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House of Representatives

The House was not in session today. Its next meeting will be held on Tuesday, April 21, 1998, at 12:30 p.m.

Senate

THURSDAY, APRIL 2, 1998

The Senate met at 8:30 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

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

Gracious God, we begin this day by making the psalmist's prayer our moment by moment petition. ''Teach me to do Your will, for You are my God.''—Psalm 143:10. Remind us that discovering and doing Your will is not like flying on automatic pilot where we turn on the flight plan and forget about it. Instead, it is a sensitive, attentive relationship with You in which You communicate Your guidance to receptive minds each step of the way. You lead us when we concentrate all our desires on clearly knowing what is Your will for us. Our yearning to know Your will drives us back into deeper fellowship with You. We want to be spiritually fit so that no debilitating memory, broken relationship, or unforgiven hurt would render us incapable of receiving Your guidance.

Bless the Senators as they seek Your best for America in vital issues and in minute details lest real concerns are trivialized and minutia becomes momentous. In the Name of our Lord and Savior. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader, the distinguished Senator from New Mexico, is recognized.

Mr. DOMENICI. I thank the Chair.

Mr. REID. Will the Senator yield for a unanimous consent request?

Mr. DOMENICI. Yes.

PRIVILEGE OF THE FLOOR—S. CON. RES. 86

Mr. REID. Mr. President, I ask unanimous consent that congressional fellow Scott Conroy be given floor privileges during the pendency of action on the budget resolution.

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

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

SCHEDULE

Mr. DOMENICI. Mr. President, this morning the Senate will resume consideration of S. Con. Res. 86, the budget resolution, with the time until 9 a.m. equally divided on the Bumpers amendment relating to mines. At 9 a.m., by previous agreement, the Senate will proceed to a series of seven consecutive rollcall votes. The first two are in relation to two judicial nominations, the nominations of G. Patrick Murphy to be a U.S. district judge for the Southern District of Illinois and Michael P. McCuskey, of Illinois, to be U.S. district judge for the Central District of Illinois. The remaining five votes are on or in relationship to amendment No. 2218, Senator DORGAN's amendment relating to the Tax Code; amendment No. 2170, an Allard amendment regarding Federal debt; amendment No. 2195, a Lautenberg amendment on environmental programs; amendment No. 2213, a Bond amendment on housing; and then amendment No. 2228, a Bumpers amendment relating to mines.

It is hoped that during all of these votes Senators will contact the managers to inquire as to if their respective amendments may be accepted or if they require a vote on their amendment or perhaps indicate that they have decided to withdraw their amendment.

It is the intention of the majority leader to complete action on this measure as soon as possible. We ask all Senators to cooperate in that regard. Senators should be aware that today will be a busy schedule. Rollcall votes will be occurring throughout the day and into the evening, as necessary. In addition, Members are reminded that all consecutive rollcall votes are limited to 10 minutes in length. All Members' cooperation is requested with reference to the timely manner of the disposition of each vote.

As a reminder to all Members, the first rollcall vote will occur at 9 a.m. this morning.

CONGRESSIONAL BUDGET FOR THE UNITED STATES GOVERNMENT FOR FISCAL YEARS 1999, 2000, 2001, 2002, AND 2003

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. Con. Res. 86, which the clerk will report.

The legislative clerk read as follows:

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

A concurrent resolution (S. Con. Res. 86) setting forth the congressional budget for the United States Government for fiscal years 1999, 2000, 2001, 2002, and 2003 and revising the concurrent resolution on the budget for fiscal year 1998.

The Senate resumed consideration of the concurrent resolution.

Pending:

Allard amendment No. 2170, to require the reduction of the deficit, a balanced Federal budget, and the repayment of the national debt.

Conrad (for Boxer) modified amendment No. 2176, to increase Function 500 discretionary budget authority and outlays to accommodate an initiative promoting after-school education and safety.

Brownback amendment No. 2177, to express the sense of the Senate regarding economic growth, social security, and Government efficiency.

Smith (Oregon) amendment No. 2179, to express the sense of the Senate on Social Security taxes.

Smith (Oregon) amendment No. 2180, to express the sense of the Senate with respect to the use of marijuana for medicinal purposes.

Smith (Oregon) amendment No. 2181, to express the sense of the Senate concerning increases in the prices of tobacco products.

Kennedy amendment No. 2183, to express the sense of the Senate concerning the enactment of a patient's bill of rights.

Kennedy amendment No. 2184, to increase Function 500 discretionary budget authority and outlays to support innovative education reform efforts in urban and rural school districts.

Kennedy amendment No. 2185, to express the sense of the Congress regarding additional budget authority for the Equal Employment Opportunity Commission.

