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Senate

The Senate met at 9:31 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, Father Daniel L. Ochs, St. Pius X Church, Reynoldsburg, OH.

PRAYER

The guest Chaplain, Father Daniel L. Ochs, offered the following prayer:

Lord God, we call to mind Your presence and ask that we may be mindful of Your will for us. In Your bountiful goodness, You have made us a great nation subject to You.

May we serve You in humble gratitude and be faithful in our responsibility to work for the fulfillment of Your kingdom on Earth, a kingdom of justice, peace, and love. Stirred up by Your Holy Spirit, may we replace hate with love, mistrust with understanding, and indifference with interdependence. Bless our Senators so that with open minds and hearts they may become peacemakers in our world. May the Earth be filled with Your glory. Amen.

PLEDGE OF ALLEGIANCE

The Honorable MIKE CRAPO, a Senator from the State of Idaho, 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 PRESIDING OFFICER (Mr. CRAPO). The Senator from Florida is recognized.

FATHER DAN OCHS

Mr. MACK. Mr. President, I extend a warm welcome to Father Dan this morning. He is our guest Chaplain this

morning from Reynoldsburg, OH. I had the pleasure of meeting him a few moments ago, but in a sense I have known him for at least a number of years because my brother, Andrew McGillicuddy, is a member of his parish—Andy and Chris—and as a result of their request, Father Dan was able to join us this morning. He is the pastor of a church of 2,400 families, a great responsibility. We are delighted he is with us this morning.

SCHEDULE

Mr. MACK. Mr. President, today the Senate will resume consideration of the pending Harkin amendment to the partial-birth abortion ban bill. By previous consent, there are 2 hours of debate on the amendment. Therefore, Senators can anticipate a vote at approximately 11:30 a.m., unless the time is yielded back on the amendment. Senators should be aware future roll-call votes are expected in an attempt to complete action on the bill prior to adjournment today.

Following the completion of the partial-birth abortion ban bill, the Senate may begin consideration of any legislative items on the calendar or any conference reports available for action.

I thank my colleagues for their attention.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

PARTIAL-BIRTH ABORTION BAN ACT OF 1999

The PRESIDING OFFICER. The Senate will now resume consideration of S. 1692, which the clerk will report by title.

The legislative clerk read as follows:

A bill (S. 1692) to amend title 18, United States Code, to ban partial-birth abortions.

Pending:

Boxer amendment No. 2320 (to the text of the language proposed to be stricken by amendment No. 2319), to express the Sense of the Congress that, consistent with the rulings of the Supreme Court, a woman's life and health must always be protected in any reproductive health legislation passed by Congress.

Harkin amendment No. 2321 (to amendment No. 2320), to express the Sense of Congress in support of the Supreme Court's decision in *Roe v. Wade*.

The PRESIDING OFFICER. Under the previous order, there will now be 2 hours of debate equally divided prior to the vote on amendment No. 2321.

The Senator from California.

Mrs. BOXER. I thank the Chair.

I also want to say something about the prayer which I found to be quite beautiful. I think talking about making sure we have no hate in our heart is really important. It is so important to all of us as we debate this legislation, to understand that we have great differences but to try to reach for that part of ourselves that brings us all together.

I thank the guest Chaplain as well.

This morning I am very pleased to be here. I know that while Democratic Senators were attending a dinner last evening, the debate into the late hours was rather one-sided. So I really do appreciate the fact we have a little time this morning to set the record straight.

I am very pleased the Senator from Iowa, who is on his way here, was able to place his amendment before the Senate so we could bring back this debate on a woman's right to choose, the fundamental right women won in this country in 1973 when the Court decided that, in fact, a woman in the earlier stages of her pregnancy has a right to choose freely, with her doctor and her husband and her family, as to how to handle their situation. I think it was a very important, landmark decision.

The decision went on to say that in the later term, which we are talking about a great deal, the State has the

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



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right to regulate it. So what Roe did was to balance the rights of the woman, if you will, with the child she is carrying. It says in the late term and in the midterm, the States can regulate the procedure, and that is very important, but the woman's life and the woman's health must always be paramount. This is important.

What we have in the underlying bill is just the opposite. The underlying bill makes no exception for a woman's health. Now, the Senator from Pennsylvania says there doesn't need to be that exception. I didn't know he had a medical degree. I would prefer to listen to the obstetricians and gynecologists. He cites 600 doctors. There are 40,000 strong. I prefer to listen to the nurses, to the women who have chosen to go into the health professions. All those letters were put into the RECORD.

And so I believe very strongly that we must always protect the life and health of a woman while we grapple with the obvious religious, moral, and ethical questions as to what type of restrictions ought to be placed on abortion in the later term.

I was very discouraged and saddened by the debate yesterday because I thought what came out on this floor were words that were full of hate. To call a doctor an executioner is wrong; to talk about killing babies is wrong; and I don't think it brings this Nation closer together on this issue. I do not think it sets an atmosphere in which we can try to work together. But this morning I think we are debating something different. We are debating a very fundamental Court decision. The Harkin amendment simply says that Court decision should not be overturned. I look forward to an overwhelming vote, and I hope it will be overwhelming, not to overturn Roe. Because I think if we do that, and that amendment is attached to the underlying bill, it will give the President even more reason to veto the underlying bill because we will affirm that this Senate stands in favor of a woman's right to choose, and of Roe. Remember, Roe says that at every stage of a pregnancy the woman's health must be protected. The underlying bill makes no such exception.

When you talk about abortion, you are really talking about choice. Should the Government, this Government, this Senate, tell women and families what to do in an emergency tragic health situation? That is what we are talking about in the underlying bill. The Senator from Pennsylvania says, yes, the Government should tell families what to do. Unfortunately, in his argument, in my view—and it is shared by many—he demeans women; he demeans families; and he demeans doctors. Worse than that, far worse than that, he demonizes women, demonizes families who do not agree with him. He demonizes doctors, doctors who bring babies into this world, doctors who help save lives, who protect our health, who protect a woman's fertility. He does that only if these women and these families

and these doctors do not agree with his views.

I guess perhaps the biggest insult and the biggest injury that was done yesterday on this floor was when the Senator from Pennsylvania dismissed heartfelt stories of women and their families who have struggled through the biggest tragedy, almost, that anyone can imagine—of having to terminate a pregnancy at the final stages because something has gone horribly wrong and the baby, if born, would suffer and the mother would suffer adverse health consequences, irreversible; he called those stories anecdotes. Don't be blinded, he says, by the anecdotes of women. I want to say to my colleague from Pennsylvania, with no hate in my heart whatsoever, you call these stories anecdotes. I say these stories are these families' lives. It is what they have experienced. It is what they will forever have to live with. I think it is shameful to dismiss them in that fashion.

Many of these women are here in the Capitol. They are here with their families; they are here with their children; they are telling their stories. To dismiss it and say don't be blinded by a few anecdotes is, to me, very cruel, indeed.

I say to the Senator from Pennsylvania, and the Senators who support him, that I support his right to view this issue in any way he chooses. I support the right of his family to handle these health care emergencies in any way they decide with their doctor, with each other, with their God, with their priest, with their rabbi, with their minister. It is their right. I would no sooner tell the Senator from Pennsylvania's family how to handle this matter than anything I can imagine. I would never do that. I do not want the Senator from Pennsylvania telling my family and my rabbi and my children how to handle a health emergency. I resent that.

I have enough respect for my family that we would do what is right. I have enough respect for every family in America that they would do what is right. If the families in America did not agree with me, I would say God bless you; you handle this in any way you want.

That is where the differences lie between the philosophy of the Senator from Pennsylvania and the philosophy of those of us who consider ourselves pro-choice. We trust the women of America. We trust the families of America. We trust them to seek the appropriate counsel. We trust them to make this painful and difficult decision without Government telling them what to do.

When the women in this country have a health problem, they do not go to see their Senator. They don't go to see Dr. SANTORUM or Dr. BOXER or Dr. HELMS or Dr. MIKULSKI. They go to their physician. We should not play doctor. It is not appropriate, it is not right, and it is dangerous. It is very dangerous to the health of women. We

will get into that when we talk about why the Roe v. Wade decision was so important. As long as the women in this country and the families in this country choose what is legal and available to them, we should respect that. The legalities have been settled since 1973. Make no mistake about it, the entire purpose of this underlying bill and other amendments that may come before us—I do not know what amendments they will be—are all about one thing: undermining this basic legal decision called Roe v. Wade.

At 11:30 this morning, the Senate will make an important vote as to whether or not they believe Roe v. Wade should be confirmed by this Senate. I want to read a quote that was put in the RECORD yesterday. I think it is very important to understand this statement is a statement of Supreme Court Justices O'Connor, Kennedy, and Souter. In a case called *Planned Parenthood of Southeastern Pennsylvania v. Casey*, listen to what these three Justices, all Republicans appointed by Republican Presidents, said about the basic issue we are talking about:

At the heart of liberty is the right to define one's own concept of existence, of meaning, of the universe, and of the mystery of human life. Beliefs about these matters could not define the attributes of personhood were they formed under compulsion of the State.

"Compulsion of the State." What these Justices said, all appointed by Republican Presidents, was that the state should stay out of this crucial decision. It is something that exists in our hearts, in our souls, in our beings.

The "meaning of the universe and the mystery of human life" should not be dictated by the state, by Senator SANTORUM, by Senator BOXER, by any Senator. It is up to each individual.

When Roe was decided and it was reaffirmed by the Court, and hopefully it will be reaffirmed today by this Senate, it basically gave that liberty to the people of this country. I think it is very important to note it has been stated on this floor over and over again, the underlying bill has nothing to do with Roe v. Wade. I ask you, colleagues, to look at the 19 Court decisions that have contradicted that statement. In each and every case, the Court said the Santorum bill, the approach he has taken, contradicts Roe, because in each and every case they found the definition of this partial-birth abortion—of which there is no medical meaning, there is no medical term—is so vague that it could, in fact, apply to any procedure and, therefore, it essentially stops all abortion. Indeed, if you look at some of the States, in some of the States, before the Court overturned these statutes, there was no abortion being performed at any stage because of the vaguely worded law, the words of the Santorum bill.

In Alaska, the vagaries of the law are obvious, and Alaska overturned the Santorum bill.

In Florida, this statute "may endanger the health of women"—they overturned the Santorum bill.

In Idaho, the act bans the safest and most common methods of abortion and they overturned—this is Idaho—the Santorum bill.

In Louisiana, the judge said this is truly a conceptual theory that has no relation to fact, law, or medicine, and they overturned this bill.

In Michigan, they said physicians simply cannot know with any degree of confidence what conduct may give rise to criminal prosecution and license revocation, and they overturned the bill.

And it goes on—Missouri, Montana. They say the problem here is that the legislation goes way beyond banning the type of abortion depicted in the illustrations.

Court after court has stated this bill overturns Roe, and that is why the Senator from Iowa was so correct to bring his amendment to the floor to reaffirm Roe.

I see the Senator from Washington is here, and I ask her how many minutes she would like to use on this amendment.

Mrs. MURRAY. Mr. President, if the Senator from California will yield me 5 minutes.

Mrs. BOXER. I so yield.

The PRESIDING OFFICER. The Senator from Washington is recognized for 5 minutes.

Mrs. MURRAY. Mr. President, first, I thank my colleague from California for her tremendous amount of work on the floor on a very emotional and difficult issue to show all of us what is really behind the bill that is before the Senate and to stand up for women across this country to make their own health care decisions, along with their family and their own faith, without the interference of those of us on this floor who are not medical doctors and who are not members of that family.

I thank the Senator from Iowa, Mr. HARKIN, for offering the amendment we are now debating because his amendment—and I want my colleagues to look at it very carefully—is really what this debate is about, and I think everyone here knows it.

The question is, Do we really stand for and behind Roe v. Wade? Do we really support a woman's right of choice? Are we going to allow women to make this incredibly important decision in consultation with their physician and their family and their faith or are we going to stand on the floor of the Senate and make that decision for her?

I have often heard many of my colleagues talk about being pro-choice simply because they do not support overturning Roe v. Wade. But over and over, when it comes time to provide access or services or to allow Federal employees access to these services, these same pro-choice Members vote to restrict a woman's right to choose.

I know the difference, as do the voters in my home State of Washington. In 1992, my State voted overwhelmingly in support of a woman's right of

choice. The voters in Washington State recognized the importance of the landmark Supreme Court decision giving a woman the right to determine her own fate and make her own personal health and reproductive decisions.

Washington State voters have also spoken out on this particular effort—the underlying bill—which attempts to undermine Roe v. Wade by outlawing one abortion procedure after another.

In 1998, a year ago, the voters of my State overwhelmingly defeated a ballot initiative to ban the so-called partial-birth abortions. That initiative was almost identical to S. 1692.

I am really proud of Washington State voters who stood up to defend a woman's right to her own reproductive health and choice decisions. That initiative which was on our ballot a year ago was defeated because there was no exception, no consideration for the health of the woman. Her life and her health were made not just secondary concerns but of no concern at all. In my State, voters understood why this kind of ban was a threat to all women.

The Harkin amendment we are now debating gives us the opportunity to talk about the role of the woman in this decision. It will allow Members to stand up and say the Roe decision was an important one, one we stand behind. The Harkin amendment will send a message to women that we recognize the turning point in equality that followed the 1973 landmark ruling.

As the Senator from Iowa pointed out, there was a time in our country's history when a woman could not own property, could not vote, or could not have access to safe family planning services. There was a time when women were not allowed access to equal education. There was a time in our history when having a child meant being forced out of the workplace.

Those times have passed. Women made gains as those offensive policies were changed, banned, and overturned, and I will do everything I can to make sure votes such as the one we are talking about do not take us back to the dark days because the women of America are not going back.

The proponents of S. 1692 say their intent is to end late-term abortions. We are not going to be fooled. We know this is just another attempt to chip away at Roe v. Wade. This is just another attempt to undermine that decision and deny access to safe and legal abortion services. This is just another attempt to harass providers and generate hateful rhetoric. This is just another attempt to limit access.

The proponents are trying to achieve through public relations what they cannot do in the courts or in the legislatures. Their ultimate goal is to make the rights and health protections guaranteed in Roe worth nothing more than the paper on which it was written. The Harkin amendment calls them on this bluff and demands accountability.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mrs. MURRAY. I ask the Senator from California for an additional 3 minutes.

Mrs. BOXER. Yes, 3 minutes.

The PRESIDING OFFICER. The Senator is recognized.

Mrs. MURRAY. Mr. President, since 1995, we have had more than 110 anti-choice votes in Congress. More than 110 times, we have voted to restrict or deny access to safe and legal reproductive health care. More than 110 times we have voted to undermine and limit the constitutional guarantees that were provided in the Roe v. Wade decision.

The goal is clear: Little by little, the proponents of the underlying bill want to place so many barriers and obstacles in front of women and their physicians that abortions will only be available to a few wealthy women, just as it was before the Roe v. Wade decision. A woman who is a victim of rape or incest, a woman whose life is at stake, will not even be able to find a provider. In fact, I want my colleagues to know we are already seeing this. In some States, there are no doctors now who are willing to provide a legal health care procedure. We are going back to the dark days when women's health was at risk because of the laws of this land.

Let there be no confusion; the proponents of this bill want to outlaw abortions step by step since they know a majority of Americans will not give up their rights to make this decision on their own with their own family and their own faith.

If you support the Roe v. Wade decision, you have to support the Harkin amendment. If you support a woman's right to choose, you have to support the Harkin amendment. And a "no" vote will send a message that the Senate does not support Roe or recognize the importance that a woman has to make this decision on her own.

I urge my colleagues to vote for the Harkin amendment and put us on record where we ought to be: To allow women to have safe, legal reproductive choices that allow them to make this decision with their family and their faith. That is where this decision rests, not on the floor of the Senate.

I thank my colleague from California.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I yield 10 minutes to the Senator from Iowa, the author of this amendment.

The PRESIDING OFFICER. The Senator from Iowa is recognized for 10 minutes.

Mr. HARKIN. Mr. President, I thank my colleague for yielding me this time, and I thank her for her strong support for women's rights and the constitutional right of women to make their own decisions in terms of reproductive health.

I thank the Senator from Washington, Mrs. MURRAY, for her strong support, and my friend and colleague

from Illinois who will be speaking shortly, Senator DURBIN.

It has been said by the proponent of the underlying bill that this amendment of mine has nothing to do with his underlying bill. I beg to differ and to disagree.

This amendment has everything to do with the underlying amendment because, really, what my friend from Pennsylvania is seeking to do is to begin the long process—which I am sure he would like to have a shorter process—to overturn *Roe v. Wade*, to take away the constitutional right that women have in our country today to decide their own reproductive health and procedures. That is really what this is about: A chipping away—one thing here, another thing there.

If anyone believes, by some fantasy dream, if the underlying bill of the Senator from Pennsylvania would ever become the law of the land, that this would be the end of it, that the Senator from Pennsylvania and those who believe and feel as he does would not feel the need to do anything else with regard to a woman's right to choose, is sadly mistaken. They will be back again with something else, and back again with something else, until *Roe v. Wade* is overturned. That is really what they are about.

So as far as I know, this will be the first time that the Senate of the United States has ever been able to speak; that is, to vote on how we feel and how we believe *Roe v. Wade* ought to be interpreted as the law of the land.

This is the first time, that I know of, that we have had the opportunity to vote up or down on whether or not we believe that *Roe v. Wade* should stand and should not be overturned and that it is, indeed, a good decision.

Again, I just read the "Findings" of my amendment. My amendment is very short. It just says:

Congress finds that—

(1) reproductive rights are central to the ability of women to exercise their full rights under Federal and State law;

(2) abortion has been a legal and constitutionally protected medical procedure throughout the United States since the Supreme Court decision in *Roe v. Wade*;

(3) the 1973 Supreme Court decision in *Roe v. Wade* established constitutionally based limits on the power of States to restrict the right of a woman to choose to terminate a pregnancy; and

(4) women should not be forced into illegal and dangerous abortions as they often were prior to the *Roe v. Wade* decision.

(b) . . . It is the sense of the Congress that—

(1) *Roe v. Wade* was an appropriate decision and secures an important constitutional right; and

(2) such decision should not be overturned.

Very simple and very straightforward. It has everything to do with the underlying bill because what the underlying bill really seeks to do is overturn *Roe v. Wade*.

Why? Because *Roe v. Wade* leaves an exception in to protect the woman's life or health. The Court, in siding with *Roe* in the Texas case that was filed,

struck down the Texas law. The Court recognized for the first time the constitutional right to privacy "is broad enough to encompass a woman's decision whether or not to terminate her pregnancy."

The Court set some rules. It recognized that the right to privacy is not absolute, that a State has a valid interest in safeguarding maternal health, maintaining medical standards, and protecting potential life. A State's interest in "potential life" is "not compelling," the Court said, until viability, the point in pregnancy at which there is a reasonable possibility for the sustained survival of the fetus outside the womb.

This is the important part: A State may, but is not required, to prohibit abortion after viability, except when it is necessary to protect a woman's life or health. That is what Mr. SANTORUM's underlying bill does; it strikes out those very important words "or health."

As we have repeated stories of women who have had this procedure, who, if they had not had this procedure, could have been injured permanently for life, been made sterile for life, not being able to hope to even raise a family after that, that has a lot to do with a woman's health.

I heard the Senator from Pennsylvania say something yesterday about we should not be guided by these anecdotes that people come and tell us. But what we do hear affects people's lives. These are not anecdotes.

I told the story yesterday of my friend, Kim Coster, and her husband. She had to go through this procedure twice. She still has hopes of raising a family—a very wrenching, painful decision for her and her husband. Is that an anecdote? No. It is a true-life story of what happens to individuals because of what we do here.

Let us always keep in mind that the votes we cast, the laws that we pass, affect real people in real-life situations. These are not anecdotes. These are not something to cloud and to fog our reasoning. I believe I paraphrased a little bit what the Senator from Pennsylvania said. I may not have said the words correctly, but that is sort of what he said.

No, we should use real-life stories to guide and direct us as to what we should do within the constitutional framework and what we should do to ensure that we do not trample on constitutional rights, and especially, here, the constitutional rights of women to control their own reproductive health.

So I would just say to my friend from Pennsylvania, this amendment, this sense-of-the-Congress resolution that is now pending, has everything to do with the underlying bill. It is the first time that we will be able to speak as to whether or not we believe *Roe v. Wade* should continue, should not be overturned, and was a wise decision.

I am certain the Senator from Pennsylvania will vote against my amend-

ment. That is his right. I know he does not believe in *Roe v. Wade*. I know he believes that *Roe v. Wade* should be overturned. There are others who believe that. But I hope the vast majority of the Senate will vote, with a loud voice, that *Roe v. Wade* was a wise decision. It secured an important constitutional right for women. It should not be overturned.

I reserve the remainder of my time and yield the floor.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER (Mr. VOINOVICH). The Senator from California.

Mrs. BOXER. If there was any extra time, I hope we will keep it on our side. I discussed this with the Senator from Pennsylvania, and he has been gracious enough to agree, since our colleagues have time problems; what I would like to propound is that Senator DURBIN be given 5 minutes, followed by Senator FEINSTEIN for 12 minutes, and then we will reserve the remainder of our time for the closing debate. And the Senator from Pennsylvania will then have an hour left on his side.

The PRESIDING OFFICER. Is there an objection to the request?

Without objection, it is so ordered.

Mrs. BOXER. I thank the Chair.

The PRESIDING OFFICER. The Senator from Illinois is recognized for 5 minutes.

Mr. DURBIN. I thank the Chair, and I thank the Senator from California for yielding me this time.

I am going to vote in favor of the Harkin amendment. The Senator from Iowa has put the question before the Senate, which is very straightforward: Do you support the 1973 decision of the U.S. Supreme Court which said that we will protect a woman's right to choose?

The decision of that Court said that the privacy of each of us, as individuals, has to be protected, and particularly the privacy of a woman when she is making a critical decision about her health.

I have, over the past day or so, been involved in a debate on this floor about this issue. And I thank all of my colleagues for participating in this debate. On an amendment I offered, there were some 38 votes last night. I wish there were more. Any Senator would. I am proud of those who stood with me and hope we have taken one small step toward finding common ground consensus, while conceding what the Senator from Iowa has made a point in his amendment; that is, first, we will keep abortion procedures safe and legal in America and, second, we will try to find reasonable restrictions within that decision. I believe that is what the debate was about yesterday.

The point I make this morning, in the brief time I have, goes to the heart of this issue. This amendment really tests us as to our feelings about the women of America, particularly those who are mothers, and the children of America. I am troubled by those who oppose the *Roe v. Wade* decision and

say they are doing it because they believe in the women of America. Then we look at their voting records and say, where are they?

For example, let's use one very basic issue. We on the Democratic side, with the help of Senator KENNEDY and others, have been fighting hard to increase the minimum wage. Our belief is that people who are going to work every day deserve a decent living wage. The minimum wage has been stuck at \$5.15 an hour for too long. Who are the largest recipients of the minimum wage in America? Women, women who go to work, many with children, struggling to survive. If we believe in the dignity of women, we should be voting for an increase in the minimum wage.

Not too long ago, the Republican majority in the House suggested cutting back on a tax credit for lower-income working families, the earned-income tax credit. They said: This is the way we will balance the budget. Thank goodness even a Republican candidate for President came out against that idea.

It raises a question in my mind: Those who oppose the idea of Roe v. Wade and say they still stand up for the women of America, where are they on these other issues as well? Historically, the same people who are opposed to Roe v. Wade are opposed to increasing the minimum wage and want to cut the tax credit for working families, particularly single-parent families.

Let's take a look at the children's side of the equation. Many who oppose abortion procedures say these children should be born. The question is, Once they are born, will you help care for them? The record is not very encouraging. The same people who oppose the abortion procedures oppose an increase in the minimum wage, by and large. The same people who oppose Roe v. Wade are the folks who are leading the charge for cutting the earned-income tax credit, cutting the Head Start Program for the children, cutting education and health care and the basics of life.

If this is a question of commitment to life, take a look at this next roll call on the Harkin amendment, which I will support. Line up those Senators on both sides of the aisle and ask: If you say you want more children born in this world, are you willing to stand by and help the families raise them? Too many times, I think we will be sadly disappointed.

There was a study that came out a few days ago. It was from a woman at Claremont Graduate University in California who did a survey of all the States that have the strongest anti-abortion laws and found they are many times over more likely to have less assistance for families and children. Those who stand here and say, oppose Roe v. Wade, allow these children to be born, the obvious question of them is, Will you stand, then, for the programs to help these children? Time and time again, they do not.

I believe Roe v. Wade has in a way recognized the constitutional reality of privacy in this country. It is said a woman should have the right to choose. In that critical moment when she is making that decision with her doctor, with her husband, with her family, with her conscience, the Government should not be there making the decision for her.

Yes, there are restrictions in Roe v. Wade. Some people think they are too much; some, too little. Be that as it may, the basic constitutional principle is sound. Members of the Senate will have, in a very brief moment in time, a critical opportunity to decide whether or not they want to turn back the clock to back-alley abortions, to the days when abortions were not safe and legal in this country.

I hope we have a solid, strong majority vote in support of the Harkin amendment.

The PRESIDING OFFICER. The Senator from California is recognized for 12 minutes.

Mrs. FEINSTEIN. I thank the Chair. I begin by thanking the Senator from California for her leadership on this issue. I have watched her on the floor. She has carried the message of this important issue in a very significant way. I thank her very much.

I want to speak today as a mother of a daughter, as a stepmother of three young women and a grandmother of one granddaughter. I speak as a woman who grew up in this country when abortion was illegal, who went to university at that time and saw things I wish I hadn't seen, like young women on the verge of suicide because of the predicament they were in. I want to speak about a time when I sat on the California Women's Parole Board in the 1960's, a board that sentenced doctors who performed abortions and women who had had abortions. Abortion carried a sentence of 6 months to 10 years. I remember their stories. I used to read the case histories of the patients and I saw the terrible morbidity and mortality that took place in California when abortion was illegal. I don't want to go back to those days and those stories of absolute desperation.

As I have listened to the debate, what I have heard has been a kind of moral sanctimony of people who think they know better than anyone else. They maintain that their lifestyle, their way of handling problems, is the way everybody should handle problems. In the real world, it doesn't work that way. Nobody knows anyone else's condition, circumstances, health, life or frailties.

Roe v. Wade came down in 1973 and established a trimester system for the Nation which took abortion out of the arena of politicians telling my four daughters what they could do or could not do with their reproductive systems.

Frankly, I find the discussion deeply humiliating and very distressing—the discussion of women's body parts in the Senate of the United States of Amer-

ica, as if we don't have sense enough to do with our bodies what we know is ethically and morally right.

The fact is, the overwhelming majority of women in this great Nation do know and they do what is right. They want to have children and they do deliver children. The beauty of Roe v. Wade was that it took the explosive issue of abortion out of the political arena and set a trimester system that made sense, both for the unborn child as well as for the woman herself.

I will quickly summarize what that is. Roe essentially said that for the stage prior to the end of the first trimester of pregnancy, the abortion decision must be left to the medical judgment of the pregnant woman and the woman's attending physician. For the stage approximately following the end of the first trimester, the State, in promoting its interest in the health of the mother, may, if it chooses, regulate the abortion procedure in ways that are reasonably related to maternal health.

Finally, for the stage following viability—that is, the time when the fetus can live outside of the womb—the State, in promoting its interests in the potentiality of human life, may, if it chooses, regulate and even ban abortion, except where it is necessary, in the appropriate medical judgment, for the preservation of the life or health of the mother.

That is Roe v. Wade. It took the debate off these legislative floors all across this great Nation. It set up a constitutional right so that women could protect themselves from the views of one person who got elected to public office or another person who got elected to public office, an imposition of their views on all of the women of America.

Roe v. Wade has stood the test of time. It should be supported, and we now have an opportunity to do so. Let me make a couple of comments on what we have before us.

Since 1992, there have been 120 votes that sought to infringe on Roe and sought to constrain a woman's right to control her own reproductive system; 113 of them have been successful. My colleague from California and I have watched the march to limit a woman's right to choose, to find ways to encroach on it, whether it is not allowing women on Medicaid to have abortions; whether it is not giving money to the District of Columbia if the District of Columbia uses Federal, or even its own dollars for abortion services for women; limiting the rights of women in the military, and on and on and on—a steady march to eliminate Roe v. Wade and a woman's right to choose. And now we have this issue of so-called partial-birth abortion before us.

I sit on the Judiciary Committee. I have attended all of the hearings on this subject. What has been interesting to me is, in the many years that we have discussed this, there has been no medical definition presented in the legislation describing what a partial-birth

abortion really is. No one has used what I think they aim at, which is something called intact D and X, which is in fact a specific medical procedure and which is known to physicians.

I ask unanimous consent to print in the RECORD a statement of policy by the American College of Obstetricians and Gynecologists.

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

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

THE AMERICAN COLLEGE OF
OBSTETRICIANS AND GYNECOLOGISTS,
Washington, DC.

ACOG STATEMENT OF POLICY
STATEMENT ON INTACT DILATATION AND
EXTRACTION

The debate regarding legislation to prohibit a method of abortion, such as the legislation banning "partial birth abortion," and "brain sucking abortions," has prompted questions regarding these procedures. It is difficult to respond to these questions because the descriptions are vague and do not delineate a specific procedure recognized in the medical literature. Moreover, the definitions could be interpreted to include elements of many recognized abortion and operative obstetric techniques.

The American College of Obstetricians and Gynecologists (ACOG) believes the intent of such legislative proposals is to prohibit a procedure referred to as "Intact Dilatation and Extraction" (Intact D & X). This procedure has been described as containing all of the following four elements:

1. deliberate dilatation of the cervix, usually over a sequence of days;
2. instrumental conversion of the fetus to a footling breech;
3. breech extraction of the body excepting the head; and
4. partial evacuation of the intracranial contents of a living fetus to effect vaginal delivery of a dead but otherwise intact fetus.

Because these elements are part of established obstetric techniques, it must be emphasized that unless all four elements are present in sequence, the procedure is not an intact D & X.

Abortion intends to terminate a pregnancy while preserving the life and health of the mother. When abortion is performed after 16 weeks, intact D & X is one method of terminating a pregnancy. The physician, in consultation with the patient, must choose the most appropriate method based upon the patient's individual circumstances.

According to the Centers for Disease Control and Prevention (CDC), only 5.3% of abortions performed in the United States in 1993, the most recent data available, were performed after the 16th week of pregnancy. A preliminary figure published by the CDC for 1994 is 5.6%. The CDC does not collect data on the specific method of abortion, so it is unknown how many of these were performed using intact D & X. Other data show that second trimester transvaginal instrumental abortion is a safe procedure.

Terminating a pregnancy is performed in some circumstances to save the life or preserve the health of the mother. Intact D & X is one of the methods available in some of these situations. A select panel convened by ACOG could identify no circumstances under which this procedure, as defined above, would be the only option to save the life or preserve the health of the woman. An intact D & X, however, may be the best or most appropriate procedure in a particular circumstance to save the life or preserve the

health of a woman, and only the doctor, in consultation with the patient, based upon the woman's particular circumstances can make this decision. The potential exists that legislation prohibiting specific medical practices, such as intact D & X, may outlaw techniques that are critical to the lives and health of American women. The intervention of legislative bodies into medical decision making is inappropriate, ill advised, and dangerous.

Approved by the Executive Board, January 12, 1997.

Mrs. FEINSTEIN. Mr. President, instead of recognized medical language like that of the American College of Obstetrics and Gynecology, the language the underlying bill before us is vague.

Let me tell you why I say it is vague. It is vague because it not only affects third-trimester abortions, it affects second-trimester abortions; therefore, it is a continuation of the march to limit and constrict a woman's rights under *Roe v. Wade*.

Let me give you some examples of testimony that we had in our Judiciary Committee hearings. Doctors who testified before the Senate Judiciary Committee could not identify, with any degree of certainty or consistency, what medical procedure this legislation refers to. The vagueness meant that every doctor who performs even a second-trimester abortion could be vulnerable and face criminal prosecution.

The American College of Obstetrics and Gynecology has told us that "the legislation could be interpreted to include, and thus outlaw, many other widely used, accepted, and safe abortion and operative obstetric techniques."

Dr. Louis Seidman, Professor of Law from Georgetown University, told us:

... as I read the language, in a second-trimester previability abortion, where the fetus will in any event die, if any portion of the fetus enters the birth canal prior to the technical death of the fetus, then the physician is guilty of a crime and goes to prison for two years.

That is what we are doing here. Dr. Seidman continued his testimony before our committee and said this:

If I were a lawyer advising a physician who performed abortions, I would tell him to stop because there is just no way to tell whether the procedure will eventuate in some portion of the fetus entering the birth canal before the fetus is technically dead, much less being able to demonstrate that after the fact.

Dr. Courtland Richardson, an associate professor at Johns Hopkins University, testified in the House that:

In any normal second trimester abortion procedure, by any method, you may have a point at which a part, a one-inch piece of [umbilical] cord, for example, of the fetus passes out of the cervical [opening] before fetal demise has occurred.

That would violate the so-called partial-birth abortion ban and subject a physician to 2 years in prison. That is the impact of this legislation. People can say what they want, but that is the impact, the medical impact.

Now let me give you the legal impact.

The legal impact is that courts throughout America have ruled that partial-birth abortion laws are unconstitutional. Most recently, the U.S. Court of Appeals for the Eighth Circuit unanimously ruled unconstitutional three State laws—in Arkansas, in Iowa, and in Nebraska—that mirror the Santorum bill. The Eighth Circuit is the first Federal appellate court to review the legal merits of partial-birth abortion bans. In ruling on the Iowa and Nebraska laws, which were nearly identical to S. 1692, the district court in both cases held that the language in the State laws was unconstitutional because it was overly vague, imposed an undue burden on pregnant women and did not adequately protect a woman's health and life. The Eighth Circuit Court of Appeals affirmed this ruling, noting that the State law's vague language would ban more than just partial-birth abortion; it would ban other abortion procedures protected by the landmark *Roe v. Wade*. Circuit Court Judge Richard Arnold wrote—and I quote this because it is important:

The difficulty is that the statute covers a great deal more. It would also prohibit, in many circumstances, the most common method of second trimester abortion, called a dilation and evacuation (D and E).

This is the circuit court writing.

D and E is a recognized medical procedure, dilation and evacuation. Judge Arnold continued:

Under the controlling precedents laid down by the Supreme Court, such a prohibition places an undue burden on the right of women to choose whether to have an abortion. It is therefore our duty to declare the statute invalid.

In 20 out of 21 States, partial-birth abortion laws have been blocked or severely limited; 18 State partial-birth abortion laws have been blocked by a Federal or State court; 6 out of 9 States that passed partial-birth abortion laws using the language as found in S. 1692 have had their laws enjoined, including Idaho, Iowa, Kentucky, Nebraska, New Jersey, and West Virginia. One court limited the enforcement of Georgia's partial-birth abortion ban to redefine partial-birth abortion in medical terms, to limit its application to postviability abortion. That is the point.

If proponents of this bill are really serious, they should use a medical procedure and prohibit that procedure in postviability abortions.

And the court stated that Georgia's law was invalid because it created an exception in the law to allow abortions in cases necessary to protect the health of the woman. Six States, where the laws have been blocked, used identical language to H.R. 1122, vetoed by President Clinton in 1997.

Mr. President, courts across the country have made it all too clear that legislation like S. 1692 does not do what the proponents of the bill say it does. The bill does not limit State bans on abortion to postviability procedures. It does not protect a woman's

health. For these reasons, this bill violates the basic constitutional rights of women provided by *Roe v. Wade* in 1972, and other Supreme Court decisions. Simply stated, the main bill before us today is unconstitutional on its face and will be struck down.

I urge this body to support the Harkin resolution and to defeat the underlying Santorum bill.

I thank the Chair.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, let me respond to the comments of the Senator from California, Mrs. BOXER, about the constitutionality. The central point is that most of the cases have focused around the definition. I think she accurately described the concern some of the courts have, and the issue on vagueness, and that this procedure being outlined, partial-birth abortion, is not adequately defined so as not to outlaw other abortions at that time.

The interesting part of the argument is that you presume with the argument that it outlaws more than this. I think you can make the logical assumption that the courts might accurately only include this procedure, and that it would be constitutional, but what makes it unconstitutional is that it applies to more than this procedure.

In a sense, arguing for the unconstitutionality of this, if we were able to better define what a partial-birth abortion is in this legislation, we would make it clear that it does not ban any other type of abortion. Then the presumption I hear from the Court's own reasoning is that it would be constitutional. I think we need to look at that very carefully.

In a sense, in making their argument, they leave open the possibility that banning a particular procedure—as long as it doesn't ban all procedures or more than one procedure—the courts would be receptive to the constitutionality of such a piece of legislation. We are working right now with other Members to see if we can come up with a better definition, a more clear definition, one which would clearly pass constitutional muster with respect to vagueness.

I am encouraged. I think it is helpful that the Senator from California put the reasoning in the RECORD, because I think the reasoning clearly points to the fact the procedure itself could, in fact, be banned under *Roe v. Wade*. But the fact that the procedure is being defined in such a vague manner as to include other procedures is the reason they are finding it unconstitutional.

I think it creates an opportunity for us to craft in the eyes of the courts that have reviewed this to date a constitutional piece of legislation that does not create an undue burden on women because it only bans one particular procedure and not others. I see this as an opportunity.

I thank the Senator from California for laying that out. I think that is an

important point of debate. We will get to that later in this debate as we get down to the end when we provide what I hope to be some technical amendments to correct this problem.

I find it interesting—I talked about it yesterday—what we are talking about now is *Roe v. Wade*. While I and others have stood up here time and time again and have said this is not about *Roe v. Wade*, one of the reasons we are bringing this bill to the floor is because we believe this is outside of the scope of *Roe v. Wade*'s restrictions on Congress' right to limit abortion. I can go through the long list of that.

One, obviously, is the Texas *Roe v. Wade* case itself. It was brought before the Supreme Court. In that decision, part of the appeal was to strike a Texas law that prohibited killing a child in the process of being born. It is a Texas statute that was under review by the Supreme Court in the *Roe v. Wade* decision. The Supreme Court let stand the Texas law that prohibited the killing of a child in the process of being born. That is exactly what we are attempting to prohibit in the partial-birth abortion amendment.

To make the argument we are trampling on *Roe v. Wade* with this bill, when the case itself upheld a law that said you couldn't do that, in other words, kill a child in the process of being born, I think is stretching *Roe v. Wade* far beyond its own face of what it actually did.

Again, it is a distortion that is not surprising. I understand why if you don't think you have the arguments on the merits you try to change the subject. That is what this vote is about today. It changes the subject. They want to turn this into a debate on abortion. This is not a debate on abortion. This is a debate on infanticide. This is why people on both sides of the abortion issue in both Chambers support this ban—because it is less about abortion and very much about infanticide.

I am not going to say much about the underlying amendment we are talking about—the Harkin amendment—but have a couple of comments about *Roe v. Wade*. You hear so much about first trimester, second trimester, third trimester, the State has an interest, and the State can do this.

I remind you that Senators who are talking about these restrictions and about the second- and third-trimester have never in their lives voted for any of those restrictions. *Roe v. Wade* is the law of the land today. For all the rhetoric that is around, it is there. You can have an abortion at any time, anywhere, and any place as long as you can find an abortionist to do it. Period. There are no restrictions. In reality, there are no restrictions. All you have to do is find an abortionist who will say the health of the mother is at stake and you can have an abortion.

I had a chart up here yesterday. We can get it. I will put it back up. Warren Hern wrote the definitive textbook on

abortion and said, I will certify that with every pregnancy there is a risk of grievous serious physical health to the mother; injury to the mother.

What you have is, in fact, no restriction. In fact, that is what occurs today. There are no limits on abortion in America. That is why one in four children conceived in America die through abortion. One in four. One in four.

So your chances of surviving in the womb are 75 percent once you are conceived. Once you are born, your chances of surviving the first 5 years are 99.9 percent. If you can make it through to be born, you are probably going to be OK. But the biggest risk to children's health in America is abortion.

Roe v. Wade promised a lot of things. When people came up and argued about *Roe v. Wade*, they promised a lot of wonderful things would happen to women and to women's health and to children and to child abuse. The promises were made. Look at the debate.

There would be a reduction in child abuse because there would be less unwanted pregnancies. I don't think we have to look up a whole lot of record to see that child abuse has not been reduced since *Roe v. Wade*. In fact, it is over double since *Roe v. Wade*.

There would be a reduction in divorce. I don't think that needs any comment. Obviously, it did not happen.

There would be a reduction in spousal abuse. Obviously, that did not happen.

We would lower poverty among children. Obviously, that did not happen—all the promises that this would be a better world if we just got rid of these children who weren't wanted, that life would be better.

What we found as a result of *Roe v. Wade* is a desensitizing of our appreciation for life, and all the promises have turned into disasters. Now we are faced with a world where we have reached the point in America that a child who is 3 inches away from being protected by *Roe v. Wade*, being protected by the Constitution can be executed—executed, brutally executed by a partial-birth abortion.

The reason this is an issue I feel so passionately about is not because I believe we will reduce the number of abortions in America. We will not. I will say that categorically. This bill will probably not reduce the number of abortions in America with its passage. Hopefully, in the debate we will touch some hearts but in its passage we will not.

This is not an attempt to infringe on a woman's right. This is not an attempt to change or overturn *Roe v. Wade*. That is why I reject the Senator's amendment as irrelevant.

This bill attempts to draw a bright line between what is and is not protected. At least we should be able to draw the line so when a child is in the process of being born, it is too late to have an abortion. It is too late.

I asked the Senator from California this question: You allow an abortion if

the child's head is inside the mother? You can then kill the baby? I said: What if the baby came out head first and the child's foot was inside the mother. Would you still be allowed to kill the baby? She said: Absolutely not.

A pretty clear line, isn't it, depending on which way the baby is born as to whether you can kill the baby. We get to the slippery slope, and this is what concerns me for our culture—if we can kill a baby that is moving, one can see the baby, the abortionist is holding the baby in his or her hands, the baby is moving, and then they take a pair of scissors at the base of the skull and jam it into the back of the baby's head and suction the brains out.

This is where humanity has arrived in the United States in 1999. In the greatest deliberative body in the world, we can stand here and debate this is a proper procedure in America; this is legal in America; this is ethical in America; this is moral in America. This is not a debate about abortion. This is a debate about who we are as a society.

I know the abortion sides have lined up and want to make this an abortion line, where we draw the line in protecting humanity. If we don't draw it here, the next logical step is easy. From the New Yorker magazine last month, the September issue, an article by Peter Singer. Peter Singer is a philosopher—pop philosopher, I guess—who was just hired at Princeton University.

What does Peter Singer say? I will read part of the article. Viewers will say that guy is a whacko, this guy is out there on the fringe; he is at Princeton University, but he is out there on the fringe. No one can make this credible argument in America today. I argue that 40 years ago no one could make this credible argument that this procedure would be legal. But here we are. Put on your seatbelts, ladies and gentlemen. We are in for a ride, and the roller coaster is going down. I don't see the bottom yet. Let me describe how far down the roller coaster we can go when it comes to civility in America, when it comes to respect for life in America.

Peter Singer:

Killing a disabled infant is not morally equivalent to killing a person. Very often it is not wrong at all.

I remind everybody of these anecdotes I have talked about that have offended so many. What are the stories about? The backbone for the defense of this procedure given by the Senator from California, the Senator from Iowa, the Senator from Illinois. What is the subject of these tragic stories? In every instance, in every instance, these were pregnancies that had gone awry, where, in the course of fetal development, the infant became disabled, a problem developed—whether it was trisomy, hydrocephaly, some abnormality occurred, some disability occurred in the baby.

Is there an argument on any of these cases that the health or the life of the

mother was endangered by carrying the baby itself? The answer is no. In none of these cases is the issue brought up that the health of the mother was jeopardized by carrying the baby. In all of these cases the point was made, the baby is going to die anyway or the quality of the baby's life is not going to be good; killing a disabled infant is not morally equivalent to killing a person.

We see how the slope gets slippery. We don't hear from the other side in defending partial-birth abortion—the cases of healthy mothers and healthy women. They are not used to defending this procedure. However, 90 percent of the partial-birth abortions are healthy mothers and healthy babies. They don't use those as an example because they are not sympathetic examples to those who are within the sound of my voice. People won't sympathize with a healthy mother and healthy baby—aborting a baby late in pregnancy, killing her healthy baby. People don't see a rationale for someone to do that.

The folks here know when people hear about a deformed baby being killed, they are OK with that. Think about what they are doing by bringing these cases up. Think about what they are presuming people are thinking when they use disabled children as a legitimate reason to be killed under this procedure. They are assuming that America doesn't care as much; they assume they are not as worthy as a normal, healthy baby.

Do you know what. They are right. Absorb that, America. They won't use healthy mothers and healthy babies to defend this procedure because people will have no sympathy for that, people have no tolerance for that. Throw up a disabled child as the object of this execution, and then it is OK; then there is sympathy.

What a slippery slope when killing a disabled infant is not morally equivalent to killing a person. And you say that is outrageous. They are using it now to justify this position. It is not outrageous; it is today in America. It is the reason for this procedure to be kept legal. Open your eyes and see what they are doing. Open your eyes and see where we are headed.

Dr. Peter Singer:

When the death of a disabled infant will lead to a birth of another infant with better prospects of a happy life, the total amount of happiness will be greater if the disabled infant is killed. The loss of happy life for the first infant is outweighed by the gain of a happier life for the second. Therefore, if killing a hemophiliac infant had no adverse effect on others, it would, according to the total view, be right to kill him.

We will see family pictures of a mother and father who had a partial-birth abortion now being shown with another new baby. They will say, see, it is OK because this other baby is happy.

This is not craziness that is going to happen in the future. This is the roller coaster, folks, we are headed down. This debate should point Americans in

the direction as clear as my finger is pointing to Senator VOINOVICH that we are headed toward Peter Singer's world.

Two or three Senators have quoted the oft-quoted paragraph out of Planned Parenthood v. Casey. They use that to legitimize what they are doing. Let me read something for you. I want you to think about the logic behind what they are saying here. Listen, America. This is an abortion case.

At the heart of liberty is the right to define one's own concept of existence, of meaning, of the universe, and of the mystery of human life.

I am going to paraphrase that. I am going to use the words of somebody who all of you know because of some things that he did in the last year. I am going to use the words of Eric Harris, who wrote before he killed 13 children at Columbine:

When I say something, it goes. I am the law.

What this says is very simple: You are the law. What you say goes. You have the right to define, again "one's own concept of existence," one's own concept of the "meaning of the universe and of the mystery of life." What I say goes.

Fredrich Nietzsche would be proud of us all for this debate. Peter Singer is proud, I am sure, of this debate today being put forward in defense of something that he supports, the killing of little children if they are not perfect like you and me. Remember, you will not hear one word, you have not heard one word in three debates, in 5 years—you have not heard one word about the normal, healthy baby being killed by this procedure. You have not heard one word about a normal, healthy mother having one of these abortions. They will not use that case even though over 90 percent of the abortions that occur with partial birth are those cases.

They use the ones that tug at your heartstrings. Having lost a baby, they tug at mine. I know the pain of what these men and women who suffered through pregnancies that went awry—I know what they suffered through. I do not demean them when I talk about their cases. They are real and they suffered. But to use—and I emphasize the word "use"—these cases to justify the killing of a baby, to use abnormal children—abnormal to whom, I might add? Disabled to whom? Imperfect to whom? Not to me. My son who died was not perfect in the eyes of this world, but he was perfect to me. He was perfect to my wife. Most important, he was perfect in God's eyes.

To abuse these cases, to pull at your heartstrings, to legitimize killing children 3 inches away from being born is beneath the dignity of the Senate and feeds into Peter Singer's view that "killing a disabled infant is not morally equivalent to killing a person. Very often it is not wrong at all."

Peter Singer takes it even further. I said he supports this procedure. I am sure he does, but he thinks this is probably not the best way to go. Here is

what he thinks. You say this is absurd, Senator? Listen:

If a pregnant woman has inconclusive results from amniocentesis, Singer doesn't see why she shouldn't carry the fetus to term. Then, if the baby is severely disabled and the parents prefer to kill it, they should be allowed to. That way, there would be fewer needless abortions and more healthy babies.

In defense we almost do that with partial-birth abortion, don't we? We deliver the baby, get a chance to see the baby, and then we kill the baby. We have case after case now, several cases, of botched partial-birth abortions where babies who were to be aborted ended up being born before the doctor could kill the baby. There are three cases I am aware of, two in the last few months, where little children were born; not fetuses, not products of conception—which I think is another term that is used to dehumanize what is a living human being. Is there anybody in the Senate or within the sound of my voice, any Senator, who would disagree that a fetus or baby inside the mother is a living human being? I do not think there is any question that is a living human being. But we try to dehumanize it by using "fetus," "products of conception."

In the case of a partial-birth abortion, you are talking about at least a 20-week-old living human being that is delivered feet first outside of the mother except for the head and then killed. The justification, the stories, the "cases," all involve disabled children—never healthy children.

Let me tell you about some healthy children who were to be aborted using a partial-birth abortion. The first known survivor was a girl born in Phoenix, June 30, 1998, known as Baby Phoenix. The little girl was accidentally born as a result of a botched partial-birth abortion. How does a partial-birth abortion work? How could it be botched?

You present yourself to the abortionist. The abortionist says you are past 20 weeks.

By the way, when you are past 20 weeks and you deliver a child, the baby will be born alive, so we are talking about the delivery of a living baby. That baby may not survive for a variety of reasons, but the baby will be born alive, this little baby. This baby's mother did not want this baby to be born alive, so she went to an abortionist after 20 weeks and the abortionist said: Fine, we are going to do a partial-birth abortion.

Were there health concerns with this baby? Was the mother in physical problems? Was the baby physically deformed? The answer in both cases: No. Could she get an abortion after 20 weeks? The answer was yes.

Let me tell you how much after 20 weeks you can get an abortion in this country. Based on the sonogram performed at the abortion clinic, Dr. Biskind believed baby Phoenix to be 23 weeks, at least that is what he says. During the actual abortion procedure,

the doctor realized the child was much older. He stopped the partial-birth abortion and delivered a 6-pound, 2-ounce baby girl. Baby Phoenix was actually 37 weeks. Both the 17-year-old biological mother and child were healthy. This was an elective abortion.

You don't hear the other side talk about elective abortions and healthy mothers and healthy babies, do you? Do you? There is no sympathy for them. Oh, but it is OK, it is all right. We have sympathy if the baby is not perfect—in our eyes. In our eyes.

Following delivery, Baby Phoenix was sent to a hospital across the street for treatment. She suffered from a fractured skull and cuts on her face as a result of the attempted abortion. Amazingly, there was no apparent brain damage. In October of 1997, by the way, the year before this happened, a Federal court struck down Arizona's law that would have prevented this brutality in the first place.

(Mr. ALLARD assumed the Chair.)

Mr. SANTORUM. Today, Baby Phoenix lives in Texas with her adopted parents. The doctor who performed this abortion has since lost his license.

That was not the last victim of partial-birth abortions. Baby Hope, the second known survivor, survived an abortion attempt which began in the clinic of Dr. Martin Haskell who has been up here and has testified, who is one of the inventors of the procedure, who, in fact, testified in court cases. By the way, when he testified in those court cases and was asked the question, Is partial-birth abortion ever used to protect the life of the mother? The answer was no—from the inventor of the procedure. Is partial-birth abortion ever necessary or is it the only option available to protect the health of the mother? The answer by Dr. Haskell: No.

Baby Hope's biological mother underwent a dilation phase of a partial-birth abortion. What happens is: You present yourself to the doctor. The doctor gives you pills to dilate your cervix. In 3 days, you come back to the abortion clinic. Your cervix is dilated, and they can perform the abortion.

She dilated too quickly. She went to a hospital and was admitted for abdominal pain. The woman gave birth as she was being prepared for an examination. This was the point at which the hospital personnel first learned she was in the dilation phase of a partial-birth abortion.

On April 7, Baby Hope was born in the emergency room. She was 22 weeks old. An emergency room technician who was asked to remove the baby from the room noticed she was alive. Neonatal staff were called to examine her, and doctors did not believe the child's lungs were developed enough to resuscitate her, so they did not put her on life support. Hospital staff wrapped the baby in a blanket. The ER technician named the baby Hope and then rocked and sang to the little girl for 3 hours 8 minutes of her life. Hope's

death certificate lists the cause of death as extreme prematurity secondary to induced abortion.

Ironically, the manner of death listed on the death certificate is "natural." They do not talk about these cases.

The 22-week-old baby girl died tragically, but she touched the hearts of the people whom she touched in her life. If this partial-birth abortion procedure had been performed, she would have died a violent, barbaric, painful death.

A third case, Baby Grace. Four months after Baby Hope's death, another baby survived a botched abortion, again at Dr. Haskell's abortion clinic in Dayton, OH. Baby Grace was born August 4, 1999—just a couple of months ago.

Once again, the child's biological mother went into premature labor as a result of the dilation phase of the partial-birth abortion. As in the case of Baby Hope, the mother went to the hospital and delivered the baby. In this case, the child was between 25 and 26 weeks old. Baby Grace is still alive. She is being cared for at a hospital as a premature baby. The Montgomery County, Ohio, Children Services Board has temporary custody of her and plans to put her up for adoption.

Baby Grace is living proof of the horror of partial-birth abortion. She is not a footnote in case law. She is a real baby who would have died. You do not hear anyone talking about those cases.

What this amendment does has nothing to do with the underlying bill. The underlying bill is about banning a barbaric procedure that crosses the line of civility in America; at least I hope so. Let me assure you, if we do not draw that line, we will be having debates here, I hope with all my heart, when I am not here, about whether killing children is OK if they are not perfect in our eyes. We are 3 inches from having that debate right now. It is only a matter of time before those inches fade away. It is irrelevant, really, isn't it, whether it is 3 inches or not. God bless America.

The Senator from Ohio, I understand, wants to be recognized. How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 22 minutes 54 seconds.

Mr. SANTORUM. I yield 10 minutes to the Senator from Ohio.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. VOINOVICH. Mr. President, I rise in support of the Partial-Birth Abortion Ban Act. I am grateful to the Senator from Pennsylvania for his courageous fight to ban this barbaric procedure. Any of us who has listened to him today and last night cannot help but be moved by his eloquence in regard to the importance of banning this procedure.

It is difficult even to talk about it because it is so gruesome, but we need to remind Members of the Senate that this is a procedure that is not done on an emergency basis. First, the woman

goes through 2 days of doctor visits to get dilated. On the third day, the baby is positioned for delivery in the birth canal. The fetus is turned so that it is delivered feet first, leaving only its head in the womb. An incision is then made in the base of the skull. Finally, with a suction device, the baby's brain matter is suctioned out. The skull collapses, enabling delivery of the dead baby.

I cannot understand how anyone can support this procedure or can support it being legal. There are some I have heard in this debate who say it is hard to believe we are even talking about this question on the floor of the Senate. When I think of other things that have been discussed on the floor of the Senate—for example, endangered species or animal rights—for anyone to say we ought not to be talking about this procedure on the floor of the Senate is hard for me to believe.

The subject of partial-birth abortion is not a new one for me. Four years ago, in 1995, Ohio was the first State to pass a partial-birth abortion ban. The bill prohibited doctors from performing abortions after the 24th week of pregnancy and banned completely the dilation and extraction procedure which we call the partial-birth procedure in this bill. The bill allowed late-term abortions to save the life of the mother. The women seeking abortions after the 21st week of pregnancy were required to undergo tests to determine the viability of the fetus. If the fetus was deemed to be viable, the abortion would be illegal.

The Ohio Senate passed that bill 28-4. The Ohio House passed it 82-15. These were overwhelming vote majorities which included Democrats and Republicans, pro-life and pro-choice legislators. This is not an issue today of Roe v. Wade or pro-life or pro-choice. If it were, the vote in the Ohio Senate and Ohio House would not have been so overwhelming to ban this procedure.

The truth is that most of these abortions are elective. According to Dr. Martin Haskell, to whom the Senator from Pennsylvania has referred, who happens to be from Dayton, OH, about 80 percent are elective. We are talking about 80 percent being elective. We are talking about 80 percent are healthy mothers and healthy babies.

We can all quote different statistics, but the bottom line is that there is no need for this procedure. It is never medically necessary. If a mother really needs an abortion, she has alternatives available to her that are not as torturous as partial-birth abortion.

One of the other main reasons we do not need these late-term abortions is, thanks to technology available today, we can identify problems really early in pregnancy so abortions can take place earlier. We do not need to have that type of procedure. Women today are being encouraged to come in early on, in the first trimester, for the various tests they need, so that if abortion is acceptable to them, they can have an

early abortion while the baby is not viable.

The Senator from California earlier today talked about the OB/GYN doctors who have expressed opposition to this legislation. I think the significant thing about her statement today is the fact that she verified that there are other procedures available besides dilation and extraction. In fact, the Senator indicated doctors were worried about the possibility that these other procedures might be banned by the language in this bill.

So I want to make it clear to those who believe in abortion and have that tremendous decision in terms of whether or not they are going to deliver the baby that there are other procedures available to them. In fact, dilation and extraction are not even taught in medical school.

These babies are humans. They can feel pain. When partial-birth abortions are performed, as the Senator from Pennsylvania said, they are just 3 inches away from life and, for that matter, seconds away.

I urge all of my colleagues in the Senate to stand up against what I refer to as human infanticide. This is not a vote on Roe v. Wade. This is a vote about eliminating a horrible procedure that should be outlawed in this country. I urge my colleagues to vote to ban partial-birth abortion in the United States of America.

The PRESIDING OFFICER. The Senator from Pennsylvania.

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

The PRESIDING OFFICER. Sixteen minutes and about 30 seconds.

Mr. SANTORUM. I yield 8 minutes to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. I thank the Senator from Pennsylvania. And I will not use all that time because just since I have been down here, many of the things I was going to say have already been said.

I think the Senator from Ohio was very specific when he talked about the fact that 80 percent of those abortions using this barbaric, torturous, painful procedure are elective. I could also quote from the American Medical News transcript of 1993 and others, but I think that point has been well made.

I wish everyone could have watched last night, as I did, Senator BILL FRIST, Dr. BILL FRIST, when he talked about it from a medical perspective. I do not think anyone could have watched that and not been very supportive of Senator SANTORUM and everything he is trying to do.

One of the things I do not think has really been answered appropriately is the fact that we keep hearing from the other side that both the National Abortion Federation and the National Abortion Rights Action League, all of these pro-abortion organizations which claim that the anesthesia that is administered to the mother prior to a partial-

birth abortion kills the child and, therefore, the child feels no pain. Norig Ellison, the president of the American Society of Anesthesiologists, unequivocally stated that those claims had "absolutely no basis in scientific fact."

In fact, I think the whole idea of pain really needs to be discussed more. Dr. Robert White, a neurosurgeon at Case Western Reserve University School of Medicine said:

The neuroanatomical pathways which carry the pain impulses are present in fetuses by the 20th week of gestation.

Also, the neurosystems which would modulate and suppress these pain impulses are either not present or immature during this stage of fetal development.

What this means is, if you stop and think how painful this procedure of going into the back of your head and opening the scissors and sucking the brains out would be to you—to anyone who is here on this floor—it could be more painful to the baby because those systems that modulate and suppress the pain are not developed at that stage.

So I look at this in terms of human life. Almost all these faces that are standing up here supporting this technique, if you were to inflict that type of pain on a dog or a cat, they would be protesting in front of your offices.

A minute ago, the Senator from Ohio made some reference to the fact that it is infanticide. I hope the pro-choice people, a lot of people out there who are pro-choice who believe abortion should be an alternative, will listen to the words of Senator PATRICK MOYNIHAN, who is pro-choice. He said: I am pro-choice, but this isn't abortion, this is infanticide.

Lastly, let me just mention to you, I have this picture. This is Jase Rapert. He lives in Arkansas. I have seven grandchildren. He is No. 4. I can remember, and some of you older people can remember, back when our wives had babies, they would not even let you in the hospital, let alone in the delivery room.

When my little Molly, who is now a professor at the University of Arkansas, called me up and said: Daddy, delivery time is here; do you want to come in the delivery room? I did. I was in there for all three of her children. This is a picture of the first one, Jase.

What registered to me at that time was, we have heard a lot of talk about maybe a baby isn't perfect or something. I do not think perfection exists anyway. But in every sense of the word, that is a perfect baby.

If they had made that decision, if my Molly or her husband had made that decision at the time while I was in that room they were delivering this beautiful baby, they could have murdered Baby Jase. That is what is going on in America now. You have to put it in a personal context that we understand, that this can happen to someone we love very much.

Mr. SANTORUM. I yield 8 minutes to the Senator from Missouri.

Mr. ASHCROFT. Mr. President, I thank the Senator from Pennsylvania, Mr. SANTORUM, for his continuing work on this important issue.

I express my strong support for legislation that would ban this unconscionable form of infanticide known as partial-birth abortion. Abortion is a moral and governmental issue of unsurpassed importance. It strikes at the very core of who we are as a people and a nation. It hits our deepest notions of liberty and questions our most fundamental assumptions about life.

For decades, my home State of Missouri has been at the forefront of the abortion debate, and for the last several years, the discourse there has been focused on the procedure being discussed here today—partial-birth abortion, infanticide. While the specific language of S. 1692 is different from the Missouri legislation, the question posed is the same: Are we willing to end a procedure that is so barbaric and extreme as to defy rational, reasoned support? Both Democrat and Republican legislators in Missouri answered, "Yes, we are willing to ban that procedure."

I had the privilege of serving as Missouri Governor. Regrettably, the legislature did not deliver a ban on this barbaric procedure to my desk when I was Governor. Had they done so, I would have signed it enthusiastically. Had that happened, the legislature could now be focused on other pressing problems, such as failing schools in Kansas City or St. Louis or the methamphetamine drug plague in Missouri.

Most Missourians see, as I do, the effort to ban partial-birth abortion as part of a larger commonsense approach, restricting late-term abortions, ending taxpayer funding, and requiring parental consent. These sensible ideas are not about the right of choice. They are about the right of Missouri and America to act in a manner befitting humanity. We are talking about a barbaric procedure that is inhumane. It is not befitting humanity.

Tragically, the Missouri partial-birth infanticide bill was vetoed, despite its overwhelming passage by the bipartisan Missouri General Assembly. Fortunately, both the Democrats and Republicans who fought for the original bill led a successful veto override effort in Missouri. It is an incredible accomplishment that represents only the seventh veto override in Missouri history, the third override this century, the first veto override since 1980.

Banning partial-birth abortion, which is the destruction of a partially born child, requires a historic bipartisan effort here, as it did in Missouri. America must rise above this morally indefensible, cruel procedure. It is cruel to society's most vulnerable members. Missouri's Democrat and Republican legislators got past the obfuscation, the confusion, and the deceptions. It is time for the Senate to do the same.

The defenders of the indefensible are already fast at work. They tell us that

the procedure is necessary to save the life of the mother. The simple truth is, this procedure is never necessary to save and preserve the health of an unborn child's mother. Four specialists in OB/GYN and fetal medicine representing the Physicians' Ad Hoc Coalition for Truth have written:

Contrary to what abortion activists would have us believe, partial-birth abortion is never medically indicated to protect a woman's health or her fertility. In fact, the opposite is true: The procedure can pose a significant and immediate threat to both the pregnant woman's health and fertility.

That quote was from the Wall Street Journal, September 19, 1996.

Nor should we accept the myth that this procedure is rarely utilized. According to interviews conducted by The Record of Bergen County, NJ, physicians in New Jersey alone claim to perform at least 1,500 partial-birth abortions every year—three times the number the National Abortion Federation claimed occurred in the entire country.

Once we have established that the procedure is neither rare nor medically necessary, we will hear from the other side that our law would be unconstitutional. This is just another falsehood. A legislative ban on partial-birth abortions is constitutional. Indeed, allowing this life-taking procedure to continue would be inconsistent with our obligation under the Constitution to protect life.

Although opponents will point to decisions in which activist Federal judges invalidated State-passed bans, language nearly identical to that which is in this bill has also been upheld in the Federal courts. These bans' requirements that the abortionist deliberately and intentionally deliver a living fetus that is then killed implicates the partial-birth procedure. This is not a generalized ban. Judges who have deemed the ban unconstitutionally vague ignored this text and instead have substituted their views in place of the views clearly expressed by the various State legislatures.

I also want to share a word of caution with those claiming that a ban on partial-birth abortions is unconstitutional. If they truly believe that outlawing this procedure is impermissibly vague, the inevitable conclusion people will draw is that infanticide and abortion are indistinguishable. This argument provides little solace to the defenders of this gruesome procedure.

On January 20 of last year, I chaired a committee meeting of the Constitution Subcommittee on the 25th anniversary of Roe v. Wade. In that hearing, we learned much that is relevant to the debate over partial-birth abortion. We looked at how the Supreme Court's decision failed to provide a framework for sound constitutional interpretation or to reflect the reality of modern medical practice. This latter failure is not surprising, since the Court had neither the capacity to evaluate the accuracy of the medical data nor a way to foresee the remark-

able advances in medical science that would make the then-current data obsolete.

From Dr. Jean Wright of the Egleston Children's Hospital at Emory University, we learned at the hearing that the age of viability has been pushed back from 28 weeks to 23 and fewer weeks since Roe v. Wade was decided.

The PRESIDING OFFICER. The Senator's 8 minutes have expired. The Senator is recognized for 2 more minutes.

Mr. ASHCROFT. Surgical advances now allow surgeons to partially remove an unborn child through an incision in the womb, to repair the congenital defect, and slip the previable infant back into the womb. However, I think the most interesting thing we learned at the hearing was that unborn babies can sense pain in just the seventh week of life. These facts should help inform this debate.

For instance, if we know the unborn can feel pain at 7 weeks, why is it such a struggle to convince Senators that stabbing a 6-month, fully developed and partially delivered baby with forceps, and extracting his or her brain is painfully wrong. It should be very easy to convince people that it is painful and that it is wrong.

I realize, however, that not everyone agrees with my view on abortion. Indeed, I recognize the American people remain divided on this issue. Where there is a consensus, we need to move forward to protect life. The measure being discussed today to end the cruel, brutal practice of partial-birth abortion presents such an opportunity where consensus exists. The American people agree that a procedure which takes an unborn child, one able to survive outside the womb, removes it substantially from the womb and then painfully kills it is so cruel, so inhumane, so barbaric as to be intolerable and that it should be illegal. Legislatures in more than 20 States have followed Congress' lead and passed laws outlawing this procedure. Two-thirds of the House of Representatives voted to overturn the President's second veto last year. When this Chamber voted, more than a dozen Democrat Senators joined us in attempting to override the veto. A consensus has formed.

Americans want this gruesome procedure eliminated. They should not be thwarted by the twisted science and moral confusion that has been argued in this Chamber.

The PRESIDING OFFICER. The Senator is recognized for 1 more minute.

Mr. ASHCROFT. Now more than ever we need to pass this legislation to make it clear that human life is too precious to permit legally sanctioned infanticide. As we as a nation confront the terrible violence in our schools, we in Congress need to embrace a culture that celebrates life, not a culture that celebrates convenience. The values at issue are too important to be lost in the legislative shuffle.

We will pass this legislation again this year. If, again, the President vetoes it, despite the debunking of the so-called medical evidence that he used to justify that action in the past, we will continue to vote on this issue of life and death until the voice of the American people is heard and the lives of these unborn children, who are painfully destroyed while they are substantially born, are respected.

I thank the Senator from Pennsylvania.

Mr. SCHUMER. Mr. President, I rise today in support of Senator HARKIN's Sense of the Senate amendment to the partial birth abortion ban. The reason why this amendment is so important is that it really gets to the heart of this debate on the so-called partial birth abortion. The battle is really about chipping away *Roe v. Wade*. Let's not pretend any longer. It's about ultimately denying a woman the right to an abortion, maybe even the right to contraception.

This Sense of the Senate is a "put your money where your mouth is" vote. It calls the Senate on their true motives. This is the beginning of a step by step process to find an abortion procedure that seems awful, to make an inaccurate portrayal about how and why it is used, to draw a ridiculous cartoon and put it on the Senate floor, and to then outlaw the procedure and make doctors into criminals and women into murderers. In fact, the term partial birth abortion is a political slogan, not a medical procedure.

So who knows what the next term will be used to outlaw another type of abortion procedure. Let's be thankful that we have the courts. This legislation has been consistently found unconstitutional by the courts. In 19 different cases, including federal courts, the definition of partial birth abortion used in this bill has been found to be too vague, and to apply to pre and post viability abortions. As a result, this legislation violates the terms of *Roe v. Wade*, the cornerstone of a woman's right to choose in this country. This bill is also unconstitutional because it lacks an exception to protect a woman's health.

The Supreme Court has concluded that woman's health is the physician's paramount concern, and that a physician's discretion to determine the course of treatment must be preserved. But Congress is hardly concerned with physician authority these days. In fact, this bill tries to turn lawmakers into doctors. It would take medical decisions out of the hands of women and their doctors and give it to politicians.

My colleague's amendment underscores our commitment to the terms of *Roe v. Wade*, and emphasizes the right of women to choose will continue to be upheld. If you really believe that the problem is the so-called partial birth abortion, and you are truly sincere that this is not the camel's nose under the tent of undoing *Roe v. Wade*, vote yes on the Harkin amendment. If this

is instead the first step toward making all abortion illegal—as I believe it is—then vote no.

The PRESIDING OFFICER. Who yields time?

Mr. HARKIN. Mr. President, how much time remains on both sides?

The PRESIDING OFFICER. The Senator from California has 6 minutes remaining, and the Senator from Pennsylvania has 1 minute.

Mrs. BOXER. We would like to close the debate. If the Senator will take the minute, we appreciate it.

Mr. SANTORUM. Mr. President, I yield back the remainder of my time.

Mrs. BOXER. I yield the Senator from Iowa 3 minutes.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, I thank my friend and colleague from California, Senator BOXER, for her tremendous leadership on this issue that is so important to women of this country.

I ask unanimous consent that Senator ROBB be added as a cosponsor of my amendment.

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

Mr. HARKIN. Mr. President, once again, the Senator from Pennsylvania said that my amendment is about changing the subject. He also made the point that this bill has nothing to do with *Roe v. Wade*.

Most respectfully, I disagree with my friend from Pennsylvania. Nothing could be further from the truth.

This law does not provide for any protection of a woman's health. Of course, they keep using the term "partial-birth abortion." That is nowhere found in the medical lexicon. That is not a medical term. That is a political pejorative term used to excite and inflame passions. That is all it is. Let's be honest about that. I think if the other side was sincere in wanting to end late-term abortions, they could have supported Senator DURBIN's amendment yesterday, which would have accomplished that.

Finally, in States where they have passed legislation such as the Santorum bill—the underlying bill here—doctors in those States stopped performing all abortions because it was so unclear as to the timeframe. There is no timeframe in this at all. That is why the circuit courts, in all these instances, have struck these laws down as being unconstitutional. A recent case in our circuit upheld a case in Iowa on this law.

So, really, what this vote is about is whether or not the Senate wants to turn back the clock and move back to the pre-*Roe v. Wade* days of back-alley abortions, the days when women committed suicide when they were faced with a desperate choice, the days of women dying or being permanently disfigured from illegal abortions, when women became sterile and could not have children because they had illegally botched abortions.

This vote about to occur is whether the Senate believes that in the most

personal and heart-wrenching decisions the politicians should know what is best, and not the women, their families, and their doctors, and according to their own religious beliefs and faiths. That is what this vote is about. It is about whether or not we believe *Roe v. Wade* was a wise decision and whether or not ought to have their rights to decide their own reproductive health. It has everything to do with the underlying bill.

Mrs. BOXER. Mr. President, I yield myself the remainder of the time.

I thank the Senator from Iowa for his insight in offering this important amendment. I am very hopeful the Senate will go on record as supporting *Roe v. Wade*. I think it may well do just that. That would send a wonderful signal to the families of America that we trust them to make the most personal, private decisions that perhaps they will ever be called on to make.

