determination in the Balkans. We never looked at the opportunity to let these people form governments within their ethnic groups. They are 98 percent in ethnic groups now in Bosnia, but we are still trying to force them to have a coalition government. If we walked out today, I think every expert would agree the fighting would continue.

The Washington Post yesterday had a headline, "NATO Losing Kosovo Battle." This was not a headline 2 months ago. It was yesterday.

The reason is, we have a policy in the Balkans that I think is going to hurt our own national security by over-deploying our military troops, by wear and tear on our equipment, by not having a sense of proportion in looking for other options, not looking at all of our commitments in the world, but instead trying to force an American model that I think is unrealistic today.

I think there are other options to try to help the people in the Balkans create stability with self-determination and then, eventually maybe, they would be able to live closer together in harmony.

Mr. President, I want to say I am only voting against Mr. Holbrooke on his foreign policy principles, not on him as a person. I will say again that I think he is a committed public servant. I think he is tenacious in his beliefs, and I admire that in a person. I just believe that our foreign policy is going in the wrong direction in this country. I think we are going to pay a high price for it, and I think Richard Holbrooke is one of the architects of this policy that I believe is quite erroneous. So, for that reason, I will vote against Richard Holbrooke.

Thank you, Mr. President.

Mr. GRAMS. Mr. President, I have had a chance to discuss the role of the U.S. at the United Nations with the nominee on a number of occasions and I am confident that the President has nominated the right man for the job. Mr. Holbrooke has a reputation for being a tough negotiator and a practiced arm-twister and those are exactly the attributes we need in our next Ambassador to the United Nations.

It's not going to be easy to get the UN to implement the Helms-Biden package even though there is widespread agreement on the need for reform. I believe Ambassador Holbrooke has the skills necessary to leverage our position as the most powerful nation in the world—and as the largest contributor to the UN—to ensure greater transparency and accountability in

that organization. That is why I have enthusiastically backed the nomination of Mr. Holbrooke and look forward to working with him in the future.

Mr. KENNEDY. Mr. President, I strongly support the nomination of Richard Holbrooke to be America's Ambassador to the United Nations, and I am pleased that the Congressional delay in reaching this vote has finally ended.

Richard Holbrooke has a long and distinguished record of public service and is an outstanding diplomat. He clearly has the necessary experience, background, and skills to ably represent America's interests at the United Nations.

Richard Holbrooke has served with great distinction in many previous capacities, and all of us who know him have great respect for his ability and judgement. He has served as the President's Special Envoy to Cyprus, as Assistant Secretary of State for European and Canadian Affairs, as U.S. Ambassador to Germany, as Assistant Secretary of State for East Asian and Pacific Affairs, and as a Peace Corps Director in Morocco.

Of his many extraordinary accomplishments, he is best known for his skillful work in presiding over the long and difficult negotiations to achieve the Dayton Peace Accords in 1995, which ended the war in Bosnia.

The United Nations is a complex institution involving many international interests, and I'm confident that Richard Holbrooke will represent our country well. Our representative must be an exceptional negotiator. Richard Holbrooke is a skilled negotiator with the ability to articulate clearly our country's ideals and persuade other members of the international community to support these ideals as well. He's an outstanding choice for this very important foreign policy position, and I'm proud to express my strong support.

Mr. SPECTER. I am pleased to vote for the confirmation of Ambassador Richard Holbrooke to be United States Ambassador to the United Nations and even more pleased to see the Senate vote on this important nomination in advance of the August recess so that Ambassador Holbrooke can start on his important assignment.

Ambassador Holbrooke brings unique qualifications to this position. He began his government career in 1962 joining the Foreign Service after graduating from Brown University. Among the many posts he has held are Special Presidential Envoy for Cyprus in 1997, Assistant Secretary of State for European and Canadian Affairs, Assistant Secretary of State for East Asian and Pacific Affairs, Peace Corps Director in Morocco and U.S. Ambassador to Germany. Ambassador Holbrooke was the chief negotiator for the Dayton Peace Accord in Bosnia.

I had occasion to evaluate Ambassador Holbrooke's work in some detail when I served as Chairman of the Intelligence committee which undertook a

detailed investigation of the sale of Iranian arms to Bosnia. Ambassador Holbrooke was involved in a complex, highly sensitive matter and he discharged his duties with professionalism.

In undertaking the complex negotiations on Bosnia, Ambassador Holbrooke again performed a great service for the United States. His last minute negotiations with Yugoslavia's President Milosevic, while unsuccessful, showed his unique talents which will be put to good use for our national interest in his new capacity as U.S. Ambassador to the United Nations.

Mr. LIEBERMAN addressed the Chair.

The PRESIDING OFFICER. The distinguished Senator from Connecticut is recognized.

Mr. LIEBERMAN. I thank the Chair. I believe the Senator from Virginia yielded a couple minutes to me earlier.

Mr. WARNER. Mr. President, I yield 2 minutes to the Senator from Connecticut, and also to Senator HAGEL, who has been very helpful in this nomination. At the conclusion of his remarks, the vote will occur.

Mr. LIEBERMAN. Mr. President, I first thank those who have finally brought the nomination of Richard Holbrooke to the floor of the Senate, particularly the senior Senator from North Carolina and the senior Senator from Virginia, Mr. WARNER, who have done yeoman's work here in the national interest.

Secondly, I wanted to say this about the nominee himself, who I have been privileged to come to know. In my opinion, Richard Holbrooke is one of America's great natural resources. Certainly, he is one of our great diplomatic resources. He has had a career that has been described in detail here that puts him at the top ranks of those who have served America in the international arena. He is a person of principle, purpose, intellect, and enormous energy and talent. He combines the sense of American purpose, which, incidentally, is reflected in his work on behalf of the policy of the United States, representing the Commander in Chief of the United States in regard to the Balkans, about which my friend from Texas has just spoken. He combines that sense of American principle and the continuing vitality of America's morality in the world with extraordinary, tough-minded, practical, and interpersonal diplomatic skills.

We are fortunate to have a person of this talent willing to serve our Nation. I am confident that he will advance our national security and principled interests in the United Nations. I am proud to support the nomination.

I thank the Chair and yield the floor.

Mr. HAGEL addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. HAGEL. Mr. President, I rise to strongly support the nomination of Richard Holbrooke to be this country's Ambassador to the U.N. I was thinking

the other day when we were engaged in the Foreign Relation Committee's fourth hearing on Mr. Holbrooke—four hearings on Mr. Holbrooke. We looked rather closely and thoroughly at his policies, his background, his professional and personal life. He did not come up short in all of those areas. But I was thinking, I don't know if there has been an individual who has been more probed and investigated for this very important position than Mr. Holbrooke.

I have believed for a long time that the President of the United States deserves his team. As he nominates his team for the Senate to pass judgment on, give advice and consent, as constitutionally is our responsibility, if that individual possesses the high moral quality and qualifications, and the high professional standings, qualifications, and experience, then the President needs his team.

I echo much of what has been said this morning about how important it is that we get our Representative of the United Nations. Now, we have differences of opinion in philosophy and policy, and I appreciate that. Every Senator has his or her own position, as it should be. But I will say this as my last comment about Mr. Holbrooke. I hope and I believe he will make every effort to bring some bipartisanship to foreign policy. It seems to me that we have allowed bipartisanship in foreign policy and national security affairs to erode and come undone to the point where it is dangerous.

I believe both sides are responsible. I think the President hasn't reached out enough, and I think we in the Congress have made foreign policy and national security affairs a more brittle, raw political dynamic. If we don't come back together, as bipartisanship needs to be sewn back together in these very important issues for the future of our country and stability of the world, we will pay a high price. I hope that Mr. Holbrooke will lead that effort.

I yield the floor.

Mr. WARNER. I thank the distinguished Senator. He has been very helpful throughout the nominating process.

The PRESIDING OFFICER. All time having expired, the question is, Will the Senate advise and consent to the nomination of Richard Holbrooke, of New York, to be the Representative of the United States of America to the United Nations with the rank and status of Ambassador Extraordinary and Plenipotentiary, and the Representative of the United States of America in the Security Council of the United Nations, and the nomination of Richard Holbrooke, of New York, to be a Representative of the United States of America to the Sessions of the General Assembly of the United Nations during his tenure of service as Representative of the United States of America to the United Nations, en bloc.

The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Idaho (Mr. CRAPO), and the Senator from North Carolina (Mr. HELMS) are necessarily absent.

Mr. REID. I announce that the Senator from Louisiana (Ms. LANDRIEU) is necessarily absent.

I further announce that, if present and voting, the Senator from Louisiana (Ms. LANDRIEU), would vote "aye."

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

The result was announced—yeas 81, nays 16, as follows:

(Rollcall Vote No. 259 Ex.)

YEAS—81

| | | |
|-----------|------------|-------------|
| Abraham | Durbin | McCain |
| Akaka | Edwards | McConnell |
| Ashcroft | Feingold | Mikulski |
| Baucus | Feinstein | Moynihan |
| Bayh | Fitzgerald | Murkowski |
| Bennett | Frist | Murray |
| Biden | Gorton | Reed |
| Bingaman | Graham | Reid |
| Bond | Grams | Robb |
| Boxer | Grassley | Rockefeller |
| Breaux | Hagel | Roth |
| Brownback | Harkin | Santorum |
| Bryan | Hatch | Sarbanes |
| Burns | Hollings | Schumer |
| Byrd | Inouye | Shelby |
| Campbell | Jeffords | Smith (OR) |
| Chafee | Johnson | Snowe |
| Cleland | Kennedy | Specter |
| Cochran | Kerrey | Stevens |
| Collins | Kerry | Thomas |
| Conrad | Kohl | Thompson |
| Coverdell | Lautenberg | Thurmond |
| Daschle | Leahy | Torricelli |
| DeWine | Levin | Voinovich |
| Dodd | Lieberman | Warner |
| Domenici | Lincoln | Wellstone |
| Dorgan | Lugar | Wyden |

NAYS—16

| | | |
|---------|------------|------------|
| Allard | Hutchinson | Nickles |
| Bunning | Hutchison | Roberts |
| Craig | Inhofe | Sessions |
| Enzi | Kyl | Smith (NH) |
| Gramm | Lott | |
| Gregg | Mack | |

NOT VOTING—3

| | | |
|-------|-------|----------|
| Crapo | Helms | Landrieu |
|-------|-------|----------|

The nominations, en bloc, were confirmed.

The PRESIDING OFFICER. The motion to reconsider is laid upon the table. The President will be immediately notified.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now resume legislative session.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 2000—Resumed

The PRESIDING OFFICER. The clerk will report the pending business.

The legislative assistant read as follows:

A bill (H.R. 2466) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2000, and for other purposes.

Pending:

Gorton Amendment No. 1359, of a technical nature.

The PRESIDING OFFICER. The distinguished majority leader is recognized.

Mr. LOTT. Mr. President, before I yield the floor to the distinguished chairman of the Interior Appropriations subcommittee, I confirm again we are going back to the Interior appropriations bill. We hope to and plan to have debate on amendments beginning right away. We could have a recorded vote on one of the amendments within the next 15 to 30 minutes. We will continue working on the Interior appropriations bill until we get an agreement as to exactly when to proceed to the reconciliation conference report.

I will not propound a unanimous consent request at this time, but it is my hope we can get an agreement to begin at 1 o'clock on the consideration of a reconciliation conference report, and we debate it for 6 hours, of course, equally divided in the usual form, and the vote then would occur around 7 o'clock.

We do not have that worked out yet. If we require more time, if we have to be in later, then of course the vote would go later in the night, perhaps 8 o'clock or, if we cannot get that worked out, we will go however long we need to go tonight and we would vote on Friday morning sometime. But we hope to get an agreement where we could complete that and have a vote around 7 o'clock tonight.

I yield the floor.

The PRESIDING OFFICER. The distinguished Senator from Washington is recognized.

Mr. GORTON. Mr. President, in just a moment I will have several agreed-upon amendments to propound and hopefully they will be agreed to very quickly.

Then Mr. SMITH of New Hampshire is here with the first contested amendment. I hope we can finish as many as three amendments that are likely to require rollcalls between now and 1 o'clock. After the Smith amendment that deals with the National Endowment for the Arts, I hope we will have an opportunity to go to an amendment by Mr. GRAHAM of Florida and Mr. ENZI, relating to Indian gambling. While I have not found the Senator yet, I would like, after that, to go to an amendment by the Senator from Nevada, Mr. BRYAN, on forest roads. Others may intervene.

We also have a number of amendments that will be agreed upon from time to time. My own reading of our list of amendments is that they are reasonably limited, even at this point. Several require votes. I hope none will require a long and extensive debate. The majority leader wants, as early as possible, to get an agreed-upon list of amendments. I suspect we will be asking for unanimous consent to say all amendments must be filed by, say, sometime this afternoon. So Members who have amendments about which they have not notified the managers are encouraged to do so as promptly as possible.

I believe the majority leader wishes to finish this bill, as well as the rec-

onciliation bill on taxes, before the recess begins sometime tomorrow.

AMENDMENT NOS. 1563 THROUGH 1568, EN BLOC

Mr. GORTON. Mr. President, I ask unanimous consent that the pending amendment be set aside and that we consider six amendments en bloc which I send to the desk. I will explain each of these amendments, sponsored by a Senator and relating to projects within that Senator's State or the two Senators' State, and simply shifts money among projects within the States.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Washington [Mr. GORTON] proposes amendments numbered 1563 through 1568, en bloc.

Mr. GORTON. Mr. President, I ask unanimous consent that the reading of the amendments be dispensed with.

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

The amendments are as follows:

AMENDMENT NO. 1563

(Purpose: To Increase Funds in the Bureau of Indian Affairs Tribal College account by \$700,000 with offset from Forest Service land acquisition on the San Juan National Forest)

On page 27, line 22, strike "\$1,631,996,000" and insert "\$1,632,696,000".

On page 65, line 18, strike "\$37,170,000" and insert "\$36,470,000".

AMENDMENT NO. 1564

(Purpose: To provide additional funding to the United States Fish and Wildlife Service for activities relating to the Preble's meadow jumping mouse, with an offset from Forest Service Land Acquisition (Continental Divide Trail) in Colorado)

On page 10, line 15, strike "\$683,518,000" and insert "\$683,919,000".

On page 10, line 23, before the colon, insert the following: ", and of which not less than \$400,000 shall be available to the United States Fish and Wildlife Service for use in reviewing applications from the State of Colorado under section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536), and in assisting the State of Colorado by providing resources to develop and administer components of State habitat conservation plans relating to the Preble's meadow jumping mouse."

On page 65, line 18, strike "\$37,170,000" and insert "\$36,770,000".

AMENDMENT NO. 1565

(Purpose: To make unobligated funds available for the acquisition of land in the Ottawa National Wildlife Refuge, for the Dayton Aviation Heritage Commission, and for the preservation and restoration of the birthplace, boyhood home, and schoolhouse of Ulysses S. Grant, Ohio)

On page 62, between lines 3 and 4, insert the following:

SEC. 1. FUNDING FOR THE OTTAWA NATIONAL WILDLIFE REFUGE AND CERTAIN PROJECTS IN THE STATE OF OHIO.

Notwithstanding any other provision of law, from the unobligated balances appropriated for a grant to the State of Ohio for the acquisition of the Howard Farm near Metzger Marsh, Ohio—

(1) \$500,000 shall be derived by transfer and made available for the acquisition of land in the Ottawa National Wildlife Refuge;

(2) \$302,000 shall be derived by transfer and made available for the Dayton Aviation Heritage Commission, Ohio; and

(3) \$198,000 shall be derived by transfer and made available for a grant to the State of Ohio for the preservation and restoration of the birthplace, boyhood home, and schoolhouse of Ulysses S. Grant.

AMENDMENT NO. 1566

(Purpose: To transfer \$700,000 in land acquisition funds from the San Juan National Forest (Silver Mountain) CO to the Patoka River National Wildlife Refuge, IN)

On page 13, line 8: Strike "\$55,244,000" and insert "\$55,944,000".

On page 65, line 18: Strike "\$37,170,000" and insert "\$36,470,000".

AMENDMENT NO. 1567

(Purpose: To provide funding for construction of the Seminole Rest facility at the Canaveral National Seashore, Florida, with an offset from the J.N. Ding Darling National Wildlife Refuge, Florida)

On page 13, line 8, strike "\$55,244,000" and insert "\$54,744,000".

On page 17, line 19, strike "\$221,093,000" and insert "\$221,593,000".

AMENDMENT NO. 1568

(Purpose: To provide \$150,000 for the U.S. Fish and Wildlife Partners for Fish and Wildlife Program within the Habitat Conservation Program. This funding will support the Nevada Biodiversity Research and Conservation Initiative for migratory bird studies at Walker Lake, Nevada. The increase in \$150,000 for the Nevada Biodiversity Research and Conservation Initiative is offset by a \$150,000 decrease in the Water Resources Investigations Program of the U.S. Geological Service of which \$250,000 was directed for hydrologic monitoring to support implementation of the Truckee River Water Quality Settlement Agreement (Senate Report 106-99, page 43))

On page 10, line 15 strike the figure "\$683,519,000" and insert in lieu thereof the figure "\$683,669,000" and on page 20, line 18 strike the figure "\$813,243,000" and insert in lieu thereof the figure "\$813,093,000".

Mr. GORTON. Mr. President, the amendments are these:

Senator BURNS: Transfers \$700,000 to tribal colleges with an offset from a land acquisition in his State.

Senator CAMPBELL: \$400,000 for a habitat conservation program with an offset in his State.

Senator DEWINE: Redirecting various projects within the State of Ohio.

The two Senators from Indiana, Senators LUGAR and BAYH: \$700,000 for a land acquisition and a wildlife refuge offset by another land acquisition in that State.

The two Senators from Florida, Senators MACK and GRAHAM: A very similar land acquisition offset.

And Senator REID of Nevada: A shift of \$150,000, again, within the State of Nevada.

I ask unanimous consent that all six amendments be considered en bloc and accepted en bloc.

The PRESIDING OFFICER. Without objection, the amendments are agreed to.

The amendments (Nos. 1563 through 1568) were agreed to.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The distinguished Senator from New Hampshire is recognized.

AMENDMENT NO. 1569

(Purpose: To eliminate funding for the National Endowment for the Arts)

Mr. SMITH of New Hampshire. Mr. President, on behalf of myself and Senator ASHCROFT, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection to laying aside the pending amendment? Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Hampshire [Mr. SMITH], for himself and Mr. ASHCROFT, proposes an amendment numbered 1569.

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

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

The amendment is as follows:

On page 94, strike lines 3 through 26.

On page 106, beginning with line 8, strike all through page 107, line 2.

On page 107, lines 3 and 4, strike "National Endowment for the Arts and the National Endowment for the Humanities are" and insert "National Endowment for the Humanities is".

On page 107, lines 8 and 9, strike "for the Arts and the National Endowment".

On page 107, lines 11 and 12, strike "for the Arts or the National Endowment".

On page 108, beginning with line 12, strike all through page 110, line 11.

Mr. SMITH of New Hampshire. Mr. President, my amendment to the Interior appropriations bill is a very simple one. It eliminates all funding for the National Endowment for the Arts. This amendment has been considered by the Senate in the past, unfortunately unsuccessfully. I know where the votes are, but I believe it is important we make a statement about this because I do not believe the Federal Government should be spending money for this.

This amendment does not try to reform the agency. This amendment does not try to restructure the agency. It simply shuts it down in fiscal year 2000.

I want to take a little different tack on this. Many who have spoken in the past on the National Endowment for the Arts, as far as elimination of funding, have focused heavily on some of the reprehensible and repulsive, frankly, types of material that has been displayed and called "art." I am not going to do that this morning. Most Members are fully aware of the kinds of things that have been funded by this agency.

I remind every Member that we took an oath to support the Constitution. All of us at one point stood right where the pages are now sitting and said that we would bear true faith and allegiance to the Constitution of the United States of America. I certainly believe that every Member took that oath seri-

ously. That is why I am hopeful I might be able to persuade my colleagues to support this amendment because, frankly, whatever opinion you may have of it, is unconstitutional to have the National Endowment for the Arts funded by the Federal Government. I can prove that.

A constituent challenged me on this one time and wrote:

Where in the Constitution of the United States does it say that the Federal Government is authorized to fund art?

Let me repeat:

Where in the Constitution of the United States does it say that the Federal Government is authorized to fund art?

I challenge any of my colleagues to show me that in the Constitution, and I will reconsider my amendment.

I offer this amendment because I have not been able to find this in the Constitution. The authors of our Constitution envisioned a government of limited powers, and if it does not say you do it in the Constitution, then it is reserved to the people and the States. If the State or the people want to fund a State endowment for the arts, I would not have a problem with that. That is entirely within their parameters.

The framers made it clear—very clear—that unless the Constitution explicitly granted a power to the Federal Government, that power would be reserved to the States, to the localities, to civil society, or to the people.

I know there are many—and this is the frustrating part for me—too many in this body who reject that vision. I have been here going on 9 years, and it is very frustrating for me to watch the Constitution of the United States being trampled time after time. Just a week or so ago, we passed more gun controls and sent it to conference. Gun control, however you may feel about the need for gun control, is unconstitutional because we have a second amendment that says we have the right to keep and bear arms. Whatever you may feel about that issue, we did not come here to pass laws about our personal beliefs. We came here to pass laws that support the Constitution of the United States of America.

When we swear to uphold that document, we agree to live by that vision whether we like it or not. Whether we disagree or agree, we should live with that vision. Regretfully, we do not always do that here.

This amendment is my effort—just a small effort—to move a little closer to that vision of limited constitutional government. It is interesting that I have to say move a little closer. Why do we have to move closer to the vision of the founders when we are supposed to uphold the Constitution and enforce that vision, not move a little closer to it. We should be there.

It is a bad idea. Whether it is constitutional or unconstitutional, it is a bad idea to use taxpayers' funds to subsidize art. But it is unconstitutional.

Whether it is a good idea or bad idea, it is unconstitutional, and that is the point I am making.

Most of my colleagues will recall the controversies in which this agency has been embroiled. I referenced them briefly in the beginning of my remarks. I am not going to get into all of it because we have heard it before. But funding the exhibition of sadomasochistic photographs, funding the exhibition of a photograph of a crucifix submerged in human waste, funding the exhibition of a performance "artist" who smeared chocolate across her naked torso, or how about the other NEA funding artist who exposed his audience to HIV-infected blood—all of these things were funded by the taxpayers of the United States in the name of art.

Let me repeat that. Funding of sadomasochistic photographs, funding of a photograph of a crucifix submerged in human waste, funding of a so-called performance artist who smeared chocolate across her naked torso, and a man who exposed his audience to HIV-infected blood, all funded by the taxpayers of the United States of America.

I ask you to reflect, if you are a taxpayer, on the fact that you work pretty hard for those dollars, and when you pay those taxes every April 15 to Uncle Sam, you probably hope it is used to preserve and protect and defend the United States of America, perhaps to promote education or some positive thing. But do you really want your money to go to this kind of so-called art?

The question is, some people may say this is art, but there are people out there who will disagree. There are people who will say: If I want to put a crucifix in urine and call that art, I have a right to do that; it is a free country. You do. I will fight to my death to say you have a right to do that. I may not agree it is art, but that is your position and you have a right to it.

But the question is, Is it constitutional to fund art? Even more so, Is it constitutional to fund this kind of stuff? Do you want your taxpayer dollars being spent for this? The sad part about this—we have seen this in debate after debate, in amendment after amendment, year after year, as we tried to stop this. Senator HELMS has been involved in this many times, to his credit, as a leader in trying to expose this agency. Senator ASHCROFT, who is my original cosponsor, has also been involved in this and has been a leader on this.

But the defenders of the NEA, the National Endowment of the Arts, always tell you—you will hear it after the vote on this amendment, I am sure, if not before—that they believe these outrages are a thing of the past, that all of the things I just cited about the crucifix in human waste, and so forth, are all in the past. We have cleaned up the agency. It is not happening anymore. It is old news. We heard you. We listened, and we made the changes.

I am sorry to tell you, that is not true. I will prove that in a few moments. Once you really understand the NEA, you will not be surprised to learn that the outrages continue, and not only do they continue, they are all too common in this agency.

Let me illustrate the point about a grant that made news earlier this year. The events surrounding this grant were described in an article in the *New York Times*.

Mr. President, I ask unanimous consent that this *New York Times* article be printed in the *RECORD*.

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

[From the *New York Times*, Mar. 10, 1999]

U.S. CANCELS GRANT FOR CHILDREN'S BOOK
WRITTEN BY MEXICAN GUERRILLA

(By Julia Preston)

MEXICO CITY.—A macaw with scarlet and violent plumes soars across the cover of a book called "The Story of Colors," inviting children to read a folk tale about Mexican gods who took a gray world and filled it with brilliant hues.

There are a few surprises, though, in this eye-catching bilingual children's book just published by a small publisher in El Paso, Texas, which won a grant from the National Endowment for the Arts.

Its author is Subcomandante Marcos, the political mastermind and military strategist of the Zapatista guerrillas of southern Mexico. On the inside flap, he appears in a photo with a black ski mask hiding his face and bullet-laden ammunition belts slung across his chest.

On Tuesday, the chairman of the Endowment, William J. Ivey—who is working to rebuild the agency after its recent reprieve from a death sentence issued by congressional Republicans—abruptly canceled the grant for the book. Ivey overruled a multi-layered, year-long grant approval process, acting within hours after the book was brought to his attention by a reporter's phone call.