Wellstone modified amendment No. 2186, to provide a reserve fund to pay for increased Pell Grants by reducing or eliminating corporate welfare tax expenditures.

Wellstone/Moynihan amendment No. 2187, to express the sense of the Senate regarding a report of the Secretary of Health and Human Services evaluating the outcomes of welfare reform.

Wellstone modified amendment No. 2188, to provide additional funds for medical care for veterans.

Thurmond amendment No. 2191, to clarify outlay levels for major functional categories.

Thurmond amendment No. 2192, to clarify outlay levels for national defense.

Lautenberg amendment No. 2194, to express the sense of the Senate to ensure that the tobacco reserve fund in the resolution may be used to protect the public health.

Lautenberg amendment No. 2195, to establish a deficit-neutral reserve fund for environmental and natural resources.

Lautenberg (for Kohl/Reid) modified amendment No. 2204, to express the sense of the Senate regarding the establishment of a national background check system for long-term care workers.

Reid/Bryan amendment No. 2206, to express the sense of the Senate that the landowner incentive program included in the Endangered Species Recovery Act should be financed from a dedicated source of funding and that public lands should not be sold to fund the landowner incentive program of the Endangered Species Recovery Act.

Domenici (for Hutchison) amendment No. 2208, to express the sense of the Senate that any budget surplus should be dedicated to debt reduction or direct tax relief for hard-working American families.

Lautenberg (for Torricelli/Jeffords) amendment No. 2212, to express the sense of the Senate on battlefield preservation.

Bond/Mikulski modified amendment No. 2213, to express the sense of the Senate that the Elderly Housing program shall be funded at not less than the fiscal year 1998 funding level.

Kerrey amendment No. 2215, to express the sense of the Senate regarding passage of the IRS Restructuring and Reform Act of 1997.

Murray amendment No. 2216, to increase Function 500 discretionary budget authority and outlays to accommodate both Administration investments in education and the $2.5 billion increase assumed by the resolution for IDEA.

Murray amendment No. 2217, to express the sense of the Senate regarding the expansion of Medicare benefits.

Dorgan modified amendment No. 2218, to strike section 301 of the concurrent resolution, which expresses the sense of Congress regarding the sunset of the Internal Revenue Code of 1986, and replace it with a section expressing the sense of Congress that important tax incentives such as those for encouraging home ownership and charitable giving should be retained.

Dorgan amendment No. 2219, to establish a reserve fund for health research at the National Institutes of Health, funded by receipts from tobacco legislation.

Biden amendment No. 2220, to permit the use of Federal tobacco funds to reimburse the Veterans Administration for the costs of treating smoking-related illnesses.

Kyl amendment No. 2221, to express the sense of the Senate supporting a super-majority requirement for raising taxes.

Domenici (for Grams) amendment No. 2222, to use any budget surplus to reduce payroll tax and establish personal retirement accounts for hard-working Americans.

Bingaman/Lieberman amendment No. 2223, to establish a deficit-neutral reserve fund for civilian research and development.

Feingold amendment No. 2224, to establish a disability reserve fund.

Domenici (for DeWine) amendment No. 2225, to state the sense of the Senate regarding the quality of teachers.

Lautenberg (for Rockefeller) amendment No. 2226, to revise outlays and new budget authority for transportation (400) programs and allowances (920), and to strike those provisions with regard to outlays and new budget authority for programs of function 700, Veterans Benefits and Services.

Lautenberg (for Conrad) amendment No. 2227, to ensure that the tobacco reserve fund in the resolution may be used to strengthen social security.

Lautenberg (for Bumpers) amendment No. 2228, to provide for funding to help the states comply With the Individuals with Disabilities Education Act by eliminating an unjustified tax loophole.

Lautenberg (for Feinstein) amendment No. 2229, to express the sense of the Senate on education goals.

Lautenberg (for Kerry) amendment No. 2230, to ensure that tobacco reserve fund in the resolution protects public health.

Lautenberg (for Wellstone) amendment No. 2231, to express the sense of the Senate supporting additional funding for fiscal year 1999 for medical care for veterans.

Lautenberg (for Robb) amendment No. 2232, to ensure that the tobacco reserve fund in the resolution protects tobacco farmers.

Lautenberg (for Biden) amendment No. 2233, to provide for the Senate's support for Federal, State and local law enforcement.

Lautenberg (for Boxer) amendment No. 2234, to expand the uses of the tobacco reserve fund to include funding for health research, including the National Institutes of Health.

Lautenberg (for Bingaman/Lieberman) amendment No. 2235, to express the sense of the Senate regarding the analysis of civilian science and technology expenditures in the budget.

Lautenberg (for Bingaman) amendment No. 2236, to express the sense of the Senate regarding long-term civilian science and technology budget trends.