Once again, I have to say I think some of the language used on the other side of the aisle in this debate has been offensive. I think it has been wrong. I think it has been inflammatory. The Senator from Pennsylvania continues to say those of us who disagree with him, in essence, want to kill children. We are mothers. We have bore children. We are grandmothers. We love the children. So it is highly offensive to hear those words used on the Senate floor.

My colleague says he feels the pain of the families who went through this horrible experience; yet he demeans them. He basically says they don't know what they are talking about when they beg us not to pass this legislation, when they beg us to turn away from this legislation, which makes no exception for the health of a woman.

Again, we are not doctors. We are Senators. When the women of this country need help—and serious help—they don't turn to us. They turn to us for other things, but they don't turn to us to get the help they need. They turn to a physician they trust; they turn to their God, to their families, to their closest friends, and they turn to their conscience. So I hope we will reaffirm *Roe v. Wade* because that is what *Roe v. Wade* says—trust the women, respect them, respect their privacy.

I want to put into the RECORD a statement sent to us by an award-winning actress, Polly Bergen, who came forward to talk about her illegal abortion in the 1940s. She said:

Someone gave me the phone number of a person who did abortions. . . . I borrowed about \$300 from my roommate and went alone to a dirty, run-down bungalow in a dangerous neighborhood in east L.A. A . . . man came to the floor and asked for the money. . . . He told me to take off all of my clothes except for my blouse. . . . I got up on a cold metal kitchen table. He performed a procedure, using something sharp. He didn't give me anything for the pain—he just did it. He said . . . I would be fine.

Well, Polly Bergen was rendered infertile.

Vote for the Harkin amendment. Vote no on the underlying bill.

Mr. SANTORUM. Mr. President, 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. SANTORUM. Mr. President, I move to table amendment No. 2321 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 the amendment No. 2321. The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Arizona (Mr. MCCAIN) is necessarily absent.

The result was announced—yeas 48, nays 51, as follows:

[Rollcall Vote No. 336 Leg.]

YEAS—48

Abraham	Fitzgerald	Mack
Allard	Frist	McConnell
Ashcroft	Gorton	Murkowski
Bennett	Gramm	Nickles
Bond	Grams	Reid
Breaux	Grassley	Roberts
Brownback	Gregg	Roth
Bunning	Hagel	Santorum
Burns	Hatch	Sessions
Cochran	Helms	Shelby
Coverdell	Hutchinson	Smith (NH)
Craig	Hutchison	Smith (OR)
Crapo	Inhofe	Thomas
DeWine	Kyl	Thompson
Domenici	Lott	Thurmond
Enzi	Lugar	Voinovich

NAYS—51

Akaka	Edwards	Lieberman
Baucus	Feingold	Lincoln
Bayh	Feinstein	Mikulski
Biden	Graham	Moynihan
Bingaman	Harkin	Murray
Boxer	Hollings	Reed
Bryan	Inouye	Robb
Byrd	Jeffords	Rockefeller
Campbell	Johnson	Sarbanes
Chafee	Kennedy	Schumer
Cleland	Kerrey	Snowe
Collins	Kerry	Specter
Conrad	Kohl	Stevens
Daschle	Landrieu	Torricelli
Dodd	Lautenberg	Warner
Dorgan	Leahy	Wellstone
Durbin	Levin	Wyden

NOT VOTING—1

McCain

The motion was rejected.

Mr. BYRD. Mr. President, earlier today I voted against tabling a sense of the Congress amendment proposed by Senator HARKIN regarding the Supreme Court's 1973 decision in the case of *Roe v. Wade*. Because that vote was, to the best of my recollection, the first time the Senate has directly and specifically addressed the issue of the Court's ruling, I wish to take a few moments to explain my position for the benefit of my constituents in West Virginia.

First, despite the fact that I supported the Harkin amendment, I reiterate that I am, as I always have been, personally opposed to abortion, with few exceptions—such as when the life of the woman would be endangered, or in cases of incest or rape, when promptly reported.

However, the reality of the situation is that the decision of the Supreme Court in *Roe v. Wade* is the law of the land. No matter what I think personally of the procedure in question, I accept the fact that the Court, in a 7-to-2 ruling, has definitively spoken on this matter. Accordingly, I felt it was appropriate to support the language of the Harkin amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been ordered.

The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, I ask unanimous consent there be a vote on the Harkin amendment at 2 o'clock.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

WORK INCENTIVES IMPROVEMENT ACT OF 1999

Mr. SANTORUM. Mr. President, I ask unanimous consent the Senate now proceed to the consideration of H.R. 1180, the work incentives bill. I further ask consent that all after the enacting clause be stricken and the text of S. 331, as passed by the Senate, be inserted in lieu thereof. I further ask the bill be read a third time and passed, the motion to reconsider be laid upon the table, the Senate then insist upon its amendment, and request a conference with the House.

I further ask consent that nothing in this agreement shall alter the provisions of the consent agreement on June 14, 1999, relating to S. 331.

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

The bill (H.R. 1180), as amended, was read the third time and passed.

(The text of S. 331 is printed in the CONGRESSIONAL RECORD of June 16, 1999.)

Mr. SANTORUM. Mr. President, I ask unanimous consent the Chair be authorized to appoint conferees on the part of the Senate.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. Reserving the right to object. I reserve the right to object, Mr. President.

The PRESIDING OFFICER. The Senator reserves the right to object.

Mr. KENNEDY. If the Senator from Pennsylvania is the acting leader, could he give us some indication of when we will go to conference on that legislation? It is the most important piece of legislation affecting the dis-

abled in this country. We have passed the legislation 99-0. It has been in the House of Representatives for several months. I hope at the time we are announcing we are going to appoint conferees, we would have at least some indication from the leadership as to when we are going to get to conference. I know millions of disabled Americans across this country will want to know what the intention of the leadership is on this legislation.

Can the Senator give us some idea?

Mr. SANTORUM. I say to the Senator from Massachusetts, first, I think this bill we are considering right now has a far greater impact on people with disabilities to come than this piece of legislation. But that being said, I am just doing this on behalf of the leader. I have not conferred with the leader as to what his plans are, so I am unable to answer the Senator's question.

Mr. KENNEDY. Further reserving the right to object, and I will not at this time, I think this legislation is of enormous importance. We are very hopeful we will get an early conference on it and we will get a favorable resolution. This has passed 99-0 in our body. It is a good bill that came out of the House. It is legislation we ought to complete before we adjourn.

I have no objection.

There being no objection, the Presiding Officer (Mr. HAGEL) appointed Mr. ROTH, Mr. LOTT, and Mr. MOYNIHAN conferees on the part of the Senate.

PARTIAL-BIRTH ABORTION BAN ACT OF 1999—Continued

Mr. BROWNBACK. Mr. President, I submit for the RECORD a speech given by Mother Teresa. I think it is quite germane to this debate we are having on partial-birth abortion. It is piercing in its view of the truth. It is piercing in its view of the issue of abortion. It is quite clear. I think it is full of great wisdom.

I ask unanimous consent it be printed in the RECORD.

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

THIS GIFT OF PEACE—SMILE AT EACH OTHER

(By Mother Teresa)

As we have gathered here together to thank God for the Nobel Peace Prize, I think it will be beautiful that we pray the prayer of St. Francis of Assisi which always surprises me very much—we pray this prayer every day after Holy Communion, because it is very fitting for each one of us, and I always wonder that 4-500 years ago as St. Francis of Assisi composed this prayer that they had the same difficulties that we have today, as we compose this prayer that fits very nicely for us also. I think some of you already have got it—so we will pray together.

Let us thank God for the opportunity that we all have together today, for this gift of peace that reminds us that we have been created to live that peace, and Jesus became man to bring that good news to the poor. He being God became man in all things like us except sin, and he proclaimed very clearly that he had come to give the good news. The

news was peace to all of good will and this is something that we all want—the peace of heart—and God loved the world so much that he gave his son—it was a giving—it is as much as if to say it hurt God to give, because he loved the world so much that he gave his son, and he gave him to Virgin Mary, and what did she do with him?

As soon as he came in her life—immediately she went in haste to give that good news, and as she came into the house of her cousin, the child—the unborn child—the child in the womb of Elizabeth, lit with joy. He was that little unborn child, was the first messenger of peace. He recognized the Prince of Peace, he recognized that Christ has come to bring the good news for you and for me. And as if that was not enough—it was not enough to become a man—he died on the cross to show that greater love, and he died for you and for me and for that leper and for that man dying of hunger and that naked person lying in the street not only of Calcutta, but of Africa, and New York, and London, and Oslo—and insisted that we love one another as he loves each one of us. And we read that in the Gospel very clearly—love as I have loved you—as I love you—as the Father has loved me, I love you—and the harder the Father loved him, he gave him to us, and how much we love one another, we, too, must give each other until it hurts. It is not enough for us to say: I love God, but I do not love my neighbour. St. John says you are a liar if you say you love God and you don't love your neighbour. How can you love God whom you do not see, if you do not love your neighbour whom you see, whom you touch, with whom you live. And so this is very important for us to realize that love, to be true, has to hurt. It hurt Jesus to love us, it hurt him. And to make sure we remember his great love he made himself bread of life to satisfy our hunger for his love. Our hunger for God, because we have been created for that love. We have been created in his image. We have been created to love and be loved, and then he has become man to make it possible for us to love as he loved us. He makes himself the hungry one—the naked one—the homeless one—the sick one—the one in prison—the lonely one—the unwanted one—and he says: You did it to me. Hungry for our love, and this is the hunger of our poor people. This is the hunger that you and I must find, it may be in our own home.

I never forget an opportunity I had in visiting a home where they had all these old parents of sons and daughters who had just put them in an institution and forgotten maybe. And I went there, and I saw in that home they had everything, beautiful things, but everybody was looking toward the door. And I did not see a single one with their smile on their face. And I turned to the sister and I asked: How is that? How is it that the people they have everything here, why are they all looking toward the door, why are they not smiling? I am so used to see the smile on our people, even the dying ones smile, and she said: This is nearly every day, they are expecting, they are hoping that a son or daughter will come to visit them. They are hurt because they are forgotten, and see—this is where love comes. That poverty comes right there in our own home, even neglect to love. Maybe in our own family we have somebody who is feeling lonely, who is feeling sick, who is feeling worried, and these are difficult days for everybody. Are we there, are we there to receive them, is the mother there to receive the child?

I was surprised in the waste to see so many young boys and girls given into drugs, and I tried to find out why—why is it like that, and the answer was: Because there is no one in the family to receive them. Father and mother are so busy they have no time.

Young parents are in some institution and the child takes back to the street and gets involved in something. We are talking of peace. These are things that break peace, but I feel the greatest destroyer of peace today is abortion, because it is a direct war, a direct killing—direct murder by the mother herself. And we read in the Scripture, for God says very clearly. Even if a mother could forget her child—I will not forget you—I have curved you in the palm of my hand. We are curved in the palm of His hand so close to Him that unborn child has been curved in the hand of God. And that is what strikes me most, the beginning of that sentence, that even if a mother could forget something impossible—but even if she could forget—I will not forget you. And today the greatest means—the greatest destroyer of peace is abortion. And we who are standing here—our parents wanted us. We would not be here if our parents would do that to us. Our children, we want them, we love them, but what of the millions. Many people are very, very concerned with the children in India, with the children of Africa where quite a number die, maybe of malnutrition, of hunger and so on, but millions are dying deliberately by the will of the mother. And this is what is the greatest destroyer of peace today. Because if a mother can kill her own child—what is left for me to kill you and you to kill me—there is nothing between. And this I appeal in India, I appeal everywhere: Let us bring the child back, and this year being the child's year: What have we done for the child? At the beginning of the year I told, I spoke everywhere and I said: Let us make this year that we make every single child born, and unborn, wanted. And today is the end of the year, have we really made the children wanted? I will give you something terrifying. We are fighting abortion by adoption, we have saved thousands of lives, we have sent words to all the clinics, to the hospitals, police stations—please don't destroy the child, we will take the child. So every hour of the day and night it is always somebody, we have quite a number of unwedded mothers—tell them come, we will take care of you, we will take the child from you, and we will get a home for the child. And we have a tremendous demand for families who have no children, that is the blessing of God for us. And also, we are doing another thing which is very beautiful—we are teaching our beggars, our leprosy patients, our slum dwellers, our people of the street, natural family planning.

And in Calcutta alone in six years—it is all in Calcutta—we have had 61,273 babies less from the families who would have had, but because they practice this natural way of abstaining, of self-control, out of love for each other. We teach them the temperature meter which is very beautiful, very simple, and our poor people understand. And you know what they have told me? Our family is healthy, our family is united, and we can have a baby whenever we want. So clear—these people in the street, those beggars—and I think that if our people can do like that how much more you and all the others who can know the ways and means without destroying the life that God has created in us. The poor people are very great people. They can teach us so many beautiful things. The other day one of them came to thank and said: You people who have evolved chastity you are the best people to teach us family planning. Because it is nothing more than self-control out of love for each other. And I think they said a beautiful sentence. And these are people who maybe have nothing to eat, maybe they have not a home where to live, but they are great people. The poor are very wonderful people. One evening we went out and we picked up four people from the street. And one of them

was in a most terrible condition—and I told the sisters: You take care of the other three, I take of this one that looked worse. So I did for her all that my love can do. I put her in bed, and there was such a beautiful smile on her face. She took hold of my hand, as she said one word only: Thank you—and she died.

I could not help but examine my conscience before her, and I asked what would I say if I was in her place. And my answer was very simple. I would have tried to draw a little attention to myself, I would have said I am hungry, that I am dying, I am cold, I am in pain, or something, but she gave me much more—she gave me her grateful love. And she died with a smile on her face. As that man whom we picked up from the drain, half eaten with worms, and we brought him to the home. I have lived like an animal in the street, but I am going to die like an angel, loved and cared for. And it was so wonderful to see the greatness of that man who could speak like that, who could die like that without blaming anybody, without cursing anybody, without comparing anything. Like an angel—this is the greatness of our people. And that is why we believe what Jesus has said: I was hungry—I was naked—I was homeless—I was unwanted, unloved, uncared for—and you did it to me. I believe that we are not real social workers. We may be doing social work in the eyes of the people, but we are really contemplatives in the heart of the world. For we are touching the body of Christ 24 hours. We have 24 hours in this presence, and so you and I. You too try to bring that presence of God in your family, for the family that prays together stays together. And I think that we in our family we don't need bombs and guns, to destroy to bring peace—just get together, love one another, bring that peace, that joy, that strength of presence of each other in the home. And we will be able to overcome all the evil that is in the world. There is so much suffering, so much hatred, so much misery, and we with our prayer, with our sacrifice are beginning at home. Love begins at home, and it is not how much we do, but how much love we put in the action that we do. It is to God Almighty—how much we do it does not matter, because He is infinite, but how much love we put in that action. How much we do to Him in the person that we are serving. Some time ago in Calcutta we had great difficulty in getting sugar, and I don't know how the word got around to the children, and a little boy of four years old, Hindu boy, went home and told his parents: I will not eat sugar for three days, I will give my sugar to Mother Teresa for her children. After three days his father and mother brought him to our house. I had never met them before, and this little one could scarcely pronounce my name, but he knew exactly what he had come to do. He knew that he wanted to share his love. And this is why I have received such a lot of love from you all. From the time that I have come here I have simply been surrounded with love, and with real, real understanding love. It could feel as if everyone in India, everyone in Africa is somebody very special to you. And I felt quite at home I was telling Sister today. I feel in the Convent with the Sisters as if I am in Calcutta with my own Sisters. So completely at home here, right here. And so here I am talking with you—I want you to find the poor here, right in your own home first. And begin love there. Be that good news to your own people. And find out about your next-door neighbor—do you know who they are? I had the most extraordinary experience with a Hindu family who had eight children. A gentleman came to our house and said: Mother Teresa, there is a family with eight children, they had not eaten for so

long—do something. So I took some rice and I went there immediately. And I saw the children—their eyes shining with hunger—I don't know if you have ever seen hunger. But I have seen it very often. And she took the rice, and divided the rice, and she went out. When she came back I asked her—where did you go, what did you do? And she gave me a very simple answer: They are hungry also. What struck me most was that she knew—and who are they, a Muslim family—and she knew. I didn't bring more rice that evening because I wanted them to enjoy the joy of sharing. But there was those children, radiating joy, sharing the joy with their mother because she had the love to give. And you see this is where love begins—at home. And I want you—and I am very grateful for what I have received. It has been a tremendous experience and I go back to India—I will be back by next week, the 15th I hope—and I will be able to bring your love.

And I know well that you have not given from your abundance, but you have given until it hurts you. Today the little children they gave—I was so surprised—there is so much joy for the children that are hungry. That the children like themselves will need love and care and tenderness, like they get so much from their parents. So let us thank God that we have had this opportunity to come to know each other, and this knowledge of each other has brought us very close. And we will be able to help not only the children of India and Africa, but will be able to help the children of the whole world, because as you know our Sisters are all over the world. And with this Prize that I have received as a Prize of Peace, I am going to try to make the home for many people that have no home. Because I believe that love begins at home, and if we can create a home for the poor—I think that more and more love will spread. And we will be able through this understanding love to bring peace, be the good news to the poor. The poor in our own family first, in our country and in the world. To be able to do this, our Sisters, our lives have to be woven with prayer. They have to be woven with Christ to be able to understand, to be able to share. Because today there is so much suffering—and I feel that the passion of Christ is being relived all over again—are we there to share that passion, to share that suffering of people. Around the world, not only in the poor countries, but I found the poverty of the West so much more difficult to remove. When I pick up a person from the street, hungry, I give him a plate of rice, a piece of bread, I have satisfied. I have removed that hunger. But a person that is shut out, that feels unwanted, unloved, terrified, the person that has been thrown out from society—that poverty is so hurtful and so much, and I find that very difficult. Our Sisters are working amongst that kind of people in the West. So you must pray for us that we may be able to be that good news, but we cannot do that without you, you have to do that here in your country. You must come to know the poor, maybe our people here have material things, everything, but I think that if we all look into our own homes, how difficult we find it sometimes to smile at each other, and that the smile is the beginning of love. And so let us always meet each other with a smile, for the smile is the beginning of love, and once we begin to love each other naturally we want to do something. So you pray for our Sisters and for me and for our Brothers, and for our co-workers that are around the world. That we may remain faithful to the gift of God, to love Him and serve Him in the poor together with you. What we have done we would not have been able to do if you did not share with your prayers, with your gifts, this continual giving. But I don't want you to give me from your abundance, I

want that you give me until it hurts. The other day I received 15 dollars from a man who has been on his back for twenty years, and the only part that he can move is his right hand. And the only companion that he enjoys is smoking. And he said to me: I do not smoke for one week, and I send you this money. It must have been a terrible sacrifice for him, but see how beautiful, how he shared, and with that money I bought bread and I gave to those who are hungry with a joy on both sides, he was giving and the poor were receiving. This is something that you and I—it is a gift of God to us to be able to share our love with others. And let it be as it was for Jesus. Let us love one another as he loved us. Let us love Him with undivided love. And the joy of loving Him and each other—let us give now—that Christmas is coming so close. Let us keep that joy of loving Jesus in our hearts. And share that joy with all that we come in touch with. And that radiating joy is real, for we have no reason not to be happy because we have Christ with us. Christ in our hearts, Christ in the poor that we meet, Christ in the smile that we give and the smile that we receive. Let us make that one point: That no child will be unwanted, and also that we meet each other always with a smile, especially when it is difficult to smile.

I never forget some time ago about 14 professors came from the United States from different universities. And they came to Calcutta to our house. Then we were talking about home for the dying in Calcutta, where we have picked up more than 36,000 people only from the streets of Calcutta, and out of that big number more than 18,000 have died a beautiful death. They have just gone home to God; and they came to our house and we talked of love, of compassion, and then one of them asked me: Say, Mother, please tell us something that we will remember, and I said to them: Smile at each other, make time for each other in your family. Smile at each other. And then another one asked me: Are you married, and I said: Yes, and I find it sometimes very difficult to smile at Jesus because he can be very demanding sometimes. This is really something true, and there is where love comes—when it is demanding, and yet we can give it to Him with joy. Just as I have said today, I have said that if I don't go to Heaven for anything else I will be going to Heaven for all the publicity because it has purified me and sacrificed me and made me really something ready to go to Heaven. I think that this is something, that we must live life beautifully, we have Jesus with us and He loves us. If we could only remember that God loves me, and I have an opportunity to love others as He loves me, not in big things, but in small things with great love, then Norway becomes a nest of love. And how beautiful it will be that from here a centre for peace of war has been given. That from here the joy of life of the unborn child comes out. If you become a burning light in the world of peace, then really the Nobel Peace Prize is a gift of the Norwegian people. God bless you!

Mr. BROWNBACK. Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SANTORUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. SANTORUM. Mr. President, I ask unanimous consent that the pend-

ing amendment be set aside. Obviously, we have a vote locked in at 2 o'clock. I ask unanimous consent that it be set aside.

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

Mr. SANTORUM. Mr. President, what I want to do is give an opportunity for other Senators who have amendments to come to the floor and offer their amendments during this time so we can move forward on the bill, with the expectation we can finish the bill sometime today.

Also, if any Senator has a statement on either side of the issue, this is a good opportunity to come down and make their statement about the bill or about any amendment that has been offered to date. I hope we will use this time fruitfully and not delay the Senate any further in acting upon this very important measure.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. Mr. President, does the Senator from Pennsylvania intend to stay on the floor for a while?

Mr. SANTORUM. For another 10 minutes, and then I am going to be gone.

Mr. KERREY. I have to leave as well. I have come a couple times trying to engage in a colloquy on this piece of legislation. I thought now would be the time to take a few minutes to do so.

I support a woman's right to choose. I voted yes on Medicaid funding. I think it is critical for me to support a woman's right to choose for those people who cannot afford it. I supported Federal employees' rights to use health insurance, and I supported rights of people in the armed services to reproductive services. I think I voted five times against your legislation or something to that extent, and a couple times to sustain the President's veto.

I want people on both sides of the aisle to understand this procedure deeply troubles me. I am not certain how I am going to vote this time around. I indicated to people in Nebraska that I am listening to their concerns about this procedure.

I state at the beginning this is a very difficult issue because very often we do not have a chance to debate and talk about it in a personal way, as in the way the Senator from Pennsylvania did last evening. I caught about the last 30 minutes of the presentation. It is a very moving and personal presentation the Senator makes, and oftentimes we just do not get that. We lock in our positions early on in our political careers and are told by our political consultants: You cannot change your position or modify your position in any way—especially in my case; I am coming up on an election—you are doing it for political reasons, so forth, your supporters get bitterly disappointed, on and on and all that political advice.

I have, in my case, to ignore that. I find this to be very much about what kind of a country we want to be, and it is a very serious debate. I do not know

that we have time, I say to the Senator from Pennsylvania, today or right now to do it, but at some point, even when the Senator from California is down here, I want to talk about this question of medical necessity because for me it turns on that. If this procedure is not medically necessary, then your legislation is not an undue burden upon anyone who chooses to undergo an abortion. It is not an undue burden. If it is medically necessary, then it can be an undue burden. That is where it gets in a hurry for me as I consider this.

I have talked to people in Nebraska about this, both for and against. It is very difficult for anybody, once they consider what this procedure is, to say: Gosh, that's good; it doesn't bother me; I am not concerned about it. Almost unanimously people say there is something about this that just does not seem right.

I wonder if the Senator can talk for a bit—I do not want to drag him too long into this discussion—about this issue of medical necessity. I will announce ahead of time for the staff, for the Senator from California, I will give her an opportunity, as well, to describe why she believes this is medically necessary. I have heard the Senator from Pennsylvania say it is not. I appreciate very much an opportunity to hear directly from him.

Mr. SANTORUM. Mr. President, first off, I thank the Senator very much for his interest in an honest and open debate. I agree, this is one of the critical issues we have to address, and the courts have confronted this question of undue burden.

Underlying that are two issues; one is the center point: Is this medically necessary. Second, are there alternatives to this procedure so as not to have an undue burden.

That gets into a couple issues. Let me address the medical necessity issue.

I will present the evidence as best I can that supports, we believe, the fact that this is not medically necessary. We have, of course, the AMA which said it is not medically necessary. That is the American Medical Association. They have said in a letter and stand by it that this procedure is not medically necessary.

We have C. Everett Koop, obviously someone who has a tremendous amount of respect in this country, who has written directly this is not medically necessary.

We have an organization of 600—actually more than 600—obstetricians and gynecologists, many of them members of the American College of Obstetrics and Gynecology, many of them fellows, who have written without any hesitation this procedure is not medically necessary and is, in fact, dangerous to the health of the mother. They go one step further: It is never medically preferable, not only medically necessary.

On the other side of the issue—and I am trying to present it, and I know the Senator from California will present her side—what is used is the American

College of Obstetrics and Gynecology policy statement on the issue. Several years ago, they put together a select panel, and the select panel reviewed the procedure to determine whether there were cases in which it was medically necessary to perform this procedure. They came forward with a statement. This is what their statement said:

[We] could identify no circumstances under which this procedure . . . would be the only option to save the life or preserve the health of the woman . . .

They went on to say—and this is where the Senator from California will come in and say, see, that is not the whole story, so I will go on. It says:

An intact D&X—

Partial-birth abortion—

however, may—

May—

be the best or most appropriate procedure in a particular circumstance to save the life or preserve the health of a woman, and only the doctor, in consultation with the patient, based upon the woman's particular circumstances can make this decision.

We have asked the American College of Obstetrics and Gynecology to provide us an example of where this procedure may be the best procedure because what they say is it "may." For 3 years we have asked them to provide us a factual situation where, in fact, this "may" would come into play, and they have not done so.

In fact, we have letters, and I would be happy to share them with you; there are dozens—in fact, there is a whole stack—from obstetricians and gynecologists throughout America who take issue with this statement, saying there are no circumstances where this would be the most appropriate procedure.

Dr. FRIST addressed that issue last night. He went through the medical literature and talked about it. I have asked him to come over, if he can, because I think, as a physician, as a surgeon, he may be better to answer this question than me.

Mr. KERREY. I appreciate that very much.

Mr. President, I expect, after lunch, to come back. I hope there is an opportunity to engage in this kind of colloquy.

I will give you an example. There was a woman who approached me and said: Senator, there are times when a woman gets an abortion where she would prefer not to. She has gone in for delivery—that is the situation this woman described to me. She went in to deliver a baby. She went in and delivered prematurely, and the doctor had to make a decision and chose, she thought, this procedure—I don't know precisely; I don't have the documentation on this—but thought the doctor chose this procedure and was worried that if this procedure was not available, the doctor might not have been able to save her life.

I presume the Senator has a response to that. This is not a unique situation.

In other words, this is not a woman who has chosen to have an abortion. She wanted to have the baby. She wanted to deliver the baby.

Mr. SANTORUM. She was in the process of delivery, and they had to do something?

Mr. KERREY. That is correct.

Mr. SANTORUM. Two comments.

First of all, the definition of "partial-birth abortion" is very clear. It requires an intent to do an abortion. So if you were going in, and you were having a delivery, and the delivery is breech, for example, that would not be covered under this. It is very clear. There is no court in the land, that has reviewed this, that has suggested that anyone who is in the process of delivering a child for the purpose of a live birth is covered under this definition because you have to have the intent to have an abortion. If there is no such intent, then you are not covered under the act.

Mr. KERREY. Has the Senator examined the Eighth Circuit decision that overturned it?

Mr. SANTORUM. I have.

Mr. KERREY. Can we speak to that later? I don't want to keep you any longer. You were kind enough to stick around a few minutes. I need to leave for a luncheon, as well. Perhaps we can speak later this afternoon.

Mr. SANTORUM. Yes, I would be happy to. In fact, I shared with the Senator from Nebraska yesterday an amendment to the bill that I think directly is on point with what the Eighth Circuit decision had concern with, which is the vagueness of the definition, that it could cover more than one abortion. I think this refinement of the definition makes it crystal clear that we are only talking about this one procedure.

As I said to the Senator from California, Mrs. FEINSTEIN, when she was going through the Eighth Circuit decision earlier, the Eighth Circuit said our problem with this is it includes too much. Obviously, if you take the logic of that, they would probably not have a problem if it did not include too much.

Mr. KERREY. The language you showed me earlier to modify your amendment was to respond to the Eighth Circuit?

Mr. SANTORUM. That is correct.

Mr. KERREY. Mr. President, I accomplished at least the objective of letting people know that: Please, don't put me in the "no column" on this immediately. I indicated the last time this thing was around that I have significant reservations about it. I have listened to people and talked to people, especially at home, and under no circumstances do I—I was Governor for 4 years and have been a Senator for 10 years. The worst thing is to be locked into a position from which people say you can't change, even if you acquire evidence that your previous position is wrong.

So I want both the Senator from Pennsylvania and especially the people

in Nebraska to understand that I am looking at it. If I conclude I was wrong the other time, I will vote differently this time.

Mr. SANTORUM. I thank the Senator from Nebraska for his openmindedness on this. From my perspective, in looking at his career, it comports very well with his previous practice. I appreciate the opportunity to converse with the Senator.

I might just say, this is the kind of dialog I think we need to have on the Senate floor when it comes to this issue. Let's get to the material facts that are before us, and let's have an enlightened discussion about what underpins this case.

Dr. FRIST is here. If the Senator would care to add to this colloquy, I would certainly appreciate his comments.

Mr. FRIST. Mr. President, it is interesting. I believe much of the discussion centers on the fact of this being a particular procedure; that is, as I have said on the floor of the Senate, this particular procedure, as described, is a subset of many other types of procedures of abortion.

As I talk to physicians and surgeons, which I do on a regular basis—because, as I said, I am not an obstetrician, I am a surgeon who is trained in looking at surgical techniques—this is a specific technique which is a subset of a much larger armamentarium. This is where much of the confusion is. It is confusing to many physicians. Physicians today have this great fear that by prohibiting a single procedure, in some way that is going to be expanded to eliminate the much larger armamentarium of tools used.

That is what we have to be very careful of. We are talking about a very specific procedure that has been described. We do not need to go through the details now. There are other procedures that are in a broader arena called D&E and all these more medical terms it is not worth getting into.

But it is important for people to understand this is a very specific type of procedure that is different, that is on the fringe; that does not mean the other procedures can't and in certain cases shouldn't be used.

Mr. KERREY. If the Senator will yield for a question in this regard.

Mr. FRIST. Yes.

Mr. KERREY. This bill, then, is inaccurately characterized as a late-term abortion bill? It is not? I have had people ask me about it: Are you going to support the partial-birth abortion bill because it is going to end this procedure, late-term procedure? This is a bill that would make illegal a specific medical procedure?

Mr. FRIST. That is exactly right.

Mr. KERREY. The second part, is there precedent for us to do this sort of thing?

Mr. FRIST. No, there is not, or to my mind, there is not. You can find certain examples, because we are talking about life, and other places that the Senate has intervened.

The real concern among physicians, which I think is very accurate, is you are taking a specific procedure and taking it off the table. And the question is, Why?

The other big concern is, is this a slippery slope? Does this mean the Congress is going to come in and take another procedure and another procedure to accomplish a goal with some hidden agenda of eliminating all abortions for everybody under all circumstances at a certain point in life? It is not.

In is this unusual nature of being a specific procedure that is what is hard for the American people to understand and physicians to understand and our colleagues to understand. This basically takes a procedure, which is one of many, at any point—really 22 weeks and later—and eliminating it because of the brutality, the inhumaneness, the way it is performed, the risk, the unstudied risk of the safety of the mother, and the damage to the fetus, which during that period, I would argue, does feel pain.

Mr. KERREY. I thank the Senator.

Mr. FRIST. Thank you.

Let me move to something that I commented on very briefly, and that is this whole concept of a slippery slope. I have talked to a number of physicians in the last several days. Their concern is exactly as I implied. We have the Congress coming in and taking a procedure—and none of the physicians I have talked to have tried to justify this procedure in any way—but the great fear is that you take this procedure, and the Congress will come back a year from now, or 2 years from now or 3 years from now, and ban other very specific procedures.

I struggled with this a great deal because I do not want to see the Federal Government coming in to that decision making capacity. I struggled with it night and day. I struggled with it since we last debated this on the floor. But ultimately, I come back to the fact that women are being hurt by a specific procedure; thus, we have a public responsibility, as being trustees to the American people, since there are women being hurt by a procedure, which is unnecessary today, that continues to be performed on the fringe, out of the mainstream, that we do have a public obligation to reach out and prohibit that specific procedure.

I described in some detail last night the out-of-mainstream whole fringe nature of this procedure. Again, I think it is very important for people to understand this is a fringe procedure.

Then people will come and say: If it's such a fringe procedure, why do you say we need to go so far as to have the Federal Government become involved?

Again, it comes back to the fact that being a fringe procedure, the safety, the efficacy of this procedure has not been discussed.

As a surgeon, as someone who has spent his entire adult life, or 20 years of his life, studying surgical procedures, studying the indications for op-

eration, the techniques of operation, the potential complications of operation, the risks of operation, and the outcome of operation, none of that—none of that—has been studied by the medical profession for partial-birth abortion, which involves the rotation of the fetus in utero, pulling out most of the fetus, inserting scissors into the base of the cranium of the skull, expansion of those scissors, and evacuation of the brain. It has not been studied.

I have also mentioned I wanted to see what our medical students are learning. Therefore, over the last several days, I reviewed 17 different textbooks. In fact, they are sitting in my office. I thought about bringing a couple and putting them on the desk. In 17 of those textbooks, not once is that procedure described. Not once are the indications for that procedure there. Not once is there any discussion of the risk of the complications or of the outcome.

I challenge my colleagues and others: Where else would we allow a procedure which we know has complications? They have been outlined on the floor. We know there is hemorrhage or bleeding, or perforation of the uterus by a blind manipulation. We know there is a rupture of the uterus. The list goes on in terms of the complications of the procedure. But where else in medicine today do we actually allow a procedure to be performed that we know hurts people, that is on the fringe, which has not been studied by the medical profession? There are no trials. There are no publications in peer review journals. Of the thousands and thousands of peer review articles out there, the thousands in obstetrics each year, this procedure has not been studied. We have an option. We have alternatives in each and every case.

It is interesting because a number of people have called around and talked to their own medical schools trying to gather more information. They will call me afterwards and say: Senator FRIST, or Dr. FRIST, I just talked to the obstetrician back home and he says that abortions are indicated at certain points, in his or her mind. Therefore, to outlaw this procedure would mean no abortions will be performed in that middle or late trimester. You could argue, depending on your moral beliefs or medical beliefs, whether or not that should be the case, but that is not what is under discussion today.

What is under discussion is the elimination of a specific procedure for which there are alternatives; a specific procedure I argue not only offends the basic civil sensibilities of all Americans but is inhumane to the fetus and hurts and damages and threatens the health of women.

I was talking to an obstetrician yesterday at one of the very esteemed medical centers. I basically asked, do you teach this procedure. I have not talked to anybody yet—I know it is not in the literature—who teaches this procedure in an established surgical residency training program. That is the

program where we train the board certified obstetricians.

There might be some abortionists who are not board certified, who have not gone through board programs. It is important for people to know you can perform abortions, you can actually do surgery without being board certified. You don't have to go through the certification process. Yes, there are people performing this procedure, but if you go to the established licensing, credentialing bodies, you won't find this procedure being taught.

Are abortions being taught? It depends on which medical school you are attending. It depends on which residency training program. One person I was talking to yesterday said: No, at our hospital, as part of our program, we don't go in and teach midtrimester abortions. We don't teach the procedures. If you voluntarily come forward, yes, we will teach abortion. But we will not teach the partial-birth abortion, which involves manipulation within the uterus, blind extraction of 90, 95 percent of the fetus, and opening the cranium with scissors bluntly and evacuation of the brain. We teach abortion voluntarily, but we do not actually teach the partial-birth abortion.

Therefore, when my colleagues talk to people, be very specific that this procedure, the partial-birth abortion procedure as described on the floor of the Senate, is the procedure that is under discussion.

To summarize, this is a fringe procedure. It is outside of the mainstream. It is not studied or taught in our medical schools. Of the 17 textbooks I reviewed last night, I did find one reference, after looking through all 17 books, to partial-birth abortion. It had nothing to do with technique. It had nothing to do with complications. It had nothing to do with outcome. The only mention was one paragraph in this particular textbook. It mentioned the veto by the President of the United States.

There are alternatives to this inhumane, barbaric procedure. Thus, I continue to support the Senator from Pennsylvania in prohibiting this procedure and its practice.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SMITH of New Hampshire. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BUNNING). Without objection, it is so ordered.

Mr. SMITH of New Hampshire. Mr. President, it is my intention at some point later on in the proceedings of the debate on this partial-birth abortion ban bill to offer an amendment that would bring some sunshine and light into the abortion industry in terms of disclosure.

As I indicated last night in a rather lengthy presentation on the Senate

floor, the sale of fetal body parts is illegal. Ironically, President Clinton himself signed the legislation banning that. Yet it is taking place in America. I think we need to look into this matter in great detail.

The purpose of my amendment is to provide that we have disclosure so we know who is selling, who is buying, what is being sold, and whether or not laws are being violated.

As many of you know, several years ago, in 1994 and 1995, I took to the floor of the Senate on this legislation. As a matter of fact, I wrote the original partial-birth abortion ban bill. I took a lot of heat for it. I received a lot of attacks from the media, a lot of attacks from some colleagues, and certainly from the abortion industry.

President Clinton came to my State and campaigned against me in my reelection efforts, as did Vice President GORE and Mrs. Clinton. They had a regular celebrity group up there making pretty much of a big deal out of the fact that I had been this "extremist" who stood on the Senate floor and exposed partial-birth abortion. I didn't even know it existed 6 years ago.

The interesting thing to me is, why is it that those of us who are opposed to this barbaric procedure are "extremists" and those who perform it are not? They are "thoughtful liberals," I guess. It is amazing what we can do with semantics and, with a little disingenuous discussion, how we can change the debate in this country.

Senator SANTORUM and others have talked extensively on what happens in a partial-birth abortion. I am not going to go into all of that. But I will say this: It is infanticide. It is killing children in some cases outside of the womb.

We have a child who is 90-percent born but for the head, and under the so-called Roe v. Wade law, unfortunately, that child, because the head has not come through the birth canal, can be killed by using a barbaric means of needle and sucking the brains from the child. It is a horrible procedure which has been discussed here in great detail. It is amazing to me that we are "extremists," we who are exposing it, and those who do it are not. But that is the way we are with semantics.

When I came down to the floor several years ago, I brought a little plastic medical doll. When the press was finished writing about it, it was a "plastic fetus." I was accused of showing aborted children on the floor of the Senate when in fact I showed a picture of premature babies who had been born who had lived. But as many times as I corrected papers such as the New York Times, they still couldn't get it right.

This debate has been pretty harsh at times. Frankly, it is very graphic. My goal is not to try to revisit all of that but to try to get into your heart, if I cannot your face, on this issue. We all have very strong feelings about this. But I have to believe most Americans are appalled, sickened, angered, and

disgusted that such a brutal act would take place in this country to be carried out against a defenseless child. Yet we condone it.

As I said last night on the floor, if every SPCA in America announced tomorrow they were going to kill all of their dogs and cats, unwanted cats and dogs, puppies, kittens, by using this procedure with no anesthetic, putting a needle to the back of the head and sucking the brains from those animals, I guarantee there would be a firestorm. There would be people protesting in front of the SPCA. But we do it to our children.

Then we say we are surprised when our children go out and kill other children, when they get into trouble with drugs and all the other things that sometimes happen to our children in society. What are we telling them? What is the message we are giving them? We are telling them: You are worthless. We tell them: You go to school today, Johnny, be a good boy, and we will abort your sister with this horrible procedure while you are in school. That is what we are telling them.

I was told from a very early age that when you are around children and talk, they listen. They hear you. A lot of times, you ask a 3-year old. I can discuss this or that, and they don't care what I am saying. They are not paying any attention. They are playing with their toys. You would be surprised at what they hear.

I tell you what they are hearing when they hear this debate. They are hearing: We are worthless; nobody cares about us. We can just go ahead and abort you, kill you—you are just to be discarded in a trash can—and go right on about our business, keep working on our jobs, having a nice vacation and our 401(k)s; everything is fine. We just go ahead and kill babies.

The vast majority of partial-birth abortions are performed on healthy women with healthy babies. Dr. Martin Haskell, who is the leading practitioner of partial-birth abortions, said: I will be quite frank; most of my abortions are elective in that 20- to 24-week range, and, in my particular case, 20 percent are for genetic reasons and 80 percent are purely elective. Mr. President, 24 weeks is 6 months.

I received a telephone call in one of my offices several weeks ago. A 9-year-old girl relayed to my staff this message:

I want to thank the Senator for being pro-life. I'm 9 years old and I would like him to tell America when he has the chance that my mother gave birth to me prematurely when she was 5 months pregnant. I'm here talking to you now. Please tell your fellow Americans not to kill children like me.

That is pretty powerful stuff.

When President Clinton held his press conference and said he had five women at the press conference who had all undergone health-saving partial-birth abortions, one of the women later

involved in that press conference admitted her abortion was not necessary at all. As far as her health was concerned, it was not medically necessary. She said on a radio show soon after the press conference:

This procedure was not performed in order to save my life. This procedure was elective. That is considered an elective procedure, as were the procedures of all the women who were at the White House veto ceremony.

The sad truth is we will pass this bill; that is the good news. The bad news is it will be vetoed again for the third time by this President because we need 67 votes to override it and we don't have them. That is sad because thousands more children are going to die in the next few years because President William Jefferson Clinton won't sign this bill—thousands—and they will die brutally. We are responsible for it in this Senate because we can't get 67 men and women with the guts. Does it really take guts to stand up, go down to the well and say, aye, to ban this horrible procedure? We don't have them. And Bill Clinton has the pen. That is the Constitution.

I want everybody to know, three votes, maybe four—probably three—will decide whether thousands of children live or die. Hopefully, we keep that in mind as the debate moves forward.

I don't enjoy talking about abortions and about killing children. Why are we on the Senate floor doing this? Let me state why. *Roe v. Wade* was passed in 1973 that said anyone can have an abortion any time they want for any reason. Over 4,000 babies, 4,100 to be exact, die every day from legalized abortion; not from partial-birth abortion, to be fair, but from abortions. Many of them are partial-birth abortions.

When I first took the floor on this issue several years ago, I was told it might be a dozen or two dozen at the most, in extreme cases—hydrocephalic babies and other horrible deformities were the only times they were aborting. I was knocked by some, certainly in the media, that I made a mountain out of a molehill, this was not prevalent in our society, and why was I doing all this.

Now we find from the admission of their own people who perform the abortions that partial-birth abortions are very frequent. I will point out in a few moments why they are frequent. I will point out some of the dirty little secrets of this industry. It will shock Members. It shocked me.

Mr. President, 40 million children have died since 1973, since *Roe v. Wade*, from abortion—not partial-birth abortion but all abortions. There are 260 million Americans. Roughly one-seventh, about 15 percent, of America's population has been executed through abortion; never to be a mom, never to be a dad, never to be a doctor. Who knows. Maybe one of those kids could have been a scientist who found a cure for cancer—never have the chance to be happy, never have a chance to fulfill

their dreams. In the Declaration of Independence, Thomas Jefferson said we have the right to life, liberty, and the pursuit of happiness. Down the drain. They didn't have a choice.

I hear a lot about choice in this debate. What choice do they have? It would be interesting to have in the gallery some of the 40 million. They could be sitting up here today. I wonder how they would vote on this bill if they could vote. I think the vote would be different. I don't think there is any question about it.

Sometimes we make judgments about why a woman, mother, should have a right to have an abortion. I am reminded of a story I mentioned last night on the floor. I will mention it again because I know some missed it. I ask this question. Answer silently. If you knew a woman who had three children born blind, then she had two more children born deaf, a sixth child born mentally retarded, and she was pregnant again and she had syphilis, would you recommend she have an abortion? If you said yes, guess who you just killed. Beethoven. He made a pretty fair contribution to the world, as I recall, but we would have killed Beethoven. How many Beethovens have we killed in those 40 million? How many great baseball players such as my colleague presiding, have we killed? How many entertainers? We will never know. But we did it. We did it.

One of the things about America, people want to blame somebody else. My kid gets in trouble; it is not my fault; it is somebody else's fault.

We are responsible for this. We go to work; everything is fine. But don't worry about those 40 million kids—gone. Mr. President, 95 percent of those abortions are used for birth control. They were totally elective. One to two percent are done because the life of the mother was threatened or she was perhaps raped or some other horrible thing. That means that more than 38 million abortions are performed for reasons that boil down to one word: Convenience. It is convenient, isn't it? How convenient it is. Mom was too old; mom was too young; mom was in high school; mom was in college; mom needed to work.

Who knows. I want to speak directly to any woman out there now listening to me who may be pregnant with an unwanted pregnancy. There is help out there. One does not need to do this. Do not listen to those who say that is the only alternative. There is another alternative. If anyone wants help, there are professionals to help. Call my office or the office of any other pro-life Senator. We will steer anyone to the right people to get that help. I beg women to do it. They will be glad they did when they look back 10, 15, 20 years from now. They will be glad.

I had the privilege of helping to raise funds for a home for unwed mothers, a clinic in Baton Rouge, LA, from a woman who is a saint on Earth. Her name is Dorothy Wallace. She saved

10,000 women since 1973, advising them to choose life.

If you want something emotional, attend one of her meetings and see those 10-, 12-, 15-year-old boys and girls sitting there in the audience applauding Dorothy Wallace. You can have that experience too, I would say to any young woman out there; we can help you. There are professionals who will help you get through this. Choose life.

Let me say to the three or four Senators we need, who might change their votes—I am always an optimist; you never know—pick up your grandchild, or your child, if you are that young. Most of us are too old to have young children in here—not everybody. But pick up your own children, hold them in your arms, and ask yourself this question: How close is that little child in the birth canal that you are voting to kill, how close is that child to that little grandchild of yours you are now holding? Six months? Six years? I don't know. But look at that little grandchild. He or she has feet, has a face or body. So does that little child being executed in a partial-birth abortion.

I am going to talk for a few moments on the subject of my amendment, which is on the marketing and sale of fetal tissue from aborted babies. This is a gruesome story, but I want to tell you, it is happening. I say to my colleagues, this is happening in America, and it is disgusting. It is illegal, it is immoral, and it is unethical. If somebody says, What does that have to do with partial-birth abortion? in my amendment we will find out whether partial-birth abortions are being used, in fact, to sell babies' body parts.

Like partial-birth abortion, fetal tissue sales are morally and ethically reprehensible. It is a practice I hadn't heard of until recently. I couldn't believe we did it. But it does show how far this industry has gone beyond the ethical boundaries that even most pro-choice Americans believe is legitimate. Also, like partial-birth abortion, this industry has taken a practice, the selling of fetal body parts, which is illegal under Federal criminal law, and has created a loophole to allow them to do it. There is a loophole in partial-birth abortion, too. I coined the term "head loophole" because, you see, if the arms or the toes or the trunk or the leg or anything else exits the birth canal, it is not a baby yet. Somebody created a loophole, legal mumbo-jumbo. It makes lawyers rich and kills children.

Ironically, if you turn the baby around—and they have done that; the abortionists do turn the baby around, so it is a breach birth, so the head is last—by doing that, under the law of *Roe v. Wade*, they can kill the child. If it is the other way around and the head exits first, they cannot. Is the head less baby than the torso and the legs and the toes? You be the judge.

Stabbing a baby in the back of the head is murder, infanticide. Call it whatever you want; that is what it is. It is done for convenience. We are

going to pay a severe price for this one day. The bottom line is, they call it medicine. Are you kidding me?

Let's go back to the sale of body parts and how it relates here. Look at this chart. We see a woman walking into an abortion clinic. She is obviously pregnant. She is in distress. She is emotional. She is mixed up. "What do I do? I don't want this child. I am in a mess." Let me tell you what happens when she comes in there.

In a room adjacent to where the abortion is to be performed usually, or someplace on the premises, is a person called the wholesaler or the harvester of the child's organs. This is what is going on in this industry. That person or persons—represented here by two organizations, Opening Lines and Anatomic Gift Foundation—sit there. They have a work order in their hands.

Bear in mind the brutality and the gruesomeness of this. Here is this woman obviously pregnant, obviously in distress, sitting there. I don't know whether they have a one-way mirror or a one-way glass or what. Perhaps they just come in, cruise in, take a good look at her to see if she is healthy. But they have a work order. They have already done this. They did prep it up. You now find out this woman has a normal fetus; she is not sick; the baby is fine. That is what they find out.

While she is still pregnant with a living child, still going through the turmoil of an abortion decision, they have a work order on her blood type, on how pregnant she is, what body parts they want. I am going to prove all that to you in a moment. That is the brutality of it. Then they make some kind of deal. They say it is fee for service, but it is selling body parts—I will go into that for a moment—the buyer or buyers, universities, government agencies, pharmaceutical companies, NIH, private researchers. This is against the law, and I read the law last night.

There are four illegal and immoral things that happen with this issue.

The first is, the current law prohibits receiving any valuable consideration for the tissue of aborted children, but it is happening.

Second, live births are occurring at these clinics. Live births are occurring at these clinics. It is the law of every State, when a live birth occurs, to save the life of that child if possible. But this is not happening either. Our tax dollars are being used to fund Planned Parenthood and NIH. On the one hand, if you are pro-life, you are funding Planned Parenthood with your tax dollars, and on the other hand you are funding the research on aborted children.

We will go down and finish this chart. Let's go through the steps. The buyer orders the fetal body parts from the wholesaler; that is, the buyer, the university, and so forth. The clinic provides the space for the wholesaler to procure the body parts. The wholesaler faxes an order to the clinic while the baby is still alive inside the mother.

The wholesaler technicians harvest the organs—skin, limbs, et cetera. The clinic donates fetal body parts to the wholesaler who, in turn, pays the clinic a "site fee" for access to the babies. Then the wholesaler donates the fetal body parts to the buyer, and then the buyer reimburses the wholesaler for the government retrieving the fetal body parts.

That is a bunch of gobbledygook that means nothing but one thing—the sale of little babies chopped into pieces. This whole process is being thought out and carefully calculated while this woman is sitting there in the clinic.

Tell me the abortionists care about the welfare of a woman. Some estimates say the market for this is in the \$420 million range. Some say it is as high as \$1 billion.

I know it is difficult for those in the galleries to see it, but on television you will be able to see. This is a price list for body parts. I want you to understand what is happening here. This clinic, where this young woman in trouble goes in an agonizing, gut-wrenching decision as to whether to have an abortion or not, has a price list they are going to provide to the marketer for her baby's body parts even before she gets there.

In addition, they have a work order prepared on her as to what it is that is her background, what parts we can provide. Then they tell us this is just fee for services. If it is fee for services, why is it \$600 for an intact cadaver and \$325 for a spinal cord? I am not a doctor, but I assume it takes a lot more time to extract a spinal cord from a 2- or 3-pound baby than it does to put a cadaver in a box and mail it somewhere.

We have a brochure. I will read directly from the brochure. The brochure is the Opening Lines. Those are the sellers. Here is what the brochure says:

We have simplified the process for procuring fetal tissue. We do not require a copy of your approval of summary or of your research, and you are not required to cite Opening Lines as the source of tissue when you publish your work.

I guess not; it is against the law.

If you like our service, you will tell your colleagues, word of mouth. We are very pleased to provide you with our services. Our goal is to offer you and your staff the highest quality, most affordable, and freshest tissue prepared to your specifications and delivered in the quantities you need when you need it. We are professionally staffed and directed. We have over 10 years experience in tissue harvesting and preservation. Our full-time medical director is active in all phases, and we look forward to serving you.

That is what is given to the wholesaler while this poor woman sits there deciding whether or not to have an abortion. It is a great country, isn't it?

Let me explain to you how this all works directly from the horse's mouth. I am going to quote from a woman we will call Kelly. She was a wholesaler. She was a buyer. She said:

We were never employees of the abortion clinic. We would have a contract with an

abortion clinic that would allow us to go in and procure fetal tissue for research. We would get a generated list each day to tell us what tissue researchers, pharmaceuticals and universities were looking for. Then we would go and look at the patient charts.

Then we would go and look at the patient charts.

Kind of like going out and looking at a steer on the hoof, isn't it?

We had to screen out anyone who had . . . fetal anomalies. These had to be the most perfect specimens we could give these researchers for the best value that we could sell for. Probably only 10 percent of fetuses were ruled out for anomalies. The rest were healthy donors.

That is showing a lot of compassion for the woman, isn't it?

Let me talk a little bit more about what other things happen in this clinic. The abortionists are having problems. It is not fun to be an abortionist anymore. The pro-life advertising and, frankly, the wake-up call to doctors and physicians have shown that abortions are declining in this country. This \$300 to \$1,000 they are going to charge that woman who walks in is not enough. They cannot live on that anymore. They have to make money from the fetus, from the aborted child.

What happens? Here is what the abortionists are saying, their own observations:

Abortion has failed to escape its back-alley associations . . . [It is the] dark side of medicine . . . Even when abortion became legal, it was still considered dirty.

And on and on.

One abortionist said:

[Abortion is] a nasty, dirty, yukky thing and I always come home angry.

Organized medicine has been sympathetic to abortion—not abortionists.

What had to happen is they had to come up with another way to make money, and they just did: selling body parts.

Warren Hern is the author of the most widely used textbook on abortion procedures. Dr. Hern says:

A number of practitioners attempt to ensure live fetuses after late abortions so that genetic tests can be conducted on them.

Hello? Are you listening? Live fetuses should be ensured. It is Dr. Hern's position that "practitioners do this without offering a woman the option of fetal demise before abortion in a morally unacceptable manner since they place research before the good of their patients.

That is a dirty little secret you are not hearing about.

In talking about live births, I said last night on the Senate floor, I have worked this issue for 15 years. I have witnessed the birth of my three children. It was the most beautiful thing I will ever experience. But this brief paragraph I am going to read you now is the worst that I have encountered in my lifetime of working on this issue. How anybody can sit anywhere watching and hearing what I am going to say to you now and say it is all right to allow this to continue in this country is beyond me. But it happens, and it is

going to happen tomorrow and the next day and the day after that until we stop it.

Listen to this from a woman who witnessed this:

The doctor walked into the lab and set a steel pan on the table. "Got you some good specimens," he said. "Twins." The technician looked down at a pair of perfectly formed 24-week-old fetuses, moving and gasping for air. Except for a few nicks from the surgical tongs that had pulled them out—

That, my colleagues, could very well be a partial-birth abortion—they seemed uninjured. The technician—

The technician is the buyer of the body parts—

said, "Wait a minute, there is something wrong here. They are moving. I don't do this. That's not in my contract."

She watched the doctor take a bottle of sterile water and fill the pan until the water ran up over the babies' mouths and noses. Then she left the room. "I couldn't watch those fetuses moving, she recalls. That's when I decided it was wrong."

If that is not murder, can somebody please tell me what it is? What is it? Do you realize what we are doing in this country? We are aborting and murdering our posterity.

Here is a headline from a transcript from a TV station in Columbus, OH, April 20, 1999:

Partial-birth Abortion Baby Survives 3 Hours.

A woman 5 months pregnant comes to Women's Medical Center in Dayton, Ohio, to get a partial-birth abortion. During the 3 days it takes to have the procedure, she began to have stomach pains and was rushed to a nearby hospital. Within minutes, she was giving birth.

Nurse Shelly Lowe in an emergency room at the hospital was shocked when the baby took a gasp of air. [Lowe said] "I just held her and it really got to me that anybody could do that to a baby . . . I rocked her and talked to her because I felt that no one should die alone." The little girl survived 3 hours.

Mark Lally, Director of Ohio Right to Life believes this is why partial-birth abortions should be banned.

We have a chance to do it right now, today, ban it, stop it, and we are not going to do it because we are going to fail to get three or four people to say enough is enough. How much more can we take?

Abortion isn't something that just happens early in pregnancy. It happens in all stages of pregnancy. And it is legal under *Roe v. Wade*. Some States have banned them. Give them credit for that.

But we have the chance right here. A vote means something for a change around here. This isn't about a budget. It is not about how much taxes you are going to pay. It is not about whether you are going to get your Social Security check. It is about life. It is about whether or not a baby is going to die tomorrow and another one and another one. We can stop it with three or four votes, if three or four people have the courage to say enough is enough.

My God, Jill Stanek, the nurse at Chicago's Christ Hospital, has openly

admitted that live births occur at her hospital, live births from abortions. The hospital staff offers comfort care which amounts to holding the child until it dies. There is testimony after testimony of it, live birth after live birth. I am not going to go through it all. It is pretty bad.

One little quote here:

"Once a fetus is born, it's no longer a fetus, it's a child," said George Annas, a professor of health law at the Boston University School of Public Health. "And you have to treat it that way."

Aborting a viable fetus is against the law in most States unless the mother's life or health is in danger. "If you're not sure, you can't do it," Annas said.

Nurses at Christ Hospital give "comfort care" to the aborted fetuses.

"Their skin is so thin you can see the heart beating through their chest," said nurse Jill Stanek. "It's not like they kick a lot and fight for air. They're weak."

This is going on in this industry every day. As I speak, children are dying. And we can stop it right here with four of you changing your votes. What is the big deal? You are going to lose a couple of votes from the abortion industry? Hey, those votes are worth the sacrifice for these children.

The "dreaded complication"—that is what they call it. The "dreaded complication"—oh, my God, we have a live child. What are we going to do?

I tell you what they do. They drown them in pans. They leave them in linen closets, gasping for air hours at a time, and sometimes, if there is somebody with some compassion in the place, they will hold them in their arms until they die.

This is America—the "dreaded complication."

You know what some of the abortionists say?

Reporting abortion live births is like turning yourself in to the IRS for an audit. What is the gain?

You know: Sure. Hey, we had a live birth here. My goodness, that is embarrassing.

Now we have come to this; not only do we have a live birth, if we let it die, we can sell its body parts, and we can make a fortune that we could not make off the woman because she could not afford to pay me. That is what we are doing.

I am going to expose this filthy, disgusting fraud as many times and as often as I can. I am going to get the sunshine into this industry. I am going to get to the bottom of it; and I am going to stop it, if it is the last thing I do. And it may be, but I am going to do it.

You have to have a feticidal dose of saline solution. It is almost a breach of contract not to. Otherwise what are you going to do? Hand her back a baby that's been aborted and has questionable damage?

Another one says:

If a baby is rejected in abortion and lives, then it's a person under the Constitution.

I witnessed it. Gianna Jessen was aborted. She is now 26, 27 years old. I saw her sing "Amazing Grace" before

1,000 people 4 or 5 years ago. She said: I forgive my mother. She made a mistake, and I forgive her. But please, help other mothers get through this so what happened to me doesn't have to happen to somebody else.

Change your votes, colleagues—four of you. Let's once—just one time—let's beat President Clinton on something. He has gotten away with everything—everything. He always wins. We never win against him. Just one time, let's override his veto.

This guy says:

I find late abortions pretty heavy weather both for myself and for my patients.

I guess it is heavy weather; it is real heavy weather.

I want to go back to these charts. This is an emotional experience. Anybody who can't be passionate on this issue when we are talking about the lives of children—and all we need is four or five votes on the floor of this Senate to stop this killing; that is all we need.

Look here. These are the charts. What does it say? NIH, that is where this stuff is going. It is illegal, but it is going there anyway; and we are paying for it.

Do you know what it says here? Ten minutes from the fetal cadaver, within 10 minutes they want it on ice. Nobody could get a cadaver on ice in 10 minutes—unless it is a live birth or a partial birth. And I will prove it to you.

One method of killing children is saline. That has to go into the amniotic sack and poison the baby. Another one is D&E, where you chop the child to pieces with an instrument in the womb so it comes out in so many pieces the nurse has to assemble them all in a towel to be sure all the pieces are there so there is nothing left inside the woman. The third method is one here called digoxin, DIG, where the needle goes into the heart of the baby and dissolves the organs. That is a nice way to die.

Let me ask you a question. Those of you, those three or four of you that I pray to God will get on this vote, let me ask you a question: If you are buying body parts, and you need one of those body parts to do research can you take a body part that has been hacked to pieces in the D&E method? No. You know it.

Can you take a body part from some baby who has been poisoned with saline or had their tissues dissolved from digoxin? No.

There are only two methods left: partial birth and live birth. That is where they are getting the tissue. Wake up, America. That is where they are getting the tissue. And here is the proof right here. Here is the work order: "Please send list of current frozen tissues." "No digoxin donors." They are telling them: Give us a live birth. Give us a partial birth. We don't want any babies like this. We can't use their organs.

This is happening in America, and I am sick of it. And I am sick of losing

every year. "Prefer no DIG." Over and over again, the requests would mention the tissue must be fresh. It is over and over again. You see it everywhere.

Here is another one: Remove specimen and prepare within 15 minutes, 10 minutes.

Ladies and gentlemen, the truth is, you cannot get this kind of tissue the way they want it without a live birth or partial birth.

That is a fact: Dirty little secrets, in a dirty, disgusting industry that is profiting at the expense of women who are in a horrible situation, and then selling the body parts—the ultimate humiliation of this poor aborted child—and we cannot get 4 people, we cannot get 67 votes on the floor of the Senate to override this President. What would Daniel Webster, at whose desk I sit, say? What would our founders say? What would Jefferson say, who said life first, liberty, and the pursuit of happiness? I could go on and on.

I am going to stop because I am mentally exhausted, to be candid about it. There is sexual abuse of these women. They are lying there on the table, and people are making mocking remarks about their genitalia. I could go on and on with stories about it. It is disgusting.

I am going to shine the light into this industry, and I am going to expose it. I am going to stop it. If I have to do it myself, I am going to stop it. If it is not an amendment, it will be a bill; whatever it takes, it is going to provide for full disclosure. It is going to put the light into those clinics, and we are going to find out about this stuff. We are going to stop it.

Everything else is regulated in this country. You can't do anything without the Government being on your back. Then let's put the Government on the backs of the abortion industry, for crying out loud: Any entity that receives human fetal tissue obtained as a result of an induced abortion shall file with the Secretary of HHS a disclosure statement. Let's find out who is buying, who is selling, and what is happening.

Oftentimes in these clinics, a young woman comes in; she is pregnant and needs an abortion. She is presented with a form, which she is asked to sign, that says that her baby can be chopped up and sold.

We get two stories out of the abortion industry. They say: Now, look, this woman is in a distraught emotional state. We are here for her health and safety and her good emotional state. We are not going to put this form in front of her. We will do it after she has the abortion.

I hate to give my colleagues the bad news, those of you who support this god-awful procedure, but they want the baby within 10 minutes. So unless they are going to wake her up out of whatever state she happens to be in, they don't have time to do that then. They do it before. That is what they do. They are going to tell you they don't, but they do.

Here is some proof for you. The name is changed to protect the innocent.

On July 1, 1993, Christy underwent an abortion by—fictitious name—John Roe. After the procedure, Roe looked up to find Christy pale with bluish lips and no pulse, no respiration. Christy's heart had stopped. There are no records that her vital signs were monitored during the procedure. Additionally, Roe was not trained in anesthesia and the clinic had no anesthesia emergency equipment or staff trained to handle an anesthesia complication. Paramedics were able to restore Christy's pulse and respiration, but she was left blind and in a permanent vegetative state. Today, she requires 24-hour-a-day care and is fed through a tube in her abdomen. She is not expected to recover and is being cared for by her family. Christy had an abortion on her 18th birthday. Happy birthday, Christy.

Any hospital in America would have had licensed anesthesiologists who were capable of stopping that from happening. But it didn't happen. For those of you who say, well, I guess she must have, she could have signed that card—really? In a vegetative state, you think she signed the permission slip?

I have her permission slip here. It was signed on June 29, 1993. Does anybody think she signed that in a vegetative state? She was brought in there, and she was told—the language was pretty gruesome in there—what we can do with your baby after you are finished with the abortion. She signed it. Not only that, she said: I understand I will receive no compensation for consenting to this study. Study? It is a study? It is chopping the baby up into God knows how many parts and sending it off to some research laboratory. She doesn't get a dime out of it, and they make probably \$5,000, when added all up. That is what is happening.

I say bring a little sunshine in. I have two options on this proposal—one, to offer an amendment to this bill. I want to be honest about it. I don't want to do anything at this point to stop this bill from passing, nothing, not even this amendment, if that is what it takes. So it will either be an amendment, if we gain votes; if we can't gain and we lose votes as a result of it, I will prepare a bill. But I will not stop on this issue. I will not stop until the light shines in on this disgusting industry.

It is amazing. We go after the tobacco people. What bad guys they are. Somebody smokes a cigarette, and somehow everybody else is to blame but the guy who smokes it. So we go after the tobacco company, fine them billions. This is a heck of a lot worse than that. If they can go after the tobacco companies, then we can go after these guys. That is exactly what I am going to do. Be prepared out there because I am coming. I am not going to stop until the light shines in on this.

I will close with one final plea. Several times on my side of the aisle I have made a personal appeal to the five

or six Republicans who refuse to support the ban on partial-birth abortions. I have asked privately, please change your vote, please change your vote and save lives. Two times we voted on this and the President vetoed it, and two times I couldn't switch those votes. I understand vote switching. I don't like it when I am asked to switch mine. But it is not about the budget and taxes and health care or anything else; it is about life. We are going to save lives if four Members change their votes.

I make another appeal that I hope, for once, will not fall on deaf ears: Please consider changing your vote on this bill. Let's pass this thing with over 67 votes, so President Clinton can have his little veto ceremony and we will override it. That is the day I am looking forward to in America. And then, whether it is on this bill or some separate bill, we are going to shine the light into these abortion clinics. We are going to find out what is going on, and the American people will know.

So be prepared. If you have any documents to hide, you had better hide them. We are coming after you. I have had enough of it. Live births and partial births, killing children coming into the world, drowning babies in a pan—I have had enough of it. You can defend it, if you want to, and go ahead and vote to defend it. Not me. I am coming after you.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

PRESCRIPTION DRUG COVERAGE UNDER MEDICARE

Mr. WYDEN. I thank the Senator from New Hampshire for yielding the floor. I know he waited a long time yesterday to speak, and I have waited as well. I thank the Senator for his courtesy.

I take the opportunity for a few minutes this afternoon to talk about an issue of enormous importance to millions of older people and their families. Specifically, it is the question of including prescription drug coverage under Medicare for the Nation's older people.

There is one, just one, bipartisan bill before the Senate to offer this vital coverage to the Nation's elderly. I have teamed up on this bill with Senator OLYMPIA SNOWE of Maine because the two of us believe it is critical that the Congress address this issue now and address it on a bipartisan basis. So Senator SNOWE and I, in an effort to get this issue out of the beltway, beyond Washington, DC, as you can see in the poster next to me, are urging that seniors send in copies of their prescription drug bills. Just as this poster says, send copies of their prescription drug bills to their Senator, U.S. Senate, Washington, DC 20510.

What we are going to do, in an effort to get bipartisan support for our legislation, is come to the floor every few days—this is the fourth time I have come to the floor of the Senate—and

read directly from letters we are receiving from the Nation's elderly people. Here is one I just received yesterday from an elderly person in Central Point, OR. She wrote:

Dear Senator WYDEN, I write to ask for your support for Medicare coverage of prescription medicine. In my case such coverage is a financial necessity. I suffer from rheumatoid arthritis. My physician recommends that I use medicine to combat it. The only problem I have is that the dosage I require would require an annual outlay in excess of \$1,000 a month. I desperately wish I could have the relief Enbrel could give me. Please champion coverage.

Another letter I received from my home community, from an elderly widow, states that her Social Security is \$1,179 a month. Each month, from that \$1,179 check, she spends \$179 on the medicine Fosamax, \$209 a month on Prilosec, \$112 on Lescol; that is \$500 a month, each month, for her prescription medicine from her monthly Social Security check, which is the only income she has. Almost half of her income goes to pay for her prescription drug bills.

Here is a letter I have just received from King City, OR. The writer says:

I am a constant user of Lovenox inhaler. Two uses per day come to \$839. Fortunately, I drove a Chevrolet when my friends were driving Cadillacs, and our family vacation was spent in the U.S. not the South Seas, so I may be able to carry the load at least for a while. My annual cost for this one medicine is \$30,600, just about what it would equal to stay in a nursing home.

These are just a few of the bills that are coming into my office, coming into Senator SNOWE's office, and our colleagues' here in the Senate as a result of the concern among the Nation's senior citizens that this issue be addressed. I hope we will see that more senior citizens follow just as we say in this poster: "Send in your prescription drug bills."

The Snowe-Wyden legislation is bipartisan. It uses market forces to hold down the cost of medicine. That is the biggest problem, holding down the enormous cost of these medicines. More than 20 percent of the Nation's senior citizens spend over \$1,000 a year out of pocket on their prescription medicine, and the bipartisan Snowe-Wyden bill would use a market-oriented approach to address this issue. It is modeled on the Federal Employee Health Benefit Plan. Our view is, if health care is good enough for Members of Congress, we certainly ought to look at using that kind of approach for the Nation's seniors. We call it the SPICE bill, the Senior Prescription Insurance Coverage Equity Act, because we would cover all of the Nation's older people eligible for Medicare. It is absolutely key that we do this now.

When people ask, "Can we afford to cover prescription drugs under Medicare?" my response is: "We cannot afford not to cover prescriptions any longer." The reason for that—and I know my colleague currently in the Chair was involved in aging issues

when he was in the House and was involved with Social Security, so he is familiar with this. We know the most important drugs that would be covered under the Snowe-Wyden legislation are preventive drugs. They help to deal with blood pressure problems and cholesterol problems. They keep people healthy and well, and they keep them fit. That helps hold down the cost for what is called Medicare Part A, the acute care portion of Medicare that covers hospitals and institutional services. Under the Snowe-Wyden approach, we contain costs without shifting them onto the backs of somebody else.

One of the things that concerns me, there is a well-meaning bill that has been introduced that suggests we ought to have Medicare buy up all the drugs and act as a buyer for everybody. The problem with that approach is that it will result in tremendous cost-shifting onto the backs of other Americans who are having difficulty paying for their prescription drug bills. I don't want to see a 27-year-old divorced African American woman with two kids, who is working hard, playing by the rules and doing everything she can to get ahead, have to see a big increase in her prescription drug bill because the costs are shifted onto her when somebody doesn't think about the implications of trying to do this through approaches that don't involve marketplace forces.

So these are letters I am receiving from seniors across the country. Here is another one from Myrtle Creek, OR. This is a senior citizen who has to take a variety of medicines, including Albuterol, Dulcolax, and other drugs. She writes me that she spent \$370 recently on prescription drugs from a Social Security check of \$1,152. She went to a small drugstore in Myrtle Creek, OR—a terrific small community—and spent \$370 from a Social Security check of \$1,152 on her medicines.

I think a lot of these seniors are asking themselves, what is it that the Senate is so busy doing that it cannot work in a bipartisan way to be responsive to older people and families on this issue? I am very hopeful that if seniors just read what it says in this poster: "Send in your prescription drug bills" to Senators—Senator SNOWE and I are particularly interested in hearing from older people because we want to do this in a bipartisan way. A lot of people think the prescription drug issue is just going to be fodder for the campaign in the year 2000 and in the fall of 2000 we will just have the Democrats and Republicans slugging it out on the issue. The last time I looked, it was more than a year until that election comes up.

I don't want to see seniors such as the ones I am hearing from in Myrtle Creek and King City, and all over the Willamette Valley in my home State—I don't want to see them suffer. I know the Chair doesn't want to see people suffer in Kentucky. Other colleagues feel the same way. If we can put down

the partisanship for a little while and work together in an effort to get the vulnerable seniors across this country the coverage they need, we will have a truly lasting legacy from this session of the Senate.

I was codirector of the Gray Panthers, a great senior citizens group, for about 7 years before I was elected to the Congress. Some of my most joyous memories are working with older people back then. We talked about how important it was to cover prescriptions.