He said he was worried that some of the Endowment's funds might find their way to the Zapatista rebels, who led an armed uprising in 1994 against the government of Mexico.

Ivey's decision stunned the Cinco Puntos Press, a shoestring operation that had laid out \$15,000 to print 5,000 copies of the book, half of which was to be paid by the Endowment grant. The books are ready to be distributed and carry the Endowment's logo on the last page, together with an acknowledgment of "generous support" from the agency.

"This is spineless," said Bobby Byrd, a poet and editor of books on border issues who runs the publishing company with his wife and daughter from their home in El Paso. "This book is essentially about diversity and tolerance, everything the NEA is supposed to stand for, and they just don't have the courage to publish it."

"The Story of Colors" reflects a literacy, sometimes whimsical side that has distinguished Subcomandante Marcos, the only non-Indian among the Zapatistas' highest leaders, from other steely Latin American guerrilla commanders. (His real name is Rafael Sebastian Guillen Vicente, and he is a former university graphics professor.)

In the text, the masked rebel leader describes himself as lighting up his pipe, one of his hallmarks, and sitting down on a jungle pathway to hear a tale from an Indian elder

named Antonio. The old man recounts how mythical gods grew bored with the universe when it was tinted only in grey, and went about inventing colors one by one. In the end they pin all the colors on the tail feathers of the macaw.

The bird "goes strutting about just in case men and women forget how many colors there are and how many ways of thinking, and that the world will be happy if all the colors and ways of thinking have their place," the text concludes.

The illustrations are bright, broad-stroked paintings of gods with horns and bug-eyes done by Domitila Dominguez, a Mexican Indian artist.

Spun in the sensuous tradition of Latin storytelling, the tale includes elements that might be controversial in the mainstream American children's book market. As the story opens, the text reads, "The men and women were sleeping or they were making love, which is a nice way to become tired and then go to sleep."

The double-page illustration shows a reclining naked woman in a sexual embrace with a figure that appears to be a male god.

There are no references to the Zapatistas' cause or their military tactics, but in a cover blurb, Amy Ray, a member of the Indigo Girls, a Grammy-winning American song duo, says, "This beautiful book reminds us that the Zapatista movement is one of dignity that emanates from the grassroots of the indigenous people of Mexico."

"The most important thing is that it is a beautiful book," said Byrd, whose press specializes in bilingual children's books. "A lot of our stories in the United States have been cleaned up with a politically correct sentiment, and so much detail has been washed away."

He added, "I can imagine how someone would rewrite this for an Anglo audience," referring to non-Hispanic Americans. "There wouldn't be anybody smoking or making love."

"The Story of Colors" was originally published in Spanish in 1997 by a press in Guadalajara, Mexico called Colectivo Callejero, which supports the Zapatistas' cause.

Byrd said that he provided a copy of the original to the Endowment when he applied for the grant to translate it in March 1998. His first request, for \$30,000 to translate a total of five books, passed two levels of review at the agency but the funds were cut back to \$15,000. Byrd said he conferred repeatedly with literature experts at the Endowment when he chose to leave "The Story of Colors" in a revised grant request he presented to translate only two books. Cinco Puntos Press (the name means Five Points in Spanish) received a written notice in February that the funds had been approved. The only step left was for the agency to send the money.

Ivey, the Endowment chairman, said that he was not concerned about the book's contents and had not seen the finished printed book. When he went over the grant records Monday night, he said, he became worried about rights payments, which the El Paso press had contracted to make to the publishing group in Mexico.

"There was an uncertainty about the ultimate destination of some part of the funds," Ivey said. "I am very aware about disbursing taxpayer dollars for Americans' cultural life, and it became clear to me as chairman that this just wasn't right for the agency. It was an inappropriate use of government funds."

An Endowment official, who spoke on the condition of anonymity, said that it is very unusual for the chairman to step in at the last moment to override the work of several review committees, including the 26-member National Council on the Arts, which includes six federal lawmakers.

Byrd said he had made it clear in his grant proposal that no part of the grant would go to the author, Subcomandante Marcos, because the guerrilla leader has declared he does not believe in copyright and formally waived his rights in talks with the Mexican press. Byrd said that rights would be paid to the Guadalajara Press for the use of the artwork.

When Republicans gained control of the Congress in 1995, they were frustrated with the Endowment's support for art works they regarded as offensive and vowed to eliminate the agency. But the House moderated its views under election year pressures and voted overwhelmingly in July 1998 to keep the agency alive.

Mr. SMITH of New Hampshire. This grant had to do with a grant to a publisher for a children's book. Listen carefully, a children's book. This was a grant to a publisher for a children's book, paid for by the taxpayers under the National Endowment of the Arts, at a time—recently—when we had been told that the agency had cleaned up its act and that this was no longer prevalent; no longer do they do these terrible things I just mentioned.

The grant that I am referring to for this children's book had been approved at every level of the NEA's review process. It was canceled at the last minute by the agency's chairman.

Somebody might say: Well, there you go. It worked. They stopped this grant for a children's book; it wasn't appropriate for children. So what is your argument, Senator?

Let me finish. Why did they cancel at the last minute? Because the Chairman of the NEA found out that the book's author was a Mexican guerrilla leader. The chairman was afraid that the royalties would benefit the Mexican guerrillas. So the reason for the grant cancellation was because of the Mexican guerrilla group, not because of the content.

Let's take a look at the content. The *New York Times* reported that this children's book contained sexually explicit illustrations and text; in other words, this children's book, with sexual content, would have received the NEA support this year—not 10 years ago; this year—if there had not been the other issue about royalties going to Mexican guerrillas.

I submit there is an inherent flaw in the peer review process that led to this circumstance, and all the other outrages over the years. The peer review process does not reflect the values of the decent, hard-working, tax-paying Americans who fund this agency.

Let me just find the article from the *New York Times*, which I have entered into the *RECORD*.

I want to remind you, again, that this grant was canceled because the money would go to a Mexican guerrilla group, and there was no reference whatsoever to the content.

This is a children's book. I would ask my colleagues and the American people to ask yourselves whether you want your tax dollars to go for this kind of stuff for a children's book:

The illustrations are bright, broad-stroked paintings of gods with horns and bug-eyes

done by [a man by the name of] Domitila Dominguez, a Mexican Indian artist.

Spun in the sensuous tradition of Latin storytelling, the tale includes elements that might be controversial in the mainstream American children's book market. As the story opens, the text reads, "The men and women were sleeping or they were making love, which is a nice way to become tired and then go to sleep."

The double-page illustration shows a reclining naked woman in a sexual embrace with [a] figure that appears to be a male god.

We could go on and on and on.

This is a children's book. It was canceled because the money went to Mexican guerrillas, not because of the content. So you see, the agency has not cleaned up its act. They have been getting away with this year after year after year. And why do they get away with it? They get away with it very simply because we won't stop the funding. We don't have the courage to stop the funding.

Again, the business about censorship—this is about the Constitution of the United States of America, which we are sworn to uphold and defend. Show me in the Constitution where the National Endowment of the Arts should be funded and why it should be funded. Show me.

When we try to say anything about it, we are always accused of censorship. The Smith amendment solves that problem by allowing the public to support the art works they wish voluntarily. You want to support a children's book that shows a naked woman and a naked man in a sexually explicit embrace? Go ahead. You want to show that to your children? Be my guest. You want to raise your children and teach them to read and show them the pictures? Be my guest. But it is not constitutional. And it ought not to happen in the Senate by funding this kind of stuff. We should not be funding art at all, let alone this kind of art.

So that is how it was done in America for the first 189 years of our history: Voluntarily you support the arts. Voluntarily you look at what you want to look at. You show your children what you want to show them. But you do not fund it by taking money from the rest of us to do it.

Let me just pause here for a moment to make a point. We could go through a litany of items that are unconstitutional that we pass on this floor almost literally every day—certainly every week.

I just ask the rhetorical question to the people of America: When are we going to wake up? We saw it time after time. We saw it with the Clinton impeachment: As long as my 401(k) and my retirement account is doing well, and as long as I am making money, as long as I have a job and 3 or 4 weeks of vacation, and everything is going fine, I don't care about the morality of this country. I don't care that the Commander in Chief did what he did. It is OK with me. Poll after poll after poll said just that.

Let me tell you. That is the same thing. Time after time after time, year

after year after year, we vote to fund the National Endowment of the Arts. We are told every year that all this stuff that I just referred to has been cleaned up and it does not happen anymore. It does.

Yet why does it happen? Don't blame the National Endowment of the Arts. I don't blame them. I don't blame the Chairman. I don't blame the board. I don't blame any of them for this.

I blame the Senate, the House, and the President of the United States because we pass it and he signs it. We have been doing it year after year after year. They are going to keep right on spending your money as long as you keep giving it to them.

So don't blame them; don't direct your anger at them. You should direct it right here to the people who vote that money. Sooner or later, as the frog in the pot boils slowly and then is cooked before he realizes it, the Constitution of the United States is going to slip through the fingers of all of us.

It is happening. We are going to continue to let it happen by these kinds of votes. If we want to take seriously what we stood there and took the oath to do, to protect and defend the Constitution of the United States of America, we ought to vote against funding the National Endowment for the Arts.

So that everybody understands, there are essentially two major political parties in the United States right now, some smaller parties. Here is the Democratic Party on the NEA. This is a quote right out of their platform:

We believe in public support for the arts, including the National Endowment for the Arts. . . .

That is the 1996 Democrat platform; "Responsible Entertainment." It is an honest statement. They have made it very clear they support this. It doesn't necessarily mean they are implying that they support the kinds of things I have said, but it does mean that as long as you continue to fund it and you don't stop it, those kinds of things are going to continue to be funded.

What we have in the Democratic platform is a statement that is unconstitutional. It is totally unconstitutional. To support the arts, including the National Endowment for the Arts, with taxpayer dollars is unconstitutional. But I think Members will find, when they see the votes taken on my amendment in a few minutes, that most of the members of the Democratic Party will support their platform. They will vote, I think, probably overwhelmingly, probably 90-95 percent—maybe 100 percent, I am not sure—in favor of the National Endowment for the Arts and against my amendment. They will live up to their platform. I personally believe they are taking an unconstitutional vote, but that is their right. They can do it. They were elected just as I was, and they can vote any way they want to. I respect that right.

Let us look at the Republican Party platform. The Republican Party platform on the NEA, same issue:

As a first step in reforming government, we support . . . defunding or privatization of agencies which are obsolete, redundant, of limited value, or too regional in focus . . . [one of the] agencies we seek to defund or to privatize [is] the National Endowment for the Arts.

That is the 1996 Republican platform: "Changing Washington from the Ground Up." We are going to change Washington from the ground up. I support that statement because it is unconstitutional not to support it. The Government should not be funding, under the Constitution, the National Endowment for the Arts. If one sees that statement and realizes that is the position of the party, then one could logically conclude that 90-95 percent of Republicans will vote to support their platform and vote to eliminate the National Endowment for the Arts. We will see. Don't bet on it.

That is the platform. So when the votes come, it will be interesting for the public to look to see who supports their platform. Will the Democrats support their platform, albeit unconstitutional in my view, on this issue, or will the Republicans support their platform? Let us see where the votes fall.

Let me issue a challenge to anyone listening: Take a look at the votes after it is all over. See who the Republicans are, see who the Democrats are, and see who supports the Republican platform and see who supports the Democrat platform.

This amendment takes out the entire funding, which is about \$99 million. People will say that is not a lot of money. I guess around Washington it is not. But it sure was a lot of money around a little town called Allentown, NJ, where I grew up before I moved to New Hampshire. That was a whole lot of money. I know a whole lot of people who worked real hard—farmers, merchants, teachers—for those dollars. For this kind of money to be spent from them, I think it is wrong. It is wrong morally, philosophically, and, as I said before, it is unconstitutional.

Mr. President, seeing no other speaker on my behalf at this time, I ask for the yeas and nays on the amendment.

THE PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. SMITH of New Hampshire. I yield the floor and appreciate the chairman's consideration in offering the amendment.

THE PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, my friend, the distinguished Senator from New Hampshire, argues for his amendment striking the appropriation for the National Endowment for the Arts, as I have listened to him, on two grounds. The first ground is that the appropriation is unconstitutional. The second ground is that it is undesirable.

I agree with the Senator from New Hampshire that Members of the Senate of the United States have a responsibility, just as do sworn members of the

judiciary of the United States, to consider carefully the constitutional implications of all of the work they do. I disagree with the Senator from New Hampshire, however, on what seems to me an easy question to answer: the constitutionality of an appropriation of this nature. In fact, I think the Senator from New Hampshire implied or illustrated the weakness of his own argument when he said, just a few moments ago, why should the people of the United States be paying for an activity of this sort as against paying for the education of our children, among other items that he listed.

The education of our children is no more mentioned in the Constitution of the United States than are the arts or any other cultural activity. Yet it is clearly constitutional, as well as appropriate, for the Congress of the United States to support the education of our children and, for that matter, our young people through college and through graduate school, and we do so with increasing enthusiasm in each and every year.

The same interpretation of the Constitution of the United States that allows and encourages us to do that for education allows us to do so for cultural activities, including the National Endowment for the Arts. If support for the National Endowment for the Arts is unconstitutional, so is support for the Library of Congress—I see nothing about a library in the Constitution of the United States—so is support for the National Gallery of Art, for the Smithsonian Institution, and for the Air and Space Museum, for all of the other cultural activities enthusiastically and, I may say, appropriately supported by the Congress of the United States.

No, there is no precedent and no serious legal argument against the constitutionality of our support, modest as it is, for the National Endowment for the Arts. There has been, however, a considerable argument during the course of the last decade or perhaps two decades over the appropriateness of the support for the arts or, alternatively, over the way in which the National Endowment for the Arts spends its money. Again, I think a vast majority of the Members of both Houses of Congress think, in the abstract, that it is appropriate to spend a modest amount of money on the arts.

From the very beginning of the Republic, we have decorated this building with all kinds of works of art that are not necessary for the functioning of the Congress of the United States. I don't think anyone has ever challenged either the appropriateness or the constitutionality of the use of Federal money for the arts in that respect.

But climaxing in 1995, there was widespread criticism of a significant number of grants made by the National Endowment for the Arts—criticism that I think was totally valid—and some of those specifics the Senator from New Hampshire has illustrated here once again.

In 1995, when this debate was at its height, the proponents of the arts severely restricted the ability of the National Endowment for the Arts to make individual grants, and many of these highly criticized expenditures were to individuals rather than to groups and organizations. Overwhelmingly, today, money for the National Endowment for the Arts goes to States' arts agencies and through grants to a wide range of cultural institutions, many of them, fortunately—more than was the case in the past, though perhaps not quite enough—to organizations in the smaller communities of the United States, outside of major metropolitan areas, either to bring various forms of music, dance, theater, the visual arts to those smaller communities, or to support the creation of such art in those communities in a way that I think is highly enthusiastic. And it becomes increasingly difficult for the critics of the Endowment to say that the moneys we appropriate here are used on matters that are not artistic or are totally and completely inappropriate.

The present Chairman of the Endowment and the predecessor Chairman of the Endowment have worked diligently and, I think, quite successfully in seeing to it that that was not the case. We created congressional nonvoting members of the National Endowment. The Senator from Alabama, who is one of those members, is here on the floor. He has expressed to me his frustration frequently with the way in which some of his advice has been ignored. But I think his very presence has a salutary effect on the way in which the Endowment is managed.

As a consequence, there was a bitter division between the Senate and the House of Representatives in which the House, on at least one occasion—and I think two—did defund the National Endowment and it was rejected by a substantial majority in the Senate. This year, it has disappeared. The House of Representatives has funded the Endowment. If my memory of the bill is correct, there is only a \$1 million, or 1-percent, difference between this bill and the bill that passed the House of Representatives.

For me, perhaps the most significant and weighty argument in favor of this appropriation is an argument I have made on behalf of a number of other programs that involve partnerships among the Congress of the United States, State governments, and the private sector. That is the fact that I do not believe there is a single arts group or institution in the United States of America that receives all of its funding from the National Endowment for the Arts.

As a matter of fact, there may not be any that receives 10 percent of the amount of money that they spend from the National Endowment for the Arts. Overwhelmingly, its grants are modest in amount. They are sought eagerly by far more applicants than can possibly

receive those grants, because the very fact that the National Endowment for the Arts has given \$20,000, or \$30,000, or \$100,000 to a particular organization adds a degree of prestige and imprimatur to the activities of that organization that make its efforts to secure private funding—and in almost every case, the great majority of the funding of these organizations comes from the private sector—makes securing that funding easier. Whether it is right or not, contributors seem far more likely to contribute to an organization that has been recognized by the National Endowment for the Arts than they are willing to do so with respect to the thousands of other arts organizations and groups that don't receive such funding.

So the appropriation here is considerably less than 1 percent of the money in this appropriations bill that goes to the National Endowment for the Arts and multiplied many times over by support from the private sector. This is true in other areas in my bill, and one I am very interested in, funding for the renewal of salmon runs in the State of Washington. We have money here that will go to a foundation that guarantees that it can double or triple the amount of money actually getting into the field for this purpose, instead of taking on something that would otherwise be wholly and completely a responsibility of the Government of the United States.

So, Mr. President, I believe the serious debate over the future of the National Endowment for the Arts has passed. I think it has passed because the National Endowment is reformed. I think it has passed because they are now doing what I believe the Endowment was originally intended to do, and doing it in almost every case with a remarkable degree of thoughtfulness and good sense. What we come up with here, representing only a tiny percent of what goes in the arts activities in the States, is nevertheless very important in that support and vitally important in securing the private sector support for the arts, and that has been in the past and will be in the future a primary source of the money.

Regrettably, I oppose the amendment of the Senator from New Hampshire in this connection. If he wishes to speak again, I am going to yield the floor now. I note the presence of the Senators from Florida and Wyoming, and I know the Senator from Missouri, Mr. ASHCROFT, wants to speak on this issue. So we are not going to bring it to a vote now. When the Senator from New Hampshire has made his comments, I will ask unanimous consent to go on to the next amendment.

Mr. SMITH of New Hampshire. Was the Senator from Florida seeking to respond to the amendment?

Mr. GORTON. Mr. President, he is here on his own amendment.

Mr. SMITH of New Hampshire. Mr. President, I have just a few brief responses to my colleague.

I believe it would be a fallacy to equate Government funding, its own activities, legitimate functions of the Government, to fund those activities such as the Library of Congress and the Smithsonian, which obviously are document preservation, artifacts, and historical matters—that is legitimate, in my view; but to equate that with the Government funding of private activities is where I have my differences. I think that is the difference—the Government funding its own activities versus the Government funding private activities.

I believe that art, in terms of the examples I gave, is and should be funded privately because there is a matter of what is art and what is not art, which is a matter of personal opinion. I don't believe taxpayers should fund somebody else's view of what art is or is not. I also think it is wrong for us to act without explicit constitutional authority, whether it is in the arts, or education, or anything else.

The Senator from Washington is correct. I misspoke when I said education. I should not have used that term because, also, the Federal Government, in my view, does not have a legitimate role in determining the education of our children. I believe that is a local matter that ought to be done by the States, the local communities, and parents.

Finally, to say it is a good thing for a Federal agency to provide a "seal of approval" for the arts so that the private sector will know what to support, that is a threat to art.

I think that threatens the legitimate issue of art in that government has no business telling people what good art is or what bad art is. I don't think there is any room for the government in art.

Frankly, it is very interesting when you pick out the platform of the Republican Party and read it. Some don't believe we should read our platforms. But I happen to believe we should.

In the 1996 Republican Platform, there is a quote of Senator Bob Dole of March 10, 1995, in which he said:

On November 8, 1994, the American people sent a message to Washington. Their message is my mandate to rein in government, reconnect it to the values of the American people, and that means making government a whole lot smaller, a lot less arrogant and getting it out of matters best left to the States, cities, and families across America.

That is all I am trying to do. What I am trying to say is if there is some family out there—I can't believe there would be, but there may be—who would like to have a children's book shown to their children showing a naked man and naked woman embracing in the act of sex, if they want to show that to their children, as I said before, I guess that is up to them, but I don't think we ought to be funding it.

Furthermore, finally, what the Republican Platform said at that time was:

As a first step in reforming government, we support the elimination of the depart-

ments of Commerce, Housing and Urban Development, Education, Energy, and the elimination, defunding, or privatization of agencies which are obsolete, redundant, of limited value, or too regional in focus. Examples of agencies that we seek to defund or to privatize are the National Endowment for the Arts, the National Endowment for the Humanities, the Corporation for Public Broadcasting, and the Legal Services Corporation.

I am quoting out of the platform. Finally:

In addition, we support Republican sponsored legislation that would require the original sponsor of proposed Federalization to cite specific constitutional authority for the measure.

If you are going to offer something as an amendment or a bill which ultimately may become law, then cite constitutional authority for it because, after all, we are here to protect and defend the Constitution.

That is the only point I am trying to make. I understand that the votes have never been here to eliminate this agency. I don't expect them to be here this time.

I don't mean to argue, other than to say that I ask my colleagues to try to move back to the constitutionality issue because I believe that is what this is all about. If you make an exception, even if this was art that was pleasing to me, if it was art that I liked, that I approved of, it would be the same argument—that it has no business being funded. It is not constitutional. I don't believe that we should be funding it.

I see my colleague from Missouri. I know he is an original sponsor of this amendment.

Mr. President, at this time I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. ASHCROFT. Mr. President, I rise today in support of this amendment offered by Senator Bob SMITH of New Hampshire.

This amendment, which eliminates the \$99 million appropriated to the NEA, gives Senators the opportunity to decide whether the Federal Government should be in the business of judging and funding art.

There are only two ways a Federal government could be involved in funding art: either by judging it or by funding it randomly. I don't think either of those is a good alternative for the Federal Government.

I hope a majority of my fellow Senators will agree with me that the Federal Government should resign from its role as a national art critic—telling us what to enjoy or what not to enjoy, and spending our money to tell us that this is good or that is bad.

It seems to me that to have the Federal Government as an art critic to determine what type of art is superior to another type of art is not something that a free nation would want to encourage. Government should not be in the business of subsidizing free speech, putting its so-called "Good House-

keeping Seal of Approval" on certain pieces of so-called art.

When the government funds art, it will always have to make value judgments on what is art and what it is not. I don't think that is an appropriate function of government. The only way to get out of this business is to stop government from funding art.

I guess you could fund art randomly—spin the wheel, and whichever artist's name comes up, give them the money. But you would have to decide who got to be part of the lottery.

For those who say this is an issue of free speech, my view is that speech is not free if government funds it. As a matter of fact, it is funded speech, and not free speech.

When we tax people, we take their dollars coercively. We simply say that if you do not give us the money, you go to jail. Try not paying your taxes and find out whether it is enforced or not. You will find out that the IRS can be very convincing and very persuasive because they have this independent capacity to coerce the dollars.

Government subsidies, even with the best intentions, are dangerous because they skew the market toward whatever the government grantmakers prefer. The National Endowment for the Arts grants place the stamp of official U.S. Government approval on funded art. This gives the endowment enormous power to dictate what is regarded as art and what is not.

A number of art critics and people in the arts community, have observed this.

Jan Breslauer, Los Angeles Times art critic said in 1997 that,

[T]he endowment has quietly pursued policies rooted in identity politics—a kind of separatism that emphasizes racial, sexual and cultural differences above all else. The art world's version of affirmative action, these policies . . . have had a profoundly corrosive effect on the American arts—pigeonholing artists and pressuring them to produce work that satisfies a politically correct agenda rather than their best creative instincts.—The Washington Post, March 16, 1997.

I would like to call myself an artist because I like to engage in musical performances. I like to engage in the writing of music, and the writing of poetry. But I feel a little below par, so I can't really call myself an artist. There have been some who have said that some of my stuff might qualify for art. But I have never qualified for a grant, and I don't want a grant. My wife always teases me, saying: You can't sell it. You can't even give it away.

But the idea of government funding art means that we would begin to bend the artist away from true expression towards something for which the government was providing a subsidy. That is the point that Jan Breslauer makes—that this subsidy has had "a profoundly corrosive effect on the American arts"—taking people away from the true expression of art, "pigeonholing artists and pressuring them."

The concept of pressure and art is a very difficult concept to reconcile. I think of Michelangelo painting on the Sistine Chapel and the Pope demanding one thing and another. I don't know if it is true, but it is said that in response to that pressure, Michelangelo painted certain people in hell as a way of indicating that he would resist the pressure.

Joseph Parisi, editor of Poetry Magazine, the nation's oldest and most prestigious poetry magazine, has said that disconnecting "artificial support systems" for the arts, such as cuts in NEA funding, has had some positive effects. Parisi has said that cuts in federal spending for the arts are causing "a shake-out of the superficial. The market demands a wider range, an appeal to a broader base. Artists and writers are forced to get back to markets. What will people buy? If you're tenured, if the government buys, there's no response to irrelevance."—Atlanta Constitution, Nov. 8, 1996.

In short, the government should not pick and choose among different points of view and value systems, and continuing politicizing the arts. Garth Brooks fans pay their own way, while the NEA canvasses the nation for politically correct "art" that needs a transfusion from the Treasury. It is bad public policy to subsidize free speech.

Why I should pay full freight to go see a country star, and the Mercedes limousine set should get a subsidy to go to the ballet, I don't know.