Lautenberg (for Kerrey) amendment No. 2237, to express the sense of the Senate on long-term Federal budgeting and the repayment of the public debt.

Lautenberg (for Moseley-Braun) amendment No. 2238, to express the sense of the Senate regarding tax legislation that increases the complexity of any tax return.

Lautenberg (for Moseley-Braun) amendment No. 2239, to express the sense of the Senate that the President should submit a generational study with the budget request.

Lautenberg (for Moseley-Braun) amendment No. 2240, to express the sense of the Senate regarding the value of the social security system for future retirees.

Lautenberg (for Durbin) amendment No. 2241, to express the sense of Congress regarding the right to affordable, high-quality health care for seniors.

Lautenberg (for Dorgan) amendment No. 2242, to express the sense of the Senate on ensuring social security solvency.

Lautenberg amendment No. 2243, to express the sense of the Senate that the Congress and the Administration should fulfill the intent of the Amtrak Reform and Accountability Act of 1997 and appropriate sufficient funds in each of the next five years to enable Amtrak to implement its Strategic Business Plan, while preserving the integrity of the $2.2 billion provided under the Taxpayer Relief Act for the statutory purpose of capital investment.

Lautenberg (for Daschle) amendment No. 2244, in the nature of a substitute.

Lautenberg (for Torricelli) amendment No. 2245, to express the sense of the Senate on battlefield preservation.

Lautenberg (for Torricelli) amendment No. 2246, to express the sense of the Senate on the Land and Water Conservation Fund.

Lautenberg (for Moynihan) amendment No. 2247, to express the sense of the Senate that the Committee on Finance should consider legislation to preserve social security and ensure its long-run solvency; and that no policy options, affecting either outlays, revenues, or the manner of investment of funds, should be excluded from consideration.

Domenici (for Bond) amendment No. 2248, to express the sense of the Senate regarding Immigration and Naturalization Service circuit rides in the former Soviet Union.

Domenici (for Abraham) amendment No. 2249, to express the sense of Congress that the Budget Act should be amended to facilitate the use of future unified budget surpluses to strengthen and reform social security, reform the tax code, and reduce the tax burden on middle-class families.

Domenici (for Thurmond) amendment No. 2250, to express the sense of the Senate regarding long-term care needs.

Domenici (for Sessions) amendment No. 2252, to express the sense of the Senate regarding the display of the Ten Commandments by a judge on the circuit court of the State of Alabama.

Domenici (for Stevens) amendment No. 2253, to express the sense of the Senate regarding outlay estimates of the Department of Defense budget.

Domenici (for Specter) amendment No. 2254, to modify the use of the tobacco reserve fund.

Domenici (for Specter) amendment No. 2255, to modify the tobacco reserve fund to allow up to $10.5 billion to be spent on post-service smoking related Veterans compensation benefits.

Domenici (for Specter) amendment No. 2256, relating to the distribution of certain receipts from tobacco legislation.

Domenici (for Nickles) amendment No. 2257, to establish a prohibition on precatory language on budget resolutions.

Domenici (for Frist) amendment No. 2258, to express the sense of the Senate regarding funding for the Airport Improvement Program.

Domenici (for McConnell) amendment No. 2259, to express the sense of the Congress that the award of attorneys' fees, costs, and sanctions of those amounts ordered by U.S. District Judge Royce C. Lamberth on December 18, 1997, should not be paid with taxpayer funds.

Domenici (for Sessions) amendment No. 2260, to express the sense of the Senate regarding limitations on attorneys' fees under any global tobacco settlement.

Domenici (for Craig) amendment No. 2261, to express the sense of the Senate on the eligibility of individuals suffering from post-service smoking-related illnesses for VA compensation.

Domenici (for Coverdell) amendment No. 2262, to express the sense of the Senate on the procurement of Blackhawk utility helicopters for Colombia to reduce illicit drug trafficking.

Domenici (for Santorum) amendment No. 2263, to express the sense of the Senate regarding reauthorization of the Farmland Protection Program.

Domenici (for Santorum) amendment No. 2264, to express the sense of the Senate concerning health care quality for participants in the Federal Employees Health Benefits Program.

Domenici (for Kempthorne) amendment No. 2265, to express the sense of the Senate regarding the Market Access Program.

Domenici (for Gramm) amendment No. 2266, to extend the Violent Crime Reduction Trust Fund.

Domenici (for Coverdell) amendment No. 2267, to express the sense of the Senate regarding the Department of Justice's pursuit of Medicare fraud and abuse.

Domenici (for Coverdell) amendment No. 2268, to express the sense of the Senate regarding national response to the threat of illegal drugs.

Domenici (for Coverdell) amendment No. 2269, to express the sense of the Senate regarding wasteful spending in Defense Department acquisition practices.