Well, what has happened with the evolution of the pharmaceutical sector over those 20 years is, prescription drugs have become even more important since those days when I was codirector of the Gray Panthers; the drugs are even more important now because they do so much to promote wellness. We needed them before because you do need medications for so many who are acutely ill. But today, this could result in keeping people healthy and save Medicare, particularly the institutional part of the program, Part A, that it could save Medicare Part A money and we could do it through marketplace forces.

Snowe-Wyden doesn't go out and set up a price control regime. We give senior citizens the kind of bargaining power a health maintenance organization would have through the marketplace. Seniors would get to choose the various kinds of coverages that are available to Members of Congress, such as the President of the Senate and myself. It would not be bureaucratic. We know our health care doesn't create a whole lot of new redtape and bureaucracy. We know it works. So that is what Senator SNOWE and I are trying to do.

This is the fourth time I have come to the floor of the Senate to urge seniors, as this poster says, to send in their prescription drug bills. I intend now to come back to the floor of this Senate every few days until this session ends and read, as I have, directly from copies of these prescription drug bills I am receiving.

I know that so many Senators care about the needs of the elderly. I see Senator CHAFEE, who has long been an expert in health and a member of the Finance Committee; our friend, Senator MIKULSKI, who has championed the Older Americans Act issue so passionately for so many years in the Appropriations Committee.

When we have these colleagues who have expertise in these issues and we know how acute the need is and we know we can do it in a bipartisan way, as Senator SNOWE and I have been trying to do, it would be a tragedy for the Senate to pass on this issue and say: Well, let's just put it off until after the year 2000.

We have consulted with senior groups. We have consulted with the insurance industry. We have consulted with those in the pharmaceutical sector. All of them have told us that our

bill, while perhaps not their first choice for how to ensure that seniors get their coverage, will work. It will get seniors the help they need, and it will be something that we can do and do now—not after the 2000 election, not after some other period of campaign activity, but it is something we can do now.

The Nation's seniors and our families can see as a result of my reading from these bills and what I am receiving from Oregon that I am very serious about their input. I hope that seniors and their families, as this poster says, will send in their prescription drug bill to their Senator. I hope they will be for the bipartisan Snowe-Wyden bill. Frankly, I am much more interested in hearing from them about the need for Congress to act. We can act. We can do it.

I yield the floor.

PARTIAL-BIRTH ABORTION BAN ACT OF 1999—Continued

The PRESIDING OFFICER (Mr. VOINOVICH). Under the previous order, the question is on agreeing to amendment No. 2321. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Arizona (Mr. MCCAIN) and the Senator from New Hampshire (Mr. GREGG) are necessarily absent.

The result was announced—yeas 51, nays 47, as follows:

[Rollcall Vote No. 337 Leg.]

YEAS—51

Akaka	Edwards	Lieberman
Baucus	Feingold	Lincoln
Bayh	Feinstein	Mikulski
Biden	Graham	Moynihan
Bingaman	Harkin	Murray
Boxer	Hollings	Reed
Bryan	Inouye	Robb
Byrd	Jeffords	Rockefeller
Campbell	Johnson	Sarbanes
Chafee	Kennedy	Schumer
Cleland	Kerrey	Snowe
Collins	Kerry	Specter
Conrad	Kohl	Stevens
Daschle	Landrieu	Torricelli
Dodd	Lautenberg	Warner
Dorgan	Leahy	Wellstone
Durbin	Levin	Wyden

NAYS—47

Abraham	Fitzgerald	McConnell
Allard	Frist	Murkowski
Ashcroft	Gorton	Nickles
Bennett	Gramm	Reid
Bond	Grams	Roberts
Breaux	Grassley	Roth
Brownback	Hagel	Santorum
Bunning	Hatch	Sessions
Burns	Helms	Shelby
Cochran	Hutchinson	Smith (NH)
Coverdell	Hutchison	Smith (OR)
Craig	Inhofe	Thomas
Crapo	Kyl	Thompson
DeWine	Lott	Thurmond
Domenici	Lugar	Voinovich
Enzi	Mack	

NOT VOTING—2

Gregg McCain

The amendment (No. 2321) was agreed to.

Mrs. BOXER. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the underlying amendment, as amended, is agreed to.

The amendment (No. 2320), as amended, was agreed to.

Mrs. HUTCHISON. Mr. President, I voted against the Harkin amendment because I disagree with the findings stated in the resolution and because it is not relevant to the underlying bill. However, I would not vote to repeal *Roe v. Wade*, as it stands today, which has left room for States to make reasonable restrictions on late-term abortions.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, I am about to send an amendment to the desk. The purpose of the amendment is a modification of the language that defines what a partial-birth abortion is in S. 1692.

The reason for the modification is in direct response to the Eighth Circuit decision where the court asserted the procedure defined—it was a similar definition to the one here—was unconstitutional; that it could have included other forms of abortion and, thereby, was an undue burden because it would have eliminated other forms of abortion and would have, by doing so, restricted a woman's right unduly, according to the court.

I am not going to take issue with the court whether they are right or wrong. I do not believe they are right, but in response to that, I am going to be offering an amendment that makes it very clear we are not talking about any other form of abortion; that we are talking about just the abortion procedure that has been described over and over about a baby being delivered outside of the mother, all but the head, and then killed; not a baby that is being killed in utero and a part of the baby's body may be in the birth canal. That is what the court said they were concerned about.

Mr. KERREY. Will the Senator yield for a question?

Mr. SANTORUM. Yes.

Mr. KERREY. I think I have the language that—

Mr. SANTORUM. We made a slight modification.

Mr. KERREY. The language you gave me earlier said:

As used in this section, the term "partial-birth abortion" means an abortion in which the person performing the abortion deliberately and intentionally delivers through the vagina some portion of an intact living fetus until the fetus is partially outside the body of the mother for the purpose of performing an overt act that the person knows will kill the fetus while the fetus is partially outside—

Any changes?

Mr. SANTORUM. The only change is in the first few words.

Mr. KERREY. I ask the Senator to respond to me. We had a colloquy earlier. I have the Eighth Circuit decision. Earlier all I had was opinions on the

Eighth Circuit decision from both opponents and supporters of the Senator's legislation. The Eighth Circuit says, referencing the Nebraska statute, which is the concern I have, that it did create an undue burden because, in many instances, it would ban the most common procedure of second-trimester abortions, and that is the D&E. You are saying you are drawing it more narrowly so it does not.

Mr. SANTORUM. That is correct.

Mr. KERREY. Here is the language, I say to the Senator from Pennsylvania, that the court found objectionable, and it sounds awfully similar to your amended version. I want to give you an opportunity to talk to me about it. It says:

... deliberately and intentionally delivering into the vagina a living unborn child, or a substantial portion thereof, for the purpose of performing a procedure that the person performing such procedure knows will kill the unborn child and does kill the unborn child.

Mr. SANTORUM. That is similar to the language that is in the bill right now. But the amended language further specifies the fetus is partially outside the body of the mother. The court was concerned about a D&E performed in utero, but the baby during this procedure could be partially delivered into the birth canal and that occasionally an arm or leg or something might be delivered, and that was the confusing part for the court.

This is clear that the living baby has to be outside of the mother before the act of killing the baby occurs; that the act of killing the baby is not occurring in utero, but occurring when the baby is outside the mother. I think it pretty well carves out any other form of abortion.

Mr. KERREY. May I ask him one more question?

Mr. SANTORUM. Yes, ask as many as you like.

Mr. KERREY. I will get you the comparative language. Again, I will not give the precise Eighth Circuit compared to yours. You have been on this a lot longer than I have, and I know the Senator from California has as well. Perhaps between the two of you, you can clarify if this change meets the Eighth Circuit's test.

I understand that this is one circuit, and you may get—I have voted against other circuits before when they have had decisions, so there is certainly precedent for me ignoring what a court says.

But in the earlier discussion we had, I expressed one of the concerns I have. And since we talked earlier, I have talked to an OB/GYN from Omaha who does not, in a normal practice, conduct abortions. What she does is work with women who are pregnant and helps them through their delivery. She is expressing a concern that if she is working with a woman who is having some difficulty, because of the penalties that are in here, she finds herself saying: Am I going to be able to do something that I ordinarily might have done?

In other words, you said to me earlier, when I talked about this, that this is for people who intentionally make a decision to go in and get an abortion as opposed to somebody, as this doctor described to me, who is not going in for an abortion. I think it is a very important point because the universe consists of people who get abortions but do not want one; they were intending to deliver, and the doctor, for medical reasons, makes this decision, but the woman may prefer that that not have happened. The doctor is making the decision based upon life and health considerations. And you said to me it has to be the intent. Where in the bill does it say that?

Mr. SANTORUM. Yes. Do you have the bill in front of you? Page 3, lines 9 and 10:

As used in this section, [the] term "vaginally delivers a living fetus before killing the fetus" means deliberately and intentionally delivers into the vagina a living fetus, or a substantial portion thereof, for the purpose of performing a procedure the physician knows will kill the fetus, and [then] kills the fetus.

So it is—

Mr. KERREY. It seems to me that can still easily cover a doctor making a decision with a woman who does not want an abortion, but the abortion is selected by the doctor as a consequence of some complications occurring.

What this doctor said to me was—

Mr. SANTORUM. If you have some language that could clarify—but if you read the definition, it says:

... means deliberately and intentionally delivers into the vagina a living fetus, or a substantial portion thereof, for the purpose of performing a procedure the physician knows will kill the fetus. . . .

That is, if you deliver for the purpose of killing the fetus, as this says, as opposed to delivering for the purpose of delivering a live baby where that may go awry and something may happen, and that would require the killing of a fetus. And that is not covered. I think it is pretty clear that is not covered.

If you have some language that would make you more comfortable with that, it is certainly not our intention—let me make it very clear—to cover any case where you have a birth where a complication arises and something has to be done.

Mr. KERREY. I appreciate that. I will give that some consideration.

I say that I have had a very interesting conversation—both the earlier one and subsequent one with this OB-GYN physician in Omaha—because, again, she is not an abortion doctor. That is not her practice.

Mr. SANTORUM. Right.

Mr. KERREY. Her practice is in working with women who either are pregnant or want to get pregnant; and that is her business.

Mr. SANTORUM. Has she read this language?

Mr. KERREY. I just faxed the language to her, both the amended version and the original version.

Again, one of the problems that all of us have—I have two problems: One, as

a man, I have difficulty trying to figure all this out; but secondly, as a non-physician, I have a difficult time figuring it out. She starts talking to me and says: Understand, the cervical arteries are at 3 and 9 o'clock.

What you are dealing with here is a situation where you can produce damage. You have to be careful not to. In other words, she is saying to me: Understand that delivery itself is a life-threatening process—as the Senator from Pennsylvania knows all too well. Delivery itself is a life-threatening process to the mother, and decisions are being made by the physician as to what to do and what not to do. And she is very concerned that this will make it difficult for her to continue her practice.

As I said, I faxed it to her. And I look forward to further colloquies with the Senator.

Mr. SANTORUM. I appreciate that. I state for the record this is part of the legislative history. Obviously, if there is some language that makes you more comfortable, that we need to be more clear here, it is certainly clearly the legislative intent not to include situations where the baby is in the process of being born and the process of a natural childbirth and a complication arises which forces the doctor to do things that result in the death of the child. That is clearly outside the scope of this. It certainly is our intent for it to be outside the scope. We think the language here is clear that it is.

But, again, I would be willing to work with the Senator from Nebraska to make sure he is comfortable that that is clearly outside the scope of this.

Mr. KERREY. I appreciate that. I said earlier, when we had our colloquy, that I am comfortable in my position in saying I believe a woman or doctor, physician, should—and her spiritual counselor—be making this decision. I consider myself to be a pro-choice individual as a consequence of that.

I supported Medicaid funding because I think it is hypocritical of me not to if I am going to let people who have the means get a legal procedure. But this procedure troubles me. I have voted against you on a number of occasions. And I have promised people in Nebraska I would keep an open mind. I listened, especially last evening, to your arguments. And I am willing to keep an open mind on this.

Mr. SANTORUM. I thank the Senator from Nebraska.

Mr. President, I am going to be sending an amendment to the desk, which the Senator from Nebraska referred to in our colloquy, that redefines what a partial-birth abortion is—the definition section of the act.

Again, it is in response, as the Senator from Nebraska accurately pointed out, to the Eighth Circuit's concern about this provision in the bill as being unconstitutionally vague. In other words, it is a provision in the bill that defines the procedure, that the Eighth

Circuit said could include other procedures.

As I described to the Senator from Nebraska, the most common form of late-trimester abortion is a D&E in which the baby is killed in utero. During that procedure, occasionally, I am told, a part of the body may enter into the birth canal. And the concern of the court, of other courts—not just the Eighth Circuit but other courts—is that the definition we have in place right now—and the definition states as follows: "means an abortion in which the person performing the abortion partially vaginally delivers a living fetus before killing the fetus and completing the delivery." According to the court, it is unclear that we are talking about a baby outside the mother.

Of course, from the charts we have shown here, we described partial birth as the baby being outside of the mother and then killed. We do not say that in this underlying bill. So the courts have said: Well, it can mean partially delivered; it could be a body part in the birth canal. That could be seen as partially delivered; therefore, overly broad.

Again, I think that is, frankly, stretching it to the extremes. But because of the other sections—again, to address the issue of vagueness—we have come up with an alternative definition. It is as follows:

As used in this section, the term "partial-birth abortion" means an abortion in which the person performing the abortion deliberately and intentionally—

(A) vaginally delivers some portion of an intact living fetus—

I underline "intact living fetus."

Again, with a D&E, the baby is killed in utero and is not intact or living at the time it is coming through the birth canal, and certainly not intact or living if it is outside the mother.

Again:

... vaginally delivers some portion of an intact living fetus until the fetus is partially outside of the mother,—

"Intact living . . . outside of the mother"—

for the purpose of performing an overt act that the person knows will kill the fetus while the fetus is partially outside the body of the mother; and

(B) performs the overt act that kills the fetus while the intact living fetus is partially outside the body of the mother.

So this makes it crystal clear that what we are talking about here is just this specific procedure, just a partial-birth abortion, not a D&E, not any other kind of abortion that occurs in utero. This is an abortion where the killing occurs when the baby is intact, outside of the mother.

I do not know how there could be any vagueness attached with this clarifying definition. I am hopeful that in combination with the other concern the Senator from Nebraska had, which is the intent clause—it is section (b)(3) of the bill—again, killing the fetus means deliberately and intentionally delivering into the vagina a living fetus or

substantial portion thereof, for the purpose of performing a procedure the physician knows will kill the fetus, and kills the fetus. You have to have intent to kill when you do this. You have to have the baby outside of the mother with the intent to kill the baby outside the mother, and then do it.

Mrs. BOXER. Is the Senator going to send it up and ask unanimous consent to modify?

Mr. SANTORUM. My understanding is that we want to get an overall agreement. I will hold off until we get all—

Mrs. BOXER. I would like to have a chance to discuss what the Senator has done, whenever it is easy for him.

Mr. SANTORUM. Why don't I suspend right here if the Senator would like to make a comment. I am interested to hear what she has to say, as always.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. I thank the Senator from Pennsylvania.

I don't know how this is all going to end, but my side has no problem with the Senator from Pennsylvania changing his legislation in any way he wants to change it. We on our side are not going to object at all. He can change it any way he wants to change it.

I will say something very important from our side, and that is, the change he is submitting does nothing at all to meet the health concerns of the mother. He is changing a definition, and he doesn't at all say, if a woman's health is at stake, this procedure can be used. So if the Senator is trying to meet the constitutional objection from the courts which have thrown out his bill across this country, he doesn't do it with his modification. He still doesn't make an exception for the health of a woman, and this bill remains a very dangerous bill. It makes no exception for health.

Secondly, as I understand it, he still keeps the criminal penalties for the doctors. This caused the American Medical Association to back off its support for the bill. That still is a defect because, as the Senator from Nebraska said, after speaking to an OB/GYN, who brings life into the world, when these dangerous situations present themselves to a physician, they have to make a quick-second judgment on what to do to preserve life, to preserve health, to make sure the woman is not paralyzed, deformed, made infertile, to make sure the fetus isn't injured. All these things come into play. We don't want to have doctors saying: Just a minute, I have to read Senator SANTORUM's law.

What we want is for the physicians to do what has to be done, do the right thing, according to their oath they take when they become physicians. We take an oath of office when we become Senators. We are not physicians. We don't take the Hippocratic oath. When we take the oath, we swear to uphold and defend the Constitution of the United States of America. We do not

get sworn in to be physicians. Physicians take their oath to do no harm. Our oath is to uphold the Constitution. And to uphold the Constitution, we should be upholding the landmark decision *Roe v. Wade*, which, by a very slim majority, this Senate says it upholds.

So this so-called fix the Senator from Pennsylvania will be submitting, which I have no objection to his submitting, still renders the bill unconstitutional because the health of the woman is not addressed. Roe says clearly, yes, the State can get involved in the right to choose after viability, but you always have to respect the health of the woman. No such exception.

Secondly, I only had a little time to send this new language, because we did not see it until literally less than an hour ago, to the American College of Obstetricians and Gynecologists. I want to ask them if they believe this new language Senator SANTORUM is going to place into his bill, in fact, makes the whole issue clearer, whether or not it is still vague, vaguely describes a procedure that is used in the earlier terms, which is the second reason the courts have struck it down. The way partial-birth abortion is described—and that is a political term, not a legal term—the courts say applies to all abortions, regardless of whether they are in the first month, second, third, fourth, fifth, or sixth. So the court struck it down.

This is what Ann Allen, general counsel of the American College of OB/GYNs—those 40,000 physicians who bring babies into the world and, yes, if things go tragically wrong, may have to resort to this procedure—says:

Upon review of the attached language . . . in my opinion the language does not correct the constitutional defects of S. 1692. In particular, this language does not correct the issues addressed by many states and federal courts, including the U.S. Court of Appeals for the Eighth Circuit, which have held similar legislation to be unconstitutional.

The Senator from Pennsylvania says he is reacting to the Eighth Circuit Court. The doctors at the American College of Obstetricians and Gynecologists, through their general counsel, say it does not cure that problem.

I ask unanimous consent to print this letter in the RECORD during the debate.

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

THE AMERICAN COLLEGE OF
OBSTETRICIANS AND GYNECOLOGISTS,
Washington, DC, October 21, 1999.

Hon. BARBARA BOXER,
Hart Office Building, Washington, DC.

DEAR SENATOR BOXER: Upon review of the attached language, an amendment to S. 1692, the "Partial-Birth Abortion Ban Act of 1999," by Senator Rick Santorum, in my opinion the language does not correct the constitutional defects of S. 1692. In particular, this language does not correct the issues addressed by many states and federal courts, including the U.S. Court of Appeals

for the Eighth Circuit, which have held similar legislation to be unconstitutional.

Sincerely,

ANN ALLEN, JD,
General Counsel.

Mrs. BOXER. I have a second letter on the new Santorum language from the Center for Reproductive Law and Policy. It was addressed to Senator CHAFEE.

DEAR SENATOR CHAFEE: You have asked for our advice regarding the significance of new language defining partial-birth abortion in substitution for the prior language. In our opinion, the changes are without legal significance and will not correct the constitutional infirmities of S. 1692. Nor do they limit the prohibition's wide-ranging ban on previability abortion procedures.

I ask unanimous consent this letter be printed in the RECORD.

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

THE CENTER FOR REPRODUCTIVE
LAW AND POLICY,
October 21, 1999.

Hon. JOHN H. CHAFEE,
Washington, DC.

Re: New Santorum language (S. 1692).

DEAR SENATOR CHAFEE: You have asked for our advice regarding the significance of proposed new language defining "partial-birth abortion," in substitution for the prior language of Section 1531(b)(1). In our opinion, the changes are without legal significance and will not correct the constitutional infirmities of S. 1692, the proposed "partial-birth abortion" ban. Nor do they limit the prohibition's wide-ranging ban on pre-viability abortion procedures.

The Center for Reproductive Law and Policy (CRLP), lead counsel in 14 state cases successfully challenging "partial-birth abortion" bans including challenges to laws in Iowa, Arkansas, and Nebraska struck down by the U.S. Court of Appeals for the Eighth Circuit, appreciates the opportunity to comment on this iteration of "partial-birth" definition.

(1) The proposal continues to preclude any procedure at any gestational age of a pregnancy. Court after court—including the unanimous 8th Circuit—has held that such an approach unduly burdens the right to abortion.

(2) The proposal purports to add a requirement of intentionality. Numerous statutes containing similar language ("deliberate" and "intention") have been enjoined, including those in Nebraska, Iowa, New Jersey, Rhode Island, and West Virginia.

(3) Similarly the requirement that an "overt act" be performed adds nothing. Every abortion procedure requires an "overt act."

(4) The new Santorum formulation is similar to proposed abortion bans labeled "infanticide" in some states. Although the rhetoric is extreme and the images repellant, the fundamental legal prohibition remains the same—and is similarly unconstitutional.

Sincerely,

JANET BENSHOOF,
President.
SANA F. SHTASEL,
Washington, DC Director.

Mrs. BOXER. I thank the Chair.

To sum up my feeling on this and the feeling of those of us who actively oppose the Santorum bill, we have no objection to the Senator amending his bill in this fashion, but we still believe very strongly that it doesn't meet the

constitutional arguments. It still doesn't do anything to protect the health of a woman, and it doesn't do anything to remove criminal penalties on physicians.

I hope we will get this moving forward. We will amend the bill the way the Senator from Pennsylvania wants. I hope we can get to a vote at some point, although I know Senator SMITH is still talking about an amendment. Senator LANDRIEU has a very important amendment. I hope when we can get this wrapped up, all of those things can be done, perhaps in the next hour or two.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Ms. LANDRIEU. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

AMENDMENT NO. 2323

(Purpose: To express the sense of the Congress that the Federal Government should fully support the economic, educational, and medical requirements of families with special needs children)

Ms. LANDRIEU. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana [Ms. LANDRIEU] proposes an amendment numbered 2323.

The amendment is as follows:

At the appropriate place, insert the following:

SEC. . SENSE OF THE CONGRESS CONCERNING SPECIAL NEEDS CHILDREN.

((a) FINDINGS.—Congress finds that—

(1) middle income families are particularly hard hit financially when their children are born with special needs;

(2) in many cases, parents are forced to stop working in order to attempt to qualify for Medicaid coverage for these children;

(3) the current system of government support for these children and families is woefully inadequate;

(4) as a result, working families are forced to choose between terminating a pregnancy or financial ruin; and

(5) government efforts to find an appropriate and constitutional balance regarding the termination of a pregnancy may further exacerbate the difficulty of these families.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the Federal Government should fully cover all expenses related to the educational, medical and respite care requirements of families with special needs children.

AMENDMENT NO. 2323, AS MODIFIED

Ms. LANDRIEU. I send a modified amendment to the desk.

The PRESIDING OFFICER. The Senator has that right.

The amendment is so modified.

The amendment (No. 2323), as modified, is as follows:

At the appropriate place, insert the following:

SEC. . SENSE OF THE CONGRESS CONCERNING SPECIAL NEEDS CHILDREN.

((a) FINDINGS.—Congress finds that—

(1) middle income families are particularly hard hit financially when their children are born with special needs;

(2) in many cases, parents are forced to stop working in order to attempt to qualify for Medicaid coverage for these children;

(3) the current system of government support for these children and families is woefully inadequate; and

(4) as a result, many families are forced to choose between terminating a pregnancy or financial ruin.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the Federal Government should fully cover all expenses related to the educational, medical and respite care requirements of families with special needs children.

Ms. LANDRIEU. Mr. President, when Justice Blackmun delivered the opinion of the Court in *Roe v. Wade*, which is one of the most significant decisions—regardless of how one feels about this issue, it is one of the most significant decisions rendered by our highest court—he wrote for the Court the following:

We forthwith acknowledge our awareness of the sensitive and emotional nature of the abortion controversy, the vigorous opposing views, even among physicians, and of the deep and seemingly absolute convictions that this subject inspires. One's philosophy, one's experiences, one's exposure to the raw edges of human existence, one's religious training, one's attitude toward life and family, and their values and the moral standards one establishes and seeks to observe are all likely to influence and to color one's thinking and conclusions about abortion. In addition, population growth, pollution, poverty and racial overtones tend to complicate, not simplify, the problem.

Mr. President, he was quite accurate, as we have witnessed on the floor of this Senate in the last few hours a very emotional and tough debate regarding one of the most serious issues I think this body has ever considered in the history of the Congress.

Regardless of how one feels about this issue, or the way we vote on these amendments, whether we regard ourselves as pro-life or pro-choice, or somewhere in the middle, the amendment I send to the desk and urge my colleagues to vote for and support is an amendment that is quite simple. It simply states that all individuals families or who find themselves in a situation of having a child with a birth defect would have their expenses covered—their medical expenses, their educational expenses, and the respite care for those families. That is so important for the many families who find themselves in the most difficult of situations. At that time in a family's life, there should be no hesitation on the part of this Government to come forward with the money and resources to support that family in this great time of need.

So I offer this amendment with great spirit and hope my colleagues on both sides of the aisle, regardless of how they are going to vote on the final outcome, will understand the merit of this amendment and will put this Senate on record as saying we believe all families should have assistance when faced with

the great challenge and heartache of raising a child who has been challenged in one special way.

So I thank the managers for the time.

Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER (Mr. FITZGERALD). Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, I thank the Senator from Louisiana for her amendment. It gets to the heart of the concern for people with disabilities. I think it reflects that we should open our arms to unborn children who are faced with disabilities and the difficulties they are going to deal with. I talked about it over and over again—how the debate for this abortion technique to be kept legal centered upon disabled children who were not wanted. There may be a percentage of those cases where abortion is done because of the financial concerns of parents in dealing with a disabled child. Those are real concerns and things people think about—whether they can provide a quality of life under the financial constraints of a child who may need a lot of care.

So to have an amendment that is a sense of the Congress that we should be open to helping and supporting life and affirming the decision of someone who wants to carry their child to term and accept them the way God has given that child to them is something I think Congress should do.

So I commend the Senator from Louisiana. I would be willing to accept the amendment, but I understand the Senator would like a recorded vote.

Mrs. BOXER. Mr. President, I would like to be heard on the amendment if my friend has finished.

Mr. SANTORUM. I would like to respond to her remarks about my amendment, also.

Mrs. BOXER. I want to add my voice on this amendment. I am really pleased that the Senator from Louisiana has brought this amendment to the floor. It is very important that we make a statement today that the children of America will be protected, and the Senator from Pennsylvania said he views this amendment as opening our arms to unborn children. To me, this is opening our arms to children regardless of where they come from, so the children born in this country will get help.

I ask unanimous consent to have printed in the RECORD an article that appeared in the Washington Post a couple of weeks ago. Its title is, "Study Links Abortion Laws, Aid to Children." It says, "States With Stricter Rules Are Less Likely To Spend on the Needy." That is incredible. Legislators stand up and say *Roe v. Wade* ought to be overturned, women should not have a right to choose, and what happens? "States with the strongest anti-abortion laws generally are among the

States that spend less on needy children and are less likely to criminalize"—this is amazing—"the battering or killing of fetuses in pregnant women by a third party. . . ."

That doesn't add up. So I think what we are doing today with the Landrieu amendment—because I think it is going to get overwhelming support—is saying whatever side of the aisle we fall into on the Santorum amendment—and there are strong differences there—we agree with her sense of the Congress that the Federal Government should fully cover all expenses related to the educational, medical, and respite care requirements of families with special needs children.

Many times, these children come into the world, and it is anticipated by their parents that it will happen, and the parents choose to go forward with the pregnancy. Many times, we have children born and it is a total surprise to parents that they have special needs requirements. Either way, any way, however it happens, how could our hearts not go out to children in this country with special needs?

By the way, I would like to engage my friend in a colloquy. Wouldn't this apply to any child—perhaps a child who is 1, 2 or 3—who gets injured in a car accident and suddenly the family finds that they need special care for the child?

My friend isn't just talking about newborn babies. I think she is basically saying all children and all families that have this need ought to be covered.

Ms. LANDRIEU. Yes. The Senator from California is correct. The way that this is drafted is in a broader way because I believe that we have to be very sensitive to children with special needs, and their families that sometimes find themselves—even families at a fairly significant income level—in great financial distress. Often one of the parents has to quit their job or give up their job to qualify for the woefully inadequate. It would be my intention to do that. There would be others with other opinions. But I think it would be important for us to reach out to all families with children with special needs.

Mrs. BOXER. I thank my friend.

Again, I think it is really important because to have this study come out and say that States with the strongest antiabortion laws and want to end a woman's right to choose are the weakest in taking care of these children seems to be a horrible contradiction to me. I think what my friend is saying is regardless of our position, my goodness, we ought to come together when it comes to taking care of our children who have special needs.

I thank her. I will be proud to support her amendment.

I yield the floor.

Mr. BYRD. Mr. President, I cannot support amendment No. 2323, offered by the distinguished Senator from Louisiana, Ms. LANDRIEU. I appreciate her

concern regarding the devastating financial impact that having a special-needs child can place on working families.

However, I am also mindful of the fact that, as we strive to complete our budgetary work, nearly all Members have agreed that we should do so without using Social Security Trust Fund surpluses or raising taxes. Despite the fact that this is a sense of the Congress amendment and therefore has no statutory consequence, I am nevertheless concerned with the unknown financial consequence that a commitment of this magnitude could have. For that reason, I am constrained to oppose the Landrieu amendment.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, I ask the Senator from Louisiana if she would be willing to withhold a vote until we have a couple of votes so that we can stack them together a little later in the afternoon. Senator SMITH has an amendment that I think he would require a vote on. Senator BOXER may have an amendment to the Smith amendment. Hopefully, we will be able to work that out.

Mrs. BOXER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Pennsylvania has the floor. Does he yield the floor?

Mr. SANTORUM. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative assistant proceeded to call the roll.

Mr. SANTORUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. SANTORUM. Mr. President, thank you.

Mr. President, I want to make a couple of comments about my amendment and the attempt that I am trying to make to address the constitutional infirmities that the Eighth Circuit found in this language of the partial-birth abortion bill. The Arkansas statute is similar to the language that is in the bill presently.

The Senator from California talked about this not addressing the other constitutional issues that the Eighth Circuit brought up.

I remind the Senator from California. I am quoting from the case.

The district court held the act unconstitutional for three reasons.

Because it was unconstitutionally vague, because it imposes an undue burden on women seeking abortions, and because it was not adequate to protect the health and lives of women. We agree the act imposes undue burdens on women and therefore hold the act unconstitutional. And because we based it on undue burden grounds as we did in *Carhart*, we do not decide the vagueness issue or whether the act fails to provide adequate protections.

The Eighth Circuit did not address that issue. The only circuit court that

addressed it, addressed it on the issue that we are addressing here, which is that this could include other procedures, would ban other procedures, and as a result it could be unduly burdensome because it would eliminate all forms of abortions late in pregnancy.

We are making it clear what the court said, and not what some say the court said. That is what the court said. That is the only circuit court to have ruled on the case. Now we have an amendment which clearly deals with the issues of the circuit court which we are concerned about. I think we have cleared that constitutional hurdle.

It is interesting that the Senator from California talks about we have to follow the Constitution. Nowhere in the Constitution is the issue of partial-birth abortion mentioned, as far as I can see. Nowhere in the Constitution is the right to privacy mentioned. Nowhere is it mentioned. It is created by the Supreme Court.

To be technically correct, the Senator from California should say that we need to follow the Supreme Court, and not the Constitution, because there is a difference. The Supreme Court has interpreted and legislated rights through their Court decisions. The Senator from California accurately reflects that the law of the land is the high court. But to suggest we are following the Constitution, which is clear about this issue as far as I am concerned because the Constitution says that we have the right to life. So if the Constitution speaks at all to this issue, it speaks on our side.

Again, the law of the land is—I think she would be correct if she phrased it that way. We need to comport with the law of the land as the Court has interpreted the Constitution.

I would like to get back to my amendment and go through my modification to the bill. I am trying to get my terms correct. It is not going to be an amendment. It will be a modification. I would like to get back to the modification of the underlying bill that will redefine partial-birth abortion, and again focus on the fact that this solves one of the two issues that are out there with respect to the constitutionality.

More importantly, in my mind, it deals with the two issues that I think concern Members of the Senate as to whether to support this bill. One is, is it an undue burden? Do we ban more than what we say we do? If people are concerned whether that is the case, I think we have solved that problem—that if this bill passes no procedure other than partial-birth abortion, when the baby is outside of the mom after 20 weeks, outside the mother, would otherwise be born alive, and then brutally killed, executed by having a sharp pair of scissors thrust into the base of the skull of the baby and then its brains suctioned out. That would be outlawed under this procedure. But no other procedure would.

I want to make clear Congress' regard as to what the intent of the Congress is. Again, I think the language is amply clear for the court to do so.

It was interesting that the Senator from California contacted ACOG, the American College of Obstetricians and Gynecologists, and on an hour's notice, when asked about our amendment, ACOG was able to fax back to the floor of the Senate a response objecting to this provision. But those of us who have asked ACOG for 3 years, 3 years, to provide us a for instance as to when and under what circumstances this procedure would be a preferable or more proper procedure than other abortion techniques, they have yet to respond. It is interesting they can respond in an hour with great specificity about their concerns about this bill, about this modification. But in 3 years they have not been able to respond to a very simple question. You state—and they did—that it "may be" the best or most appropriate procedure in a particular circumstance to save the life or preserve the health of the woman. We have asked for a "for instance." We have asked for that for instance to be peer reviewed, to see whether their suggestion is, in fact, an accurate suggestion. In more than 3 years, in three sessions of Congress, they have refused to provide an example.

That, my friends, is the underpinning of the second objection to the people to this bill that it unduly infringes upon the health of the mother; that this is medically necessary to preserve the health of the mother under *Roe v. Wade*.

Mrs. BOXER. Will the Senator yield on his criticism of ACOG?

Mr. SANTORUM. I yield.

Mrs. BOXER. I want to ask my friend from Pennsylvania, am I right, he is critical of the general counsel of the American College of Obstetricians and Gynecologists, who are the doctors in charge of women's health in this country; he is critical that their general counsel, upon reading his amendment, could determine on its face that amendment or that modification does not meet the criticism of the Eighth Circuit Court? Is he critical that the general counsel trusted her law degree, her reading of his bill, her understanding of the law, to come back with an opinion? It is hard for me to believe that.

Mr. SANTORUM. Reclaiming my time.

Mrs. BOXER. Please. I know the Senator wants to criticize the doctors, but now he is criticizing the lawyers.

Mr. SANTORUM. Any reasoned understanding of what I just said would lead one to believe I was not criticizing the American College of Obstetricians and Gynecologists for promptly responding to your request. I was comparing their swift response to your request to what could whimsically be considered a casual response to my request which has taken now 3 years on the core point, on the core question, as

to whether this bill restricts or in any way inhibits the health of the mother.

Again, I will read their own report: We could identify no circumstances under which this procedure would be the only option to save the life or preserve the health of a woman. Then they go on to say it may be best or appropriate in some circumstance, but they give no such circumstance, no such evidence.

This is the only pillar upon which the other side stands, saying it is medically necessary.

I will read several letters from members of ACOG, fellows in ACOG, who dissect their policy statement and say this second sentence, it may be the best position, is hogwash. That is a medical term—it is hogwash.

Again, ACOG has not responded to a letter, now in, 2½ years.

I would like to respond to the January 12th statement of policy issued by the executive board. I am a former abortion provider.

Let me repeat. This is an obstetrician, a member, a fellow of the American College of Obstetricians and Gynecologists:

I am a former abortion provider and I would like to take issue with the "Statement" for a number of reasons.

First, I can think of no "established obstetric technique" that "... evacuat(es) the intracranial contents of a living fetus to affect vaginal delivery of a dead but otherwise intact fetus." The closest technique that I can imagine is a craniocentesis on a hydrocephalic infant to allow for vaginal delivery. There is no necessity that the infant be killed in this situation, and you must admit that there is a vast difference between craniocentesis for hydrocephaly and suctioning the brain of an otherwise normal infant who would be viable outside the womb.

Second, as to the number of abortions performed after 16 weeks, I do not trust the CDC's data on this since abortion statistics are at best, arguable. Abortion industry lobbyist Mr. Ron Fitzsimmons' recent admission of purposely misinforming the media and Congress on the statistical incidence of the procedure and its predominant usage (normal infants) should at a minimum demand an accurate audit of second and third trimester abortions in America. . . .

Finally, I'm sure there are many ACOG members who join me in reminding you that your stand on this issue, published as an official policy statement, does not reflect the views of many, if not most, ACOG members. However, the perception of the general public and the media is that you speak for all of us. Please recognize that you have a responsibility to all members of ACOG if not to stay neutral in sensitive areas such as this, to at least issue a disclaimer on such statement that the opinions of ACOG Executive Committee do not reflect those of its members.

This is signed by three members of ACOG.

I can go through another letter of a physician in Northern Virginia who writes in detail, a fellow of the American College of Obstetricians and Gynecologists, a letter to Senator TORRICELLI last year:

My name is Dr. Camilla Hersch. I am a board certified Obstetrician and Gynecologist, a fellow of the American College of

Obstetrics and Gynecology, in private practice, caring exclusively for the health needs of women for thirteen years. I am also a clinical assistant professor of [OB/GYN] for Georgetown University. I have been involved with teaching medical students and OBGYN residents for fourteen years at two major medical teaching centers.

Not, by the way, compared to the inventor of partial-birth abortion. Not an obstetrician or gynecologist but a family practitioner who does abortions. That is who they are defending—a procedure not taught in medical school, not in any of the literature which Senator FRIST, Dr. FRIST, went through in detail last night. His thorough review of all the medical literature on the subject of abortion had not a mention of this procedure.

Back to the letter:

I have delivered over two thousand babies. On a daily basis I treat pregnant women and their babies. In my everyday work I am privileged to participate in the joy of healthy birth and the agony and sorrow of complications in pregnancy which can lead to loss of life or heartbreaking disability.

As a member of the Physicians' Ad Hoc Coalition for Truth, which now has more than 600 members, I strongly support and applaud the legislative efforts to ban this heinous Partial-Birth Abortion procedure.

Many of the members of PHACT, Physicians' Ad Hoc Committee for Truth, hold teaching positions or head departments of obstetrics and gynecology or perinatology at universities and medical centers across the country. To our knowledge, there are no published peer-reviewed safety data regarding the procedure in question. It is not taught as a formally recognized medical procedure. Proponents of partial-birth abortion tout it as the safest method available. Nothing could be further from the truth. There are in fact several recognized, tested, far safer, recommended methods to empty the uterus when it is medically necessary to do so.

There is no data in the accepted standard medical literature that could possibly support any assertion of the appropriateness of this procedure.

If you ask most obstetricians or family practice physicians about partial-birth abortion, they will tell they have never seen or heard of such a treatment for any reason in their educational training or practice.

Most physicians I have questioned are incredulous that anyone knowledgeable about Obstetrics and Gynecology would ever consider this procedure as any kind of serious suggestion, because it is so obviously dangerous. It has never been proposed or taught as the safest method to empty the uterus and end a pregnancy whether for purely elective reasons for abortion or in those grave instances when it is medically necessary to do so to save the mother's life.

Consider the grave danger involved in partial-birth abortion, which usually occurs after the fifth month of pregnancy, even into the last month of pregnancy. A woman's cervix is forcibly dilated over several days. This risks creating an incompetent cervix, a leading cause of subsequent premature delivery. It also risks serious infection, a major cause of subsequent infertility. In the event of a truly life threatening complication of pregnancy, the days of delay involved substantially add to the risk of loss of life of the mother.

The abortionist then reaches into the uterus to pull the child feet first out of the mother's body, up to the neck, but leaves the head inside. He then forces scissors through the base of the baby's skull—which remains

lodged just within the opening of the forcibly dilated cervix, because the baby's head is larger and of course harder than the remainder of the soft little body.

I think it is obvious that for the baby this is a horrible way to die, brutally and painfully killed by having one's head stabbed open and one's brains suctioned out.

But for the woman, this is a mortally dangerous and life threatening act.

Partial-birth abortion is a partially blind procedure, done by feel, thereby risking direct scissor injury to the mother's uterus and laceration of the cervix or lower uterine segment. Either the scissors or the bony shards or spicules of the baby's perforated and disrupted skull bones can roughly rip into the large blood vessels which supply the lower part of the lush pregnant uterus, resulting in immediate and massive bleeding and the threat of shock, immediate hysterectomy, blood transfusion, and even death to the mother.

Portions of the baby's sharp bony skull pieces can remain imbedded in the mother's cervix, setting up a complicated infection as the bony fragments decompose.

Think of the emotional agony for the woman, both immediately and for years afterward, who endures this process over a period of several days.

None of this nauseating risk is ever necessary, for any reason. Obstetrician-gynecologists like myself across the U.S. regularly treat women whose unborn children suffer the same conditions as those cited by proponents of the procedure.

Never is the partial-birth abortion procedure necessary: not for polyhydramnios (an excess of amniotic fluid collecting around the baby),

That is one of the cases given by the other side. Never is a partial-birth abortion procedure necessary—

not for trisomy (genetic abnormalities characterized by an extra chromosome), not for anencephaly (an abnormality characterized by the absence of the top portion of the baby's brain and skull),

Never is a partial-birth abortion necessary,

not for hydrocephaly (excessive cerebrospinal fluid in the head),

Water on the brain. Never is partial-birth abortion necessary,

not for life threatening complications of pregnancy to the mother.

Sometimes, as in the case of hydrocephaly, it is first necessary to drain some of the fluid from the baby's head, with a special long needle, to allow safe vaginal delivery. In some cases, when vaginal delivery is not possible, a doctor performs a Cesarean section. But in no case is it necessary or medically advisable to partially deliver an infant through the vagina and then to cruelly kill the infant.

The legislation proposed clearly distinguishes the procedure being banned from recognized standard obstetric techniques.

We are even further clarifying it.

I must point out, even for those who support abortion for elective or medical reasons at any point in pregnancy, current recognized abortion techniques would be unaffected by the proposed ban.

Any proponent of such a dangerous procedure is at the least seriously misinformed about medical reality or at worst so consumed by narrow minded "abortion-at-any-cost" activism, to be criminally negligent. This procedure is blatant and cruel infanticide, and must be against the law.

Mr. President, I would like to put in place as legislative history for this

modification that I will add to the bill a colloquy. Senator DEWINE is here. We are going to go through a colloquy that will create for the court a clear understanding of what is meant by this amendment.

So I yield to the Senator from Ohio for a question.

Mr. DEWINE. I thank the Senator. I am looking at the language obtained in the modification. I do have some questions concerning some of the language that is in there, some of the wording.

First, let me ask the sponsor, my colleague from Pennsylvania, what is the meaning of the word "living" as used in the amendment, as where it refers to a living fetus?

Mr. SANTORUM. I thank the Senator from Ohio.

In the Michigan partial-birth abortion case, *Evans v. Kelly*, the Federal District Court found that:

[t]he doctors were . . . unanimous in their understanding of the meaning of the term "living," as used in the statute's definition of a "partial-birth abortion": A living fetus means a fetus having a heartbeat.

Mr. DEWINE. Let me also ask, then, what is the meaning of the word "intact," as used in the amendment where it refers to an "intact" living fetus? Intact?

Mr. SANTORUM. The word "intact" is used in this context to refer to the living fetal organism rather than a fetal part that has been removed from a fetus. Because of the use of the word "intact," a person performing a partial-birth abortion would not fall under the prohibition that the law provides if, for example, he or she delivers a dismembered fetal arm or leg. To fall under the prohibition, the abortionist would have to deliver a living fetal body, functioning as an organism.

The use of the word "intact" is not, however, meant to allow the killing of a partially born fetus merely because some nonessential body part is missing. An abortionist cannot cut a toe of the fetus off before partial delivery and then claim in defense that the fetus killed after the partial-birth abortion was not intact.

Mr. DEWINE. I thank my colleague for that answer.

Let me also ask about this. The amendment referred to an "overt act" that kills the fetus; an "overt act" that kills the fetus. I wonder if my friend from Pennsylvania could tell us what is meant by the term "overt act" in this particular context?

Mr. SANTORUM. I thank the Senator.

The term "overt act" is used to mean some separate specific act that the abortionist must undertake to deliberately and intentionally kill the fetus, other than delivering the fetus into a partial-birth position or causing the fetus to abort. It does not mean the overall abortion procedure which typically begins with a living fetus and ends with a dead fetus.

Under the amendment, the abortionist must not only deliver the fetus

in such a way that some portion of the body of the fetus is outside of the mother's body, he or she must also separately and specifically act to then kill the fetus while it is in the partially-delivered position, for example, by puncturing the fetal skull or suctioning out the fetal brain.

Mr. DEWINE. I again thank my colleague. Let me ask a further question.

Would the bill as amended prohibit the suction curettage abortion procedure?

Mr. SANTORUM. No. The bill would have two elements. First, the fetus must be delivered into the partially delivered position for the purpose of performing an overt act that will kill the fetus while it is in the partially delivered position. Second, the fetus must actually be killed; that is, it must die while it is in the partially delivered position. Neither of these would happen with the suction curettage. Removal of the dismembered fetal parts entailed in a suction curettage is not prohibited because the parts do not constitute an intact living fetus. Suction curettage also typically involves dismemberment and fetal death in utero, conduct beyond the scope of the bill.

In the extremely implausible event that an entire fetus was suctioned through the cannula and died after removal from the mother's body, then the bill would not apply either, since it requires that the fetus be killed while in a partially delivered position.

Even if one argues that a fetus might occasionally die in the cannula while partially outside the mother's body during the course of a suction curettage procedure, the fetus would not have to be deliberately positioned there for the purpose then of taking a separate, second step to end its life at that point. Nor is any such separate step ever taken. Rather, suction curettage involves a single continuous suction process that removes the fetus from the uterus through a cannula and out of the mother's body. The physician could not knowingly deliver an intact living fetus into the partially delivered position by this method because he would have no way of knowing that the fetus yet lived at this point when it was partially outside the mother's body. The abortionist would, thus, never knowingly cause fetal death to occur at the partially delivered stage because the physician would never know at what point fetal demise occurred.

Even State partial-birth abortion statutes that did not have the "fetus partially outside the mother's body" have been held not to govern suction curettage abortion, and that is the Federal district court in Virginia and Kentucky.

Mr. DEWINE. I thank my colleague for that answer.

Let me pose an additional question. Would the bill, as amended, prohibit the conventional dilation and evacuation abortion procedure which involves dismemberment of the fetus?

Mr. SANTORUM. Absolutely not. In the conventional D&E procedure, the intact living fetus is never positioned partly outside the mother's body for the purpose of taking a separate overt act to end its life while it remains in that position. Moreover, the second step to end fetal life in that position is never taken. Also, once a physician has begun performing a conventional D&E dismemberment, he typically does not know when the fetus dies. Thus, he cannot meet the mens rea requirement of knowingly bringing an intact living fetus partially out of the mother for the purpose of performing a separate overt act intended to kill the fetus in the partially delivered position.

Mr. DEWINE. Again, I thank my colleague for his answer.

I pose one additional question. Would the bill, as amended, prohibit the induction abortion procedure?

Mr. SANTORUM. No. Physicians doing inductions never deliberately and intentionally deliver an intact living fetus partially outside the mother's body for the purpose of pausing to perform an act that they know will kill the fetus while it remains in a partially delivered position before continuing the delivery.

It is possible that rarely during an induction abortion, an intact living fetus could be trapped in a partially delivered position with complete delivery being prevented by entanglement of the umbilical cord or the fetal head being lodged in the cervix. In such circumstances, the physician may cut the cord or decompress the skull before completing delivery without being in violation of the bill because he did not intentionally and deliberately get the fetus in that position for the purpose of killing it while it was in that position.

Even State partial-birth abortion statutes that did not have "fetus partially outside the mother's body" language have been held not to govern induction abortions, and again, Federal district courts in Virginia and Kentucky have so ruled.

Mr. DEWINE. I THANK MY COLLEAGUE VERY MUCH FOR THOSE ANSWERS.

Mr. SANTORUM. I thank the Senator from Ohio.

The Senator from Nebraska had questions about how this amendment from a constitutional standpoint would be perceived. This is very clear. With this colloquy, we very clearly address all the different aspects of different kinds of abortions which would not be outlawed by this procedure and why they would not be outlawed by this procedure.

For those who have suggested—and I know many have suggested—that what we are about here is the first step to eliminating abortions, I again state for the record that I cannot honestly say we will eliminate one abortion in this country if we pass this bill. I can honestly say that is not the thrust of what we are trying to accomplish.

I have said it once, and I will say it again and again: What we are trying to

accomplish is to make sure that in a society where the lines are ever blurring, in a society where sensitivity to life may be at an all-time low, in a society where the Peter Singers of the world are running rampant with their talk of being able to kill children if they are not perfect after they are born, we need a bright line. And the bright line should be that if the child is in the process of being born, you cannot kill the child, you cannot do an abortion where the baby is in the process of being born.

That has to be the bright line, except, of course, to save the life of the mother. But to deliberately birth the baby for the purpose of killing the baby goes over the line.

In closing, I refer to what the Senator from California said when I said she defends a procedure in which the baby is born all but the head; that under those circumstances you can still kill the baby. But if the baby is born head first and all but the foot is still inside the mother, when I asked her, can you kill the baby in this circumstance, she said no, "Absolutely not."

If that is a bright line to anybody in this Chamber, if that is where we want to stand, I will tell you, that is on shifting ground. In fact, that is on quicksand, and pretty soon the Peter Singers of this world who say, "Killing a disabled infant is not morally equivalent to killing a person. Very often it is not wrong at all"—a professor at the University of Princeton. And you say that is outrageous?

Look at the examples the other side has given as reasons to keep this procedure legal. The examples are all about disabled infants. None of them concerns the health of the mother. They all concern a case where children were going to be born with profound abnormalities, disabled. The argument is, we need to keep this legal because disabled children are less entitled to protection than healthy ones.

You have heard no example. You will hear no example. You will hear no example of a healthy mother and a healthy child being used to legitimize this procedure. They won't dare do that. Why? Because it would shock you. Yet 90 percent of abortions performed under partial birth are performed on just those cases. What they will use is the disabled child, and the American public, incredibly, to me, will say: OK; that's OK; I understand; it's OK; if the child is disabled, of course you can kill it.

If that is what we are thinking, America, if that is a legitimate reason to keep this "safe" procedure—which, of course, it is not—how far are we from, killing a disabled infant is not morally equivalent to killing a person? How far away are we, America? If this Senate today upholds, by not passing this bill by a constitutional majority, that logic, then, Dr. Singer, come on down because you are next.

Mr. President, I yield the floor.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I thank the Chair for recognizing me.

Let me say at the outset, I am so grateful to the younger Senators who have taken up this battle. And they are doing well with it. They may not win, but they are doing the Lord's work as far as I am concerned.

I remember, on January 22, 1973—and I had barely arrived in the Senate—Jim Buckley and I were sitting right over there, and the clerk brought in a bulletin from the Associated Press announcing the Supreme Court decision in *Roe v. Wade*. Jim Buckley looked at me, and he said: We've got to fight this. I said: We certainly do. And we did. And we are still fighting it—in different ways. He is a Federal judge now, and I am a somewhat older Senator.

But my respect goes out to the ladies outside who are standing up for the right to life. They will always be dear to me.

Mr. President, before I launch into what I want to say, I have thought so many times of a beautiful Afro-American lady named Ethel Waters, born in Mississippi, the product of a rape. Her mother was much beloved by citizens in that Mississippi town. And they offered to take care of an abortion for her. She said: No. I don't want it. The Lord put that child in me, and I want it to be born. The baby turned out to be a girl who grew up to be one of the greatest singers in the history of this country. Ethel Waters' name is in all of the musical records as being a great voice.

That brings me up to the point that I want to try to make today, as briefly as possible. The United Nations recently sounded its alert button to announce what the United Nations described as the arrival of the six-billionth baby born in this world. And the news reports went on and on, of course, in great lamentation that the Earth does not produce enough resources to handle such population growth, the point being, of course, that the United Nations crowd does not believe bringing more babies into the world is advisable.

If I may be forgiven, I do not regularly agree with the United Nations, and this is another time when I do not agree.

In fact, the spin doctors worked steadily drumming up all manner of contrived environmental statistics to persuade the American people to support abortion. And those spin doctors, of course, used the term "population control"—which is nothing more than a diplomatic way of promoting abortion because that is exactly what "population control" means. It means brutally killing innocent unborn babies.

Anyone doubting the horrors of population control need only to look at Red China, a Communist country, that proudly boasts of its population control program, a program which forces

pregnant women, who have already given birth to a male child, forces those women to undergo an abortion.

Astonishingly, Red China's Premier, Zhu Rongji, boasted that the world had been spared the "burden" of 300 million babies as a result of Red China's forced-abortion policy.

So I think there is no doubt that the "population control" spin doctors are, without fail, pro-abortionists with an undying and unyielding commitment to the abortion movement.

And no matter where it is performed, whether it is in Red China or in the United States, abortion, in any form, is atrocious and wrong. And my critics may come out of their chairs, but they are breaking one of the Ten Commandments.

That is why I am grateful to the distinguished Senator from Pennsylvania, Mr. SANTORUM, for his strength and conviction in standing up in defense of countless unborn babies. RICK SANTORUM's willingness to continue to lead the fight on behalf of the passage of the Partial-Birth Abortion Ban Act is a demonstration of his courage.

From the moment the Senate first debated the Partial-Birth Ban Act in the 104th Congress, the extreme pro-abortion groups have sought to justify this inhumane, gruesome procedure as necessary to protect the health of women in a late-term complicated pregnancy. That is what they always say. However, well-known medical doctors, obstetricians, and gynecologists have repeatedly rejected this assertion that a partial-birth abortion can be justified for health reasons.

Moreover, there is much to be said about the facts surrounding the number of partial-birth abortions performed every year and the reasons they are performed—or at least the stated reasons. It is difficult to overlook the confession of Ron Fitzsimmons, executive director of the National Coalition of Abortion Providers, who acknowledged that he himself had deceived the American people on national television about the number and nature of partial-birth abortions. Mr. Fitzsimmons has since then estimated that up to 5,000 partial-birth abortions are conducted annually on healthy women, carrying healthy babies—a far cry from the rhetoric of Washington's pro-abortion groups who have insisted that only 500 partial-birth abortions, as they put it, are performed every year, and only—they say, every time—in extreme medical circumstances.

It is time for the Senate, once and for all, to settle this matter and pass the Partial-Birth Abortion Ban Act with a veto-proof vote and affirm the need to rid America of this senseless, brutal form of killing.

It is also important to note that the American people recognize the moral significance of this legislation. The majority of Americans agree that the Government must outlaw partial-birth abortion. In fact, in recent years, polls have found as many as 74 percent of

Americans want the partial-birth procedure banned.

Unfortunately, the American people have to contend with President Clinton's adamant refusal to condemn this senseless form of killing, despite the public's overwhelming plea to ban it.

The President of the United States should have to explain, over and over again, to the American people why he will not sign this law. The spotlight will no longer shine on the much proclaimed "right to choose."

I remember vividly the day when the Supreme Court handed down the decision to legalize abortion. As I said earlier, Jim Buckley and I—Senator Jim Buckley of New York and I—were sitting side by side because we were backbench Senators at that time. Each of us who has fought, heart and soul, to undo that damaging decision, understood so well that day that we had yet to see what devastation would come of such a horrendous rule.

Indeed, when you stop to think about it, when the President of the United States condones the inhumane procedure known as "partial-birth abortion," it is clear that our worst fears that January morning are coming true. So it is time, once again, Mr. President, for Members of the Senate to stand up and be counted for or against the most helpless human beings imaginable, for or against the destruction of innocent human life in such a repugnant way. Senators are going to have to consider whether an innocent, tiny baby, partially born, just 3 inches from the protection of the law, has a right to live and to love and to be loved. In my judgment, the Senate absolutely must pass the Partial-Birth Abortion Ban Act. I pray that it will do it by a great margin, of at least the 67 votes to override Bill Clinton's veto.

I thank the Chair and yield the floor.

MODIFICATION TO S. 1692

Mr. SANTORUM. Mr. President, I ask unanimous consent that it be in order for me to send a modification of the bill to the desk, the modification of the bill be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. SANTORUM. Pursuant to the agreement, I send the modification to the desk.

The PRESIDING OFFICER. The bill is so modified.

The modification was agreed to, as follows:

On page 2, strike lines 18 through 21, and insert the following:

"(b)(1) As used in this section, the term 'partial-birth abortion' means an abortion in which the person performing the abortion deliberately and intentionally—

"(A) vaginally delivers some portion of an intact living fetus until the fetus is partially outside the body of the mother, for the purpose of performing an overt act that the person knows will kill the fetus while the fetus is partially outside the body or the mother; and

"(B) performs that overt act that kills the fetus while the intact living fetus is partially outside the body of the mother.

On page 3, strike lines 8 through 13.

Mr. SANTORUM. Mr. President, while I have a few minutes, I want to continue building the record, not from RICK SANTORUM, not from other Senators who are not experts in the field, but building the record from physicians, obstetricians, and experts who comment directly, fellows of the American College of Obstetricians and Gynecologists, an organization that the other side uses as defense.

Again, this defense is a paper bag that simply needs to be tested. It is a facade. It will collapse. It will be punched through.

Let me strike a blow. This is a statement of Dr. Don Gambrell, Jr. M.D., with the Medical College of Georgia, again, a fellow of the American College of Obstetricians and Gynecologists. He is a clinical professor of endocrinology and OB/GYN. First sentence right out of the block:

Partial-birth abortion is never medically indicated to protect a woman's health or fertility.

You have heard several other comments I have made about obstetricians who have said the exact same sentence. Think about who is saying this. This is an expert. We have 600 such physicians. The American college itself, who is against this bill, said it is never the only option. So they even agree it is not the only option. What they say is, it may be preferred. But they give no case; in 3 years, they have given no case. Their own members say it is never medically indicated—never.

He underlined the word "never." This is a doctor at a medical college. By the way, I have reams of letters here, all from physicians, all from obstetricians from all over the country who say the same thing.

Think about this he is a doctor. For a doctor to say "never," put it in writing and stand behind it—in this case, this was submitted as testimony to the House of Representatives in Atlanta, GA—to put this in sworn testimony, to be able to stand up and, without flinching, to lead off, first sentence, "never medically necessary."

What do we have on the other side of this medical necessity debate? I will read it one more time. The only factual evidence that supports the other side is this statement:

The select panel could identify no circumstances under which this procedure would be the only option to save the life or preserve the health of the woman.

They agree with us: Not the only option; it is not an undue burden; there are, in fact, other procedures that can be used that are as safe.

But they go on to say, however, it "may be the best or most appropriate procedure." It "may be."

Here is one of their members—by the way, there are at least five, six dozen members, their members, who have written, who have said "never," letter after letter after letter after letter after letter, "never." What did they respond to their own members? A deafening silence.

Their own members have asked: Give us a for instance. What has been their response? Nothing.

Then we are to defeat a bill based on no evidence and an assertion that it may be, without a shred of evidence to support that "may be."

We have mountains of evidence, of expert opinion, of specific indications, of, as I just read from Dr. Hersh, where she went through specific abnormalities and said, not appropriate, not appropriate, not appropriate, not appropriate. Why these abnormalities? Because they were all the abnormalities listed in their anecdotes, in their case histories, that said "requires" a partial-birth abortion or is a preferable procedure to perform under these circumstances. Again, experts on the record under oath—never.

Now they go further than that. These people say not only is it never medically indicated, it is contraindicated. It is more dangerous to do this.

I want Members to know, when they walk to this floor and vote on this bill this time, A, the medical evidence is crystal clear: Never medically necessary to protect the health of the mother. And anybody who walks outside this Chamber and asserts that is doing so against 100 percent of the record before us.

By the way, that won't stop people. It won't stop anybody. But look at the record; look at the facts. Anybody who walks out of here and says, I am opposed to this because it is unconstitutional, it is vague, it may cover more of this abortion, and it is an undue burden because of that, read the modification that has just been sent to the desk and adopted. It is crystal clear that no other abortion is banned by this bill now. I don't believe it was before, but if you had any doubt, it is not now.

Senator DEWINE and I entered into a colloquy that specifically listed instances and other abortion techniques used that are not covered by this bill. We explain in legal and medical detail why they are not. We say to the courts, that is not our intention; it is not covered. Here, legally and medically, is why it is not.

If you want to walk out here and tell your constituents that you voted against this because we needed to protect the health of the mother, "check strike one, not true." You can say it. You might get away with it. But it is not true. They don't have a shred of evidence to say that it is.

They will put up pictures and tell stories about difficult decisions. Every one of those cases have been reviewed and every single one of them, experts in the field, 600 of them have said, not true. You may walk out this door and tell your constituents that I need to vote against this because it bans other procedures; it would be an undue burden; it would prohibit a woman's right to choose. Not true. It does not ban any other procedures. If it conceivably did, by some distortion of the words, which is what I think the courts have done,

we make it crystal clear. This bill, the new bill, the first time any Member of this Senate will be voting on this particular bill be careful, be careful, because all of the trees you can hide behind in the game of abortion politics are being cut down at the base. In fact, there aren't even stumps left to hide behind. There is no medical evidence to support what they suggest. There is no constitutional argument on undue burden left with this new bill.

So if you want to support this procedure, look your constituents in the eye and say: I believe abortion should be done at any time, at any place, in any manner, anyone wants to do it, and that includes 3 inches from being completely born and being protected by the Constitution. If you want to say that, then you are telling the truth; then you are being honest.

If you want to say anything else, then you are hiding behind what was a truth. It is gone. There is no protection. You will have to look your constituents in the eye and say: I am not concerned about the dividing line between what is protected under our Constitution and what is not; I am not concerned that this is a slippery slope, where if the head is not born, you can kill the baby, but if the foot is not born, you can't, and it doesn't concern me at all; it doesn't set a double standard at all; it doesn't cause a problem in our society where a baby 3 inches away from life can be executed. It doesn't bother me, America. I want you to know that, constituents. This doesn't bother me. It doesn't bother me that all of the reasons given by the other side as to why this procedure should be kept legal are because of disabled children who were either not going to live long, or live long with a disability.

Mrs. BOXER. Will the Senator yield for a question?

Mr. SANTORUM. No, not at this time.

Mrs. BOXER. I want to ask, how much longer does the Senator plan on going at this point in the debate?

Mr. SANTORUM. A couple of minutes. The Senator from Illinois wants to speak.

Mrs. BOXER. Mr. President, I have not objected to his modification, but I wanted to speak on it. The Senator did it when I was talking about Senator SMITH. I would like to have a little time prior to the Senator from Illinois to respond to the modification.

Mr. SANTORUM. Sure.

Mrs. BOXER. Thank you.

(Mr. GORTON assumed the chair.)

Mr. SANTORUM. So if you want to look your constituents in the eye and say: I am not concerned that we need to draw a bright line, and that the examples being used as to why this procedure should be kept legal—and the stories and the cases to legitimize this procedure all involve deformed babies; they all involve babies who were not perfect in someone's eyes—if you want to look at them and say we need to keep this procedure legal because of

these cases, then you need to look them in the eye and say: Well, I don't mean what Dr. Singer says, that killing a disabled infant is not morally equivalent to killing a person. But if you say that, then you have to look them in the eye and say: By the way, I want this procedure to be legal to kill healthy children with healthy mothers because that is how 90 percent of these abortions are done.

So if you can look in the eyes of constituents and say a 25-week-old baby who is from a healthy mother, a healthy baby, which would otherwise be born alive, that may in fact be viable, can in fact be delivered, all but the head, its brains punctured and suctioned out, and that is OK in America, and that doesn't bother us, and that doesn't create a slippery slope and create a cultural crisis—if you can look in the eyes of your constituents and tell them that, then come down here and vote no. Vote no, and you can do so with a clear conscience; you can do so with a clear conscience as to what you are saying.

I don't know about other aspects of your clear conscience, but know what you are doing because anybody who will take the time to read the RECORD of what happened over the last 2 days will have no doubt as to what you are doing. I know most folks don't read the RECORD. But you have, you listened, and your staff listened. You know the facts. You know what is at stake. You know the right thing to do.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. BOXER. Mr. President, we finally have reached a point where the Senator from Pennsylvania and I have a strong agreement; we are urging everybody to read the record of this debate. I do hope the American people will read the record of this debate, and they will find out who stands for the mainstream view on the issue of a woman's right to choose and who stands for the extreme view on a woman's right to choose. The extreme view is overturning *Roe v. Wade*, which, from 1973, has protected the right of a woman to make a personal, private, moral, spiritual decision with her family, her doctor, her God, her advisers.

That is the mainstream view in America. That is the law of the land. The Senator from Pennsylvania is right that it is the law of the land because the Supreme Court found a right of privacy in the Constitution and said that, yes, women count. We have a right to privacy. So, please, read the record.

We voted on the issue of *Roe v. Wade* and by a thin, small margin—the vote was 51–48—we said don't overturn *Roe*. That is a dangerous vote. Forty-eight Members of this body want to criminalize abortion, make it illegal, go back to the days when women died—5,000 women a year. This is the first time this Senate in history has ever voted on that landmark decision, and 48 Senators don't trust women; 48 Senators want to tell women what to do in

a personal, private, religious, moral decision.

So, yes, I do hope the people of this country will read the RECORD because the RECORD is complete on this issue. We heard from the other side that we don't care about *Roe v. Wade*; we are not going to overturn it. We don't want to do anything about it. We just want to talk about this one procedure. And many of us on this side of the aisle said it is a smokescreen, and we tested it today. What did we find out? The leaders of this ban, which has been called unconstitutional by 19 courts, also voted to overturn *Roe v. Wade*.

I hope the families of America read this Record. It is very clear about who stands where. Let me tell you the difference between the two sides. It is not so much about how we feel on the issue because that is a personal matter. I have given birth to children—the greatest joy in my life. I have a grandson—a new joy in my life. I have one view; the Senator from Pennsylvania has another. Let me tell you the difference. It is who decides. I respect the right of the Senator from Pennsylvania to make that decision by himself with his wife, with his family. He does not respect my right, or your right, or the right of anyone in America to be trusted to make that decision. He wants to tell you what to do. I didn't think we were elected to play God or to play doctor. I thought we were elected to be Senators. I thought we were elected to uphold the Constitution and the laws of the land.

Yes, this Record is full. It is important. It ought to be reflected upon. Our votes ought to be scrutinized. I agree with the Senator from Pennsylvania. Every word that was spoken here ought to be looked at. Every single time we engage in a conversation ought to be reviewed. I think it is important.

I also think it is important to understand that this modification that was sent to the desk—we had no objection to the Senator from Pennsylvania rewriting his law. That is his right. I don't have a problem with it. It does not do what the Senator from Pennsylvania says it does. The Senator from Pennsylvania says his new language addresses the objection of the Eighth Circuit and of the other courts that have ruled on his law that has been enacted in many States as unconstitutional on its face.

In the short period of time we have had to send out his new language, we have heard from the Center for Reproductive Law and Policy. The letter is in the RECORD. It says:

The proposal continues to preclude any procedure at any gestational age of a pregnancy. Court after court—including the unanimous Eighth Circuit—has held that such an approach unduly burdens the right to abortion.

That is the Center for Reproductive Law and Policy.

The general counsel of the Association of Obstetricians and Gynecologists, the very group that deals

with bringing life into the world, the very group of doctors we go to when we are ready to have our families and to help us have our families, says about this new language, upon review of it, that the language does not address the issues addressed by many States and Federal courts, including the United States Court of Appeals for the Eighth Circuit.

The Senator may say he has met constitutional objections. But those who deal with this law, who deal with it every day, say it does not.

Mr. President, I ask unanimous consent to have this letter printed in the RECORD.

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

NORTHWESTERN UNIVERSITY
MEDICAL SCHOOL,
Chicago, IL, October 21, 1999.

I have reviewed Senator Santorum's amendment. It would apply to all second trimester procedures. It does not narrow the definition of the so-called "Partial-Birth Abortion Ban" Act. It would effectively ban the safest and most common form of second trimester abortions.

Sincerely,
MARILYNN C. FREDERIKSEN, M.D.,
Associate Professor,
Obstetrics and Gynecology,
Department of Obstetrics and Gynecology.

Mrs. BOXER. Mr. President, this letter is from Northwestern University Medical School signed by Marilynn Frederiksen, M.D., Department of Obstetrics and Gynecology, who says:

I have reviewed Senator Santorum's amendment. It would apply to all second trimester procedures. It does not narrow the definition . . . [and] would effectively ban the safest and most common form of second trimester abortions.

I say to my colleagues, if you were looking for a fix on the constitutionality, it isn't here.

Again, I repeat that if you believe in the Constitution, if you believe in the right of privacy, and if you believe in following court precedent, a woman's health must always be protected. Under this law, as modified, the woman's health isn't even mentioned.

It is possible she could be paralyzed. All kinds of horrible things could happen. She could be made infertile. And, yet, no exception.

We have another letter that I ask unanimous consent to have printed in the RECORD.

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

THE AMERICAN COLLEGE OF
OBSTETRICIANS AND GYNECOLOGISTS,
Washington, DC, October 21, 1999.

Hon. BARBARA BOXER,
Senate Hart Office Building,
Washington, DC.

DEAR SENATOR BOXER: In response to the current Senate floor debate on the so-called "partial birth abortion" ban, I would like to clarify that there are rare occasions when Intact D & X is the most appropriate procedure.

In these instances, it is medically necessary.

Sincerely,
STANLEY ZINBERG, MD,
Vice President,
Clinical Practice Activities.

Mrs. BOXER. Mr. President, this letter is from Stanley Zinberg, vice president, clinical practices, the American College of Obstetricians and Gynecology. This is a new letter:

. . . I would like to clarify that there are rare occasions when intact D&X is the most appropriate procedure. In these instances, it is medically necessary.

The very words that some Senators said were not present in this debate are suddenly present in this letter. The doctors are telling us that the procedure that many Senators are voting to ban without making a health exception is medically necessary on certain occasions.

I will conclude with these remarks in the next few minutes by addressing something that has been very upsetting to me as a human being. Forget that I am a Senator. We have heard from people who would have to go through this procedure a series of stories that could break your heart. They decided, because they believed it was in their best interests, in the best interests of the fetus they were carrying, and in the best interests of their families, they decided after consulting their spiritual counselors that it was the right thing to do for their families.

The Senator from Pennsylvania wants to outlaw this option, this choice. But, worse than that, he calls these stories anecdotes. He says: Do not listen to anecdotes. But yet he cites his own experience and doesn't call it an anecdote. He calls it a tragedy. I have to say I hope we would apply the same kind of language to all Americans as we do to our own families.

These are stories. Let me share some with you.

Tiffany Benjamin: Genetic tests revealed that her child had an extra chromosome. Doctors advised her that her condition was lethal. No one could offer hope. They determined the most merciful decision for their child and the family would be to terminate the pregnancy. She says, "Although three years have passed for us, the depth of our loss is vivid in our minds." She says to every Senator who would outlaw this procedure, "We are astounded that anyone could believe that this type of decision is made irresponsibly and without a great deal of soul searching and anguish. These choices were the most painful of our lives."

Is that an anecdote? That is a true life experience of a woman who says to us, please don't ban a procedure that is medically necessary.

Coreen Costello, a registered Republican, describes herself as very conservative. She made it clear that she is opposed to abortion. She was 7 months pregnant in 1995 with her third child. She was rushed to the emergency

room, and an ultrasound showed something seriously wrong. The baby had a deadly neurological disorder, had been unable to move inside her womb for 2 months. She goes on. The doctors told Coreen and her husband that the baby was not going to survive, and they recommended terminating the pregnancy. The Costellos say this isn't an option for us: "I want to go into labor." She said: "I want my baby to be born on God's time. I did not want to interfere."

They went from expert to expert. And the experts told her labor was not an option. They considered a cesarean section. But the doctors said the health risks were too great. In the end, they followed the doctor's recommendation and Coreen had an abortion. She says now they have three happy, healthy children, and she since then has had a fourth.

She writes to us: "This would not have been possible without the procedure." She says please give other women and their families this chance. Let us deal with our tragedies without any unnecessary interference from the Government. Leave us with our God. Leave us with our families. Leave us with our trusted medical experts.