On this point I refer Senators to section 316 on page 106 of the Senate bill, which makes a case for elimination of the funding of NEA. It says the NEA can only fund those individuals who have received a "literature fellowship, a National Heritage Fellowship or"—I am still quoting—an "American Jazz Masters Fellowship."

I know very little about music, but I spend a lot of time in music. I know and appreciate that jazz is a great form of American music. But for the life of me, I cannot understand why the Federal Government believes it has the wisdom to use taxes paid by a hard-working plumber or a policeman or a painter to decide which jazz master should be subsidized and which jazz master should not be subsidized. Even if we could subsidize all jazz masters, is it fair to fund jazz masters and not pay stipends to a master classic pianist, a composer, a struggling rhythm and blues artist, or a rock-and-roller?

The fact that the Federal Government does not have infallible wisdom to serve as the Nation's art critic underscores the brilliance of our Founding Fathers who, in writing the Constitution, specifically voted against provisions calling on the Federal Government to subsidize the arts. This is not a new request. The founders considered this and rejected it.

Although funding for the NEA is small in comparison to the overall budget, elimination of this agency

sends a message that Congress is taking seriously its obligation to restrict the Federal Government's actions to the limited role appropriately envisioned by the framers of the Constitution. Nowhere in the Constitution is there a specific threat of authority that could reasonably be construed to include promotion of American jazz masters as compared to or in contradistinction to classical pianists or ordinary guitar pickers.

During the constitutional convention in Philadelphia in 1787, Delegate Charles Pinckney introduced a motion calling for the Federal Government to subsidize the arts in the United States. Although the Founding Fathers were cultured individuals who knew firsthand of various European systems for public arts patronage, they overwhelmingly rejected Pinckney's suggestion because of their belief in limited constitutional government.

Accordingly, nowhere in its list of powers enumerated and delegated to the Federal Government does the Constitution specify a power to pick jazz masters over guitar pickers.

It is noteworthy what the Constitution does provide. Article I, section 8, states:

The Congress [of the United States] shall have Power . . . To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Rights to their respective Writings and Discoveries;

We can protect the work of artists from unlawful and inappropriate appropriation by those who would steal those works and profit from them. In other words, our Founding Fathers established the noble goal of protecting intellectual property of those who are involved in science or the arts. The Founding Fathers did not think the way to protect the rights was to subsidize them or contaminate them or to prefer one or another. Instead, they believe Government protection should extend to protecting their initiative, their creativity, and their discovery.

Some have taken comfort in the recent Supreme Court decisions that have upheld the Federal statute directing the NEA to take into consideration "general standards of decency and respect for the diverse beliefs and values of the American public" in making grants.

While some have said this ruling will appropriately address the concerns over the type of art the NEA will fund, I don't think that is the case. Moreover, in response to the Finley decision, Chairman Ivey said the ruling was a "reaffirmation of the agency's discretion in funding the highest quality of art in America" and that it would not affect his agency's day-to-day operations. That was a quote from the New York Times.

These court cases do nothing to solve the underlying issue of whether Government should fund and decide what is art. Suffice it to say the time has come to end the Federal Government's role

of paying for and thereby politicizing art. Art should be pure, not politics, and it shouldn't ever become pure politics; it can, when art is elicited, shaped, and coerced in order to comply with Federal guidelines.

I thank the Senator from New Hampshire for offering this amendment. I urge my colleagues to join me in supporting this amendment.

I yield the floor.

THE PRESIDING OFFICER. The Senator from Illinois.

MR. DURBIN. Mr. President, I rise in opposition to this amendment. In a way, I am grateful this amendment has come to the floor. I think this Senate should go on record: Will we decide to go on the course suggested by Senator ASHCROFT of Missouri and Senator SMITH of New Hampshire and say there will be no funding of the arts in America, that we have decided now at this moment in our history that we will walk away from governmental assistance to the artists across America who are starting out and trying to develop their own skills?

I think that is an important question. I know as well as those listening to the debate that over the last 10 or 12 years there has been a lot of controversy about the National Endowment for the Arts. There have been some controversial grants, grants for art projects which I personally found reprehensible.

The bottom line is, it is as wrong to condemn the National Endowment for the Arts because of one or two grants as it is to condemn any Member of the Senate for one or two votes. Each Member can make a mistake. Each Member can do something unpopular. Each Member can do the wrong thing in the eyes of the public. Yet to condemn Members as individuals is just not fair, just, or American. Nor is it fair for Members to condemn the National Endowment for the Arts for things that were done many years ago.

Over the last several years, it has been my good fortune to be a non-voting member of the National Council of the Arts, meeting every 6 months to review the applications for assistance to the NEA. Several Members of the Senate and the House of Representatives have shared in that responsibility. It has been an eye-opener to sit as I have with men and women from across America and to consider those who come to the National Endowment for the Arts asking for assistance.

Listening to the speeches on the floor, one would think that these are people who come in with some grand political agenda or they are looking for some big government seal of approval. That is not the case at all. By and large, these are creative people looking for an opportunity. Some of the opportunities which they have presented as a result of the National Endowment for the Arts are amazing in their scope.

Think of the impact if we eliminate the National Endowment for the Arts.

Let me tell Members about one particular program. I am sorry the Senator from Missouri cannot hear this because I think he would appreciate it since he was born in the city of Chicago. I think he would understand the importance of this program.

In my home State of Illinois there is a program called the Merit Music Program. The Merit Music Program is an exceptional effort inspired by one lady who decided that she would try to reach down to the poorest schools in the city of Chicago and find those kids who had music potential. What she has done over the years is to literally bring in hundreds of kids each year who learn how to play a musical instrument. These are kids who live in some of the poorest housing in Chicago, and their most prized possession will be a violin, a clarinet. They will develop musical skills.

Each year, I try to attend their recital on Saturday while kids from kindergarten on up play their musical instruments. It is an amazing performance from kids who come from the poorest families. It is a performance that is made possible by the National Endowment for the Arts.

These kids get a chance to learn to play a musical instrument. One might say, well, that is a nice hobby; what can it mean? When we follow these kids through their music education, what do we find? Every single one of these kids goes to college. These kids, given a chance at artistic expression, not only have wonderful fulfillment, they have ambition. They decide they can rise above what they have seen around them in their neighborhoods. That is what art and music can do.

I am almost at a loss for words—which is something to say for a Senator—when I hear those on the other side of the aisle stand and say: Well, what good is this? Why would we do this? Why would we encourage this?

In downtown Chicago we have a block that has become known as Gallery 37. In the Loop in Chicago it stands out. It is ultimately going to be developed by some big company, I am sure. Over the last several years, we have decided that Gallery 37 will be an artistic opportunity for kids all across Chicago, kids who can show their artistic wares, who can learn skills in art, and perhaps even be trained for jobs in art. It really has become a magnificent undertaking of that community that reaches out all across Chicago. The rich, the poor, the black, the white, the brown, all come together—Gallery 37, National Endowment for the Arts.

If you go home to your community in your State, whatever it might be, I guarantee you will find the recipients of the grants from the National Endowment for the Arts are not some people living in these ivory towers but, rather, the folks living in your community. Does your city have a local symphony orchestra? My guess is, if not this year, then at some year in the past, the National Endowment for the Arts has

helped that symphony orchestra. Does your school system have an art program that encourages kids and moves them along? Many of those programs across America receive assistance from the National Endowment for the Arts.

The National Endowment for the Arts last year received \$98 million out of a Federal budget of about \$1.7 trillion. We took \$98 million to give to the National Endowment for the Arts. That is a lot of money; I will concede that point. In the context of the big Federal budget, though, it is a very tiny piece. But it is a piece of Federal spending that is used to encourage artistic creation and expression.

Of what value is that expression to those of us who are simply art consumers? Let me tell you a personal story. My mother was an immigrant to this country. She came at the age of 2 from Lithuania with her mother and grew up in East St. Louis, IL. She made it to the eighth grade, and that is when she had to stop and go to work as a switchboard operator at a telephone company. She raised me and my two brothers, and she was a woman who was always trying to learn and to appreciate things. I would like to tell the Senator from Missouri, Mr. ASHCROFT, she used to put us in the family car on a Sunday afternoon and we would go across the bridge to the St. Louis Art Museum, and my mother and I would walk through there looking at paintings. Frankly, she had no knowledge of art, but she knew what she liked and appreciated. How many Sunday afternoons we walked through there and I looked at those paintings. As a kid, I was totally bored. As I got a little older, I came to appreciate them. But here she was, a simple woman, immigrant woman, a blue-collar worker, who thought it was important her son see art and what it stands for.

So when I hear the arguments made that this is unfair to blue-collar workers across America, to ask them to take a tiny fraction of their Federal taxes and devote it to the arts, I think those critics miss the point. Visit museums on The Mall here in Washington or in any city across America, and I guarantee you will see a cross-section of American life, the rich and the poor, the educated and the uneducated, all appreciating what art can bring to our lives. This is not something for which we should apologize. It is something we should be proud of. The legacy we will leave in America for future generations is not just a legacy of concrete and steel; it is a legacy of art as well.

Those who visit countries around the world, wherever they may be, usually stop first at the art museums because they want to see the collections. It says something about the value of art when it comes to civilization. To think we would take a step backwards on the floor of the Senate today and decide we will no longer, after years and years, provide assistance and money for the arts is unthinkable. It is unthinkable. In a way, I appreciate the opportunity

to have this amendment. Let's have a record vote. Let's see how many people here want to join a group which basically says that the United States of America, with all of its richness, with all of its diversity, cannot afford \$98 million to encourage the arts.

Let me tell you about another art project that received a decoration, an award from the National Endowment for the Arts. It is called Street Level Art, and it is an amazing thing. It is in the city of Chicago again. Two young men who worked for advertising agencies decided they just didn't quite like going to work 9 to 5 every day. They wanted to do something more. So they gathered together equipment from people who were getting new versions of computers and videotape machines and the like. They put it in a little storefront on Chicago Avenue, and they invited kids from junior high and high school across Chicago to come after school to learn how to make documentary films and to do animation for cartoons.

I met a young lady there who lived on the south side of Chicago who literally had to take three buses after school to get to the Street Level Art Program, but she was so excited at the prospect of developing her skills, her creativity in art. This is another group that received an award from the National Endowment for the Arts. For Senators to come to the floor and say get Government out of this business is to basically say do not get the seed money to Street Level, don't give the seed money to Gallery 37, don't give the seed money to Merit music. If we did, if we said we are going to close the door and turn out the lights on Government involvement for the arts, would we be a better nation for that? I do not think so.

I think, frankly, the National Endowment for the Arts has done an excellent job. It has learned some valuable political lessons over the last several years. It is unfortunate the sponsors of this amendment do not concede that point and they cannot join the other Members of the Senate to come with me to these meetings twice a year to see what is involved because not only education programs but children's festivals, literary programs, orchestras, museums, dance companies, all receive a helping hand from this National Endowment for the Arts.

I see Senator SESSIONS from Alabama on the floor here. He has joined me at meetings of the National Endowment. The President has proposed a program. It is called "Challenge America." A point made by Senator SESSIONS at one of our meetings, and a valid one, was that the National Endowment for the Arts should reach out into communities which have not traditionally been served and helped by the National Endowment, and they are doing that. I think that is the right thing to do because we can encourage artistic expression in the rural areas of Alabama and the rural areas of Illinois. I think we will be better for it.

Unfortunately, this bill does not provide a great deal of funding for that, but the bottom line is that it is a concept we should pursue in this country. As it stands, this is still in the concept stage, but it is an important concept, particularly when it comes to educating and reaching out to young people at risk of dropping out of school or becoming delinquent or abusing drugs.

We spend so much time here on the floor wrestling with problems that American families are worried over, not the least of which was the shooting at Columbine High School in Littleton, CO. We are trying to read and study and speak among ourselves and say: What is going on in the minds of these children that they would become so violent, grab a gun, and shoot at their classmates?

Even though I am a parent and proud of the three children my wife and I raised, and our grandchild, I do not consider myself a specialist in this area. But I do remember from my own life experience, watching my kids grow up, if you give a young person a chance for fulfillment, that young person sometimes will show you that chance has not been squandered and will make something good of it. Some of them will be the best students in the class. Others may not be great when it comes to grades, but they may turn out to be excellent artists or excellent musicians.

If we close down the NEA and turn out the lights, as this amendment suggests, we are turning out the lights on a lot of young children in America who just need an opportunity to express themselves, to prove themselves. Without that opportunity, they will certainly be frustrated; I hope not worse. But it really would be a loss for this Nation.

I sincerely hope this amendment is defeated, and I hope it is defeated overwhelmingly because I believe, in defeating this amendment, we will make it clear that when it comes to freedom of expression and encouragement of arts, even though our investment is relatively small in terms of the larger Federal budget, it is still important because it says what we are about in America. We are about encouraging diversity of opinion, encouraging artistic expression, encouraging our young people to fulfill themselves.

I hope my colleagues will join me in defeating this amendment, and I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. GORTON. Will the Senator from Minnesota yield for just a moment?

Mr. WELLSTONE. I will not yield my place in the floor but—

Mr. GORTON. No. But simply for the benefit of all Members, if the Senator from Minnesota could give us some kind of estimate as to how long he will speak? Because we are going to another matter soon. When his remarks are over, I will move to table the Smith amendment. We will ask for the yeas and nays.

I misled my colleagues from Florida and Wyoming, who have an amendment that I think can be disposed of relatively quickly and I trust without a rollcall vote. But because of the lunch hour, I hope we can get to a vote on this amendment without disrupting everyone.

Does the Senator from Virginia wish to speak on this amendment?

Mr. ROBB. Not on this amendment, Mr. President, but I would like to make a statement at the appropriate time on this legislation.

Mr. WELLSTONE. Mr. President, I say to my colleague, I will be relatively brief. I will try to keep my remarks under an hour.

Did the Senator hear what I said? I was kidding. I said I would keep my remarks under an hour. Was that the Senator's approval? In 10 minutes I will be able to say what I need to say.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, without his losing his right to the floor, I would like to make a few brief remarks on this amendment also.

Mr. GORTON. Then I will certainly wait.

Mr. BYRD. I thank the Senator.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, my colleague from Florida says I cannot do it in 10 minutes, but I am going to prove him wrong.

I do not know whether I can add that much to the remarks of Senator DURBIN. I have heard the Senator speak quite often. I actually think that was one of the strongest statements. Really. I wish I were not following him.

I say to all my colleagues, Democrats and Republicans alike, this will be a healthy vote because we ought to vote on how we view the National Endowment for the Arts. As a Senator from Minnesota, I think the most important thing we can do as Senators is to do our work every day in such a way that we can assure equal opportunity for every child. That is the way I approach this topic, I say to my friend from New Hampshire.

Senator DURBIN's point was well taken. What you want to do with children, starting at a very early age, is you want to take that spark of learning that all children have—they are so eager—and we need to ignite it. Different children are good at different things. Some are really good at academics, at least the way we define formal academics; some are athletes; some are musicians; some are artists.

The National Endowment for the Arts has done an absolutely fabulous job of funding some of the most wonderful community arts partnerships you ever want to see in the State of Minnesota, by the way, rural as well as urban. There is some great work with at-risk kids, some great work with all the children in Minnesota—white us, black us, brown us—all of us. It is united. It is wholesome.

There have been mistakes made. I agree with Senator DURBIN, Jane Alexander understood that and did a great deal to correct some of the mistakes that had been made. I do not think that has been properly acknowledged in this amendment that my colleagues bring to the floor.

Overall, it is so enriching and it is so exciting to see what is done with these community arts partnerships.

I did not get a chance to hear the remarks of my colleague from Missouri, so it would not be fair to him—he is not here—for me to even try to respond to what I think he may have said based upon what Senator DURBIN said.

I have had a chance to visit with the arts community. I have had a chance to see some of these projects take hold in Minnesota, in our neighborhoods, in our communities, urban, rural, and suburban, and I am especially focused on children and kids.

This does not have a thing to do with blue collar, white collar, high income, low income, middle income. This has really been some wonderful, nurturing, enriching work with children in Minnesota, some of whom have really come into their own as a result of the way in which the NEA grants and good art work and artists have reached them. Some of the things that these kids do, some of the ways in which they are creative and express themselves, some of the ways in which they, in turn, contribute to community, based upon the nurturing and the support from the NEA grants—it is just a marvelous thing to see.

Yes, mistakes have been made, but I call on Senators to be our own best selves. I do view this as a vote that has a whole lot to do with children, a whole lot to do with kids, a whole lot to do with the importance of community arts partnerships. I hope this amendment will be defeated with a resounding vote.

I yield the floor.

The PRESIDING OFFICER (Mr. FITZGERALD). The Senator from West Virginia.

Mr. BYRD. Mr. President, I am opposed to the amendment that is being offered by the Senator from New Hampshire, my good friend Mr. SMITH. He and I serve together on the Armed Services Committee. I have great respect for him and certainly for many of his viewpoints. But on this matter, I will oppose his amendment.

I am a product of the Depression as well as the days and some of the years ante-Depression. When I graduated from high school in 1934, which was 65 years ago now, I was the valedictorian of the class. Of course, we only had 28 in the class. If there had been 29, I might not have been the valedictorian. But I was very fortunate in going to the Mark Twain High School and grade school in a coal mining community in southern West Virginia.

Mark Twain High School had a faculty that probably would have matched the faculty of a junior college in these

days. Teachers did not get paid much, but they were highly dedicated teachers.

The principal of the high school was a man by the name of William Jennings Bryan Cormany. And his wife, Marguerite Cormany, was an excellent music teacher. Mr. Cormany was a strict disciplinarian. He was the kind of high school principal we should have all across this country these days. We paid attention in his class. He taught physics. He was an excellent teacher.

His wife organized a high school orchestra and a band. She wanted me to be in the band. I was the bass drummer. The bass drum was larger than I was, but I was the bass drummer. She also talked me into taking lessons on the violin. My foster father was a coal miner, and through the sweat of his brow, he bought me a violin. I can remember the Saturday afternoon when we piled into a large flat-bed truck and went from Stotesbury to Beckley, about 15 miles away.

I went back home that night. I had a violin case tucked under my arm with a violin in it. My dad paid all of about \$28 or \$29 for this violin, violin bow, and violin case. I went home that night and had visions of becoming a Schubert or a Chopin. I could see myself being one of the great artists. Those were dreams.

How great it is to believe the dream
As we stand in youth at the starlit stream,
But greater still to live life through
And find at the end that the dream is true.

I dreamed of being a great musician. My natural father was a musician. He was not an educated man. He never took a music lesson in his life. I never knew him very well. I only lived with him about a week in my life. He was my natural father.

I lost my mother when I was less than a year old. She died with the influenza in 1918. But she wanted my father, if she died with the influenza, to give me to one of his sisters who had married a Byrd. She died the next day or so after she came down with the flu.

My father just had a natural talent for many things. When he went out to pick the beans in the garden, he would be memorizing chapters from the Bible. He could play almost any instrument he ever put his hands on—the organ, the banjo, the guitar, the Autoharp, and so on. He had a natural talent for music.

I inherited some of that talent for music. I loved it. And so my coal miner dad, who was my uncle, bought this violin for me. I started taking lessons when I was in the 7th grade in school. When I graduated, of course, I was still in the orchestra and in the band.

By that time, I had also learned to play many of the old mountain tunes. My music teacher, Mrs. Cormany, did not take that very well. She was not very happy that I would go out behind the schoolhouse and play "Old Joe Clark" on my fiddle or "Arkansas Traveler" or "The Mississippi Sawyer" or "The Chicken Reel." She did not ap-

prove of that. But I did it nevertheless. So, I came to learn to play "by ear," as they say.

Well, now, my boyhood without that music would have been an empty boyhood. I started out in life where the bottom rungs in the ladder were not there. They were missing. There was not the first rung or the second rung. As I say, I grew up in the Depression, which was a hard, hard life at best.

But the music did something for me. It did for me what David's music did for Saul when he appeared before King Saul. Music through the ages has come from the depths of the soul of man. It has been an inspiration to him Michelangelo and the Sistine Chapel; Leonardo da Vinci and the Mona Lisa; Phidias, who was a great sculptor at the time of Pericles. Pericles lived in the latter half of the 5th century. I remember the Peloponnesian Wars lasted from 431 to about 404 BC. Phidias was a great sculptor at that time.

All through the ages, men have had this desire to use their talents. We read about seeing the forms of animals or persons carved into the caves of ancient mankind and on the obelisks in Egypt. We know about the cuneiform writings, the Sumerians, the Hittites, the ancient Chinese. The ancient peoples drew word pictures before they learned to write.

There is something about man that is above the animal. Do not tell me that man is an animal. I know they teach that in school, but they are all wrong. They are 100 percent wrong. Man is not an animal. An animal cannot draw a picture. An animal cannot paint a picture. An animal cannot play a violin. An animal cannot memorize the multiplication table. Man is not an animal. God created man out of the dust of the ground, and breathed into his nostrils the breath of life. There is a spark of the divinity in man. A man is a little above the beasts of the field, a little lower than the angels, but there is that spark of divinity. There is something in mankind that tends to lift his spirit in the lofty flights of song and poetry. Music is one of those talents that is ingrained in the genes of man.

I can certainly understand the feelings of Senators with respect to some of the recipients of funds from the National Endowment of the Arts in years gone by. They were absolutely foolish, stupid to make those awards. It was colossal stupidity on the part of the Endowment to award grants to people who had such motives and objectives as a few of them had. But they were a tiny few. I think it would be a very serious mistake here to strike this from the bill.

Who knows, there may be a little Michelangelo, there may be a little Benjamin West. Benjamin West said that one day he took to his mother some childish drawings of birds, and his mother took him up on her knee, kissed him, and said: "Son, you will grow up to be a great painter." Benjamin West said that it was a mother's

kiss that led him to become a great painter. The encouragement that his mother gave him after seeing the childish drawings and paintings that he had made caused him to aspire to do greater things.

I can remember that my dad was very poor, the man who raised me. At Christmastime, he never gave me a cap buster or a cowboy suit. In saying this, I do not denigrate those things. But he gave me a watercolor set or a drawing tablet or a book. He did not want me to be a coal miner, as he had been.

So here we are today. In a sense, we can feel that in passing this legislation, as we are passing it, and providing funds—and funds are hard to come by—but we are in a sense providing a little watercolor set or a drawing tablet—we can put it down to that level—to some talented, ambitious, deserving achieving person.

I close with this poem, if I can recall it, which tells the story. Who knows, out of these funds there may not be just one, but there may be many masters—masters—as they develop the talents that are borne within their genes. Many people have those talents and never have the opportunity to develop them. So, where we can, I think, provide the opportunity and the encouragement, we ought to do it. That is a side of life—a side of our culture that is uplifting. We should not attempt to dampen it down, or discourage or put it beyond the reach of those who cannot otherwise afford it.

'Twas battered and scarred, and the auctioneer

Thought it scarcely worth his while
To waste much time on the old violin,

But held it up with a smile:

"What am I bidden, good folks," he cried,

"Who'll start the bidding for me?"

"A dollar, a dollar"; then, "Two!" "Only two?"

Two dollars, and who'll make it three?

Three dollars, once; three dollars, twice;

Going for three—"But no,

From the room, far back, a gray-haired man

Came forward and picked up the bow;

Then, wiping the dust from the old violin,

And tightening the loose strings,

He played a melody pure and sweet

As a caroling angel sings.

The music ceased, and the auctioneer,

With a voice that was quiet and low,

Said: "What am I bid for the old violin?"

And he held it up with the bow.

"A thousand dollars, and who'll make it two?"

Two thousand! and who'll make it three?

Three thousand, once, three thousand twice,

And going, and gone," said he.

The people cheered, but some of them cried,

"We do not quite understand

What changed its worth." Swift came the reply:

"The touch of a master's hand."

And many a man with life out of tune,

And battered and scarred with sin,

Is auctioned cheap to the thoughtless crowd,

Much like the old violin.

A "mess of pottage," a glass of wine;

A game—and he travels on.

He is "going" once, and "going" twice,

He's "going" and almost "gone."

But the Master comes, and the foolish crowd

Never can quite understand

The worth of a soul and the change that's wrought

By the touch of the Master's hand.

Let us defeat this amendment and reject it overwhelmingly let us continue to make it possible for some future masters to lay their talented hands upon the culture of our own civilization and thereby benefit all of posterity.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, the only reason I sought recognition is to speak before the motion to table is made. I apologize to my friend, the manager of the bill, recognizing how badly he wants to move on. I feel inclined to speak on this amendment.

I say to the Senator from West Virginia, my friend, I have had many inspirational times on the Senate floor, and most of them have been directly attributable to the Senator from West Virginia. If what we just listened to, was not inspirational, then someone wasn't listening.

I had the honor a week ago to participate in a parliamentary exchange with the British Parliament. I was able to meet with a small group of British parliamentarians, with a number of Senators in West Virginia. The hosts of that event were Senators BYRD and STEVENS. It was a wonderful weekend where we talked issues.

One evening we were able to meet and have a social event in a place called Kate's Mountain in West Virginia. I had been there only once before. I came to realize, on my first trip to West Virginia at Kate's Mountain, what that song, those West Virginia hills where I was born, means to someone from West Virginia because Kate's Mountain is part of those West Virginia hills. I appreciate those hills, even though I wasn't born in those West Virginia hills. Part of the entertainment that night, just a few days ago, was a blue grass band playing. Senator BYRD participated in the entertainment. He took the microphone and proceeded to sing. It was a wonderful, fun, entertaining evening.