Domenici (for Coverdell/Kyl) amendment No. 2270, to express the sense of the Senate regarding the United States' response to the changing nature of terrorism.

Domenici (for Coverdell/Dodd) amendment No. 2271, to express the sense of the Senate regarding a multinational alliance against drug trafficking.

Domenici (for Mack) amendment No. 2272, to express the sense of the Senate regarding funding of the National Institutes of Health.

Domenici (for Hatch) amendment No. 2273, to assume that the use of the tobacco reserve fund is consistent with tobacco legislation approved by the Senate.

Domenici (for Sessions) amendment No. 2274, to express the sense of the Senate regarding limitations on attorneys' fees under any global tobacco settlement.

AMENDMENT NO. 2228

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the Bumpers amendment No. 2228 on which there shall be 30 minutes of debate equally divided. Who yields time?

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. I yield myself 5 minutes.

Colleagues, not long ago we debated what we called unfunded mandates to the cities and States of the country. A lot of tears were shed on this floor, because we said we were imposing all sorts of obligations on the cities and the counties and the States and making them pick up the tab for it. I am here this morning to tell you about the biggest unfunded mandate of all.

In 1975, the Congress—this body, along with the House—passed what is called the Individuals with Disabilities Education Act, IDEA, and we said in 1975 in the legislation that we wanted disabled children taken care of and that we would pay 40 percent of the cost. Twenty-three years later we are paying 9 percent of the cost.

The schools of this Nation have been literally bankrupting themselves to make up the difference. You are talking about billions of dollars that the United States made a solemn obligation to pay and has reneged on.

Having said that, let me tell you about the most unwarranted tax loophole in the Nation, and it is called a depletion allowance. It goes to the oil companies. It goes to natural gas companies. It goes to coal companies. And it goes to people in the mining industry who hardly paid a red cent for the gold, silver, platinum, palladium, zinc, copper—you name it—that they take off Federal lands.

I stood here on this floor—this is about the 8th or 9th year—and everybody knows the arguments. Everybody knows that it is the biggest ripoff going on in America today. And you talk about—you talk about—doing away with the Internal Revenue Code and betting on the come that somehow or other we will get a new revenue code before this one expires—listen to this.

You go down to the Gulf of Mexico and you bid $1 billion to drill for oil and gas in the Gulf of Mexico, and you are entitled to a depletion. You ought to get a depletion allowance. And how much is it? Oh, it is about—well, I do not have it here. I think it is 15 percent. Fifteen percent they get for a depletion allowance because they paid $1 billion for it. And everybody—the coal companies—we let coal competitively. We let our oil and gas leases competitively. But for some reason or other we give away all the gold and silver and platinum and palladium and other hard-rock minerals we have.

So what else do we do? We not only give them away, we pay them to take it. How do we do that? Here it is. Let us assume that Stillwater Mining Company in Montana, for example, which says there is $35 billion worth of platinum and palladium under a 2,000 acre tract, they intend to mine it and they intend to pay the Government roughly $10,000 for it—$10,000 for $35 billion worth of minerals that belong to the taxpayers.

Oh, the poor taxpayers. How we lament their plight in this body. Except when it comes to hard-rock mining. And then you know what the taxpayers get? They get nothing. You know what they pay? They buy this land for $2.50 an acre. Stillwater will pay about $10,000 for $35 billion. That is what they are going to pay for it. And here is what they pay the Federal Government. That is what they pay the taxpayers in royalties—zip, zero, zilch. Not a red cent.

What else do they get? They get a depletion allowance of 15 percent on gold. They get a depletion allowance on silver of 15 percent. They get a depletion allowance on platinum of 22 percent and on palladium of 22 percent.

That is right. The American taxpayer—the American taxpayer—is the big sucker in this whole thing. Here is an opportunity to fulfill an unfunded mandate and remove one of the most scandalous loopholes on the tax books of this Nation.

Mr. President, I yield the floor and reserve the remainder of my time.

How much time does the Senator from New Hampshire desire?

The PRESIDING OFFICER. The Senator has 7½ minutes remaining.

Mr. GREGG. If I could have that.

Mr. BUMPERS. I yielded myself 5 minutes and nobody interrupted me.

The PRESIDING OFFICER. If I could explain, we started late. The order was for the vote to actually occur at 9 o'clock, so we had a total of 25 minutes to divide instead of 30.

Mr. BUMPERS. I had asked unanimous consent that we be given 30 minutes, but the Chair said in the opening this amendment would be 30 minutes, equally divided.

The PRESIDING OFFICER. The Senator is correct.

Mr. BUMPERS. I ask unanimous consent that 30 minutes be provided.

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

Mr. BUMPERS. I yield 3 minutes to the Senator from New Hampshire.