I could go on and on with these stories, these real-life tragedies. They are not anecdotes. They are not stories that are made up. They are not rumors. They are real people who have gone through this. I daresay we ought to listen because they are people who count. They are telling us to stay out of their private lives. Stay out. If anyone wants to make a decision about their family, please, that is their right. I would do anything in my power to fight for anybody's right not to have an abortion if that is their choice. I am as strongly for that.

However, I think it is an insult, an indignity, a slap in the face of the women and the families of this Nation for government to tell them what to do in these tragic moments.

Mr. LAUTENBERG. Will the Senator yield?

Mrs. BOXER. I am happy to yield to the Senator.

Mr. LAUTENBERG. Mr. President, I have heard on this floor that there haven't been any of these late-term abortions performed by doctors or performed in hospitals. The Senator has been diligent on the floor of the Senate in these last days in making sure women's rights are protected. It has been a tough fight. I wonder, to the Senator's knowledge, is it true these late-term abortions have been done exclusively outside of hospitals by nonobstetricians, by nonphysicians? Does the Senator have that kind of information?

I had a chance to speak to Ms. Koster, portrayed in the photograph, a woman very happy with her decision to have an abortion in late term. By the way, this is not an unreligious person or not a person we could accuse of immorality. She insisted and told me she had obstetricians and she had it per-

formed in a hospital, as I remember, in Iowa.

Is the Senator familiar with that situation?

Mrs. BOXER. Yes, and I want to say in my State we have a law. A procedure done in the late term must be done inside a hospital.

We have received a letter from the American College of Obstetricians and Gynecologists who work in hospitals all over this country and have said this procedure that the Senator from Pennsylvania wants to ban is, in certain instances, medically necessary.

We have the most prestigious group of doctors from the American College of Obstetricians and Gynecologists saying banning this procedure is dangerous. That, in fact, even with the changes that the Senator from Pennsylvania made, it is so broadly worded it allows most abortions. There is still no health exception.

My friend is absolutely right. These procedures, and abortions in general, are done by physicians.

Mr. LAUTENBERG. My most recent grandchild was delivered 1 week ago, a large baby. My daughter is very active athletically. She produced a 9-pound, 7-ounce baby girl, larger than the two brothers who preceded her.

I also have two other daughters, each of whom has two children; one daughter carried a fetus for almost 8 months and something happened. She called me and said: Daddy, I've got bad news. The baby got caught in the cord and apparently choked to death. She wasn't feeling a heartbeat when she went to the doctor. Nothing hurt me more, nothing hurt her more.

We are not the kind of family that casually looks at abortion and says everybody ought to have one. This is the right of privacy, is it not?

Mrs. BOXER. It is absolutely about the right to privacy and respect of the woman and her family.

Mr. LAUTENBERG. Does the Senator find women's organizations coming forward about outlawing this procedure? Does it make sense in any way to protect women who have an unfortunate condition or whose health is in danger in the late term in their pregnancy?

Mrs. BOXER. Anyone who believes in the basic right to choose and the basic decision in Roe, which protected a woman's health, is opposed to this Santorum bill.

Let me read into the record a few groups, and I will not even name women's groups; I will name other groups: The American Public Health Association opposes this bill; the American Medical Women's Association opposes this bill; the American Nurses Association opposes this bill; the Society for Physicians for Reproductive Choice and Health opposes this bill; the American College of Obstetricians and Gynecologists opposes this bill; and the Religious Coalition for Reproductive Choice opposes this bill.

I say to my friend, women's groups who support a woman's right to choose

see this as chipping away at the right of a woman to make a decision with her God and her doctor and her conscience. They oppose it as well as the medical and religious groups.

Mr. LAUTENBERG. I inquire as to the Senator's response, if this is an attempt to establish the moral platitudes around which this country should operate—and that is fortified in my view by the fact that while we ignore the opportunity to protect a born child 15 or 10 years old in school, we are unwilling to pay attention to the mother's plea in that case to protect the child; but we hear the National Rifle Association's voice.

Does the Senator see a born child, a child going to school, a child walking in the neighborhood, a child at play, as being as protected as the definition that we want to exert here on a woman whose pregnancy is in a late term, and a doctor and she agree that it is an appropriate thing to do? Does the Senator see some kind of conflict here? Or perhaps even hypocrisy? The Senator ought to correct me if I am wrong because I don't want to be wrong about this.

As I remember, those who are presently so strongly advocating removing the right of a woman to make a decision, vote against gun control measures that we have when it comes to protecting children. Does the Senator see the same question raised that I see?

Mrs. BOXER. The irony of this issue is right there. I say that the leading voices in this Chamber on this issue are the same voices that we hear against any type of sensible laws to protect our children that deal with gun violence.

Interestingly, in my State, gunshots are the leading cause of death among children. It is a supreme irony.

Mr. LAUTENBERG. Is the Senator aware that 13 kids a day are killed by gunfire in this country, over 4,500 children a year are killed by gunfire? Children who are alive, working, and with their families, exchanging love with their parents, brothers and sisters. Is the Senator aware that 13 children every day in this country are killed by gunfire because we lack control over that?

Mrs. BOXER. I am aware and it is a tragedy.

Mr. LAUTENBERG. Where does the Senator think we are in terms of saying to women, you can't make a choice on your own; you don't have the moral rectitude to go ahead and make this decision, even though you and your doctor agree and there is some risk to the mother's health in carrying this pregnancy.

We can't even get an exception to that. Am I right in that interpretation?

Mrs. BOXER. That is correct. No exception for health.

Mr. LAUTENBERG. It reverts back to wanting to control other people's destinies, other people's decisions by a few other-than-experts in this body on pregnancy, and the health care necessary to attend to that.

Mrs. BOXER. My friend is right. There is not one obstetrician or gynecologist in this Senate, yet we see the pictures used, the cartoon figures of a woman's body—which I find rather offensive. The bottom line is, we were not elected to be doctors, but we were elected, it seems to me, to be tough on crime and to stop crime and to do what it takes to protect our citizens.

My friend from New Jersey has been a leading voice in that whole area. I do not know how many months it has been since the Vice President broke the tie there, when my friend had a very important amendment up to close the gun show loophole so people who are mentally unbalanced and people who are criminals can no longer get guns at a gun show to shoot up kids and shoot up a school.

Mr. LAUTENBERG. The Senator has mentioned we have drawings on the floor, of the horror that is involved in performing a surgical procedure. Aren't surgical procedures generally unpleasant to witness?

Mrs. BOXER. Absolutely.

Mr. LAUTENBERG. I once saw an appendix removed and saw a couple of people around me faint. It is never pretty, but it is done for a purpose. When a lung is removed, or a colon is removed, it is never a beautiful procedure. But the fact is, the person for whom the procedure is done often is in better health afterward.

Has the Senator ever seen pictures of the kids jumping out of the windows at Columbine High School in Littleton, CO?

Mrs. BOXER. Yes, I say to my friend, I think those are images that are in everybody's mind.

Mr. LAUTENBERG. They are not drawings.

Mrs. BOXER. They are real TV images of children escaping gun violence.

Mr. LAUTENBERG. I know the Senator's home State is California. Did the Senator see the picture of the tiny children being led hand-in-hand by policemen and others trying to protect them from gunfire?

Mrs. BOXER. Again, my friend is evoking images I don't think anyone in America will ever forget, of those children grasping the hands of those policemen in the hopes of being saved.

Mr. LAUTENBERG. Did the Senator see the pictures from, I believe the city was Fort Worth, TX, of those young people praying together, reaching out to God?

Mrs. BOXER. Yes.

Mr. LAUTENBERG. Trying to correct what imbalances they saw in life. Did the Senator see the pictures of those people?

Mrs. BOXER. I saw the horror, yes.

Mr. LAUTENBERG. Did you see them crying and holding each other?

Mrs. BOXER. I did.

Mr. LAUTENBERG. Can the Senator tell me why it is we refused to identify those buyers of guns at gun shows here? In a vote we had here? We finally eked out a vote, 51-50, that said we

should not have it. But our friends on the Republican side in the House dropped it out of the juvenile justice bill, and we do not see it here.

Can the Senator possibly give me her description of what might be the logic there, as those on the other side want to take away the right of women to make a decision that affects their health and their well-being and their families' well-being?

Mrs. BOXER. I can only say to my friend, we see an enormous amount of passion, which I think, in the end, puts women in danger. It goes against the basic right of privacy and the basic dignity of women and their families in their to make a personal decision. We see a lot of emotion to end those rights. But we do not see the same intensity of emotion—we do not even get the votes of those people—to make sure our children who are living beings, who are going to school, have the protection they deserve to have.

Mr. LAUTENBERG. Is the Senator aware, because we serve on the environment committee together, of the threat to children's health that is resulting from the contamination of our air quality?

Mrs. BOXER. Yes. I have authored a bill called the Children's Environmental Protection Act which would, in fact, strengthen our laws. There are very few cosponsors, I might add, from the other side of the aisle. But it is a good law and would protect our children from hazardous waste and toxic waste and make sure our standards are elevated, because, when a child breathes in dirty air and soot and smog, et cetera, it has a much worse impact than it does on a full-grown adult.

Mr. LAUTENBERG. Has the Senator seen the recent news reports about children, the numbers of children increasingly becoming asthmatic, as a result?

Mrs. BOXER. Yes, I have.

Mr. LAUTENBERG. I have a daughter who is my third daughter. She is a superb athlete. She suffers from asthma. It is a very painful thing to witness.

My sister was a board member at a school in Rye, NY, a school board in Rye, NY. She was subject to asthmatic attacks. One night at a school board meeting—she carried a little machine she would plug into the cigarette lighter in the car to help her breathe—she felt an attack coming on and she tried to get to her car and she didn't make it. She collapsed in the parking lot, went into a coma, and 2 days later had died.

I have a grandson who has asthma and I have a daughter who has asthma.

Does the Senator remember anything that got support from the other side to protect lives by adding to the cleansing of our environment by getting rid of the Superfund sites, the toxic sites around which children play and from which they get sick? Does the Senator recall any help we got to protect those

children? No. No. No. What we got was a denial.

But, heaven forbid a woman should make a decision to protect her health for the rest of her children, or her health for her family, or to continue to be a mother to her other children. Does the Senator recall any similar passion or zeal on those issues when we went up to vote here?

Mrs. BOXER. No, I do not.

Mr. LAUTENBERG. Well, I thank the Senator because of her courage in standing up against what I consider an onslaught against the lives and well-being of women by those men who would stand here primarily and say: No, Madam, you can't do that because according to my moral standard you are wrong.

But the Senator does recall, as I do, when we had votes to protect children from gunfire or protect children from a contaminated environment, the votes were not there from that side.

Mrs. BOXER. My friend is correct. I want to say his series of questions and comments have moved me greatly. I consider him a great Senator.

Mr. LAUTENBERG. That is very kind.

Mrs. BOXER. I only wish he would stay here longer than he plans.

Mr. LAUTENBERG. Is the Senator aware I have been a protector of children's health by raising the drinking age to 21?

Mrs. BOXER. Yes.

Mr. LAUTENBERG. Does the Senator know we saved 14,000 children, 14,000 families from having to mourn the loss of a little child or youngster in school?

Mrs. BOXER. I am aware of that.

Mr. LAUTENBERG. The Senator knows I tried to take away guns from spousal and child abusers, and succeeded by attaching an amendment to a budget bill that had to get through, that was signed over the objections of our friends on the other side—

Mrs. BOXER. I recall.

Mr. LAUTENBERG. Almost unanimously. So I think the Senator, as she said, knows I have credentials in terms of wanting to protect the children in our society.

Mrs. BOXER. Absolutely.

Mr. LAUTENBERG. Frankly, that is my main mission in being here.

So I conclude my questions by asking the Senator if she will continue to fight no matter what is said—anecdotally, hypocritically, falsely in some cases—will she continue to fight this fight for the women of America?

Mrs. BOXER. I say to my friend, he has asked me if I will continue to fight for the women of America. The answer is yes. I believe while I fight for them, I am fighting for their families, for the people who love them, their fathers, their mothers, their grandfathers, their grandmothers, and their children.

I think underlying all this debate is that basic difference between myself and the Senator from Pennsylvania; between the Senator from New Jersey and the other Senators on the other

side of the aisle. I think it is about basic respect of the women and the families of this Nation.

In concluding my remarks, because I know the Senator from Illinois has been waiting very patiently, I will conclude with a quote from three Justices. I ask my friend from New Jersey to once more listen to their words.

Mr. LAUTENBERG. I will hear them.

Mrs. BOXER. I heard them yesterday. He said to me how touched he was by them. I think it would be suitable to quote them again, reminding everyone these are three Republican Justices of the Supreme Court.

In their decision upholding *Roe v. Wade*, this is what they said:

At the heart of liberty is the right to define one's own concept of existence, of meaning, of the universe, and of the mystery of human life. Beliefs about these matters could not define the attributes of personhood were they formed under compulsion of the State.

The Senator from New Jersey and I and those of us in this body who voted today to uphold *Roe*, and many of us who will vote against the Santorum bill, believe the State must not, should not be able to tell people in this country how to think, what to believe, and especially what to do for themselves and their families when it comes to a medical procedure.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, I again appreciate the indulgence of the Senator from Illinois who has been incredibly patient now for 50 minutes.

Let me make a couple points first to the Senator from California. She seems to object to the term "anecdote" in referring to the cases that were brought here. I looked up the word "anecdote" in the dictionary right at the leader's desk, the *Standard College Dictionary*.

Anecdote: A brief account of some incident; a short narrative of an interesting nature.

I will put it over here and share it with the Senator from California, and if she finds that to be an offensive word in describing what she has presented, I think we have gotten rather touchy.

The Senators from New Jersey and California mentioned that the leading cause of death in California is gun violence among children. Wrong. The leading cause of death in California among children is abortion. The Senator from New Jersey said 13 children a day die of gun violence. Mr. President, 4,000 children a day die from abortions—4,000 children die a day—that some say they want legal, safe, and "rare," 4,000 a day.

The Senator from New Jersey equates the medical procedure of partial-birth abortion to the equivalent of an appendectomy. That is not an appendix, I say to my colleagues.

Mr. LAUTENBERG. Will the Senator yield?

Mr. SANTORUM. That is not a blob of tissue. That is a living human being.

Mr. LAUTENBERG. Will the Senator yield for a question?

Mr. SANTORUM. I will be happy to yield.

Mr. LAUTENBERG. Did the Senator hear me say that I compared an abortion to a surgical procedure? Might I offer a correction to our colleague from Pennsylvania?

Mr. SANTORUM. I hope the Senator will.

Mr. LAUTENBERG. I said surgical procedures are never pretty. I did not say abortions and appendectomies are the same thing. Don't distort the RECORD, if the Senator will oblige me.

Mr. SANTORUM. I think the RECORD speaks for itself.

Mr. President, the Senator from California suggested this in her opening comments: Banning this procedure of taking a child who would otherwise be born alive, taking it outside of the mother and killing the child is an extreme view; banning this procedure is an extreme view in America.

Where have you gone, Joe DiMaggio? This now defines "extreme." Killing a child, a living being outside of its mother is now an extreme view in America. The mainstream view, according to the Senator from California, is the mother has the absolute, irrefutable right to destroy her child at any point in time for whatever reason. That is the mainstream view in America.

Our Nation turns its eyes to you, Joe. That is the mainstream view in America. So welcome to America; welcome to America 1999. Welcome to an America with which Peter Singer, the new prophet of America, who is from Australia, will feel most comfortable; Peter Singer, the philosopher who writes:

Killing a disabled infant is not morally equivalent to killing a person. Very often it is not wrong at all.

Welcome to America 1999 because this is killing an infant, and the reason given is because it is not perfect, and they say it is not morally wrong. And by the way, who are we to judge? Why is murder wrong if it is not morally wrong? Is it because we have a number of votes that ban murder? Is that the only reason, because the majority says we think murder is wrong? Not morally wrong because we can't make moral judgments; God forbid we make a moral judgment on the floor of the Senate. Oh, no, who am I to tell you that murder is wrong? I mean, how dare me. How can you tell me that murdering someone is wrong if it is not based on some moral judgment?

So, please, don't come down here and say I have no right to impose moral judgments. We do it every day in the Senate. How many speeches do I hear that it is immoral not to provide health insurance? That is immoral, this isn't. That is immoral and this isn't.

We can't judge anybody. We can't say that taking a child almost born outside of the mother, 3 inches from legal pro-

tection, and killing that baby in a barbaric fashion, we can't say that is wrong because that would be judging somebody else; we can't judge anybody here. Who are we to judge anybody?

Welcome to America 1999. Welcome to the mainstream America 1999. Welcome to the Peter Singers of the world. Read the *New Yorker* September 6 issue. Read it when he says:

If a pregnant woman has inconclusive results from amniocentesis, Singer doesn't see why she shouldn't carry the fetus to term. Then, if the baby is severely disabled and the parents prefer to kill it, they should be allowed to. That way there would be fewer needless abortions and more healthy babies.

Welcome to America because here you can find out if the baby is healthy or not. If you want to kill it, you can. If not, you can deliver it. Welcome to Peter Singer's world.

And you are not concerned about the lines drawn in America? You are not concerned we need to have a bright line to prevent the Columbines in the future? When the Senator from California reads the Casey decision, doesn't she see Columbine in the Casey decision? What does the Casey decision say that she so proudly stands behind? "At the heart of liberty is the right to define one's own concept of existence, of meaning, of the universe, and of the mystery of human life. . ."

A young boy in Littleton, CO, said the same thing just before he shot 13 people. He said: What I say goes; I am the law.

This is what the Casey decision says. It says each one of us has the right to determine our own reality. We are the law. We can do whatever we want to do.

God help us. God help us if that is the law of the land. God protect us, if that is the law of the land, from predators who think they can do whatever they want to do to us because they are the law; they can define their own meaning of existence. They can define their own meaning of the universe. They can define their own meaning of human life. God help us.

And where does this decision come from? It comes from the poisonous well of keeping procedures like this legal. Drink from it, America. Drink from it. I yield the floor.

Mr. SMITH of New Hampshire addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

AMENDMENT NO. 2324 TO AMENDMENT NO. 2323
(Purpose: to provide for certain disclosures and limitations with respect to the transference of human fetal tissue)

Mr. SMITH of New Hampshire. Mr. President, I send a second-degree amendment to the pending amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative assistant read as follows:

The Senator from New Hampshire [Mr. SMITH] proposes an amendment numbered 2324 to amendment No. 2323.

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:

At the end of the Landrieu amendment, add the following:

SEC. ____ TRANSFERENCE OF HUMAN FETAL TISSUE.

Section 498N of the Public Health Service Act (42 U.S.C. 289g-2) is amended—

(1) by redesignating subsections (c) and (d), as subsections (e) and (f), respectively; and

(2) by inserting after subsection (b), the following:

“(c) DISCLOSURE ON TRANSPLANTATION OF FETAL TISSUE.—

“(1) REQUIREMENT.—With respect to human fetal tissue that is obtained pursuant to an induced abortion, any entity that is to receive such fetal tissue for any purpose shall file with the Secretary a disclosure statement that meets the requirements of paragraph (2).

“(2) CONTENTS.—A disclosure statement meets the requirements of this paragraph if the statement contains—

“(A) a list (including the names, addresses, and telephone numbers) of each entity that has obtained possession of the human fetal tissue involved prior to its possession by the filing entity, including any entity used solely to transport the fetal tissue and the tracking number used to identify the packaging of such tissue;

“(B) a description of the use that is to be made of the fetal tissue involved by the filing entity and the end user (if known);

“(C) a description of the medical procedure that was used to terminate the fetus from which the fetal tissue involved was derived; and the gestational age of the fetus at the time of death.

“(D) a description of the medical procedure that was used to obtain the fetal tissue involved;

“(E) a description of the type of fetal tissue involved;

“(F) a description of the quantity of fetal tissue involved;

“(G) a description of the amount of money, or any other object of value, that is transferred as a result of the transference of the fetal tissue involved, including any fees received to transport such fetal tissue to the end user;

“(H) a description of any site fee that was paid by the filing entity to the facility at which the induced abortion with respect to the fetal tissue involved was performed, including the amount of such fee; and

“(I) any other information determined appropriate by the Secretary.

“(3) DISCLOSURE TO SHIPPERS.—Any entity that enters into a contract for the shipment of a package containing human fetal tissue described in paragraph (1) shall—

“(A) notify the shipping entity that the package to be shipped contains human fetal tissue;

“(B) prominently label the outer packaging so as to indicate that the package contains human fetal tissue;

“(C) ensure that the shipment is done in a manner that is acceptable for the transfer of biomedical material; and

“(D) ensure that a tracking number is provided for the package and disclosed as required under paragraph (2).

“(4) DEFINITION.—In this subsection, the term ‘filing entity’ means the entity that is filing the disclosure statement required under this subsection.

“(5) Nothing in this subsection shall permit the disclosure of—

“(A) the identity of any physician, health care professional, or individual involved in the provision of abortion services;

“(B) the identity of any woman who obtained an abortion; and

“(C) any information that could reasonably be used to determine the identity of individuals or entities mentioned in paragraphs (A) and (B).

“(6) Violation of this section shall be punishable by the fines of more more than \$5,000 per incident.

“(d) LIMITATION ON SITE FEES.—A facility at which induced abortions are performed may not require the payment of any site fee by any entity to which human fetal tissue that is derived from such abortions is transferred unless the amount of such site fee is reasonable in terms of reimbursement for the actual real estate or facilities used by such entity.”.

Mr. SMITH of New Hampshire. Mr. President, I yield the floor.

Mr. FITZGERALD addressed the Chair.

The PRESIDING OFFICER (Mr. SMITH of Oregon). The Senator from Illinois.

Mr. FITZGERALD. Mr. President, thank you for this opportunity to be heard.

Mr. President, listening to my distinguished colleague from California, Senator BOXER, I thought back to earlier this year. We had an issue on which we agreed; in fact, we have had a few this year. This isn't one of them, however.

But earlier this year, Senator BOXER was very concerned about the inhumane treatment of dolphins who are getting caught in tuna fishing nets. In fact, she spoke so eloquently on the cruel and inhumane treatment of dolphins that I distinctly remember during that debate, I called home to see how my family was doing, and my 7-year-old boy answered the phone, and he said to me: Daddy, I hope you're going to vote tonight to protect the dolphins. And boy, when I heard that, I really took a careful look at Senator BOXER's bill. I was inclined to support her already, but when I heard that from my son, and I started to focus on that debate, and the eloquence with which she spoke, I wound up voting with her to support and protect those dolphins.

Mrs. BOXER. Would my friend yield for a question so I have a chance to thank him for that support, and thank his son, and tell his son that I am going to fight just as hard to protect the life and health of his mother and all the moms of this country and to make sure we protect the children as well. Thank you.

Mr. FITZGERALD. I would like to encourage the Senator from California, and others in the Senate, to maybe think about the humanity issue here as we focus on the debate on partial-birth abortion.

Mr. President, I rise today as an original cosponsor of this bill, the Partial-Birth Abortion Ban Act of 1999. I would like to thank Senator SANTORUM for sponsoring it again and for his forceful and eloquent arguments on behalf of the innocent unborn.

Every time I think about partial-birth abortion, I think of the observations which, I believe, capture the essence of this debate. My esteemed colleague from Illinois, Representative HENRY HYDE, asked: What kind of people have we become that this procedure is even a matter of debate?

He went on to say: You wouldn't even treat an animal, a mangy raccoon like this.

What is a partial-birth abortion? As it has been described so thoroughly by my colleague from Pennsylvania, and many others, it is a truly gruesome procedure. It is barbaric. It is chilling. It is cruel. More than anything else, what I would like to emphasize here is that it is inhumane.

The medical term for this procedure is “intact dilation and extraction,” or “intact D&E,” for short. I have also heard it referred to as “intrauterine cranial decompression.” What do these medical terms mean?

Briefly, what happens is this: The abortionist turns the baby around in the womb so it is in the breech position—feet first. The abortionist then pulls the baby out of the womb and into the birth canal so all but its head is outside the mother; thus, the term “partial birth.” At this point, the abortionist takes out a sharp surgical instrument, often a pair of scissors, and stabs the baby in the back of its head to create a hole. The abortionist then inserts a type of suction tube into the hole and sucks out the baby's brain. Sucking out the baby's brain causes the skull to collapse, or implode, and the delivery can then be completed.

I will read an excerpt from testimony given to Congress by Mrs. Brenda Pratt Shafer, a registered nurse. While working for a temporary placement agency in 1993, Mrs. Shafer was assigned to an Ohio abortion clinic, where she was asked to assist with a partial-birth abortion on a woman who was just over 6 months pregnant. Here is some of what Mrs. Shafer testified to Congress that she observed that day:

He delivered the baby's body and arms, everything but his little head. The baby's body was moving. His little fingers were clapping together. He was kicking his feet. The baby was hanging there, and the doctor was holding his neck to keep his head from slipping out. The doctor took a pair of scissors and inserted them into the back of the baby's head, and the baby's arms jerked out in a flinch, a startle reaction, like a baby does when he thinks he might fall. Then the doctor opened up the scissors, stuck the high-powered suction tube into the hole [in the head] and sucked the baby's brains out. The baby went completely limp. Then, the doctor pulled the head out, and threw the baby into a pan.

This is inhumane. You wouldn't treat an animal, a mangy raccoon like that.

In an attempt to somehow justify the humaneness of this procedure, opponents of a ban have cited the statements of a handful of medical professionals who contend that the unborn baby is actually killed, or rendered brain dead, prior to being extracted

from the womb by the anesthesia given to the mother.

Mr. President, and my colleagues, consider this: Professor Robert White, director of the Division of Neurosurgery and Brain Research at Case Western Reserve School of Medicine, testified before a House committee several years ago that:

The fetus within this timeframe of gestation, 20 weeks and beyond, is fully capable of experiencing pain.

He stated, regarding partial-birth abortions:

Without question, all of this is a dreadfully painful experience for any infant subjected to such a surgical procedure.

Dr. Norig Ellison, president of the 34,000-member American Society of Anesthesiologists, testified before Congress:

I think the suggestion that the anesthesia given to the mother, be it regional or general, is going to cause the brain death of the fetus is without basis of fact.

And finally, Dr. Martin Haskell, who has been called a "pioneer" in the use of the partial-birth abortion procedure, in 1993, stated:

... the majority of fetuses aborted this way are alive until the end of the procedure.

He went on to say:

... probably about a third of those are definitely dead before I actually start to remove the fetus. And probably the other two-thirds are not.

What kind of a people have we become that this procedure is even a matter of debate in the Senate? You wouldn't treat an animal, a mangy raccoon like that.

To my colleagues today who are still seriously considering this debate, this is an issue of basic humaneness, and humaneness is an issue that many of us, on both sides, have often found quite troubling. In my short time in the Senate, I have joined a number of my colleagues on several occasions to speak against the inhumane treatment of animals. In fact, it wasn't very long ago, during the debate on the Interior appropriations bill that I voted in support of an amendment offered by Senator TORRICELLI that would have prohibited the use of funds in the Interior budget to facilitate the use of steel-jawed traps and neck snares for commerce or recreation in national wildlife refuges.

During the debate on this amendment, my distinguished colleague from Nevada, Senator REID, described the amendment as a "no-brainer." My colleague went on to say that "these traps are inhumane. They are designed to slam closed. The result is lacerations, broken bones, joint dislocations, and gangrene." In conclusion, Senator REID stated that "in this day and age, there is no need to resort to inhumane methods of trapping. . . ." And many of us were persuaded.

And why were we persuaded? Why are we troubled by steel-jawed traps? Isn't it, Mr. President, because there's something in our gut that twists and turns over the unnecessary suffering and

pain of creatures with whom we share this Earth? The majestic animals that are as much a part of God's wonderful creation as we are. Wonderful animals who add richness and texture to our own experience of the planet. Animals whom we thank God for allowing us to appreciate and admire.

The suffering of a bear or a deer can lead many of us to say no to a steel-jawed trap and a neck snare. But what about a scissor through the head and neck of a child? What about sucking out a baby's brain.

Mr. President, You wouldn't treat an animal, a mangy raccoon like this.

The Senate also acted this year to do more to fight the inhumane treatment of dolphins. On July 22, I supported an amendment offered by Senator BOXER to the fiscal year 2000 Commerce-Justice-State appropriations bill to force countries to pay their fair share of the expenses of the Tuna Commission and delay the importation of tuna caught using fishing methods that unnecessarily harm and kill dolphin. During debate on this amendment, Senator BOXER spoke eloquently of the thousands of dolphin killed each year by fishing methods that cruelly and unnecessarily harass, chase, encircle, maim, and kill dolphin that happen to be swimming over schools of tuna. I appreciated hers and others' efforts in the name of humaneness.

God has given us dominion over a wondrous planet, a beautiful blue sphere that takes our breath away when we see it silhouetted against the dark of the universe. And with that dominion we know comes a stewardship, a responsibility to appreciate, care, and speak for God's creation who cannot speak for themselves.

I believe our Maker has touched our human conscience with something that makes us almost instinctively recoil from causing unnecessary pain and suffering to animals. I know there's a tender spot in the hearts of some who now oppose a ban on this procedure. I know it's there because I've seen it in debates on the floor of this body. But I don't understand how those who can hear the howl of a wolf or the squeal of a dolphin, can be deaf to the cry of an unborn child.

Mr. President, if people were sticking scissors in the heads of puppies, we would not abide it. In the name of common decency and humanity, I implore my colleagues not to let this happen to our own young.

I yield the floor.

Mr. SANTORUM. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

UNANIMOUS CONSENT AGREEMENT

Mr. GRASSLEY. Mr. President, on behalf of the leader, I ask unanimous

consent that the only amendments in order be the pending Smith of New Hampshire amendment and the pending Landrieu amendment, that they both be separate first-degree amendments, and the votes occur in relation to these amendments at 5:30 in the order listed, with 3 minutes prior to each vote for explanation.

I further ask unanimous consent that following the votes described above, the bill be immediately advanced to third reading and passage occur, all without any intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mrs. BOXER. Reserving the right to object—and I will not object—can we be sure the 3 minutes are equally divided between the two sides?

Mr. GRASSLEY. That is our understanding.

Mrs. BOXER. Fine. That is fine with us.

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

Mr. GRASSLEY. Mr. President, in light of this agreement, there will then be three votes beginning at 5:30 p.m.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. NICKLES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. NICKLES. Mr. President, for the information of all colleagues, I believe there are going to be three rollcall votes commencing at 5:30. So hopefully everybody will be present and we can move the votes fairly rapidly.

I compliment the Senator from Pennsylvania, Mr. SANTORUM, for the outstanding debate he has conducted on the floor during the last couple of days. In addition, Senator SMITH and others, I think, have presented a very compelling case that this procedure, the so-called partial-birth abortion procedure, should be stopped. There is no medical necessity for it. It is not necessary to save the life of the mother under any circumstances, according to experts such as Dr. Koop, the American Medical Association, and others. It is a gruesome, terrible procedure. It needs to be stopped.

We have laws on the books that protect unborn endangered species from Oregon to Florida. We have fines and penalties that if you destroy an animal, or an insect, you can be subjected to fines and penalties of thousands of dollars. You can even go to jail for destroying the unborn of a particular type of insect which happens to be classified as endangered.

Yet in this procedure, when we are talking about a child who is partially born, we won't give it any protection whatsoever. We are talking about a child, a human being. I know some people say, "It's a fetus and not a child; it

is not a human." Well, if we waited maybe 30 seconds, then it would be a child, or a human being, totally outside the mother's womb. I just find that incredible that we are not going to offer at least some protection for these unborn children.

I want to allude to something else. There was a sense of the Senate passed earlier today, and some people have talked on it and said it reaffirms *Roe v. Wade*, as the law of the land. That *Roe v. Wade* is a great thing. There are a couple of points about this I would like to address. From a legislative standpoint, we are the legislative body; we pass the laws of the land. The Supreme Court is not supposed to legislate. I read the Constitution. We all have a copy. It says, in article I, section 1, of the Constitution:

All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

All legislative powers.

Then if you read through the conclusion of the Constitution, in the 10th amendment it says:

All of the rights and powers are reserved to the States and to the people.

It does not say in the case of abortion we give the Supreme Court the right to legislate. That is exactly what they did in *Roe v. Wade*. So now we have a sense of the Senate that says we agree with *Roe v. Wade*. I wonder how many people have really looked at *Roe v. Wade*. I thought I might introduce it into the RECORD because it is a very convoluted, poorly-drafted piece of legislation in which the Supreme Court legalized abortion.

The Supreme Court doesn't have the constitutional power to legalize anything. They don't have the constitutional power to pass laws. That is what they did. I was going to insert *Roe v. Wade* into the RECORD, but it is too long, it has too many pages. I object to the Supreme Court legislating at any time, even if I agree with the legislative result.

If Congress wants to codify *Roe v. Wade*, let somebody introduce legislation and let it go through the process. Let's have hearings. Does it make sense to have abortion legal, totally legal, without any restrictions whatsoever in the first trimester, and maybe little restrictions on the second trimester, and further on the third trimester? Is that the way Congress would do it? If we are going to do it this way, at least if the people don't like the laws Congress passes, they would have some recourse. There is no recourse to legislation dictated by the Supreme Court.

So I strongly object to the idea of the Supreme Court legislating. I think the sense of the Congress was a serious mistake. I don't know if I am going to be a conferee or not, but I will work hard to make sure the sense of the Senate language is not included in anything that will be reported out on this bill. I think that would be a serious mistake.

Again, I compliment the authors of the bill and state for the RECORD that I urge all people, Members of Congress, to vote for the legislation by the Senator from Pennsylvania to protect unborn children who are three-fourths born, or two-thirds born; give them protection—maybe not as much protection as we give unborn animals under the endangered species. Evidently, we are not going to do that, but let's give them some protection.

So let's pass this bill. We can go to conference with the House, and we can drop this sense-of-the-Senate resolution and pass the bill, and hopefully this time the President will sign it.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. LOTT. Mr. President, I understand we are ready now to do a series of three votes back to back.

For the information of all Senators, these votes will be the last votes of the day.

It will be my intention to begin debate on the African trade bill, which includes, of course, the CBI enhancement provisions, immediately following these votes. It is my hope that the Senate will begin debating and amending the bill yet this evening because we do have some more time that we could keep working on this bill.

I had the opportunity this afternoon to talk to the President about this legislation. He is committed to being of assistance in any way he can to the Senate taking this bill up and passing it in its present form.

I have been working with the Democratic leader, the chairman and ranking member of the committee, all of whom support this legislation.

This is a free trade initiative that will be good for a America, good for the Caribbean Basin, and good for Africa.

Assuming the Senate begins debate on this bill, any votes relative to amendments would be postponed to occur at a time determined by the majority leader after consultation with the Democratic leader.

On Monday, the Senate will be debating the African trade bill with the CBI provisions.

I will propose to confirm six nominations from the Executive Calendar. If debate is necessary on these nominations, that debate would also occur on Monday.

However, the votes, if necessary, would be postponed to occur on Tuesday at 9:30 a.m.

I thank all Members, and will notify each Senator as the voting situation becomes clearer.

Based on what I said, I believe we will have only debate on Friday. It is

not clear at this time what the situation would be with regard to Monday. We will have debate. We do have nominations we want to clear. But we will be in communication with both sides of the aisle and notify the Members as soon as further decisions can be made.

AMENDMENT NO. 2324

I ask for the yeas and nays on amendment No. 2324.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mrs. BOXER. Mr. President, as I understand it, we have a minute and a half per side.

The PRESIDING OFFICER. The Senator from California is correct.

Mrs. BOXER. Mr. President, we are going to vote shortly on the Smith amendment.

I tried very hard to work with my colleague. There is one very serious flaw in his legislation which I fear could escalate the violence at health care clinics all over this country. Now it is illegal in any way to sell fetal tissue. We all support that ban. We have voted on that ban. You cannot sell fetal tissue.

The Senator is concerned that this sale, nonetheless, is taking place. He wants certain disclosure as it relates to this issue. In the course of that, he has amended his legislation to deal with some of my problems by making sure that we can identify the woman who agreed to donate that tissue for research. It won't identify physicians. For that I am grateful.

The one area we couldn't reach agreement on had to do with the identity of the health care facility in which the woman had her legal and safe abortion. That will be subject to disclosure. Anyone could find out through a Freedom of Information request where that clinic is.

There have been 33 instances of violence against health care facilities since 1987.

I really am sad that the Senator from New Hampshire was unable to protect the confidentiality of these clinics.

I urge my colleagues on both sides of the aisle, please protect the identity of these clinics. We don't want to have anyone calling up and finding out where they are. I am very fearful it could escalate the violence. We certainly don't want to do that unwittingly.

Thank you very much. I will be urging a "no" vote.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SMITH of New Hampshire. Mr. President, Senator BOXER and I made an attempt to come to accommodation on this amendment. We were not able to do that.

As you heard from my presentation on the floor, we know that fetal body parts are being sold in violation of law. Abortions may be induced in certain ways, such as possibly partial birth, or perhaps even live births in order to have good fetal body tissue to sell.

This is a serious problem. Clearly, it is a big industry.

This amendment requires disclosure of certain information prior to the transfer of any of this fetal body tissue or parts in induced abortions. That is what it does. It is against the law to sell fetal tissue for research. It is against Federal law.

This amendment allows HHS to track these transfers to enforce current law. You can donate tissue, but you can't sell it. It is being sold. We need the sun to shine in on this industry to find out what is happening.

It protects the privacy of all women undergoing abortions and the doctors providing them.

But this is something that is occurring within the industry. It is a very elaborate network of abortion providers getting those body parts to a wholesaler who then in turn is selling those body parts to universities and other research institutions. It simply let's the light in. That is all it does.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to amendment No. 2324. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative assistant called the roll.

Mr. NICKLES. I announce that the Senator from Rhode Island. (Mr. CHAFEE), the Senator from Florida (Mr. MACK), and the Senator from New Hampshire (Mr. GREGG) are necessary absent.

The result was announced—yeas 46, nays 51, as follows:

[Rollcall Vote No. 338 Leg.]

YEAS—46

Abraham	Enzi	McCain
Allard	Fitzgerald	McConnell
Ashcroft	Frist	Murkowski
Bennett	Gorton	Nickles
Bond	Gramm	Roberts
Breaux	Grams	Santorum
Brownback	Grassley	Sessions
Bunning	Hagel	Shelby
Burns	Hatch	Smith (NH)
Campbell	Helms	Smith (OR)
Cochran	Hutchinson	Thomas
Coverdell	Hutchison	Thompson
Craig	Inhofe	Thurmond
Crapo	Kyl	Voinovich
DeWine	Lott	
Domenici	Lugar	

NAYS—51

Akaka	Feinstein	Mikulski
Baucus	Graham	Moynihan
Bayh	Harkin	Murray
Biden	Hollings	Reed
Bingaman	Inouye	Reid
Boxer	Jeffords	Robb
Bryan	Johnson	Rockefeller
Byrd	Kennedy	Roth
Cleland	Kerrey	Sarbanes
Collins	Kerry	Schumer
Conrad	Kohl	Snowe
Daschle	Landrieu	Specter
Dodd	Lautenberg	Stevens
Dorgan	Leahy	Torricelli
Durbin	Levin	Warner
Edwards	Lieberman	Wellstone
Feingold	Lincoln	Wyden

NOT VOTING—3

Chafee	Gregg	Mack
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The amendment (No. 2324) was rejected.

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

Mrs. BOXER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LOTT. Mr. President, I ask unanimous consent that the remaining votes in this series be limited in length to 10 minutes each.

The PRESIDING OFFICER (Mr. BENNETT). Without objection, it is so ordered.

AMENDMENT NO. 2323, AS MODIFIED

The PRESIDING OFFICER. There are 3 minutes equally divided. Who yields time?

Mrs. BOXER. Mr. President, as I understand the unanimous consent agreement, Senator LANDRIEU will have 1½ minutes and the other side will have 1½ minutes on her amendment, which I strongly support.

The PRESIDING OFFICER. That is correct.

Mrs. BOXER. Senator LANDRIEU has 1½ minutes.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. I thank the Chair. Mr. President, we have been debating a very contentious and emotional issue for many, many hours now. This debate will perhaps go on for some years to come as we try to resolve our many differences. It is a very tough issue for many families and for policymakers all over our Nation.

This amendment is an attempt to help because whether you are for or against, pro-life or pro-choice, or somewhere in the middle, we can say today it is the sense of this Congress that we want to help all families who have children with birth defects or special needs, regardless of their circumstances.

It is a very tough situation when families, even with a wanted pregnancy, have to sometimes make a very tough decision that could result in their financial ruin. We should step up to the plate, and that is what this amendment does.

It simply says it is the sense of the Senate that many families struggle with very tough decisions and that we should fully cover all expenses related to educational, medical, and respite care requirements of families with special-needs children.

I commend this to my colleagues and ask for their support.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, I support the amendment, and I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to amendment No. 2323, as modified. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Florida (Mr. MACK), the Senator from Rhode Island (Mr. CHAFEE), and the Senator from New Hampshire (Mr. GREGG) are necessarily absent.

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

The result was announced—yeas 46, nays 51, as follows:

[Rollcall Vote No. 339 Leg.]

YEAS—46

Abraham	Harkin	Murkowski
Akaka	Hatch	Murray
Baucus	Hollings	Reed
Biden	Hutchison	Reid
Boxer	Jeffords	Santorum
Breaux	Kennedy	Sarbanes
Bryan	Kohl	Schumer
Cleland	Landrieu	Smith (OR)
Conrad	Lautenberg	Snowe
Daschle	Leahy	Specter
DeWine	Levin	Torricelli
Dodd	Lieberman	Voinovich
Dorgan	Lincoln	Wellstone
Durbin	Lugar	Wyden
Feingold	Mikulski	
Feinstein	Moynihan	

NAYS—51

Allard	Edwards	Kyl
Ashcroft	Enzi	Lott
Bayh	Fitzgerald	McCain
Bennett	Frist	McConnell
Bingaman	Gorton	Nickles
Bond	Graham	Robb
Brownback	Gramm	Roberts
Bunning	Grams	Rockefeller
Burns	Grassley	Roth
Byrd	Hagel	Sessions
Campbell	Helms	Shelby
Cochran	Hutchinson	Smith (NH)
Collins	Inhofe	Stevens
Coverdell	Inouye	Thomas
Craig	Johnson	Thompson
Crapo	Kerrey	Thurmond
Domenici	Kerry	Warner

NOT VOTING—3

Chafee	Gregg	Mack
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The amendment (No. 2323), as modified, was rejected.

The PRESIDING OFFICER. The question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. Under the previous order, there are 3 minutes equally divided.

The Senator from California.

Mr. KYL. Mr. President, the arguments against the Partial-Birth Abortion Act keep changing. During previous consideration, for example, we heard from proponents of the procedure that it was used in only rare and tragic cases, so it would be wrong to ban it. Here is how the Planned Parenthood Federation of America characterized partial-birth abortion in a November 1, 1995 news release: "The procedure, dilation and extraction (D&X), is extremely rare and done only in cases when the woman's life is in danger or in cases of extreme fetal abnormality." Planned Parenthood was not the only group to make such sweeping statements at the time.

But it did not take long for the story to unravel. On February 26, 1997, the New York Times reported that Ron Fitzsimmons, executive director of the National Coalition of Abortion Providers, admitted he "lied in earlier statements when he said [partial-birth abortion] is rare and performed primarily to save the lives or fertility of women bearing severely malformed babies." According to the Times, "He

now says the procedure is performed far more often than his colleagues have acknowledged, and on healthy women bearing healthy fetuses."

Mr. Fitzsimmons told American Medical News the same thing—that is, the vast majority of these abortions are performed in the 20-plus week range on healthy fetuses and healthy mothers. He said, "The abortion rights folks know it, the anti-abortion folks know it, and so, probably, does everyone else."

We heard about the frequency of the procedure from doctors who performed it. The Record of Bergen County, New Jersey, published an investigative report revealing that far more of these abortions were performed in New Jersey and across the country than the abortion lobby wanted Americans to believe.

Now, after the truth is exposed, we see an advertising campaign by a group called the Center for Reproductive Law and Policy, claiming that it is the legislation that is deceptive and extreme. The claim is that the bill would prohibit "some of the safest and most commonly used medical procedures and risk the health and well-being of women." Apparently out of convenience, opponents have now flipped their argument and claim the procedure is common, not rare at all—which is what supporters of the legislation contended all along.

On the issue of safety, they have been more consistent. They claim the procedure is safe, but here is what the former Surgeon General of the United States, Dr. C. Everett Koop, had to say on the subject. According to Dr. Koop, "partial-birth abortion is never medically necessary to protect a mother's health or future fertility. On the contrary, this procedure can pose a significant threat to both." A threat to health and fertility.

We heard the same thing from other medical experts during hearings in the Judiciary Committee a few years ago. Dr. Nancy Romer, a practicing Ob-Gyn from Ohio, testified that in her 13 years of experience, she never felt compelled to recommend this procedure to save a woman's life. "In fact," she said, "if a woman has a serious, life threatening, medical condition this procedure has a significant disadvantage in that it takes three days."

Even Dr. Warren Hern, the author of the nation's most widely used textbook on abortion standards and procedures, is quoted in the November 20, 1995 edition of American Medical News as saying that he would "dispute any statement that this is the safest procedure to use." He called it "potentially dangerous" to a woman to turn a fetus to a breech position, as occurs during a partial-birth abortion. Dangerous, Mr. President.

The American College of Obstetricians and Gynecologists was quoted by Charles Krauthammer in a March 14, 1997 column as indicating that there are "no circumstances under which

this procedure would be the only option to save the life of the mother and preserve the health of the woman."

And of course, the American Medical Association (AMA), on the eve of the Senate vote during the 105th Congress, endorsed the bill to ban the technique. According to the chairman of the AMA's board of trustees, "it is a procedure which is never the only appropriate procedure and has no history in peer reviewed medical literature or in accepted medical practice development."

To those who call the Partial-Birth Abortion Ban Act extreme, I ask: Is it extreme to want to ban a procedure that medical experts tell us is dangerous and threatening to women? Or are the extremists those who are so radically pro-abortion that they defend even a such a dangerous and threatening procedure?

What about those rarest of instances when it might be necessary to use this dangerous procedure to save a woman's life? Those are provided for, despite what President Clinton said when he vetoed the Partial-Birth Abortion Ban Act on October 13, 1997. He said he did so because the bill did not contain an exception that "will adequately protect the lives and health of the small group of women in tragic circumstances who need an abortion performed at a late stage of pregnancy to avert death or serious injury."

Let me read the language of the bill that was vetoed. This is language from the bill's proposed section 1531. The ban, and I am quoting, "shall not apply to a partial-birth abortion that is necessary to save the life of a mother whose life is endangered by a physical disorder, illness, or injury." Identical language providing a life-of-the-mother exception appears in this year's version of the bill, S. 1629, as well. I do not know how the language can be any clearer.

Mr. President, another charge now being made against this bill is that it is unconstitutional. Of course, we all can speculate about how the U.S. Supreme Court might rule on the matter. The Eighth Circuit Court of Appeals recently struck down partial-birth abortion bans in Nebraska, Iowa, and Arkansas, but a three-judge panel from the Fourth Circuit stayed an injunction against a similar Virginia law, pending review by the full court. The Fourth Circuit has yet to rule, but observers expect it to uphold the Virginia ban.

Ultimately, the U.S. Supreme Court is going to have to rule on the question, given the differing Circuit Court decisions. And as Harvard Law School Professor Lawrence Tribe noted in a November 6, 1995 letter to Senator BOXER, there are various reasons "why one cannot predict with confidence how the Supreme Court as currently composed would rule if confronted with [the bill]." He noted that the Court has not had any such law before it. And he noted that "although the Court did

grapple in 1986 with the question of a state's power to put the health and survival of a viable fetus above the medical needs of the mother, it has never directly addressed a law quite like [the Partial-Birth Abortion Ban Act]."

Mr. President, neither *Roe v. Wade* nor any subsequent Supreme Court case has ever held that taking the life of a child during the birth process is a constitutionally protected practice. In fact, the Court specifically noted in *Roe* that a Texas statute—one which made the killing of a child during the birth process a felony—had not been challenged. That portion of the law is still on the books in Texas today.

Remember what we are talking about here: "an abortion in which the person performing the abortion partially vaginally delivers a living fetus before killing the fetus and completing the delivery." That is the definition of a partial-birth abortion in the pending legislation.

So we are talking about a child whose body, save for his or her head, has been delivered from the mother—that is, only the head remains unborn. No matter what legal issues are involved, I hope no one will forget that we are talking about a live child who is already in the birth canal and indeed has been partially delivered.

I dare say that, even if the Court were somehow to find that a partially delivered child is not constitutionally protected, the Partial-Birth Abortion Ban Act could still be upheld under *Roe* and *Planned Parenthood of Southeastern Pennsylvania v. Casey*. Under both *Roe* and *Casey*, the government may prohibit abortion after viability, except when necessary to protect the life or health of the mother. But the exception would never arise here because, as the experts tell us, this procedure is never medically necessary.

Although I believe the law would be upheld by the Court, I will concede that no one can say with certainty how the Supreme Court will rule until it has ruled. Until then, I suggest that we not use that as an excuse to avoid doing what we believe is right.

The facts are on the table. The bill includes a life-of-the-mother exception—an exception that would probably never be invoked given that medical experts tell us a partial-birth abortion is never necessary to protect the life or health of a woman, and indeed may even pose a danger to life and health. Let us do what is right and put a stop to what our colleague, Senator DANIEL PATRICK MOYNIHAN, has appropriately characterized as infanticide. Let us pass this bill.

Mr. EDWARDS. Mr. President, I enter this debate sad that partisan politics has obstructed the effort of many of us to address this problem in a meaningful way. Put simply, I oppose partial-birth abortions. Indeed, I oppose all late-term abortions unless they are necessary to save the life of the mother or to avert grievous damage to the physical health of the mother.

I have voted for the Durbin amendment and will vote against the Santorum measure. One, the Durbin proposal, has failed. The other will pass the Senate but accomplish nothing.

The Santorum bill suffers from a number of serious flaws. First, it is clearly unconstitutional. The vast majority of federal courts dealing with this issue have held so, and no amount of wishful thinking can alter that fact. Second, even if it were constitutional, it would not stop a single abortion. Let me reiterate that: it would not stop a single abortion. It would simply spur doctors and women to seek other methods to achieve the same goal.

Before explaining why the Santorum measure is unconstitutional, let me elaborate on why it is ineffective. Long before the procedure of partial-birth abortion was developed, late-term, postviability abortions were available through alternative methods. Under the Santorum bill, which only prevents one particular procedure, physicians can simply revert to the use of other more dangerous procedures if partial-birth abortion is banned. This bill will not end late-term abortions. It will simply force doctors to fall back on antiquated medical interventions that will further endanger the lives and health of women. Is that really what we want?

In addition, 19 recent court rulings have determined that similar proposals are unconstitutional. There is a strong likelihood that this bill, if passed, will be struck down as unconstitutional according to the precedent set by *Roe v. Wade*. As drafted this legislation is unconstitutionally vague and violates the clear dictates of the Supreme Court. Our objective should not be to pass divisive legislation that has no chance of ever becoming law.

And so I support the Durbin amendment. I believe it achieves a rare balance in the debate about abortion. It is constitutional. It limits government interference in a woman's most personal and important decisions. And it provides a framework for dealing with the late-term abortions—including partial birth abortions—that the so many of us struggle to find sense in.

I have spoken with women who have had late-term abortions. They struggled mightily with their God and their consciences. They made their decisions with their husbands, their families and their doctors. And they alone confronted the awful moment when hope for a new life collided with terror about the fate of their own life. I can never understand that conflict. But I believe that the Durbin amendment offers a bridge between those women and all of us who try to understand how or why a woman might choose to have a late-term abortion.

I simply do not believe that Senators or any government representative has the authority or expertise to determine that a partial-birth or late-term abortion will never be necessary to prevent severe injury to a woman's physical

health or a threat to her life. But I do believe that we do have the authority to ask that before a late-term abortion is performed it be determined that the woman's life or physical health are truly at stake. The Durbin amendment would accomplish this goal. It would bar, except in narrow circumstances and under the advice and consent of two physicians, all late-term abortions.

On balance, I believe that the difficult question of abortion should be left for a woman to decide in consultation with her family, her physician and her faith. However, once the fetus has reached viability, I believe that we do have a responsibility, and a constitutional ability, to protect the unborn child. I believe that the Durbin amendment was the piece of legislation before us that would have most effectively accomplish that goal. And so I have voted in its favor.

Mr. BUNNING. Mr. President, it boggles the mind to think that we are back here again, trying to convince the President that there is no place in this nation for partial-birth abortions.

It is hard to believe that we are having to go through this exercise again because this particular procedure is so clearly barbaric. It is such a clear case of genocide.

In two Congresses now—during both of which is served in the House of Representatives—Congress has passed a ban of this barbaric procedure only to see the President veto that ban and allow the killing to continue.

In both of these Congresses, the House of Representatives voted to override the President's veto—but this body did not.

Hopefully, we can change that. If not today—then maybe tomorrow or the next day—the next month—or the next year—because this is such a clear case of human justice—moral justice—and plain old humanity—we cannot ever give up until partial-birth abortions are banned across the land.

It is really hard to believe that we have to go through this exercise every Congress because nobody—with a straight face and clear conscience—can stand up and defend this procedure.

The only way anyone can justify it is to say that—hey, it doesn't matter—because not that many partial birth abortion are actually performed. They say that partial birth abortions are only utilized in cases when the mother's life is in jeopardy.

And we know this just isn't true. We know that some of the most ardent and visible defenders of abortion have actually lied about the numbers. It's not just a few hundred a year—it is thousands.

But the numbers really shouldn't make any difference. If it is wrong and inhumane we should ban it—whether it affects one or one million.

But misleading facts about the numbers—trying to downplay the prevalence and the frequency of the procedure—are no justification at all.

This bill does not ignore the health needs of women. It clearly makes an

exception when the life of the mother is jeopardy. This bill clearly says that the ban on partial-birth abortions does not apply when such a procedure is considered necessary to save the life of a mother whose life is endangered by a physical disorder, illness or injury.

So, even though many medical experts insist that there is never any medical justification for partial-birth abortion, this bill permits it if the mother's life is in jeopardy.

No one can deny that partial-birth abortion is cruel. No one can deny that it is patently inhumane. No one can deny that it is grotesque.

I urge my colleagues to support this bill—support this ban.

It is simply a matter of respect for human life.

Mr. ENZI. Mr. President, I am proud today to join the Senator from Pennsylvania and a large majority of my other colleagues in support of S. 1692, the Partial-Birth Abortion Ban Act of 1999. I urge my colleagues to join me in passing this bill by a sufficient margin to withstand President Clinton's promised veto.

We are debating an issue that has an important bearing on the future of this Nation. Partial-birth abortion is a pivotal issue because it demands that we decide whether or not we as a civilized people are willing to protect that most fundamental of rights—the right to life itself. If we rise to this challenge and safeguard the future of our Nation's unborn, we will be protecting those whose voices cannot yet be heard by the polls and those whose votes cannot yet be weighted in the political process. If we fail in our duty, we will justly earn the scorn of future generations when they ask why we stood idly by and did nothing in the face of this national infanticide.

We must reaffirm our commitment to the sanctity of human life in all its stages. We took a positive step in that direction two years ago by unanimously passing legislation that bans the use of federal funds for physician-assisted suicide. We can take another step toward restoring our commitment to life by banning partial-birth abortions.

In this barbaric procedure, the abortionist pulls a living baby feet first out of the womb and through the birth canal except for the head, which is kept lodged just inside the cervix. The abortionist then punctures the base of the skull with long surgical scissors and removes the baby's brain with a powerful suction machine. This causes the head to collapse, after which the abortionist completes the delivery of the now dead baby. I recount the grisly details of this procedure only to remind my colleagues of the seriousness of the issue before the Senate. We must help those unborn children who are unable to help themselves.

Opponents have argued that this procedure is necessary in some circumstances to save the life of the

mother or to protect her health or future fertility. These arguments have no foundation in fact. First, this bill provides an exception if the procedure is necessary to save the life of the mother and no alternative procedure could be used for that purpose. Moreover, leaders in the medical profession including former Surgeon General C. Everett Koop have stated unequivocally that "Partial-birth abortion is never medically necessary to protect a mother's health or her future fertility. On the contrary, this procedure can pose a significant threat to both."

A coalition of over 600 obstetricians, perinatologists, and other medical specialists have similarly concluded there is no sound medical evidence to support the claim that this procedure is ever necessary to protect a woman's future fertility. These arguments are offered as a smoke-screen to obscure the fact that this procedure results in the taking of an innocent life. The practice of partial birth abortions has shocked the conscience of our nation and it must be stopped.

Even the American Medical Association has endorsed this legislation. In a letter to the chief sponsor of this bill, Senator SANTORUM, the AMA explained "although our general policy is to oppose legislation criminalizing medical practice or procedure, the AMA has supported such legislation where the procedure was narrowly defined and not medically indicated. The Partial-Birth Abortion Ban Act now meets both these tests . . . Thank you for the opportunity to work with you towards restricting a procedure we all agree is not good medicine."

I have based my decision on every bill that has come before this body on what effect it will have on those generations still to come. We in the Senate have deliberated about what steps we can take to make society a better place for our families and the future of our children. We as Senators will cast no vote that will more directly affect the future of our families and our children than the vote we cast on this bill.

When I ran for office, I promised my constituents I would protect and defend the right to life of unborn babies. The sanctity of human life is a fundamental issue on which we as a nation should find consensus. It is a right which is counted among the unalienable rights in our Nation's Declaration of Independence. We must rise today to the challenge that has been laid before us of protecting innocent human life. I urge my colleagues to join me in casting a vote for life by supporting the Partial Birth Abortion Ban Act.

All of us in this body have had significant life experiences that help to shape our political philosophies. Nearly 4 years ago, I had a torn heart valve and was rushed to the hospital for emergency surgery. I had never been in a hospital except to visit sick folks before. I have to tell you that I am impressed with what they were able to do,

but I have also been impressed with what doctors do not know. That is not a new revelation for me.

Over 26 years ago, a long time ago, my wife and I were expecting our first child. Then one day early in the sixth month of pregnancy, my wife starting having pains and contractions. We took her to the doctor. The doctor said, "Oh, you may have a baby right now. We know it's early and that doesn't bode well. We will try to stop it. We can probably stop it." I had started storing up books for my wife for 3 months waiting for the baby to come. However, the baby came that night, weighing just a little over 2 pounds. The doctor's advice to us was to wait until morning and see if she lives. They said they didn't have any control over it.

I could not believe the doctors could not stop premature birth. Then I could not believe that they could not do something to help this newborn baby. Until you see one of those babies, you will not believe what a 6-month-old baby looks like. At the same time my wife gave birth to our daughter, another lady gave birth to a 10-pound baby. This was a small hospital in Wyoming so they were side by side in the nursery.

Some of the people viewing the other baby said, "Oh, look at that one. Looks like a piece of rope with some knots in it. Too bad." And we watched her grasp and gasp for air with every breath, and we watched her the whole night to see if she would live. And we prayed.

Then the next day they were able to take this baby to a hospital which provided excellent care. She was supposed to be flown to Denver where the best care in the world was available, but it was a Wyoming blizzard and we couldn't fly. So we took a car from Gillette, WY, to the center of the State to Wyoming's biggest hospital, to get the best kind of care we could find. We ran out of oxygen on the way. We had the highway patrol looking for us and all along the way, we were watching every breath of that child.

After receiving exceptional care the doctor said, "Well, another 24 hours and we will know something." After that 24 hours there were several times we went to the hospital and there was a shroud around the isolette. We would knock on the window, and the nurses would come over and say, "It's not looking good. We had to make her breathe again." Or, "Have you had the baby baptized?" We had the baby baptized in the first few minutes after birth. But that child worked and struggled to live. She was just a 6-month-old-3 months premature.

We went through 3 months of waiting to get her out of the hospital. Each step of the way the doctors said her ability to live isn't our doing. It gave me a new outlook on life. Now I want to tell you the good news. The good news is that the little girl is now an outstanding English teacher in Wyoming. She is dedicated to teaching seventh graders English, and she is loving

every minute of every day. The only problem she had was that the isolette hum wiped out a range of tones for her, so she cannot hear the same way that you and I do. But she can lip read very well, which, in the classroom, is very good if the kids are trying to whisper. But that has given me an appreciation for all life and that experience continues to influence my vote now and on all issues of protecting human life.

Life is such a miracle that we have to respect it and work for it every single day in every way we can. I think this bill will help in that effort, and I ask for your support for this bill.

I thank the Chair and yield the floor.

Mr. BINGAMAN. Mr. President, I believe that late-term abortion procedures should be used as sparingly as possible, when all other options have been ruled out. But I do believe that it should be permitted as a last resort, and that when doctors judge it necessary to save a woman's life or to avert grievous injury to the physical health of the mother, they should not be subject to criminal prosecution. That is why I cosponsored the Durbin amendment. This amendment outlaws all post-viability abortions, regardless of the procedure used, except to save the life of the mother or avert grievous injury to her physical health. It also requires that both the attending physician and an independent non-treating physician certify in writing that, in their medical judgment, the continuation of the pregnancy would threaten the mother's life or risk grievous injury to her physical health. Grievous injury is defined as (1) a severely debilitating disease or impairment specifically caused or exacerbated by the pregnancy or (2) an inability to provide necessary treatment for a life-threatening condition, and is limited to conditions for which termination of the pregnancy is medically indicated.

The underlying legislation, on the other hand, would not prevent a single late-term abortion as it is written. It only seeks to outlaw one procedure, which is broadly and vaguely defined. The term partial birth abortion is a political term, not a medical one. In fact, this legislation is written so vaguely that it is highly likely to be declared unconstitutional. In 19 of 21 states considering legislation similar to this legislation, courts have partially or fully enjoined the laws. These decisions have been made by judges who have been appointed by every President from President Reagan on.

Further, Mr. President, the Constitution protects a woman's right to make decisions about her pregnancy up to the point that the fetus is viable. The bill before us, and similar state bills, are vague and broad enough that this basic right is not protected, according to the vast majority of judges ruling on these laws.

For these reasons, I support the Durbin amendment and oppose the underlying bill.

Mr. LEVIN. Mr. President, the Supreme Court has ruled that a ban on all

abortions after viability is permitted under the Constitution, providing the ban contains an exception to protect the life and health of the woman.

S. 1692 does not meet that test because the exception it provides for does not include constitutionally required language relative to a woman's health.

The Supreme Court has also held that states may not ban pre-viability abortions. S. 1692 bans a specific abortion procedure that is not limited to post-viability abortions and therefore would ban certain pre-viability abortions, also making it unconstitutional.

In fact, 19 out of 21 state laws similar to S. 1692 have been held unconstitutional by the courts, including a Michigan statute. In Michigan, the U.S. District Court has held that:

[T]he Michigan partial-birth abortion statute must be declared unconstitutional and enjoined because, under controlling precedent, it is vague and over broad and unconstitutionally imposes an undue burden on a woman's right to seek a pre-viability second trimester abortion . . .

The American College of Obstetricians and Gynecologists has continually expressed deep concern about legislation prohibiting the intact D&X procedure, which is the technical name for the so-called partial birth abortion procedure. They have urged Congress not to pass legislation criminalizing this procedure and not to supersede the medical judgment of trained physicians. They have stated the legislation, "continues to represent an inappropriate, ill advised and dangerous intervention into medical decision-making. The amended bill still fails to include an exception for the protection for the health of the woman."

Principally for these reasons, I oppose this legislation. I supported an alternative bill which would ban all post-viability abortions, regardless of the procedure used, except in cases where it is necessary to protect a woman's life or health. I think that approach is preferable to S. 692 which would criminalize the procedure and which fails to protect a woman's health. However, it would be even more preferable to leave this matter to the states which already have the right to ban postviability abortions by any method, as long as the ban meets the constitutional standard.

Mr. JEFFORDS. Mr. President, today we once again are debating legislation to ban the dilation and extraction, or D&X, procedure used by doctors. I am again opposed to this legislation and will once again be voting against this ban for the fifth time in as many years.

My reasons for opposing this legislation are many. Most have been discussed on the floor during the many debates on this difficult issue. First, and most importantly I believe that this bill undermines the Supreme Court's decision in *Roe v. Wade* to leave these critical matters in the hands of a woman, her family and her doctor. The pending legislation is an effort to chip away at these reproductive rights es-

tablished in that 1973 decision and upheld by court cases since 1973. I understand many people disagree with my position. This issue has been contentious since I came to Congress in 1975.

Second, with the *Roe* decision, the Supreme Court wisely gave states the responsibility to restrict third-trimester abortions, so long as the life or health of the mother were not jeopardized. As of 1999, all but ten states have done so. To me, the rights of states to regulate abortions, when the life or health of the mother are not in danger, is an adequate safeguard. In the event the states pass unconstitutional regulations on this point, the appropriate remedy is with the courts. I realize that this policy leads to differences in law from state to state, but just as families differ, so too do states. As has been said before during the debate on this issue:

When the *Roe v. Wade* decision acknowledged a state interest in fetuses after viability, the Court wisely left restrictions on post-viability abortions up to states. There are expert professional licensing boards, accreditation councils and medical associations that guide doctors' decision-making in the complicated and difficult matters of life and death.

Third, the legislation before us would prevent doctors from using the D&X procedure where it is necessary to save the life of the mother. This clearly goes against the holding of the Supreme Court in *Roe*, as it required the health of the mother be safeguarded when states regulate late-term abortions. I will not vote for a bill that is neither Constitutional, nor takes into account those situations where carrying a fetus to term would cause serious health risk for the mother. This is simply unacceptable. My vote in 1997, in favor of the Feinstein substitute amendment underscored my commitment to safeguarding a doctor's options to protect the health of the mother in cases where a late-term procedure is necessary.

Finally, I believe that women who choose to undergo a D&X procedure do so for grave reasons. We have established a delicate legal framework in which to address late-term abortions and we should not shift the decision making to the federal government.

• Mr. McCAIN. Mr. President, we are not here today to debate the legality of abortion. We are here to discuss ending partial-birth abortion—a particularly gruesome procedure that would be outlawed today but for the President's veto last year of a national ban.

Banning partial-birth abortion goes far beyond traditional pro-life or pro-choice views. No matter what your personal opinion regarding the legalization of abortion, we should all be appalled and outraged by the practices of partial-birth abortions. This procedure is inhumane and extremely brutal entailing the partial delivery of a healthy baby who is then killed by having its vibrant brain stabbed and suctioned out of the skull.

This is simply barbaric.

Some would argue that abortion, including partial-birth abortion, is a matter of choice—a woman's choice. Respectfully, I must disagree.

What about the choice of the unborn baby? Why does a defenseless, innocent child not have a choice in their own destiny?

Some may answer that the unborn baby is merely a fetus and is not a baby until he or she leaves the mother's womb. Again, I disagree, particularly, in the case of infants who are killed by partial-birth abortions.

Most partial-birth abortions occur on babies who are between 20 and 24 weeks old. Viability, "the capacity for meaningful life outside the womb, albeit with artificial aid" as defined by the United States Supreme Court, is considered by the medical community to begin at 20 weeks for an unborn baby. Most, if not all, of the babies who are aborted by the partial-birth procedure could be delivered and live. Instead, they are partially delivered and then murdered. These children are never given a choice or a chance to live.

Today, we have to make a choice. We can choose to protect our nation's most valuable resource—our children. We can choose to give a tomorrow full of endless possibilities to unborn children throughout our nation. We can choose to save thousands from being murdered at the hands of abortionists.

Or we can choose to allow this barbaric procedure to continue, permitting doctors to kill more innocent, unborn children.

We each have a choice, a choice which unborn children are denied. We must make the right choice when we vote today—the choice to save thousands of unborn children by banning partial birth abortions in this country.

Today, I will choose to protect the unborn child. Today, I will once again cast my vote to ban partial birth abortions.

I want to reiterate my strong support for this bill and my unequivocal and long-standing opposition to the practice of partial birth abortion. I find it disconcerting that a few people are attempting to dilute my unequivocal support for banning this horrific procedure as well as to cast doubt on my long standing commitment to protecting the life of unborn children merely because of my vote on a procedural motion.

Yesterday, I voted against a parliamentary maneuver designed solely to end debate on S. 1593, the campaign finance reform bill. This was an unnecessary move since a unanimous consent agreement had been offered, with no known opposition, which would have allowed the chamber to temporarily lay aside the campaign finance reform bill so that the Senate could consider the partial birth abortion ban legislation. Under that procedure, when the Senate finished its work on the important bill banning partial birth abortions, we could then return to complete the debate on campaign finance reform. Instead, the opponents of

McCain-Feingold forced a vote on a maneuver which returned the bill to the Senate calendar, effectively cutting off the debate, well short of the time promised to consider this important issue.

In no way does my vote yesterday and strong support for campaign finance reform reduce my unequivocal, long-standing opposition to abortion, including the practice of partial birth abortion. I am a cosponsor of this legislation, as I was in previous years. I have voted 5 times over the past 5 years to ban this repugnant and unnecessary procedure, including 2 votes to overturn the President's veto of this legislation. When the Senate votes today on S. 1692, I will again vote for the ban.

Mr. President, I am pro-life and will continue fighting for measures which protect our nation's unborn children and provide them with an opportunity for life—the greatest gift each of us has. ●

Mr. KENNEDY. Mr. President, for the fifth time in the past two years, the Republican leadership has chosen to debate and vote on legislation that President Clinton has vetoed twice and that numerous courts have ruled unconstitutional. No matter how often the Senate votes, the facts will remain the same. This bill is unconstitutional—it's a violation of the Supreme Court's decisions in *Roe v. Wade* and *Planned Parenthood v. Casey*, and the Senate should oppose it.

The *Roe* and *Casey* decisions prohibit Congress from imposing an "undue burden" on a woman's constitutional right to choose to have an abortion at any time up to the point where the developing fetus reaches the stage of viability. Congress can constitutionally limit abortions after the stage of viability, as long as the limitations contain exceptions to protect the life and the health of the woman.

This bill fails that constitutional test in two clear ways. It clearly imposes an undue burden on a woman's constitutional right to an abortion in cases before viability. In cases after viability, it clearly does not contain the constitutionally required exception to protect the mother's health.

Supporters of this legislation are flagrantly defying these constitutional requirements, and they know it. Similar laws have been challenged in 21 of the 30 states where they have been passed, and the results are clear. In 20 states, laws have been blocked or severely limited by the courts or by state legal action. Eighteen courts have issued temporary or permanent injunctions preventing the laws from taking effect because of constitutional defects. One court and one attorney general have limited enforcement of the law. Of the states where the laws have been blocked, six have statutes identical to the Santorum bill.

Recently, the Eighth Circuit Court of Appeals ruled that laws in three states under its jurisdiction—Arkansas, Iowa,

and Nebraska—were unconstitutional. In the opinion on the Nebraska law, the court specifically held that, "Under controlling precedents laid down by the Supreme Court, [the] prohibition places an undue burden on the right of women to choose whether to have an abortion."

The conclusion is obvious. The supporters of the Santorum bill would rather have an issue than a law. They have rejected compromise after compromise. They have ignored President Clinton's plea to add an exemption for "the small number of compelling cases where selection of the procedure, in the medical judgment of the attending physician, was necessary to preserve the life of the woman or avert serious adverse consequences to her health."

In doing so, the Republican leadership has chosen to ignore the Constitution. They are also ignoring the large number of medical professionals who oppose this legislation, including the American College of Obstetricians and Gynecologists, the American Nurses Association, and the American Medical Women's Association. The American Medical Association—which once endorsed the bill—no longer supports it. The AMA withdrew its support after independent investigators hired by the organization concluded that, "rather than focusing on its role as steward for the profession and the public health . . . the board . . . lost sight of its responsibility for making decisions which, first and foremost, benefit the patient and protect the physician-patient relationship."