Well, Mr. President, I can't sing. I can't play a musical instrument. But there is no one in the world that enjoys music more than I enjoy music. I have tried to play music. I have tried to sing. I can remember as a young man in high school, I wanted to sing. I went to try out for the choir at Basic High School in Henderson, NV. I can still remember the choir director, Chapman Wooten, a wonderful man, but he could understand talent when he saw it. He didn't see it in me. He said I should continue playing football and baseball and pass on the choir.

I didn't make the choir. In fact, I only was there a few minutes. But I still love music. I can't paint a picture. I have tried. My grandchildren paint better than I do. But I love to see people paint pictures, and I love to see the finished product. I have in my home paintings that may not be very valuable, but they are valuable to me. They

are paintings I have bought because I loved those paintings. I can remember the first painting I ever bought. I was just out of law school. I went to the Tropicana Hotel in Las Vegas and a man by the name of McCarthy had an exhibit there. I don't know if he has ever made a living painting, but I gave him \$75 for a painting that I still have. If you come in my home, there is the first painting that I ever bought. I bought that painting because it reminded me of my wife. It is a painting of a woman. I love that picture.

I was born and raised, as most of you know, in a little place called Searchlight, NV. We had very little entertainment in Searchlight. There wasn't a church to go to. I never went to a church until I went to high school. There wasn't one to go to. In the whole town there was one person who played a piano. I don't know how well she played it, but she played the piano for Christmas programs. That is about all I can remember. She was a woman of some note. She was not noted for playing her piano. She had been married 14 times. I know that because she was married to a few of my uncles. But she played the piano. She was our music in Searchlight. Any program we had, she was part of it.

I am sure in that little town of Searchlight there were people who could have played, if there had been someone there to give them a lesson, someone who could paint a picture, if there was someone who could teach them how to paint a picture. In the entire time that I was growing up in Searchlight, I don't remember a single person playing a musical instrument because they didn't play one. I don't remember a single person painting a picture because they didn't paint a picture. There was no one there to help us, to encourage us.

The National Endowment for the Arts is a program that I envision as helping kids like HARRY REID growing up in rural America, rural Nevada. It also helps kids in urban America, but I think of it as to what I can relate to. The National Endowment for the Arts is a program that is important for people in this country.

I can remember first becoming acquainted with the National Endowment for the Arts because Senator BYRD allowed me to conduct some of the hearings when he was chairman of the Interior Subcommittee of the Appropriations Committee. I conducted the hearings. I loved doing that. We conducted hearings relating to the National Endowment for the Arts. I became so impressed with the work that they do that I have been a fan ever since.

In Elko, NV, we benefit from the National Endowment for the Arts and the National Endowment for the Humanities. There is a great program; it is world famous now. It is called the Cowboy Poetry Festival. It took years to get off the ground. A man by the name of Cannon got it started. He started off in Utah, and he did everything he could

because he had this idea that there was cowboy poetry that should be preserved and perpetuated. He couldn't get it off the ground. He went to private foundations. He did everything he could. They didn't think his idea was very good. He went to Elko, NV, and luckily the National Endowment for the Humanities, the National Endowment for the Arts helped him get this program started. Now it is world famous. You can't find a motel or a hotel room when this festival is occurring. People recite poetry. There are books on western American history that are written and talked about and presentations made. It is because of these programs, the National Endowment for the Arts, National Endowment for the Humanities.

In Nevada, we benefit all over. There are so many things. I have a spate of papers here talking about how great these programs are. One from Delores Nast. She doesn't teach art. She is not a teacher. She loves art, though. She writes: Many Nevadans believe strongly that part of our tax dollars should be directed towards support of our Nation's cultural and educational initiatives.

What an understatement. The most powerful Nation in the entire world can't spend a few dollars on helping kids from Searchlight, NV, learn to paint a picture or play a musical instrument. Yes, we can do that. We must do that.

I am not going to, as I say, hold up the manager of this bill. I only want to say that we in Nevada believe in the National Endowment for the Arts. There are some people who criticize it, but they criticize anything dealing with government. I am proud of supporting the National Endowment for the Arts. I am proud of supporting a motion to table this amendment. It should be tabled overwhelmingly because we, the most powerful Nation in the world, need to spend more, not less, on the arts.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. GORTON. Mr. President, I understand the Senator from Vermont has a quick unanimous consent request.

CHANGE OF VOTE

Mr. JEFFORDS. Mr. President, on roll call No. 258, I was recorded as voting "nay." I ask unanimous consent to change my vote to "yea." This will in no way change the outcome of the vote.

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

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

Mr. ROCKEFELLER. Mr. President, I take this opportunity to voice my support for the Arts in general, and specifically for the National Endowment for the Arts. I also want the Senate and my constituents to know that I would have demonstrated this support with my vote if I had not been engaged in an important meeting at the White House while the vote was taking place.

This meeting today concerned the future of the steel industry and the Administration's commitment to work with Congress, the industry and labor to ensure that unfair and illegal imports are returned to pre-crisis levels. As my colleagues and constituents know, my commitment to the future stability and viability of our domestic steel industry—which is critical to the economic well-being of West Virginia—is unwavering, and for that reason I felt it necessary to remain at the White House for this important meeting.

Unfortunately, the vote on the Smith Amendment was called earlier than anticipated, and I missed the vote. I would have voted against the Smith Amendment if I could have been in the chamber because I believe in funding for the arts, including the National Endowment for the Arts. I take comfort in the fact that the lopsided margin meant that my vote was not necessary to ensure funding for the NEA. I understand that some have challenged NEA's funding decisions in recent years, but I believe the agency has done an admirable job in modifying its policies and decision making process to respond to concerns. Thanks to these efforts, the NEA is a stronger organization. The arts and the NEA contribute greatly to our culture, and it is a valuable investment in my view.

Mr. ROBB. Mr. President, I add my voice in support of the National Endowment of the Arts, and in opposition to Senator SMITH's amendment. The NEA continues to provide valuable seed money to support a range of worthy endeavors, such as orchestras, inner-city arts outreach programs and efforts to preserve vanishing American cultural institutions. In addition, the NEA plays a strong role in promoting private investment in the arts and helps to bring culture to those Americans who are ordinarily unable to afford access to the arts. As a country, we ought to continue to support these efforts. I urge my colleagues to oppose this amendment.

Mr. GORTON. Mr. President, I compliment both the Senator from Nevada and the Senator from West Virginia on very thoughtful and fascinating statements on this matter.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table amendment No. 1569.

The clerk will call the roll.

The legislative assistant called the roll.

Mr. NICKLES. I announce that the Senator from Idaho (Mr. CRAPO) and the Senator from Colorado (Mr. ALLARD) are necessarily absent.

Mr. REID. I announce that the Senator from Louisiana (Ms. LANDRIEU) and the Senator from West Virginia

(Mr. ROCKEFELLER) are necessarily absent.

The result was announced—yeas 80, nays 16, as follows:

[Rollcall Vote No. 260 Leg.]

YEAS—80

| | | |
|-----------|------------|------------|
| Abraham | Edwards | Lugar |
| Akaka | Enzi | McConnell |
| Baucus | Feingold | Mikulski |
| Bayh | Feinstein | Moynihan |
| Bennett | Frist | Murkowski |
| Biden | Gorton | Murray |
| Bingaman | Graham | Reed |
| Bond | Grams | Reid |
| Boxer | Grassley | Robb |
| Breaux | Gregg | Roberts |
| Bryan | Harkin | Roth |
| Burns | Hatch | Santorum |
| Byrd | Hollings | Sarbanes |
| Campbell | Hutchison | Schumer |
| Chafee | Inouye | Shelby |
| Cleland | Jeffords | Smith (OR) |
| Cochran | Johnson | Snowe |
| Collins | Kennedy | Specter |
| Conrad | Kerrey | Stevens |
| Coverdell | Kerry | Thomas |
| Craig | Kohl | Thompson |
| Daschle | Lautenberg | Torricelli |
| DeWine | Leahy | Voinovich |
| Dodd | Levin | Warner |
| Domenici | Lieberman | Wellstone |
| Dorgan | Lincoln | Wyden |
| Durbin | Lott | |

NAYS—16

| | | |
|------------|------------|------------|
| Ashcroft | Helms | Nickles |
| Brownback | Hutchinson | Sessions |
| Bunning | Inhofe | Smith (NH) |
| Fitzgerald | Kyl | Thurmond |
| Gramm | Mack | |
| Hagel | McCain | |

NOT VOTING—4

| | |
|--------|-------------|
| Allard | Landrieu |
| Crapo | Rockefeller |

The motion was agreed to.

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

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

The motion to lay on the table was agreed to.

UNANIMOUS CONSENT AGREEMENT—CONFERENCE REPORT TO ACCOMPANY S. 1429

The PRESIDING OFFICER (Mr. BUNNING). The majority leader.

Mr. LOTT. Mr. President, I ask unanimous consent that at 1:06 this afternoon the Senate begin consideration of the reconciliation conference report, notwithstanding the receipt of the papers, and there be 6 hours for debate to be equally divided in the usual form with the vote to occur at the conclusion or yielding back of the time.

The PRESIDING OFFICER. Is there objection?

Mr. ROBB. Reserving the right to object, may I ask a question of the majority leader.

Is it the majority leader's intention to return to the underlying bill, the Interior appropriations bill, at the conclusion of consideration of the tax bill today?

Mr. LOTT. Mr. President, to respond to the Senator's question, it is. When we complete reconciliation, at the conclusion of this 6 hours or yielding back time, which theoretically could occur, then when that is completed our intent is to go back to the Interior appropriations bill.

The agreement we had last week was that this week we would try to complete these two appropriations bills, Agriculture and Interior, complete the reconciliation conference report, and try to get as many nominations confirmed as we could get cleared on both sides.

We are still assiduously pursuing that goal.

Mr. ROBB. Mr. President, continuing to reserve the right to object, I ask the majority leader, without specifically asking for an additional unanimous consent request, that if it is his intention to proceed, those of us who have been waiting through two sessions to either raise points of order, offer amendments, or whatever the case may be, to the Interior appropriations bill, might be able to do so tonight after conclusion of this bill. I am in full agreement with the expedition of a number of matters that have been pending on this floor, particularly some of the appointments. While I may not favor the tax bill that will be taken up this afternoon, I am in favor of moving the trains.

With that, if the majority leader is prepared to give that verbal understanding his concurrence, I will not object.

Mr. LOTT. Mr. President, I give my concurrence in that. We intend to return to the Interior appropriations bill. I believe the distinguished manager of this legislation would be glad to agree we would go to this issue immediately upon return, with a vote if one is required.

Mr. GORTON. If the majority leader will yield, I would be delighted to have the first item to be dealt with, with respect to the Interior appropriations bill, immediately after the vote on the tax bill, be the point of order the Senator from Virginia wishes to raise.

Mr. ROBB. Will the majority leader include that particular provision in his unanimous consent request?

Mr. LOTT. I am glad to make that additional request in my unanimous consent request.

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

WATER RESOURCES DEVELOPMENT ACT OF 1999—CONFERENCE REPORT

Mr. LOTT. Mr. President, to my absolute surprise and delight, I understand the water resources development bill has been completed in conference. I extend my hearty congratulations to the managers and to the distinguished chairman of the committee, Senator CHAFEE, for his efforts in getting that conclusion.

I yield the floor to him for a consent request with regard to that conference report.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I ask unanimous consent the Senate now proceed to consideration of the conference report to accompany S. 507.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The committee on conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 507), have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

There being no objection, the Senate proceeded to consider the conference report.

(The conference report is printed in the House proceedings of today.)

Mr. CHAFEE. Mr. President, I ask unanimous consent that the conference report be agreed to, the motion to reconsider be laid upon the table, and any statement relating to the conference report be printed in the RECORD.

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

The conference report was agreed to.

Mr. CHAFEE. I thank the majority leader for moving this legislation along, and I thank all concerned.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, as a member of the minority who had the honor to be a conferee, may I say that this legislation of great importance could not have happened in the absence of our chairman. Our chairman did a superb job, never an easy one with the other side. But here it is before us and he is to be congratulated. I, for one, am deeply grateful.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I thank the distinguished Senator from New York. He has headed many of these conferences. I particularly recall some of the transportation conferences he has headed in which he did landmark work. Having kind words coming from him and praises is doubly important to me. I greatly appreciate them. I thank the Chair.

Mr. President, today the Senate is considering the conference report to accompany S. 507, the Water Resources Development Act of 1999. This measure, similar to water resources legislation enacted in 1986, 1988, 1990 and 1992, is comprised of water resources project and study authorizations, as well as important policy initiatives, for the U.S. Army Corps of Engineers Civil Works program.

This bill was introduced by Senator WARNER at the beginning of this year. In previous years, the Senator from Virginia had been the chairman of the Transportation and Infrastructure Subcommittee of the Senate. In that role he guided a similar bill through the Senate during the previous Congress. We are very grateful for his hard work on this legislation and sticking with the project considering the new demands on his time as chairman of the Armed Services Committee.

Unfortunately, the House was unable to pass a companion measure last year

because of a dispute over flood control and water supply in the State of California. So, this WRDA bill is somewhat overdue.

This year, S. 507 was adopted unanimously by the Senate on April 19, 1999. On April 29 of this year, the House of Representatives adopted its version of the legislation by a vote of 418 to 6.

Since that time, we have worked together with our colleagues from the House of Representatives and the administration to reach bipartisan agreement on a sensible compromise measure. Because of the numerous differences between the Senate- and House-passed bills, completion of this conference report has required many hours of negotiation.

To ensure that the items contained in this legislation are responsive to the nation's most pressing water infrastructure and environmental needs, we have adhered to a set of criteria established in previous water resources law. Mr. President, let me take a few moments here to discuss these criteria—that is—the criteria used by the Senate Environment and Public Works Committee to determine the merit of proposed projects, project studies and policy directives.

In 1986 Congress enacted and President Reagan signed a Water Resources Development Act that broke new ground. Importantly, the 1986 Act marked an end to the sixteen-year deadlock between Congress and the executive branch regarding authorization of the Army Corps Civil Works program.

In addition to authorizing numerous projects, the 1986 Act resolved longstanding disputes relating to cost-sharing between the Army Corps and non-federal sponsors, waterway user fees, environmental requirements and, importantly, the types of projects in which federal involvement is appropriate and warranted.

Each flood control, navigation, environmental restoration, or other project requires a local cost share that is applied uniformly across the nation.

Second, projects are not authorized until various reports and studies have been completed to assure that the projects are justified from economic, engineering and environmental perspectives.

Third, projects must fit within the traditional mission of the civil works program of the Army Corps. That mission includes flood control, improvements to navigation, shoreline protection, and environmental restoration.

These are the precepts that we have applied to the provisions contained in the pending conference report. Although there are special circumstances that justify exceptions to every rule, I believe that this bill does a good job of adhering to the fundamental purposes and principles of the WRDA program.

Water resources legislation has been enacted on a biennial basis since 1986, with the exception of 1994.

The bill we are bringing back from conference today includes scores of

projects with a total federal authorization of approximately \$4.3 billion. Importantly, more than \$1.5 billion of this amount will go toward environmental mitigation and restoration and water cleanup projects for sewage discharges, stormwater retention, and the control of combined sewer overflows.

A bill like this takes hard work by many parties. I would like to salute our Senate conferees, Senators SMITH, BAUCUS, MOYNIHAN, VOINOVICH, and BOXER. As I said earlier, Senator WARNER has been the key player on this bill as its author, manager and member of the conference committee.

Senate staff playing a key role on this bill included Ann Loomis for Senator WARNER and JoEllen Darcy for Senator BAUCUS. On my staff, first Dan Delich and, after he left us, Abigail Kinnison and Chelsea Henderson, have worked many long hours to make this bill possible.

On the House side, the chairman of the Transportation and Infrastructure Committee, Congressman SHUSTER, and committee members, Congressman OBERSTAR and Congressman BOEHLERT deserve high praise for their work. We thank them very much for the spirit of compromise they brought to the conference and for their efforts to complete this task before the recess.

I am pleased to bring this conference report to the Senate. I trust that those who every day depend on the fine work of the Corps of Engineers to protect their lives and their livelihoods will benefit greatly from the legislative work that has been done.

Mr. BAUCUS. Mr. President, I rise today to support the adoption of the Conference Report to accompany S. 507, The Water Resources Development Act of 1999, WRDA.

As we all know, the Water Resources Development Act of 1998 passed this Chamber last year, but was never enacted. This Conference Report builds upon the work done on that legislation and includes some additional projects and programs for the Army Corps of Engineers. With the adoption of this conference report, we wrap up some unfinished business from the 105th Congress and are back on course for development of a Water Resources Development Act for 2000.

S. 507 authorizes projects for flood control, navigation, shore protection, environmental restoration, water supply storage and recreation, as well as several studies which will be the basis for future Corps projects. The projects have the support of a local sponsor willing to share the cost of the project with the Federal Government.

Many of the projects contained in this bill are necessary to protect the nation's shorelines, along oceans, lakes and rivers. Several of the navigation projects need timely authorization in order to keep our ports competitive in the global marketplace. The projects will be reviewed by the Army Corps of Engineers and must be in the federal

interest, technologically feasible, economically justified and environmentally sound in order to go forward. In other words, these are projects worthy of our support.

Furthermore, the bill authorizes studies, including a comprehensive, cumulative impact study of the Yellowstone River in my home state of Montana, that need to get underway so that we can make informed decisions about the future use and management of these precious resources.

In addition, the conference report contains a new continuing authorities program, known as Challenge 21. This program, proposed by the Administration and supported by the conferees, emphasizes non-structural flood damage reduction measures and riverine and wetland ecosystem measures that conserve, restore and manage the natural functions and values of the floodplain. We hope that this new program will integrate needed flood damage reduction with the ecosystem in a more natural way than traditional brick and mortar. Programs like Challenge 21 will help move the traditional Corps' mission into the next century.

I am pleased the conference report has been approved.

Mr. WARNER. Mr. President, I am pleased that the Senate today will enact the Water Resources Development Act of 1999. This important legislation continues the Corps of Engineers civil works critical mission to provide flood control, hurricane protection, river and harbor navigation improvements, environmental restoration of our nation's waterways and other water resource infrastructure improvements.

Since 1986 when the Congress and the Executive Branch reach agreement on landmark cost-sharing principles that apply to the preparation and construction of these projects, the Congress has endeavored to enact this reauthorization bill on a two-year cycle.

As the former Chairman of the Environment and Public Works Subcommittee on Transportation and Infrastructure, the Congress enacted a water resources reauthorization bill in 1996. Regrettably, due to the complexities involving a project to provide flood protection for the Sacramento, California area, the House and Senate were unable to resolve the differences concerning this project in 1998.

Today, the conference report before the Senate includes those projects in last year's bill along with other construction projects that the Corps of Engineers has reviewed and judged to be in the national interest. Through a comprehensive process to study and analyze the scope of individual projects, the Chief of the Corps of Engineers has found the 45 authorizations for new construction projects to be technically sound, economically justified and environmentally acceptable.

Mr. President, this simply means that the Federal taxpayer will receive a higher return on the economic bene-

fits resulting from construction of these projects compared to the individual construction costs. Also, for these projects, a state or local government will provide from 35 percent to 50 percent of the costs of construction.

The Corps civil works program provides significant protection to lives and property from flooding and coastal storms. The maintenance of our river and harbor navigation channels are critical for us to maintain a competitive edge in a "one-world" economic market.

The value of water resource projects is well-documented. In 1997, Corps flood control projects prevented approximately \$45.2 billion in damages. The Corps continues to support the navigation channel deepening projects so that the larger class of cargo ships and super coal colliers can call on our commercial water ports. The value of commerce on these waterways totaled over \$600 billion in 1997, generating approximately 16 million jobs.

Mr. President, the conference report also contains very important provisions to strengthen and expand the Corps new focus on environmental restoration of our nation's waterways. We have established a new program, known as "Challenge 21", which provides the Corps with the direction to work with local communities to develop non-structural flood control projects. This is an initiative that will hopefully produce less-costly flood control options. This program will be important to financially-strapped communities who may not be able to afford to provide the 35 percent local costs for a traditional flood control project. Also, this program will foster the preservation of sensitive ecosystems that provide vital flood protection in the floodplain.

Challenge 21 also has the potential to produce significant savings in the reduction of flood damages and Federal flood damage assistance costs.

Mr. President, since the enactment of the 1986 water resources bill which established cost-sharing requirements for the construction of water projects, I have been committed to applying these requirements to projects authorized in subsequent bills. I applaud my Senate colleagues for enacting Senate legislation that adhere to these rules. The cost-sharing requirements have been successful in leveraging non-Federal funds and they have ensured that only those projects with the greatest merit, economic benefit and local support move forward.

It was my view, along with Chairman CHAFEE and the Ranking member, Senator BAUCUS, that we must insist on the cost-sharing requirement for projects authorized in this bill. I regret, however, that the conference report does not apply the cost-sharing principles in all cases.

I would just ask my House and Senate colleagues to remember the 10-year stalemate that existed between the Congress and the Executive Branch

from 1975 to 1986. At that time no water resource projects moved forward because the Executive Branch insisted on some level financial contribution from those who would benefit from these projects. By 1986, the Congress and the Administration reached agreement on a fair allocation of costs and since that time there has been an orderly process for planning, designing and constructing water resource projects.

We must not abandon cost-sharing rules, or else there is the very real possibility of again triggering a halt to Federal funding for these important projects. I will continue to work to follow the requirements of the 1986 bill and stand ready to work with my colleagues on this issue.

Mr. President, this legislation, which was three years in the making, involved a great deal of staff time and commitment. I want to express my appreciation to the staff of the Environment and Public Works Committee—Jimmie Powell, the Staff Director, Dan Delich, Abigail Kinnison, Chelsea Henderson, Jo-Ellen Darcy, Ellen Stein and Peter Washburn for all of their efforts. Also, the professional expertise of the Corps of Engineers was invaluable. I particularly want to thank Larry Prather, Gary Campbell and the many dedicated professionals at the Corps of Engineers Headquarters for their technical evaluation of the many projects that came before the Committee for consideration.

Mr. President, I urge the adoption of the conference report.

THE SAVANNAH HARBOR DEEPENING PROJECT

Mr. COVERDELL. Mr. President, I rise to request that the Chairman of the Senate Environment and Public Works Committee help me to clarify the intent of the Savannah Harbor Expansion Project that appears in Section 102 of the 1999 Water Resources Development Act. It is my understanding that this legislation authorizes a project to deepen the Savannah River channel to a depth of up to 48 feet subject to a favorable report by the Chief of Engineers and a favorable recommendation of the Secretary by December 31, 1998.

Mr. CHAFEE. The senior Senator from Georgia is correct.

Mr. COVERDELL. It is my understanding as well, that both the Chief of Engineer's Tier I Environmental Impact Statement and Feasibility Report provide for the establishment of a stakeholders' evaluation group which will have early and consistent involvement in the project, and as part of the process, the EIS requires the development of a mitigation plan to fully and adequately address predicted and potential adverse impacts on, among other things, the Savannah National Wildlife Refuge; striped bass population; short-nose sturgeon; salt water and fresh water wetlands; chloride levels; dissolved oxygen levels; erosion; and historical resources. Is that correct?

Mr. CHAFEE. That is correct.

Mr. COVERDELL. It is my further understanding that before this project is carried out, the Secretary, in consultation with affected federal and non-federal entities, must develop a mitigation plan addressing adverse project impacts and that the plan must be implemented in advance of or concurrent with project construction and must ensure that the project cost estimates are sufficient to address all potential mitigation alternatives. Is that correct?

Mr. CHAFEE. That is correct.

Mr. COVERDELL. I thank the Chairman for his assistance and look forward to working with him on this important matter.

Mr. CLELAND. Will the Chairman yield for two additional questions on this project?

Mr. CHAFEE. I would be happy to answer any questions the Senator may have.

Mr. CLELAND. As the Senator recalls, during the Senate's consideration of the Water Resources Development Act in the 105th Congress, we discussed the matter of whether the bill authorized the Secretary or the Georgia Ports Authority to proceed with construction of the project without the respective department heads concurring on an appropriate implementation plan and mitigation plan and that it was our understanding that the bill did not provide such authority. In this current version, is this still your understanding?

Mr. CHAFEE. The Senator's understanding is correct.

Mr. CLELAND. Further, is it still the Senator's understanding that any funds to be appropriated by Congress for the project must be allocated in a manner that ensures that project impacts are fully and adequately mitigated and are otherwise consistent with the mitigation plan developed by the Secretary and the stakeholder evaluation group?

Mr. CHAFEE. That is correct.

Mr. CLELAND. I thank the Chairman for the opportunity to clarify these understandings.

HOWARD HANSON DAM

Mr. GORTON. Mr. Chairman, I want to thank the Committee for its efforts to help resolve several very important and contentious issues affecting the Howard Hanson Dam project in Washington state.

I applaud the Howard Hanson provision in the Managers Statement accompanying this legislation, which recognizes the ongoing negotiations between the Corps of Engineers and the National Marine Fisheries Service with respect to the Corps' responsibilities under the Endangered Species Act for the protection of threatened Puget Sound Chinook Salmon. These fish runs are directly impacted by the Corps of Engineers' operation of Howard Hanson Dam and, as a consequence, the Corps will be asked to bear responsibility for these impacts under the ESA.