Mr. GREGG. Mr. President I rise in support of the amendment offered by the Senator from Arkansas.

First, the underlying purpose of the amendment is legitimate. The fact is that these companies buy this opportunity to go on to Federal land at basically zero dollars. They make millions, billions of dollars over the years off of this land. They pay no depletion. They pay no taxes. They get a depletion allowance that gives them a tax deduction even though they didn't have to pay anything for the land to begin with, which makes absolutely no sense. The depletion allowance is the concept that you are using up an asset which you paid something for. They didn't pay anything for the land, so why should they get a depletion allowance?

The Senator's amendment on the facts on substance is correct. More importantly, the Senator's amendment is taking this totally inappropriate deduction and applying the revenues which would occur by eliminating it to something which is totally appropriate, and that is special education.

We all know that this administration has, regrettably, underfunded special education in its budget. We have attempted to correct that in the Republican budget, but we haven't gotten as far as we need to go. Thus this opportunity to put an additional revenue stream into special education is extraordinarily important. It means that kids who are in the special needs program, who are today being pushed into a position with other kids who are not in special needs programs over a confrontation of resources, will be put in less of a situation which is detrimental to them.

The Federal Government committed to pay 40 percent of the costs of the special needs child. As a result of Republican initiatives, we have gotten from a 6 percent level to a 9.5 percent level, but we are still well short of the 40 percent commitment. This amendment by the Senator from Arkansas will help us move another step toward that 40 percent commitment. It will help relieve local taxpayers who are paying the Federal share of the tax burden of supporting special needs children from having to pay the difference between 9.5 percent and 40 percent, or some part of that.

So, essentially, the proposal of the Senator from Arkansas is right on two counts. First, it is right on the concept of eliminating the depletion allowance because there is absolutely no justification for a depletion allowance where people pay essentially nothing for the lands they are mining and the land is owned by the public. Secondly, it is right because it will help special needs children and it will start to fulfill or assist in fulfilling the obligation of the Federal Government to fund the 40 percent share which we said we would fund when we started this program.

It is a good amendment. I strongly support it.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Mr. President, we have five Senators who will split time, 3 minutes each. We will not use all of our time, but we will start with Senator CRAIG, 3 minutes.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, let me say first to the Senators from Arkansas and New Hampshire, this has to be one of the most gratuitous taxes on the mining industry you have yet come up with.

Let me be blunt, let me be honest: Every citizen benefits from the wealth of the products that flow from mining, and certainly disabled Americans have benefited considerably from light metal technology and advanced computer technology that depends on our mining industry. It has made them mobile. It has made them active. It has changed their lives.

The Senator from New Hampshire knows better than to say that mining industries don't pay taxes. They are in the 32 percent bracket on the profits of those industries. Everyone knows that, and that kind of statement ought to be taken from the record because it simply is not true.

What is true is that the mining industry is characterized by relatively rare, commercially valuable metal deposits and mineral deposits. There is high economic risk, geologic unknowns, high capital requirements, and long lead times for the development of the mining companies. We know that, and that is why this Congress years ago provided that depletion allowance, because mining industries invest so much upfront for a resource that is rapidly depleting as they mine it out.

It recognizes, by this action and by what Congress has already done, unique natural mineral extraction provides for this country the valuable base for our industrial-based economy. It is difficult to replace minerals. Much of the money must be used for exploration and development, millions and millions of dollars upfront, like no other industry that we have seen, only to play in a market that is oftentimes dramatic, in a world market with changing values, and as a result there are dramatic losses and, yes, dramatic profits. But the one thing that is clear and constant across it is a recognition of the constant use or the depletion of the resource that they have discovered.

I am disappointed that the Senator from Arkansas would try to offset this against disabled people. It just simply doesn't make sense. This Congress has been tremendously responsive to disabled people—the Senator from Arkansas has, the Senator from Idaho and New Hampshire and all of us—and now to play this kind of gratuitous game simply doesn't make a lot of sense.

Mr. DOMENICI. I yield to the Senator from Nevada, Senator BRYAN.

Mr. BRYAN. Mr. President, I will correct some misimpressions that may have been unintentionally offered here on the floor of the Senate. I think it is helpful to put this in some context.

This proposal, which has been offered by the Senator from Arkansas on previous occasions, was in my idea never a good idea, but now the timing could not be worse because the status of at least one aspect of that industry, the gold industry in my State, is facing some very critical times. The international price of gold on the markets of the world has dropped precipitously, substantially below $300 an ounce. The break-even cost in the gold industry is approximately $296, so in my own State of Nevada, which leads the Nation and is one of the largest gold-producing areas in the entire world, we have had just in the last year more than 2,000 layoffs and a substantial number of mines that have closed, and the spot price of gold has been as low as $283 an ounce. So this is a very, very difficult time for this industry.