Most important, in its effort to pass this legislation, the Republican leadership has ignored the tragic situations in which some women find themselves—women like Eileen Sullivan, Erica Fox, Vikki Stella, Tammy Watts, and Viki Wilson. Women like Coreen Costello, who testified before the Senate Judiciary Committee and told us that she consulted with numerous medical experts and did everything possible to save her child. She later had the procedure that would be banned by this legislation, and, based on that experience, she told the Committee the following:

I hope you can put aside your political differences, your positions on abortion, and your party affiliations and just try to remember us. We are the ones who know. We are the families that ache to hold our babies, to love them, to nurture them. We are the families who will forever have a hole in our hearts. . . . please put a stop to this terrible bill. Families like mine are counting on you.

For all of these reasons, I oppose the Santorum bill. We should stand with Coreen Costello and others like her, who with their doctors' advice, must make these tragic decisions to protect their lives and their health.

Mr. HATCH. Mr. President, I rise today in strong support of S. 1692, the Partial Birth Abortion Ban Act. At the outset, I would like to thank the Senator from Pennsylvania, Senator SANTORUM, for his great efforts here this week, and over the past few years,

in trying to seek passage of this measure. Few people can speak on this issue with the same passion and depth of understanding as Senator SANTORUM.

As we face this vote today, it is clear that the majority of the Senate supports this bill. It is a bipartisan effort. The hope we have, however, in the face of an inevitable veto, is that a number sufficient to override this veto will vote in favor of this bill.

Mr. President, I have spoken in past years on this important legislation. As chairman of the Senate Judiciary Committee, I chaired a major hearing on this bill several years ago, and the graphic description of this procedure and the testimony I heard was compelling, even chilling.

This bill presents, really, a very narrow issue: whether one rogue abortion procedure that has probably been performed by a handful of abortion doctors in this country, that is never medically necessary, that is not the safest medical procedure available under any circumstances, and that is morally reprehensible, should be banned.

This bill does not address whether all abortions after a certain week of pregnancy should be banned or whether late-term abortions should only be permitted in certain circumstances. It bans one particular abortion procedure.

I chaired the Judiciary Committee hearing on this bill that was held on November 17, 1995. After hearing the testimony presented there as well as seeing some of the submitted material, I must say that I find it difficult to comprehend how any reasonable person could examine the evidence and continue to defend the partial-birth abortion procedure.

That procedure involves the partial delivery of an intact fetus into the birth canal. The fetus is delivered from its feet through its shoulders so that only its head remains in the uterus. Then, either scissors or another instrument is used to poke a hole in the base of the skull. This is a living baby at this point, in a late trimester of living. Once the abortionist pokes that hole in the base of the skull, a suction catheter is inserted to suck out the brains. This bill would simply ban that procedure.

The committee heard testimony from a total of 12 witnesses presenting a variety of perspectives on the bill. I wanted to ensure that both sides of this debate had a full opportunity to present their arguments on this issue, and I think that the hearing bore that out.

Brenda Shafer, a registered nurse who worked in Dr. Martin Haskell's Ohio abortion clinic for 3 days as a temporary nurse in September 1993, testified to her personal experience observing Dr. Haskell performing the procedure that would be banned by this bill. Dr. Haskell is one of only a handful of doctors who have acknowledged performing the procedure.

The committee also heard testimony from four ob-gyn doctors—two in favor

of the bill and two against—from an anesthesiologist, from an ethicist, and from three women who had personal experiences either with having a late-term abortion or with declining to have a late-term abortion. Finally, the committee also heard from two law professors who discussed constitutional and other legal issues raised by the bill.

The hearing was significant in that it permitted the issues raised by this bill to be fully aired. I think that the most important contribution of the hearing to this debate is that the hearing record puts to rest a number of inaccurate statements that have been made by opponents of the bill and that have unfortunately been widely covered in the press.

Because the Judiciary Committee hearing brought out many of the facts on this issue, I would like to go through the most important of those for my colleagues to clear up what I think have been some of the major misrepresentations—and simply points of confusion—on this bill.

The first and foremost inaccuracy that we must correct once and for all concerns the effects of anesthesia on the fetus of a pregnant woman. I must say that I am personally shocked at the irresponsibility that led some opponents of this bill to spread the myth that anesthesia given to the mother during a partial-birth abortion is what kills the fetus.

Opponents of the measure presumably wanted to make this procedure appear less barbaric and make it more palatable. In doing so, however, they have not only misrepresented the procedure, but they have spread potentially life-threatening misinformation that could prove catastrophic to women's health.

By claiming that anesthesia kills the fetus, opponents have spread misinformation that could deter pregnant women who might desperately need surgery from undergoing surgery for fear that the anesthesia could kill or brain-damage their unborn children.

Let me illustrate how widespread this misinformation has become: In a June 23, 1995, submission to the House Judiciary Constitution Subcommittee, the late Dr. James McMahon, the other of the two doctors who has admitted performing the procedure, wrote that anesthesia given to the mother during the procedure causes fetal demise.

Let me note also that if the fetus was dead before being brought down the birth canal, then this bill by definition would not cover the procedure performed to abort the fetus. The bill covers only procedures in which a living fetus is partially delivered.

An editorial in *USA Today* on November 3, 1995, also stated, "The fetus dies from an overdose of anesthesia given to its mother."

In a self-described fact sheet, circulated to Members of the House, Dr. Mary Campbell, Medical Director of Planned Parenthood, who testified of

the Judiciary Committee hearing wrote:

The fetus dies of an overdose of anesthesia given to the mother intravenously. A dose is calculated for the mother's weight, which is 50 to 100 times the weight of the fetus. The mother gets the anesthesia for each insertion of the dilators, twice a day. This induces brain death in a fetus in a matter of minutes. Fetal demise therefore occurs in the beginning of the procedure while the fetus is still in the womb.

When that statement was referenced to the medical panel at the Judiciary Committee hearing by Senator ABRAHAM, the president of the American Society of Anesthesiologists, Dr. Norig Ellison, flatly responded, "There is absolutely no basis in scientific fact for that statement."

The American Society of Anesthesiologists was invited to testify at our hearing precisely to clear up this obvious misrepresentation. They sought the opportunity to set the record straight.

What was terribly disturbing about this distortion was that it could endanger women's health and women's lives. The American Society of Anesthesiologists has made clear that they do not take a position on the legislation, but that they came forward out of concern for the harmful misinformation.

The spreading of this misinformation strikes me as a very sad commentary on the lengths that those who support abortion on demand, for any reason, at virtually any time during pregnancy and apparently regardless of the method, will do to defend each and any procedure, and certainly this procedure. The sacrifice of intellectual honesty is very disheartening.

As Dr. Ellison testified, he was "Deeply concerned . . . that the widespread publicity given to Dr. McMahon's testimony may cause pregnant women to delay necessary and perhaps lifesaving medical procedures, totally unrelated to the birthing process, due to misinformation regarding the effect of anesthetics on the fetus."

He stated that the American Society of Anesthesiologists, while not taking a position on the bill, ". . . have nonetheless felt it our responsibility as physicians specializing in the provisions of anesthesia care to seek every available forum in which to contradict Dr. McMahon's testimony. Only in that way we believe can we provide assurance to pregnant women that they can undergo necessary surgical procedures safely, both for mother and unborn child."

Dr. Ellison also noted that, in his medical judgment, in order to achieve neurological demise of the fetus in a partial-birth abortion procedure, it would be necessary to anesthetize the mother to such a degree as to place her own health in jeopardy.

In short, in a partial-birth abortion, the anesthesia does not kill the fetus. The baby will generally be alive after partly being delivered into the birth canal and before having his or her skull opened and brain sucked out.

Mr. President, if this description is distasteful, that is because the procedure itself is.

That is also consistent with evidence provided by Dr. Haskell describing his use of the procedure. In his 1992 paper presented before the National Abortion Federation, which is part of the hearing record, Dr. Haskell described the procedure as first involving the forceps-assisted delivery into the birth canal of an intact fetus from the feet up to the shoulders, with the head remaining in the uterus. He does not describe taking any action to kill the fetus up until that point.

In a 1993 interview with the *American Medical News*, Dr. Haskell acknowledged that roughly two-thirds of the fetuses he aborts using the partial-birth abortion procedure are alive at the point at which he kills them by inserting a scissors in the back of the head and suctioning out the brain.

Finally, in a letter to me dated November 9, 1995, Dr. Watson Bowes of the University of North Carolina Medical School wrote, "Although I have never witnessed this procedure, it seems likely from the description of the procedure by Dr. Haskell that many if not all of the fetuses are alive until the scissors and the suction catheter are used to remove brain tissue."

Simply put, anesthesia given to a mother does not kill the baby she is carrying.

Let me move on to the next misrepresentation. Another myth that the hearing record debunks is that the procedure can be medically necessary in late-term pregnancies where the health of the mother is in danger or where the fetus has severe abnormalities.

Now, there were two witnesses at the hearing who testified as to their experiences with late-abortions in circumstances in which Dr. McMahon's performed the procedure. Both women, Coreen Costello and Viki Wilson, received terrible news late in their pregnancies that the children they were carrying were severely deformed and would be unable to survive for very long.

I would like to make it absolutely clear that nothing in the bill before us would prevent women in Ms. Costello's and Ms. Wilson's situations from choosing to abort their children. That question is not before us, and it is not one that we face in considering this narrow bill.

I also would like to point out that I have the utmost sympathy for women—and their husbands and families—who find themselves receiving the same tragic news that those women received.

Regardless of whether they aborted the child or decided to go through with the pregnancy, which is what another courageous witness at our hearing, Jeannie French of Oak Park, Illinois, chose to do—and as a result, her daughter Mary's heart valves were donated to other infants—their experiences are horrendous ones that no one should have to go through.

The testimony of all three witnesses was among the most heart-wrenching and painful testimony I have ever heard before the committee. My heart goes out to those three women and their families as well as any others in similar situations.

However, the fact is that medical testimony in the record indicates that even if an abortion were to be performed under such circumstances, a number of other procedures could be performed, such as the far more common classical D&E procedure or an induction procedure.

When asked whether the exact procedure Dr. McMahon used would ever be medically necessary—even in cases like those described by Ms. Costello and Ms. Wilson—several doctors at our hearing explained that it would not. Dr. Nancy Romer, a practicing Ob-Gyn and clinical professor in Dayton, Ohio, stated that she had never had to resort to that procedure and that none of the physicians that she worked with had ever had to use it.

Dr. Pamela Smith, Director of Medical Education in the Department of Obstetrics and Gynecology at the Mount Sinai Medical Center in Chicago, stated that a doctor would never need to resort to the partial-birth abortion procedure.

This ties in closely to what I consider the next misrepresentation made about the partial-birth abortion procedure: the claim that in some circumstances a partial-birth abortion will be the safest option available for a late-term abortion. Testimony and other evidence adduced at the Judiciary Committee hearing amply demonstrate that this is not the case.

An article published in the November 20, 1995, issue of the *American Medical News* quoted Dr. Warren Hern as stating, "I would dispute any statement that this is the safest procedure to use." Dr. Hern is the author of "Abortion Practice," the Nation's most widely used textbook on abortion standards and procedures. He also stated in that interview that he "has very strong reservations" about the partial-birth abortion procedure banned by this bill.

Indeed, referring to the procedure, he stated, "You really can't defend it. I'm not going to tell somebody else that they should not do this procedure. But I'm not going to do it."

In fairness to Dr. Hern, I note that he does not support this bill in part because he feels this is the beginning of legislative efforts to chip away at abortion rights. But, his statement regarding the partial-birth abortion procedure certainly sheds light on the argument made by opponents that it is the safest procedure for late-term abortions.

Another misrepresentation that should be set straight concerns claims that the partial-birth abortion procedure that would be banned by this bill is, in fact, performed only in later-term pregnancies where the life of the mother is at risk or where the fetus is suf-

fering from severe abnormalities that are incompatible with life.

I certainly do not dispute that in a number of cases the partial-birth abortion procedure has been performed where the life of the mother was at risk or where the fetus was severely deformed.

Substantial available evidence indicates, however, that the procedure is not performed solely or primarily where the mother's life is in danger, where the mother's health is gravely at risk, or where the fetus is seriously malformed in a manner incompatible with life.

The fact of the matter is—and I know this is something that opponents of the bill have not faced—this procedure is being performed where there are only minor problems with the fetus, and for purely elective reasons.

Most important, however, medical testimony at our hearing indicated that a health exception in this bill is not necessary because other abortion procedures are in fact safer and better for women's health.

Now, let me be perfectly clear that I do not doubt that in some cases this procedure was done where there were life-threatening indications.

However, I simply must emphasize two points.

First, those cases are by far in the minority. We should get the facts straight so that our colleagues and the American people understand what is going on here.

Second, the most credible testimony at our hearing—confirmed by other available evidence—indicates that even where serious maternal health issues arise, there will always be other, safer abortion procedures available that this bill does not touch.

On that note, I would like to close by highlighting a statement made at our hearing by Helen Alvare of the National Conference of Catholic Bishops. She remarked that opponents of this bill keep asking whether enacting it would be the first step in an effort to ban all abortions.

In her view, however, the real question should be whether allowing this procedure would serve as a first step toward legalized infanticide. I urge the bill's opponents to ask themselves this question. What is the real purpose of this procedure?

That is the fundamental problem with this procedure. It involves killing a partially delivered baby.

Let me say to my colleagues in the Senate that the evidence presented more than confirms my view that this procedure is never medically necessary and should be banned.

This evidence, regardless of one's view on the broader issue of abortion, provides ample justification for an "aye" vote on S. 1692.

I hope my colleagues will agree.

Mrs. BOXER. Mr. President, I will be brief.

The courts in twenty States have said the Santorum law that has basi-

cally been adopted in those States is unconstitutional. Senator SANTORUM, in an effort to fix his bill, sent up a modification to the desk which he believes has narrowed the definition of what he means by the term "partial-birth abortion," which is not a medical term.

I have letters I have put in the RECORD from the obstetricians and gynecologists organization saying that, in fact, the new language doesn't do anything to narrow the definition; the same problem still holds.

This ban is so vague, it could impact all abortions. That is why the courts say it is wrong. There is no exception for the health of a woman. That also goes against Roe. And 51 of us voted in favor of Roe. I hope we will vote no. I believe at least 35 of us or so will do that. That will be enough to sustain the veto. I hope more of my colleagues will consider standing with the life and health of a woman and voting no on this legislation.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, the amendment I offered to modify the language, directly on point, addresses the Eighth Circuit concern. It specifically talks about the baby having to be intact, living outside the mother, before the baby is killed.

The concern of the Eighth Circuit was that other forms of abortion that are performed in utero could be involved. This is absolutely, positively clear. We are not talking about that. We ban a particular procedure. All other procedures would be legal under this bill. So there is no undue burden.

Second, regarding the issue of health that Senator BOXER brings up, I have hundreds and hundreds of letters from obstetricians who say this is never, never medically necessary, and is never the only alternative, and it is never the preferred alternative. I have entered into the RECORD where the AMA has said that, and other organizations, 600 obstetricians.

On the other side is one organization, ACOG, which says, also, that it is never the only option, but says it may be necessary, or it may be the preferred procedure. For 3 years, we have asked for an example of when it would be the preferred procedure. They have never given us an example; never have they provided an example that backs up their specious claim that this is in some way, somehow, somewhere necessary.

It is not medically necessary. There is no health exception needed because it is an unhealthy procedure. This is the opportunity to draw the line in the sand about what is protected by the Constitution and what is not. A child three-quarters born deserves some protection.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Rhode Island (Mr. CHAFEE), the Senator from Florida (Mr. MACK), and the Senator from New Hampshire (Mr. GREGG) are necessarily absent.

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

The result was announced—yeas 63, nays 34, as follows:

[Rollcall Vote No. 340 Leg.]

YEAS—63

Abraham	Dorgan	Lugar
Allard	Enzi	McCain
Ashcroft	Fitzgerald	McConnell
Bayh	Frist	Moynihan
Bennett	Gorton	Murkowski
Biden	Gramm	Nickles
Bond	Grassley	Reid
Breaux	Hagel	Roberts
Brownback	Hatch	Roth
Bunning	Helms	Santorum
Burns	Hollings	Sessions
Byrd	Hutchinson	Shelby
Campbell	Hutchison	Smith (NH)
Cochran	Inhofe	Smith (OR)
Conrad	Johnson	Specter
Coverdell	Kyl	Stevens
Craig	Landrieu	Thomas
Crapo	Leahy	Thompson
Daschle	Lincoln	Thurmond
DeWine	Lott	Voinovich
Domenici		Warner

NAYS—34

Akaka	Graham	Murray
Baucus	Harkin	Reed
Bingaman	Inouye	Robb
Boxer	Jeffords	Rockefeller
Bryan	Kennedy	Sarbanes
Cleland	Kerrey	Schumer
Collins	Kerry	Snowe
Dodd	Kohl	Torricelli
Durbin	Lautenberg	Wellstone
Edwards	Levin	Wyden
Feingold	Lieberman	
Feinstein	Mikulski	

NOT VOTING—3

Chafee	Gregg	Mack
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The bill (S. 1692), as amended and modified, was passed, as follows:

S. 1692

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Partial-Birth Abortion Ban Act of 1999".

SEC. 2. PROHIBITION ON PARTIAL-BIRTH ABORTIONS.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 73 the following:

"CHAPTER 74—PARTIAL-BIRTH ABORTIONS

"Sec.

"1531. Partial-birth abortions prohibited.

"§ 1531. Partial-birth abortions prohibited

"(a) Any physician who, in or affecting interstate or foreign commerce, knowingly performs a partial-birth abortion and thereby kills a human fetus shall be fined under this title or imprisoned not more than two years, or both. This paragraph shall not apply to a partial-birth abortion that is necessary to save the life of a mother whose life is endangered by a physical disorder, illness, or injury. This paragraph shall become effective one day after enactment.

"(b)(1) As used in this section, the term 'partial-birth abortion' means an abortion in which the person performing the abortion deliberately and intentionally—

"(A) vaginally delivers some portion of an intact living fetus until the fetus is partially outside the body of the mother, for the purpose of performing an overt act that the person knows will kill the fetus while the fetus is partially outside the body of the mother; and

"(B) performs the overt act that kills the fetus while the intact living fetus is partially outside the body of the mother.

"(2) As used in this section, the term 'physician' means a doctor of medicine or osteopathy legally authorized to practice medicine and surgery by the State in which the doctor performs such activity, or any other individual legally authorized by the State to perform abortions: *Provided, however*, That any individual who is not a physician or not otherwise legally authorized by the State to perform abortions, but who nevertheless directly performs a partial-birth abortion, shall be subject to the provisions of this section.

"(c)(1) The father, if married to the mother at the time she receives a partial-birth abortion procedure, and if the mother has not attained the age of 18 years at the time of the abortion, the maternal grandparents of the fetus, may in a civil action obtain appropriate relief, unless the pregnancy resulted from the plaintiff's criminal conduct or the plaintiff consented to the abortion.

"(2) Such relief shall include—

"(A) money damages for all injuries, psychological and physical, occasioned by the violation of this section; and

"(B) statutory damages equal to three times the cost of the partial-birth abortion.

"(d)(1) A defendant accused of an offense under this section may seek a hearing before the State Medical Board on whether the physician's conduct was necessary to save the life of the mother whose life was endangered by a physical disorder, illness or injury.

"(2) The findings on that issue are admissible on that issue at the trial of the defendant. Upon a motion of the defendant, the court shall delay the beginning of the trial for not more than 30 days to permit such a hearing to take place.

"(e) A woman upon whom a partial-birth abortion is performed may not be prosecuted under this section, for a conspiracy to violate this section, or for an offense under section 2, 3, or 4 of this title based on a violation of this section."

(b) CLERICAL AMENDMENT.—The table of chapters for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 73 the following new item:

"74. Partial-birth abortions 1531".

SEC. 3. SENSE OF CONGRESS CONCERNING ROE V. WADE AND PARTIAL BIRTH ABORTION BANS.

(a) FINDINGS.—Congress finds that—

(1) abortion has been a legal and constitutionally protected medical procedure throughout the United States since the Supreme Court decision in *Roe v. Wade* (410 U.S. 113 (1973)); and

(2) no partial birth abortion ban shall apply to a partial-birth abortion that is necessary to save the life of a mother whose life is endangered by a physical disorder, illness, or injury.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that partial birth abortions are horrific and gruesome procedures that should be banned.

SEC. 4. SENSE OF CONGRESS CONCERNING A WOMAN'S LIFE AND HEALTH.

It is the sense of the Congress that, consistent with the rulings of the Supreme

Court, a woman's life and health must always be protected in any reproductive health legislation passed by Congress.

SEC. 5. SENSE OF CONGRESS CONCERNING ROE V. WADE.

(a) FINDINGS.—Congress finds that—

(1) reproductive rights are central to the ability of women to exercise their full rights under Federal and State law;

(2) abortion has been a legal and constitutionally protected medical procedure throughout the United States since the Supreme Court decision in *Roe v. Wade* (410 U.S. 113 (1973));

(3) the 1973 Supreme Court decision in *Roe v. Wade* established constitutionally based limits on the power of States to restrict the right of a woman to choose to terminate a pregnancy; and

(4) women should not be forced into illegal and dangerous abortions as they often were prior to the *Roe v. Wade* decision.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that—

(1) *Roe v. Wade* was an appropriate decision and secures an important constitutional right; and

(2) such decision should not be overturned.

Mr. BROWNBACK. Mr. President, I want to speak for a brief period. The reason I want to speak is to read into the RECORD a great speech that was given by a Nobel Laureate for Peace prize winner in 1979. It fits in with the culmination of what we discussed today, the partial-birth abortion ban. That vote has taken place and we have had extended discussion on that. I think this is actually a very fitting final conclusion to this debate.

Mr. President, this speech is titled "The Gift of Peace." It was given by Mother Teresa, Nobel Laureate, on December 11, 1979. I think it relates to a lot of what we have talked about here today. I will read it. I think it puts a good summary on it.

Mother Teresa said:

As we have gathered here together to thank God for the Nobel Peace Prize, I think it will be beautiful that we pray the prayer of St. Francis of Assisi which always surprises me very much—we pray this prayer every day after Holy Communion, because it is very fitting for each one of us, and I always wonder that 4-500 years ago as St. Francis of Assisi composed this prayer that they had the same difficulties that we have today, as we compose this prayer that fits very nicely for us also. I think some of you already have got it—so we will pray together.

Let us thank God for the opportunity that we all have together today, for this gift of peace that reminds us that we have been created to live that peace, and Jesus became man to bring that good news to the poor. He being God became man in all things like us except sin, and he proclaimed very clearly that he had come to give the good news. The news was peace to all of good will and this is something that we all want—the peace of heart—and God loved the world so much that he gave his son—it was a giving—it is as much as if to say it hurt God to give, because he loved the world so much that he gave his son, and he gave him to Virgin Mary, and what did she do with him?

As soon as he came in her life—immediately she went in haste to give that good news, and as she came into the house of her cousin, the child—the unborn child—the

child in the womb of Elizabeth, lit with joy. He was that little unborn child, was the first messenger of peace. He recognized the Prince of Peace, he recognized that Christ has come to bring the good news for you and for me. And as if that was not enough—it was not enough to become a man—he died on the cross to show that greater love, and he died for you and for me and for that leper and for that man dying of hunger and that naked person lying in the street not only of Calcutta, but of Africa, and New York, and London, and Oslo—and insisted that we love one another as he loves each one of us. And we read that in the Gospel very clearly—love as I have loved you—as I love you—as the Father has loved me, I love you—and the harder the Father loved him, he gave him to us, and how much we love one another, we, too, must give each other until it hurts. It is not enough for us to say: I love God, but I do not love my neighbour. St. John says you are a liar if you say you love God and you don't love your neighbour. How can you love God whom you do not see, if you do not love your neighbour whom you see, whom you touch, with whom you live. And so this is very important for us to realize that love, to be true, has to hurt. It hurt Jesus to love us, it hurt him. And to make sure we remember his great love he made himself bread of life to satisfy our hunger for his love. Our hunger for God, because we have been created for that love. We have been created in his image. We have been created to love and be loved, and then he has become man to make it possible for us to love as he loved us. He makes himself the hungry one—the naked one—the homeless one—the sick one—the one in prison—the lonely one—the unwanted one—and he says: You did it to me. Hungry for our love, and this is the hunger of our poor people. This is the hunger that you and I must find, it may be in our own home.

I never forget an opportunity I had in visiting a home where they had all these old parents of sons and daughters who had just put them in an institution and forgotten maybe. And I went there, and I saw in that home they had everything, beautiful things, but everybody was looking toward the door. And I did not see a single one with their smile on their face. And I turned to the sister and I asked: How is that? How is it that the people they have everything here, why are they all looking toward the door, why are they not smiling? I am so used to see the smile on our people, even the dying ones smile, and she said: This is nearly every day, they are expecting, they are hoping that a son or daughter will come to visit them. They are hurt because they are forgotten, and see—this is where love comes. That poverty comes right there in our own home, even neglect to love. Maybe in our own family we have somebody who is feeling lonely, who is feeling sick, who is feeling worried, and these are difficult days for everybody. Are we there, are we there to receive them, is the mother there to receive the child?

I was surprised in the waste to see so many young boys and girls given into drugs, and I tried to find out why—why is it like that, and the answer was: Because there is no one in the family to receive them. Father and mother are so busy they have no time. Young parents are in some institution and the child takes back to the street and gets involved in something. We are talking of peace. These are things that break peace, but I feel the greatest destroyer of peace today is abortion, because it is a direct war, a direct killing—direct murder by the mother herself. And we read in the Scripture, for God says very clearly. Even if a mother could forget her child—I will not forget you—I have curved you in the palm of my hand. We are curved in the palm of His hand so close to

Him that unborn child has been curved in the hand of God. And that is what strikes me most, the beginning of that sentence, that even if a mother could forget something impossible—but even if she could forget—I will not forget you. And today the greatest means—the greatest destroyer of peace is abortion. And we who are standing here—our parents wanted us. We would not be here if our parents would do that to us. Our children, we want them, we love them, but what of the millions. Many people are very, very concerned with the children in India, with the children of Africa where quite a number die, maybe of malnutrition, of hunger and so on, but millions are dying deliberately by the will of the mother. And this is what is the greatest destroyer of peace today. Because if a mother can kill her own child—what is left for me to kill you and you to kill me—there is nothing between. And this I appeal in India, I appeal everywhere: Let us bring the child back, and this year being the child's year: What have we done for the child? At the beginning of the year I told, I spoke everywhere and I said: Let us make this year that we make every single child born, and unborn, wanted. And today is the end of the year, have we really made the children wanted? I will give you something terrifying. We are fighting abortion by adoption, we have saved thousands of lives, we have sent words to all the clinics, to the hospitals, police stations—please don't destroy the child, we will take the child. So every hour of the day and night it is always somebody, we have quite a number of unwedded mothers—tell them come, we will take care of you, we will take the child from you, and we will get a home for the child. And we have a tremendous demand for families who have no children, that is the blessing of God for us. And also, we are doing another thing which is very beautiful—we are teaching our beggars, our leprosy patients, our slum dwellers, our people of the street, natural family planning.

And in Calcutta alone in six years—it is all in Calcutta—we have had 61,273 babies less from the families who would have had, but because they practice this natural way of abstaining, of self-control, out of love for each other. We teach them the temperature meter which is very beautiful, very simple, and our poor people understand. And you know what they have told me? Our family is healthy, our family is united, and we can have a baby whenever we want. So clear—these people in the street, those beggars—and I think that if our people can do like that how much more you and all the others who can know the ways and means without destroying the life that God has created in us. The poor people are very great people. They can teach us so many beautiful things. The other day one of them came to thank and said: You people who have evolved chastity you are the best people to teach us family planning. Because it is nothing more than self-control out of love for each other. And I think they said a beautiful sentence. And these are people who maybe have nothing to eat, maybe they have not a home where to live, but they are great people. The poor are very wonderful people. One evening we went out and we picked up four people from the street. And one of them was in a most terrible condition—and I told the sisters: You take care of the other three, I take of this one that looked worse. So I did for her all that my love can do. I put her in bed, and there was such a beautiful smile on her face. She took hold of my hand, as she said one word only: Thank you—and she died.

I could not help but examine my conscience before her, and I asked what would I say if I was in her place. And my answer was very simple. I would have tried to draw a lit-

tle attention to myself, I would have said I am hungry, that I am dying, I am cold, I am in pain, or something, but she gave me much more—she gave me her grateful love. And she died with a smile on her face. As that man whom we picked up from the drain, half eaten with worms, and we brought him to the home. I have lived like an animal in the street, but I am going to die like an angel, loved and cared for. And it was so wonderful to see the greatness of that man who could speak like that, who could die like that without blaming anybody, without cursing anybody, without comparing anything. Like an angel—this is the greatness of our people. And that is why we believe what Jesus has said: I was hungry—I was naked—I was homeless—I was unwanted, unloved, uncared for—and you did it to me. I believe that we are not real social workers. We may be doing social work in the eyes of the people, but we are really contemplatives in the heart of the world. For we are touching the body of Christ 24 hours. We have 24 hours in this presence, and so you and I. You too try to bring that presence of God in your family, for the family that prays together stays together. And I think that we in our family we don't need bombs and guns, to destroy to bring peace—just get together, love one another, bring that peace, that joy, that strength of presence of each other in the home. And we will be able to overcome all the evil that is in the world. There is so much suffering, so much hatred, so much misery, and we with our prayer, with our sacrifice are beginning at home. Love begins at home, and it is not how much we do, but how much love we put in the action that we do. It is to God Almighty—how much we do it does not matter, because He is infinite, but how much love we put in that action. How much we do to Him in the person that we are serving. Some time ago in Calcutta we had great difficulty in getting sugar, and I don't know how the word got around to the children, and a little boy of four years old, Hindu boy, went home and told his parents: I will not eat sugar for three days, I will give my sugar to Mother Teresa for her children. After three days his father and mother brought him to our house. I had never met them before, and this little one could scarcely pronounce my name, but he knew exactly what he had come to do. He knew that he wanted to share his love. And this is why I have received such a lot of love from you all. From the time that I have come here I have simply been surrounded with love, and with real, real understanding love. It could feel as if everyone in India, everyone in Africa is somebody very special to you. And I felt quite at home I was telling Sister today. I feel in the Convent with the Sisters as if I am in Calcutta with my own Sisters. So completely at home here, right here. And so here I am talking with you—I want you to find the poor here, right in your own home first. And begin love there. Be that good news to your own people. And find out about your next-door neighbor—do you know who they are? I had the most extraordinary experience with a Hindu family who had eight children. A gentleman came to our house and said: Mother Teresa, there is a family with eight children, they had not eaten for so long—do something. So I took some rice and I went there immediately. And I saw the children—their eyes shining with hunger—I don't know if you have ever seen hunger. But I have seen it very often. And she took the rice, and divided the rice, and she went out. When she came back I asked her—where did you go, what did you do? And she gave me a very simple answer: They are hungry also. What struck me most was that she knew—and who are they, a Muslim family—and she knew. I didn't bring more rice that evening

because I wanted them to enjoy the joy of sharing. But there was those children, radiating joy, sharing the joy with their mother because she had the love to give. And you see this is where love begins—at home. And I want you—and I am very grateful for what I have received. It has been a tremendous experience and I go back to India—I will be back by next week, the 15th I hope—and I will be able to bring your love.

And I know well that you have not given from your abundance, but you have given until it hurts you. Today the little children they gave—I was so surprised—there is so much joy for the children that are hungry. That the children like themselves will need love and care and tenderness, like they get so much from their parents. So let us thank God that we have had this opportunity to come to know each other, and this knowledge of each other has brought us very close. And we will be able to help not only the children of India and Africa, but will be able to help the children of the whole world, because as you know our Sisters are all over the world. And with this Prize that I have received as a Prize of Peace, I am going to try to make the home for many people that have no home. Because I believe that love begins at home, and if we can create a home for the poor—I think that more and more love will spread. And we will be able through this understanding love to bring peace, be the good news to the poor. The poor in our own family first, in our country and in the world. To be able to do this, our Sisters, our lives have to be woven with prayer. They have to be woven with Christ to be able to understand, to be able to share. Because today there is so much suffering—and I feel that the passion of Christ is being relived all over again—are we there to share that passion, to share that suffering of people. Around the world, not only in the poor countries, but I found the poverty of the West so much more difficult to remove. When I pick up a person from the street, hungry, I give him a plate of rice, a piece of bread, I have satisfied. I have removed that hunger. But a person that is shut out, that feels unwanted, unloved, terrified, the person that has been thrown out from society—that poverty is so hurtful and so much, and I find that very difficult. Our Sisters are working amongst that kind of people in the West. So you must pray for us that we may be able to be that good news, but we cannot do that without you, you have to do that here in your country. You must come to know the poor, maybe our people here have material things, everything, but I think that if we all look into our own homes, how difficult we find it sometimes to smile at each other, and that the smile is the beginning of love. And so let us always meet each other with a smile, for the smile is the beginning of love, and once we begin to love each other naturally we want to do something. So you pray for our Sisters and for me and for our Brothers, and for our co-workers that are around the world. That we may remain faithful to the gift of God, to love Him and serve Him in the poor together with you. What we have done we would not have been able to do if you did not share with your prayers, with your gifts, this continual giving. But I don't want you to give me from your abundance, I want that you give me until it hurts. The other day I received 15 dollars from a man who has been on his back for twenty years, and the only part that he can move is his right hand. And the only companion that he enjoys is smoking. And he said to me: I do not smoke for one week, and I send you this money. It must have been a terrible sacrifice for him, but see how beautiful, how he shared, and with that money I bought bread and I gave to those who are hungry with a joy on both sides, he was giving and the poor

were receiving. This is something that you and I—it is a gift of God to us to be able to share our love with others. And let it be as it was for Jesus. Let us love one another as he loved us. Let us love Him with undivided love. And the joy of loving Him and each other—let us give now—that Christmas is coming so close. Let us keep that joy of loving Jesus in our hearts. And share that joy with all that we come in touch with. And that radiating joy is real, for we have no reason not to be happy because we have Christ with us. Christ in our hearts, Christ in the poor that we meet, Christ in the smile that we give and the smile that we receive. Let us make that one point: That no child will be unwanted, and also that we meet each other always with a smile, especially when it is difficult to smile.

I never forget some time ago about 14 professors came from the United States from different universities. And they came to Calcutta to our house. Then we were talking about home for the dying in Calcutta, where we have picked up more than 36,000 people only from the streets of Calcutta, and out of that big number more than 18,000 have died a beautiful death. They have just gone home to God; and they came to our house and we talked of love, of compassion, and then one of them asked me: Say, Mother, please tell us something that we will remember, and I said to them: Smile at each other, make time for each other in your family. Smile at each other. And then another one asked me: Are you married, and I said: Yes, and I find it sometimes very difficult to smile at Jesus because he can be very demanding sometimes. This is really something true, and there is where love comes—when it is demanding, and yet we can give it to Him with joy. Just as I have said today, I have said that if I don't go to Heaven for anything else I will be going to Heaven for all the publicity because it has purified me and sacrificed me and made me really something ready to go to Heaven. I think that this is something, that we must live life beautifully, we have Jesus with us and He loves us. If we could only remember that God loves me, and I have an opportunity to love others as He loves me, not in big things, but in small things with great love, then Norway becomes a nest of love. And how beautiful it will be that from here a centre for peace of war has been given. That from here the joy of life of the unborn child comes out. If you become a burning light in the world of peace, then really the Nobel Peace Prize is a gift of the Norwegian people. God bless you!

I simply wanted to put Mother Teresa's speech here again as a reminder to us of one of the great people of the world of our time, one that we have had the pleasure of having in this body, and that at the face of all this, we are really talking about peace. We are talking about a caring peace.

I hope that we can move forward as a society, whether we want to do it by laws or not by laws. If we want to do it, we are persuading people's hearts. What we are talking about is the peace of that individual, and peace of mind, caring, caring through adoption.

I hope we can move our hearts—all of us, whether we disagree or agree on the legislation—forward to reach out to that child and to those children the way she did.

DAY OF NATIONAL CONCERN ABOUT YOUNG PEOPLE AND GUN VIOLENCE

Mr. DASCHLE. Mr. President, today has been designated by the Senate as a "Day of National Concern about Young People and Gun Violence." Sadly, thus far, the Senate seems indifferent to that fact.

Despite repeated acts of gun violence, the conference on the juvenile justice bill, which was convened 77 days ago, has yet to complete its business. While the conference is stalled, more and more children are losing their lives.

Every day in the United States, 12 children under the age of 19 are killed with guns—1 child every 2 hours. Every day, three children commit suicide using a firearm. Every day, approximately six children are murdered by gunfire. Between 1979 and 1997, gunfire killed nearly 80,000 children and teens in America, more than the total number of soldiers lost in the Vietnam war. In fact, homicide is the third leading cause of death among children ages 5 to 14.

That is why Senator MURRAY and others worked so hard to pass the resolution that declared today, this day, the "Day of National Concern about Young People and Gun Violence."

The good news is that the number of children dying from gunfire has declined. Moreover, children across the country are engaged in positive endeavors to rid their communities of violence and to encourage their friends to find peaceful ways to settle disputes.

This week, the Democrats in the House of Representatives hosted 300 teenagers from across the country for a conference entitled "Voices Against Violence." At this conference, teens discussed their concerns about violence and explored ideas for addressing this pressing problem.

Senate Democrats believe we, in the Senate, must join America's children and do our part to stem that violence. That is why we fought so hard to pass a comprehensive juvenile justice bill that included common sense gun safety provisions, money for programs designed to prevent violence before it occurs, and measures to ensure that those few kids who are truly dangerous are punished appropriately.

On May 20th the Senate passed the juvenile justice bill, and on June 17th the House passed their juvenile justice bill. After waiting weeks, on August 5th—77 days ago—the juvenile justice conference had its first and only meeting. Yesterday marked the 6-month anniversary of the Columbine tragedy, and it is time for the stalling to stop.

The Y2K legislation conference report was produced 14 days after the Senate passed the bill, and the Republican tax cut conference report was produced only 5 days after the Senate voted on that package. Why don't we have the same commitment to producing legislation to combat youth violence?

The conference should be working around the clock to produce a bill the

President can sign before the end of this session. We ought to use this day and every day to ensure that this juvenile justice bill is passed and to ensure that we live up to the expectations of all who said on the day when we passed the "Day of National Concern about Young People and Gun Violence" legislation that it was more than just words, it was more than just a rhetorical commitment, it meant sincerely that the Senate was serious about addressing this issue. Indeed, we remind our colleagues that thus far, our children have waited too long.

I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, I commend the Democratic leader, Senator DASCHLE, for bringing to the attention of the Senate this extremely important day, October 21. It is the Day of National Concern about Young People and Gun Violence. This is a day that all Members in the Senate have recognized as a day we want young people everywhere to take a pledge to not bring a gun to school and to resolve their conflicts without using a gun. It is a very important message.

This is a bipartisan message. Senator Kempthorne and I began this effort 4 years ago. This year, Senator JOHN WARNER and I put this resolution forward in a bipartisan way. It was supported by all Members of the Senate. It is a simple message to young children. Millions of them today took the pledge and joined with others in their community to take the power of reducing violence into their own hands.

As leaders of the United States, we have a responsibility to do all we can to reduce youth violence in this country. We need to stand behind these young kids who are taking violence and the issue of violence in their own hands and say we, as the leaders of this country, stand with you.

I commend Senator DASCHLE for his statement, for bringing to the attention of the Senate our responsibility as adults to reduce the number of guns to which our young kids have access, and urge our colleagues to move forward on these critical issues that have been left behind in this session of Congress.

I yield the floor.

Mr. LEAHY. Mr. President, yesterday was the 6 month anniversary of the shooting at Columbine High School in Littleton, CO. Fourteen students and a teacher lost their lives in that tragedy on April 20, 1999. But still the Congressional leadership refuses to send to the President comprehensive juvenile justice legislation.

This is shameful.

As we have for months now, Senate and House Democrats stand ready to work with Republicans to enact into law an effective juvenile justice conference report that includes reasonable gun safety provisions. Yesterday, all the House and Senate Democratic conferees sent a letter to Senator HATCH and Congressman HYDE calling for an

open meeting of the juvenile justice conference.

We need to bring this up. Vote it up. Vote it down. I don't know what everybody is scared of. But at least let's vote.

This delay is simply because of the opposition of the gun lobby to any new firearm safety laws. Even though the Senate passed the Hatch-Leahy Juvenile Justice Bill in May, we still have not moved forward on a juvenile justice conference report.

I hope the majority will hear the call of our nation's law enforcement officers to act now to pass a strong and effective juvenile justice conference report.

Ten national law enforcement organizations, representing thousands of law enforcement officers, yesterday endorsed the Senate-passed gun safety amendments and support loophole-free firearm laws: International Association of Chiefs of Police; International Brotherhood of Police Officers; Police Executive Research Forum; Police Foundation; Major Cities Chiefs; Federal Law Enforcement Officers Association; National Sheriffs Association; National Association of School Resource Officers; National Organization of Black Law Enforcement Executives; and Hispanic American Police Command Officers Association.

Law enforcement officers in this country need help in keeping guns out of the hands of people who should not have them. I am not talking about people who use guns for hunting or for sport, but about criminals and unsupervised children.

The thousands of law enforcement officers represented by these organizations are demanding that Congress act now to pass a strong and effective juvenile justice conference report. As a conferee, I am ready to work with Republicans and Democrats to do just that.

According to press reports, the Republicans are meeting and having sensitive negotiations over gun proposals. Apparently, the Republicans on the conference and the Republican leadership met last Thursday to hammer out an agreement on guns. They were not successful. Bicameral Republican meetings cannot be confused with bipartisan conference meetings. Only in open conference meetings with an opportunity for full debate will we be able to resolve the differences in the juvenile justice bills and get a law enacted.

Every parent, teacher and student in this country is concerned about school violence over the last two years and worried about when the next shooting may occur. They only hope it does not happen at their school or involve their children.

We all recognize that there is no single cause and no single legislative solution that will cure the ill of youth violence in our schools or in our streets. But we have an opportunity before us to do our part. We should seize this op-

portunity to act on balanced, effective juvenile justice legislation, and measures to keep guns out of the hands of children and away from criminals.

I hope we get to work soon and finish what we started in the juvenile justice conference. It is well past the time for Congress to act.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Ms. SNOWE). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LOTT. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

UNANIMOUS CONSENT REQUEST— EXECUTIVE CALENDAR

Mr. LOTT. Madam President, as in executive session, I ask unanimous consent that on Monday, October 25, it be in order for the majority leader, after consultation with the Democratic leader, to proceed to executive session in order to consider the following nominations on the Executive Calendar: Nos. 253, 254, 255, 257, 278, and 279.

Mr. DASCHLE. Reserving the right to object, I ask unanimous consent that Calendar No. 159, Marsha Berzon, and Calendar No. 208, Richard Paez, be added.

Mr. LOTT. Madam President, I object to the addition of those nominees at this time, although we are working to see if at some point one or both of these nominees could be considered.

Mr. DASCHLE. Madam President, on behalf of a number of colleagues on this side, I will be compelled to object at this time.

The PRESIDING OFFICER. The objection is heard.

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

Mr. LOTT. Madam President, I ask unanimous consent that the Senate now proceed to the consideration of the conference report to accompany the Interior appropriations 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, and ask for its immediate consideration.

The report will be stated.

The 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. 2466, have agreed to recommend and do recommend to their respective Houses this report, signed by all 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 October 20, 1999.)

Mr. LOTT. Madam President, I further ask consent that the conference report be considered as read, the report be agreed to, with the motion to reconsider laid upon the table, and I ask consent that any statements be printed in the RECORD.

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

The conference report was agreed to.

THOMAS PAINE MEMORIAL

Mr. CRAIG. Madam President, seven years ago legislation was enacted, with my support, to create a memorial on the National Mall honoring Thomas Paine. A site has been selected and approved at 1776 Constitution Ave. However, the memorial project needs to be reauthorized until 2003 in order to raise the necessary funding to complete construction. Today I want to spend a moment to recognize the great American patriot, Thomas Paine.

Thomas Paine thrived on new ideas, was broad minded and progressive. Through brilliantly written persuasion, he advocated four concepts which have since become cornerstones of American society and governance: independence, representation, unity, and leadership. Thomas Paine was the first patriot to call for a "Declaration of Independence" and a "Continental Charter" which proposed the basic principles of our constitution: "securing freedom and property . . . and above all things, the free exercise of religion."

Another cornerstone was laid when Paine had the foresight and courage to publicly advocate a representative, democratic/republican form of government for this country. He influenced George Washington and numerous other Revolution leaders as he stressed that government was a necessary evil which could only become safe when it was representative and altered by frequent elections. The function of government's role in society ought only be to regulate society and therefore be as simple as possible.

Paine also introduced our status as a united, sovereign country with due regard for individual and states rights. He coined the phrases "Free and Independent States of America" and "United States of America."

The last cornerstone that Thomas Paine set for our country was the concept of a world leader fighting for human rights. Paine publicly denounced chattel slavery and was the first patriot to publish a defense of the rights of women in America. In his papers *American Crisis I*, Paine wrote:

These are the times that try men's souls. . . . Tyranny, like hell, is not easily conquered; . . . What we obtain too cheap, we esteem too lightly: it is dearness only that gives every thing its value. Heaven knows how to put a proper price upon its goods, and it would be strange indeed if so celestial an article as freedom should not be highly rated.

Paine has often been quoted by the leaders of this country on the great ideas of American independence, freedom and democracy—concepts which

he was and still is unmatched in expressing. Without Paine's vision and initiative, our country would not be the republican world power that it is today.

I am honored to have been able to help authorize his memorial seven years ago. I introduced S. 1681 to reauthorize the memorial until 2003 and I am glad that language from S. 1681 has been included in this bill to let this important work continue. Americans will be remembering Thomas Paine for generations to come, because of what we are doing today.

Mr. MURKOWSKI. Madam President, as chairman of the Energy and Natural Resources Committee, I rise today to congratulate Senator GORTON on his good work on the fiscal year 2000 Interior appropriations bill. I know the negotiations which led to this conference report were difficult but I believe Senator GORTON and the other Senate conferees did an excellent job under these trying circumstances. I hope that President Clinton recognizes this and signs this appropriations bill into law.

Today, I want to highlight one particular program which has been the subject of recent focus both in the Congress and in the Clinton Administration—the Land and Water Conservation Fund. The LWCF Act authorizes the expenditure of monies from the LWCF for two purposes only: the acquisition of Federal land by the National Park Service, the Bureau of Land Management, the Fish and Wildlife Service, and the United States Forest Service; and formula grants to states for park and recreation projects. The LWCF Act creates a balance—between the State and local communities and the Federal government; between urban and rural communities; between the western and eastern states—for the development of outdoor recreation resources.

Unfortunately, over the last four years the balance between the state and Federal-sides of the LWCF has been eliminated. With the action of the Clinton Administration and the Congress to shut-down the state-side LWCF matching grant program in fiscal year 1996, the LWCF has become a Federal-only land acquisition program. As I have expressed before, I believe the loss of this balance is a tragic mistake and serves to increase the already significant pressure on the Federal government to meet the recreation demands of the American public.

I have worked tirelessly over the last 3 years to restore the state-side LWCF matching grant program. This year those efforts have reaped results. Interior conferees provided \$20 million for the state-side matching grant program. While I wish more money could have been provided, with tough budget targets, it was not easy to find \$20 million in such a lean bill. It is a start.

I also would like to thank Senator GORTON for ensuring that no limitations are placed on the expenditure of this money. It is important that States and local governments have the flexi-

bility to determine how best to meet the recreation needs of their citizens.

There may be a need for changes to the state-wide LWCF matching grant program. However, it is not appropriate to make these changes on an appropriations bill. The President's budget proposal sought to fundamentally restructure the state-side matching grant program authorized by the LWCF Act. The LWCF state-side program is a formula grant program which provides monies to States and local communities for the planning, acquisition, and development of parks and recreation facilities. The President proposed to replace this program with a competitive grant program to the States for the purchase of land and open space planning. This proposal would have changed the focus of the state-side program and undercut the Federalism inherent in the existing program. The Federal government should not dictate a one-size fits all mandate for the administration of this program.

State-side LWCF matching grants, which address the highest priority needs of Americans for outdoor recreation, have helped finance well over 37,500 park and recreation projects throughout the United States. The state-side of the LWCF has played a vital role in providing recreational and educational opportunities to millions of Americans. The state-side program has worked because it has provided States and local communities—not the Federal government—with the flexibility to determine how best to meet the recreational needs of its residents. This \$20 million will begin the process of saving this important program.

The Interior conference report also provides more than \$230 million for land acquisition by the four Federal land management agencies including \$40 million for the acquisition of Baca Ranch in New Mexico. A few months ago the President announced an agreement to purchase this property for \$101 million. I have not taken a position on the merits of the Baca Ranch acquisition but have an interest in this matter as chairman of the authorizing committee.

No money can be appropriated from the Land and Water Conservation Fund for the acquisition of Federal land, including Baca Ranch, in the absence of an authorization. The Federal-side LWCF program provides monies for the Federal land management agencies to acquire lands otherwise authorized for acquisition. The LWCF Act does not provide an independent basis for Federal land acquisition. Rather, the LWCF Act establishes a funding mechanism for the acquisition of Federal lands which have been separately authorized. Section 7 of the statute specifies, with limited exceptions, that LWCF monies cannot be used for a Federal land purchase "unless such acquisition is otherwise authorized by law."

The Interior conference report recognizes this limitation by making the acquisition of the Baca Ranch contingent

on the enactment of authorizing legislation. No matter what the fate of the Interior appropriations bill this contingency must be included. It is bad public policy to disregard the terms of the LWCF Act and expend this significant amount of money for the purchase of additional Federal property absent a thorough, and open, public review. This review can be best done in the authorizing committee. I want to thank Senator GORTON, who sits on the Energy and Natural Resources Committee, for recognizing the need for specific authorizing legislation and including this contingency.

The Interior conference report also requires that the General Accounting Office review and report on the Baca Ranch appraisal. The Uniform Relocation Assistance and Real Property Acquisition Act requires an appraisal of the fair market value of private property the Federal government desires to acquire, whether through negotiations or condemnation. An appraisal has been done on the Baca Ranch. However, the appraisal was conducted not by the Federal government but rather the seller. While I have no reason to doubt the validity of the appraisal, before Congress spends this significant amount of money to purchase the Baca Ranch, Congress owes it to the American taxpayer to ensure that the \$101 million sale price represents the actual fair market value of the property. The General Accounting Office is the appropriate entity to conduct this review and report to the appropriators and the authorizers.

As many of us remember from two years ago, the conditions imposed on the Baca Ranch purchase are consistent with the requirements the Senate imposed on the Headwaters Forest and New World Mine purchases. Unfortunately, these conditions were eliminated in conference and both acquisitions were authorized on the fiscal year 1998 Interior appropriations bill. That is wrong. Clearly by agreeing to placing these limitations on the Baca Ranch acquisition, the House has realized that authorizing, the Headwaters Forest and New World Mine acquisitions in the appropriations bill was bad public policy. It is the role of the authorizing committee—not the appropriators—to make sure that any addition to the Federal estate is warranted.

There has been talk about the next step in the process. There are rumors that the President will not sign this conference report because he is disappointed that his Lands Legacy proposal was not totally funded. I hope that is not true but if it is I find this reasoning nonsensical. The Lands Legacy proposal is nothing but budget gimmicky. It seeks to charge against the \$900 million LWCF ceiling the increased funding of a variety of programs not authorized to derived monies from the LWCF. These programs, which may or may not warrant increased Federal funding, already have independent authorizations. By engag-

ing in this accounting game, the President artificially reduces the amounts available for programs authorized by the LWCF Act, including the state-side matching grant program. If the President seeks to fund these programs from the LWCF, he needs to introduce appropriate authorizing legislation and work with the Energy and Natural Resources Committee to accomplish this goal.

Finally—and most disturbing to me as chairman of the Energy and Natural Resources Committee—are indications that the Clinton Administration wants to permanently authorize the use of revenues from the Outer Continental Shelf for the Lands Legacy proposal in either the Interior appropriations bill or an omnibus appropriations bill. I support the use of OCS revenues as a permanent funding source for a variety of important conservation programs, in fact I introduced S. 25, the Conservation and Reinvestment Act of 1999, to accomplish this goal.

However, no matter how strong my support is for this goal, providing this authorization on any appropriations bill is wrong. This proposition is extremely controversial. In the Energy and Natural Resources Committee, we have held hearing after hearing on S. 25 and other OCS revenue sharing proposals. Since completion of those hearings, committee members have struggled to reach a compromise. We have struggled because, while every committee member cares about the conservation of this nation's natural resources, we each have a different vision as to how best to conserve and protect these resources. But no matter how difficult this challenge, we will continue to strive to reach an agreement that is acceptable not only to the Energy and Natural Resources Committee but also to the Senate.

What the Clinton administration is contemplating would be a unrivaled usurpation of the authorizing committees. If the most significant piece of conservation legislation introduced in the last 30 years is enacted on an appropriations bill without any public input or participation, all of us who are authorizers should turn in our gavels.

AFRICAN GROWTH AND OPPORTUNITY ACT—MOTION TO PROCEED

Mr. LOTT. I ask unanimous consent that the Senate proceed to Calendar No. 215, H.R. 434, the trade bill.

Mr. HOLLINGS. I object.

The PRESIDING OFFICER. The objection is heard.

Mr. LOTT. I now move to proceed to Calendar No. 215.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Madam President, the Senator from Iowa has been generous enough to let me speak a very short while on this measure, to tell you at the time we get on the bill the chairman of the Finance Committee,

who cannot be here at this moment, will offer a manager's amendment which includes the sub-Saharan Africa bill which we are now technically on, with the Caribbean Basin Initiative bill, as well as the reauthorization of the Generalized System of Preferences and the Trade Adjustment Assistance programs. These measures have been reported by the Committee on Finance by an all but unanimous vote, voice vote, in all these cases. We very much hope we will bring this to a successful conclusion.

At stake is two-thirds of a century of American trade policy going back to the Reciprocal Trade Agreements Act of 1934 for which there is a history. Cordell Hull began the policy, under President Roosevelt.

In 1930, the Senate and the House passed what became known as the Smoot-Hawley tariff. If you were to make a short list of five events that led to the Second World War, that would be one of them. The tariffs went to unprecedented heights here. As predicted, imports dropped by two-thirds, but as was not predicted so did exports. What had been a market correction—more than that, the stock market collapse in 1929—moved into a long depression from which we never emerged until the Second World War.

The British went off free trade to Commonwealth preferences, the Japanese began the Greater East Asian Co-prosperity Sphere, and in 1933, with unemployment at 25 percent, Adolph Hitler came into power as Chancellor of Germany. That sort of misses our memory. In 1934, Cordell Hull, Secretary of State, began the Reciprocal Trade Agreements program which was designed to bring down, by bilateral negotiations, the levels of tariffs. This has continued through administration after administration without exception since that time.

I would like to note in the bill we have before us that there are two measures of very large importance, both of which have expired. Unless we move now, we will again lose immeasurably important trade provisions for us.

The first of these is the Trade Adjustment Assistance program, which is now in its 37th year. I can stand here as one of the few persons—I suppose the only—who served in the administration of John F. Kennedy. I was an Assistant Secretary of Labor. President Kennedy had sent up a very ambitious bill, the Trade Expansion Act. It was really the only major legislation of his first term. It required, in order to meet the legitimate concerns of southern textile manufacturers and northern clothing unions—needle trades, let's say—that we get a long-term cotton textile agreement which Secretary Blumenthal, Secretary Hickman Price, Jr., and I negotiated in Geneva successfully. True to their word, the Southern Senators came right up to this measure and voted for it. But we added something special, which was trade adjustment assistance.

We agreed in a free trading situation, or freer trade situation, the economy at large and the population at large would be better off, but some would lose. Trade adjustment assistance was to deal with that situation. It had been first proposed, oddly, by a fine labor leader, David MacDonald, of the United Steel Workers, in 1954, saying if we are going to have lower barriers to trade, we are going to lose some jobs; gain others. It was based on a modest and fair request from American labor: If some workers are to lose their jobs as a result of freer trade that benefits the country as a whole, a program should be established to help those workers find new employment.

It was Luther Hodges, Secretary of Commerce under President Kennedy, who came before the Finance Committee to propose this measure. Secretary Hodges was the Governor of North Carolina, was he not? A wonderful man; I recall working with him. I know the Senator from South Carolina would. He said to the Finance Committee that "the Federal Government has a special responsibility in this case. When the Government has contributed to economic injuries, it should also contribute to the economic adjustments required to repair them."

This has been in law, and we added a special program for NAFTA, and for firms as well. It has been there for 37 years. The program has now expired. The continuing resolution keeps it going for 3 weeks or whatever, but if we lose this we lose a central feature of social legislation that has allowed us to become the world's greatest trading nation with the most extraordinary prosperity in the course of a generation.

There is also the matter of the Generalized System of Preferences for the developing world. It was a response to a plea by developing countries that the industrial world ought to give them an opportunity and a bit of incentive to compete in world markets; not to beg for aid, just to buy and sell. It has been in our legislation since the Trade Act of 1974, which makes it a quarter century in place. It was renewed in 1984. It is now on life support. We got a 15-month extension in 1993; a 10-month extension in 1994; 10 months in early 1996; 13 months in early 1997; 12 months in 1998.

We have responsibility in both of these matters. The Finance Committee has met that responsibility. In due course, we will bring this measure to the floor for what we hope will be a successful vote on renewal of Trade Adjustment Assistance and a 5-year reauthorization of the Generalized System of Preferences.

I do not want to keep the Senate any longer. I see my distinguished colleague is on the floor. I thank my friend from Iowa, and I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Madam President, it is an agreed fact among our colleagues

in the Senate there is no member more steeped in history and erudite in its intellectual history than our distinguished senior Senator from New York, Mr. MOYNIHAN. I agree with him absolutely with respect to Trade Adjustment Assistance and the Reciprocal Trade Agreements Act and a variety of initiatives made since that time.

I have to oppose the motion because I am the one who objected, of course, to this so-called sub-Sahara/CBI bill.

One, with respect to Smoot-Hawley, it did not cause the depression and World War II. I want to disabuse anybody's mind from that particular suggestion. The stock market crash occurred in October 1929, and Smoot-Hawley was not passed until 8 months later in June of 1930.

At that particular time, slightly less than 1 percent of the GNP was in international trade. It is now up to 17 percent. At that time trade did not have that big an effect on the GNP or the economy of the United States itself. True, Germany, Europe, and everybody else was in a depression, and we entered the depression as a result of the crash.

Along came Cordell Hull. I want to emphasize one concept: the Reciprocal Trade Act of 1934; reciprocity; not foreign aid but foreign trade; a thing of value for an exchange of value. We learned that in Contracts 101 as lawyers.

Somehow over the past several years we have gotten into "we have to do something." We are the most powerful Nation militarily and economically; perhaps not the richest. We do not have the largest per capita income. We are down to about No. 8 or 9. We are not the richest, but we are very affluent comparatively speaking.

The urge is there, and I understand that urge to want to help, but we gave at the office. Let me tell you when I gave at the office, for my textile friends.

We have been giving and giving and giving. We had a hearing before the International Trade Commission. It was the Eisenhower administration at that particular time. I came to testify as the Governor of South Carolina. The finding was in June of 1960. It was in early March of 1960. I was chased around the room by none other than Tom Dewey. He was a lawyer for the Japanese. They were not a concern at the particular time. Ten percent of textiles consumed in America was being imported, and if we went beyond the 10 percent, it was determined that it would devastate the economy, particularly the textile economy of the United States of America.

I am looking around this room, and I can tell you that over two-thirds—that is a 2-year-old figure; I bet it is up to 70 percent—but two-thirds of the clothing I am looking at, not 10 percent, is imported.

When I say we gave at the office again and again—I can go to Desert Storm, and I will do that, and how we

gave Turkey a couple of billion dollars in increased textile imports, how we bought this crowd off, and every time we have a crisis, whatever it is, we give to people who ask for our help.

My point is, at that particular time, I left that hearing. I had a good Republican friend who knew President Eisenhower. We checked in with Jerry Parsons. I can still see him in the outer office. He said: The Chief can see you now. We went in and saw President Eisenhower and he was committed to helping the textile industry. But by June, it had gone the other way.

As a young Democratic southern Governor, I said: I am going to try that fellow Kennedy. I had never been with him, but I came up in August and sat down with Mike Feldman. He is still alive and can verify this. He was legislative assistant to John F. Kennedy. I can show my colleagues the office in the old Russell Building. We sat down and agreed that I will write this letter as a Governor and Senator Kennedy will write back because being from Massachusetts, he understood the desperate nature of the textile economy at that time. We exchanged letters. I will have to get that letter because our revered leader of that particular administration was, of course, and is still revered now, the Senator from New York, Mr. MOYNIHAN. He knows this more intimately than I, but I know this particular part of it.

We sat down and agreed because there was a national security provision. Before the President could take executive action, there had to be a finding that a particular commodity was important to the national security of the United States of America. We got the Secretary of Labor Arthur Goldberg, Secretary of Commerce Luther Hodges, Secretary of State Dean Rusk, Secretary McNamara of Defense, and Doug Dillon, Secretary of the Treasury. He was most interested. I sat down and talked with Secretary Dillon. He was fully briefed from my northern textile friends.

Incidentally, the Northern Textile Association met last weekend down in my hometown with Karl Spilhaus. Bill Sullivan previously ran the organization.

We brought in witnesses. We had hearings. And about April 26 they made a finding. Steel was the most important industry to our national economy and second most important to our national security was textiles. We could not send our soldiers to war in a Japanese uniform, and I used to add to that, and Gucci shoes.

Eighty-six percent of the shoes in this Chamber today are imported. The shoe industry is practically gone. Textiles are about gone, and Washington is telling them: You have to get high-tech, high-tech, global economy, global competition, retrain—it sounds like Mao Tse-tung running around reeducating the people, getting them skills.

We are closing down our knitting mills, one in particular was the Oneida

Mill. They made T-shirts. They had 487 employees. The average age was 47.

Tomorrow morning, let's say we have done it Washington's way, we have re-educated and trained the 487 employees, and now they are skilled computer operators. Are you going to hire a 47-year-old computer operator or the 21-year-old computer operator? You are not going to take on those health costs; you are not going to take on those retirement costs.

The little town of Andrew, SC, is high and dry, as are many other towns with so-called low unemployment, low inflation. Since NAFTA, South Carolina has lost 31,700 textile jobs. The reason I know that figure is because I talked with the Northern Textile Association last weekend. I am briefed on this particular subject.

What we have in the CBI/sub-Saharan—the intent is good, to help—but we cannot afford any longer to give away these critical industries important to our national security.

Specifically, I was with Akio Morita in Chicago in the early eighties. He was talking about the Third World developing and the developing countries. He said they must develop a strong manufacturing capacity in order to become a nation state.

Later on he said "And by the way, Senator, the world power that loses its manufacturing capacity will cease to be a world power."

Look at the back page of the U.S. News & World Report of last week, and the comments our friend Mort Zuckerman. You can see we are getting a divided society. We are losing those middle-class jobs. Henry Ford said: I want my workers to make enough to be able to buy what they are making. And our strong manufacturing economy has been drained overnight.

I will bring a list of the particular items, including textiles where import penetration is high. So when you get and look at the CBI, and you look at the sub-Saharan, it is NAFTA without—and I don't think NAFTA worked at all—without the advantages of NAFTA; namely, the side agreements on the environment, the side agreements on labor, the reciprocity. There is no reciprocity. If we are going to let their products come in duty free, we should tell them to lower their tariffs.

So this is a bad bill, to begin with. It should not have passed, almost unanimously, in that Finance Committee. They ought to look at these things more thoroughly. But the point is, we have to maintain these manufacturing jobs.

I can remember when I was a child—and I know the distinguished Senator from New York would remember—the last call for breakfast, Don McNeil and "Breakfast Club" up there in Chicago.

I feel like this is sort of the last call tonight for my textile friends. We will get into it more thoroughly because it isn't just the textile people. The truth is, I didn't carry Anderson, Greenville, and Spartanburg Counties, which have

all the textile votes. They are going to be voting—you watch them—for George W. Bush. They have already made up their mind. They don't care about the campaign. We had them going Democratic only one time since Kennedy, and that was just momentarily for Jimmy Carter. We gave Barry Goldwater more votes, in the 1964 race, than he got in Arizona; percentage-wise and number-wise, both.

Mr. MOYNIHAN. No?

Mr. HOLLINGS. Oh, yes. Barry used to love to kid me about that. So I know from whence I am coming. It is just that it is terrible to see this thing happen all around you. And the new, jobs and all the so-called new employment is going into retailing, and they are getting paid next to nothing. They will not even assume the health costs and everything else of that kind. So it is a real issue.

And they always do this to me. They did NAFTA right at the end of the session. Then on GATT, I had to make them come back after the election. Now we have another 10 days, and they want to raise it. And I have to make the same motion not to proceed.

I do appreciate the leadership and the brilliance of my leader, Senator MOYNIHAN, of our Finance Committee. I thank him for his courtesy. But I am going to have to continue to object to moving to consider and proceeding on this particular measure.

I yield the floor.

Mr. MOYNIHAN. Bravissimo.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. I thank the Chair.

Madam President, it is my privilege, for a few moments, to take the place of our distinguished chairman of the Senate Finance Committee, who will be here shortly, and in my capacity as chairman of that committee's Subcommittee on International Trade, to speak for our side in support of this legislation.

From the standpoint of speaking for our side, this is pretty much a bipartisan approach that will have overwhelming support. It is all the more a privilege to work for legislation that does have such broad bipartisan support.

So, Madam President, I rise in support of the motion to proceed to H.R. 434. When we have the opportunity, we intend to offer a managers' amendment. And we would do that as a substitute for the House-passed language. That substitute will include the Senate Finance Committee's reported bills on Africa, an expansion of the Caribbean Basin Initiative, an extension of the Generalized System of Preferences, and the reauthorization of the Trade Adjustment Assistance Act.

I want to explain the intent behind these different Finance Committee bills that will be grouped together in the managers' amendment.

Africa, as everyone knows, has undergone significant changes, as re-

cently as the last decade. Many of those changes have been enormously positive: an end to apartheid in South Africa, a groundswell in support of democracy in a number of the sub-Saharan countries, and a new openness to using the power of free markets to drive economic growth, with the resultant raising of living standards.

At the same time, there is no continent that has suffered more from the ravages of war, disease, hunger, and just simple want than Africa. The daily news has more often been filled with the images of violence and starvation than the small seeds of economic hope.

The question before us is, How can our great country, the United States, help the transition that Africans themselves have begun?

There are many problems we might try to address and an equal number of approaches to solving those problems. I am not going to argue that our managers' amendment we will offer is an entire panacea; nor is it equal to the tasks that our African partners have before them in the sense that if there is going to be real change there, it has to come from within.

Instead, what our approach attempts to do is to take a small but very significant step towards opening markets to African trade. The intent is to encourage productive investment there as a means of building a market economy and doing it from the ground up.

It is a means of giving Africans the opportunity to guide their own economic destiny rather than the economic policies of the past that attempted to dictate a particular model of development that was based upon so much government control of the economy.

The strongest endorsement I can offer for moving this legislation comes from these African countries themselves. Every one of the sub-Saharan African nations eligible for the benefits under this proposal has endorsed our efforts. There was a recent full-page advertisement in Roll Call that you may have seen recounting the number of U.S. organizations that support this initiative. They range from the NAACP to the Southern Christian Leadership Conference to the National Council of Churches.

Our supporters include such notables as Coretta Scott King, Andrew Young, and Robert Johnson—the head of Black Entertainment Television who testified eloquently about the need to create new economic opportunities in Africa when he appeared before our Senate Finance Committee.

The effort to move the bill also enjoys broad bipartisan support that I have already alluded to and complimented our colleagues on. It goes beyond bipartisanship in this body. It goes to the President himself because in his State of the Union Address, he identified this bill as one of his top foreign policy and trade priorities. The Finance Committee's ranking member, as you have already heard, Senator

MOYNIHAN, is a cosponsor and public supporter of the Africa bill, along with being a tireless advocate of trade expansion in both word and deed over several decades.

The distinguished minority leader was one of the first to recognize the need for a special focus on Africa in trade terms when he called for such a program as part of the Uruguay Round implementing legislation that passed this body 4 years ago. And, the very fact the majority leader has found time for us to debate this bill this late in this session, when there is so much pressure to address other issues, is indicative of our majority leader's support.

So in summation, you can see strong bipartisan support exists for the managers' amendment, and that the managers' amendment will also include the Caribbean Basin Initiative.

The approach adopted by the Finance Committee is consistent with the administration's own proposal. It is also broadly consistent with the proposal introduced by Senator GRAHAM, who has also been a tireless advocate on behalf of the Caribbean Basin Initiative and the opportunity that that bill and that program provide for the beneficiary countries in the Caribbean and Central America.

In substance, the managers' amendment on CBI adopts an approach similar to that afforded sub-Saharan Africa under the proposed bill. Indeed, both of those proposals build on the model established with the passage of the original CBI legislation, I believe, now, 15 or 16 years ago.

In fact, it was 1983 that that bill was adopted. When it was adopted, the region was beset with economic problems and wracked with civil strife. The goal of the original legislation was to encourage new economic opportunities and a path towards both political and economic renewal. It accomplished that by offering a unilateral grant of tariff preferences designed to encourage productive investment, economic growth, and the resultant higher standard of living.

The original Caribbean Basin Initiative, which we made permanent in 1990, recognized that economic hope was essential to peace and political stability throughout the region. However, since 1990 we have had the intervening negotiation of the North American Free Trade Agreement, and that undercut the preferences initially offered to the Caribbean and Central American beneficiaries of the Caribbean Basin Initiative.

So the managers' amendment we will offer is an attempt to restore that margin of preference to the Caribbean producers and the economic opportunity the original CBI legislation was designed to create.

It is also an attempt to respond to the hardships the region has faced due to natural disaster. That region, as we know, including both the Caribbean and Central America, has been hard hit

in the past 2 years by a series of hurricanes that in some instances devastated much of the existing economic infrastructure. No one can forget the pictures of devastation we saw of the Dominican Republic, Guatemala, and Honduras following Hurricane Mitch—homes, farms, factories, we saw on television, literally washing away overnight, buried in clay.

Members of the Finance Committee and many of our other colleagues had the opportunity to meet recently with the presidents of a number of Central American countries. Those presidents indicated that the single most important action we in the United States and our Government could take in their interest was not foreign assistance but economic opportunity to compete in a growing regional market.

They saw this proposed legislation as a fulfillment of the promise extended by this Congress in that original legislation of 1983, the promise for a new economic relationship with the Caribbean and Central America. We must continue to fulfill that promise as, hopefully, our country keeps its promises, and not act as a charity but as a continuation of the leadership we have shown in our continent and our hemisphere, leadership that has put us on the cusp of the ultimate goal of the 21st century version of the Monroe Doctrine, a hemisphere of democratically elected governments, a hemisphere of free markets, and a hemisphere with rising standards of living.

By moving this legislation forward, we will help these economies continue to grow and we will be investing in important markets that will become more integrated with our own, a market integration that benefits the United States as well.

In light of that fact, it might be worth mentioning the importance of this legislation to one industry in particular, the textile industry, something the Senator from South Carolina has addressed but from a different point of view than I. When I say textile industry, I mean everyone from a farmer growing cotton to the yarn spinner, the fabric maker, the apparel manufacturer, producers of textile manufacturing equipment, as well as the wholesalers and retailers, everything from the farm to the consumer. The Africa bill and the Caribbean Basin Initiative bills are drafted to create a win-win situation for both our trading partners and for our own domestic industries.

The managers' amendment we will offer takes a different approach than that of the House bill. Our bill is designed to create a partnership between America and industries, not to the benefit of one or the other, but to the benefit of both regions. Our proposal would accomplish that by affording preferential tariff and also preferential quota treatment to apparel made from American-made fabric, and it would be American-made fabric in order to qualify.