I appreciate the Committee's acknowledgment that the requirements

of ESA might force a revision of the cost allocation for the Howard Hanson project. Given the urgent need to have mitigation measures in place as soon as possible to protect salmon runs in the Puget Sound region, is it the Committee's intent that the Corps provide a proposal for a cost reallocation to the Committee for consideration in the Water Resources Development Act for the year 2000?

Mr. CHAFEE. It is the Committee's intent to urge the Corps and the National Marine Fisheries Service to complete their ESA consultation expeditiously so that a cost share adjustment can be considered by the Committee in a timely manner.

Mr. GORTON. I thank the Chairman.
AMERICAN RIVER WATERSHED PROJECT

Mrs. BOXER. Mr. President, I ask my colleagues on the Committee on Environment and Public Works, and Senator VOINOVICH, Chairman of the Subcommittee on Transportation and Infrastructure, and my ranking member, Senator BAUCUS, a question on the Water Resources Development Act of 1999 as we prepare to give approval to the conference report.

Mr. VOINOVICH. I will be happy to respond to the Senator from California.

Mrs. BOXER. Mr. President, I first thank the leadership of this distinguished committee and its members for their perseverance in working to finally pass the Water Resources Development Act, WRDA, an effort that has taken about a year. I also want to say how I appreciate Senator VOINOVICH's leadership as our new chairman of the subcommittee.

Despite our hard work and achievements, I am disappointed at the outcome in conference on the American River Watershed project. We failed to include the Senate program for providing a 170-year level of flood protection for the City of Sacramento in the American River Watershed. The Senate bill represented the local consensus agreement to increase in the level of flood protection for our state capital, Sacramento. Sacramento's 400,000 residents, 130 schools and 5,000 businesses are located in the flood plain at the confluence of the Sacramento River flowing from the north and the American River, which cascades from the High Sierra mountains, from the east. The most likely cause of a flood would be a breach in the American River levees which could inundate 55,000 acres.

The damages from even a 100-year flood would be comparable to the 1989 Loma Prieta earthquake which caused 63 deaths, almost 4,000 injuries and \$8 billion in direct property damage. Sacramento has one of the highest levels of risk and one of the lowest levels of protection.

There was a year-long effort to pressure this Congress to link extraneous water supply projects to this flood control measure, despite the fact that by unanimous vote in the Senate and a 418-to-6 vote in the House, WRDA bills were approved with no special set aside

for water supply projects in California that would override the water agreements and planning processes that have taken years of sweat, blood and tears to put into place. We were able in this conference to stop inclusion of those water supply projects, and we achieved an increase in the level of protection for Sacramento from 90-year to 140-year level of protection. However, this level is unacceptable. It still puts 400,000 people at too high a risk of disaster.

I would like to ask the leadership of the Environment and Public Works Committee Subcommittee on Transportation and Infrastructure if they believe as I do that this conference report reflects only an incremental step in our efforts to increase protection for Sacramento and that more needs to be done to remove this risk.

Mr. BAUCUS. I look forward to working with the Senator on more improvements for flood protection for Sacramento in subsequent WRDA bills.

Mr. VOINOVICH. The Senator from California is correct. We have provided important improvements for the flood protection for Sacramento. However, we can do better, and I think we should consider increased protection in the future.

Mrs. BOXER. I thank my colleagues. I do note that, while I am disappointed at the outcome on the American River, this bill does provide numerous benefits for my state of California. The new dredging project for the Port of Oakland will enhance international trade and the regional economy and enable new efficiencies at the port to be undertaken with the new intermodal terminal. In addition, the dredge spoil will help restore wetlands in Marin County where a portion of the former Hamilton Army Airfield is being used for environmental restoration. We have new flood protection plans authorized in Santa Clara, the Yuba River Basin, Sacramento area, the City of Santa Cruz, and Fresno County. We have priority designations throughout the state for the new riverine ecosystem restoration program to encourage natural flood control systems and we have assistance for important new water reclamation projects in the San Ramon Valley and the South Bay area of Los Angeles.

But more work needs to be done to protect Sacramento, and we will address those needs in the next WRDA bill. I yield the floor.

Mr. SARBANES. Mr. President, I rise in support of the conference agreement on the Water Resources Development Act of 1999 which provides for the development and improvement of our Nation's water resources infrastructure. This legislation authorizes water resource projects of vital importance to our nation's and our states' economy and maritime industry as well as our environment.

I am particularly pleased that the measure includes a number of provisions for which I have fought to ensure

the future health of the Port of Baltimore and of Maryland's environment.

First the bill authorizes nearly \$28 million for needed improvements to Baltimore Harbor Anchorages and Channels. Many of the existing anchorages and branch channels within Baltimore Harbor were built in the first half of this century and are no longer deep enough, wide enough or long enough to accommodate the vessels now calling on the Port of Baltimore. Many of the larger ships must now anchor some 25 miles south of Baltimore in naturally deep water, resulting in delays and increased costs to the shipping industry. Also, the narrow widths of some of the branch channels result in additional time for the pilots to maneuver safely to and from their docking berths. In June 1998 the Chief of Engineers approved a report which recommended a number of improvements including: (1) widening and deepening Federal anchorages 3 and 4; (2) widening and providing flared corners for state-owned East Dundalk, Seagirt, Connecting and West Dundalk branch Channels; (3) dredging a new branch channel at South Locust Point; and (4) dredging a turning basin at the head of the Fort McHenry Channel. The report identified the project as "technically sound, economically justified and environmentally and socially acceptable." This project has been a top priority of mine, of the Maryland Port Administration and of the shipping community for many years and I am delighted that this legislation will enable us to move forward with this important project.

Second, the legislation directs the Corps of Engineers to make critically needed safety improvements to the Tolchester Channel in the Chesapeake Bay. The Tolchester Channel is a vital link in the Baltimore Port system. It was authorized in the River and Harbor Act of 1958 and aligned to take advantage of the naturally deep water in the Chesapeake Bay, along Maryland's Eastern Shore. This alignment, which is shaped like an "S," has posed a serious navigation problem and safety risks for vessels. Ships must change course five times within three miles, often beginning a new turn, sometimes in the opposite direction, before completing a first turn. With vessels nearly 1,000 feet in length, it is difficult to safely navigate the channel, particularly in poor weather conditions. The U.S. Coast Guard and the Maryland Pilots Association have expressed serious concerns over the safety of the area and have long recommended straightening of the channel due to the grounding and "near misses" which have occurred in the area. The cost for straightening the Tolchester "S-turn" is estimated at \$12.6 million with \$1.3 million coming from non-federal sources. This authorization enables the Corps to proceed expeditiously with these improvements and address the serious concerns of those who must navigate the treacherous channel. With \$5.8 million already included in the fiscal

2000 Energy and Water Appropriations bill, this provision will ensure that these improvements will be undertaken in the near future.

Mr. President, the Port of Baltimore is one of the great ports of the world and one of Maryland's most important economic assets. The Port generates \$2 billion in annual economic activity, provides for an estimated 62,000 jobs, and more than \$500 million a year in State and local tax revenues and customs receipts. These two projects will help assure the continued vitality of the Port of Baltimore into the 21st Century.

In addition to port development and improvement projects, the measure contains a provision which will help significantly to enhance Maryland's environment and quality of life and help achieve the goals and vision of the Potomac American Heritage River designation.

It authorizes \$15 million for the U.S. Army Corps of Engineers to modify the existing flood protection project at Cumberland, Maryland to restore features of the historic Chesapeake and Ohio Canal adversely affected by construction and operation of the project. Mr. President, the C&O Canal is widely regarded as the Nation's finest relic of America's canal building era. It was begun in 1828 as a transportation route between commercial centers in the East and frontier resources of the West. It reached Cumberland in 1850 and continued operating until 1924 when it succumbed to floods and financial failure. In the early 1950's, a section of the Canal and turning basin at its Cumberland terminus was filled in by the Corps of Engineers during construction of a local flood protection project. Portions of the Canal were proclaimed a national monument in 1961 and it was officially established as a national historical park in 1971. Justice Douglas described the park " * * * not yet marred by the roar of wheels and the sound of horns. * * * The stretch of 185 miles of country from Washington to Cumberland, Maryland, is one of the most fascinating and picturesque in the Nation."

The National Park Service, as part of its General Management Plan for the Park, has long sought to rebuild and re-water the Canal at its Cumberland terminus. The NPS entered into a Memorandum of Agreement, MOA, with the Corps to undertake a study of the feasibility of reconstructing the last 2200 feet of the canal to the terminus, through and adjacent to the Corps' flood protection project. The Corps completed this study in July 1995 and determined that "it is feasible to re-water the canal successfully; the canal and flood protection levee can co-exist on the site without compromising the flood protection for the City of Cumberland; re-construction and partial operation of the locks is feasible; and, based on the as-built information available, underground utility impacts can be mitigated at reasonable

cost to allow construction of the canal and turning basin in basically the same alignment and configuration as the original canal." A subsequent Rewatering Design Analysis estimated the total project cost at \$15 million. This authorization will enable the Corps to proceed with restoring a 1.1 mile stretch of the C&O Canal and revitalize the area as a major hub for tourism and economic development.

The conference agreement also authorizes the U.S. Army Corps of Engineers to undertake a study for control and management of waterborne debris on the Susquehanna River. The Susquehanna River is the largest tributary of the Chesapeake Bay, draining an area of about 27,500 square miles. It is also one of the most flood prone river basins in the nation. The U.S. Army Corps of Engineers operates several reservoirs for flood control and other purposes and there are three large hydroelectric dams on the lower Susquehanna. During high flow events, enormous amounts of debris, including trees, branches and manmade materials, are carried downstream and ultimately into the Chesapeake Bay. Most recently, the flood waters of January 1999 deposited tremendous amounts of debris as far as Anne Arundel County, Maryland, creating hazards to navigation, damaging boats and bulkheads, aggravating flooding and clogging beaches and shorelines. This legislation will enable the Corps of Engineers to evaluate the economic, engineering and environmental feasibility of potential measures to control and manage the amount of waterborne debris as well as determine if new and improved debris removal technologies can be utilized in the Susquehanna.

Finally, the conference agreement includes several other provisions which will help address important water resource needs in Maryland and nearby communities including the flood protection project for the District of Columbia, and the studies for the West View Shores Community of Cecil County, Welch Point and Chesapeake City, MD.

I want to compliment the distinguished chairmen of the Committee and the Subcommittee, Senators CHAFEE and WARNER, and the ranking member, Senator BAUCUS, for their leadership in crafting this legislation and I urge my colleagues to join me in supporting this measure.

TAXPAYER REFUND AND RELIEF ACT OF 1999—CONFERENCE REPORT

Mr. ROTH. Mr. President, I submit a report of the committee of conference on the bill (H.R. 2488) to provide for reconciliation pursuant to sections 105 and 211 of the concurrent resolution on the budget for fiscal year 2000, and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The Legislative clerk read as follows:

The committee on conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2488), have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report. (The conference report is printed in the House proceedings of the RECORD of August 4, 1999.)

Mr. ROTH. Mr. President, the fundamental question before Congress these past few weeks, as we have debated the Taxpayer Refund Act of 1999, is quite simple: Is it right for Washington to take from the taxpayer more money than is necessary to run the Government?

The issue of tax relief is not any more complicated than that, and the outcome of the conference between the Senate and House makes it clear that we believe Government is not automatically entitled to the surplus that is, in large part, due to the hard work, thrift, and risk-taking of the American people.

Individuals and families are due a refund, and that is exactly what we do with this legislation. We give the people a refund. We do it in a way that is fair, broad based, and empowering. We do it in a way that will benefit nearly every working American, a way that will help restore equity to the Tax Code, and provide American families with the relief and resources they need to meet pressing concerns.

This tax refund legislation will help individuals and families save for self-reliance in retirement. It will help parents prepare for educational costs. It will give the self-employed and underinsured the boost they need to pay for health insurance, and it will begin to restore fairness to the Tax Code by addressing the marriage tax penalty.

How do we accomplish all of this? We begin by reducing our marginal income tax rates by a point. In other words, the 15-percent tax bracket will drop to 14 percent, and the 39.6-percent top rate will drop to 38.6 percent. The new 14-percent bracket will be extended upward to include millions of Americans who are now paying taxes in the 28-percent bracket.

These changes will benefit individuals and families across the economic spectrum. For example, an individual with \$40,000 of income will save over \$700. An individual earning \$50,000 will save over \$800. Under this bill, a taxpayer with \$70,000 of income will save over \$1,000.

This is significant tax relief. When fully phased in, a middle-class family of four with an adjusted gross income of \$80,000 will save almost \$3,000 a year. This is real savings, money that can be used by individuals and families to meet their pressing needs and objectives.

To restore equity to the Tax Code, this legislation also meets a bipartisan objective by providing relief for the

marriage tax penalty, and it does this by doubling the standard deduction and the 15-percent tax bracket for married couples filing jointly.

We can all agree on how important this is. For too long, husbands and wives who have worked and paid taxes have been penalized by their dual incomes. This plan will address that inequity by giving working American couples greater relief.

Let me give an example. Two individuals, each making \$35,000 a year, face a penalty of almost \$1,500 when they marry. Under this legislation, that penalty will be addressed in two ways: first, by doubling the standard deduction and, second, by doubling the 15-percent tax bracket to include their combined income.

The marriage penalty relief offered in this bill retains the Senate position on the amount of relief received, and it even provides relief for people receiving the earned income tax credit.

To help families with their education expenses, the legislation before us allows taxpayers to increase their contributions to education IRAs, or what will—under the provisions of this bill—be called education savings accounts. Allowable contributions will rise from \$500 to \$2,000 annually.

And these funds will be available to meet expenses for all students, from kindergarten through college. Beyond increasing the level a family can save for education, this Tax Relief Act also makes interest earned on qualified State and private school higher education tuition plans tax free—a most important development, in my judgment. It also extends employer-provided educational assistance for undergraduate studies, and it repeals the 60-month rule on student loan interest deductions. This will allow individuals to claim tax deductions on interest that they pay on their student loan, without the imposition of a time limit.

To help families meet health care and long-term care needs, this legislation provides a 100 percent above-the-line deduction for those who pay more than 50 percent of their health insurance premiums. This, of course, includes the self-employed. The plan also provides an additional personal exemption for those who care for an elderly relative in their home.

As you can see, this legislation is, indeed, empowering; it addresses concerns that are vitally important in the lives of our families, coast to coast. It provides across-the-board tax relief. It addresses the marriage tax penalty.

It makes education more affordable for all students—kindergarten through college. And it helps our families meet their health care and long-term care needs. But it doesn't stop here; it does much more.

The legislation before us phases out the alternative minimum tax. It provides capital gains tax relief, simplifying the rate structure, and reducing the individual capital gains tax rate from 20 percent to 18 percent, begin-

ning with the current 1999 tax year. For those individuals taxed at the lowest individual rate, their capital gains tax rate is reduced from 10 percent to 8 percent.

In addition, the tax basis of certain assets may be increased by an "inflation adjustment," so that any capital gain attributable to inflation is not subjected to tax. Also, we have maintained the 2 percent capital gains rate differential that is imposed on long-term capital gains from depreciable real estate, by reducing that rate from 25 percent to 23 percent.

Another very important measure is the treatment of estate taxes. This legislation completely phases out and ultimately repeals the Federal estate, gift, and generation skipping taxes. It also corrects technical problems in the House provision.

Each of these will be a powerful tool in the hands of taxpayers and families who will use these changes—their relief—to meet the needs that are unique to their situation. However, a couple of major provisions in this bill that I would like to outline in some detail will—like the across-the-board tax rate cut—benefit everyone, enabling individuals and families to prepare for self-reliance and success in retirement. These, of course, include the expansion of individual retirement accounts and pension programs.

Under the bill, IRA contribution limits will be increased over the next 7 years until they reach \$5,000. And taxpayers who are close to retiring will be allowed to make catchup payments in their plans. These changes will in my judgment, be incredibly beneficial. For example, an individual without an employer-provided pension plan, who contributes the maximum amount allowable, as it increases over the next 7 years—with the magic of compounding interest—will be able to put away over \$31,000 for retirement. In year 7 and beyond, he or she will be able to put away the full \$5,000 annually.

With the catchup provision—applicable for people over the age of 50—if those 7 years pass just prior to the taxpayer's retirement, the amount, for example, he or she could save in those 7 years under this bill would be over \$44,000. This bill also increases the income threshold for those who can take full advantage of Roth IRA accounts up to \$200,000 for a couple filing jointly.

For employer-provided plans, this bill increases the maximum amount an individual can contribute to a 401(k) plan, a 403(b) plan or a 457 plan. Starting next year, an employee may contribute up to \$11,000 to his employer's 401(k) plan. In each year thereafter, he could contribute increasing amounts to his 401(k), and in 2005, he will be able to contribute a full \$15,000. To show you how empowering this is, if John, a 35-year-old, contributes the maximum amount allowable over the next 30 years, his 401(k) plan benefit at retirement would increase by over \$1.2 million.

In addition, if John's employer established a newly added Plus Account program under its 401(k) plan, that amount would be nontaxable when John receives it at retirement. The Plus Account program—as addressed in this bill—lets an employer establish an account which has the same tax treatment as a Roth IRA. That means that John would have over \$1.2 million in nontaxable income.

Finally, this bill gives small businesses a new incentive to establish a retirement plan for their employees. The contribution limits for a SIMPLE plan—a defined contribution plan only for small businesses—have been increased in this bill to encourage small business owners to establish such plans. The incentive to establish a SIMPLE plan is easy to understand. Small business owners who offer SIMPLE plans will be able to save up to \$10,000 in the plans they establish.

This will be a great benefit to them, but in order to save their own money—as part of the SIMPLE plan—they will have to provide their employees with a contribution to their own plans of up to 2 percent of their salary.

At the same time, under this plan the employees could also receive a matching contribution from their employer of up to 3 percent of compensation if they decide to contribute to the SIMPLE plan.

Now, I believe this is good policy. It will encourage Americans to take advantage of these opportunities and provide for their retirement future. As with almost every provision in this Taxpayer Refund Act, the catalyst is the individual and the family, using tax relief to meet their needs. Every measure I have outlined as part of the Taxpayer Refund Act of 1999 is important, as each rightfully returns resources that Americans can use to meet their current needs, and the refund being offered comes from surplus funds. In other words, this broad-based tax relief package can be passed, signed into law, and, indeed, still leave sufficient resources in Washington to take care of Social Security, Medicare reform, and other necessary Government obligations.

Let me repeat that: This broad-based tax relief package can be passed, signed into law, and still leave sufficient non-Social Security funds available to address comprehensive Medicare reform, including a prescription drug benefit. We can offer this relief and still pay down the debt and keep the budget balanced. We can do all of this for one very simple reason: The work, the investment in job creation achieved by Americans everywhere, has succeeded in creating long-term economic growth. As I have said before, it is not right that the reward for this success is that today our taxes are the highest percent of our gross national product of any time in postwar history.

After paying for the Government programs for which Congress has planned and budgeted, a refund from the sur-

plus must now be returned to the American taxpayer.

I know there is wide agreement that Americans deserve relief. This is the bill that will give them relief. We must and should support it.

We must keep in mind that major tax cuts must be done through the reconciliation process. This is, indeed, a lengthy, time-intensive process. We have successfully completed it. I am proud to say that this conference report, as it stands today, carries no provision that was not in either the House or Senate bill. In other words, nothing extraneous was added in conference. It is clean and representative of the direction received by those who crafted the Senate and House bills.

Frankly, this is a first in tax history. It represents a tremendous amount of work by our colleagues, Members of the House, and the staff in both Chambers. Those who believe we may be coming back to do this again in September are mistaken. This is the tax bill for this year. We won't have a second chance on this. When we come back after recess, our time and attention will be focused on Medicare reform, a vital issue that concerns us all.

For those who are concerned that this major relief package may be too big, please be reminded that there are important trigger mechanisms included in this bill. If we don't continue to reduce the payment on the interest on the national debt—let me repeat that—if we don't continue to reduce the payment on the interest on the national debt, then the tax relief included here will be reduced to compensate accordingly.

Well, the bottom line is that this is tax relief in which we can have confidence. It meets the criteria we established before we began. It is fair. It restores equity to the Tax Code and makes education more affordable. It helps taxpayers prepare for self-reliance and retirement. This legislation will help families keep their homes, their farms, and businesses safe from death taxes. It makes health care more affordable.

I believe these are objectives that are shared by everyone. They are objectives that can be embraced by Senators and Congressmen on both sides of the political aisle.

Mr. President, I encourage my colleagues to vote for passage, and I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, might I begin on a general point with which our revered chairman has just concluded, which is the reservation of the Social Security surpluses of the next decade for purposes of retiring the debt. This is a fact easily unobserved because we are not arguing about it. There is agreement here. What we will do, we will cut the national debt by more than half, the publicly held debt, and the interest costs accordingly.

Just a few years ago interest costs had become the third highest item in

our budget. It is not noticed because we don't debate it. We don't decide how much we will pay in interest costs; it is automatic. But this has now happened. There has been a great recovery of American Government finances from a grim moment in 1992 when we had a fiscal year with a \$290 billion deficit.

I will point simply to this morning's New York Times and the lead story, sir. I will just read the headline, "Government Plans to Buy Back Bonds and Save Interest: Would retire some debt using the surplus to replace high-interest securities at lower rates"—a complex proposal being worked out in Treasury under Secretary Summers. Also, in the business section of this morning's New York Times, there is another story, "The Dwindling Market in U.S. Treasury BONDS," discussing how the market is going to respond to the bond buy back. And there is this:

"This is a sea change," said James M. Keller, senior vice president and portfolio manager for Treasury securities at Pimco Advisors, an asset management firm. "I was struck by the Treasury's observation that the last time there were two back-to-back years of budget surpluses was in 1956 and 1957. I wasn't alive then, so this is a new thing for me."

Indeed, it is a new thing and hugely to be welcomed.

I might also say that the chairman stated that this bill, which we will vote on at 7:06 this evening, is a clean bill; there is no provision in it that was not in either the House or the Senate proposals. But now I have to say to the Senate, with the utmost deference to my friend—I say to the Senators from Nebraska, Florida, Minnesota, Senator BINGAMAN—we have the word of the chairman, and his word is absolutely bondable in this body. If he says it, it is so. But that is the only way you would know it is so because we just received a copy of the bill this morning, and certainly have not been able to review all 589 pages.

This is not the way to handle the second largest tax decrease in history. There was no conference on this matter. We met formally for 20 minutes, and the negotiation was entirely between party leaders of the majority. It is an age-old practice of the Congress to, at the end of a conference, distribute the signature papers that the conferees sign or do not sign. I was the conferee for this side of the aisle; no signature paper came to me.

There was no participation of any kind from this side of the aisle. I think that would be true in the House as well as in the Senate. That is something we have to watch in terms of our procedures. It was not the way the Senate conducted itself in such a matter when I first came here and became a member of the Finance Committee.

During the debate last week on the Senate version of the reconciliation bill, I attempted to put the debate in a "doctrinal perspective," as I put it. I traced the development from the 1960s of an intellectual movement which holds that the only way to restrain the

growth of Government is to deliberately create a protracted fiscal crisis. This was disarmingly put by then President-elect Reagan. It was just 16 days before his inauguration in 1981. He said:

There were always those who told us that taxes couldn't be cut until spending was reduced. Well, you know, we can lecture our children about extravagance until we run out of voice and breath. Or we can cut their extravagance by simply reducing their allowance.

So in 1981 to 1983, the allowance of the Federal Government was reduced. While other intervening events—a sharp recession in 1981–82—impacted on revenues, nonetheless, there was a precipitous drop in revenues from 19.0 percent of GDP in 1980 to 17.5 percent of GDP in 1983. Simultaneously, the recession and defense buildup conspired to increase outlays from 20.2 percent of GDP in 1979 to 23.6 in 1983. The result, a huge gap—6 percent of GDP—between revenues and outlays, and deficits of \$200 billion or more “as far as the eye could see,” to quote the former Director of OMB, David Stockman, and with this huge gap, the national debt quadrupled from under \$1 trillion to \$4 trillion between 1980 and 1992.

In August of 1993, with a deficit of \$290 billion, we chose to confront that, to raise taxes and reduce outlays by a little more than a half trillion dollars. More recently, the Office of Management and Budget estimated that “the total deficit reduction has been more than twice this—\$1.2 trillion.” In 1997, a bipartisan measure was passed. We are now in a situation of reasonable surplus, reasonable expectation. But there is no reason to act on a surplus that does not yet exist.

Here we are, with unemployment at 4.3 percent, near zero inflation, real economic growth at 4 percent, and an economy in the ninth year of an expansion. All the economists—the ones we care much about—are saying: Not now. Alan Greenspan suggested, speaking before the Senate and House Banking Committees just last month, the most effective means that we can have to regenerate the economy and keep the long-term growth path moving higher is if we hold tax cuts until we need a stimulus. Contrariwise, to stimulate when you don't need it is to invite inflation—inflation, which is a tax on anyone when interest rates go up. Anybody who pays a car loan and has a credit card or a mortgage pays it.

Dale Jorgenson described this persistent interest in cutting down the size of Government by reducing revenue “fiscal disaster” in his 1995 testimony before the Finance Committee. Yet it persists as a conviction. There is very little testing of the proposition.