The proposal offered by the Senator from Arkansas would, indeed, have a catastrophic impact upon the industry, and it would have a serious impact upon thousands of people in my own State. About 120,000 people in America work directly in the hardrock mining industry. In the State of Nevada, more than 15,000 have been employed at the high-level mark before these layoffs occurred. These are good-paying jobs. We talk a lot in America about good jobs that provide a full range of benefits, an adequate salary base to provide a decent living standard for America's workers. The average wage for mining in my State is nearly $49,000 a year. That is higher by far than any other industry.

Finally, let me conclude by saying that the impression given that somehow the mining industry gets a free ride, doesn't have to pay any taxes, could not be further from the truth. The Natural Mining Association last year estimates that over $600 million in Federal taxes was paid. According to a recent GAO report, the average tax rate for the mining industry from 1987 to 1992 was 35 percent. That is compared with other industries: the auto industry, 23 percent; chemical industry, 19 percent; 33 percent for the transportation industry. In my own State, the gold industry paid more than $141 million in State and local taxes in 1995, including $32.7 million in property taxes.

I note my time has expired. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BUMPERS. I yield 4 minutes to the Senator from Wisconsin.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President I am very pleased to join with my friend, the Senator from Arkansas, and my friend, the Senator from New Hampshire, in offering an amendment that enables States to comply with the IDEA Program Act.

Mr. President, I promised to hold a town meeting or listening session in each of Wisconsin's 62 counties each year of my first term as a Senator. At these meetings I very frequently hear from both parents and school officials talking about the merits of the IDEA program. They struggle to meet the high costs of disabled education and need additional Federal funding for the program. Of course, this amendment, as good as it is, will by no means meet all of these needs. However, it will finally provide some deserved relief for this deserving constituency.

The funds our amendment provides for the IDEA program are derived, as the Senator from Arkansas has indicated, from the elimination of the percentage depletion allowances tax deduction for companies mining on U.S. public lands. What this does is simply close an outdated subsidy that contributes to environmental degradation. We can assist States providing for our Nation's disabled youth by using some of these funds that are going for tax loopholes.

Mining companies have a special percentage depletion tax deduction that they can take which other companies can't receive. Under percentage depletion, the deduction for recovery of a company's investment is a fixed percentage of ''gross income''; namely, sales revenue from the sale of the mineral. This percentage is specifically defined in the Tax Code, and under this method total deductions may exceed the capital that the company actually invested.

The rates for percentage depletion are quite significant. Section 613 of the U.S. Tax Code contains depletion allowances for more than 70 metals and minerals at rates ranging from 10 to 22 percent.

In today's budget climate, we are faced with the question of who should bear the costs of exploration, development and production of natural resources. The question is, should it be all taxpayers or the users and producers of the resource?

Given that we face significant constraints in funding other budget priorities such as the IDEA program, these subsidies are really nothing more than a tax expenditure that shifts a greater tax burden to other taxpayers to pay for the IDEA program to compensate for the special tax breaks provided to the mining industry.

I am delighted to join with the other Senators in this very appropriate shifting of our priorities.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. I yield 3 minutes to Senator REID of Nevada.

Mr. REID. Mr. President, schools are helped every day by mining. Mining pays taxes that provide all types of things for education. It takes millions and millions of dollars to find the minerals that are hidden in the ground. You don't just walk out and say, here, I am going to dig a gold mine or find copper here. It takes millions to find these minerals.

The United States is a net exporter of gold. It was only 10 or 12 years ago we were here on the Senate floor and throughout the country telling people we need to do things so that we can become a net exporter, especially of minerals. At that time we were depending on South Africa, which was in deep trouble in the world, and the former Soviet Union. We are now an exporter of many of the minerals we weren't just a few years ago. That is good.

I want to show you some recent Nevada newspaper headlines, many from the same day. ''Getchell loses $29.4 million in '94.'' ''Echo Bay Mines loses $240 million in 1997.'' ''Placer Dome loses $249 million in 1997.'' ''Meridian Gold loses $69.2 million in 1997,'' a small company. It is very, very difficult. ''Vista Gold to lay off 135 workers.'' Small company, big layoffs. ''Newmont lays off 155 at Carlin, 460 total.'' ''Layoffs Reach Beyond the Mining Industry.''

Mr. President, it is not only Nevada experiencing these headlines. Yesterday, in the paper—I wish it were an April Fools' joke; it isn't—''487 Arizonans Lose Their Jobs as Copper Prices Fall.'' The United States mineral industry is suffering significantly and when the minerals industry suffers so does the rest of the economy.