This does two things: First, it gives American firms an incentive to build a

strong partnership with firms in both Africa and the Caribbean. Secondly, it helps establish a platform from which the American textile industry can compete in this global market.

I want to refer to the industry's own analysis. That analysis shows that the approach adopted by our Senate Finance Committee offers real benefits to U.S. industry and to U.S. employment. It gives our industry a fighting chance in the years to come, as textile quotas are gradually eliminated pursuant to the World Trade Organization agreement on textiles.

The reason I raise this point goes back to the efforts of our committee and our chairman to reestablish a bipartisan consensus on trade. In my view, the textile industry and all of its related parts will face significant economic adjustment as a result of the World Trade Organization textiles agreement. That adjustment has already begun to take place.

What the industry found, however, based on its experience under NAFTA, is that partnering with Mexican firms or investing there for joint United States-Mexican production made our own United States firms very competitive. They discovered that United States firms became competitive even in the face of fierce competition they faced from textile industries in the developing world, and particularly the countries of China and India.

The Finance Committee bills would broaden the base from which American firms could produce for the world market. In the context of the Uruguay Round, we made an implicit commitment to the textile industry to allow them a period of adjustment to a new economic reality. I am proud to support the proposed legislation and to make good on that promise by encouraging the industry to compete globally as well as locally.

Through our managers' amendment, we intend to propose something that would take two other significant steps. The first is the renewal of the Generalized System of Preferences. We call that GSP for short. The GSP program has been on our statutes since 1975. GSP affords a grant of tariff preferences to developing countries generally, although not as extensive as those the proposal offers to Africa and to the Caribbean. GSP is generally described as a unilateral grant of preferences, and that is a very accurate description.

What is little known is that the program has had more profound benefits for U.S. trade than is captured by that fairly significant description that doesn't describe the program so well.

The original GSP program was instrumental in obtaining the commitment of continental powers like Great Britain to give up, finally, the highly discriminatory tariff systems they enforced in their economic relations with their former colonies. In other words, the creation of the GSP was instrumental in eliminating discriminatory

trade barriers that distorted trade and thwarted our exporters' access to markets throughout the entire developing world.

That beneficial program—GSP—has been around a while and accomplished a lot of good, but it has lapsed; it lapsed a few months ago, in June. So our managers' amendment would propose its renewal.

The managers' amendment will also renew our Trade Adjustment Assistance programs. As my colleagues know, I am a strong supporter of free and fair trade. But I have, at the same time, consistently taken the view that those who benefit from expanding trade must look out for those who may be injured by the process of economic adjustment that trade brings.

The Trade Adjustment Assistance programs are one part of that commitment. They offer assistance to both workers and firms that have faced a significant increase in import competition as they adjust to these new economic conditions. They have been on the books since the Trade Expansion Act of 1962. And the committee has made every effort to ensure that they are renewed to fulfill the bargain on trade policy originally struck with U.S. firms and U.S. workers over 30 years ago. So what we do with this reauthorization is keep our contract with these industries, and if trade unfairly affects them, we will be able to help them in a transition period. That is something we should do. It has worked well and we propose to continue it.

There is, however, a real urgency to their renewal at this time. As I have said, they have lapsed and, unless they are renewed promptly, they will fall out of the budget baseline and will, in the future, need a revenue offset.

In the context of the current debate over trade and trade policy, I view these programs as a minimum downpayment on reestablishing a bipartisan consensus on trade matters. And so I urge our colleagues to support the motion to proceed to the bill in order to renew these essential programs.

Having discussed the intent behind each of the measures I intend to move as a part of the Senate substitute, I want to add one last point. We have before us in this legislation an opportunity to reestablish a strong measure of bipartisan support for what we in the Finance Committee view as an important trade and foreign policy initiative. So let us take this step and let us move forward in a way that will benefit Africa and the Caribbean—a way that will benefit much of the rest of the developing world—and a way that will serve our own national interests as well.

And we propose this legislation with the U.S. national interest in mind, because we are cognizant of the fact that if we in the Congress do not look out for the interests of the American worker, we can't expect anybody else to do it. But when we can have the benefits of protecting our workers and creating

jobs and expanding our economy and still help the rest of the world through these policies—and we have done that—we should continue to do that because, as President Kennedy said, "Trade, not aid."

For an American populace that doesn't like foreign aid, I hope that they will join us in the Congress behind these bipartisan efforts to promote our national interests and strengthen our world leadership through these trade policies that help us, as well as helping these developing nations.

I yield the floor.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative assistant proceeded to call the roll.

Mr. BROWNBACK. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

MORNING BUSINESS

Mr. BROWNBACK. Madam President, I ask unanimous consent that there now be a period for the transaction of morning business, with Senators permitted to speak therein for up to 10 minutes each.

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

EMERGENCY MONEY FOR AMERICA'S FARMERS

Mr. GRASSLEY. Madam President, I would like to say a few words about the \$69 billion annual U.S. Department of Agriculture appropriations bill that happens to contain \$8.7 billion in emergency money for American farmers.

This legislation was sent from Capitol Hill to the President's desk last Wednesday, October 13. Every day the President delays signing this bill is one more day relief money is not in the farmers' pockets at this time of the lowest prices in 25 years.

Naturally, I know the White House is entitled to a few days to review the document for signature by the President. But that process does not and should not take 8 days that the bill has been sitting on the President's desk, particularly considering the emergency economic crisis in American agriculture.

Since September 30, President Clinton has been engaged in a strategy to confuse the public and to try to get Congress to accept tax and spending increases. The only conclusion I can draw is that the President has decided to use the agricultural relief bill for leverage in the political game we have seen with the budget this year. If that is true—and I hope it is not true, based on some comments made by Secretary Glickman; but the fact remains, the President has not signed the bill containing emergency relief for farmers—then, of course, it is unforgivable on the part of

the President, given the terrible situation our farmers face.

Again, prices remain at 25-year lows. The package we moved through Congress is critical to helping farmers' cash-flow. President Clinton has given speeches about helping farmers. Why isn't he taking, then, affirmative action and putting pen to paper to help the farmers who he knows have tremendous needs at a time of prices being at 25-year lows?

Last year, an election year, the President immediately signed the supplemental spending bill that contained more than \$5 billion, when this crisis in agriculture started 12 months ago. The U.S. Department of Agriculture had those funds in the mail to farmers within 10 days. The President has already lost 7 days in that process. This year, of course, is a sharp contrast with getting the bill signed and getting the money to the farmers. Every day that President Clinton delays is one more day that farmers don't have the assistance Congress passed and they desperately need.

I happen to know that the President understands American agriculture, being the Governor of the State of Arkansas for as long as he was. I know that one time, in his first couple years in office, he looked me in the eye at a meeting at the Blair House and he said, "I understand farming more than any other President of the United States ever has." I believe that, but he doesn't show an understanding of the crisis in agriculture at this particular time, as he has waited now too many days to sign this bill.

I urge the President this very evening to sign this bill so that the farmers who are in crisis—which he has even given speeches on, recognizing farming is in crisis—can have the help of the \$2.7 billion provided for in this legislation.

I yield the floor.

NOMINATION OF JUSTICE RONNIE WHITE

Mr. LEAHY. Madam President, for many months I had been calling for a fair vote on the nomination of Justice Ronnie White to the federal court. Instead, the country witnessed a party line vote as all 54 Republican members of the Senate present that day voted against confirming this highly qualified African-American jurist to the federal bench. I believe that vote to have been unprecedented—the only party line vote to defeat a judicial nomination I can find in our history.

There was brief debate on this nomination and two others the night before the vote. At that time, I attempted, as best I could through questions in the limited opportunity allotted, to clarify the record of this outstanding judge with respect to capital punishment appeals and to outline his background and qualifications.

I noted that Justice White had, in fact, voted to uphold the imposition of

the death penalty 41 times. I observed that other members of the Missouri Supreme Court, including members of the Court appointed by Republican governors, had similar voting records and more often than not agreed with Justice White, both when he voted to uphold the death penalty and when he joined with a majority of that Court to reverse and remand such cases for resentencing or a new trial. Of the 59 capital punishment cases that Justice White has reviewed, he voted with the majority of that Court 51 times—41 times to uphold the death penalty and 10 times to reverse for serious legal error.

As best I can determine, in only six of these 59 cases did Justice White dissent from the imposition of a death penalty, and in only three did he do so with a dissent that was not joined by other members of the court. That is hardly the record that the Senate was told about Monday and Tuesday of the first week in October, when it was told that Justice White was an anti-death penalty judge, someone who was "procriminal and activist with a slant toward criminals," someone with "a serious bias against a willingness to impose the death penalty," someone who seeks "at every turn" to provide opportunities for the guilty to "escape punishment," and someone "with a tremendous bent toward criminal activity."

The opposition to Justice White presented a distorted view by concentrating on two lone dissents out of 59 capital punishment cases. Making matters worse, the legal issues involved in those cases were not even discussed. Instead, the opposition was concentrated on the gruesome facts of the crimes.

I believe it was another member of the Missouri Supreme Court, one of those appointed by a Republican governor of Missouri, who wrote in his own sole dissent in a gruesome case of kidnapping, rape, and murder of a teenage girl:

Occasionally, the heinousness of a crime, the seeming certainty of the same result if the case is remanded and the delay occasioned by a second remand tempt one to wink at procedural defects. Nevertheless, the cornerstone of any civilized system of justice is that the rules are applied evenly to everyone no matter how despicable the crime.—*State v. Nunley*, 923 S.W.2d 911, 927 (Mo. 1996) (Holstein, J., dissenting).

Indeed, in his dissent in *State v. Johnson*, Justice White makes a similar point when he notes:

This is a very hard case. If Mr. Johnson was in control of his faculties when he went on this murderous rampage, then he assuredly deserves the death sentence he was given. But the question of what Mr. Johnson's mental status was on that night is not susceptible of easy answers. . . . This is an excellent example of why hard cases make bad law. While I share the majority's horror at this carnage, I cannot uphold this as an acceptable standard of representation for a defendant accused of capital murder.—*State v. Johnson*, 968 S.W.2d 123, 138 (Mo. 1998).

Although you would never know the legal issue involved in this case from

the discussion before the Senate, the appellate decision did not turn on the grizzly facts or abhorrence of the crimes, but difficult legal questions concerning the standard by which an appellate court should evaluate claims of ineffective assistance of counsel. Justice White sought to apply the standard set by the United States Supreme Court in *Strickland v. Washington*, 466 U.S. 668 (1984), and reiterated in *Kyles v. Whitley*, 514 U.S. 419 (1995). Thus, the dispute between Justice White and the majority was whether an appellant may succeed if he shows that there was a "reasonable probability" of a different result, or whether he is required to show that the counsel's unprofessional conduct was outcome-determinative and thus the "most likely" reason why his defense was unsuccessful. Indeed, the case turns on an issue similar to that being currently considered by the United States Supreme Court this term. Far from creating a "new ground" for appeal or urging a "lower legal standard" of review, Justice White's dissent sought to apply what he understood to be the current legal standard to the gruesome facts of a difficult case.

Likewise troubling was the use by those who opposed the nomination of Justice White's dissent in the *Kinder* case, a 1996 decision. *State v. Kinder*, 942 S.W.2d 313 (Mo. 1996). That case also arose from brutal crimes, which were, or course, detailed for the Senate. What is troubling is the characterization of the legal issue on appeal by Justice White's detractors. Justice White did not say that the case was "contaminated by racial bias" because the trial judge "had indicated that he opposed affirmative action and had switched parties based on that." The dissent did not turn on the political affiliation of the judge or his opposition to affirmative action. In fact, Justice White expressly stated that the trial judge's position on affirmative action was "irrelevant to the issue of bias."

Rather, the point of the dissent was that the majority opinion was changing the law of Missouri by reinterpreting state law precedent and restricting it in an artificially truncated way to avoid the recusal of the trial judge, which Missouri law at that time required.

The case led to long and complicated opinions by the majority and dissent. The opposition to Justice White chose to characterize the case as if the trial judge was accused of racial bias merely for not favoring affirmative action policies. In fact, the trial judge was facing an election and had issued a press release less than a week before the defendant's trial. The defendant was an indigent, unemployed African-American man. The judge's statement read, in pertinent part:

The truth is that I have noticed in recent years that the Democrat party places too much emphasis on representing minorities such as homosexuals, people who don't want to work, and people with a skin that's any

color but white. . . . While minorities need to be represented, or [sic] course, I believe the time has come for us to place much more emphasis and concern on the hardworking taxpayers in this country.—*Kinder*, 942 S.W.2d at 321.

As Justice White's dissent correctly points out, the holding of the case rewrote Missouri Supreme Court precedent instead of following it. Without regard to the principles of *stare decisis*, following precedent, and avoiding judicial activism, the majority reversed Missouri law (without acknowledging that fact) to achieve a desired result. The majority opinion rests on the narrow proposition that only "judicial statements" that raise a doubt as to the judge's willingness to follow the law provide a basis for disqualification, and "distinguished" this case from controlling precedent because the evidence of racial bias was contained in what the majority characterized as a "political statement." Justice Limbaugh, who had dissented from the earlier Missouri Supreme Court decision on which Justice White relied, wrote the majority opinion in *Kinder*, which stated:

To the extent the comments can be read to disparage minorities, there is little point in defending them, even as the political act they were intended to be. But they are a political act, not a judicial one, and as such, they do not necessarily have any bearing on the judge's in-court treatment of minorities.—*Id.* The majority opinion created a rule that consciously disregards political statements of a judge evidencing racial bias.

In his dissent, Justice White, quoting from the earlier Missouri Supreme Court decision, wrote: "[F]undamental fairness requires that the trial judge be free of the appearance of prejudice against the defendant as an individual and against the racial group on which the defendant is a member." He noted that "conduct suggesting racial bias 'undermines the credibility of the judicial system and opens the integrity of the judicial system to question.'" *Kinder*, 942 S.W.2d at 341, citing *State v. Smulls*, 935 S.W.2d 9, 25–27 (Mo. 1986).

I believe that fairminded people who read and consider Justice White's dissent in *Kinder* will appreciate the strength of his legal reasoning. Certainly that was the reaction of Stuart Taylor, Jr. in his article in the October 16 *National Journal* and of Benjamin Wittes in his October 13 column in the *Washington Post*. Through the *Kinder* decision, the Missouri Supreme Court has created new law that provides very narrow restrictions on judges' conduct. Indeed, a Missouri criminal trial judge could now apparently lead a KKK rally one night and spout racial hatred, epithets and calls for racial conflict, and preside over the criminal trial of an African-American defendant the next morning—so long as he did not say anything offensive as a "judicial statement" in connection with the trial.

Fairness and credibility are important values for all government actions, and especially important to the guarantee of due process that makes our

justice system the best in the world. Those same qualities of fairness, credibility, and integrity are essential to the Senate confirmation process.

It is worth noting that many of the same critics of Justice White's opinion in the *Kinder* case adopt the opposite posture and a different standard when it comes to evaluating Judge Richard Paez, a nominee who has been held up without a vote for 44 months. Judge Paez is roundly criticized for a reference in a speech he gave in which he commented on the early stages of an initiative effort that later became Proposition 209 in California. Those who led the Republican fight against Justice White reverse themselves when it comes to opposing the Hispanic nominee from California and criticize him for much more circumspect comments predicting the likely reaction to that initiative in the Hispanic community. These critics would not only disqualify Judge Paez from hearing a case involving Proposition 209, but would disqualify him from confirmation as a federal appellate judge.

Justice White's detractors contend that they oppose "judicial activism," which they define as a judge substituting his personal will for that of the legislature. However, in none of the cases on which they rely is a statute implicated. Instead, in each of these cases Justice White appears to be following controlling precedent. In the *Kinder* case, it is the majority that changed the law of Missouri. Likewise in the *Johnson* case, it was the majority that reached out to distinguish that case and alter the way in which the governing legal standard for review was to be applied.

Finally, the third case on which the opposition to Justice White relies, *State v. Damask*, 936 S.W.2d 565 (Mo. 1996), is not concerned with legislative action either. In this case, the Court upheld the constitutionality of law enforcement checkpoints without warrants or reasonable suspicion. The majority reached out to distinguish the case from governing precedent, changed the rules under which it viewed the governing facts, and challenged the factual basis on which the lower courts had based their conclusions.

In his dissent in *Damask*, Justice White relied on the authority of the United States Supreme Court in *Delaware v. Prouse*, 440 U.S. 648 (1979). See also *Galberth v. U.S.*, 590 A.2d 990 (D.C. App. 1991). His ruling expressly recognizes the importance of combating drug trafficking and, relying on the record of the cases, concludes that the checkpoints were the types of discretionary investigatory stops forbidden by governing precedent. Justice White worried that these operations had not been approved by politically accountable public officials and that the courts should not substitute their judgment for law enforcement authorities and public officials who were responsible and accountable for designing such op-

erations. See *State v. Canton*, 775 S.W.2d 352 (Mo. App. 1989); *State v. Welch*, 755 S.W.2d 624 (Mo. App. 1988); Note, "The Constitutionality of Drug Enforcement Checkpoints in Missouri," 63 Mo. L. Rev. 263 (1998). I wonder how we all might feel if instead of seizing marijuana, the armed men in camouflage fatigues shining flashlights into the faces of motorists in an isolated area late at night were seizing firearms.

Another decision that has not been mentioned in the course of this debate on Justice White's nomination is the decision of the people of Missouri to retain Justice White as a member of their Supreme Court. Although initially appointed, pursuant to Missouri law Justice White went before the voters of Missouri in a retention election in 1996. I am informed that he received over 1.1 million votes and a favorable vote of 64.7 percent.

All of the cases on which the opposition to Justice White relied were decided before his hearing and before he was twice reported favorably by a bipartisan majority of the Senate Judiciary Committee in May 1998 and July 1999. Although Justice White was first nominated to the federal bench in 1997, the Judiciary Committee did not receive negative comments about him until quite recently. No law enforcement opposition of any kind was received by the Committee of the Senate in 1997 or 1998.

This year, Justice White was renominated with significant fanfare in January and major newspapers in the state reported on the status on the nomination. I began repeated calls for his consideration by February. The Committee finally proceeded to reconsider and report his nomination, again, in July 1999. Still, the Judiciary Committee received no opposition from Missouri law enforcement.

The first contact the Judiciary Committee received from Missouri law enforcement was a strong letter of support and endorsement from the Chief of Police of the St. Louis Metropolitan Police Department. I thank Colonel Henderson for contacting the Committee and sharing his views with us. I have recently read that the Missouri Police Chiefs Association, representing 465 members across the state, does not get involved in judicial nominations. I understand that policy because it is shared by many law enforcement organizations that I know. I also appreciate that when asked by a reporter recently, the president of the Missouri Police Chiefs Association described Justice White as "an upright, fine individual" and that he knew Justice White personally and really had "a hard time seeing that he's against law enforcement" and never thought of him as "procriminal."

The Missouri State Lodge of the Fraternal Order of Police has indicated on behalf of its 4,500 dedicated law enforcement officer members in Missouri, that they view Justice White's record as "one of a jurist whose record on the

death penalty has been far more supportive of the rights of victims than of the rights of criminals." They see his record as having voted to reverse the death penalty "in far fewer instances than the other Justices on the Court" and note that he "also voted to affirm the death penalty in 41 cases." The Missouri Fraternal Order of Police expresses its regret for "the needless injury which has been inflicted on the reputation of Justice White" and concludes that "our nation has been deprived of an individual who surely would have proven to be an asset to the Federal Judiciary." I thank President Thomas W. Mayer and all the FOP members in Missouri for speaking out on behalf of this fine judge and sharing their perspective with us.

I certainly understand and appreciate Sheriff Kenny Jones deciding to write to fellow sheriffs about this nomination. Sheriff Jones' wife was killed in the brutal rampage of James Johnson, from whose conviction and sentence Justice White dissented on legal grounds concerning the lack of competent representation the defendant received during the trial. All Senators give their respect and sympathy to Sheriff Jones and his family.

I also understand the petition sent by the Missouri Sheriffs Association to the Judiciary Committee as a result of Sheriff Jones' letter to other Missouri sheriffs. In early October, the Judiciary Committee received that petition along with a copy of Justice White's dissent in the *Johnson* case with a cover letter dated September 27. It is a statement of support for Sheriff Jones and shows remarkable restraint. The 63 Missouri county sheriffs and 9 others who signed the petition "respectfully request that consideration be given to [Justice White's dissenting opinion in *Johnson*] as a factor in the appointment to fill this position of U.S. District Judge."

I want to assure the Missouri Sheriffs Association and all Senators that I took their concern seriously and reconsidered the dissent in that case to see whether I saw in it anything disqualifying or anything that would lead me to believe that Justice White would not support enforcement of the law. I respect them for having contacted us and for the way in which they did so. It is terribly hard to continue to honor those we have loved and lost by respecting the rule of law that guarantees constitutional rights to those accused, tried, and convicted of killing innocent members of our dedicated law enforcement community.

Whether the nomination of Justice White or consideration of the legal issues considered in his opinions "sparked strong concerns" among Missouri law enforcement officers, or whether controversy about this nomination was otherwise generated, I am not in position to know. I do know this: I respect and consider seriously the views of law enforcement officers. As a former State's Attorney and former

Vice President of the National District Attorneys Association, I hear often from local prosecutors, police and sheriffs, both in Vermont and around the country. I work closely with local law enforcement and national law enforcement organizations on a wide variety of issues. I know from my days in local law enforcement that there are often disagreements between police and prosecutors and with judges about cases. I respect that difference and understand it.

With respect to the views expressed by law enforcement representatives on Justice Ronnie White's nomination, both for and against, I say the following: I have considered each of the letters produced during the course of the Senate debate and reconsidered the cases to which they refer. I respectfully disagree that those decisions present a basis to vote against the confirmation of Justice Ronnie White to the federal court. Far from presenting a pattern of "procriminal jurisprudence" or "tremendous bent toward criminal activity," they are dissents well within the legal mainstream and well supported by precedent and legal authority. Further, if considered in the context of his body of work, achievements, and qualifications, they present no basis for voting against this highly qualified and widely respected nominee. I conclude, as did the Missouri State Lodge of the Fraternal Order of Police, that "our nation has been deprived of an individual who surely would have proven to be an asset to the Federal Judiciary."

With all due respect, I do not believe that any constituency or interest group, even one as important as local law enforcement, is entitled to a Senate veto over a judicial nomination. Each Senator is elected to vote his or her conscience on these judicial appointments, not any special interest or party line. When Senators do not vote their conscience, they risk the debacle that we witnessed on October 5th, when a partisan political caucus vote resulted in a fine man and highly qualified nominee being rejected by all Republican Senators on a party line vote.

It is too late for the Senate to undo the harm done to Justice White. What the Senate can do now is to make sure that partisan error is not repeated. The Senate should ensure that other minority and women candidates receive a fair vote. We can start with the nominations of Judge Richard Paez and Marsha Berzon, which have been held up far too long without Senate action. It is past time for the Senate to do the just thing, the honorable thing, and vote to confirm each of these highly qualified nominees. Let us start the healing process. Let us vote to confirm Judge Richard Paez and Marsha Berzon before this session ends.

I ask unanimous consent that a copy of the October 21, 1999 letter from the Missouri State Fraternal Order of Police be printed in the RECORD.

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

FRATERNAL ORDER OF POLICE,
MISSOURI STATE LODGE,
October 21, 1999.

Sheriff PHILIP H. MCKELVEY,
President, National Sheriff's Association,
Alexandria, VA.

DEAR SHERIFF MCKELVEY: I am writing on behalf of the more than 4,500 members of the Missouri State Fraternal Order of Police to express my great consternation at your organization's recent opposition to the confirmation of Justice Ronnie White to the Federal bench, an opposition which I sincerely hope was not simply politically motivated.

The record of Justice White is one of a jurist whose record on the death penalty has been far more supportive of the rights of victims than of the rights of criminals. While in fact voting 17 times for death penalty reversals, he has voted to do so in far fewer instances than the other Justices on the Court. In addition, Justice White has also voted to affirm the death penalty in 41 cases.

The Fraternal Order of Police is no stranger to fighting to see that justice is served for slain law enforcement officers and their families. Our organization has been at the forefront of bringing to justice Munia Abu-Jamal, establishing a nationwide boycott of individuals and organizations which financially support the efforts of this convicted cop killer. In addition, the FOP led the fight against President Clinton's clemency of 16 convicted Puerto Rican terrorists responsible for a wave of bombing attacks on U.S. soil and the wounding of three New York City police officers.

Unfortunately however, nothing can undo the needless injury which has been inflicted on the reputation of Justice White, and our nation has been deprived of an individual who surely would have proven to be an asset to the Federal Judiciary.

On behalf of the membership of the Fraternal Order of Police, I would encourage you to exercise greater judgment in future battles of this sort. It is a great disservice to the members of your organization, and the nation as a whole, to choose to do otherwise.

Sincerely,

THOMAS W. MAYER,
President, Missouri State FOP.

COMMERCE—JUSTICE—STATE AP- PROPRIATIONS CONFERENCE RE- PORT

Mr. JEFFORDS, I rise today to express my profound disappointment that the Conference Report to the Fiscal Year 2000 Commerce, Justice, State and the Judiciary Appropriations bill removed language that was in the Senate passed bill to expand Federal jurisdiction in investigating hate crimes.

The language inserted in the Senate passed bill would expand Federal jurisdiction in investigating hate crimes by removing the requirement in Federal hate crime law that only allows federal prosecution if the perpetrator is interfering with a victim's federally protected right like voting or attending school. It would also extend the protection of current hate crime law to those who are victimized because of their gender, sexual orientation, or disability.

Any crime hurts our society, but crimes motivated by hate are especially harmful. Many states, including my state of Vermont, have already passed strong hate crimes laws, and I applaud them in this endeavor. An im-

portant principle of the amendment that was in the Senate-passed bill was that it allowed for Federal prosecution of hate crimes without impeding the rights of states to prosecute these crimes.

The adoption of this amendment by the Senate was an important step forward in ensuring that the perpetrators of these harmful crimes are brought to justice. The American public knows that Congress should pass this legislation, and it is unfortunate that the conferees did not retain this important language.

Congress should pass this legislation, and I will work to ensure that this legislation is enacted into law in the very near future.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Madam President, at the close of business yesterday, Wednesday, October 20, 1999, the Federal debt stood at \$5,669,462,199,918.75 (Five trillion, six hundred sixty-nine billion, four hundred sixty-two million, one hundred ninety-nine thousand, nine hundred eighteen dollars and seventy-five cents).

One year ago, October 20, 1998, the Federal debt stood at \$5,543,686,000,000 (Five trillion, five hundred forty-three billion, six hundred eighty-six million).

Five years ago, October 20, 1994, the Federal debt stood at \$4,709,361,000,000 (Four trillion, seven hundred nine billion, three hundred sixty-one million).

Ten years ago, October 20, 1989, the Federal debt stood at \$2,876,433,000,000 (Two trillion, eight hundred seventy-six billion, four hundred thirty-three million) which reflects a doubling of the debt—an increase of almost \$3 trillion—\$2,793,029,199,918.75 (Two trillion, seven hundred ninety-three billion, twenty-nine million, one hundred ninety-nine thousand, nine hundred eighty-eight dollars and seventy-five cents) during the past 10 years.

NOMINATIONS

Mrs. BOXER. Madam President, as my colleagues know, I have been urging the Majority Leader to schedule Senate debate and votes on two nominees for the Ninth Circuit Court of Appeals—Marsha Berzon and Richard Paez. Judge Paez was first nominated 45 months ago. Ms. Berzon's nomination has been pending for almost 2 years.

I know that the Majority Leader supports the nomination of Glenn McCullough to the Board of Directors of the Tennessee Valley Authority.

I have no objection to voting on Mr. McCullough. I voted him favorably out of the Environment and Public Works Committee this week.

What I do object to is keeping the nominations of Judge Paez and Marsha Berzon from the Senate floor long after they have been voted out of committee.

So I have no problem with Senator LOTT's nominee, who has been waiting

for a Senate vote for two days—as long as Senator LOTT and the Republican majority also consider those who have been waiting years for a vote.

MESSAGES FROM THE HOUSE

ENROLLED BILL SIGNED

At 10:57 a.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 2670. An act making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 2000, and for other purposes.

The enrolled bill was signed subsequently by the President pro tempore (Mr. THURMOND).

ENROLLED BILL SIGNED

At 3:49 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 1663. An act to recognize National Medal of Honor sites in California, Indiana, and South Carolina.

The enrolled bill was signed subsequently by the President pro tempore (Mr. THURMOND).

At 6:54 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the 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.

ENROLLED BILL SIGNED

The following enrolled bill, previously signed by the Speaker of the House, was signed on today, October 21, 1999, by the President pro tempore (Mr. THURMOND):

H.R. 2841. An act to amend the Revised Organic Act of the Virgin Islands to provide for greater fiscal autonomy consistent with other United States jurisdictions, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-5724. A communication from the Administrator, Food Safety and Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Scale Requirements for Accurate Weights, Repairs, Adjustments, and Replacement After Inspection", received October 8, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC-5725. A communication from the Administrator, Agricultural Marketing Serv-

ice, Marketing and Regulatory Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Milk in the New England and Other Marketing Areas; Final Rule; Delay of Effective Date—(DA-97-12)", received October 7, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC-5726. A communication from the Congressional Review Coordinator, Regulatory Analysis and Development, Policy and Program Development, Animal and Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Tuberculosis in Cattle and Bison; State Designations; California, Pennsylvania, and Puerto Rico" (Docket #99-063-1), received October 19, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC-5727. A communication from the Congressional Review Coordinator, Regulatory Analysis and Development, Policy and Program Development, Animal and Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Animal Welfare; Perimeter Fence Requirements" (Docket #95-029-2), received October 19, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC-5728. A communication from the Congressional Review Coordinator, Regulatory Analysis and Development, Policy and Program Development, Animal and Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Change in Disease Status of Belgium Because of BSE" (Docket #97-115-2), received October 15, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC-5729. A communication from the Congressional Review Coordinator, Regulatory Analysis and Development, Policy and Program Development, Animal and Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Change in Disease Status of Luxembourg Because of BSE" (Docket #97-118-2), received October 15, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC-5730. A communication from the Congressional Review Coordinator, Regulatory Analysis and Development, Policy and Program Development, Animal and Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Oriental Fruit Fly; Removal of Quarantined Area" (Docket #99-044-2), received October 14, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC-5731. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Pyriproxyfen; Pesticide Tolerance" (FRL #6381-3), received October 15, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC-5732. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Pyriproxyfen; Pesticide Tolerance" (FRL #6381-3), received October 15, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC-5733. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Tebufenozide; Benzoic Acid, 3,5-dimethyl-1-(1,1-dimethylethyl)-2-(4-thylbenzoyl); hydrazide, Pesticide Toler-

ance" (FRL #6382-6), received October 15, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC-5734. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Sethoxydim; Pesticide Tolerances for Emergency Exemptions" (FRL #6385-9), received October 15, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC-5735. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Metolachlor; Extension of Tolerance for Emergency Exemptions" (FRL #6386-1), received October 15, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC-5736. A communication from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "Revision 1 of Regulatory Guide 8.15, 'Acceptable Programs for Respiratory Protection'", received October 15, 1999; to the Committee on Environment and Public Works.

EC-5737. A communication from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "Regulatory Guide 1.181, 'Content of the Updated Final Safety Analysis Report in Accordance with 10 CFR 50.71(e)'", received October 14, 1999; to the Committee on Environment and Public Works.

EC-5738. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Maryland; VOCs from Paint, Resin and Adhesive Manufacturing and Adhesive Application" (FRL #6460-1), received October 14, 1999; to the Committee on Environment and Public Works.

EC-5739. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision: Kern County Air Pollution Control District, Yolo-Solano Air Quality Management District" (FRL #6452-3), received October 14, 1999; to the Committee on Environment and Public Works.

EC-5740. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; Tennessee: Approval of Revisions to the Knox County Portion of the Tennessee SIP Regarding Use of LAER for Major Modifications and Revisions to the Tennessee SIP Regarding the Coating of Miscellaneous Metal Parts" (FRL #6453-8), received October 14, 1999; to the Committee on Environment and Public Works.

EC-5741. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; Oklahoma; Recodification of Regulations" (FRL #6457-

7), received October 19, 1999; to the Committee on Environment and Public Works.

EC-5742. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; Revisions to the Alabama Department of Environmental Management (ADEM) Administrative Code for the Air Pollution Control Program" (FRL #6461-8), received October 19, 1999; to the Committee on Environment and Public Works.

EC-5743. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Priorities List for Uncontrolled Hazardous Waste Sites" (FRL #6462-1), received October 19, 1999; to the Committee on Environment and Public Works.

EC-5744. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, two reports entitled "Issuance of Final Guidance: Ecological Risk Assessment and Risk Management Principles for Superfund Sites" and "The Brownfields Economic Redevelopment Initiative: Proposal Guidelines for Brownfields Assessment Demonstration Pilots"; to the Committee on Environment and Public Works.

EC-5745. A communication from the Chief, Office of Regulations and Administrative Law, U.S. Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Regulations; Acushnet River, MA (CGD01-99-174)" (RIN2115-AE47) (1999-0049), received October 14, 1999; to the Committee on Commerce, Science, and Transportation.

EC-5746. A communication from the Chief, Office of Regulations and Administrative Law, U.S. Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Regulations; Thames River, CT (CGD01-99-174)" (RIN2115-AE47) (1999-0051), received October 19, 1999; to the Committee on Commerce, Science, and Transportation.

EC-5747. A communication from the Chief, Office of Regulations and Administrative Law, U.S. Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Regulations; Harlem River, Newtown Creek, NY (CGD01-99-175)" (RIN2115-AE47) (1999-0050), received October 14, 1999; to the Committee on Commerce, Science, and Transportation.

EC-5748. A communication from the Chief, Office of Regulations and Administrative Law, U.S. Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Regatta Regulations; SLR; Stone Mountain Productions; Tennessee River Mile 463.5-464.5, Chattanooga, TN (CGD08-99-060)" (RIN2115-AE46) (1999-0040), received October 14, 1999; to the Committee on Commerce, Science, and Transportation.

EC-5749. A communication from the Chief, Office of Regulations and Administrative Law, U.S. Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Regatta Regulations; SLR; Night in Venice, Great Egg Harbor, City of Ocean City, NJ (CGD05-99-016)" (RIN2115-AE46) (1999-0041), received October 14, 1999; to the Committee on Commerce, Science, and Transportation.

EC-5750. A communication from the Chief, Office of Regulations and Administrative

Law, U.S. Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Fire Protection Measures for Towing Vessels (USCG-1998-4445)" (RIN2115-AF66) (1999-0001), received October 14, 1999; to the Committee on Commerce, Science, and Transportation.

EC-5751. A communication from the Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone off Alaska; Inseason Adjustment to Required Observer Coverage", received October 14, 1999; to the Committee on Commerce, Science, and Transportation.

EC-5752. A communication from the Attorney, Research and Special Programs Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Hazardous Materials Regulations: Editorial Corrections and Clarifications" (RIN2137-AD38), received October 14, 1999; to the Committee on Commerce, Science, and Transportation.

EC-5753. A communication from the Chief, Accounting Policy Division, Common Carrier Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Federal-State Joint Board on Universal Service, Access Charge Reform" (FCC 99-290) (CC Doc. 96-45), received October 15, 1999; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HATCH, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

H.R. 2112. A bill to amend title 28, United States Code, to allow a judge to whom a case is transferred to retain jurisdiction over certain multidistrict litigation cases for trial, and to provide for Federal jurisdiction of certain multiparty, multiforum civil actions.

By Mr. HATCH, from the Committee on the Judiciary, without amendment:

H. J. Res. 62. A joint resolution to grant the consent of Congress to the boundary change between Georgia and South Carolina.

S. 1235. A bill to amend part G of title I of the Omnibus Crime Control and Safe Streets Act of 1968 to allow railroad police officers to attend the Federal Bureau of Investigation National Academy for law enforcement training.

S. 1485. A bill to amend the Immigration and Nationality Act to confer United States citizenship automatically and retroactively on certain foreign-born children adopted by citizens of the United States.

S. 1713. A bill to amend the Immigration and Nationality Act to extend for an additional 2 years the period for admission of an alien as a nonimmigrant under section 101(a)(15)(S) of such Act, and to authorize appropriations for the refugee assistance program under chapter 2 of title IV of the Immigration and Nationality Act.

S. 1753. A bill to amend the Immigration and Nationality Act to provide that an adopted alien who is less than 18 years of age may be considered a child under such Act if adopted with or after a sibling who is a child under such Act.

EXECUTIVE REPORTS OF A COMMITTEE

The following executive reports of a committee were submitted:

By Mr. HATCH, for the Committee on the Judiciary:

Michael O'Neill, of Maryland, to be a Member of the United States Sentencing Commission for a term expiring October 31, 2003.

Joe Kendall, of Texas, to be a Member of the United States Sentencing Commission for a term expiring October 31, 2001.

John R. Steer, of Virginia, to be a Member of the United States Sentencing Commission for the remainder of the term expiring October 31, 1999.

John R. Steer, of Virginia, to be a Member of the United States Sentencing Commission for a term expiring October 31, 2005.

Ruben Castillo, of Illinois, to be a Member of the United States Sentencing Commission for a term expiring October 31, 2003.

Diana E. Murphy, of Minnesota, to be a Member of the United States Sentencing Commission for the remainder of the term expiring October 31, 1999.

Diana E. Murphy, of Minnesota, to be a Member of the United States Sentencing Commission for a term expiring October 31, 2005.

Diana E. Murphy, of Minnesota, to be Chair of the United States Sentencing Commission.

Sterling R. Johnson, Jr., of New York, to be a Member of the United States Sentencing Commission for a term expiring October 31, 2001.

William Sessions, III, of Vermont, to be a Member of the United States Sentencing Commission for a term expiring October 31, 2003.

Timothy B. Dyk, of the District of Columbia, to be United States Circuit Judge for the Federal Circuit.

Richard Linn, of Virginia, to be United States Circuit Judge for the Federal Circuit.

Paul L. Seave, of California, to be United States Attorney for the Eastern District of California for a term of four years.

(The above nominations were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BREAUX (for himself and Mr. MACK):

S. 1759. A bill to amend the Internal Revenue Code of 1986 to allow a refundable credit for taxpayers owning certain commercial power takeoff vehicles; to the Committee on Finance.

By Mr. BIDEN (for himself, Mr. AKAKA,

Mr. BAUCUS, Mr. BAYH, Mr. BINGAMAN, Mrs. BOXER, Mr. BREAUX, Mr. BRYAN, Mr. BYRD, Mr. CLELAND, Ms. COLLINS, Mr. DASCHLE, Mr. DODD, Mr. DORGAN, Mr. DURBIN, Mr. EDWARDS, Mr. GRAHAM, Mr. HARKIN, Mr. HOLLINGS, Mr. INOUE, Mr. JEFFORDS, Mr. JOHNSON, Mr. KENNEDY, Mr. KERREY, Mr. KERRY, Mr. KOHL, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mrs. LINCOLN, Ms. MIKULSKI, Mr. MOYNIHAN, Mrs. MURRAY, Mr. REED, Mr. REID, Mr. ROBB, Mr. ROCKEFELLER, Mr. ROTH, Mr. SARBANES, Mr. SCHUMER, Mr. SPECTER, Ms. SNOWE, Mr. TORRICELLI, and Mr. WELLSTONE):

S. 1760. A bill to provide reliable officers, technology, education, community prosecutors, and training in our neighborhoods; to the Committee on the Judiciary.

By Mrs. HUTCHISON (for herself and Mr. GRAMM):

S. 1761. A bill to direct the Secretary of the Interior, through the Bureau of Reclamation, to conserve and enhance the water supplies of the Lower Rio Grande Valley; to the Committee on Energy and Natural Resources.

By Mr. COVERDELL (for himself and Mrs. LINCOLN):

S. 1762. A bill to amend the Watershed Protection and Flood Prevention Act to authorize the Secretary of Agriculture to provide cost share assistance for the rehabilitation of structural measures constructed as part of water resources projects previously funded by the Secretary under such Act or related laws; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. ALLARD:

S. 1763. A bill to amend the Solid Waste Disposal Act to reauthorize the Office of Ombudsman of the Environmental Protection Agency, and for other purposes; to the Committee on Environment and Public Works.

By Mr. DEWINE (for himself and Mr. KOHL):

S. 1764. A bill to make technical corrections to various antitrust laws and to references to such laws; to the Committee on the Judiciary.

By Mrs. FEINSTEIN (for herself and Mrs. BOXER):

S. 1765. A bill to prohibit post-viability abortions; to the Committee on the Judiciary.

By Mr. MCCAIN (for himself and Mr. BURNS):

S. 1766. A bill to amend the Internal Revenue Code of 1986 to provide for a deferral of tax on gain from the sale of telecommunications businesses in specific circumstances of a tax credit and other incentives to promote diversity of ownership in telecommunications businesses; to the Committee on Finance.

By Mr. INOUE (for himself and Mr. AKAKA):

S. 1767. A bill to amend the Elementary and Secondary Education Act of 1965 to improve Native Hawaiian education programs, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. ABRAHAM:

S. 1768. A bill to amend the Congressional Budget Act of 1974 to protect Social Security surpluses through strengthened budgetary enforcement mechanisms; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

By Mr. GRAMS:

S.J. Res. 36. A joint resolution recognizing the late Bernt Balchen for his many contributions to the United States and a lifetime of remarkable achievements on the centenary of his birth, October 23, 1999; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BREAU (for himself, and Mr. MACK):

S. 1759. A bill to amend the Internal Revenue Code of 1986 to allow a refundable credit for taxpayers owning certain commercial power takeoff vehicles; to the Committee on Finance.

THE FUEL TAX EQUALIZATION CREDIT FOR SUBSTANTIAL POWER TAKEOFF VEHICLES ACT

Mr. BREAU. Mr. President, today I rise to introduce the Fuel Tax Equalization Credit for Substantial Power

Takeoff Vehicles Act. This bill upholds a long-held principle in the application of the Federal fuels excise tax, and restores this principle for certain single engine "dual-use" vehicles.

This long-held principle is simple: fuel consumed for the purpose of moving vehicles over the road is taxed, while fuel consumed for "off-road" purposes is not taxed. The tax is designed to compensate for the wear and tear impacts on roads. Fuel used for a non-propulsion "off-road" purpose has no impact on the roads. It should not be taxed as if it does. Mr. President, this bill is based on this principle, and it remedies a problem created by IRS regulations that control the application of the federal fuels excise tax to "dual-use" vehicles.

Dual-use vehicles are vehicles that use fuel both to propel the vehicle on the road, and also to operate separate, on-board equipment. The two prominent examples of dual-use vehicles are concrete mixers, which use fuel to rotate the mixing drum, and sanitation trucks, which use fuel to operate the compactor. Both of these trucks move over the road, but at the same time, a substantial portion of their fuel use is attributable to the non-propulsion function.

Mr. President, the current problem developed because progress in technology has outstripped the regulatory process. In the past, dual-use vehicles commonly had two engines. IRS regulations, written in the 1950s, specifically exempt the portion of fuel used by the separate engine that operates special equipment such as a mixing drum or a trash compactor. These IRS regulations reflect the principle that fuel consumed for non-propulsion purposes is not taxed.

Today, however, typical dual-use vehicles use only one engine. The single engine both propels the vehicle over the road and powers the non-propulsion function through "power takeoff." A major reason for the growth of these single-engine, power takeoff vehicles is that they use less fuel. And a major benefit for everyone is that they are better for the environment.

Power takeoff was not in widespread use when the IRS regulations were drafted, and the regulations deny an exemption for fuel used in single-engine, dual-use vehicles. The IRS defends its distinction between one-engine and two-engine vehicles based on possible administrative problems if vehicle owners were permitted to allocate fuel between the propulsion and non-propulsion functions.

Mr. President, our bill is designed to address the administrative concerns expressed by the IRS, but at the same time, restore tax fairness for dual-use vehicles with one engine. The bill does this by establishing an annual tax credit available for taxpayers that own a licensed and insured concrete mixer or sanitation truck with a compactor. The amount of the credit is \$250 and is a conservative estimate of the excise

taxes actually paid, based on information compiled on typical sanitation trucks and concrete mixers.

In sum, as a fixed income tax credit, no audit or administrative issue will arise about the amount of fuel used for the off-road purpose. At the same time, the credit provides a rough justice method to make sure these taxpayers are not required to pay tax on fuels that they shouldn't be paying. Also, as an income tax credit, the proposal would have no effect on the highway trust fund.

Mr. President, I would like to stress that I believe the IRS' interpretation of the law is not consistent with long-help principles under the tax law, despite their administrative concerns. Quite simply, the law should not condone a situation where taxpayers are required to pay the excise tax on fuel attributable to non-propulsion functions. This bill corrects an unfair tax that should have never been imposed in the first place. I urge my colleagues to cosponsor this important piece of legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1759

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fuel Tax Equalization Credit for Substantial Power Takeoff Vehicles Act".

SEC. 2. REFUNDABLE CREDIT FOR TAXPAYERS OWNING COMMERCIAL POWER TAKEOFF VEHICLES.

(a) IN GENERAL.—Section 34 of the Internal Revenue Code of 1986 (relating to certain uses of gasoline and special fuels) is amended by adding at the end the following new subsection:

"(c) CREDIT FOR COMMERCIAL POWER TAKEOFF VEHICLES.—

"(1) IN GENERAL.—There shall be allowed as a credit against the tax imposed by this subtitle for the taxable year the amount of \$250 for each qualified commercial power takeoff vehicle owned by the taxpayer as of the close of the calendar year in which or with which the taxable year of the taxpayer ends.

"(2) QUALIFIED COMMERCIAL POWER TAKEOFF VEHICLE.—For purposes of this subsection, the term 'qualified commercial power takeoff vehicle' means any highway vehicle described in paragraph (3) which is propelled by any fuel subject to tax under section 4041 or 4081 if such vehicle is used in a trade or business or for the production of income (and is licensed and insured for such use).

"(3) HIGHWAY VEHICLE DESCRIBED.—A highway vehicle is described in this paragraph if such vehicle is—

"(A) designed to engage in the daily collection of refuse or recyclables from homes or businesses and is equipped with a mechanism under which the vehicle's propulsion engine provides the power to operate a load compactor, or

"(B) designed to deliver ready mixed concrete on a daily basis and is equipped with a mechanism under which the vehicle's propulsion engine provides the power to operate a mixer drum to agitate and mix the product en route to the delivery site.

"(4) EXCEPTION FOR VEHICLES USED BY GOVERNMENTS, ETC.—No credit shall be allowed under this subsection for any vehicle owned by any person at the close of a calendar year if such vehicle is used at any time during such year by—

"(A) the United States or an agency or instrumentality thereof, a State, a political subdivision of a State, or an agency or instrumentality of one or more States or political subdivisions, or

"(B) an organization exempt from tax under section 501(a).

"(5) DENIAL OF DOUBLE BENEFIT.—The amount of any deduction under this subtitle for any tax imposed by subchapter B of chapter 31 or part III of subchapter A of chapter 32 for any taxable year shall be reduced (but not below zero) by the amount of the credit determined under this subsection for such taxable year."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years ending after December 31, 1999.

Mr. MACK. Mr. President, I am pleased to join my colleague, Senator JOHN BREAUX, in introducing the Fuel Tax Equalization Credit for Substantial Power Takeoff Act.

This bill would create a simple mechanism to reimburse owners of concrete mixers and sanitation trucks for the Federal excise taxes that they pay on fuels used to power the off-road function of their vehicles.

Today, IRS regulations impose the Federal fuels excise tax on "single engine, dual-use vehicles." Two prominent examples of such single-engine, dual-use vehicles are concrete mixers and sanitation trucks. The IRS taxes the entire amount of fuel used in these vehicles, despite the fact that a substantial portion of the fuel consumed is used to power an off-road function—the trash compactor of a sanitation truck, or the rotating drum of the cement truck.

Mr. President, the Federal fuels excise tax is meant to pay for our Nation's roads. If fuel is used for an off-road purpose, it is a well-established principle that we do not tax the fuel. In this case, fuels used to power the trash compactor or rotate the drum on a concrete mixer do not result in wear and tear on the roads and, therefore, should not be taxes.

Contrary to this well-established principle, the IRS imposes the excise tax on single engine, dual-use vehicles. The simple reason given by the IRS for this distinction is administrative convenience. But the convenience of the IRS is no reason to overtax diesel fuel consumers.

Mr. President, our bill corrects the discrepancy created under IRS regulations, and does so without creating any administrative red tape. The \$250 income tax credit crafted in the bill would be easy to administer. While it will not fully and precisely compensate these truck owners for the taxes paid on fuel used off-road, this credit has been calculated based on industry data and using conservative estimates, and reduces a tax that these truck owners should not be paying in the first place. Therefore, I urge my colleagues to join

Senator BREAUX and me in supporting this important piece of legislation.

By Mr. BIDEN (for himself, Mr. AKAKA, Mr. BAUCUS, Mr. BAYH, Mr. BINGAMAN, Mrs. BOXER, Mr. BREAUX, Mr. BRYAN, Mr. BYRD, Mr. CLELAND, Ms. COLLINS, Mr. DASCHLE, Mr. DODD, Mr. DORGAN, Mr. DURBIN, Mr. EDWARDS, Mr. GRAHAM, Mr. HARKIN, Mr. HOLLINGS, Mr. INOUE, Mr. JEFFORDS, Mr. JOHNSON, Mr. KENNEDY, Mr. KERREY, Mr. KERRY, Mr. KOHL, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mrs. LINCOLN, Ms. MIKULSKI, Mr. MOYNIHAN, Mrs. MURRAY, Mr. REED, Mr. REID, Mr. ROBB, Mr. ROCKEFELLER, Mr. ROTH, Mr. SARBANES, Mr. SCHUMER, Mr. SPECTER, Ms. SNOWE, Mr. TORRICELLI, and Mr. WELLSTONE):

S. 1760. A bill to provide reliable officers, technology, education, community prosecutors, and training in our neighborhoods; to the Committee on the Judiciary.

PROTECTION ACT OF 1999 OR PROVIDING RELIABLE OFFICER, TECHNOLOGY, EDUCATION, COMMUNITY PROSECUTORS AND TRAINING IN OUR NEIGHBORHOODS

Mr. BIDEN. Mr. President, when we passed the 1994 crime bill and created the COPS Program, there were some skeptics. There were people who thought community policing was nothing more than social work and that the program would not work.

Do you remember what I said to the skeptics? I told them that either this program was going to work and we would be geniuses or that it would flop and we would be run out of town. There is an old saying that success has a thousand fathers but failure is an orphan. Now, there are a thousand people all claiming to be the parent of this program simply because it has worked so darn well.

In 1994, we set a goal of funding 100,000 police officers by the year 2000. We met that goal last May—months ahead of schedule. As of today, there have been 103,000 officers funded and 55,000 officers deployed to the streets. The COPS Programs is ahead of schedule and under budget.

Because of COPS, the concept of community policing has become law enforcement's principal weapon fighting crime. Community policing has redefined the relationship between law enforcement and the public. But, more importantly, it has reduced crime. And that is what we attempted to do.

All across the country, from Wilmington to Washington—from Connecticut to California, we are seeing a dramatic decline in crime. Just this week, the FBI released its annual crime statistics which showed that once again, for the seventh year in a row, crime is down. In fact, since 1994, violent crime is down 17.6 percent. And just last year, violent crime was down

6.4 percent nationwide from the year before. But, we can't let that slow us down.

And that's why I'm here today. I am proud of our accomplishments, but we cannot become complacent. We have a unique opportunity here. Some people say if crime down, why put more cops on the streets? Well it's simple math: more cops equals less crime. If we know one thing it is this: if a crime is going to be committed and there is a cop on one street corner and not one the other, guess where the crime is going to be committed? Not where the cop is, I would guess.

Maybe someday we will reach the point where crime is so low that we don't have to take pro-active steps any longer. But, we are not there yet. Our children and our parents are still at great risk out there and it should not be that way. Nor does it have to be that way. And why more cops on the street, it won't be that way.

That is why today, I introduced a bill to continue this program for the next 5 years. It's called "PROTECTION"—"Providing reliable officers, technology, education, community prosecutors and training in our neighborhoods." This bill will put up to 50,000 more officers on the street.

It will also allow police officers to be reimbursed for college or graduate school, because we all know that overcoming crime problems requires something more than just more cops. It requires cops who understand the importance of prevention and community relations. The legislation also provides funding for new technology so that law enforcement can purchase high-tech equipment to put them on equal footing with sophisticated criminals. And it provides for funding for community prosecutors—to expand the community policing concept to engage the whole law enforcement community in fighting crime. It has all the things that law enforcement told me that they needed to do their jobs.

I am proud to say that this legislation has the support of all the major law enforcement organizations and that 49 of my colleagues have told me that they support this legislation. Forty-five of them will join me today in cosponsoring this legislation—including 5 Republicans. I want to recognize my friends on the other side of the aisle and thank them for listening to their constituents, their mayors and their police chiefs who said: We can not do this without your help.

I hope that even more will join us today. I ask the rest of my colleagues—there are 50 more of you—will you be with us on this? Will you listen to everyone who is asking for help? Will you listen to your police chiefs and your mayors? Will you stand up and be counted among those who say enough is enough—and I'm going to do something about crime? I'm going to put more police officers on the street. I'm going to support the most effective law enforcement program of our time.

I hope that we can put politics aside on this one and all join forces to support the folks who do so much for us each and every day. The people who put their safety on the line so that we may be more secure. It is then, that I will know that we have all put our Nation's interest first.

I ask unanimous consent that the bill be printed in the RECORD.

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

S. 1760

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Providing Reliable Officers, Technology, Education, Community prosecutors, and Training In Our Neighborhoods Act of 1999" or "PROTECTION Act".

SEC. 2. PROVIDING RELIABLE OFFICERS, TECHNOLOGY, EDUCATION, COMMUNITY PROSECUTORS, AND TRAINING IN OUR NEIGHBORHOOD INITIATIVE.

(a) COPS PROGRAM.—Section 1701(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd(a)) is amended by—

(1) inserting "and prosecutor" after "increase police"; and

(2) inserting "to enhance law enforcement access to new technologies, and" after "presence,".

(b) HIRING AND REDEPLOYMENT GRANT PROJECTS.—Section 1701(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd(b)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (B)—

(i) by inserting after "Nation" the following: ", or pay overtime to existing career law enforcement officers to the extent that such overtime is devoted to community policing efforts"; and

(ii) by striking "and" at the end;

(B) in subparagraph (C), by—

(i) striking "or pay overtime"; and

(ii) striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(D) promote higher education among in-service State and local law enforcement officers by reimbursing them for the costs associated with seeking a college or graduate school education."; and

(2) in paragraph (2) by striking all that follows "Support Systems." and inserting "Grants pursuant to—

"(A) paragraph (1)(B) for overtime may not exceed 25 percent of the funds available for grants pursuant to this subsection for any fiscal year;

"(B) paragraph (1)(C) may not exceed 20 percent of the funds available for grants pursuant to this subsection in any fiscal year; and

"(C) paragraph (1)(D) may not exceed 5 percent of the funds available for grants pursuant to this subsection for any fiscal year.".

(c) ADDITIONAL GRANT PROJECTS.—Section 1701(d) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd(d)) is amended—

(1) in paragraph (2)—

(A) by inserting "integrity and ethics" after "specialized"; and

(B) by inserting "and" after "enforcement officers";

(2) in paragraph (7) by inserting "school officials, religiously-affiliated organizations," after "enforcement officers";

(3) by striking paragraph (8) and inserting the following:

"(8) establish school-based partnerships between local law enforcement agencies and local school systems, by using school resource officers who operate in and around elementary and secondary schools to serve as a law enforcement liaison with other Federal, State, and local law enforcement and regulatory agencies, combat school-related crime and disorder problems, gang membership and criminal activity, firearms and explosives-related incidents, illegal use and possession of alcohol, and the illegal possession, use, and distribution of drugs;";

(4) in paragraph (10) by striking "and" at the end;

(5) in paragraph (11) by striking the period that appears at the end and inserting "; and"; and

(6) by adding at the end the following:

"(12) develop and implement innovative programs (such as the TRIAD program) that bring together a community's sheriff, chief of police, and elderly residents to address the public safety concerns of older citizens.".

(d) TECHNICAL ASSISTANCE.—Section 1701(f) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd(f)) is amended—

(1) in paragraph (1)—

(A) by inserting "use up to 5 percent of the funds appropriated under subsection (a) to" after "The Attorney General may";

(B) by inserting at the end the following: "In addition, the Attorney General may use up to 5 percent of the funds appropriated under subsections (d), (e), and (f) for technical assistance and training to States, units of local government, Indian tribal governments, and to other public and private entities for those respective purposes.";

(2) in paragraph (2) by inserting "under subsection (a)" after "the Attorney General"; and

(3) in paragraph (3)—

(A) by striking "the Attorney General may" and inserting "the Attorney General shall";

(B) by inserting "regional community policing institutes" after "operation of"; and

(C) by inserting "representatives of police labor and management organizations, community residents," after "supervisors,".

(e) TECHNOLOGY AND PROSECUTION PROGRAMS.—Section 1701 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd) is amended by—

(1) striking subsection (k);

(2) redesignating subsections (f) through (j) as subsections (g) through (k); and

(3) striking subsection (e) and inserting the following:

"(e) LAW ENFORCEMENT TECHNOLOGY PROGRAM.—Grants made under subsection (a) may be used to assist police departments, in employing professional, scientific, and technological advancements that will help them—

"(1) improve police communications through the use of wireless communications, computers, software, videocams, databases and other hardware and software that allow law enforcement agencies to communicate more effectively across jurisdictional boundaries and effectuate interoperability;

"(2) develop and improve access to crime solving technologies, including DNA analysis, photo enhancement, voice recognition, and other forensic capabilities; and

"(3) promote comprehensive crime analysis by utilizing new techniques and technologies, such as crime mapping, that allow law enforcement agencies to use real-time crime and arrest data and other related information—including non-criminal justice data—to improve their ability to analyze, predict, and respond pro-actively to local crime and disorder problems, as well as to engage in regional crime analysis.

"(f) COMMUNITY-BASED PROSECUTION PROGRAM.—Grants made under subsection (a) may be used to assist State, local or tribal prosecutors' offices in the implementation of community-based prosecution programs that build on local community policing efforts. Funds made available under this subsection may be used to—

"(1) hire additional prosecutors who will be assigned to community prosecution programs, including programs that assign prosecutors to handle cases from specific geographic areas, to address specific violent crime and other local crime problems (including intensive illegal gang, gun and drug enforcement projects and quality of life initiatives), and to address localized violent and other crime problems based on needs identified by local law enforcement agencies, community organizations, and others;

"(2) redeploy existing prosecutors to community prosecution programs as described in paragraph (1) of this section by hiring victim and witness coordinators, paralegals, community outreach, and other such personnel; and

"(3) establish programs to assist local prosecutors' offices in the implementation of programs that help them identify and respond to priority crime problems in a community with specifically tailored solutions.

At least 75 percent of the funds made available under this subsection shall be reserved for grants under paragraphs (1) and (2) and of those amounts no more than 10 percent may be used for grants under paragraph (2) and at least 25 percent of the funds shall be reserved for grants under paragraphs (1) and (2) to units of local government with a population of less than 50,000.".

(f) RETENTION GRANTS.—Section 1703 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd-2) is amended by inserting at the end the following:

"(d) RETENTION GRANTS.—The Attorney General may use no more than 50 percent of the funds under subsection (a) to award grants targeted specifically for retention of police officers to grantees in good standing, with preference to those that demonstrate financial hardship or severe budget constraint that impacts the entire local budget and may result in the termination of employment for police officers funded under subsection (b)(1).".

(g) DEFINITIONS.—

(1) CAREER LAW ENFORCEMENT OFFICER.—Section 1709(1) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd-8) is amended by inserting after "criminal laws" the following: "including sheriffs deputies charged with supervising offenders who are released into the community but also engaged in local community policing efforts.".

(2) SCHOOL RESOURCE OFFICER.—Section 1709(4) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd-8) is amended—

(A) by striking subparagraph (A) and inserting the following:

"(A) to serve as a law enforcement liaison with other Federal, State, and local law enforcement and regulatory agencies, to address and document crime and disorder problems including gangs and drug activities, firearms and explosives-related incidents, and the illegal use and possession of alcohol affecting or occurring in or around an elementary or secondary school;

(B) by striking subparagraph (E) and inserting the following:

"(E) to train students in conflict resolution, restorative justice, and crime awareness, and to provide assistance to and coordinate with other officers, mental health professionals, and youth counselors who are responsible for

the implementation of prevention/intervention programs within the schools;"; and

(C) by adding at the end the following:

"(H) to work with school administrators, members of the local parent teacher associations, community organizers, law enforcement, fire departments, and emergency medical personnel in the creation, review, and implementation of a school violence prevention plan;

"(I) to assist in documenting the full description of all firearms found or taken into custody on school property and to initiate a firearms trace and ballistics examination for each firearm with the local office of the Bureau of Alcohol, Tobacco, and Firearms;

"(J) to document the full description of all explosives or explosive devices found or taken into custody on school property and report to the local office of the Bureau of Alcohol, Tobacco, and Firearms; and

"(K) to assist school administrators with the preparation of the Department of Education, Annual Report on State Implementation of the Gun-Free Schools Act which tracks the number of students expelled per year for bringing a weapon, firearm, or explosive to school."

(h) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a)(11) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(11)) is amended—

(1) by amending subparagraph (A) to read as follows:

"(A) There are authorized to be appropriated to carry out part Q, to remain available until expended—

"(i) \$1,150,000,000 for fiscal year 2000;

"(ii) \$1,150,000,000 for fiscal year 2001;

"(iii) \$1,150,000,000 for fiscal year 2002;

"(iv) \$1,150,000,000 for fiscal year 2003;

"(v) \$1,150,000,000 for fiscal year 2004; and

"(vi) \$1,150,000,000 for fiscal year 2005.";

(2) in subparagraph (B)—

(A) by striking "3 percent" and inserting "5 percent";

(B) by striking "1701(f)" and inserting "1701(g)";

(C) by striking the second sentence and inserting "Of the remaining funds, if there is a demand for 50 percent of appropriated hiring funds, as determined by eligible hiring applications from law enforcement agencies having jurisdiction over areas with populations exceeding 150,000, no less than 50 percent shall be allocated for grants pursuant to applications submitted by units of local government or law enforcement agencies having jurisdiction over areas with populations exceeding 150,000 or by public and private entities that serve areas with populations exceeding 150,000, and no less than 50 percent shall be allocated for grants pursuant to applications submitted by units of local government or law enforcement agencies having jurisdiction over areas with populations less than 150,000 or by public and private entities that serve areas with populations less than 150,000.";

(D) by striking "85 percent" and inserting "\$600,000,000"; and

(E) by striking "1701(b)," and all that follows through "of part Q" and inserting the following: "1701 (b) and (c), \$350,000,000 to grants for the purposes specified in section 1701(e), and \$200,000,000 to grants for the purposes specified in section 1701(f)."

• Mr. EDWARDS. Mr. President, I rise today in support of the 21st Century Community Policing Initiative Act. I am proud to be an original co-sponsor of this legislation, introduced by Senators BIDEN and SCHUMER, that I believe is crucial to our efforts to fight crime.

This important bill would re-authorize the successful Community Oriented

Policing Services (COPS) program through the year 2005. Because of the COPS program, there are over 100,000 more police officers on the beat than there were before this program was implemented in 1994. This represents a nearly 20 percent increase in police presence nationwide.

By extending the COPS program, the 21st Century Community Policing Initiative Act will help put up to 50,000 more police on the streets over the next five years. It will also provide \$350 million a year in grants to law enforcement agencies to assist them in acquiring new technology to enhance crime fighting efforts. This means better communications systems so cops in different jurisdictions can talk to each other; state of the art investigative tools like DNA analysis; and the means to target crime hot spots.

This legislation would also provide \$200 million per year in grants for community-wide prosecutors. This aspect of the bill would expand the community policing concept to engage the whole community in preventing and fighting crime. The cops have been so successful in their jobs that the next step is to provide more prosecutors to help get criminals off the streets.

Mr. President, one of the best ways to fight crime is to have more well-trained police officers on our streets and in our schools, and to provide them with the latest equipment and technology. The COPS program has helped achieve these goals, and has in turn helped to make our communities safer places for our children, families, and businesses.

The COPS program has been a tremendous asset to my state of North Carolina. As of October 20th, the COPS program had provided North Carolina with grants of over \$135 million. From Alexander Mills to Zebulon, North Carolina communities have received COPS funding to help law enforcement agencies hire an additional 2,602 police officers to patrol neighborhoods and protect our schools.

In August, I met with police officers and sheriffs from across North Carolina to learn more about how the COPS program is helping to keep local communities safe. I heard from law enforcement officers from the larger cities such as Raleigh and Charlotte. I also spoke with officers from smaller, rural areas like North Wilkesboro and Randolph County. The one clear message that I got from all of these officers is that the COPS program is working and should be continued.

Mr. President, crime rates in big cities are generally higher than they are in smaller towns. An increased police presence can help deter crime in these urban areas. However, officers I met with from less populated regions of North Carolina emphasized to me that even one more cop can make a world of difference to a community that lacks its own resources to hire more police officers. In these situations, the COPS program can step in and provide these

communities with the additional help they need.

One of the most interesting and persuasive arguments to renew the COPS program was also one that I heard during these conversations with North Carolina police officers. They told me that when people think of the COPS program, they immediately think of more officers policing the streets. However, one of the most important roles that the COPS program has played is to provide funds for law enforcement agencies to work in partnership with education officials to solve problems of crime in and around schools.

Officers are not just placed in the schools to instill discipline. They act as counselors, coaches and mentors for children. And they are reaching out to students by offering safe after-school activities. North Carolina officers told me that these efforts are some of the best kinds of crime prevention measures that we can take.

By connecting with at-risk youth, these school-based officers have become trusted adult authority figures that kids will run to in times of trouble, instead of running away from them.

Many police chiefs and sheriffs credit community policing and COPS support with dramatic drops in crime rates around the nation. Since the inception of the COPS program, violent crime in North Carolina is down 7% and aggravated assault has fallen by 8%. According to a report issued by the State Bureau of Investigation, the state's murder rate fell 3% from 1997 to 1998. And, the country's crime rate is at its lowest in 25 years.

These statistics are encouraging, but now is not the time to eliminate a program that has substantially contributed to declining crime rates. We still have a long way to go to insuring that people are walking crime-free streets and children are attending crime-free schools.

Continuation of the COPS program is one significant way that we can continue to make progress towards these goals.

Mr. President, during debate on the juvenile crime bill, Senator BIDEN offered an amendment that would have re-authorized the COPS program through 2005. I voted for this amendment which was endorsed by many law enforcement organizations including the National Fraternal Order of Police and the International Association of Chiefs of Police. Unfortunately, the amendment failed by the slimmest of margins (48-50). However, I am confident that upon reconsideration of the question whether it is necessary to renew the COPS program, my colleagues will realize how effective and valuable the program has been, not only to their individual states, but to the nation as a whole.

I want to thank Senators BIDEN and SCHUMER for their efforts to re-authorize the COPS program and I urge all of

my colleagues to support the 21st Century Community Policing Initiative Act.●

By Mr. COVERDELL (for himself and Mrs. LINCOLN):

S. 1762. A bill to amend the Watershed Protection and Flood Prevention Act to authorize the Secretary of Agriculture to provide cost share assistance for the rehabilitation of structural measures constructed as part of water resources projects previously funded by the Secretary under such act or related laws; to the Committee on Agriculture, Nutrition, and Forestry.

SMALL WATERSHED REHABILITATION ACT OF 1999

Mr. COVERDELL. Mr. President, we have a national problem that greatly affects Georgia if not addressed. Since 1944, under a federal program administered by the United States Department of Agriculture's Natural Resources Conservation Service, over 10,400 small watershed dams were constructed in 46 states. These dams were planned and designed with a 50 year lifespan. The purpose of this program was to provide flood control, water quality improvement, rural water supply assurance, fish and wildlife habitat protection, recreation, and irrigation.

Communities depend upon these watershed projects. However, many of these dams have reached their life expectancy and are badly in need of repair. Currently, the United States Department of Agriculture has neither the authority nor funds for rehabilitation of watershed structures. The legislation I introduce today along with Senator LINCOLN, the Small Watershed Rehabilitation Act of 1999, provides a needed and critical solution to this growing crisis for rural America.

The state of Georgia alone has 357 small watershed dams, 69 of which will reach the end of their designed lifespan within the next 10 years. It is my understanding that 121 dams in Georgia need to be modified to meet state dam safety laws and protect residential and commercial development downstream from the dams while 8 dams need repairs and modifications to extend their useful life and help prevent future environmental and economic losses. Since fiscal year 1996, the state of Georgia has appropriated over \$4.6 million to bring these structures in compliance with the Georgia Safe Dams Act. However, state and local communities do not have enough financial resources available to rehabilitate these watersheds dams in a timely fashion.

The legislation Senator LINCOLN and I are introducing lays out a procedure and a funding mechanism for a rehabilitation process that would ultimately save these dams across the nation, including those located in Georgia. The bill authorizes \$60 million a year from 2000 to 2009 and requires the Secretary of Agriculture to establish a system of ranking and approving rehabilitation requests on need and merit. Specifically, the legislation calls for \$5 million to be used annually by the Sec-

retary to assess the true needs of the entire program in the first two years of the program's existence. Under this program, 65 percent would be funded by the federal government while the remaining 35 percent would be funded locally. Recent flooding in the southeast from Hurricane Floyd and Irene make enactment of this legislation an even more pressing matter.

This bi-partisan legislation has been endorsed by Governor Roy Barnes of Georgia and a wide range of other Georgia state and local officials and national associations.

I would like to thank Senator LINCOLN for her leadership, and for working with me on this important legislation. This bill is a Senate companion to legislation introduced by Representative FRANK LUCAS of Oklahoma. We look forward to working with him on securing its enactment.

Mr. President, I ask unanimous consent that the text of the bill and letters of support be printed in the RECORD.

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

S. 1762

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Small Watershed Rehabilitation Act of 1999".

SEC. 2. REHABILITATION OF WATER RESOURCE STRUCTURAL MEASURES CONSTRUCTED UNDER CERTAIN DEPARTMENT OF AGRICULTURE PROGRAMS.

The Watershed Protection and Flood Prevention Act (16 U.S.C. 1001 et seq.) is amended by adding at the end the following new section:

"SEC. 14. REHABILITATION OF STRUCTURAL MEASURES NEAR, AT, OR PAST THEIR EVALUATED LIFE EXPECTANCY.

"(a) DEFINITIONS.—For purposes of this section:

"(1) REHABILITATION.—The term 'rehabilitation', with respect to a structural measure constructed as part of a covered water resource project, means the completion of all work necessary to extend the service life of the structural measure and meet applicable safety and performance standards. This may include (A) protecting the integrity of the structural measure, or prolonging the useful life of the structural measure, beyond the original evaluated life expectancy, (B) correcting damage to the structural measure from a catastrophic event, (C) correcting the deterioration of structural components that are deteriorating at an abnormal rate, (D) upgrading the structural measure to meet changed land use conditions in the watershed served by the structural measure or changed safety criteria applicable to the structural measure, or (E) decommissioning the structural measure, including removal or breaching.

"(2) COVERED WATER RESOURCE PROJECT.—The term 'covered water resource project' means a work of improvement carried out under any of the following:

"(A) This Act.

"(B) Section 13 of the Act of December 22, 1944 (Public Law 78-534; 58 Stat. 905).

"(C) The pilot watershed program authorized under the heading 'FLOOD PREVENTION' of the Department of Agriculture Appropriation Act, 1954 (Public Law 156; 67 Stat. 214).

"(D) Subtitle H of title XV of the Agriculture and Food Act of 1981 (16 U.S.C. 3451 et seq.; commonly known as the Resource Conservation and Development Program).