I won't go on too long in this doctrinal discourse, but back in 1973, Herbert Kaufman of the Brookings Institution published a small book called “Are Government Organizations Immortal?” He reported that of 175 organizations he could identify in the Federal Gov-

ernment in 1923, no less than 148 were still there a half century later, and of the others, most of their functions had just been moved to different organizations.

Recently, the Cato Institute, a conservative group here in Washington, looked at the half dozen organizations which the 1995 House Contract With America targeted for extinction—\$75 billion worth of programs, out. Sir, not one of them is out. Indeed, the appropriations for them have gone up by \$2 billion.

Mr. President, I ask unanimous consent that a table prepared by the Cato Institute and printed in the Washington Post be printed in the RECORD.

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

[From the Washington Post, Aug. 3, 1999]

GROWING BACK

In 1995, the House GOP's “Contract With America” targeted \$75.3 billion worth of programs for extinction. Now the government spends \$77 billion on those programs. Here are some of the targeted agencies and programs for which spending has risen, in millions of dollars.

| Program | 1995 | 1999 |
|--|---------|---------|
| Department of Commerce | \$3,401 | \$4,767 |
| Department of Education | 31,205 | 34,360 |
| School-to-work grants | 82 | 503 |
| Goals 2000 | 231 | 507 |
| Manufacturing Extension Partnerships | 40 | 128 |
| Aid to East Europe and Baltic states | 332 | 450 |
| Economic Development Administration | 350 | 438 |
| Adult education | 299 | 400 |
| Star Schools | 25 | 45 |
| Summer youth employment and training | 867 | 871 |
| Bilingual and immigrant education | 225 | 386 |
| Trade adjustment assistance | 268 | 307 |
| Intelligent transportation system | 143 | 185 |

Source: Cato Institute analysis of federal budget.

Mr. MOYNIHAN. Somehow we have to come to terms with this whole assumption. Perhaps something like the Hoover Commission on the organization of the executive branch needs to be done. Some of us have the assumption that we really aren't that serious. As that brief ceremonial meeting of our conferees this week opened, our respected friend—and we have known each other for a quarter century—BILL ARCHER said in his opening remarks:

We don't need full-time Government and part-time families; we need part-time Government and full-time families.

In no way to cast any suggestion that he is anything but absolutely sincere, I don't think the proposition would survive close inquiry. I asked him: Sir, do you think we could settle for “a part-time Marine Corps, or a part-time Federal Bureau of Investigation?” No, you don't mean that.

I, for one, very much share the view that the Federal Government has taken on too many matters and needs to be cleared out a very great deal. Our Federal system makes that possible, and the world situation in which we now find ourselves makes it necessary but not through the illusion that it will happen simply by reducing revenues.

I wish to make the point that we can't afford this tax cut. We may want one in 5 years time or in 3 years, but

not at this time. That is why the fate of this measure has already been settled.

According to the Joint Committee on Taxation, tax expenditures are projected to cost about \$672 billion in 2003. While we have not yet had time to adequately scour the conference report for all of its provisions, a cursory review indicates that, the bill we are asked to vote on today would increase annual tax expenditures by about \$19 billion in 2003.

Under the Congressional Budget and Impoundment Control Act of 1974, a tax expenditure is a revenue loss:

... attributable to provisions of the Federal tax laws which allow a special exclusion, exemption or deduction from gross income or which provide a special tax credit, a preferential rate of tax, or a deferral of tax liability.

The problem is that we continue to use tax expenditures as a way of funding programs that we do not seem to have the will to finance with outlays—a problem made all the more severe by the caps on discretionary spending alluded to earlier.

On a more global scale, 40 years ago Walter Heller, Chairman of the Council of Economic Advisers in the Kennedy-Johnson Administration spelled out the criteria for evaluating tax expenditures—criteria which most tax expenditures fail to meet. In testimony before the House Ways and Means Committee Heller stated that Federal fiscal policy relies on income taxes for three central roles: (1) Placing resources at the Government's disposal in a non-inflationary way; (2) Offsetting fluctuations in the private economy; and (3) Bringing the distribution of income more closely into line with public preferences.

Heller then argued that the use of the tax code to promote other objectives should be subject to stern tests, which can be summarized as follows:

Is the tax preference for a legitimate public purpose?

Is the tax preference the most effective way to achieve that purpose?

Is the preference targeted?

In Heller's view most tax preferences fail the test. Yet, he noted we persist in expanding tax preference because:

The back door to Government subsidies marked “Tax Relief” is easier to push open than the front door marked “Expenditures.”

Besides, tax expenditures need not be reviewed annually through the appropriations process.

This bill also adds to the complexity of the tax code. I have long been concerned that today's tax system is so complex that ordinary taxpayers have difficulty following the rules. For example, under the bill capital gains are indexed. The Senate Finance Committee held hearings on February 16, 1995 regarding the enormous new record keeping burdens that would be required to calculate the gain or loss on common transactions. The New York State Bar Association stated that:

Congress should reject any proposal to adjust or "index" the basis of capital assets for inflation. [A]n indexation regime would create intolerable administrative burdens for taxpayers and administrators as well as offer numerous tax arbitrage and avoidance opportunities for aggressive tax planners.

The Joint Committee on Taxation wrote at that time that "[i]ndexing would involve a significant amount of record keeping" and that it "would substantially increase the number of calculations necessary to calculate taxable gain for many common transactions."

Even if this bill did not risk a return to protracted fiscal crisis, and even if its 589 pages did not add to the complexity of the code, it should be rejected because most of the benefits accrue to those already well-off.

My colleagues on the other side of the aisle argue that the bill justifiably provides most of the tax relief to those who pay most of the taxes. But their analysis is incomplete since it is based solely on the distribution of income taxes. For example, taxpayers earning less than \$50,000 pay 36 percent of payroll taxes; while those earning over \$200,000 pay only 7 percent of payroll taxes.

The conclusion is very different if the analysis is based on the distribution of all federal taxes—income, excise, and payroll. Those earning less than \$50,000 pay almost a quarter of the taxes, which is the same percentage as those earning over \$200,000. So, why is it that the Republican tax bill before us today only provides 14 percent of the tax cut to those earning less than \$50,000 while providing 78 percent of the tax cut to those earning over \$80,000? Even worse, why does 45 percent of the tax cut go to the top 5 percent of income earners, those earning over \$155,000? Should we not provide a more equitable tax cut?

We might also consider heeding the advice of Herbert Stein, Chairman of the Council of Economic Advisers in a Republican Administration. In an op-ed in yesterday's Wall Street Journal Mr. Stein had this to say:

... I [have] come to the conclusion that we should not make a large tax cut at this time. But my purpose here is not to sell that conclusion. What I am trying to do is to sell the idea that we need a more systematic, explicit and thorough public discussion of the tax vs. debt reduction issue and to illustrate what some of the elements of such a discussion would be.

We have not had that debate.

I see that my learned friend, the gallant Senator from Nebraska, is here, and I think he would like to speak.

THE PRESIDING OFFICER (Mr. VOINOVICH). The Senator from Nebraska.

Mr. MOYNIHAN. Mr. President, I yield such time as he may require to Senator KERREY.

Mr. KERREY. I thank the Senator from New York very much.

I am sorry I didn't wear the same necktie that he did. Other than that, we are deeply matched.

Mr. President, first I want to compliment Chairman ROTH. I believe all

through the Finance Committee deliberations and last week on the Senate floor he held true to two ideas that I share.

The first is that we can cut taxes. The second is we must do so fairly. Indeed, the net effect of cutting taxes by nearly \$800 billion over ten years is to give the American people an \$800 billion increase in their after-tax income. I believe we can do it safely. We have \$3 trillion in surpluses forecast over the next ten years. And I don't believe that cutting taxes will generate inflation if done correctly.

In his original package, the Chairman held true to the idea that some standard of fairness need be applied in how the income tax cuts would be distributed. He attempted to do that. Doing that caused him a little grief on his side of the aisle. I appreciate very much what the chairman attempted to do with his original tax cut package.

Accordingly, I voted for the package enthusiastically on the floor. I believe it was a good proposal. I may have written it a little differently if I were the one who was doing the writing. But I thought it was a balanced proposal and a good proposal, and I was fully supportive of it. I was one of four Democrats to do so.

Thus, I come to the floor with some regret. I say to my friends on the other side of the aisle that you should know that people like me took a position that said we were prepared to vote for a tax cut of \$800 billion. The Chairman's original package received 57 votes on this floor. I understand the other side has been working all night to get the votes to pass the package we have before us and I suspect the most votes this package will receive is 52. So I say to my friends on the other side of the aisle, if you are trying to get a piece of legislation passed to try to change the law and give Americans an income tax cut, you are going in the wrong direction. With the President threatening to veto the bill, it seems to me that a better approach would have been to try to get more votes, not fewer.

I am here, regrettably, to say that I will not only change my vote from an enthusiastic "aye," but I will now change and be voting enthusiastically "no." Let me tell my colleagues why.

First of all, I want to identify some things that are in this package that I think would be good. I appreciated very much the chairman fighting for them and getting them into the bill, and I am fully supportive of them.

Eliminating the marriage penalty is terribly important. There are new provisions in here which will make it more likely that Americans will save and will have the resources they need for retirement. There are provisions in here which will make it more likely that Americans will have health insurance, and that will make it more likely that Americans will be able to afford the cost of higher education.

I do not object at all to eliminating the inheritance tax. I cosponsored leg-

islation to do that. I am not going to take a great deal of time explaining why, as a Democrat, I reached that conclusion. I am prepared, if anybody is interested, in debating it at a later time.

I am not ideologically opposed to lowering the capital gains tax.

There are many things in this proposal that I, in short, like or don't have strong objections to. It is this test of fairness which I believe was applied to the Senate version that I find lacking in the conference report.

Let me take the one provision that is the most important provision in the Senate version.

The provision that cut the lowest tax rate on income from 15 to 14 percent that was in the Senate finance bill would have cut taxes for families in Nebraska with an income of \$46,000, for a family of four, by \$440. It would have cut taxes on a U.S. Senator with a spouse and two kids by \$440 as well. That was the idea.

I am not interested in engaging in class warfare. I have no quarrel with upper-income Americans or upper-income Nebraskans. Quite the contrary. In Nebraska, there were 775,000 federal income tax returns in 1996. Of that, 6,500 had adjusted gross incomes of over \$200,000. That is a relatively small number. But they paid almost a third of all the \$3.6 billion in federal taxes paid by Nebraskans.

So I am not here to say that upper-income people don't deserve a tax break. I think it is very important for us to take a look at America and try to discern which taxpayers are most in need of help. It is, it seems to me, a fair question for us to ask. And to try to apply a standard of fairness, it seems to me, is something we ought to be doing.

Under last week's proposal, a single Member of Congress, I would have gotten a \$260 tax rate cut, just as a single person with \$26,000 of income. But under this proposal, by decreasing the taxes for everyone at higher rates as well, a Member of Congress, a single Member such as myself, I am going to get a tax cut of \$1,185. I get over \$900 more under this proposal. And if I got married, I would do even better.

I can make an argument that because I am paying more taxes I ought to get more of a tax cut. But look at households. A family of four with \$46,000 worth of income probably ought to have a larger tax cut than I do. At the very least, I should not receive more than they do. That is what I mean when I say that this bill, when it passed here last week, met the minimal standard of fairness.

I say to my friends on the other side of the aisle that if you are trying to figure out how to get more votes and not fewer, you have now figured out how to get fewer. You had 57 votes on this side last week. The high water mark today, in my view, is likely to be 52. I understand that the conference report had to be reopened in the later

hours of yesterday evening and some provisions had to be put in to woo some votes for a bare majority. I know there were some concerns that the Vice President might be sitting up there at the end of business today and there might be no more than 50 votes for this legislation. All of that should be a sign. You had 57 votes. Yesterday you did not have 50. Something is going in the wrong direction.

I believe a majority of Democrats and Republicans in chamber, want to apply a standard of fairness. The distinguished junior Senator from Texas, offered an amendment on this floor last week that would increase the standard deduction for a married couple. Why did she want to eliminate the marriage penalty for people who are using the standard deduction? It got a lot of Democratic votes and a lot of Republicans votes. Indeed, I think it was the only amendment that actually broke the 60-vote requirement. That is a clue. That was a fairness issue and the junior Senator wanted that fairness applied to married people who take the standard deduction, people who do not itemize, people who are generally not in the upper reaches of income in this country.

I'm not talking about crafting a social engineering package. What I am talking about is applying a standard of fairness.

As I said, I have great respect for the chairman of the Finance Committee. I believe he attempted to apply a standard of fairness, and, in my judgment, his package of last week passed that test. I voted for it enthusiastically. But the conference committee report does not pass that test. It does not pass the test of fairness.

So I enthusiastically and confidently will vote "no" on it. I do so regrettably because I believe there was an opportunity this year not just to do this but to get a bipartisan solution on Medicare and to get a bipartisan solution on Social Security. The package before us today does not bode well for future bipartisan efforts to come up with those solutions.

This bill had 57 votes last week. As I said, were it not for the sort of last-minute work to try to have some changes to get some additional votes, it might not have even 50 votes later today when we will have a vote on final passage.

I say to my Republican friends, if you want to cut Americans' taxes, listen not just to what Democrats are saying but also listen to what Republicans are saying. They want a standard of fairness applied. It is a legitimate concern.

I don't know how many Members of the Senate believe that \$800 billion is too much. I believe the distinguished occupant of the Chair does. He fought very hard as mayor and Governor, and I think he is coming to this Congress saying we ought to be careful not to spend the surplus and lose all the progress that we have made. Fine. Make that argument.

But for the majority of us who believe that \$800 billion is not too much, if we want to persuade our reluctant colleagues to support cutting taxes for American families, then you have to apply a standard of fairness, a test of fairness. You may not like doing it. You may believe your ideology tells you that you should do something else. But if you want to change the law and get this done, you had darned sure better do it, because not only will you not get the strong majority you will need but you will never, in my judgment, get the President of United States to sign a piece of legislation that doesn't attempt to measure and apply some test of fairness.

Again, I appreciate very much the work that the distinguished chairman did, Senator ROTH of Delaware, as well as the ranking Democrat, Senator MOYNIHAN. I appreciate very much the leadership of both of them. Senator MOYNIHAN led the Democrats in the committee to come up with a \$300 billion tax cut proposal. It had a very key component in there, which was to increase the standard deduction for individuals. That takes a number of people off the income tax rolls, reduces the top tax rate for many and simplifies tax filing for millions.

I suggest to my Republican colleagues on the other side of the aisle that if you want to get a bill, that is the kind of proposal that you should have included in this package and it is unfortunate that you did not. It is unfortunate that the centerpiece of the tax proposal that we voted for last week—the reduction of the 15 percent tax rate to 14 percent—was not left alone. If there is a second chance to consider a tax bill this year, I hope we will work harder to pass a bill that will get significant support from this side of the aisle and the way to do that is to ensure a bill meets a basic standard of fairness.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. I thank the Chair.

Mr. ROTH. I yield 10 minutes on behalf of the minority to the distinguished Senator from Minnesota.

Mr. WELLSTONE. I thank the Senator from Delaware. Let me start out by saying I also appreciate the work of Senator ROTH as the chair of the Finance Committee. However, I am in profound disagreement with this reconciliation bill, this tax cut bill, that comes before the Senate—\$792 billion in tax cuts, aggregate amount.

According to Citizens for Tax Justice, the top 1 percent of taxpayers would receive 42 percent of the benefits, while the bottom 60 percent would receive only 7.5 percent of the benefits. Regarding distributional effect, my colleague from Nebraska talked about a standard of fairness: 60 percent of all taxpayers would get an average tax cut of \$65; the wealthiest 10 percent would get an average tax cut of \$1,322; the wealthiest 1 percent would get an average tax cut of \$5,281.

This tax cut bill that the Republicans bring to the floor of the Senate is "Robin Hood in reverse" economics. Even worse, I think it represents a politics of illusion.

Not that long ago others, I think former President Bush, talked about voodoo economics. He was referring to a set of proposals in the early 1980s that said we could have massive tax cuts, increase Pentagon spending, make the investments we needed to make as a nation, and continue to reduce the deficit. That is not what happened.

It is pretty simple, I say to the people in Minnesota, and to the the people in the Nation. We are in agreement, I hope, that of the \$3 trillion of surplus, \$2 trillion is Social Security. It is not touched. It is to make sure that system will be solvent. Of the other \$1 trillion, three-quarters of it is in assumed cuts—assuming we have the economic growth in discretionary domestic spending.

With this proposal before the Senate that the Republicans bring to the floor of the Senate, not only do we have tax cuts and benefits to people in inverse relationship to need, a "Robin Hood in reverse" economics, but we have a politics and an economics of illusion. We are going to explode the debt. We are going to build the debt up again. In addition, we are not going to be making the investments that we in our speeches on the floor of the Senate say that we are for.

I heard my colleague from Delaware talk about health care, talk about education, talk about children, talk about tax cuts. One more time, to use the old Yiddish proverb: "You can't dance at two weddings at the same time."

We are not going to be able to have this amount of tax cuts, \$792 billion in tax cuts, and at the same time continue to pay down the debt and make the kind of investments we need to make. We are going to see, America, is cuts in Head Start, cuts in low-income energy assistance, cuts in community policing, cuts in environmental protection, cuts in veterans' health care, and cuts in Pell grant programs. We are not going to make any of the investments to which we say we are committed.

I think this tax cut legislation before the Senate is in many ways more serious than bad economics. And it is bad economics. It is bad economics because it will build up the debt rather than pay down the debt. It is bad economics because it could very well lead to higher interest rates. It is bad economics because it is the last thing we ought to do in an expanding economy. In addition, it is bad economics because we are not going to be able to make the investments that my colleague from Delaware says we are committed to at the same time we are doing all these tax cuts.

It is also an illusion. It will put this country in a straitjacket where we are not going to be able to do one positive

thing to make sure we have equal opportunities for every child in this country. We are not going to increase Head Start benefits; we are going to cut them. We are not going to increase health care benefits for our citizens; we are going to cut them. We are not going to do anything about the acute shortage of affordable housing; we are going to cut housing programs. We are not going to get it right for veterans in health care; we are going to cut. We are not going to do anything about the shameful statistic of right now providing benefits for only 1 percent of the kids who would benefit from Early Head Start in our country; we are going to cut.

There is not one Senator who can come to the floor of the Senate and debate me on the argument I have just made. That is exactly what we are going to do.

This is also an ideological debate. If Members believe—and maybe this is what my colleagues now believe, let me now give credit—when it comes to the most pressing issues of people's lives in the United States of America, or Minnesota, that there is nothing that the government can or should do, if you don't think we should be making any of these kinds of investments in Pell grants, or affordable child care, or Head Start, or community policing, or veterans' health care, or health care, or affordable housing, then you would be for this conference report. What this will do is put this country in a strait-jacket where any kind of an investment that any Senator will talk about to expand opportunities for our citizens will be, by definition, fiscally irresponsible because we won't have any of the revenue.

I conclude this way. The political argument behind these tax cuts is a pretty effective argument if you listen to it only up to a point. The argument is that we built up the surpluses—maybe, assuming the economy continues to perform. Let's give it back to the citizens; it is your money. People in Minnesota, it belongs to you.

I maintain, as a Senator from Minnesota, it doesn't belong to me; it doesn't belong to adults. It belongs to our children, and it belongs to our grandchildren. Whatever surplus there is ought to be used to pay down the debt. We put it on their shoulders. Whatever surplus there is ought to be used to make sure their Social Security and Medicare is there, just as it will be there for us. It ought to be used to make sure there are opportunities for children so that our children and our grandchildren have the same opportunities that we have had.

The Presiding Officer, the Senator from Ohio, is committed to early childhood development. The Presiding Officer, the Senator from Ohio, came to the Senate with a commitment to children. I know that. That is his passion, and he will make an enormous difference. I don't care whether he is Republican or not. I know what he cares

about, and I know he is an effective Senator.

With this measure of tax cuts, if this legislation passes, we will not only not be making any additional investments in the way we should in early childhood development, such as Early Head Start or Head Start, much less what we really should be doing for child care, much less nutrition programs, much less affordable housing programs, we will be cutting those programs.

That is shameful. That is unconscionable. That is exactly what we will be doing. I say to the President of the United States of America, Mr. President, you should veto this legislation. Let's not get into Washington, DC, bargaining where we say \$500 billion or \$600 billion is a reasonable compromise. If that is what we do, we still will not be in a position to make any of these investments. We still will see cuts in discretionary spending to the tune of hundreds of billions of dollars. Let's pay down the debt. Let's make sure we make a commitment to Medicare and Social Security. More than anything else, I would rather see more of the emphasis on an investment in children. I believe when we pay down our debts, the most important debt we can pay off is the debt we would leave our children.

What we owe our children is to make sure that every child in the United States of America—regardless of color of skin, regardless urban or rural, regardless high income or low income or middle income—has the same chance to reach his and her full potential. These tax cuts will make that impossible.

I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, just so the record is clear, we have 6 hours, 3 hours to a side. The two managers have agreed we will go back and forth from one side to the other when people are present. But that is not the case now. So I yield 15 minutes on behalf of the minority to the distinguished Senator from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, this is an editorial that appeared in the New York Times on August 2. It says: "Here we go again." That is exactly what this tax bill is all about. Here we go again.

Back in 1980 Ronald Reagan assured one and all that he could cut taxes sharply, increase defense spending substantially and balance the Federal budget.

That is the promise he made. It did not work out that way. The deficits exploded. George Bush at the time:

... famously derided Mr. Reagan's supply side fantasies as "voodoo economics."

We all remember that. The veteran Washington Post reporter Lou Cannon, in his book "President Reagan, the Role of a Lifetime" described the reaction of James Baker, Mr. Reagan's own chief of staff, to the transformation of economic fantasy into national policy. He wrote:

Though not particularly well-versed in economics, Baker suspected there was something screwy about the idea that massive tax cuts would increase government revenues. Later, he would privately express regrets that the deficits had 'gotten away' from the administration and wished he had paid more attention to the consequences of the tax cuts.

Here we go again. Again, we have the fantasy being held out to the American people that somehow you can have a massive tax cut, you can have a big defense buildup, domestic needs will not be hurt, and somehow it is all going to add up. The problem with it is it is highly unlikely to happen. Let's just check the record. It shows very clearly what happened in the Reagan administration when they had this fantasy that they were going to cut taxes dramatically, have a big defense buildup. Somehow it was all going to add up. It did not add up and this plan does not add up.

This is what happened back then. President Reagan inherited a deficit of just under \$80 billion and he promptly shot it to \$200 billion. That is what happens when we just put our head in the sand and get wedded to an ideology and do not care about the economic results, or the economic fallout. This plan is a disaster. I do not know how else to say it. It is risky; it is radical; it is reckless. We would make a profound mistake to pass it today.

We then went into the Bush administration and the deficits went up, up, and away again. It went up to \$290 billion in 1990.

In 1993, President Clinton came into office and we passed a 5-year budget plan to cut spending and, yes, raise income taxes on the wealthiest 1 percent. That plan worked. Each and every year of that 5-year plan the deficit came down until finally we have achieved a balanced budget. Why would we ever want to go back? Why would we ever want to repeat the incredible mistakes this country made in the 1980s that threatened the economic security of this country, that put this country's economy in a ditch, that led to recession, that led to job loss, that led to an extinguishment of economic growth? Why would we want to repeat that tragic mistake? Yet here we are. "Here we go again." Goodness knows, don't we have more common sense than this?

This is not just my view. This is the view of economist after economist who has looked at this proposal. Mr. Samuelson, the columnist, wrote:

The wonder is that the Republicans are so wedded to a program that is dubious as to both policy and politics.

He went on to say:

As Federal Reserve Chairman Alan Greenspan noted the other day, tax cuts might someday be justified to revive the economy from a recession or to improve the prospects of a sweeping program of tax simplification. But there is no case for big tax cuts based merely on paper projections of budget surpluses.

That is what this is. These are plans based on projections of what might

happen over the next 10 years. What a risky way to run the economy. What a reckless way to run economic policy, to run out here and shovel \$800 billion out the door before the money is collected. That puts this entire economy at risk. That puts this entire period of bringing down the deficit at risk. That puts this entire successful economic policy of improving economic growth, reducing unemployment, reducing inflation at risk. It is a mistake we should not make.

This columnist points out:

Suppose that spending exceeds projections by one percentage point of national income and that tax revenues fall below projections by the same amount. In today's dollars, these errors . . . not out of line with past mistakes . . . would total \$170 billion annually. Most of the future surpluses would vanish.

That is the reality. We are betting the farm on projections of what is going to happen over the next 10 years. Does anybody believe these projections are going to come true?

I used to be responsible for projecting the income of the State of North Dakota. That was my job. I can tell you, projecting 5 years out is very risky. Frankly, it is hard to project 1 year out. Projecting 10 years out is a total crashout and we are basing the economic security of this country on a 10-year projection? Are we really going to do that?

I ask my colleagues, are we really going to do that? Is this what you are seriously proposing for the United States, after the economic success we have enjoyed by reducing the deficits, by reducing debt?

Some of the very same people who said the 1993 plan would not work are here today, advocating this risky scheme. The 1993 plan, as I showed, worked. That 5-year deficit reduction plan, in fact, reduced the deficit each and every year. But when we passed it in 1993, the other side said it would crater the economy; it would ruin us.