Here is from one newspaper's AP story. ''And the ripple effect of layoffs at Newmont Gold has spread to Carlin. Even some of the service industries are starting layoffs at this time.''

Another newspaper article. ''Homestake Mining Reports '97 Loss of $168.9 million. Homestake laid off its nearly 900 strong work force while restructuring is under way and still isn't saying how many of those will be rehired according to spokesperson Steeves.''

The minerals industry is suffering significantly. They are doing their best to hang on to maintain employment. The best paying blue-collar jobs in the entire Western United States are mining jobs. Thousands of people are being laid off. Gold prices are at an 18-year low. And now we are being told that they are pigs, that they are using all of these tax benefits. The fact is thousands of people have good jobs because of mining.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. I wonder if Senator BUMPERS might not object to a request that we each have 1 additional minute.

Mr. BUMPERS. Not at all.

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

Mr. DOMENICI. I pose that question.

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

Mr. DOMENICI. Would Senator THOMAS like to speak for 1 minute?

Mr. THOMAS. Yes. I thank the Senator very much.

I simply want to join my friends in opposition to this amendment, for two reasons. One is that the basic facts that we set out here are not valid. More importantly, this is not the place to do that. We have been dealing with things like mining reform, and we ought to do that and we can do that. Unfortunately, to some here it is either their way or the highway, so it never happens. But this is not the place. I rise in opposition to this amendment.

I thank the Senator.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. I yield 3 minutes to the chairman of the Energy Committee, Senator MURKOWSKI.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. I thank the Chair.

Mr. President, let's be sure we understand each other. The budget resolution before us already provides a $2.5 billion increase for the IDEA program, that is, individuals with disabilities, and it does so without raising taxes and creating a new entitlement program. The Senator from Arkansas is aware of that. When you strip away all the rhetoric, the issue boils down to the basic question of whether this Senate wants to go on record to support a nearly $311 million tax increase on the domestic mining industry.

Retention of the depletion allowance, for those who do not understand it—and there are a few—is important to the health of the domestic mining industry because it recognizes the nature, the uniqueness of the mineral industry as an extraction industry by providing a realistic method of measuring the decreasing value of a mineral deposit which declines when you take it out, while generating the necessary capital to build a replacement project, so we can have employment. Metal prices are down, as has been evidenced. Gold has dropped from over $400 an ounce to $300 an ounce, the lowest price in 18 years.

On a daily basis, newspapers throughout the West announce further mine closures.

The Senator from Arkansas wants to tax the industry now. Lost jobs, lost futures. I ask my colleagues if they really believe this country has lost its hunger for raw materials, or do we simply want to send the industry overseas, import our minerals from overseas? If you do not think increased costs of operation such as proposed by the amendment by Senator BUMPERS pose a real threat to the domestic mining industry and local economies, ask the people of Lead, SD. ''Homestate Mining just laid off 466 workers at the Lead mine due to increased costs of operations and diminished gold prices.''

This is not the time to be launching punitive action against an industry that contributes over $130 million annually to the American economy. We have a bill in my committee to accomplish comprehensive mining reform. The Senator from Arkansas is aware of that. I will be holding hearings on comprehensive reform on April 28. That is the place, in the hearing room, and the time to go about reforming mining law, not in a 10-minute debate on the floor of the Senate during consideration of the budget.

I strongly urge my colleagues to join with me and defeat Senator BUMPERS' amendment.

One more time. Do not be fooled. This budget resolution already provides a $2.5 billion increase for the IDEA program without raising taxes and creating a new entitlement program. So I encourage my colleagues to recognize what this is. It is a $311 million tax on our mining industry that is going to cause a job loss, and we are going to be more dependent on imported minerals.

THE PRESIDING OFFICER. Who yields time?

Mr. BUMPERS. How much time do I have remaining?

THE PRESIDING OFFICER. The Senator from Arkansas has 5 minutes 44 seconds.

Mr. BUMPERS. I yield myself such time as I may use.

Mr. BUMPERS. Mr. President, isn't it wonderful that the hard rock mining companies don't pay taxes? Isn't that just remarkable? We give them billions of dollars' worth of minerals for $2.50 an acre, we allow them to create environmental disasters, we allow them to take the minerals and not pay one dime in royalty, and they are not subject to pay any taxes. Isn't that just wonderful? The oil companies, who right now are getting about 50 percent as much for their oil as they got a year ago, not only have to pay billions for the rights to drill for oil on Federal lands, but they also have to pay royalties. And they pay taxes.

If somebody walked in here and made the argument that was just made about the fact that mining companies pay taxes, if somebody made the suggestion that oil companies not pay taxes, you would be laughed out that door. If the same argument were made for coal companies who pay zillions just for the right to take the coal and a 12.5 percent royalty, and if we suggested that they not have to pay taxes, you would be laughed out the door.