"(3) ELIGIBLE LOCAL ORGANIZATION.—The term 'eligible local organization' means a local organization or appropriate State agency responsible for the operation and maintenance of structural measures constructed as part of a covered water resource project.

"(4) STRUCTURAL MEASURE.—The term 'structural measure' means a physical improvement that impounds water, commonly known as a dam, which was constructed as part of a covered water resource project.

"(b) COST SHARE ASSISTANCE FOR REHABILITATION.—

"(1) ASSISTANCE AUTHORIZED.—The Secretary may provide financial assistance to an eligible local organization to cover a portion of the total costs incurred for the rehabilitation of structural measures originally constructed as part of a covered water resource project. The total costs of rehabilitation include the costs associated with all components of the rehabilitation project, including acquisition of land, easements, and rights-of-ways, rehabilitation project administration, the provision of technical assistance, contracting, and construction costs, except that the local organization shall be responsible for securing all land, easements, or rights-of-ways necessary for the project.

"(2) AMOUNT OF ASSISTANCE; LIMITATIONS.—The amount of Federal funds that may be made available under this subsection to an eligible local organization for construction of a particular rehabilitation project shall be equal to 65 percent of the total rehabilitation costs, but not to exceed 100 percent of actual construction costs incurred in the rehabilitation. However, the local organization shall be responsible for the costs of water, mineral, and other resource rights and all Federal, State, and local permits.

"(3) RELATION TO LAND USE AND DEVELOPMENT REGULATIONS.—As a condition on entering into an agreement to provide financial assistance under this subsection, the Secretary, working in concert with the eligible local organization, may require that proper zoning or other developmental regulations are in place in the watershed in which the structural measures to be rehabilitated under the agreement are located so that—

"(A) the completed rehabilitation project is not quickly rendered inadequate by additional development; and

"(B) society can realize the full benefits of the rehabilitation investment.

"(c) TECHNICAL ASSISTANCE FOR WATERSHED PROJECT REHABILITATION.—The Secretary, acting through the Natural Resources Conservation Service, may provide technical assistance in planning, designing, and implementing rehabilitation projects should an eligible local organization request such assistance. Such assistance may consist of specialists in such fields as engineering, geology, soils, agronomy, biology, hydraulics, hydrology, economics, water quality, and contract administration.

"(d) PROHIBITED USE.—

"(1) PERFORMANCE OF OPERATION AND MAINTENANCE.—Rehabilitation assistance provided under this section may not be used to perform operation and maintenance activities specified in the agreement for the covered water resource project entered into between the Secretary and the eligible local organization responsible for the works of improvement. Such operation and maintenance activities shall remain the responsibility of the local organization, as provided in the project work plan.

"(2) RENEGOTIATION.—Notwithstanding paragraph (1), as part of the provision of financial assistance under subsection (b), the

Secretary may renegotiate the original agreement for the covered water resource project entered into between the Secretary and the eligible local organization regarding responsibility for the operation and maintenance of the project when the rehabilitation is finished.

"(e) APPLICATION FOR REHABILITATION ASSISTANCE.—An eligible local organization may apply to the Secretary for technical and financial assistance under this section if the application has also been submitted to and approved by the State agency having supervisory responsibility over the covered water resource project at issue or, if there is no State agency having such responsibility, by the Governor of the State. The Secretary shall request the State dam safety officer (or equivalent State official) to be involved in the application process if State permits or approvals are required. The rehabilitation of structural measures shall meet standards established by the Secretary and address other dam safety issues. At the request of the eligible local organization, personnel of the Natural Resources Conservation Service of the Department of Agriculture may assist in preparing applications for assistance.

"(f) JUSTIFICATION FOR REHABILITATION ASSISTANCE.—In order to qualify for technical or financial assistance under this authority, the Secretary shall require the rehabilitation project to be performed in the most cost-effective manner that accomplishes the rehabilitation objective. Since the requirements for accomplishing the rehabilitation are generally for public health and safety reasons, in many instances being mandated by other State or Federal laws, no benefit-cost analysis will be conducted and no benefit-cost ratio greater than one will be required. The benefits of and the requirements for the rehabilitation project shall be documented to ensure the wise and responsible use of Federal funds.

"(g) RANKING OF REQUESTS FOR REHABILITATION ASSISTANCE.—The Secretary shall establish such system of approving rehabilitation requests, recognizing that such requests will be received throughout the fiscal year and subject to the availability of funds to carry out this section, as is necessary for proper administration by the Department of Agriculture and equitable for all eligible local organizations. The approval process shall be in writing, and made known to all eligible local organizations and appropriate State agencies.

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary \$60,000,000 for each of the fiscal years 2000 through 2009 to provide financial and technical assistance under this section.

"(i) ASSESSMENT OF REHABILITATION NEEDS.—Of the amount appropriated pursuant to subsection (h) for fiscal years 2000 and 2001, \$5,000,000 shall be used by the Secretary, in concert with the responsible State agencies, to conduct an assessment of the rehabilitation needs of covered water resource projects in all States in which such projects are located.

"(j) RECORDKEEPING AND REPORTS.—

"(1) SECRETARY.—The Secretary shall maintain a data base to track the benefits derived from rehabilitation projects supported under this section and the expenditures made under this section. On the basis of such data and the reports submitted under paragraph (2), the Secretary shall prepare and submit to Congress an annual report providing the status of activities conducted under this section.

"(2) GRANT RECIPIENTS.—Not later than 90 days after the completion of a specific rehabilitation project for which assistance is provided under this section, the eligible local organization that received the assistance

shall make a report to the Secretary giving the status of any rehabilitation effort undertaken using financial assistance provided under this section."

STATE OF GEORGIA,
OFFICE OF THE GOVERNOR,
Atlanta, June 16, 1999.

Hon. PAUL COVERDELL,
U.S. Senate, Russell Senate Office Building,
Washington, DC.

DEAR PAUL: The purpose of this correspondence is to encourage your strong and active support for H.R. 728, the Small Watershed Rehabilitation Amendment of 1999. H.R. 728 was introduced by Representative Frank D. Lucas of Oklahoma and amends the Watershed Protection and Flood Prevention Act (P.L. 83-566, 16 U.S.C. 1001 et seq.) by adding a new section to provide federal cost-share for rehabilitation of structural measures that are near, at, or past their evaluated life expectancy. Cost-share assistance will be provided to local watershed, conservation and other districts that have the legal responsibility for the safety and conditions of watershed dams throughout the United States. The need for funding by H.R. 728 results from the fact that the United States Department of Agriculture now has neither the authority nor funds for rehabilitation of watershed structures.

To date, there have been over 10,400 watershed dams constructed with the help of federal cost-share funds, primarily through Public Law 83-566, the Watershed Protection and Flood Prevention Act. Georgia has 351 watershed structures as a result of this program. Many of these dams are nearing, or are already at the end of, their design lifetime—50 years—and are in need of significant rehabilitation to maintain structural integrity and dam safety. Twenty-two of Georgia's Soil and Water Conservation Districts have primary responsibility for operating and maintaining these 351 dams, and many of our districts share responsibility with local governments on the remaining structures. Since FY96, the state of Georgia has appropriated over \$4.6 million to bring these structures in compliance with the Georgia Safe Dams Act.

These watershed structures provide over \$16 million of benefits each year to Georgia communities by protecting urban and rural infrastructures, as well as personal property, from flooding and flood damage. These dams also protect irreplaceable natural resources through an effective watershed approach.

Representative Lucas is currently seeking co-sponsors for this bill in the House. Congressmen Nathan Deal and Saxby Chambliss have already become co-sponsors of H.R. 728. I would like to ask for your support in co-sponsoring this legislation; it is important to Georgia's soil and water conservation districts and the state of Georgia.

Thank you.

Sincerely,

ROY E. BARNES.

OFFICE OF THE COMMISSIONER,
Pickens County, GA, October 20, 1999.
Senator PAUL COVERDELL,
Russell Senate Office Bldg., Washington, DC.

DEAR SENATOR COVERDELL: I certainly appreciate and support your effort to introduce the Small Watershed Rehabilitation Act 1999.

As you know, these watershed structures are very well placed in 19 sites throughout our County preventing major runoff, erosion and flooding.

Even though our efforts to maintain them are ongoing we are somewhat limited by

budget and time restraints due to routine County maintenance.

Sincerely,

FRANK MARTIN,
Commissioner.

PAULDING COUNTY BOARD
OF COMMISSIONERS,
Dallas, GA, October 20, 1999.

Hon. PAUL COVERDELL,
Russell Senate Office Building, Washington, DC.

DEAR SENATOR COVERDELL: I would like to offer you my support for the Small Watershed Rehabilitation Senate Bill that you will be introducing. I appreciate your efforts on behalf of Paulding County. If there is ever anything I can do for you, please don't hesitate to give me a call.

Sincerely,

BILL CARRUTH,
Chairman.

PAULDING COUNTY
BOARD OF COMMISSIONERS,
Dallas, GA, October 20, 1999.

Hon. PAUL COVERDELL,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR COVERDELL: In reference to the Small Watershed Rehabilitation Senate Bill that you will be introducing, I want to offer you my support in your efforts to get this passed. I appreciate your time and effort in what you are doing for Paulding County and if there is ever anything I can do for you, please don't hesitate to give me a call.

Sincerely,

HAL ECHOLS,
Post III Commissioner.

PAULDING COUNTY
BOARD OF COMMISSIONERS,
Dallas, GA, October 20, 1999.

Hon. PAUL COVERDELL,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR COVERDELL: In reference to the Small Watershed Rehabilitation Senate Bill that you will be introducing, I want to offer you my support in your efforts to get this passed. I appreciate your time and effort in what you are doing for Paulding County and if there is ever anything I can do for you, please don't hesitate to give me a call.

Sincerely,

ROGER LEGGETT,
Post II Commissioner.

PAULDING COUNTY
BOARD OF COMMISSIONERS,
Dallas, GA, October 20, 1999.

Hon. PAUL COVERDELL,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR COVERDELL: I am in total support of the Watershed Dam bill you will be introducing. We have many watershed dams in Paulding County that are in need of repair.

If you need any additional, please call me.
Sincerely,

MIKE J. POPE,
Commissioner, Post I.

COBB COUNTY BOARD
OF COMMISSIONERS,
Marietta, GA, October 19, 1999.

Hon. PAUL COVERDELL,
U.S. Senate, Russell Senate Office Building,
Washington, DC.

DEAR SENATOR COVERDELL: I want to formally endorse your sponsorship of legislation to amend the Watershed Protection and Flood Prevention Act, in order to provide financial assistance to local entities working

to rehabilitate structural measures constructed as part of a covered water resource project.

Having federal financial assistance available to address a portion of the costs for the rehabilitation of structures that impound water can ensure that appropriate revenues and support will be available as Cobb County works to extend the service life of these structures.

Finally, I appreciate the effort on behalf of Congress to address the safety concerns associated with the maintenance of these aging structures. The protection of life and property is a priority and assistance in this effort is most appreciated.

Please know that I aggressively support this legislation and your sponsorship.

Sincerely,

BILL BYRNE,
Chairman.

—
GWINNETT COUNTY,
Office of the County Administrator,
October 19, 1999.

Senator PAUL D. COVERDELL,
Colony Square, Atlanta, GA.

SENATOR COVERDELL: I appreciate the opportunity to give input on the Watershed Rehabilitation Legislation. I have reviewed the draft bill, and it appears to be in our best interest for this legislation to pass. It provides 65% rehabilitation funding for existing soil conservation service dams. This funding can also be used to extend the life of the dams, correct accelerated deterioration, correct damage from a catastrophic event, or upgrade the dam to meet changed land use conditions in the watershed.

It appears that no funding is currently available for this work, and since Gwinnett County has responsibility for 14 of the referenced dams, we support this draft legislation. If you have any questions or need additional information, please feel free to call me at (770) 822-7021. Thank you.

Sincerely,

CHARLOTTE NASH,
County Administrator.

—
HABERSHAM COUNTY,
OFFICE OF COUNTY COMMISSIONERS,
Clarksville, GA, October 20, 1999.

To: Mr. RICHARD GUPTON.

Subject: Small Watershed Rehabilitation Act of 1999.

DEAR SIR: We fully support Senator Paul Coverdell's effort to obtain federal funds to up grade and maintain the watershed dams in our county. These dams have provided and are still providing much needed flood protection and other benefits including municipal water. The cost of bringing these dams up to safe dams standards far exceeds our budget. Any help from the federal level is certainly a wise use of tax dollars.

Sincerely,

JERRY L. TANKSLEY,
Chairman.

—
CITY OF HOGANSVILLE,
E. MAIN STREET,
Hogansville, GA, October 21, 1999.

HONORABLE PAUL COVERDELL: The reservoir here in Hogansville was built in the mid 1970's primarily for the purpose of flood control. It has served the community exceptionally well in its intended purpose.

It can't be overstated as to how important the maintenance of the dam is to the integrity of the dam and the safety to the community immediately downstream.

As with anything we do, it does cost to properly maintain the dam and these costs escalate each year. It is extremely important that we receive Federal financial assistance

with the maintenance of the dam at our reservoir.

Sincerely,

DAVID ALDRICH,
City Manager.

—
UPPER CHATTAHOOCHEE RIVER SOIL
AND WATER CONSERVATION DISTRICT,

October 20, 1999.

Re Watershed Dam Rehabilitation.

Mr. RICHARD GUPTON.

DEAR MR. GUPTON: I would like to express our strongest support for Senator Coverdell's Bill to provide assistance to repair the watershed dams across the county and especially important to me the dams in Forsyth County.

I have been a supervisor in Forsyth County for over five years and have seen first hand the tremendous benefits that these structures have provided the citizens of Forsyth County.

As these dams approach 40 and 50 years old the District has seen the urgent need for federal assistance in performing necessary repairs and upgrades to meet new regulations and standards. This assistance is urgently needed to upgrade these structures so they can continue to provide benefits in the year to come.

Sincerely,

LEONARD RIDINGS,
District Supervisor.

—
BARTOW COUNTY
COMMISSIONER'S OFFICE,
October 21, 1999.

Senator PAUL COVERDELL,
U.S. Senate, Washington, DC.
Re Watershed Dams Legislation.

DEAR SENATOR COVERDELL: As County Commissioner, I support the legislation currently being considered on watershed dams.

Bartow County has seven watershed dams. This legislation, if passed, would benefit many counties, like Bartow that have several of these dams to maintain.

Thank you for your endorsement of this legislation.

Very truly yours,

CLARENCE BROWN,
SOLE COMMISSIONER,
Bartow County, GA.

—
NATIONAL WATERSHED COALITION,
October 4, 1999.

Hon. PAUL D. COVERDELL,
U.S. Senate, Washington, DC.

DEAR SENATOR COVERDELL: Recently I have heard you might be considering introducing a Small Watershed Rehabilitation Bill in the Senate, much like H.R. 728 that is working its way through the House of Representatives. This letter is to support you in that endeavor, and offer the resources of the National Watershed Coalition (NWC) in that support.

Our NWC represents local watershed project sponsors at the national level. For many years they have been telling us that our nation's small watershed structures, which provide invaluable benefits to society, in some instances are in vital need of rehabilitation and upgrading to meet current standards. In many cases, these local sponsors, no matter how much they would like to be able to accomplish these mandated upgrades, simply do not have the financial capability to do so, and are not likely to get that capability soon. Your own state of Georgia has been a national leader in recognizing this problem and assisting these local project sponsors with technical and financial help. Even with Georgia's own statewide rehabilitation program, more is needed. We believe that since the federal government worked with these local sponsors in planning

and building these structures, and since much of the required upgrading is as a result of changed federal policies, it just makes sense that the federal government assist with the rehabilitation on a cost-sharing basis much as they did the original construction.

Within the next 10 years, 69 of Georgia's 357 watershed structures will reach the end of their designed lifespan. Georgia has about 130 structures that need some modification, and the cost estimate is \$85 million. The cost of rehabilitating these structures can be expensive. Two dams were recently modified in Georgia's Etowah River and Raccoon Creek Watersheds at a cost of nearly \$750,000 each. With rehabilitation, these very worthwhile structures will continue to provide benefits to society for years to come. It has been estimated these watershed projects provide \$2.20 in benefits for every \$1.00 of cost. That is the kind of federal investment we ought to be protecting.

The NWC is pleased you are considering introducing such a bill, and will help.

Sincerely,

W.R. "BILL" HAMM,
Chairman.

—
NATIONAL WATERSHED COALITION,
Burke, VA.

NATIONAL WATERSHED COALITION—WHAT IS IT?—WHO IS IT?

The National Watershed Coalition is a non-profit organization consisting of national, regional, state, and local associations and organizations that have joined forces to advocate the use of the watershed or hydrologic unit concept when assessing natural resources issues. Additionally, we are pooling our resources to support and strengthen USDA's Small Watershed Protection and Flood Prevention Programs (PL 534 & 566) as we believe they represent the best available planning and implementation vehicles for water and land resource management. The Coalition also supports other water resources programs employing total resource based principles in planning, and the rehabilitation of older projects.

The affairs of the Coalition are managed by a steering committee made up of representatives of all participating national, regional, and state organizations and associations. Current steering committee membership includes: Alabama Association of Conservation Districts; Arkansas Watershed Coalition; Associated General Contractors of America; Association of State Dam Safety Officials; Association of State Floodplain Managers; Association of Texas Soil & Water Conservation Districts; Interstate Council on Water Policy; Iowa Watersheds; Kansas Association of Conservation Districts; Land Improvement Contractors of America; Lower Colorado River Authority, Texas; Mississippi Association of Conservation Districts; Missouri Watershed Association; National Association of Conservation Districts; National Association of Flood and Stormwater Management Agencies; National Association of State Conservation Agencies; New Mexico Watershed Coalition; North Carolina Association of Soil & Water Conservation Districts; Oklahoma Association of Conservation Districts; Oklahoma Conservation Commission; Pennsylvania Division of Conservation Districts; Soil & Water Conservation Society; South Carolina Association of Conservation Districts; South Carolina Land Resources Conservation Commission; State Association of Kansas Watersheds; Tennessee Association of Conservation Districts; Texas Association of Watershed Sponsors; Texas State Soil & Water Conservation Board; Tombigbee River Valley Water Management District, Mississippi; Town Creek Water

Management District of Lee, Pontotoc, Prentiss & Union Counties, Mississippi; Virginia Association of Soil & Water Conservation Districts; West Virginia Soil & Water Conservation District Supervisors Association; West Virginia State Soil Conservation Agency; and Wisconsin PL-566 Coalition.

MEMBERSHIPS

The National Watershed Coalition includes among its membership a number of supporters (local watershed sponsors and individuals), who have made voluntary tax-exempt contributions to support the Coalition's efforts. Funds obtained through memberships are used to provide information to all members, and help defray expenses of publishing the newsletter, mailings and a biennial conference. Our membership categories are individual, organization and Steering Committee.

HOW THE STEERING COMMITTEE WORKS

The steering committee meets three to four times each year to review problems and concerns about water resources issues and the PL 534 & 566 watershed programs and related authorities, and discuss recommendations on how the program can be improved. Each representative takes recommendations back to their own organization and follows up with their own membership, committees, and contacts. There is also regular communication throughout the year concerning progress made on current watershed management issues.

There is no required membership fee to become a member of the Steering Committee of the National Watershed Coalition, although some organizations do make a voluntary contribution in support. In addition, representatives of participating organizations and associations pay their own wages and expenses for attendance at committee meetings, and handle their own clerical and postage expenses inhouse. Steering committee members are encouraged to also be Individual Members.

From time to time, there has been, and may be again, solicitation for funds for specific purposes toward a common goal; however, it is understood that solicited funds are to be given entirely on a voluntary basis. The Coalition is a 501(c)(3) organization. Funds contributed to the Coalition are tax deductible.

If your organization wishes to play a more active role in this effort, we welcome your participation. All you need to do is write to the address indicated below requesting to be a part of this important effort, explaining your organization's interest and support for the watershed approach and the Small Watershed Programs, and providing the name, title, and address of the person designated to represent your group. When your organization receives its acceptance letter, you will be included on the mailing list and invited to participate in all steering committee meetings. We welcome all interested organizations.

We look forward to hearing from you. The more participation we have, the stronger our voice will be.

By Mr. DEWINE (for himself and Mr. KOHL):

S. 1764. A bill to make technical corrections to various antitrust laws and to references to such laws; to the Committee on the Judiciary.

ANTITRUST TECHNICAL CORRECTIONS AND IMPROVEMENTS ACT OF 1999

• Mr. KOHL. Mr. President, I rise today to co-sponsor the Antitrust Technical Corrections and Improvements Act of 1999 with my colleague

MIKE DEWINE. This act makes five miscellaneous technical corrections to the antitrust laws. Companion legislation to this bill has been introduced in the House by Representatives HYDE and CONYERS.

One of the technical corrections repeals an outdated provision which applies only to the Panama Canal, one clarifies a long existing ambiguity and expressly ensures that the Sherman Act applies to the District of Columbia and the territories, and another repeals a redundant jurisdictional provision. In addition, two other provisions correct typographical errors in two antitrust statutes—the inadvertent mislabeling of an amendment to the Clayton Act passed last year and another a punctuation error in the Year 2000 Information and Readiness Disclosure Act.

The only difference between our bill and the House companion is that the House would repeal an outdated statute—the Taking Depositions in Public Act—which requires that pre-trial depositions in antitrust cases brought by the government be taken in public. This provision was enacted in 1913 at a time when antitrust cases were tried under completely different procedures from today and testimony was usually not taken in open court. In other words, back then antitrust trials were essentially conducted “on paper.” This statute was virtually ignored—and unused—until the past year. This provision was revived last year when, as part of its antitrust lawsuit against Microsoft, the government deposed Bill Gates.

Now, of course, people need to be deposed if they possess evidence that may be integral to the resolution of the case. But today the 1913 statute seems both unnecessary, counter-productive and, even, voyeuristic—that is, if you can have voyeurism in an antitrust context. Its need has vanished because testimony is now taken in open court in antitrust cases, as it is in any other. Indeed, requiring the depositions of prominent figures such as Bill Gates and Steve Case in controversial and widely publicized cases inevitably creates a media “feeding frenzy” contrary to the sound administration of justice and a sober examination of complicated legal issues.

So I would support the House provision but, at this point, my belief is that it is more important to move the underlying measure in a timely manner than to wait to develop a consensus on the deposition provision in the Senate. We'll work on that consensus here, or we'll work the differences out in conference.

Mr. President, I ask that a summary of the bill be printed in the RECORD. I look forward to working with my colleagues to turn this bill into law.

The summary of the bill follows:

SUMMARY OF THE ANTITRUST TECHNICAL CORRECTIONS AND IMPROVEMENTS ACT OF 1999

1. Repeal of the Antitrust Provision of the Panama Canal Act (15 U.S.C. §31)—Section 11 of the Panama Canal Act provides that no

vessel owned by someone who is violating the antitrust laws may pass through the Panama Canal. With the return of the Canal to Panamanian sovereignty at the end of 1999, it is appropriate to repeal this outdated provision.

2. Clarification that Section 2 of the Sherman Act Applies to the District and the Territories (15 U.S.C. §3)—Sections 1 and 2 of the Sherman Act are two of the central provisions of the antitrust laws. Section 1 prohibits combinations or conspiracies in restraint of trade, and Section 2 prohibits monopolization. Section 3 of the Sherman Act was intended to apply these provisions to the District of Columbia and the various territories of the United States. Unfortunately, however, section 3 is ambiguously drafted and leaves it unclear whether Section 2 applies to the District of Columbia and the territories. This bill clarifies that both Section 1 and Section 2 apply to the District and the Territories.

3. Repeal of Redundant Antitrust Jurisdictional Provision in Section 77 at the Wilson Tariff Act—In 1955, Congress modernized the jurisdictional and venue provisions relating to antitrust suits by amendment Section 4 of the Clayton Act (15 U.S.C. §15). At that time, it repealed the redundant jurisdiction provision in Section 7 of the Sherman Act, but not the corresponding provision in Section 77 of the Wilson Tariff Act. It appears that this was an oversight because Section 77 was never codified and has rarely been used. Repealing Section 77 will not change any substantive rights because Section 4 of the Clayton Act provides any potential plaintiff with the same rights. Rather it simply rides the law of a confusing, redundant, and little used provision.

4. Technical Amendment to the Curt Flood Act of 1998 (Public Law 105-297)—This provision corrects an inadvertent technical error in the statutory codification of the Curt Flood Act of 1998, the statute which provided that major league baseball players are covered under the antitrust law. The Curt Flood Act was codified to a section number of the Clayton Act which was already in use. The amendment corrects this error by redesignating the statute as section 28 of the Clayton Act. This substantive change to the statute is intended.

5. Technical Amendment to the Year 2000 Information and Readiness Disclosure Act—This provision corrects a typographical error in the statute as enacted by the inserting a missing period in section 5(a)(2). No substantive change to the statute is intended.●

By Mrs. FEINSTEIN (for herself and Mrs. BOXER):

S. 1765. A bill to prohibit post-viability abortions; to the Committee on the Judiciary.

THE LATE-TERM ABORTION BAN BILL

Mrs. FEINSTEIN. Mr. President, Senator BOXER and I today are introducing a bill to ban abortions after a fetus is viable.

The bill has 3 provisions:

(1) It bans post-viability abortions.

(2) It provides an exception to the ban if, in the medical judgment of the attending physician, the abortion is necessary to preserve the life of the woman or to avert serious adverse health consequences to the woman.

(3) It includes two civil penalties:

For the first offense, a fine not to exceed \$10,000. For the second offense, revocation of a physician's medical license.

This amendment is similar to S. 481 which we introduced in the previous Congress and the amendment we offered as a substitute to the "partial-birth abortion bill" when the Senate considered it. The major difference is that the bill we introduce today adds the penalty of revocation of the medical license for a second offense. S. 481 did not include this penalty. Both S. 481 and this bill have as the penalty for the first offense a \$10,000 fine.

This bill reflects my deep belief that abortions after a fetus is viable should not take place except in the rarest of circumstances to protect the life and health of the mother. That is the intent of this bill.

The medical community has said that there are very occasionally very extraordinary and tragic circumstances when a physician may determine that a postviability abortion is the safest procedure for protecting a woman's health. These are circumstances which most of us can never imagine.

Leading medical organizations say that post-viability abortions are rare and should be rare. They say that medical decisions should be made by doctors who must determine the best procedure. For example, the American College of Obstetricians and Gynecologists, has said:

ACOG has never supported post-viability abortions except for the constitutionally protected exception of saving the life or health of a woman.

There may be circumstances where the physician and patient would reach the conclusion that this procedure [Intact Dilatation and Extraction after 16 weeks of pregnancy] is the most medically appropriate . . . there is a need for flexibility in handling unexpected situations. . . .

The California Medical Association wrote me, "The determination of the medical need for, and effectiveness of, particular medical procedures must be left to the medical profession, to be reflected in the standard of care . . . The legislative process is ill-suited to evaluate complex medical procedures whose importance may vary with a particular patient's case and with the state of scientific knowledge."

Congress cannot anticipate every conceivable medical situation. Only the doctor, in consultation with the patient, based upon the woman's unique medical history and health can make this decision of how best to protect the woman's health.

This substitute is designed to protect the fetus, to protect the woman's life and health and to give the physician the latitude to make the necessary medical decisions in those rarest of circumstances.

The U.S. Supreme Court, in the 1973 *Roe v. Wade* decision, held that the woman's health must be the physician's primary concern and the physician must be given the discretion he or she needs to choose the most appropriate abortion method to protect the woman's life and health.

The Supreme Court has defined "health of the mother." In *Doe v.*

Bolton, the Court held that the decision of whether a woman requires an abortion for the health of the mother is a medical judgment to "be exercised in light of all factors—physical, emotional, psychological, familial, and the woman's age—relevant to the well-being of the patient." In so doing, the Court further recognized a doctor's important role in determining whether an abortion is necessary.

I believe that the language of this bill—unlike S. 1692, Senator SANTORUM's bill and the substitute offered yesterday by Senator DURBIN—has a meaningful health exception for the woman and is constitutional.

The decision to have an abortion—by the mother, the father, the physician—is never an easy one. It is the most wrenching decision any woman could ever have to make. It is a profoundly, impossibly difficult decision in the late stages of pregnancy.

No physician would perform a postviability abortion without extended and serious consideration. Because the physician's action has consequences for human life and the action should not be undertaken except in the gravest of circumstances, the substitute includes two penalties. It creates for the first offense a \$10,000 fine; for the second offense, revocation of the physician's license.

I oppose post-viability abortions. They are wrong, except to save the mother's life and health. Late-term abortions are rare and they should be rare.

I will vote against S. 1692, Senator SANTORUM's bill, because it is not constitutional. It does not include adequate protections for a woman's health.

I believe this bill is a far preferable approach. Its penalties represent grave consequences for violations. It protects the fetus except in extraordinary circumstances that could have serious adverse consequences for the mother's health. It protects a woman's life and health.

I hope my colleagues will join me in passing this bill.

By Mr. INOUE (for himself and Mr. AKAKA):

S. 1767. A bill to amend the Elementary and Secondary Education Act of 1965 to improve Native Hawaiian education programs, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

NATIVE HAWAIIAN EDUCATION REAUTHORIZATION ACT

Mr. INOUE. Mr. President, I rise today to introduce a bill, on behalf of myself and Senator AKAKA, that would provide for the reauthorization of the Native Hawaiian Education Act.

First enacted into law in 1988 as part of the Elementary and Secondary Education Act, the Native Hawaiian Education Act provides support for the education of native Hawaiian students in furtherance of the United States' trust responsibility to the native people of Hawaii.

Mr. President, I am sad to report that while these programs are begin-

ning to demonstrate an improved pattern of academic performance and achievement, we still have a way to go, as the following statistics would indicate.

Education risk factors continue to start even before birth for many native Hawaiian children, including late or no prenatal care, high rates of births to unmarried native Hawaiian mothers, and high rates of births to teenage parents.

Native Hawaiian students continue to begin their school experience lagging behind other students in terms of readiness factors such as vocabulary test scores;

Native Hawaiian students continue to score below national norms on standardized education achievement tests at all grade levels;

Both public and private schools continue to show a pattern of lower percent ages of native Hawaiian students in the uppermost achievement levels and in gifted and talented programs;

Native Hawaiian students continue to be over-represented among students qualifying for special education programs provided to students with learning disabilities, mild mental retardation, emotional impairment, and other such disabilities;

Native Hawaiian continue to be under-represented in institutions of higher education and among adults who have completed four or more years of college;

Native Hawaiian continue to be disproportionately represented in many negative social and physical statistics indicative of special educational needs, as demonstrated by the fact that—

Native Hawaiian students are more likely to be retained in grade level and to be excessively absent in secondary school;

Native Hawaiian students have the highest rates of drug and alcohol use in the State of Hawaii; and

Native Hawaiian children continue to be disproportionately victimized by child abuse and neglect; and

In the 1988, National Assessment of Educational Progress, Hawaiian fourth graders ranked 39 among groups of students from 39 States in reading.

Mr. President, because Hawaiian students rank among the lowest groups of students nationally in reading, and because native Hawaiian students rank the lowest among Hawaiian students in reading, it is imperative that greater focus be placed on beginning reading and early education and literacy in Hawaii.

Mr. President, there was a time in the history of Hawaii when there were very high rates of literacy and integration of traditional culture and Western Education among native Hawaiians. These high rates were attributable to the Hawaiian language-based public school system established in 1840 by King Kamehameha III.

Mr. President, if we are to reverse the course of these downward trends in

educational achievement and academic performance of native Hawaiian students, it is critical that the initiatives authorized by the Native Hawaiian Education Act be reauthorized.

Mr. President, I respectfully request unanimous consent that the text of this measure be printed in the RECORD.

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

S. 1767

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Native Hawaiian Education Reauthorization Act".

SEC. 2. NATIVE HAWAIIAN EDUCATION.

Part B of title IX of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7901 et seq.) is amended to read as follows:

"PART B—NATIVE HAWAIIAN EDUCATION"

"SEC. 9201. SHORT TITLE.

"This part may be cited as the 'Native Hawaiian Education Act'.

"SEC. 9202. FINDINGS.

"Congress finds the following:

"(1) Native Hawaiians are a distinct and unique indigenous people with a historical continuity to the original inhabitants of the Hawaiian archipelago, whose society was organized as a nation and internationally recognized as a nation by the United States, Britain, France, and Japan, as evidenced by treaties governing friendship, commerce, and navigation.

"(2) At the time of the arrival of the first non-indigenous people in Hawai'i in 1778, the Native Hawaiian people lived in a highly organized, self-sufficient subsistence social system based on a communal land tenure system with a sophisticated language, culture, and religion.

"(3) A unified monarchical government of the Hawaiian Islands was established in 1810 under Kamehameha I, the first King of Hawai'i.

"(4) From 1826 until 1893, the United States recognized the sovereignty and independence of the Kingdom of Hawai'i, which was established in 1810 under Kamehameha I, extended full and complete diplomatic recognition to the Kingdom of Hawai'i, and entered into treaties and conventions with the Kingdom of Hawai'i to govern friendship, commerce and navigation in 1826, 1842, 1849, 1875, and 1887.

"(5) In 1893, the sovereign, independent, internationally recognized, and indigenous government of Hawai'i, the Kingdom of Hawai'i, was overthrown by a small group of non-Hawaiians, including United States citizens, who were assisted in their efforts by the United States Minister, a United States naval representative, and armed naval forces of the United States. Because of the participation of United States agents and citizens in the overthrow of the Kingdom of Hawai'i, in 1993 the United States apologized to Native Hawaiians for the overthrow and the deprivation of the rights of Native Hawaiians to self-determination through Public Law 103-150 (107 Stat. 1510).

"(6) In 1898, the joint resolution entitled 'Joint Resolution to provide for annexing the Hawaiian Islands to the United States', approved July 7, 1898 (30 Stat. 750), ceded absolute title of all lands held by the Republic of Hawai'i, including the government and crown lands of the former Kingdom of Hawai'i, to the United States, but mandated that revenue generated from the lands be used 'solely for the benefit of the inhabitants

of the Hawaiian Islands for educational and other public purposes'.

"(7) By 1919, the Native Hawaiian population had declined from an estimated 1,000,000 in 1778 to an alarming 22,600, and in recognition of this severe decline, Congress enacted the Hawaiian Homes Commission Act, 1920 (42 Stat. 108), which designated approximately 200,000 acres of ceded public lands for homesteading by Native Hawaiians.

"(8) Through the enactment of the Hawaiian Homes Commission Act, 1920, Congress affirmed the special relationship between the United States and the Native Hawaiians, which was described by then Secretary of the Interior Franklin K. Lane, who said: 'One thing that impressed me . . . was the fact that the natives of the island who are our wards, I should say, and for whom in a sense we are trustees, are falling off rapidly in numbers and many of them are in poverty.'.

"(9) In 1938, Congress again acknowledged the unique status of the Hawaiian people by including in the Act of June 20, 1938 (52 Stat. 781, chapter 530; 16 U.S.C. 391b, 391b-1, 392b, 392c, 396, 396a), a provision to lease lands within the National Parks extension to Native Hawaiians and to permit fishing in the area 'only by native Hawaiian residents of said area or of adjacent villages and by visitors under their guidance.'.

"(10) Under the Act entitled 'An Act to provide for the admission of the State of Hawaii into the Union', approved March 18, 1959 (73 Stat. 4), the United States transferred responsibility for the administration of the Hawaiian Home Lands to the State of Hawai'i but reaffirmed the trust relationship between the United States and the Hawaiian people by retaining the exclusive power to enforce the trust, including the power to approve land exchanges and amendments to such Act affecting the rights of beneficiaries under such Act.

"(11) In 1959, under the Act entitled 'An Act to provide for the admission of the State of Hawaii into the Union', the United States also ceded to the State of Hawai'i title to the public lands formerly held by the United States, but mandated that such lands be held by the State 'in public trust' and reaffirmed the special relationship that existed between the United States and the Hawaiian people by retaining the legal responsibility to enforce the public trust responsibility of the State of Hawai'i for the betterment of the conditions of Native Hawaiians, as defined in section 201(a) of the Hawaiian Homes Commission Act, 1920.

"(12) The United States has recognized and reaffirmed that—

"(A) Native Hawaiians have a cultural, historic, and land-based link to the indigenous people who exercised sovereignty over the Hawaiian Islands, and that group has never relinquished its claims to sovereignty or its sovereign lands;

"(B) Congress does not extend services to Native Hawaiians because of their race, but because of their unique status as the indigenous people of a once sovereign nation as to whom the United States has established a trust relationship;

"(C) Congress has also delegated broad authority to administer a portion of the Federal trust responsibility to the State of Hawaii;

"(D) the political status of Native Hawaiians is comparable to that of American Indians and Alaska Natives; and

"(E) the aboriginal, indigenous people of the United States have—

"(i) a continuing right to autonomy in their internal affairs; and

"(ii) an ongoing right of self-determination and self-governance that has never been extinguished.

"(13) The political relationship between the United States and the Native Hawaiian people has been recognized and reaffirmed by the United States, as evidenced by the inclusion of Native Hawaiians in—

"(A) the Native American Programs Act of 1974 (42 U.S.C. 2991 et seq.);

"(B) the American Indian Religious Freedom Act (42 U.S.C. 1996);

"(C) the National Museum of the American Indian Act (20 U.S.C. 80q et seq.);

"(D) the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.);

"(E) the National Historic Preservation Act (16 U.S.C. 470 et seq.);

"(F) the Native American Languages Act (25 U.S.C. 2901 et seq.);

"(G) the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act (20 U.S.C. 4401 et seq.);

"(H) the Job Training Partnership Act (29 U.S.C. 1501 et seq.) and the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.); and

"(I) the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.).

"(14) In 1981, Congress instructed the Office of Education to submit to Congress a comprehensive report on Native Hawaiian education. The report, entitled the 'Native Hawaiian Educational Assessment Project', was released in 1983 and documented that Native Hawaiians scored below parity with regard to national norms on standardized achievement tests, were disproportionately represented in many negative social and physical statistics indicative of special educational needs, and had educational needs that were related to their unique cultural situation, such as different learning styles and low self-image.

"(15) In recognition of the educational needs of Native Hawaiians, in 1988, Congress enacted title IV of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (102 Stat. 130) to authorize and develop supplemental educational programs to address the unique conditions of Native Hawaiians.

"(16) In 1993, the Kamehameha Schools Bishop Estate released a 10-year update of findings of the Native Hawaiian Educational Assessment Project, which found that despite the successes of the programs established under title IV of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988, many of the same educational needs still existed for Native Hawaiians. Subsequent reports by the Kamehameha Schools Bishop Estate and other organizations have generally confirmed those findings. For example—

"(A) educational risk factors continue to start even before birth for many Native Hawaiian children, including—

"(i) late or no prenatal care;

"(ii) high rates of births by Native Hawaiian women who are unmarried; and

"(iii) high rates of births to teenage parents;

"(B) Native Hawaiian students continue to begin their school experience lagging behind other students in terms of readiness factors such as vocabulary test scores;

"(C) Native Hawaiian students continue to score below national norms on standardized education achievement tests at all grade levels;

"(D) both public and private schools continue to show a pattern of lower percentages of Native Hawaiian students in the uppermost achievement levels and in gifted and talented programs;

"(E) Native Hawaiian students continue to be overrepresented among students qualifying for special education programs provided to students with learning disabilities, mild mental retardation, emotional impairment, and other such disabilities;

"(F) Native Hawaiians continue to be underrepresented in institutions of higher education and among adults who have completed 4 or more years of college;

"(G) Native Hawaiians continue to be disproportionately represented in many negative social and physical statistics indicative of special educational needs, as demonstrated by the fact that—

"(i) Native Hawaiian students are more likely to be retained in grade level and to be excessively absent in secondary school;

"(ii) Native Hawaiian students have the highest rates of drug and alcohol use in the State of Hawai'i; and

"(iii) Native Hawaiian children continue to be disproportionately victimized by child abuse and neglect; and

"(H) Native Hawaiians now comprise over 23 percent of the students served by the State of Hawai'i Department of Education, and there are and will continue to be geographically rural, isolated areas with a high Native Hawaiian population density.

"(I) In the 1998 National Assessment of Educational Progress, Hawaiian fourth-graders ranked 39th among groups of students from 39 States in reading. Given that Hawaiian students rank among the lowest groups of students nationally in reading, and that Native Hawaiian students rank the lowest among Hawaiian students in reading, it is imperative that greater focus be placed on beginning reading and early education and literacy in Hawai'i.

"(18) The findings described in paragraphs (16) and (17) are inconsistent with the high rates of literacy and integration of traditional culture and Western education historically achieved by Native Hawaiians through a Hawaiian language-based public school system established in 1840 by Kamehameha III.

"(19) Following the overthrow of the Kingdom of Hawai'i in 1893, Hawaiian medium schools were banned. After annexation, throughout the territorial and statehood period of Hawai'i, and until 1986, use of the Hawaiian language as an instructional medium in education in public schools was declared unlawful. The declaration caused incalculable harm to a culture that placed a very high value on the power of language, as exemplified in the traditional saying: 'I ka 'ōlelo nō ke ola; I ka 'ōlelo nō ka make. In the language rests life; In the language rests death.'

"(20) Despite the consequences of over 100 years of nonindigenous influence, the Native Hawaiian people are determined to preserve, develop, and transmit to future generations their ancestral territory and their cultural identity in accordance with their own spiritual and traditional beliefs, customs, practices, language, and social institutions.

"(21) The State of Hawai'i, in the constitution and statutes of the State of Hawai'i—

"(A) reaffirms and protects the unique right of the Native Hawaiian people to practice and perpetuate their culture and religious customs, beliefs, practices, and language; and

"(B) recognizes the traditional language of the Native Hawaiian people as an official language of the State of Hawai'i, which may be used as the language of instruction for all subjects and grades in the public school system.

"SEC. 9203. PURPOSES.

"The purposes of this part are to—

"(1) authorize and develop innovative educational programs to assist Native Hawai-

ians in reaching the National Education Goals;

"(2) provide direction and guidance to appropriate Federal, State, and local agencies to focus resources, including resources made available under this part, on Native Hawaiian education, and to provide periodic assessment and data collection;

"(3) supplement and expand programs and authorities in the area of education to further the purposes of this title; and

"(4) encourage the maximum participation of Native Hawaiians in planning and management of Native Hawaiian education programs.

"SEC. 9204. NATIVE HAWAIIAN EDUCATION COUNCIL AND ISLAND COUNCILS.

"(a) ESTABLISHMENT OF NATIVE HAWAIIAN EDUCATION COUNCIL.—In order to better effectuate the purposes of this part through the coordination of educational and related services and programs available to Native Hawaiians, including those programs receiving funding under this part, the Secretary is authorized to establish a Native Hawaiian Education Council (referred to in this part as the 'Education Council').

"(b) COMPOSITION OF EDUCATION COUNCIL.—The Education Council shall consist of not more than 21 members, unless otherwise determined by a majority of the council.

"(c) CONDITIONS AND TERMS.—

"(1) CONDITIONS.—At least 10 members of the Education Council shall be Native Hawaiian education service providers and 10 members of the Education Council shall be Native Hawaiians or Native Hawaiian education consumers. In addition, a representative of the State of Hawai'i Office of Hawaiian Affairs shall serve as a member of the Education Council.

"(2) APPOINTMENTS.—The members of the Education Council shall be appointed by the Secretary based on recommendations received from the Native Hawaiian community.

"(3) TERMS.—Members of the Education Council shall serve for staggered terms of 3 years, except as provided in paragraph (4).

"(4) COUNCIL DETERMINATIONS.—Additional conditions and terms relating to membership on the Education Council, including term lengths and term renewals, shall be determined by a majority of the Education Council.

"(d) NATIVE HAWAIIAN EDUCATION COUNCIL GRANT.—The Secretary shall make a direct grant to the Education Council in order to enable the Education Council to—

"(1) coordinate the educational and related services and programs available to Native Hawaiians, including the programs assisted under this part;

"(2) assess the extent to which such services and programs meet the needs of Native Hawaiians, and collect data on the status of Native Hawaiian education;

"(3) provide direction and guidance, through the issuance of reports and recommendations, to appropriate Federal, State, and local agencies in order to focus and improve the use of resources, including resources made available under this part, relating to Native Hawaiian education, and serve, where appropriate, in an advisory capacity; and

"(4) make direct grants, if such grants enable the Education Council to carry out the duties of the Education Council, as described in paragraphs (1) through (3).

"(e) ADDITIONAL DUTIES OF THE EDUCATION COUNCIL.—

"(1) IN GENERAL.—The Education Council shall provide copies of any reports and recommendations issued by the Education Council, including any information that the Education Council provides to the Secretary pursuant to subsection (i), to the Secretary,

the Committee on Education and the Workforce of the House of Representatives, and the Committee on Indian Affairs of the Senate.

"(2) ANNUAL REPORT.—The Education Council shall prepare and submit to the Secretary an annual report on the Education Council's activities.

"(3) ISLAND COUNCIL SUPPORT AND ASSISTANCE.—The Education Council shall provide such administrative support and financial assistance to the island councils established pursuant to subsection (f) as the Secretary determines to be appropriate, in a manner that supports the distinct needs of each island council.

"(f) ESTABLISHMENT OF ISLAND COUNCILS.—

"(1) IN GENERAL.—In order to better effectuate the purposes of this part and to ensure the adequate representation of island and community interests within the Education Council, the Secretary is authorized to facilitate the establishment of Native Hawaiian education island councils (referred to individually in this part as an 'island council') for the following islands:

"(A) Hawai'i.

"(B) Maui.

"(C) Moloka'i.

"(D) Lana'i.

"(E) O'ahu.

"(F) Kaua'i.

"(G) Ni'ihau.

"(2) COMPOSITION OF ISLAND COUNCILS.—Each island council shall consist of parents, students, and other community members who have an interest in the education of Native Hawaiians, and shall be representative of individuals concerned with the educational needs of all age groups, from children in preschool through adults. At least ¾ of the members of each island council shall be Native Hawaiians.

"(g) ADMINISTRATIVE PROVISIONS RELATING TO EDUCATION COUNCIL AND ISLAND COUNCILS.—The Education Council and each island council shall meet at the call of the chairperson of the appropriate council, or upon the request of the majority of the members of the appropriate council, but in any event not less often than 4 times during each calendar year. The provisions of the Federal Advisory Committee Act shall not apply to the Education Council and each island council.

"(h) COMPENSATION.—Members of the Education Council and each island council shall not receive any compensation for service on the Education Council and each island council, respectively.

"(i) REPORT.—Not later than 4 years after the date of enactment of the Native Hawaiian Education Reauthorization Act, the Secretary shall prepare and submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Indian Affairs of the Senate a report that summarizes the annual reports of the Education Council, describes the allocation and use of funds under this part, and contains recommendations for changes in Federal, State, and local policy to advance the purposes of this part.

"(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$300,000 for fiscal year 2001 and such sums as may be necessary for each of the 4 succeeding fiscal years. Funds appropriated under this subsection shall remain available until expended.

"SEC. 9205. PROGRAM AUTHORIZED.

"(a) GENERAL AUTHORITY.—

"(1) GRANTS AND CONTRACTS.—The Secretary is authorized to make direct grants to, or enter into contracts with—

"(A) Native Hawaiian educational organizations;

“(B) Native Hawaiian community-based organizations;

“(C) public and private nonprofit organizations, agencies, and institutions with experience in developing or operating Native Hawaiian programs or programs of instruction in the Native Hawaiian language; and

“(D) consortia of the organizations, agencies, and institutions described in subparagraphs (A) through (C), to carry out programs that meet the purposes of this part.

“(2) PRIORITIES.—In awarding grants or contracts to carry out activities described in paragraph (3), the Secretary shall give priority to entities proposing projects that are designed to address—

“(A) beginning reading and literacy among students in kindergarten through third grade;

“(B) the needs of at-risk youth;

“(C) needs in fields or disciplines in which Native Hawaiians are underemployed; and

“(D) the use of the Hawaiian language in instruction.

“(3) PERMISSIBLE ACTIVITIES.—Activities provided through programs carried out under this part may include—

“(A) the development and maintenance of a statewide Native Hawaiian early education and care system to provide a continuum of services for Native Hawaiian children from the prenatal period of the children through age 5;

“(B) the operation of family-based education centers that provide such services as—

“(i) programs for Native Hawaiian parents and their infants from the prenatal period of the infants through age 3;

“(ii) preschool programs for Native Hawaiians; and

“(iii) research on, and development and assessment of, family-based, early childhood, and preschool programs for Native Hawaiians;

“(C) activities that enhance beginning reading and literacy among Native Hawaiian students in kindergarten through third grade;

“(D) activities to meet the special needs of Native Hawaiian students with disabilities, including—

“(i) the identification of such students and their needs;

“(ii) the provision of support services to the families of those students; and

“(iii) other activities consistent with the requirements of the Individuals with Disabilities Education Act;

“(E) activities that address the special needs of Native Hawaiian students who are gifted and talented, including—

“(i) educational, psychological, and developmental activities designed to assist in the educational progress of those students; and

“(ii) activities that involve the parents of those students in a manner designed to assist in the students' educational progress;

“(F) the development of academic and vocational curricula to address the needs of Native Hawaiian children and adults, including curriculum materials in the Hawaiian language and mathematics and science curricula that incorporate Native Hawaiian tradition and culture;

“(G) professional development activities for educators, including—

“(i) the development of programs to prepare prospective teachers to address the unique needs of Native Hawaiian students within the context of Native Hawaiian culture, language, and traditions;

“(ii) in-service programs to improve the ability of teachers who teach in schools with concentrations of Native Hawaiian students to meet those students' unique needs; and

“(iii) the recruitment and preparation of Native Hawaiians, and other individuals who live in communities with a high concentration of Native Hawaiians, to become teachers;

“(H) the operation of community-based learning centers that address the needs of Native Hawaiian families and communities through the coordination of public and private programs and services, including—

“(i) preschool programs;

“(ii) after-school programs; and

“(iii) vocational and adult education programs;

“(I) activities to enable Native Hawaiians to enter and complete programs of postsecondary education, including—

“(i) provision of full or partial scholarships for undergraduate or graduate study that are awarded to students based on their academic promise and financial need, with a priority, at the graduate level, given to students entering professions in which Native Hawaiians are underrepresented;

“(ii) family literacy services;

“(iii) counseling and support services for students receiving scholarship assistance;

“(iv) counseling and guidance for Native Hawaiian secondary students who have the potential to receive scholarships; and

“(v) faculty development activities designed to promote the matriculation of Native Hawaiian students;

“(J) research and data collection activities to determine the educational status and needs of Native Hawaiian children and adults;

“(K) other research and evaluation activities related to programs carried out under this part; and

“(L) other activities, consistent with the purposes of this part, to meet the educational needs of Native Hawaiian children and adults.

“(4) SPECIAL RULE AND CONDITIONS.—

“(A) INSTITUTIONS OUTSIDE HAWAII.—The Secretary shall not establish a policy under this section that prevents a Native Hawaiian student enrolled at a 2- or 4-year degree granting institution of higher education outside of the State of Hawai'i from receiving a fellowship pursuant to paragraph (3)(I).

“(B) FELLOWSHIP CONDITIONS.—The Secretary shall establish conditions for receipt of a fellowship awarded under paragraph (3)(I). The conditions shall require that an individual seeking such a fellowship enter into a contract to provide professional services, either during the fellowship period or upon completion of a program of postsecondary education, to the Native Hawaiian community.

“(b) ADMINISTRATIVE COSTS.—Not more than 5 percent of funds provided to a grant recipient under this section for any fiscal year may be used for administrative purposes.

“(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$20,000,000 for fiscal year 2001 and such sums as may be necessary for each of the 4 succeeding fiscal years.

“SEC. 9206. ADMINISTRATIVE PROVISIONS.

“(a) APPLICATION REQUIRED.—No grant may be made under this part, and no contract may be entered into under this part, unless the entity seeking the grant or contract submits an application to the Secretary at such time, in such manner, and containing such information as the Secretary may determine to be necessary to carry out the provisions of this part.

“(b) SPECIAL RULE.—Each applicant for a grant or contract under this part shall submit the application for comment to the local educational agency serving students who will participate in the program to be carried

out under the grant or contract, and include those comments, if any, with the application to the Secretary.

“SEC. 9207. DEFINITIONS.

“In this part:

“(1) NATIVE HAWAIIAN.—The term ‘Native Hawaiian’ means any individual who is—

“(A) a citizen of the United States; and

“(B) a descendant of the aboriginal people who, prior to 1778, occupied and exercised sovereignty in the area that now comprises the State of Hawai'i, as evidenced by—

“(i) genealogical records;

“(ii) Kupuna (elders) or Kama'aina (long-term community residents) verification; or

“(iii) certified birth records.

“(2) NATIVE HAWAIIAN COMMUNITY-BASED ORGANIZATION.—The term ‘Native Hawaiian community-based organization’ means any organization that is composed primarily of Native Hawaiians from a specific community and that assists in the social, cultural, and educational development of Native Hawaiians in that community.

“(3) NATIVE HAWAIIAN EDUCATIONAL ORGANIZATION.—The term ‘Native Hawaiian educational organization’ means a private nonprofit organization that—

“(A) serves the interests of Native Hawaiians;

“(B) has Native Hawaiians in substantive and policymaking positions within the organization;

“(C) incorporates Native Hawaiian perspective, values, language, culture, and traditions into the core function of the organization;

“(D) has demonstrated expertise in the education of Native Hawaiian youth; and

“(E) has demonstrated expertise in research and program development.

“(4) NATIVE HAWAIIAN LANGUAGE.—The term ‘Native Hawaiian language’ means the single Native American language indigenous to the original inhabitants of the State of Hawai'i.

“(5) NATIVE HAWAIIAN ORGANIZATION.—The term ‘Native Hawaiian organization’ means a private nonprofit organization that—

“(A) serves the interests of Native Hawaiians;

“(B) has Native Hawaiians in substantive and policymaking positions within the organizations; and

“(C) is recognized by the Governor of Hawai'i for the purpose of planning, conducting, or administering programs (or portions of programs) for the benefit of Native Hawaiians.

“(6) OFFICE OF HAWAIIAN AFFAIRS.—The term ‘Office of Hawaiian Affairs’ means the office of Hawaiian Affairs established by the Constitution of the State of Hawai'i.”

SEC. 3. CONFORMING AMENDMENTS.

(a) HIGHER EDUCATION ACT OF 1965.—Section 317(b)(3) of the Higher Education Act of 1965 (20 U.S.C. 1059d(b)(3)) is amended by striking “section 9212” and inserting “section 9207”.

(b) PUBLIC LAW 88-210.—Section 116 of Public Law 88-210 (as added by section 1 of Public Law 105-332 (112 Stat. 3076)) is amended by striking “section 9212 of the Native Hawaiian Education Act (20 U.S.C. 7912)” and inserting “section 9207 of the Native Hawaiian Education Act”.

(c) MUSEUM AND LIBRARY SERVICES ACT.—Section 261 of the Museum and Library Services Act (20 U.S.C. 9161) is amended by striking “section 9212 of the Native Hawaiian Education Act (20 U.S.C. 7912)” and inserting “section 9207 of the Native Hawaiian Education Act”.

(d) NATIVE AMERICAN LANGUAGES ACT.—Section 103(3) of the Native American Languages Act (25 U.S.C. 2902(3)) is amended by striking “section 9212(1) of the Elementary

and Secondary Education Act of 1965 (20 U.S.C. 7912(1))" and inserting "section 9207 of the Elementary and Secondary Education Act of 1965".

(e) WORKFORCE INVESTMENT ACT OF 1998.—Section 166(b)(3) of the Workforce Investment Act of 1998 (29 U.S.C. 2911(b)(3)) is amended by striking "paragraphs (1) and (3), respectively, of section 9212 of the Native Hawaiian Education Act (20 U.S.C. 7912)" and inserting "section 9207 of the Native Hawaiian Education Act".

(f) ASSETS FOR INDEPENDENCE ACT.—Section 404(11) of the Assets for Independence Act (42 U.S.C. 604 note) is amended by striking "section 9212 of the Native Hawaiian Education Act (20 U.S.C. 7912)" and inserting "section 9207 of the Native Hawaiian Education Act".

ADDITIONAL COSPONSORS

S. 172

At the request of Mr. MOYNIHAN, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 172, a bill to reduce acid deposition under the Clean Air Act, and for other purposes.

S. 185

At the request of Mr. ASHCROFT, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 185, a bill to establish a Chief Agricultural Negotiator in the Office of the United States Trade Representative.

S. 666

At the request of Mr. LUGAR, the name of the Senator from Ohio (Mr. VOINOVICH) was added as a cosponsor of S. 666, a bill to authorize a new trade and investment policy for sub-Saharan Africa.

S. 729

At the request of Mr. CRAIG, the name of the Senator from Wyoming (Mr. THOMAS) was added as a cosponsor of S. 729, a bill to ensure that Congress and the public have the right to participate in the declaration of national monuments on federal land.

S. 931

At the request of Mr. MCCONNELL, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 931, a bill to provide for the protection of the flag of the United States, and for other purposes.

S. 1085

At the request of Mrs. MURRAY, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 1085, a bill to amend the Internal Revenue Code of 1986 to modify the treatment of bonds issued to acquire renewable resources on land subject to conservation easement.

S. 1106

At the request of Mr. TORRICELLI, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 1106, a bill to amend the Public Health Service Act and Employee Retirement Income Security Act of 1974 to require that group and individual health insurance coverage and group health plans provide coverage for qualified individuals for bone mass measurement (bone

density testing) to prevent fractures associated with osteoporosis.

S. 1133

At the request of Mr. GRAMS, the names of the Senator from Mississippi (Mr. COCHRAN) and the Senator from Montana (Mr. BURNS) were added as cosponsors of S. 1133, a bill to amend the Poultry Products Inspection Act to cover birds of the order Ratitae that are raised for use as human food.

S. 1158

At the request of Mr. HUTCHINSON, the names of the Senator from Wyoming (Mr. ENZI), the Senator from Mississippi (Mr. LOTT), the Senator from Idaho (Mr. CRAIG), the Senator from Texas (Mrs. HUTCHISON), the Senator from Kentucky (Mr. BUNNING), the Senator from Idaho (Mr. CRAPO), the Senator from Alabama (Mr. SESSIONS), the Senator from Missouri (Mr. BOND), the Senator from Nebraska (Mr. HAGEL), the Senator from Kentucky (Mr. MCCONNELL), and the Senator from North Carolina (Mr. HELMS) were added as cosponsors of S. 1158, a bill to allow the recovery of attorney's fees and costs by certain employers and labor organizations who are prevailing parties in proceedings brought against them by the National Labor Relations Board or by the Occupational Safety and Health Administration.

S. 1187

At the request of Mr. DORGAN, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 1187, a bill to require the Secretary of the Treasury to mint coins in commemoration of the bicentennial of the Lewis and Clark Expedition, and for other purposes.

S. 1263

At the request of Mr. JEFFORDS, the name of the Senator from Minnesota (Mr. GRAMS) was added as a cosponsor of S. 1263, a bill to amend the Balanced Budget Act of 1997 to limit the reductions in medicare payments under the prospective payment system for hospital outpatient department services.

S. 1464

At the request of Mr. HAGEL, the names of the Senator from Wyoming (Mr. THOMAS) and the Senator from Georgia (Mr. CLELAND) were added as cosponsors of S. 1464, a bill to amend the Federal Food, Drug, and Cosmetic Act to establish certain requirements regarding the Food Quality Protection Act of 1996, and for other purposes.

S. 1485

At the request of Mr. NICKLES, the names of the Senator from Minnesota (Mr. GRAMS) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S. 1485, a bill to amend the Immigration and Nationality Act to confer United States citizenship automatically and retroactively on certain foreign-born children adopted by citizens of the United States.

S. 1488

At the request of Mr. GORTON, the name of the Senator from Vermont

(Mr. JEFFORDS) was added as a cosponsor of S. 1488, a bill to amend the Public Health Service Act to provide for recommendations of the Secretary of Health and Human Services regarding the placement of automatic external defibrillators in Federal buildings in order to improve survival rates of individuals who experience cardiac arrest in such buildings, and to establish protections from civil liability arising from the emergency use of the devices.

S. 1495

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. 1495, a bill to establish, wherever feasible, guidelines, recommendations, and regulations that promote the regulatory acceptance of new and revised toxicological tests that protect human and animal health and the environment while reducing, refining, or replacing animal tests and ensuring human safety and product effectiveness.

S. 1526

At the request of Mr. ROCKEFELLER, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1526, a bill to amend the Internal Revenue Code of 1986 to provide a tax credit to taxpayers investing in entities seeking to provide capital to create new markets in low-income communities.

S. 1558

At the request of Mr. BAUCUS, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of S. 1558, a bill to amend the Internal Revenue Code of 1986 to provide a tax credit for holders of Community Open Space bonds the proceeds of which are used for qualified environmental infrastructure projects, and for other purposes.

S. 1580

At the request of Mr. ROBERTS, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 1580, a bill to amend the Federal Crop Insurance Act to assist agricultural producers in managing risk, and for other purposes.

S. 1592

At the request of Mr. DURBIN, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 1592, a bill to amend the Nicaraguan Adjustment and Central American Relief Act to provide to certain nationals of El Salvador, Guatemala, Honduras, and Haiti an opportunity to apply for adjustment of status under that Act, and for other purposes.

S. 1619

At the request of Mr. DEWINE, the names of the Senator from Colorado (Mr. CAMPBELL) and the Senator from Mississippi (Mr. COCHRAN) were added as cosponsors of S. 1619, a bill to amend the Trade Act of 1974 to provide for periodic revision of retaliation lists or other remedial action implemented under section 306 of such Act.

S. 1638

At the request of Mr. ROBB, his name was added as a cosponsor of S. 1638, a

bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to extend the retroactive eligibility dates for financial assistance for higher education for spouses and dependent children of Federal, State, and local law enforcement officers who are killed in the line of duty.

S. 1701

At the request of Mr. ROBB, his name was added as a cosponsor of S. 1701, a bill to reform civil asset forfeiture, and for other purposes.

S. 1709

At the request of Mr. KYL, the name of the Senator from Arkansas (Mr. HUTCHINSON) was added as a cosponsor of S. 1709, a bill to provide Federal reimbursement for indirect costs relating to the incarceration of illegal aliens and for emergency health services furnished to undocumented aliens.

S. 1750

At the request of Mr. DEWINE, the name of the Senator from Ohio (Mr. VOINOVICH) was added as a cosponsor of S. 1750, a bill to reduce the incidence of child abuse and neglect, and for other purposes.

AMENDMENT NO. 487

At the request of Mr. ROBB his name was added as a cosponsor of amendment No. 487 proposed to S. 1059, an original bill to authorize appropriations for fiscal year 2000 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 1583

At the request of Mr. ROBB the name of the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of amendment No. 1583 proposed to H.R. 2466, a bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2000, and for other purposes.

AMENDMENT NO. 2321

At the request of Mr. HARKIN the name of the Senator from Virginia (Mr. ROBB) was added as a cosponsor of amendment No. 2321 proposed to S. 1692, a bill to amend title 18, United States Code, to ban partial birth abortions.

AMENDMENTS SUBMITTED

A BILL TO BAN PARTIAL BIRTH ABORTIONS

LANDRIEU AMENDMENT NO. 2323

Ms. LANDRIEU proposed an amendment to the bill (S. 1692) to amend title 18, United States Code, to ban partial birth abortions; as follows:

At the appropriate place, insert the following:

SEC. . SENSE OF THE CONGRESS CONCERNING SPECIAL NEEDS CHILDREN.

(a) FINDINGS.—Congress finds that—

(1) middle income families are particularly hard hit financially when their children are born with special needs;

(2) in many cases, parents are forced to stop working in order to attempt to qualify for Medicaid coverage for these children;

(3) the current system of government support for these children and families is woefully inadequate;

(4) as a result, working families are forced to choose between terminating a pregnancy or financial ruin; and

(5) government efforts to find an appropriate and constitutional balance regarding the termination of a pregnancy may further exacerbate the difficulty of these families.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the Federal Government should fully cover all expenses related to the educational, medical and respite care requirements of families with special needs children.

SMITH AMENDMENT NO. 2324

Mr. SMITH of New Hampshire proposed an amendment to the bill, S. 1692, supra; as follows:

At the end of the Landrieu amendment, add the following:

SEC. —. TRANSFERENCE OF HUMAN FETAL TISSUE.

Section 498N of the Public Health Service Act (42 U.S.C. 289g-2) is amended—

(1) by redesignating subsections (c) and (d), as subsections (e) and (f), respectively; and

(2) by inserting after subsection (b), the following:

“(c) DISCLOSURE ON TRANSPLANTATION OF FETAL TISSUE.—

“(1) REQUIREMENT.—With respect to human fetal tissue that is obtained pursuant to an induced abortion, any entity that is to receive such fetal tissue for any purpose shall file with the Secretary a disclosure statement that meets the requirements of paragraph (2).

“(2) CONTENTS.—A disclosure statement meets the requirements of this paragraph if the statement contains—

“(A) a list (including the names, addresses, and telephone numbers) of each entity that has obtained possession of the human fetal tissue involved prior to its possession by the filing entity, including any entity used solely to transport the fetal tissue and the tracking number used to identify the packaging of such tissue;

“(B) a description of the use that is to be made of the fetal tissue involved by the filing entity and the end user (if known);

“(C) a description of the medical procedure that was used to terminate the fetus from which the fetal tissue involved was derived, and the gestational age of the fetus at the time of death;

“(D) a description of the medical procedure that was used to obtain the fetal tissue involved;

“(E) a description of the type of fetal tissue involved;

“(F) a description of the quantity of fetal tissue involved;

“(G) a description of the amount of money, or any other object of value, that is transferred as a result of the transference of the fetal tissue involved, including any fees received to transport such fetal tissue to the end user;

“(H) a description of any site fee that was paid by the filing entity to the facility at which the induced abortion with respect to the fetal tissue involved was performed, including the amount of such fee; and

“(I) any other information determined appropriate by the Secretary.

“(3) DISCLOSURE TO SHIPPERS.—Any entity that enters into a contract for the shipment

of a package containing human fetal tissue described in paragraph (1) shall—

“(A) notify the shipping entity that the package to be shipped contains human fetal tissue;

“(B) prominently label the outer packaging so as to indicate that the package contains human fetal tissue;

“(C) ensure that the shipment is done in a manner that is acceptable for the transfer of biomedical material; and

“(D) ensure that a tracking number is provided for the package and disclosed as required under paragraph (2).

“(4) DEFINITION.—In this subsection, the term ‘filing entity’ means the entity that is filing the disclosure statement required under this subsection.

“(5) Nothing in this subsection shall permit the disclosure of—

“(A) the identity of any physician, health care professional, or individual involved in the provision of abortion services;

“(B) the identity of any woman who obtained an abortion; and

“(C) any information that could reasonably be used to determine the identity of individuals or entities mentioned in paragraphs (A) and (B).

“(6) Violation of this section shall be punishable by the fines of not more than \$5,000 per incident.

“(d) LIMITATION ON SITE FEES.—A facility at which induced abortions are performed may not require the payment of any site fee by any entity to which human fetal tissue that is derived from such abortions is transferred unless the amount of such site fee is reasonable in terms of reimbursement for the actual real estate or facilities used by such entity.”.

NOTICE OF HEARING

SUBCOMMITTEE ON FORESTS AND PUBLIC LAND MANAGEMENT

Mr. CRAIG. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Forests and Public Land Management of the Senate Committee on Energy and Natural Resources.

The hearing will take place Tuesday, November 2, 1999 at 9:30 a.m. in room SD-366 of the Dirksen Senate Office Building in Washington, D.C.

The purpose of this hearing is oversight to receive testimony on the recent announcement by President Clinton to review approximately 40 million acres of national forest lands for increased protection.

Those who wish to submit written statements should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C. 20510. For further information, please call Mark Rey at (202) 224-6170.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet at 9:30 a.m. on Thursday, October 21, 1999, in open session, to receive testimony on the lessons learned from the military operations conducted as part of Operation Allied

Force, and associated relief operations, with respect to Kosovo.

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

COMMITTEE ON FINANCE

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Committee on Finance be permitted to meet on Thursday, October 21, 1999 at 10:00 a.m. in Executive Session to mark up the Balanced Budget Adjustment Act of 1999.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, October 21, 1999 at 10:30 a.m. to hold a hearing.

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

COMMITTEE ON GOVERNMENT AFFAIRS

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be permitted to meet on Thursday, October 1, at 10:00 a.m. for a hearing regarding the nominations of John Walsh and LeGree Daniels to be Governors of the United States Postal Service.

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

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. SANTORUM. MR. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet for a hearing on "FDA Modernization Act: Implementation of the law" during the session of the Senate on Thursday, October 21, 1999, at 10:00 a.m.

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

SPECIAL COMMITTEE ON THE YEAR 2000 TECHNOLOGY PROBLEM

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Special Committee on the Year 2000 Technology Problem be permitted to meet on October 21, 1999 at 9:30 a.m. for the purpose of conducting a hearing.

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

SUBCOMMITTEE ON IMMIGRATION

Mr. SANTORUM. Mr. President, The Committee on the Judiciary Subcommittee on Immigration requests unanimous consent to conduct a hearing on Thursday, October 21, 1999 beginning at 2:00 p.m. in Dirksen Room 226.

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

SUBCOMMITTEE ON INTERNATIONAL TRADE

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Committee on Finance, Subcommittee on International Trade be permitted to meet on Thursday, October 21, 1999 at 2:00 p.m. to hear testimony on the WTO Ministerial Meeting.

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

COMMITTEE ON THE JUDICIARY

Mr. SANTORUM. Mr. President, The Committee on the Judiciary requests

consent to conduct a markup on Thursday, October 21, 1999 beginning at 10:00 a.m. in Dirksen Room 226.

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

SUBCOMMITTEE ON NATIONAL PARKS, HISTORIC PRESERVATION AND RECREATION

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Subcommittee on National Parks, Historic Preservation and Recreation of the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, October 21, for purposes of conducting a subcommittee hearing which is scheduled to begin at 2:00 p.m. The purpose of this hearing is to receive testimony on S. 1365, a bill to amend the National Historic Preservation Act of 1966 to extend the authorization for the Historic Preservation Fund and the Advisory Council on Historic Preservation, and for other purposes; S. 1434, a bill to amend the National Historic Preservation Act to reauthorize that Act, and for other purposes; H.R. 834, an Act to extend the authorization for the National Historic Preservation Fund, and for other purposes.

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

SUBCOMMITTEE ON SCIENCE, TECHNOLOGY, AND SPACE

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Science, Technology and Space Subcommittee of the Senate Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, October 21, 1999, at 2:30 p.m. on the National Technical Information Service.

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

DENYING SAFE HAVENS TO INTERNATIONAL AND WAR CRIMINALS ACT OF 1999

On October 20, 1999, Mr. HATCH, for himself and Mr. LEAHY, introduced S. 1754. The text of the bill follows:

S. 1754

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) IN GENERAL.—This Act may be cited as the "Denying Safe Havens to International and War Criminals Act of 1999".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents

TITLE I—DENYING SAFE HAVENS TO INTERNATIONAL AND WAR CRIMINALS

Sec. 1. Extradition for the offenses not covered by a list treaty.

Sec. 2. Technical and conforming amendments.

Sec. 3. Temporary transfer of persons in custody for prosecution.

Sec. 4. Prohibiting fugitives from benefiting from fugitive status.

Sec. 5. Transfer of foreign prisoners to serve sentences in country of origin.

Sec. 6. Transit of fugitives for prosecution in foreign countries.

TITLE II—PROMOTING GLOBAL COOPERATION IN THE FLIGHT AGAINST INTERNATIONAL CRIME

Sec. 1. Streamlined procedures for execution of MLAT requests.

Sec. 2. Temporary transfer of incarcerated witnesses.

TITLE III—ANTI-ATROCITY ALIEN DEPORTATION

Sec. 1. Inadmissibility and removability of aliens who have committed acts of torture abroad.

Sec. 2. Establishment of the office of special investigations.