This is what Senator GRAMM, who is on the Budget Committee and on the Finance Committee, said back in 1993:

I want to predict tonight that if we adopt this bill the American economy is going to get weaker and not stronger, the deficit 4 years from now will be higher than it is today and not lower. . . . When all is said and done, people will pay more taxes, the economy will create fewer jobs, government will spend more money, and the American people will be worse off.

That is Senator GRAMM in 1993 when we passed the plan that did just the opposite. Let's look at the record. We passed that plan in 1993, and here is what happened: Unemployment went down to the lowest level in 41 years.

Senator GRAMM and the advocates of opposition to the 1993 plan, who are the very ones who are the advocates of this plan today, were wrong. They said it was going to increase unemployment. They were wrong. We have the lowest unemployment in 41 years. They said that that economic plan would increase inflation. They were wrong. That plan

reduced inflation to the lowest level in 33 years.

Mr. President, it does not stop there. Look at the economic growth. They said the 1993 plan would retard economic growth. They were wrong. Look at the record. We have the strongest economic growth during the last 6 years of any administration going back to the administration of Lyndon Johnson.

Friends, people who are listening across the country, let's think a minute: Is the economy in good shape or is the economy in bad shape? I think every one of us knows we have the strongest economy in anyone's memory. That was built on a plan of reducing the deficits, relieving pressure on interest rates, making America more competitive, reducing home interest loans, reducing car loans, reducing student loans, because there was less deficit, less debt. Now we are on the brink of completely changing that policy and going back to the bad old days of deficits and debt and decline. Are we really going to turn back the clock to those days? I hope not. I hope we do not make as foolish a mistake as that.

Because of the 5-year plan put in place in 1993, not only have we gotten the lowest unemployment, the lowest inflation in decades, the strongest economic growth in decades, we have also seen welfare caseloads decline dramatically. That is the record. That is the fact.

The other side says: Oh, but wait a minute. Taxes are the highest they have been in 20 years.

They are not telling the whole story. Here is what has happened. Remember when we had deficits, we had a gap between the revenue of the United States and the spending of the United States. The blue line is the spending; the red line is the revenue.

Go back to 1993. There was the gap. That was the deficit, \$290 billion. We cut the spending line, and we raised the revenue line. That is how we balanced the budget. We cut spending; we raised the revenue line.

When they say the taxes are the highest they have ever been, again, they are not telling the whole story. Revenues are strong because the economy is strong, but individual taxpayers are not paying more in taxes; most are paying less. That is not the Senator from North Dakota speaking, that is the respected accounting firm of Deloitte & Touche. They analyzed the tax burden, including payroll taxes and income taxes, of a family earning just under \$20,000 a year. They looked at 1979, and they looked at 1999.

In 1979, that family was paying 8.6 percent of their income in taxes—payroll taxes and income taxes. That burden has been reduced to 5 percent. Why? Because when we raised taxes on the wealthiest 1 percent in the 1993 plan, we also cut taxes on 28 million Americans by increasing the earned income tax credit. So we reduced taxes for individuals.

The same is true for a family of four earning \$35,000 in 1999. Again, the respected accounting firm of Deloitte & Touche went out and looked at their tax burden: 1979, 11.2 percent. That has been reduced to 10.5 percent in 1999. It is also true of a family earning \$85,000 a year. In 1979, they had a total tax burden of 17 percent; in 1999, 16.3 percent.

Does that mean there should not be any tax relief? No. We should have tax relief, but we ought to have a responsible package of tax relief, not one that threatens to put us back in the economic ditch of deficits and debt. Unfortunately, that is what the Republican plan does.

On the question of the fairness of this proposal, if this is fair, I do not understand fairness. They are going to give to the top 1 percent in this country with an average income of \$837,000 a \$46,000 tax cut. They are going to give to the bottom 60 percent of the income earners in this country, the vast majority of people on average, a tax reduction of \$138. That does not strike me as very fair.

Let's check their math. We have heard over and over they are just giving 25 percent of the money that is available in surplus back in a tax cut. That is interesting math they are using. Let's check it.

The total surplus is \$2.9 trillion. That is the CBO estimate.

I ask for 3 additional minutes.

Mr. ROTH. I yield 3 minutes on behalf of the minority.

The PRESIDING OFFICER. The Senator has 3 more minutes.

Mr. CONRAD. Look at what CBO is projecting—and I emphasize projecting—as the surplus over the next 10 years, \$2.9 trillion. But \$1.9 trillion of that is Social Security. If you take that out, you have \$1 trillion left. Republicans are proposing nearly \$800 billion of tax cuts. When you do that, you add interest costs of \$141 billion. That only leaves \$63 billion left for debt reduction, for strengthening Medicare, for domestic needs. They are using not 25 percent of what is available; they are using 94 percent of what is available, because we have all agreed that none of the Social Security money is available.

The only way they get this number of 25 percent being used for a tax cut is when they include Social Security in the base. Are they proposing we are going to use 25 percent of the Social Security money for a tax cut? No. So they are using phony statistics. They are applying this 25 percent to two-thirds of the money that is Social Security money. They are taking 94 percent of the money that is truly available for this risky tax cut.

Here are the choices: Republicans say \$800 billion of tax cuts; nothing to strengthen Medicare; nothing for domestic needs; they have \$63 billion unallocated.

Our proposal in the Senate was balanced. We said save every penny of Social Security for Social Security and

then one-third for tax relief; one-third to strengthen Medicare—and, by the way, this money is not needed immediately so it can be used for the next 15 years to pay down debt—and one-third of the money for high-priority domestic needs, such as education, defense, and agriculture.

That leads our friends on the other side to say: There go the Democrats again; they just want to spend money.

Let's examine that notion. This blue line shows constant buying power of what we do with Federal spending now for domestic needs. That is what would happen if we had constant buying power. The Democratic plan is represented by this red line. It is a cut from current buying power. Here is the Republican plan down here. They have a massive cut, \$770 billion over the next 10 years from what current buying power would permit.

They do not want anybody to talk about this, but the reality is, they are advocating deep cuts in education, in defense, in agriculture, and in all the rest—parks, law enforcement—because there is no way to avoid this mathematical reality. They came to this Chamber with a chart that said, yes, you could accommodate this tax cut if you froze all domestic spending for 10 years. It has never been done. What is amazing about it is that it is not what they are doing in the Appropriations Committees that meet every day. They are spending additional money.

I ask for 1 additional minute.

Mr. ROTH. On behalf of the minority, I yield 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator is yielded 1 minute.

Mr. CONRAD. I thank the Chair.

Mr. President, let's be honest with the American people. This plan does not add up. It threatens to take us back to a period of growing debts. It fails to meet high-priority domestic needs such as education and agriculture and defense. It does not do anything to secure Medicare for the future. It is not real. It is not balanced. It is not responsible. This plan is not conservative.

It is radical; it is risky; it is reckless. It ought to be rejected.

Mr. DORGAN. Mr. President, I ask unanimous consent that the Senator from North Dakota be granted 2 additional minutes from the minority time so he might be able to respond to a question.

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

Mr. DORGAN. Mr. President, I think Senator CONRAD makes the most compelling presentation in the Senate on these budget matters. The charts he has used today have been extraordinary in their description of the folly here with respect to this plan.

I want to ask the Senator to go back to a couple charts with respect to those who made predictions some years ago because I thought that was very telling. The practice of augury in old

Roman times was that the high priest would read the flights of birds and the entrails of cattle in order to evaluate the future.

We have some folks who are practicing augury in the Senate. They are the prophets who have described to us how wonderful this plan is. I know the Senator used, a bit ago, the same kind of descriptions from these same prophets 7, 8 years ago.

Could the Senator refer to that again, because I think that is most telling who brings this plan to the Senate, and what were their predictions previously?

Mr. CONRAD. I remember so well. I remember being on the floor of the Senate the day we passed the 5-year plan that got us back on track. I remember Republican leaders saying if we passed the plan, it would crater the economy. I remember Republican leaders telling us if we passed the plan it would increase unemployment, it would increase inflation, that it would cost jobs, that it would wreck the economy. They were wrong, and they were wrong on every single count. They said: If you raise taxes on the wealthiest 1 percent, and you cut spending, it is going to create a nightmare. They were wrong. They were absolutely wrong.

Maybe we are not reminding people enough. Maybe we are not learning the lessons of the past, but we have to because we should not go back to the days of deficits and debt that put this economy in the ditch.

So I am very hopeful we will learn from the past and we will recognize that to come out here, based on a projection over the next 10 years, to justify a massive tax-scheme giveaway that blows a hole in the budget, blows a hole in the deficit, leads us back to the path of debt and is a profound mistake.

It makes us all feel good. I would love to have a tax cut. I have two kids in college, and it is expensive. But I care more about their long-term future. I care about them inheriting a world that is less debt-laden than what we have done to them so far. Because our generation—and here it is—has taken the debt from 1980, and here we are today. This is what we have done with the national debt. We have run up the debt from less than \$1 trillion to nearly \$4 trillion.

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

Mr. CONRAD. I ask unanimous consent for 1 final minute.

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

Mr. CONRAD. That is what we have done in our generation. We have taken this national debt of less than \$1 trillion and run it up to nearly \$4 trillion. That is the publicly held debt. Gross debt is even higher. But this is publicly held debt.

Is that the legacy we want to leave, that we ran up the debt on our watch? I do not think so. This is what could

happen if we stay the course. This is what the Congressional Budget Office tells us could happen if we stay the course. We could actually eliminate publicly held debt over the next 15 years. But it will not happen with this plan because we apparently all have our hand out. We want to take care of ourselves first and forget about the future. I hope that is not the legacy we leave.

I thank the Chair, and I thank my colleagues, and I yield the floor.

Mr. ROTH. On behalf of the minority, I yield 20 minutes to the distinguished Senator from Florida.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. I thank the Chair and thank my colleague, the chairman.

Mr. President, last year we learned a very satisfying and important lesson. That is that there are rewards for fiscal discipline. After almost three decades of deficits and mounting national debt, we finally were able to eke out a small surplus. The very prospect of that small surplus has been a major contribution to one of the longest and most expansive periods of economic growth in our Nation's history. This fiscal discipline helped us to create favorable economic and fiscal conditions to address our long-term national challenges, especially our long-term commitments in Social Security and Medicare.

This, frankly, is a time of national celebration. The question is, What kind of celebration? Will it be a prudent and patriotic celebration of our success where we will channel our justified enthusiasm for our accomplishment into positive national family and individual goals or will it be a wanton and reckless celebration? Because our success, our opportunity to celebrate, did not give us license to return to the free spending, free period of increased indebtedness of the recent past. No. We owe it to our children and our grandchildren to save this money, to save this money until we have dealt with our future obligations to them.

Unfortunately, several major legislative actions in the 105th, now the 106th, Congress have made a mockery of our promise to maintain fiscal discipline. As an example, in February of this year, the Senate passed a military pay bill, with great enthusiasm and with great acclamations among those who would be particularly benefited and who hoped that it would strengthen our national security. The problem is, we did not provide a means of paying for it. So we were, in essence, saying we will pay for it out of our surplus.

If last February's legislation was just an aberration, a momentary lack of judgment, an inadvertent haste to turn from impeachment to legislation, it might have been forgiven. Sadly, it cannot be so characterized. It, in fact, was part of a pattern of a continued lack of fiscal discipline. It was the second time, in fact, within 8 months that we had proven ourselves unwilling to

take the hard decisions and too willing to sacrifice the well-being of future generations on the altar of expediency.

It was in October of 1998, in the waning hours of last fall's budget negotiations, that we passed a \$532 billion omnibus appropriations bill. Included in that bill was \$21.4 billion in so-called emergency spending. Since that \$21.4 billion of emergency spending could be approved without the necessity of finding any way to pay for it, that funding came right out of the surplus. It took \$3 billion out of the fiscal 1998 surplus. It took \$13 billion out of the 1999 surplus. It will take \$5 billion out of this year's surplus.

The action would have been even mildly palatable had all of the supposed emergency funds been allocated to true emergencies. But, in fact, many of the items that were funded out of the \$21.4 billion were items which had in the past been considered normal, regular obligations of the Federal Government, not the necessary, sudden, urgent, unforeseen, temporary needs that are supposed to be the hallmarks of real emergencies.

In June, we made our third raid on the Social Security surplus, a supplemental appropriations bill that again cloaked many nonemergency spending items in emergency designation under the title of Kosovo. With all the negative public attention that had been focused on our previous raids, one would have thought that we might have at least been embarrassed back into fiscal responsibility. But, again, I am sorry that was not the case. So another \$4 billion was taken out of the surplus through emergency spending for 1999 and \$7 billion will be taken out in the year 2000.

What have we done thus far? We started with a total surplus for 1999 of \$137 billion, of which \$124 billion was Social Security. But after we had taken \$13 billion for the emergency of 1998 and \$4 billion for the emergency of 1999, we have reduced our surplus down to \$120 billion. So we have spent every penny of the off-budget surplus, and we have spent \$4 billion of the Social Security surplus to fund these emergencies.

Now, what is the chart for the year 2000? We started out with a total surplus of \$173 billion, of which \$147 billion was Social Security. We have the \$5 billion from 1998, we have the \$7 billion bloated Kosovo emergency expenditure, and just last night, we voted yet another emergency expenditure of \$8 billion for agriculture. Today we have on the floor a tax bill that will cut the revenue for the year 2000 by \$5 billion. So what started off as a \$173 billion surplus has already shrunk to \$148 billion. Every dollar of that surplus is Social Security save \$1 billion, which, as I will point out in subsequent remarks, is highly in danger.

The action yesterday relative to agriculture represents the difficulty of the dilemma. Certainly American farmers are facing distressful circumstances. I

happen to be an American farmer. I think I understand something of their plight. But the way to deal with this problem is not by temporary emergency fixes. The way to deal with this problem is to look at the underlying causes, which might be that we haven't been adequately dealing with fundamental issues such as crop insurance reform or that we have not been sufficiently aggressive in our trade policy in order to ensure there are open markets for American agricultural goods. Those are some of the ways in which we ought to be directing our attention, not through emergency spending to deplete our surplus.

The budget resolution says that emergency spending must meet five criteria. It must be necessary, sudden, urgent, unforeseen, and it must not be permanent. I suggest that many of these expenditures we have made over the last 2 years fail to meet those standards of emergency.

Our fiscal irresponsibility, however, is not limited just to emergency appropriations. We have defined the surplus as the difference between estimated revenue and estimated expenditures. Yet in arriving at those estimated expenditures, we have used unrealistic standards. We have created expenditure expectations that no one in this Congress believes are, in fact, going to be met; thus, the necessity to resort to these kinds of emergency measures. While we are doing that, we are also fundamentally deceiving the American people as to what our Federal Government's policies will be.

Let me use one example.

I ask unanimous consent at the end of my remarks to have printed in the RECORD an article from the New York Times of July 25, "National Parks, Strained by RECORD Crowd, Face a Crisis."

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

(See Exhibit 1.)

Mr. GRAHAM. There is no better time than in early August to talk about the state of our national parks, because this is a time of the year when hundreds of thousands of our fellow citizens are taking advantage of one of America's great treasures—its national park system. But it is a treasure which we have been systematically looting through indifference. It is stated in this article that in an assessment made last year, the Park Service estimated it would cost \$3.54 billion to repair maintenance problems at national parks, monuments, and wilderness areas, maintenance that has been put off for decades, in some cases, because of lack of money.

Mr. President, while we may deceive ourselves into the statement that we have this significant surplus, it is a surplus which is being derived by a systematic underfunding of important national priorities, priorities which we know eventually are going to be met, but which we are now deceiving ourselves into the false illusion that there

is an unrealistic surplus, a surplus which we can now use to fund these massive tax cuts.

The time is now to provide some honest leadership for the American people, not hollow statements and false promises. I am afraid that that leadership and honesty are not to be found in the tax bill before us today.

What I think we need to do is to put first things first. As Ecclesiastes says: There is a time for all things. There is a season to plant and there is a season to harvest.

What is the season today, in this time of national celebration of the results of fiscal discipline? I suggest the season for today is to deal with the challenges of our children and our grandchildren, starting with two critical national programs.

We should provide for the solvency of Social Security for our children and our grandchildren, and we should strengthen Medicare and bring it into the 21st century by providing it with the tools necessary, not just to deal with illness but to do what Americans want—to provide for their health and well-being. We should be funding those medical services that will prevent disease and illness, that will maintain our American people in their highest state of health. Unfortunately, when we have spent the resources that would be necessary to fund this tax cut before having dealt with Social Security and Medicare, there will be no money left to deal with Social Security and Medicare.

The statement will be made that Social Security is off the table; we have already dealt with it; that by placing all of the Social Security surplus into a lockbox to protect it for Social Security, we have discharged that responsibility. Well, first, I say that we have a very leaky lockbox. Willie Sutton was once asked: Why do you rob banks? The answer was: That is where the money is. Well, the lockbox assumes the money has already gotten to the bank. But Jesse James figured out that if he could rob the train before the box got to the bank, he could get the money before it could be placed in the vault. That is essentially what this emergency spending loophole is allowing us to do. We are looting the lockbox before the money arrives.

Even if we put the full amount of the Social Security surplus into the Social Security program, we would only have extended its solvency for our children to the year 2034.

The Greenspan Commission of the early 1980s had recommended that we ought to fund Social Security on a three-generational program, which would mean through the year 2075. We have not completed our task if the only thing we have done is to secure the solvency of Social Security to the year 2034.

Mr. President, we have an opportunity to lead the Nation in the way in which I believe thoughtful Americans wish to go. They wish to be prudent at

this time. They wish to celebrate the successes of fiscal discipline and to continue those successes. They want to take care of today's season of business first. They do not want us to embark upon a reckless course which would dissipate our ability to deal with our future needs and place us in the precarious position of depending upon unrealistic estimates of future revenues and a totally unrealistic expectation of future national needs.

So the issue is not the details of this tax proposal, although I believe an examination of that detail would indicate this plan is woefully lacking in basic principles of fairness and equity to all Americans. But the fundamental deficiency of this tax bill is its lack of timeliness. We should not be considering any tax cut until we have taken care of priority business—protecting Social Security for three generations and strengthening Medicare. We should not be considering any tax measures until we are certain the projections of revenue and the estimates of future needs are based on realistic, not political, assessments.

After we have carried out those first tasks, then if there are funds left available—and I suggest there probably will be—then we could consider what would be an appropriate form of returning that measure back to the American people through a tax cut. But, for today, the answer must be no to the measure that is before us. I hope that soon we will be answering yes to the responsibility we have to do America's first business first.

Thank you, Mr. President.

EXHIBIT 1

[From the New York Times, July 25, 1999]

NATIONAL PARKS, STRAINED BY RECORD CROWDS, FACE A CRISIS

(By Michael Janofsky)

YELLOWSTONE NATIONAL PARK, WY—In growing numbers that now exceed 3.1 million a year, visitors travel here to America's oldest national park to marvel at wildlife, towering mountains, pristine rivers and geological curiosities like geysers, hot springs and volcanic mudpots.

Yet many things tourists may not see on a typical trip through Yellowstone's 2.2 million acres spread across parts of Idaho, Montana and Wyoming could have a greater impact on the park's future than the growl of a grizzly or spew of Old Faithful.

For all its beauty, Yellowstone is broken. Hordes of summer tourists and the increasing numbers now visiting in the spring, fall and winter are overwhelming the park's ability to accommodate them properly.

In recent years, the park's popularity has created such enormous demands on water lines, roads and personnel that park management has been forced to spend most of Yellowstone's annual operating budget, about \$30 million, on immediate problems rather than investing in long-term solutions that would eliminate the troublesome areas.

Yellowstone is not the only national park suffering. With the nation's 378 national park areas expected to attract almost 300 million visitors this year, after a record 286 million in 1998, many parks are deferring urgently needed capital improvements.

For instance, damaged sewage pipes at Yellowstone have let so much ground water

from spring thaws into the system that crews have had to siphon off millions of gallons of treated water into meadows each of the last four years.

And with budget restraints forcing personnel cutbacks in every department, even the number of park rangers with law-enforcement authority has dropped, contributing to a steady increase in crime throughout Yellowstone.

"It's so frustrating," Michael V. Finley, Yellowstone's superintendent, said. "As the park continues to deteriorate, the service level continues to decline. You see how many Americans enjoy this park. They deserve better."

Over the last decade the annual budget of the National Park Service, an agency of the Interior Department, has nearly doubled, to \$1.9 billion for the fiscal year 1999 from \$1.13 billion in 1990, an increase that narrowly outpaced inflation.

But in an assessment made last year, the park service estimated that it would cost \$3.54 billion to repair maintenance problems at national parks, monuments and wilderness areas that have been put off—for decades, in some cases—because of a lack of money.

The cost of needed repairs at Yellowstone was put at \$46 million, the most of any park area in the system. But the park service report shows that budget limits have forced virtually all national parks to set aside big maintenance projects, delays that many park officials say compromise visitor enjoyment and occasionally threaten their health and safety.

Senator Craig Thomas, a Wyoming Republican who is chairman of the Subcommittee on National Parks, and Bob Stanton, director of the park service, negotiated a deal this week to spend \$12 million over the next three years for Yellowstone repairs.

Other parks may have to wait longer. The Grand Canyon National Park depends on a water treatment system that has not been upgraded in 30 years, a \$20 million problem, park officials say. Parts of the Chesapeake and Ohio Canal National Historical Park along the Potomac River are crumbling, another \$10 million expense. The Everglades National Park in South Florida needs a \$15 million water treatment plant.

Even with a heightened awareness of need among Federal lawmakers and Clinton Administration officials, money to repair those problems may be hard to find at a time when Congress is wrestling over the true size of a projected budget surplus and how much of it will pay for tax cuts. If billions were to become available for new spending, the park service would still have to slug it out with every other Federal agency, and few predict that parks would emerge a big winner.

It is a disturbing prospect to conservationists, parks officials and those lawmakers who support increased spending to help the parks address their backlog of maintenance problems.

"It's kind of like a decayed tooth," said Dave Simon, the Southwest regional director for the National Parks and Conservation Association, a citizens' group that is working with Yellowstone to solve some of the long-term needs. "If you don't take care of it, one day you'll wake up with a mouthful of cavities."

The parks' supporters like Representative Ralph S. Regula, an Ohio Republican who is chairman of Appropriations Subcommittee on the Interior, concede that budgetary increases as well as revenue from new programs that allow parks to keep a greater share of entrance fees and concession sales have been offset by inflation, rising costs and daily operational demands that now accommodate 8.9 percent more people than

those who visited national parks a decade ago.

With few dollars available for maintenance programs, the parks suffered "benign neglect," Mr. Regula said, adding: "It's not very sexy to fix a sewer system or maintain a trail. You don't get headlines for that. It would be nice to get them more money, but we're constrained."

Denis P. Galvin, the deputy director of the National Park service, noted that only twice this century, in the 1930's and in 1966, has the Federal Government authorized money for systemwide capital improvements, and he said he was not expecting another windfall soon.

"Generally," Mr. Galvin said, "domestic programs come at the back of the line when they're formulating the Federal budget, and I just don't think parks are a priority."

Perhaps no park in America reflects the array of hidden problems more than Yellowstone, which opened in 1872, years before Idaho, Montana and Wyoming became states.

Park officials here say that the longer problems go unattended, the more expensive and threatening they become.

The budget restraints have meant reducing the number of rangers who carry guns and have the authority to make arrests.

Rick Obernesser, Yellowstone's chief ranger, said the roster had dwindled to 112 from 144 over the last 10 years, which often means leaving the park without any of these rangers from 2 A.M. to 6 A.M.

Next year, Mr. Obernesser said, the park will have only 93 of these rangers, about 1 for every 23,000 acres compared with 1 for every 15,000 acres when his staff was at peak strength.

That has not only led to slower response times to emergencies, like auto accidents and heart attacks, he said, but also to an increase in crime. Since the peak staffing year of 1989, he said, the park has experienced significant increases in the killing of wildlife, thefts, weapons charges against visitors and violations by snowmobile drivers.

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Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. NICKLES. Mr. President, I ask the Senator from Delaware to yield me 20 minutes.

Mr. ROTH. I am happy to yield 20 minutes to the distinguished Senator from Oklahoma.

Mr. NICKLES. Mr. President, first, I wish to compliment my colleague, the chairman of the Finance Committee, Senator ROTH, for his leadership in bringing the bill to the floor. In addition, I compliment Senator LOTT and Senator DOMENICI because they helped make this happen.

The Senate, earlier this year, passed a budget resolution that says let's use most of the surplus that is projected to pay down the national debt. As a matter of fact, let's use over two-thirds of it to pay down the national debt. I have heard complaints from colleagues on the Democrat side saying we don't do enough. Frankly, we pay down the national debt more than the Democrats have proposed and more than the President has proposed. Maybe that is not enough for them, but it is more than they have proposed.

I compliment Senator DOMENICI and Senator LOTT, as well as Senator ROTH, for laying the groundwork to say let's

take at least one-fourth of the surplus projected and let the people keep it. Some people say give it back to them. Well, I don't think they should ever have to send it to Washington, DC, in the first place; it is their money.

That is the issue. Are we going to allow the taxpayers to keep one-fourth of the surplus, or are we going to insist on that money going to Washington, DC, and Washington spending it? Obviously, there is no limit on the number of demands we have on spending other people's money. We can spend it all just like that. It is quite easy, in fact it is the easiest thing to do. Now, we finally have an opportunity, as a result of the significant surplus, to allow people to keep more of it.

We do that in this bill. We have come up with a bill that I believe is fair, balanced, and I think is a good tax bill, a tax bill for taxpayers. I will go into some of the benefits. First, I want to repudiate some of the comments that were made against it. One Senator said it was too much. It is one-fourth of the surplus.

I don't think that is too much. We have given tax cuts in the past when we didn't even have a surplus. I happen to have supported those. We passed a tax cut in 1997—a strong majority of Congress passed it. We didn't have a surplus then. I think it was the right thing to do. We gave a tax cut because, in some cases, rates were too high. We said if we have a tax cut, it will stimulate the economy and raise more money. Guess what. That is what happened.

We cut the capital gains tax both in 1995 and in 1997. The President vetoed it in 1995. He signed it in 1997. When I say "we," I am talking about Republicans because we didn't have any support in 1995 from our Democrat colleagues—maybe with one or two exceptions. We passed it in 1997. We cut capital gains from 28 to 20 percent. It helped the economy and raised a lot of money. It beat the expectations by the CBO and the Treasury Department. Why? We reduced the tax on transactions by about 230 percent and ended up having more financial transactions. As a result, you have more income and more taxes. It helped the economy. Many of us said that would happen, that it would have a very positive impact.

Let me touch on one other thing. A couple of colleagues said you can't have this tax cut because it benefits high-income people. Heaven forbid, somebody making \$500,000 is going to get a greater benefit than somebody making \$10,000. Let me just step back a little bit. Is this tax cut too high, too generous for high-income people? I don't think so.

Let me talk about rates. I believe marginal rates impact on whether or not somebody is going to do extra work. I have been in the private sector. I used to have a janitorial service, and marginal rates kept me from doing more work. I had a situation where I

was making enough money to combine income and Social Security taxes. I was working about 40 percent of the time for the Government, and I said that is enough. I am not going to work more if the Government is going to take almost half of everything I make. It denied the advancement and expansion of my business—a small business.

I might mention, that small business is where most additional new employees are starting. Somebody says, wait a minute, this tax cut is unfair, it benefits the high income bracket. Look at what we do for high income. We reduce every single income bracket by 1 percentage point. The low end is 15 percent and we reduced it to 14 percent. The high income is 39.6 percent, and we reduced it to 38.6 percent, and so on. There is a 28 percent bracket; we move that to 27.

Somebody says, that benefits the high income. Wait a minute. We reduce it in every single bracket by 1 percentage point. It so happens that for the 15-percent bracket, to move down 1 point, that is a 7-percent reduction. If you move a 39.6 percent down to 38.6, that is a 2.6-percent reduction—less than half of a percentage reduction of the 15-percent taxpayer, or the lower income taxpayer. So I don't think this is tilted in any way. If anything, if one really looks at this, it makes the system more progressive.

So the argument that this benefits upper income doesn't fly, and it doesn't fly with history. Look at what the tax cut rates were when President Clinton was sworn into office. The maximum rate in 1992 was 31 percent. After the Clinton tax increase—or maybe I should say the Democrat tax increase because it only passed by Democrats, with the Vice President breaking the tie vote twice in this Chamber—it increased the maximum rate from 31 to 39.6 percent. Actually, it went higher than that because they also took the cap off the Medicare tax and said you have to pay Medicare tax on all income, all salary, and all wages. So you have payroll taxes and Federal income taxes and Social Security taxes, and no limit, no base, no cap on Medicare taxes.

Medicare tax is 1.45 percent of payroll, plus your employer's contribution; that is 2.9 percent. So a person in the maximum bracket pays actually 39.6, plus 2.9 percent Medicare. That is a total of 42.5 percent. When Bill Clinton was sworn in, the maximum rate was 31 percent. One year later, it was 42.5 percent on all income, all wages, on everybody in the country.

That is a massive tax increase. That is a 37-percent increase.

What are we doing in this bill? We are reducing that by one point. We reduce it from 39.6 to 38.6; 38.6 is a whole lot more than 31.

So, the tax cut that we are proposing is just a small fraction of the tax increase President Clinton and the Democrats passed in 1993—a small fraction. Yet some of my colleagues are

saying we can't do that. It might deny us the ability to spend more money. We have a whole laundry list of people parading to Washington, DC, saying: Give me some more money because we want to spend it. We want more of your money because we can spend it better than you can.

Finally, I want to address the comments of one of our colleagues who says we favor a tax cut, but we don't believe now is the time to do it. Wait a minute. When are you going to do it, if not now?

We have estimates of a \$3 trillion surplus over the next 10 years. And we are not going to do it now? Will we only give you a tax cut if it is \$4 trillion, or \$5 trillion? At what point would our colleagues say it is time to let people keep more of their own money? We are taking too much from them. If my colleagues are not going to agree to a tax cut that is only one-fourth of the surplus, they will never agree to one.

It absolutely amazes me how our Democrat colleagues all marched in step in 1993 and said: We are going to support this tax increase because Bill Clinton wants it.

You might remember that Bill Clinton shortly after that said, Oops, surprise, I agree with the business community. We increased taxes too much. He actually admitted to that. A lot of Democrats were mad, but he admitted to it anyway and then he went ahead and vetoed our tax cut in 1995.

Then in 1997, he eventually agreed to a tax cut and everybody seemed to favor it. I guess whatever Bill Clinton says the Democrats march in line to.

I don't know. But we cut taxes in 1997. We reduced capital gains from 28 to 20 percent—very positive things. They might think that was a bad thing to do. No one offered an amendment saying let's bring capital gains back up to 28 percent saying that it was terrible. A lot of people debated against it in 1997. But it was the right thing to do.

We cut taxes for families in 1997. We passed a \$500 tax credit for each child in 1997. Bill Clinton campaigned for it in 1992. He didn't deliver in 1993. As a matter of fact, in 1993 he increased taxes. That tax cut didn't happen until 1997. Republicans passed it. The President vetoed it. We passed it in 1997 and he eventually signed it.

A family of four with an income of less than \$80,000 has \$2,000 per year that they can keep. A family with four kids gets to keep \$2,000 more per year because Republicans in Congress said we are going to pass it. We promised to and we did.

We established the ROTH IRA.

We did some good things in 1997. Guess what? We didn't have the projected surplus in 1997 that we have in 1999. Now we have trillions of dollars of anticipated surplus. Let's give one-fourth of it back to the American people. Let's let them keep it. They shouldn't have to send that much to

Washington, DC. Their taxes are too high.

I will go through a couple of examples that we correct in this bill to show why their taxes are too high and what we do about it. There are too many people who send too much to Washington DC. Let me address a couple of those examples.

I mentioned a self-employed person. A self-employed person, an individual, makes \$25,000. They are taxed at the marginal bracket of 15 percent on everything they make up to \$25,000. Above that they are taxed at 28 percent. If somebody has a painting service in rural Delaware, and paints houses and works for himself, that individual has a taxable income of \$25,000, and probably is not considered wealthy by most people's standards. Any additional contract that person makes, any additional income that person makes, is taxed at 28 percent. He also has to pay Social Security and Medicare tax. That is 15.3 percent on top of the 28 percent. Add those two together, and it is 43.3 percent. He has to pay State income tax. In my State that is 6 or 7 percent. For any additional dollar that individual makes painting houses, fifteen cents of it goes to the government.

That is too high. That is far too much.

For a married couple right now that makes \$43,000, it is the same thing. For any additional dollar they make, half of it goes to the government, if they are self-employed.

That is too high. So we cut that.

We provide marriage penalty relief and several other positive things. Let me go through some more of the changes.

I mentioned that we cut all brackets by one percent. That benefits the lower more than the upper brackets. The lower brackets get a seven-percent reduction and the upper brackets get a 2.8 percent reduction. That is not stacked towards the higher income people. It is a tax cut for all taxpayers, and it benefits, percentage-wise, the lowest income taxpayers first. The lowest income taxpayer gets the break first.

Again, for somebody who says this is weighted towards the wealthy, it is absolutely totally and completely false.

We widen the 15 percent bracket. We make it 14 percent. Then we widen it. We ship \$3,000 more of income into the 14-percent bracket instead of the 28-percent bracket.

That is a very positive change for an individual with an income up to \$25,750. That means they get to save \$390. That is fairly significant. I think that is very significant.

For a couple you are talking about double that amount. So they get to save a significant amount as well.

Marriage penalty relief: What did we do? Some people do not understand what we did. We said we would double the bracket by increasing the standard deduction—basically doubling the

standard deduction for an individual. If you look at the income tax forms, and say you are filing as individuals, or joint. If you file as married, you don't get twice the individual deduction. So, frankly, it would be better off if a married couple filed as individuals. They are penalized for filing jointly.

Does it make any sense for our Tax Code to penalize people for being married to the tune of \$1,400 per family? That is wrong. This bill eliminates that for most couples.

What do we do? We said, Let's double the standard deduction. It should be twice as much for those who are married as it is for individuals.

We do that with this legislation because the biggest hit is on married couples, and the marriage penalty is that individually they are taxed at 15 percent. For joint income tax they are taxed at 28 percent—almost twice as high. We move those rates to 14 and to 27 percent. We are saying for all of the income that is taxed up to 14 percent they should have twice that bracket amount for a couple. That is not the way the tax code is right now.

Let me explain it.

Individuals today are taxed at 15 percent up to \$25,000. You say, OK. That is for an individual, and it would make sense for a couple then to be taxed at 15 percent up to \$50,000. But that is not the present law. The present law says above \$43,000 they are taxed at 28 percent. So they have \$7,000 that they are taxed at a higher rate, twice the rate as what they should be. We eliminate that. We double the 15 percent bracket for married couples.

So if it is \$25,000 at 15 percent for an individual, it would be \$50,000 for a couple.

What does that mean in savings to a couple that makes \$50,000? It means \$980 a year that they will be able to keep. We are not going to penalize couples because they happen to be married and because they happen to file joint returns.

I want to compliment the chairman, because he has worked very hard in supporting this.

We have \$100 billion in tax relief for married couples by eliminating the marriage penalty in this legislation—that is one eighth of this bill.

When we debated this legislation on the floor of the Senate last week, no one said take out the marriage penalty.

The marriage penalty tax elimination is one of the most important aspects of this bill and we are going to make it happen.

The upper rate reductions that I mentioned move one percent down.

That may not happen, because we have a trigger mechanism that says if we don't meet the deficit reduction targets the tax cut doesn't happen.

That is not the case for marriage penalty relief.

I encourage my colleagues. If you believe in getting rid of the marriage penalty, you had better vote for this

bill. It is one of the most significant reforms that we have in this legislation.

What else did we do? Why should somebody be in favor of this?

We eliminate the death tax.

We changed the current unified credit into an exemption.

What does that mean? Right now everybody knows that we have a unified credit that says if you have a taxable estate above \$650,000, you don't have to pay a death tax. If you pass away, your survivors and kids won't have to pay any death tax.

We changed that unified credit into an exemption.

What does that mean? Once you have to pay the tax, you start paying at 39 percent.

By making an exemption, you start out at a lower rate. So any taxable estate will be taxed at an 18 percent rate.

The beginning rate of a taxable estate will be 18 percent instead of 39 percent. We will be helping out estates that are just over the threshold, estates that are \$1 million or \$1.5 million. That is a very positive change.

Eventually, in 9 years, by the year 2009, we eliminate the death tax. At that point, estates should be taxed when the property is sold—not in the event of death but when the property is sold. If your kids inherit a business or ranch, they don't have to pay inheritance tax until they sell it; if they sell it, then they are taxed capital gains. And they have to pay tax on the base, going back to the original base. That is how it should be. If they sell, they should pay capital gains; if they don't sell, they shouldn't be hit.

I learned the hard way. This inheritance tax makes people sell businesses all the time. It makes people sell farms, ranches, homes—just name it—to cover estate taxes. That is wrong. If they should choose to sell it, then let them pay the tax on the gain. That is what we do here and that is a very significant provision in this bill.

What else do we do in this bill? We reduce capital gains taxes. We have proven time and time again, going back to the time of John F. Kennedy, reduce taxes and we generate more money to Government, particularly with marginal rates and capital gains rates. We reduced the capital gains rate in 1997 from 28 to 20 percent, and it raised a lot of money for the Federal Government. In this bill, immediately going back to January 1 of this year, we reduce the capital gains rate from 20 percent to 18 percent.

Beginning January 1 of next year we index capital gains. What does that mean? It means we will quit taxing inflation. If someone has a home and that home is escalating in price through inflation, they won't have to pay taxes on that inflated gain because the home really hasn't increased in value, it is just staying up. That is a very positive provision and I compliment the authors of the bill for their hard work.

We increase IRA deductions from \$2,000 to \$5,000. We haven't increased it

since we passed IRAs many years ago. That is another significant provision, so people are saving and are not so dependent on an employer or the Federal Government.

We allow self-employed persons to deduct 100 percent of their health care costs. Right now they can deduct 45 percent. This measure affects nearly 16 million taxpayers. It is a very positive provision. We allow 100-percent deductibility of health insurance for workers without generous employers. If you do not work for a generous employer, you can deduct your health care costs.

We increase child care tax credits.

We have AMT reforms so people don't get stuck paying an alternative minimum tax just because they are taking

tax credits that Congress has already passed.

We allow small businesses to be able to expense up to \$30,000 a year. We increase that from \$19,000. This is a provision that will benefit thousands and thousands of businesses, small businesses, all across the country.

I say to my colleagues, this bill is a good tax bill, it is a fair tax relief bill. It allows small business, individuals, and married couples an opportunity to keep more of their own money instead of sending it to Washington, DC.

I urge my colleagues on behalf of the taxpayers all across America to vote "yes" on this bill later this evening.

Mr. President, I ask unanimous consent to have printed in the RECORD a

couple of tables showing the distributional effects. Changes that we are making will show the greatest percentage of reductions are certainly pushed towards the lower income. For example, on married filing jointly, the rate reduction is 7 percent but the biggest reduction actually is for incomes of \$40,000 to \$60,000, receiving significant reductions, up to 17 and 22 percent, because of the marriage penalty relief that we have added.

I ask unanimous consent to have these tables printed in the RECORD.

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

IMPACT OF RATE REDUCTION & BRACKET EXPANSION

| Taxable Income | Current law | | | | | | GOP tax cut | | | | | | Change | |
|------------------------|---------------|---------------|---------------|---------------|-----------------|-----------|---------------|---------------|---------------|---------------|-----------------|-----------|------------------|----------------------|
| | Taxable @ 15% | Taxable @ 28% | Taxable @ 31% | Taxable @ 36% | Taxable @ 39.6% | Total tax | Taxable @ 14% | Taxable @ 27% | Taxable @ 30% | Taxable @ 35% | Taxable @ 38.6% | Total tax | Amount of change | Change as % of taxes |
| MARRIED FILING JOINTLY | | | | | | | | | | | | | | |
| 10,000 | 10,000 | 0 | 0 | 0 | 0 | 1,500 | 10,000 | 0 | 0 | 0 | 0 | 1,400 | (100) | -7 |
| 20,000 | 20,000 | 0 | 0 | 0 | 0 | 3,000 | 20,000 | 0 | 0 | 0 | 0 | 2,800 | (200) | -7 |
| 30,000 | 30,000 | 0 | 0 | 0 | 0 | 4,500 | 30,000 | 0 | 0 | 0 | 0 | 4,200 | (300) | -7 |
| 40,000 | 40,000 | 0 | 0 | 0 | 0 | 6,000 | 40,000 | 0 | 0 | 0 | 0 | 5,600 | (400) | -7 |
| 50,000 | 43,050 | 6,950 | 0 | 0 | 0 | 8,404 | 50,000 | 0 | 0 | 0 | 0 | 7,000 | (1,404) | -17 |
| 60,000 | 43,050 | 16,950 | 0 | 0 | 0 | 11,204 | 57,500 | 2,500 | 0 | 0 | 0 | 8,725 | (2,479) | -22 |
| 70,000 | 43,050 | 26,950 | 0 | 0 | 0 | 14,004 | 57,500 | 12,500 | 0 | 0 | 0 | 11,425 | (2,579) | -18 |
| 80,000 | 43,050 | 36,950 | 0 | 0 | 0 | 16,804 | 57,500 | 22,500 | 0 | 0 | 0 | 14,125 | (2,679) | -16 |
| 90,000 | 43,050 | 46,950 | 0 | 0 | 0 | 19,604 | 57,500 | 32,500 | 0 | 0 | 0 | 16,825 | (2,779) | -14 |
| 100,000 | 43,050 | 56,950 | 0 | 0 | 0 | 22,404 | 57,500 | 42,500 | 0 | 0 | 0 | 19,525 | (2,879) | -13 |
| 110,000 | 43,050 | 61,000 | 5,960 | 0 | 0 | 25,382 | 57,500 | 46,500 | 5,950 | 0 | 0 | 22,404 | (2,979) | -12 |
| 120,000 | 43,050 | 61,000 | 15,950 | 0 | 0 | 28,482 | 57,500 | 46,550 | 15,950 | 0 | 0 | 25,404 | (3,079) | -11 |
| 130,000 | 43,050 | 61,000 | 25,950 | 0 | 0 | 31,582 | 57,500 | 46,550 | 25,950 | 0 | 0 | 28,404 | (3,179) | -10 |
| 140,000 | 43,050 | 61,000 | 35,950 | 0 | 0 | 34,682 | 57,500 | 46,550 | 35,950 | 0 | 0 | 31,404 | (3,279) | -9 |
| 150,000 | 43,050 | 61,000 | 45,950 | 0 | 0 | 37,782 | 57,500 | 46,550 | 45,950 | 0 | 0 | 34,404 | (3,379) | -9 |
| 160,000 | 43,050 | 61,000 | 54,500 | 1,450 | 0 | 40,955 | 57,500 | 46,500 | 54,500 | 1,450 | 0 | 37,476 | (3,479) | -8 |
| 170,000 | 43,050 | 61,000 | 54,500 | 11,450 | 0 | 44,555 | 57,500 | 46,550 | 54,500 | 11,450 | 0 | 40,976 | (3,579) | -8 |
| 180,000 | 43,050 | 61,000 | 54,500 | 21,450 | 0 | 48,155 | 57,500 | 46,550 | 54,500 | 21,450 | 0 | 44,476 | (3,679) | -8 |
| 190,000 | 43,050 | 61,000 | 54,500 | 31,450 | 0 | 51,755 | 57,500 | 46,550 | 54,500 | 31,450 | 0 | 47,976 | (3,779) | -7 |
| 200,000 | 43,050 | 61,000 | 54,500 | 41,450 | 0 | 55,355 | 57,500 | 46,550 | 54,500 | 41,450 | 0 | 51,476 | (3,879) | -7 |
| 250,000 | 43,050 | 61,000 | 54,500 | 91,450 | 0 | 73,355 | 57,500 | 46,550 | 54,500 | 91,450 | 0 | 68,976 | (4,379) | -6 |
| 300,000 | 43,050 | 61,000 | 54,500 | 124,600 | 16,850 | 91,961 | 57,500 | 46,550 | 54,500 | 124,600 | 16,850 | 87,083 | (4,879) | -5 |
| 350,000 | 43,050 | 61,000 | 54,500 | 124,600 | 66,850 | 111,761 | 57,500 | 46,550 | 54,500 | 124,600 | 66,850 | 106,383 | (5,379) | -5 |
| 400,000 | 43,050 | 61,000 | 54,500 | 124,600 | 116,850 | 131,561 | 57,500 | 46,550 | 54,500 | 124,600 | 116,850 | 125,683 | (5,879) | -4 |
| 450,000 | 43,050 | 61,000 | 54,500 | 124,600 | 166,850 | 151,361 | 57,500 | 46,550 | 54,500 | 124,600 | 166,850 | 144,983 | (6,379) | -4 |
| 500,000 | 43,050 | 61,000 | 54,500 | 124,600 | 216,850 | 171,161 | 57,500 | 46,550 | 54,500 | 124,600 | 216,850 | 164,283 | (6,879) | -4 |
| 10,000 | 10,000 | 0 | 0 | 0 | 0 | 1,500 | 10,000 | 0 | 0 | 0 | 0 | 1,400 | (100) | -7 |
| 20,000 | 20,000 | 0 | 0 | 0 | 0 | 3,000 | 20,000 | 0 | 0 | 0 | 0 | 2,800 | (200) | -7 |
| 30,000 | 25,750 | 4,250 | 0 | 0 | 0 | 5,053 | 28,750 | 1,250 | 0 | 0 | 0 | 4,363 | (690) | -14 |
| 40,000 | 25,750 | 14,250 | 0 | 0 | 0 | 7,853 | 28,750 | 11,250 | 0 | 0 | 0 | 7,063 | (790) | -10 |
| 50,000 | 25,750 | 24,250 | 0 | 0 | 0 | 10,653 | 28,750 | 21,250 | 0 | 0 | 0 | 9,763 | (890) | -8 |
| 60,000 | 25,750 | 34,250 | 0 | 0 | 0 | 13,453 | 28,750 | 31,250 | 0 | 0 | 0 | 12,463 | (990) | -7 |
| 70,000 | 25,750 | 36,700 | 7,550 | 0 | 0 | 16,479 | 28,750 | 33,700 | 7,550 | 0 | 0 | 15,389 | (1,090) | -7 |
| 80,000 | 25,750 | 36,700 | 17,550 | 0 | 0 | 19,579 | 28,750 | 33,700 | 17,550 | 0 | 0 | 18,389 | (1,190) | -6 |
| 90,000 | 25,750 | 36,700 | 27,550 | 0 | 0 | 22,679 | 28,750 | 33,700 | 27,550 | 0 | 0 | 21,389 | (1,290) | -6 |
| 100,000 | 25,750 | 36,700 | 37,550 | 0 | 0 | 25,779 | 28,750 | 33,700 | 37,550 | 0 | 0 | 24,389 | (1,390) | -5 |
| 110,000 | 25,750 | 36,700 | 47,550 | 0 | 0 | 28,879 | 28,750 | 33,700 | 47,550 | 0 | 0 | 27,389 | (1,490) | -5 |
| 120,000 | 25,750 | 36,700 | 57,550 | 0 | 0 | 31,979 | 28,750 | 33,700 | 57,550 | 0 | 0 | 30,389 | (1,590) | -5 |
| 130,000 | 25,750 | 36,700 | 67,550 | 0 | 0 | 35,079 | 28,750 | 33,700 | 67,550 | 0 | 0 | 33,389 | (1,690) | -5 |
| 140,000 | 25,750 | 36,700 | 67,800 | 9,750 | 0 | 38,667 | 28,750 | 33,700 | 67,800 | 9,750 | 0 | 36,877 | (1,790) | -5 |
| 150,000 | 25,750 | 36,700 | 67,800 | 19,750 | 0 | 42,267 | 28,750 | 33,700 | 67,800 | 19,750 | 0 | 40,377 | (1,890) | -4 |
| 160,000 | 25,750 | 36,700 | 67,800 | 29,750 | 0 | 45,867 | 28,750 | 33,700 | 67,800 | 29,750 | 0 | 43,877 | (1,990) | -4 |
| 170,000 | 25,750 | 36,700 | 67,800 | 39,750 | 0 | 49,467 | 28,750 | 33,700 | 67,800 | 39,750 | 0 | 47,377 | (2,090) | -4 |
| 180,000 | 25,750 | 36,700 | 67,800 | 49,750 | 0 | 53,067 | 28,750 | 33,700 | 67,800 | 49,750 | 0 | 50,877 | (2,190) | -4 |
| 190,000 | 25,750 | 36,700 | 67,800 | 59,750 | 0 | 56,667 | 28,750 | 33,700 | 67,800 | 59,750 | 0 | 54,377 | (2,290) | -4 |
| 200,000 | 25,750 | 36,700 | 67,800 | 69,750 | 0 | 60,267 | 28,750 | 33,700 | 67,800 | 69,750 | 0 | 57,877 | (2,390) | -4 |
| 250,000 | 25,750 | 36,700 | 67,800 | 119,750 | 0 | 78,267 | 28,750 | 33,700 | 67,800 | 119,750 | 0 | 75,377 | (2,890) | -4 |
| 300,000 | 25,750 | 36,700 | 67,800 | 152,900 | 16,850 | 96,873 | 28,750 | 33,700 | 67,800 | 152,900 | 16,850 | 93,483 | (3,390) | -3 |
| 350,000 | 25,750 | 36,700 | 67,800 | 152,900 | 66,850 | 116,673 | 28,750 | 33,700 | 67,800 | 152,900 | 66,850 | 112,783 | (3,890) | -3 |
| 400,000 | 25,750 | 36,700 | 67,800 | 152,900 | 116,850 | 136,473 | 28,750 | 33,700 | 67,800 | 152,900 | 116,850 | 132,083 | (4,390) | -3 |
| 450,000 | 25,750 | 36,700 | 67,800 | 152,900 | 166,850 | 156,273 | 28,750 | 33,700 | 67,800 | 152,900 | 166,850 | 171,383 | (4,890) | -3 |
| 500,000 | 25,750 | 36,700 | 67,800 | 152,900 | 216,850 | 176,073 | 28,750 | 33,700 | 67,800 | 152,900 | 216,850 | 170,683 | (5,390) | -3 |

Policies as fully phased in applied to 1999 tax brackets.
Provided by Senator Don Nickles, 08/05/99

NOTICE

Incomplete record of Senate proceedings. Today's Senate proceedings will be continued in the next issue of the Record.