TITLE I—DENYING SAFE HAVENS TO INTERNATIONAL CRIMINALS

SEC. 1. EXTRADITION FOR OFFENSES NOT COVERED BY A LIST TREATY.

Chapter 209 of title 18, United States Code, is amended by adding at the end the following:

"§3197. Extradition for offenses not covered by a list treaty

"(a) SERIOUS OFFENSES DEFINED.—In this section, the term 'serious offense' means conduct that would be—

"(1) an offense described in any multilateral treaty to which the United States is a party that obligates parties—

"(A) to extradite alleged offenders found in the territory of the parties; or

"(B) submit the case to the competent authorities of the parties for prosecution; or

"(2) conduct that, if that conduct occurred in the United States, would constitute—

"(A) a crime of violence (as defined in section 16);

"(B) the distribution, manufacture, importation, or exportation of a controlled substance (as defined in section 201 of the Controlled Substances Act (21 U.S.C. 802));

"(C) bribery of a public official or misappropriation, embezzlement, or theft of public funds by or for the benefit of a public official;

"(D) obstruction of justice, including payment of bribes to jurors or witnesses;

"(E) the laundering of monetary instruments, as described in section 1956, if the value of the monetary instruments involved exceeds \$100,000;

"(F) fraud, theft, embezzlement, or commercial bribery if the aggregate value of property that is the object of all of the offenses related to the conduct exceeds \$100,000;

"(G) counterfeiting, if the obligations, securities, or other items counterfeited have an apparent value that exceeds \$100,000;

"(H) a conspiracy or attempt to commit any of the offenses described in any of subparagraphs (A) through (G), or aiding and abetting a person who commits any such offense; or

"(I) a crime against children under chapter 109A or section 2251, 2251A, 2252, or 2252A.

"(b) AUTHORIZATION OF FILING.—

"(1) IN GENERAL.—If a foreign government makes a request for the extradition of a person who is charged with or has been convicted of an offense within the jurisdiction of that foreign government, and an extradition treaty between the United States and the foreign government is in force but the treaty does not provide for extradition for the offense with which the person has been charged or for which the person has been convicted, the Attorney General may authorize the filing of a complaint for extradition pursuant to subsections (c) and (d).

"(2) FILING OF COMPLAINTS.—

"(A) IN GENERAL.—A complaint authorized under paragraph (1) shall be filed pursuant to section 3184.

"(B) PROCEDURES.—With respect to a complaint filed under paragraph (1), the procedures contained in sections 3184 and 3186 and the terms of the relevant extradition treaty shall apply as if the offense were a crime provided for by the treaty, in a manner consistent with section 3184.

"(c) CRITERIA FOR AUTHORIZATION OF COMPLAINTS.—

"(1) IN GENERAL.—The Attorney General may authorize the filing of a complaint under subsection (b) only upon a certification—

"(A) by the Attorney General, that in the judgment of the Attorney General—

"(i) the offense for which extradition is sought is a serious offense; and

"(ii) submission of the extradition request would be important to the law enforcement interests of the United States or otherwise in the interests of justice; and

"(B) by the Secretary of State, that in the judgment of the Secretary of State, submission of the request would be consistent with the foreign policy interests of the United States.

"(2) FACTORS FOR CONSIDERATION.—In making any certification under paragraph (1)(B), the Secretary of State may consider whether the facts and circumstances of the request then known appear likely to present any significant impediment to the ultimate surrender of the person who is the subject of the request for extradition, if that person is found to be extraditable.

"(d) CASES OF URGENCY.—

"(1) IN GENERAL.—In any case of urgency, the Attorney General may, with the concurrence of the Secretary of State and before any formal certification under subsection (c), authorize the filing of a complaint seeking the provisional arrest and detention of the person sought for extradition before the receipt of documents or other proof in support of the request for extradition.

"(2) APPLICABILITY OF RELEVANT TREATY.—With respect to a case described in paragraph (1), a provision regarding provisional arrest in the relevant treaty shall apply.

"(3) FILING AND EFFECT OF FILING OF COMPLAINTS.—

"(A) IN GENERAL.—A complaint authorized this subsection shall be filed in the same manner as provided in section 3184.

"(B) ISSUANCE OF ORDERS.—Upon the filing of a complaint under this subsection, the appropriate judicial officer may issue an order for the provisional arrest and detention of the person as provided in section 3184.

"(e) CONDITIONS OF SURRENDER; ASSURANCES.—

"(1) IN GENERAL.—Before issuing a warrant of surrender under section 3184 or 3186, the Secretary of State may—

"(A) impose conditions upon the surrender of the person that is the subject of the warrant; and

"(B) require those assurances of compliance with those conditions as are determined by the Secretary to be appropriate.

"(2) ADDITIONAL ASSURANCES.—

"(A) IN GENERAL.—In addition to imposing conditions and requiring assurances under paragraph (1), the Secretary of State shall demand, as a condition of the extradition of the person in every case, an assurance described in subparagraph (B) that the Secretary determines to be satisfactory.

"(B) DESCRIPTION OF ASSURANCES.—An assurance described in this subparagraph is an assurance that the person that is sought for extradition shall not be tried or punished for an offense other than that for which the person has been extradited, absent the consent of the United States."

SEC. 2. TECHNICAL AND CONFORMING AMENDMENTS.

(a) IN GENERAL.—Chapter 209 of title 18, United States Code, is amended—

(1) in section 3181, by inserting " , other than section 3197," after "The provisions of this chapter" each place that term appears; and

(2) in section 3186, by striking "or 3185" and inserting " , 3185 or 3197".

(b) CLERICAL AMENDMENT.—The analysis for chapter 209 of title 18, United States Code, is amended by adding at the end the following:

"3197. Extradition for offenses not covered by a list treaty."

SEC. 3. TEMPORARY TRANSFER OF PERSONS IN CUSTODY FOR PROSECUTION.

(a) IN GENERAL.—Chapter 306 of title 18, United States Code, is amended by adding at the end the following:

"§4116. Temporary transfer for prosecution

"(a) STATE DEFINED.—In this section, the term 'State' includes a State of the United States, the District of Columbia, and a commonwealth, territory, or possession of the United States.

"(b) AUTHORITY OF ATTORNEY GENERAL WITH RESPECT TO TEMPORARY TRANSFERS.—

"(1) IN GENERAL.—Subject to subsection (d), if a person is in pretrial detention or is otherwise being held in custody in a foreign country based upon a violation of the law in that foreign country, and that person is found extraditable to the United States by the competent authorities of that foreign country while still in the pretrial detention or custody, the Attorney General shall have the authority—

"(A) to request the temporary transfer of that person to the United States in order to face prosecution in a Federal or State criminal proceeding;

"(B) to maintain the custody of that person while the person is in the United States; and

"(C) to return that person to the foreign country at the conclusion of the criminal prosecution, including any imposition of sentence.

"(2) REQUIREMENTS FOR REQUESTS BY ATTORNEY GENERAL.—The Attorney General shall make a request under paragraph (1) only if the Attorney General determines, after consultation with the Secretary of State, that the return of that person to the foreign country in question would be consistent with international obligations of the United States.

"(c) AUTHORITY OF ATTORNEY GENERAL WITH RESPECT TO PRETRIAL DETENTIONS.—

"(1) IN GENERAL.—

"(A) AUTHORITY OF ATTORNEY GENERAL.—Subject to paragraph (2) and subsection (d), the Attorney General shall have the authority to carry out the actions described in subparagraph (B), if—

"(i) a person is in pretrial detention or is otherwise being held in custody in the United States based upon a violation of Federal or State law, and that person is found extraditable to a foreign country while still in the pretrial detention or custody pursuant to section 3184, 3197, or 3198; and

"(ii) a determination is made by the Secretary of State and the Attorney General that the person will be surrendered.

"(B) ACTIONS.—If the conditions described in subparagraph (A) are met, the Attorney General shall have the authority to—

"(i) temporarily transfer the person described in subparagraph (A) to the foreign country of the foreign government requesting the extradition of that person in order to face prosecution;

"(ii) transport that person from the United States in custody; and

"(iii) return that person in custody to the United States from the foreign country.

"(2) CONSENT BY STATE AUTHORITIES.—If the person is being held in custody for a violation of State law, the Attorney General may exercise the authority described in paragraph (1) if the appropriate State authorities give their consent to the Attorney General.

"(3) CRITERION FOR REQUEST.—The Attorney General shall make a request under

paragraph (1) only if the Attorney General determines, after consultation with the Secretary of State, that the return of the person sought for extradition to the foreign country of the foreign government requesting the extradition would be consistent with United States international obligations.

"(4) EFFECT OF TEMPORARY TRANSFER.—With regard to any person in pretrial detention—

"(A) a temporary transfer under this subsection shall result in an interruption in the pretrial detention status of that person; and

"(B) the right to challenge the conditions of confinement pursuant to section 3142(f) does not extend to the right to challenge the conditions of confinement in a foreign country while in that foreign country temporarily under this subsection.

"(d) CONSENT BY PARTIES TO WAIVE PRIOR FINDING OF WHETHER A PERSON IS EXTRADITABLE.—The Attorney General may exercise the authority described in subsections (b) and (c) absent a prior finding that the person in custody is extraditable, if the person, any appropriate State authorities in a case under subsection (c), and the requesting foreign government give their consent to waive that requirement.

"(e) RETURN OF PERSONS.—

"(1) IN GENERAL.—If the temporary transfer to or from the United States of a person in custody for the purpose of prosecution is provided for by this section, that person shall be returned to the United States or to the foreign country from which the person is transferred on completion of the proceedings upon which the transfer was based.

"(2) STATUTORY INTERPRETATION WITH RESPECT TO IMMIGRATION LAWS.—In no event shall the return of a person under paragraph (1) require extradition proceedings or proceedings under the immigration laws.

"(3) CERTAIN RIGHTS AND REMEDIES BARRED.—Notwithstanding any other provision of law, a person temporarily transferred to the United States pursuant to this section shall not be entitled to apply for or obtain any right or remedy under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), including the right to apply for or be granted asylum or withholding of deportation."

(b) CLERICAL AMENDMENT.—The analysis for chapter 306 of title 28, United States Code, is amended by adding at the end the following:

"4116. Temporary transfer for prosecution.".

SEC. 4. PROHIBITING FUGITIVES FROM BENEFITTING FROM FUGITIVE STATUS.

(a) IN GENERAL.—Chapter 163 of title 28, United States Code, is amended by adding at the end the following:

"§2466. Fugitive disentitlement

"A person may not use the resources of the courts of the United States in furtherance of a claim in any related civil forfeiture action or a claim in third party proceedings in any related criminal forfeiture action if that person—

"(1) purposely leaves the jurisdiction of the United States;

"(2) declines to enter or reenter the United States to submit to its jurisdiction; or

"(3) otherwise evades the jurisdiction of the court in which a criminal case is pending against the person."

(b) CLERICAL AMENDMENT.—The analysis for chapter 163 of title 28, United States Code, is amended by adding at the end the following:

"2466. Fugitive disentitlement."

SEC. 5. TRANSFER OF FOREIGN PRISONERS TO SERVE SENTENCES IN COUNTRY OF ORIGIN.

Section 4100(b) of title 18, United States Code, is amended in the third sentence by striking "An offender" and inserting "Unless otherwise provided by treaty, an offender."

SEC. 6. TRANSIT OF FUGITIVES FOR PROSECUTION IN FOREIGN COUNTRIES.

(a) IN GENERAL.—Chapter 305 of title 18, United States Code, is amended by adding at the end the following:

“§ 4087. Transit through the United States of persons wanted in a foreign country

“(a) IN GENERAL.—The Attorney General may, in consultation with the Secretary of State, permit the temporary transit through the United States of a person wanted for prosecution or imposition of sentence in a foreign country.

“(b) LIMITATION OF JUDICIAL REVIEW.—A determination by the Attorney General to permit or not to permit a temporary transit described in subsection (a) shall not be subject to judicial review.

“(c) CUSTODY.—If the Attorney General permits a temporary transit under subsection (a), Federal law enforcement personnel may hold the person subject to that transit in custody during the transit of the person through the United States.

“(d) CONDITIONS APPLICABLE TO PERSONS SUBJECT TO TEMPORARY TRANSIT.—Notwithstanding any other provision of law, a person who is subject to a temporary transit through the United States under this section shall—

“(1) be required to have only such documents as the Attorney General shall require;

“(2) not be considered to be admitted or paroled into the United States; and

“(3) not be entitled to apply for or obtain any right or remedy under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), including the right to apply for or be granted asylum or withholding of deportation.”

(b) CLERICAL AMENDMENT.—The analysis for chapter 305 of title 18, United States Code, is amended by adding at the end the following:

“4087. Transit through the United States of persons wanted in a foreign country.”

TITLE II—PROMOTING GLOBAL COOPERATION IN THE FIGHT AGAINST INTERNATIONAL CRIME

SEC. 1. STREAMLINED PROCEDURES FOR EXECUTION OF MLAT REQUESTS.

(a) IN GENERAL.—Chapter 117 of title 28, United States Code, is amended by adding at the end the following:

“§ 1785. Assistance to foreign authorities

“(a) IN GENERAL.—

“(1) PRESENTATION OF REQUESTS.—The Attorney General may present a request made by a foreign government for assistance with respect to a foreign investigation, prosecution, or proceeding regarding a criminal matter pursuant to a treaty, convention, or executive agreement for mutual legal assistance between the United States and that government or in accordance with section 1782, the execution of which requires or appears to require the use of compulsory measures in more than 1 judicial district, to a judge or judge magistrate of—

“(A) any 1 of the districts in which persons who may be required to appear to testify or produce evidence or information reside or are found, or in which evidence or information to be produced is located; or

“(B) the United States District Court for the District of Columbia.

“(2) AUTHORITY OF COURT.—A judge or judge magistrate to whom a request for assistance is presented under paragraph (1) shall have the authority to issue those orders necessary to execute the request including orders appointing a person to direct the taking of testimony or statements and the production of evidence or information, of whatever nature and in whatever form, in execution of the request.

“(b) AUTHORITY OF APPOINTED PERSONS.—A person appointed under subsection (a)(2) shall have the authority to—

“(1) issue orders for the taking of testimony or statements and the production of evidence or information, which orders may be served at any place within the United States;

“(2) administer any necessary oath; and

“(3) take testimony or statements and receive evidence and information.

“(c) PERSONS ORDERED TO APPEAR.—A person ordered pursuant to subsection (b)(1) to appear outside the district in which that person resides or is found may, not later than 10 days after receipt of the order—

“(1) file with the judge or judge magistrate who authorized execution of the request a motion to appear in the district in which that person resides or is found or in which the evidence or information is located; or

“(2) provide written notice, requesting appearance in the district in which the person resides or is found or in which the evidence or information is located, to the person issuing the order to appear, who shall advise the judge or judge magistrate authorizing execution.

“(d) TRANSFER OF REQUESTS.—

“(1) IN GENERAL.—The judge or judge magistrate may transfer a request under subsection (c), or that portion requiring the appearance of that person, to the other district if—

“(A) the inconvenience to the person is substantial; and

“(B) the transfer is unlikely to adversely affect the effective or timely execution of the request or a portion thereof.

“(2) EXECUTION.—Upon transfer, the judge or judge magistrate to whom the request or a portion thereof is transferred shall complete its execution in accordance with subsections (a) and (b).”

(b) CLERICAL AMENDMENT.—The analysis for chapter 117 of title 28, United States Code, is amended by adding at the end the following:

“1785. Assistance to foreign authorities.”

SEC. 2. TEMPORARY TRANSFER OF INCARCERATED WITNESSES.

(a) IN GENERAL.—Section 3508 of title 18, United States Code, is amended—

(1) by striking the section heading and inserting the following:

“§ 3508. Temporary transfer of witnesses in custody”;

(2) in subsection (a), by inserting “IN GENERAL.—” after “(a)”; and

(3) by striking subsections (b) and (c) and inserting the following:

“(b) TRANSFER AUTHORITY.—

“(1) IN GENERAL.—If the testimony of a person who is serving a sentence, in pretrial detention, or otherwise being held in custody in the United States, is needed in a foreign criminal proceeding, the Attorney General shall have the authority to—

“(A) temporarily transfer that person to the foreign country for the purpose of giving the testimony;

“(B) transport that person from the United States in custody;

“(C) make appropriate arrangements for custody for that person while outside the United States; and

“(D) return that person in custody to the United States from the foreign country.

“(2) PERSONS HELD FOR STATE LAW VIOLATIONS.—If the person is being held in custody for a violation of State law, the Attorney General may exercise the authority described in this subsection if the appropriate State authorities give their consent.

“(c) RETURN OF PERSONS TRANSFERRED.—

“(1) IN GENERAL.—if the transfer to or from the United States of a person in custody for the purpose of giving testimony is provided for by treaty or convention, by this section, or both, that person shall be returned to the

United States, or to the foreign country from which the person is transferred.

“(2) LIMITATION.—In no event shall the return of a person under this subsection require any request for extradition or extradition proceedings, or require that person to be subject to deportation or exclusion proceedings under the laws of the United States, or the foreign country from which the person is transferred.

“(d) APPLICABILITY OF INTERNATIONAL AGREEMENTS.—If there is an international agreement between the United States and the foreign country in which a witness is being held in custody or to which the witness will be transferred from the United States, that provides for the transfer, custody, and return of those witnesses, the terms and conditions of that international agreement shall apply. If there is no such international agreement, the Attorney General may exercise the authority described in subsections (a) and (b) if both the foreign country and the witness give their consent.

“(e) RIGHTS OF PERSONS TRANSFERRED.—

“(1) Notwithstanding any other provision of law, a person held in custody in a foreign country who is transferred to the United States pursuant to this section for the purpose of giving testimony—

“(A) shall not by reason of that transfer, during the period that person is present in the United States pursuant to that transfer, be entitled to apply for or obtain any right or remedy under the Immigration and Nationality Act, including the right to apply for or be granted asylum or withholding of deportation or any right to remain in the United States under any other law; and

“(B) may be summarily removed from the United States upon order of the Attorney General.

“(2) RULE OF CONSTRUCTION.—Nothing in this subsection may be construed to create any substantive or procedural right or benefit to remain in the United States that is legally enforceable in a court of law of the United States or of a State by any party against the United States or its agencies or officers.

“(f) CONSISTENCY WITH INTERNATIONAL OBLIGATIONS.—The Attorney General shall not take any action under this section to transfer or return a person to a foreign country unless the Attorney General determines, after consultation with the Secretary of State, that transfer or return would be consistent with the international obligations of the United States. A determination by the Attorney General under this subsection shall not be subject to judicial review by any court.”

(b) CLERICAL AMENDMENT.—The analysis for chapter 223 of title 18, United States Code, is amended by striking the item relating to section 3508 and inserting the following:

“3508. Temporary transfer of witnesses in custody.”

TITLE III—ANTI-ATROCITY ALIEN DEPORTATION

SEC. 1. INADMISSIBILITY AND REMOVABILITY OF ALIENS WHO HAVE COMMITTED ACTS OF TORTURE ABROAD.

(a) INADMISSIBILITY.—Section 212(a)(3)(E) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(E)) is amended by adding at the end the following:

“(iii) COMMISSION OF ACTS OF TORTURE.—Any alien who, outside the United States, has committed any act of torture, as defined in section 2340 of title 18, United States Code, is inadmissible.”

“(b) REMOVABILITY.—Section 237(a)(4)(D) of that Act (8 U.S.C. 1227(a)(4)(D)) is amended by striking “clause (i) or (ii)” and inserting “clause (i), (ii), or (iii)”.

“(c) EFFECTIVE DATE.—The amendments made by this section shall apply to offenses committed before, on, or after the date of enactment of this Act.

SEC. 2. ESTABLISHMENT OF THE OFFICE OF SPECIAL INVESTIGATIONS.

“(a) AMENDMENT OF THE IMMIGRATION AND NATIONALITY ACT.—Section 103 of the Immigration and Nationality Act (8 U.S.C. 1103) is amended by adding at the end the following:

“(g) The Attorney General shall establish within the Criminal Division of the Department of Justice an Office of Special Investigations with the authority of investigating, and, where appropriate, taking legal action to remove, denaturalize, or prosecute any alien found to be in violation of clause (i), (ii), or (iii) of section 212(a)(3)(E).”.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Department of Justice for the fiscal year 2000 such sums as may be necessary to carry out the additional duties established under section 103(g) of the Immigration and Nationality Act (as added by this Act) in order to ensure that the Office of Special Investigations fulfills its continuing obligations regarding Nazi war criminals.

(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.

MOBILE TELECOMMUNICATIONS SOURCING ACT

On October 20, 1999, Mr. BROWNBACK, for himself and Mr. DORGAN, introduced S. 1755. The text of the bill follows:

S. 1755

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Mobile Telecommunications Sourcing Act”.

SEC. 2. FINDINGS.

The Congress finds the following:

(1) The provision of mobile telecommunications services is a matter of interstate commerce within the jurisdiction of the United States Congress under Article I, Section 8 of the United States Constitution. Certain aspects of mobile telecommunications technologies and services do not respect, and operate independently of, State and local jurisdictional boundaries.

(2) The mobility afforded to millions of American consumers by mobile telecommunications services helps to fuel the American economy, facilitate the development of the information superhighway and provide important safety benefits.

(3) Users of mobile telecommunications services can originate a call in one State or local jurisdiction and travel through other States or local jurisdictions during the course of the call. These circumstances make it more difficult to track the separate segments of a particular call with all of the States and local jurisdictions involved with the call. In addition, expanded home calling areas, bundled service offerings and other marketing advances make it increasingly difficult to assign each transaction to a specific taxing jurisdiction.

(4) State and local taxes imposed on mobile telecommunications services that are not consistently based on subject consumers, businesses and others engaged in interstate commerce to multiple, confusing and burdensome State and local taxes and result in higher costs to consumers and the industry.

(5) State and local taxes that are not consistently based can result in some tele-

communications revenues inadvertently escaping State and local taxation altogether, thereby violating standards of tax fairness, creating inequities among competitors in the telecommunications market and depriving State and local governments of needed tax revenues.

(6) Because State and local tax laws and regulations of many jurisdictions were established before the proliferation of mobile telecommunications services, the application of these laws to the provision of mobile telecommunications services may produce conflicting or unintended tax results.

(7) State and local governments provide essential public services, including services that Congress encourages State and local governments to undertake in partnership with the Federal government for the achievement of important national policy goals.

(8) State and local governments provide services that support the flow of interstate commerce, including services that support the use and development of mobile telecommunications services.

(9) State governments as sovereign entities in our Federal system may require that interstate commerce conducted within their borders pay its fair share of tax to support the government services provided by those governments.

(10) Local governments as autonomous subdivisions of a State government may require that interstate commerce conducted within their borders pay its fair share of tax to support the governmental services provided by those governments.

(11) To balance the needs of interstate commerce and the mobile telecommunications industry with the legitimate role of State and local governments in our system of federalism, Congress needs to establish a uniform and coherent national policy regarding the taxation of mobile telecommunications services through the exercise of its constitutional authority to regulate interstate commerce.

(12) Congress also recognizes that the solution established by this legislation is a necessarily practical one and must provide for a system of State and local taxation of mobile telecommunications services that in the absence of this solution would not otherwise occur. To this extent, Congress exercises its power to provide a reasonable solution to otherwise insoluble problems of multi-jurisdictional commerce.

SEC. 3. AMENDMENT OF COMMUNICATIONS ACT OF 1934 TO PROVIDE RULES FOR DETERMINING STATE AND LOCAL GOVERNMENT TREATMENT OF CHARGES RELATED TO MOBILE TELECOMMUNICATIONS SERVICES.

The Communications Act of 1934 (47 U.S.C. 151 et seq.) is amended by adding at the end thereof the following:

“TITLE VIII—STATE AND LOCAL TREATMENT OF CHARGES FOR MOBILE TELECOMMUNICATIONS SERVICES.

“SEC. 801. APPLICATION OF TITLE.

“(a) IN GENERAL.—This title applies to any tax, charge, or fee levied by a taxing jurisdiction as a fixed charge for each customer or measured by gross amounts charged to customers for mobile telecommunications services, regardless of whether such tax, charge, or fee is imposed on the vendor or customer of the service and regardless of the terminology used to describe the tax, charge, or fee.

“(b) GENERAL EXCEPTIONS.—This title does not apply to—

“(1) any tax, charge, or fee levied upon or measured by the net income, capital stock, net worth or property value of the provider of mobile telecommunications service;

“(2) any tax, charge, or fee that is applied to an equitably apportioned gross amount that is not determined on a transactional basis;

“(3) any tax, charge, or fee that represents compensation for a mobile telecommunications service provider's use of public rights of way or other public property, provided that such tax, charge, or fee is not levied by the taxing jurisdiction as a fixed charge for each customer or measured by gross amounts charged to customers for mobile telecommunication services; or

“(4) any fee related to obligations under section 254 of this Act.”.

“(c) SPECIFIC EXCEPTIONS.—This title—

“(1) does not apply to the determination of the taxing situs of prepaid telephone calling services;

“(2) does not affect the taxability of either the initial sale of mobile telecommunications services or subsequent resale, whether as sales of the service alone or as a part of a bundled product, where the Internet Tax Freedom Act would preclude a taxing jurisdiction from subjecting the charges of the sale of these mobile telecommunications services to a tax, charge, or fee but this section provides no evidence of the intent of Congress with respect to the applicability of the Internet Tax Freedom Act to such charges; and

“(3) does not apply to the determination of the taxing situs of air-ground radiotelephone service as defined in section 22.99 of the Commission's regulations (47 C.F.R. 22.99).

“SEC. 802. SOURCING RULES.

“(a) IN GENERAL.—Notwithstanding the law of any State or political subdivision thereof to the contrary, mobile telecommunications services provided in a taxing jurisdiction to a customer, the charges for which are billed by or for the customer's home service provider, shall be deemed to be provided by the customer's home service provider.

“(b) JURISDICTION.—All charges for mobile telecommunications services that are deemed to be provided by the customer's home service provider under this title are authorized to be subjected to tax, charge, or fee by the taxing jurisdictions whose territorial limits encompass the customer's place of primary use, regardless of where the mobile telecommunication services originate, terminate or pass through, and no other taxing jurisdiction may impose taxes, charges, or fees on charges for such mobile telecommunications services.

“SEC. 803. LIMITATIONS.

“This title does not—

“(1) provide authority to a taxing jurisdiction to impose a tax, charge, or fee that the laws of the jurisdiction do not authorize the jurisdiction to impose; or

“(2) modify, impair, supersede, or authorize the modification, impairment, or supersession of, the law of any taxing jurisdiction pertaining to taxation except as expressly provided in this title.

“SEC. 804. ELECTRONIC DATABASES FOR NATION-WIDE STANDARD NUMERIC JURISDICTIONAL CODES.

“(a) ELECTRONIC DATABASE.—A State may provide an electronic database to a home service provider or, if a State does not provide such an electronic database to home service providers, then the designated database provider may provide an electronic database to a home service provider. The electronic database, whether provided by the State or the designated database provider, shall be provided in a format approved by the American National Standards Institute's Accredited Standards Committee X12, that, allowing for de minimis deviations, designates for each street address in the State, including to the extent practicable, any multiple

postal street addresses applicable to one street location, the appropriate jurisdictions, and the appropriate code for each taxing jurisdiction, for each level of taxing jurisdiction, identified by one nationwide standard numeric code. The electronic database shall also provide the appropriate code for each street address with respect to political subdivisions which are not taxing jurisdictions when reasonably needed to determine the proper taxing jurisdiction. The nationwide standard numeric codes shall contain the same number of numeric digits with each digit or combination of digits referring to the same level of taxing jurisdiction throughout the United States using a format similar to FIPS 55-3 or other appropriate standard approved by the Federation of Tax Administrators and the Multistate Tax Commission, or their successors. Each address shall be provided in standard postal format.

“(b) NOTICE; UPDATES.—A State or designated database provider that provides or maintains an electronic database described in subsection (a) shall provide notice of the availability of the then current electronic database, and any subsequent revisions thereof, by publication in the manner normally employed for the publication of informational tax, charge, or fee notices to taxpayers in that State.

“(c) USER HELD HARMLESS.—A home service provider using the data contained in the electronic database described in subsection (a) shall be held harmless from any tax, charge, or fee liability that otherwise would be due solely as a result of any error or omission in the electronic database provided by a State or designated database provider. The home service provider shall reflect changes made to the electronic database during a calendar quarter no later than 30 days after the end of that calendar quarter for each State that issues notice of the availability of an electronic database reflecting such changes under subsection (b).

“SEC. 805. PROCEDURE WHERE NO ELECTRIC DATABASE PROVIDED.

“(a) IN GENERAL.—If neither a State nor designated database provider provides an electronic database under section 804, a home provider shall be held harmless from any tax, charge, or fee liability in that State that otherwise would be due solely as a result of an assignment of a street address to an incorrect taxing jurisdiction if, subject to section 806, the home service provider employs an enhanced zip code to assign each street address to a specific taxing jurisdiction for each level of taxing jurisdiction and exercise due diligence at each level of taxing jurisdiction to ensure that each such street address is assigned to the correct taxing jurisdiction. Where an enhanced zip code overlaps boundaries of taxing jurisdictions of the same level, the home service provider must designate one specific jurisdiction within such enhanced zip code for use in taxing the activity for that enhanced zip code for each level of taxing jurisdiction. Any enhanced zip code assignment changed in accordance with section 806 is deemed to be in compliance with this section. For purposes of this section, there is a rebuttable presumption that a home service provider has exercised due diligence if such home service provider demonstrates that it has—

“(1) expended reasonable resources to implement and maintain an appropriately detailed electronic database of street address assignments to taxing jurisdictions;

“(2) implemented and maintained reasonable internal controls to promptly correct misassignments of street addresses to taxing jurisdictions; and

“(3) used all reasonably obtainable and usable data pertaining to municipal annexations, incorporations, reorganizations and

any other changes in jurisdictional boundaries that materially affect the accuracy of the electronic database.

“(b) TERMINATION OF SAFE HARBOR.—Subsection (a) applies to a home service provider that is in compliance with the requirements of subsection (a), with respect to a State for which an electronic database is not provided under section 804 until the later of—

“(1) 18 months after the nationwide standard numeric code described in section 804(a) has been approved by the Federation of Tax Administrators and the Multistate Tax Commission; or

“(2) 6 months after the State or a designated database provider in that State provides the electronic database as prescribed in section 804(a).

“SEC. 806. CORRECTION OF ERRONEOUS DATA FOR PLACE OF PRIMARY USE.

“(a) IN GENERAL.—A taxing jurisdiction, or a State on behalf of any taxing jurisdiction or taxing jurisdictions within such State, may—

“(1) determine that the address used for purposes of determining the taxing jurisdictions to which taxes, charges, or fees for mobile telecommunications services are remitted does not meet the definition of place of primary use in section 809(3) and give binding notice to the home service provider to change the place of primary use on a prospective basis from the date of notice of determination if—

“(A) where the taxing jurisdiction making such determination is not a State, such taxing jurisdiction obtains the consent of all affected taxing jurisdictions within the State before giving such notice of determination; and

“(B) the customer is given an opportunity, prior to such notice of determination, to demonstrate in accordance with applicable State or local tax, charge, or fee administrative procedures that the address is the customer's place of primary use;

“(2) determine that the assignment of a taxing jurisdiction by a home service provider under section 805 does not reflect the correct taxing jurisdiction and give binding notice to the home service provider to change the assignment on a prospective basis from the date of notice of determination if—

“(A) where the taxing jurisdiction making such determination is not a State, such taxing jurisdiction obtains the consent of all affected taxing jurisdictions within the state before giving such notice of determination; and

“(B) the home service provider is given an opportunity to demonstrate in accordance with applicable State or local tax, charge, or fee administrative procedures that the assignment reflects the correct taxing jurisdiction.

“SEC. 807. DUTY OF HOME SERVICE PROVIDER REGARDING PLACE OF PRIMARY USE.

“(a) PLACE OF PRIMARY USE.—A home service provider is responsible for obtaining and maintaining the customer's place of primary use (as defined in section 809). Subject to section 806, and if the home service provider's reliance on information provided by its customer is in good faith, a home service provider—

“(1) may rely on the applicable residential or business street address supplied by the home service provider's customer; and

“(2) is not liable for any additional taxes, charges, or fees based on a different determination of the place of primary use for taxes, charges or fees that are customarily passed on to the customer as a separate itemized charge.

“(b) ADDRESS UNDER EXISTING AGREEMENTS.—Except as provided in section 806, a home service provider may treat the address

used by the home service provider for tax purposes for any customer under a service contract or agreement in effect 2 years after the date of enactment of the Mobile Telecommunications Sourcing Act as that customer's place of primary use for the remaining term of such service contract or agreement, excluding any extension or renewal of such service contract or agreement, for purposes of determining the taxing jurisdictions to which taxes, charges, or fees on charges for mobile telecommunications services are remitted.

“SEC. 808. SCOPE; SPECIAL RULES.

“(a) TITLE DOES NOT SUPERSEDE CUSTOMER'S LIABILITY TO TAXING JURISDICTION.—Nothing in this title modifies, impairs, supersedes, or authorizes the modification, impairment, or supersession of, any law allowing a taxing jurisdiction to collect a tax, charge, or fee from a customer that has failed to provide its place of primary use.

“(b) ADDITIONAL TAXABLE CHARGES.—If a taxing jurisdiction does not otherwise subject charges for mobile telecommunications services to taxation and if these charges are aggregated with and not separately stated from charges that are subject to taxation, then the charges for otherwise non-taxable mobile telecommunications services may be subject to taxation unless the home service provider can reasonably identify charges not subject to such tax, charge, or fee from its books and records that are kept in the regular course of business.

“(c) NON-TAXABLE CHARGES.—If a taxing jurisdiction does not subject charges for mobile telecommunications services to taxation, a customer may not rely upon the non-taxability of charges for mobile telecommunications services unless the customer's home service provider separately states the charges for non-taxable mobile telecommunications services from taxable charges or the home service provider elects, after receiving a written request from the customer in the form required by the provider, to provide verifiable data based upon the home service provider's books and records that are kept in the regular course of business that reasonably identifies the non-taxable charges.

“(d) REFERENCES TO REGULATIONS.—Any reference in this title to the Commission's regulations is a reference to those regulations as they were in effect on June 1, 1999.

“SEC. 809. DEFINITIONS.

“In this title:

“(1) CHARGES FOR MOBILE TELECOMMUNICATIONS SERVICES.—The term ‘charges for mobile telecommunications services’ means any charge for, or associated with, the provision of commercial mobile radio service, as defined in section 20.3 of the Commission's regulations (47 CFR 20.3), or any charge for, or associated with, a service provided as an adjunct to a commercial mobile radio service, that is billed to the customer by or for the customer's home service provider regardless of whether individual transmissions originate or terminate within the licensed service area of the home service provider.

“(2) TAXING JURISDICTION.—The term ‘taxing jurisdiction’ means any of the several States, the District of Columbia, or any territory or possession of the United States, any municipality, city, county, township, parish, transportation district, or assessment jurisdiction, or any other political subdivision within the territorial limits of the United States with the authority to impose a tax, charge, or fee.

“(3) PLACE OF PRIMARY USE.—The term ‘place of primary use’ means the street address representative of where the customer's use of the mobile telecommunications service primarily occurs, which must be either—

"(A) the residential street address or the primary business street address of the customer; and

"(B) within the licensed service area of the home service provider.

"(4) LICENSED SERVICE AREA.—The term 'licensed service area' means the geographic area in which the home service provider is authorized by law or contract to provide commercial mobile radio service to the customer.

"(5) HOME SERVICE PROVIDER.—The term 'home service provider' means the facilities-based carrier or reseller with which the customer contracts for the provision of mobile telecommunications services.

"(6) CUSTOMER.—

"(A) IN GENERAL.—The term 'customer' means—

"(i) the person or entity that contracts with the home service provider for mobile telecommunications services; or

"(ii) where the end user of mobile telecommunications services is not the contracting party, the end user of the mobile telecommunications service, but this clause applies only for the purpose of determining the place of primary use.

"(B) The term 'customer' does not include—

"(i) a reseller of mobile telecommunications service; or

"(ii) a serving carrier under an arrangement to serve the customer outside the home service provider's licensed service area.

"(7) DESIGNATED DATABASE PROVIDER.—The term 'designated database provider' means a corporation, association, or other entity representing all the political subdivisions of a State that is—

"(A) responsible for providing the electronic database prescribed in section 804(a) if the State has not provided such electronic database; and

"(B) sanctioned by municipal and county associations or leagues of the State whose responsibility it would otherwise be to provide the electronic database prescribed by this title.

"(8) PREPAID TELEPHONE CALLING SERVICES.—The term 'prepaid telephone calling service' means the right to purchase exclusively telecommunications services that must be paid for in advance, that enables the origination of calls using an access number, authorization code, or both, whether manually or electronically dialed, if the remaining amount of units of service that have been prepaid is known by the provider of the prepaid service on a continuous basis.

"(9) RESELLER.—The term 'reseller'—

"(A) means a provider who purchases telecommunications services from another telecommunications service provider and then resells, uses as a component part of, or integrates the purchased services into a mobile telecommunications service; but

"(B) does not include a serving carrier with which a home service provider arranges for the services to its customers outside the home service provider's licensed service area.

"(10) SERVING CARRIER.—The term 'serving carrier' means a facilities-based carrier providing mobile telecommunications service to a customer outside a home service provider's or reseller's licensed service area.

"(11) MOBILE TELECOMMUNICATIONS SERVICE.—The term 'mobile telecommunications service' means commercial mobile radio service, as defined in section 20.3 of the Commission's regulations (47 CFR 20.3).

"(12) ENHANCED ZIP CODE.—The term 'enhanced zip code' means a United States postal zip code of 9 or more digits.

"SEC. 810. COMMISSION NOT TO HAVE JURISDICTION OF TITLE.

"Notwithstanding any other provision of this Act, the Commission shall have no juris-

diction over the interpretation, implementation, or enforcement of this title.

"SEC. 811. NONSEVERABILITY.

"If a court of competent jurisdiction enters a final judgment on the merits that is no longer subject to appeal, which substantially limits or impairs the essential elements of this title based on Federal statutory or Federal Constitutional grounds, or which determines that this title violates the United States Constitution, then the provisions of this title are null and void and of no effect.

"SEC. 812. NO INFERENCE.

"(a) INTERNET TAX FREEDOM ACT.—Nothing in this title may be construed as bearing on Congressional intent in enacting the Internet Tax Freedom Act or as affecting that Act in anyway.

"(b) TELECOMMUNICATIONS ACT OF 1996.—Nothing in this title shall limit or otherwise affect the implementation of the Telecommunications Act of 1996 or the amendments made by that Act."

SEC. 4. EFFECTIVE DATE.

The amendment made by section 3 applies to customer bills issued after the first day of the first month beginning more than 2 years after the date of enactment of this Act.

NATIONAL LABORATORIES PARTNERSHIP IMPROVEMENT ACT OF 1999

On October 20, 1999, Mr. BINGAMAN, for himself and Mrs. MURRAY, introduced S. 1756. The text of the bill follows:

S. 1756

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Laboratories Partnership Improvement Act of 1999".

SEC. 2. FINDINGS.

The Congress finds that—

(1) The National Laboratories play a crucial role in the Department of Energy's ability to achieve its missions in national security, science, energy, and environment.

(2) The National Laboratories must be on the leading edge of advances in science and technology to help the Department to achieve its missions.

(3) The private sector is now performing a much larger share of the nation's research and development activities, and is on the leading edge of many technologies that could be adapted to meet departmental missions.

(4) To be able to help the Department to achieve its missions in the most cost effective manner, the National Laboratories must take advantage, to the greatest extent practicable, of the scientific and technological expertise that exists in the private sector, as well as at leading universities, through joint research and development projects, personnel exchanges, and other arrangements.

(5) The Department needs to strengthen the regional technology infrastructure of firms, research and academic institutions, non-profit and governmental organizations, and work force around its National Laboratories to maintain the long-term vitality of the laboratories and ensure their continued access to the widest range of high quality research, technology and personnel.

SEC. 3. DEFINITIONS.

For purposes of this Act, except for sections 8 and 9—

(1) the term "Department" means the Department of Energy;

(2) the term "departmental mission" means any of the functions vested in the Secretary of Energy by the Department of Energy Organization Act (42 U.S.C. 7101 et seq.) or other law;

(3) the term "institution of higher education" has the meaning given such term in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a));

(4) the term "multiprogram National Laboratory" means any of the following institutions owned by the Department of Energy—

(A) Argonne National Laboratory;

(B) Brookhaven National Laboratory;

(C) Idaho National Engineering and Environmental Laboratory;

(D) Lawrence Berkeley National Laboratory;

(E) Lawrence Livermore National Laboratory;

(F) Los Alamos National Laboratory;

(G) Oak Ridge National Laboratory;

(H) Pacific Northwest National Laboratory;

(I) Sandia National Laboratory;

(5) the term "National Laboratory or facility" means any of the multiprogram National Laboratories or any of the following institutions owned by the Department of Energy—

(A) Ames Laboratory

(B) East Tennessee Technology Park;

(C) Environmental Measurement Laboratory;

(D) Federal Energy Technology Center;

(E) Fermi National Accelerator Laboratory;

(F) National Renewable Energy Laboratory;

(G) Nevada Test Site;

(H) Princeton Plasma Physics Laboratory;

(I) Savannah River Technology Center;

(J) Stanford Linear Accelerator Center;

(K) Thomas Jefferson National Accelerator Facility;

(L) Waste Isolation Pilot Plant; or

(M) other similar organization of the Department designated by the Secretary that engages in technology transfer activities;

(6) the term "nonprofit institution" has the meaning given such term in section 4 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3703(5));

(7) the term "Secretary" means the Secretary of Energy;

(8) the term "small business concern" has the meaning given such term in section 3 of the Small Business Act (15 U.S.C. 632);

(9) the term "technology-related business concern" means a for-profit corporation, company, association, firm, partnership, or small business concern that—

(A) conducts scientific or engineering research,

(B) develops new technologies,

(C) manufactures products based on new technologies, or

(D) performs technological services; and

(10) the term "technology cluster" means a geographic concentration of—

(A) technology-related business concerns;

(B) institutions of higher education; or

(C) other nonprofit institutions

that reinforce each other's performance through formal or informal relationships.

SEC. 4. REGIONAL TECHNOLOGY INFRASTRUCTURE PROGRAM.

(a) ESTABLISHMENT.—The Secretary shall establish a Regional Technology Infrastructure Program in accordance with this section.

(b) PURPOSE.—The purpose of the program shall be to improve the ability of National Laboratories or facilities to support department missions by—

(1) stimulating the development of technology clusters in the vicinity of National Laboratories or facilities;

(2) improving the ability of National Laboratories or facilities to leverage commercial research, technology, products, processes, and services; and

(3) encouraging the exchange of scientific and technological expertise between National Laboratories or facilities and—

(A) institutions of higher education,

(B) technology-related business concerns,

(C) nonprofit institutions, and

(D) agencies of state, tribal, or local governments—

that are located in the vicinity of a National Laboratory or facility.

(c) **PROGRAM PHASES.**—The Secretary shall conduct the Regional Technology Infrastructure Program in two phases as follows:

(1) **PILOT PHASE.**—No later than six months after the date of enactment of this Act, the Secretary shall provide \$1,000,000 to each of the multiprogram National Laboratories to conduct Regional Technology Infrastructure Program pilots.

(2) **FULL IMPLEMENTATION.**—Not later than eighteen months after the date of enactment of this act, the Secretary shall expand or alter the Regional Technology Infrastructure Program to include whichever National Laboratories or facilities the Secretary determines to be appropriate based upon the experience of the program to date and the extent to which the pilot projects under paragraph (1) met the requirements of subsections (e) and (f).

(d) **PROJECTS.**—The Secretary shall authorize the director of each National Laboratory or facility designated under subsection (c) to implement the Regional Technology Infrastructure Program at such National Laboratory or facility through projects that meet the requirements of subsections (e) and (f).

(e) **PROGRAM REQUIREMENTS.**—Each project funded under this program shall meet the following requirements:

(1) **MINIMUM PARTICIPANTS.**—Each project shall at a minimum include—

(A) a National Laboratory or facility;

(B) a business located within the vicinity of the participating National Laboratory or facility; and

(C) one or more of the following entities that is located within the vicinity of the participating National Laboratory or facility—

(i) an institution of higher education,

(ii) a nonprofit institution,

(iii) an agency of a state, local, or tribal government, or

(iv) an additional business.

(2) **COST SHARING.**—

(A) **MINIMUM AMOUNT.**—Not less than 50 percent of the costs of each project funded under this section shall be provided from non-Federal sources.

(B) **QUALIFIED FUNDING AND RESOURCES.**—

(i) The calculation of costs paid by the non-federal sources to a project shall include cash, personnel, services, equipment, and other resources expended on the project.

(ii) Independent research and development expenses of government contractors that qualify for reimbursement under section 31-205-18(e) of the Federal Acquisition Regulations issued pursuant to section 25(c)(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)(1)) may be credited towards costs paid by non-federal sources to a project, if the expenses meet the other requirements of this section.

(iii) No funds or other resources expended either before the start of a project under this program or outside the project's scope of work shall be credited toward the costs paid by the non-federal sources to the project.

(3) **COMPETITIVE SELECTION.**—All projects where a party other than the Department or a National Laboratory or facility receives funding under this program shall be competi-

tively selected using procedures determined to be appropriate by the Secretary.

(4) **ACCOUNTING STANDARDS.**—Any participants receiving funding under this program, other than a National Laboratory or facility, may use generally accepted accounting principles for maintaining accounts, books, and records relating to the project.

(5) **LIMITATIONS.**—No federal funds shall be made available under this program for—

(A) construction; or

(B) any project for more than five years.

(f) **CRITERIA.**—

(1) **MANDATORY CRITERIA.**—The Secretary shall not authorize the provision of federal funds for a project under this section unless there is a determination by the Director of the National Laboratory or facility managing the project that the project is likely—

(A) to succeed, based on its technical merit, team members, management approach, resources, and project plan; and

(B) to improve the participating National Laboratory or facility's ability to achieve technical success in meeting departmental missions, promote the commercial development of technological innovations made at such Laboratory or facility, and use commercial innovations to achieve its missions.

(2) **ADDITIONAL CRITERIA.**—The Secretary shall also require the consideration of the following factors by the Director of the National Laboratory or facility managing projects under this section in providing federal funds to projects under this section—

(A) the potential of the project to promote the development of a commercially sustainable technology cluster, one that will derive most of the demand for its products or services from the private sector, in the vicinity of the participating National Laboratory or facility;

(B) the commitment shown by non-federal organizations to the project, based primarily on the nature and amount of the financial and other resources they will risk on the project;

(C) the extent to which the project involves a wide variety and number of institutions of higher education, nonprofit institutions, and technology-related business concerns located in the vicinity of the participating National Laboratory or facility that will make substantive contributions to achieving the goals of the project;

(D) the extent of participation in the project by agencies of state, tribal, or local governments that will make substantive contributions to achieving the goals of the project;

(E) the extent to which the project focuses on promoting the development of technology-related business concerns that are small business concerns located in the vicinity of the National Laboratory or facility or involves such small business concerns substantively in the project.

(3) **SAVINGS CLAUSE.**—Nothing in this subsection shall limit the Secretary from requiring the consideration of other factors, as appropriate, in determining whether to fund projects under this section.

SEC. 5. SMALL BUSINESS ADVOCACY AND ASSISTANCE.

(a) **ADVOCACY FUNCTION.**—The Secretary shall direct the Director of each multiprogram National Laboratory, and may direct the Director of each other National Laboratory or facility the Secretary determines to be appropriate, to establish a small business advocacy function that is organizationally independent of the procurement function at the National Laboratory or facility. The mission of the small business advocacy function shall be to increase the participation of small business concerns, particularly those small business concerns located near the laboratory and small business concerns that are

owned by women or minorities, in procurements and collaborative research conducted by the National Laboratory or facility. The person or office vested with the small business advocacy function shall—

(1) report to the Director of the National Laboratory or facility on the actual participation of small business concerns in procurements and collaborative research along with recommendations, if appropriate, on how to improve participation;

(2) make available to small business concerns training, mentoring, and clear, up-to-date information on how to participate in the procurements and collaborative research, including how to submit effective proposals;

(3) increase the awareness inside the National Laboratory or facility of the capabilities and opportunities presented by small business concerns; and

(4) establish guidelines for the program under subsection (b) and report on the effectiveness of such program to the Director of the National Laboratory or facility.

(b) **ESTABLISHMENT OF SMALL BUSINESS ASSISTANCE PROGRAM.**—The Secretary shall direct the Director of each multiprogram National Laboratory, and may direct the Director of each other National Laboratory or facility the Secretary determines to be appropriate, to establish a program to provide small business concerns—

(1) assistance directed at making them more effective and efficient subcontractors or suppliers to the National Laboratory or facility; or

(2) general technical assistance to improve the small business concern's products or services.

(c) **USE OF FUNDS.**—None of the funds expended on a program under subsection (b) may be used for direct grants to the small business concerns.

SEC. 6. TECHNOLOGY PARTNERSHIPS OMBUDSMAN.

(a) **APPOINTMENT OF OMBUDSMAN.**—The Secretary shall direct the Director of each multiprogram National Laboratory, and may direct the Director of each other National Laboratory or facility the Secretary determines to be appropriate, to appoint a technology partnership ombudsman to hear and help resolve complaints from outside organizations regarding each laboratory's policies and actions with respect to technology partnerships (including cooperative research and development agreements), patents, and technology licensing. Each ombudsman shall—

(1) be a senior official of the National Laboratory or facility who is not involved in day-to-day technology partnerships, patents, or technology licensing; and

(2) report to the Director of the National Laboratory or facility.

(b) **DUTIES.**—Each ombudsman shall—

(1) serve as the focal point for assisting the public and industry in resolving complaints and disputes with the laboratory regarding technology partnerships, patents, and technology licensing;

(2) promote the use of collaborative alternative dispute resolution techniques such as mediation to facilitate the speedy and low-cost resolution of complaints and disputes, when appropriate; and

(3) report, through the Director of the National Laboratory or facility, to the Department annually on the number and nature of complaints and disputes raised, along with the ombudsman's assessment of their resolution, consistent with the protection of confidential and sensitive information.

SEC. 7. MOBILITY OF TECHNICAL PERSONNEL.

(a) **GENERAL POLICY.**—Not later than two years after the enactment of this Act, the Secretary shall ensure that each contractor

operating a National Laboratory or facility has policies and procedures, including an employee benefits program, that do not create disincentives to the transfer of scientific and technical personnel among the contractor-operated National Laboratories or facilities.

(b) **EXTENSION.**—The Secretary may delay implementation of the policy in subsection (a) if the Secretary—

(1) determines that the implementation of the policy within two years would be unnecessarily expensive or disruptive to the operations of the contractor-operated National Laboratories or facilities; and

(2) recommends to Congress alternative measures to increase the mobility of technical personnel among the contractor-operated National Laboratories or facilities.

(c) **STUDY OF WIDER MOBILITY.**—Not later than two years after the enactment of this act, the Secretary shall recommend to Congress legislation to reduce any undue disincentives to scientific and technical personnel employed by a contractor-operated National Laboratory or facility taking a job with an institution of higher education, nonprofit institution, or technology-related business concern that is located in the vicinity of the National Laboratory or facility.

SEC. 8. OTHER TRANSACTIONS AUTHORITY.

Section 646 of the Department of Energy Organization Act (42 U.S.C. 7256) is amended by adding at the end the following new subsection:

“(g)(1) In addition to other authorities granted to the Secretary to enter into procurement contracts, leases, cooperative agreements, grants, and other similar arrangements, the Secretary may enter into other transactions with public agencies, private organizations, or persons on such terms as the Secretary may deem appropriate in furtherance of functions now or hereafter vested in the Secretary, including research, development, or demonstration projects. Such other transactions shall not be subject to the provisions of section 9 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5908).

“(2)(A) The Secretary shall not disclose any trade secret or commercial or financial information submitted by a non-federal entity under paragraph (1) that is privileged and confidential.

“(B) The Secretary shall not disclose, for five years after the date the information is received, any other information submitted by a non-federal entity under paragraph (1), including any proposal, proposal abstract, document support a proposal, business plan, or technical information that is privileged and confidential.

“(C) The Secretary may protect from disclosure, for up to five years, any information developed pursuant to a transaction under paragraph (1) that would be protected from disclosure under section 552(b)(4) of title 5, United States Code, if obtained from a person other than a federal agency.”.

SEC. 9. AMENDMENTS TO THE STEVENSON-WYDLER ACT.

(a) **STRATEGIC PLANS.**—Section 12(a) of the Stevenson-Wylder Technology Innovation Act of 1980 (15 U.S.C. 3710a(a)) is amended by inserting after “joint work statement” the following: “or, if permitted by the agency, in an agency-approved annual strategic plan.”.

(b) **FEDERAL WAIVERS.**—Subsection 12(b) of the Stevenson-Wylder Technology Innovation Act of 1980 (15 U.S.C. 3710a(b)) is amended by adding at the end the following:

“(6) The director of a government-operated laboratory (in the case of a government-operated laboratory) or a designated official of the agency (in the case of a contractor-operated laboratory) may waive any license retained by the Government under paragraphs

(1)(A), 2, or 3(D) in whole or in part and according to negotiated terms and conditions if the director or designated official, as appropriate, finds that the requirement for the license would substantially inhibit the commercialization of an invention that would otherwise serve an important federal mission.”.

(c) **TIME REQUIRED FOR APPROVAL.**—Section 12(c)(5) of the Stevenson-Wylder Technology Innovation Act of 1980 (15 U.S.C. 3710a(c)(5)) is amended—

(1) by striking subparagraph (C);

(2) by redesignating subparagraph (D) as subparagraph (C);

(3) by striking “with a small business firm” and inserting “if” after “statement” in subparagraph (C)(i) (as redesignated); and

(4) by adding after subparagraph (C)(iii) (as redesignated) the following:

“(iv) Any agency that has contracted with a non-Federal entity to operate a laboratory may develop and provide to such laboratory one or more model cooperative research and development agreements, for the purposes of standardizing practices and procedures, resolving common legal issues, and enabling review of cooperative research and development agreements to be carried out in a routine and prompt manner.

“(v) A federal agency may waive the requirements of clause (i) or (ii) under such circumstances as the agency deems appropriate. However, the agency may not take longer than 30 days to review and approve, request modifications to, or disapprove any proposed agreement or joint work statement that it elects to receive.”.

ADDITIONAL STATEMENTS

NATIONAL BUSINESS WOMEN'S WEEK

• Ms. SNOWE. Mr. President, I rise to pay tribute to the more than 9.1 million women business owners nationwide on the occasion of National Business Women's Week. This week marks the celebration of the 71st annual National Business Women's Week.

On this occasion, advocates for women business owners may have a well-deserved sense of pride. I am pleased to be able to report that between 1987 and 1999, the number of women-owned businesses increased by 103 percent nationwide, employment increased by 320 percent, and sales grew by 436 percent. Today, women business owners across the country employ more than 27.5 million people and generate in excess of \$3.6 trillion in sales. These businesses account for 38 percent of all U.S. businesses.

In my home State of Maine, there are more than 48,200 women-owned businesses, employing 91,700 people and generating \$10.2 billion in sales. For Maine's economy, this represents growth of more than 85.3 percent between 1987 and 1996.

Mr. President, this data demonstrates just how vital women and women-owned businesses are to the health of the U.S. economy. Although women-owned businesses have grown at an astronomical rate, we must continue to ensure that women have access to the knowledge and capital necessary to start their own businesses.

That is why I ask that, as we celebrate the tremendous accomplishments of women during National Business Women's Week, my fellow colleagues join me in supporting opportunities for women to become entrepreneurs.

As a member of the Senate Small Business Committee, I am proud of the role the Committee and the Small Business Administration have played in providing access to assistance from women entrepreneurs, because many of the businesses in this rapidly growing sector are small businesses. Just last month, the Committee reported legislation, the Women's Business Centers Sustainability Act, that would significantly increase funding for the Women's Business Centers Program, which provides women with long-term training and counseling in all aspects of owning and managing a business—fostering the growth of women's business ownership and providing a foundation of basic support to women business owners.

This program promotes the growth of women-owned businesses by sponsoring business training and technical counseling, access to credit and capital, and access to marketing opportunities, including Federal contracts and export opportunities. Over the past 10 years, the program has served tens of thousands of women entrepreneurs by providing them with consulting, training, and financial assistance as they seek to start or expand their own business. As a result, women are starting new firms at twice the rate of all other business, and employ roughly one in every five U.S. workers. Today, the program is comprised of nearly 70 centers in 40 States.

In my view, creating new opportunities for historically disadvantaged groups, such as women and minorities to help provide tangible opportunities for economic independence must remain a top priority, and National Business Women's Week is a perfect opportunity to focus attention on the importance of such efforts.

In closing, I would like to express my appreciation to the Business and Professional Women/USA organization, which has played a pivotal role in making the celebration of National Business Women's Week possible.

Since its creation in 1928, National Business Women's Week has been sponsored by Business and Professional Women/USA for the purpose of recognizing and honoring the achievements of working women.

Business and Professional Women/USA local organizations across the country, and in my state of Maine, will take this week to honor outstanding business women and employers of the year, and I would like to congratulate them and thank them for their important contributions.●

TRIBUTE TO IKUA PURDY

• Mr. AKAKA. Mr. President, this past Sunday, eight rodeo stars were inducted into the Rodeo Hall of Fame at

the National Cowboy Hall of Fame and Western Heritage Center in Oklahoma City. Included among the honorees is one of Hawaii's most legendary paniolos—paniolo is Hawaiian for cowboy—the late Ikua Purdy. Ikua Purdy was born in 1873 at Parker Ranch, one of the largest and most famous ranches in the world, on the Big Island of Hawaii. As a boy he learned to ride and rope, working as a paniolo in the cattle industry, a large and important enterprise in Hawaii at the time.

Ikua Purdy secured his place as a rodeo legend for his exploits in 1908 at the World Championship Rodeo in Cheyenne, Wyoming. Purdy, along with Eben "Rawhide Ben" Parker Low, Jack Low, and Archie Ka'aua traveled from the Big Island to Cheyenne and borrowed horses to compete in the world roping championship. This was their first competition outside of Hawaii. At the conclusion of the two-day competition, Jack Low placed sixth, Archie Ka'aua finished third, and Ikua Purdy won the won roping championship with a record time of 56 seconds—an amazing time that is all the more incredible since it came after an arduous 3,300-mile trek and accomplished with a borrowed horse.

Mr. President, I ask that two articles from The Honolulu Advertiser detailing the remarkable achievements of Ikua Purdy be printed in the RECORD.

The articles follow:

[From the Honolulu Advertiser, July 5, 1999]

BID MADE TO GIVE PANIOLLO HIS DUE

(By Dan Nakaso)

In 1908, three Hawaii paniolo set off for Cheyenne, Wyo., where they heard the best ropers and riders in the land were gathering.

Just to get to the World Championship Rodeo, Ikua Purdy, Jack Low and Archie Ka'aua had to take a boat from the Big Island to Honolulu, catch a steamship to San Francisco, then hop a train to Cheyenne.

When they arrived 3,300 miles later, the other cowboys didn't know what to make of their dark skin, floppy hats and colorful clothes. And for a while it looked as if Purdy, Low and Ka'aua had made their journey for nothing, because nobody would loan them horses to compete.

But when the dust of competition settled after two days of roping and riding, Low had finished sixth, Ka'aua third and Purdy stood alone as the world roping champion.

The story became the stuff of paniolo lore. In the 101 years that followed, Purdy's legend has been remembered in Hawaii through paniolo songs, such as "Hawaiian Rough Riders" and "Walomina." He was among the first people inducted into Hawaii's sports Hall of Fame.

What happened in Cheyenne has also inspired a modern-day quest by a pair of California cattle ranchers to give Purdy—and Hawaii's paniolo lifestyle—their rightful places in the history of the American West.

Purdy's name on the Mainland is only now spreading in cowboy circles, mostly through cattlemen Jack Roddy and Cecil Jones. They're trying to get Purdy inducted into the Rodeo Hall of Fame, a wing of the National Cowboy Hall of Fame and Western Heritage Center in Oklahoma City.

Later this month, the historical society that runs the Rodeo Hall of Fame will send its 400 members ballots containing Purdy's name.

If Purdy is voted in when the ballots are counted in September, Roddy and Jones believe it will be just the start toward recognizing Hawaii's place in cowboy and cattle history.

"Purdy's just the beginning," Roddy said. "We need to tell the whole story of Hawaii, how cattle showed up in Hawaii first (even before Texas) and what Hawaii did for the rest of the West. The cowboys over there view Hawaii a people wearing hula skirts on beaches. They don't realize it's huge cattle country."

If Purdy doesn't make it into the Hall of Fame this summer the historical society might not consider him again for years.

He missed induction last year by 60 votes, a fact that gnaws at Billy Bergin, a Big Island veterinarian who grew up working as a paniolo.

Bergin established the Paniolo Preservation Society 18 months ago and is pushing people in Hawaii to pay \$25 to the historical society so they can become voting members and get Purdy inducted.

In just the last three months, 87 people from Hawaii have joined, according to the National Cowboy Hall of Fame.

Before the Hawaii campaign, "no one had ever heard of Ikua Purdy," said Judy Dearing, who coordinates the rodeo program part of the Hall of Fame.

"Now we have such an interest from the Hawaii folks that we have a nice file an inch-and-a-half thick on Ikua."

Jones vaguely remembered reading "about some guy who came to Cheyenne and showed everybody up, set some records that were unbelievable and beat all the hotshots."

Last year "the nominating committee wondered how come his name hadn't come up before. Unfortunately, not enough people were aware of him. I said, 'We need to get the word out. He's long overdue.'"

Purdy's descendants lean toward the humble side of life, just like Ikua, and the push to elect him into the Hall of Fame makes some of them uncomfortable.

"Most of us feel he should be in the Hall of Fame because of his merits and not by buying a vote," said Palmer Purdy, one of Ikua's grandsons. "Don't get me wrong, I want to see him inducted. I just don't want to get him in that way. I want him to be inducted because he was a competitor and he was good at it and he was the best that Hawaii had to offer."

Ikua was born on Christmas Eve, 1873, at Mana on the Big Island's Parker Ranch. He died on the Fourth of July, 1945, at Ulupalakua on Maui, where he finished out his paniolo days as foreman of Ulupalakua Ranch. He's buried at Ulupalakua.

As a boy, Palmer Purdy, now 52, never heard a word from his father, William, about Ikua's victory in Cheyenne or his status as a legend.

It wasn't until Palmer became a teenager that he got curious about his dead grandfather.

"All my uncles and aunts are very humble and didn't openly discuss Ikua's greatness," Purdy said. "They didn't want to brag. But I would overhear other people talking about Ikua Purdy being a famous cowboy."

The more he heard how Purdy taught paniolo to train horses in the ocean—not "break" them—and about Purdy's victories in Hawaii rodeos, the more Palmer filled in the gaps.

"The first thing that came to my mind was, 'Wow, I missed a lot growing up.' We sure would have liked to see him in action. When people start writing songs about you, you put a dent in people's minds. So he must have been a great, great individual for that to happen."

THE EARLY DAYS

Purdy's life is just one chapter in the history of cowboys, horses and cattle in Hawaii, Bergin, Roddy and Jones said.

It begins in either 1792 or 1793 when British sea Capt. George Vancouver brought cattle to the Big Island as a gift to King Kamehameha I. Some of them died soon after, so Vancouver convinced Kamehameha to impose a kapu on killing cattle to give them a chance to breed.

The herd grew so successfully over the next three decades that cattle terrorized people and overran crops and forests. Rock walls in parts of urban Honolulu and other islands still stand as testament to the crude efforts to gain control over the bovines.

In 1830, Kamehameha III turned to Spanish California for help. Three vaqueros came over and showed Hawaiians how to ride horses that had been imported here 30 years before, and how to handle cattle.

Hawaii had its first working cowboys by 1836—some three or four decades before America. They called themselves paniolo, and Island-ized version of the word Espanol, or Spanish.

Raising cattle soon grew into a major export industry and helped Hawaiians pay off debts they had racked up by not filling orders for sandalwood.

Among the big cattle operations was the Parker Ranch on the Big Island, founded in 1848 by John Palmer Parker. Purdy was one of his great-grandsons.

In 1907, Eben "Rawhide Ben" Parker Low went to Cheyenne's Frontier Days and thought Hawaii's paniolo would be able to hold their own in competition there. Rawhide Ben had recently sold Pu'uwa'awa'a Ranch on the Big Island and financed the trip to Cheyenne in 1908 for himself, his half-brother Purdy, his cousin Ka'aua and his brother Jack Low.

"He felt they were the top ropers in the Islands," said Tila Spielman, Rawhide Ben's granddaughter.

The horses that Purdy, Low and Ka'aua borrowed were rough. And on the second day of competition, Low downed his calf in record time, but an asthma attack kept him from tying it up.

His time from the first day was still good enough for sixth place. Ka'aua's time of 1 minute, 28 seconds, got him third place. And Purdy was champion with an astounding 56 seconds. According to some accounts, it might have even been as low as 52 seconds.

Purdy never returned to Cheyenne, or even left Hawaii again.

He is on the verge of being immortalized in Oklahoma, but the attention he is getting today is exactly the kind that would have made him nervous.

Whenever he was asked about his accomplishments, Purdy would simply say: "Other things to talk about besides me."

[From the Honolulu Advertiser, Oct. 18, 1999]

RODEO HALL OF FAME ADDS ISLE PANIOLLO

A Hawaii paniolo who is remembered in song and story was inducted into the Rodeo Hall of Fame yesterday in Oklahoma City.

The late Ikua Purdy was one of eight people honored during a ceremony at the National Cowboy Hall of Fame and Western Heritage Center.

Twenty of Purdy's relatives and friends made the journey from Hawaii for the program. One of the ceremony's highlights was the group performing the hula to a reading of Purdy's life story.

Purdy, who was born on Christmas Eve 1873 on the Big Island's Parker Ranch, learned to ride and rope on grasslands and upland forests of Waimea and Mauna Kea.

In the 1908 world roping championship in Cheyenne, Wyo., he snagged a steer in a

record 56 seconds. Such songs as "Hawaiian Rough Riders" and "Waiomina" recounted his victory. Purdy, who never returned to Wyoming to defend his title, worked as a paniolo until his death July 4, 1945.

Purdy missed induction last year by 60 votes. So Billy Bergin, a Big Island veterinarian who grew up working as a paniolo, established an organization that encouraged people in Hawaii to join the Rodeo Hall of Fame so they could vote for Purdy's induction.

Mr. AKAKA. Ikua Purdy went home to Hawaii and resumed his work as a paniolo until his death in 1945. He did not return to the mainland to defend his title, in fact he never left Hawaii's shores again. But his victory and legend live on in Hawaii and the annals of rodeo history. His achievements are immortalized in song and hula in Hawaii, including "Hawaiian Rough Riders" and "Waiomina."

Yet, during his lifetime, Ikua Purdy avoided drawing attention to his roping mastery and world record performance. I am pleased to join Ikua Purdy's family and friends in honoring the legacy and talent of one of Hawaii's and America's greatest cowboys. This weekend's well-deserved induction into the Rodeo Hall of Fame enshrines a sporting feat that continues to amaze rodeo fans and highlights the long, proud history of Hawaii's paniolos.

This well-deserved honor for a paniolo whose talents were matched only by his humility and quiet dignity follows on the heels of renewed interest and appreciation of Hawaii's illustrious paniolo traditions.

The Hawaiian cowboy played an important role in the economic and cultural development of Hawaii and helped to establish the islands as a major cattle exporter to California, the Americas, and the Pacific Rim for over a century. Paniolo history is frequently overlooked in Hawaii and is largely unknown beyond our shores. Yet, this is an important part of Hawaii's history and of American history. Indeed, Hawaii's working cowboys preceded the emergence of their compatriots in the American West.

Paniolo came from Spain, Portugal, Mexico, California, and throughout South America to work Hawaii's ranches. They brought their languages and culture, including the guitar and ukulele. As they shared their culture, married and raised families, they embraced the Native Hawaiian culture and customs. In many ways, this sharing and blending of cultures is the foundation for the diverse and rich heritage the people of Hawaii enjoy today.

The paniolo experience is part of the distinct historical narrative of our nation's history. It illustrates how differences have developed into shared values and community. By illuminating the many currents and branches of our history and society, we acquire a better understanding and appreciation of our national landscape.

The rediscovery of paniolo history was further encouraged when Governor Ben Cayetano declared 1998 the "Year

of the Paniolo" in Hawaii. An excellent documentary film by Edgy Lee, "Paniolo O Hawaii—Cowboys of the Far West," that premiered at the Smithsonian captures the essence of the Hawaiian cowboy and highlights the economic and cultural significance of the paniolo in the islands. I encourage all students and enthusiasts of the American West and cowboy lore to learn about the Hawaiian paniolo.●

AMERICANS OF ARABIC HERITAGE OF THE LEHIGH VALLEY, PENNSYLVANIA

● Mr. ABRAHAM. Mr. President, I rise today to express my sincere congratulations to the Americans of Arabic Heritage of the Lehigh Valley, Pennsylvania who are celebrating their 10th Anniversary this year. I am proud and honored to be celebrating this event with them at their annual banquet on October 23, 1999.

I commend those members who are involved in this organization because they advance and demonstrate the continuing positive contributions of Americans of Arab descent. Furthermore, it is heartening to see the continual efforts of the Americans of Arabic Heritage in fostering a relationship of understanding and goodwill between the peoples and cultures of the United States and the Arab world. These efforts will go far in enhancing and promoting our community's image and understanding throughout the world.

The Americans of Arabic Heritage of the Lehigh Valley, Pennsylvania have worked very hard to instill a sense of pride in their heritage. Their efforts have assured that this pride and this heritage will be preserved and carried on for generations to come. I am proud and delighted to see our community promoting our heritage and I wish them much success in their ongoing endeavors.

Many in the local community have given generously of their time and efforts to be active in the Americans of Arabic Heritage of the Lehigh Valley, Pennsylvania. They are to be commended for their very worthwhile efforts and foresight, and I am pleased to recognize these efforts in the United States Senate.●

APPOINTMENT

The PRESIDING OFFICER. The Chair, on behalf of the majority leader, pursuant to Public Law 101-549, appoints Susan F. Moore, of Georgia, to the Board of Directors of the Mickey Leland National Urban Air Toxics Research Center.

COMPREHENSIVE PROGRAM OF SUPPORT FOR VICTIMS OF TORTURE

Mr. BROWNBACK. Madam President, I ask unanimous consent that the Senate now proceed to the consideration of H.R. 2367, which is at the desk.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative assistant read as follows:

A bill (H.R. 2367) to reauthorize a comprehensive program of support for victims of torture.

There being no objection, the Senate proceeded to consider the bill.

Mr. BROWNBACK. Madam President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

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

The bill (H.R. 2367) was read the third time and passed.

ORDERS FOR FRIDAY, OCTOBER 22, 1999

Mr. BROWNBACK. Madam President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 9:30 a.m. on Friday, October 22. I further ask unanimous consent that on Friday immediately following the prayer, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and notwithstanding the adjournment of the Senate, the Senate then resume debate on the motion to proceed to H.R. 434, the sub-Saharan Africa free trade bill.

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

PROGRAM

Mr. BROWNBACK. Madam President, for the information of all Senators, the Senate will resume consideration of the sub-Saharan Africa free trade bill at 9:30 tomorrow. The debate on the motion is expected to consume most of the day.

For the information of all Senators, the majority leader announced that there will be no votes tomorrow or Monday. However, Senators can expect votes early on Tuesday morning. For the beginning of next week, the Senate will resume debate on the African trade bill and will consider numerous Executive Calendar items. The Senate will also consider appropriations conference reports as they become available.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. BROWNBACK. Madam President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:57 p.m., adjourned until Friday, October 22, 1999, at 9:30 a.m.