What is it about the rock mining industry? We give them billions of dollars' worth of gold, silver, platinum, palladium; they create environmental disasters; they don't pay a dime in royalties; they take a depreciation allowance on top of that of 15 to 12 percent; we give it to them and then pay them to take it. The children of this Nation—we give 9 percent to the school district to take care of disabled children.

I can tell you who is going to win in this battle here today. It isn't going to be the disabled children, it is going to be the same people who have won for the last 8 years, as I presented it. It will be the mining companies. They will continue to get Federal lands for nothing. They will continue to get a depletion allowance to mine it. They will continue not paying Uncle Sam one dime in royalty. If they come to your house and say, ''You have this tract of land out back loaded with gold, and we would like to mine it,'' do you know what they are willing to pay? Eighteen percent royalty. But they come to the U.S. Government and say, ''You have this tract of land that has gold on it.'' We say, ''Oh, really? Please take it. Please leave an environmental disaster to the tune of $76 billion for the taxpayers to clean up. Please don't pay us any royalty. We do need a few billion dollars more for disabled children, but not from you.''

One of these days, the people of this country are going to rise up in righteous indignation when it finally soaks in on the American people what is going on in this industry and how Congress is aiding and abetting one of the biggest scams in the history of the world.

Colleagues, when you walk in here to vote today, look at that chart. You have a choice of removing an unjustified tax loophole that is not available to anybody else—nobody else. You can remove it from the biggest mining companies in the world—not the United States, in the world—and give it to the disabled children of this country, the school boards which have been waiting for us to fulfill a 23-year promise to provide 40 percent of the cost of taking care of disabled children. So far, we have paid the paltry sum of 9 percent.

I yield the floor and save remainder of my time.

The PRESIDING OFFICER. Who yields time?

The Senator from New Mexico has 3 minutes 14 seconds remaining.

Mr. DOMENICI. Mr. President, many of us have heard people say, ''Kick them when they're down.'' I guess we all recall when we were in high school. If you went to a high school football game, the cheerleaders would say, ''Hit them again. Hit them again, harder, harder.''

Mr. President, the mining industry in the United States led by the copper industry is in a deplorable economic state. As a matter of fact, copper is down 30 percent. Already in America, copper mines have been closed. All mineral resources in the world are down substantially. Oil production in the United States is down. Stripper wells are going out of business rapidly. We are more and more dependent upon foreign sources for our mineral resources, and for our oil.

Frankly, the GAO tells us that the mining industry pays an enormously high tax. In fact, the study says on average they pay 32 percent of the income. They already contribute $14 billion to the Federal Government in revenues.

Mr. President, it is obvious that this amendment will cause more disrepair in the industry, fewer jobs, laying off people. In fact, we might call it the ''Unemployed Miner Act.''

Second, in terms of money for disabled young people, let me first say the budget before us has $2.35 billion in new money for IDEA, for the disabled young people of our country. We think that is a very, very significant add-on when the President only put a few million dollars in his. We think it is the right place to put the money. But we have already put it in our budget. We don't need to destroy the mining industry in order to live up to our responsibility under IDEA and to disabled children. We found the money to do it in our budget.

It seems to me that to pick one tax, one deduction, the depletion allowance, and from that assume that the mining industry, coal mining and all the others, are not paying any Federal taxes is an absolute gross exaggeration, if not an untruth. As far as environmental degradation, since we have had environmental laws, our mining companies are not causing environmental degradation. They are bound by every single environmental law of this land. And a statement that they are polluting today is also a gross exaggeration, if not truly an untruth.

When time is all yielded, I will move to table and ask for the yeas and nays.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Arkansas has 1 minute 25 seconds.

Mr. BUMPERS. Mr. President, how much time do the opponents have?

The PRESIDING OFFICER. The time of the Senator from New Mexico has expired.

Mr. BUMPERS. Mr. President, I will not belabor this any further. Everybody knows the argument. It is just a question of whether you are willing to do right or not. We are mining $2 billion worth just in gold a year off Federal lands that we have given the mining companies—gave them. They pay no royalty. They didn't pay anything for it. I forget who it was who talked about how valuable minerals were. Eighty percent of the gold mined in this country goes for jewelry. And we are willing to subsidize that to the tune of hundreds of millions of dollars a year when we have disabled children in school waiting for us to fulfill a promise? It is just as simple as that.

I yield the remainder of my time and ask for the yeas and nays.

Mr. DOMENICI. I move to table the Bumpers amendment, and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second on the motion of the Senator from Arkansas?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is there a sufficient second on the motion to table?

There is a sufficient second.

The yeas and nays were ordered.

EXECUTIVE CALENDAR

EXECUTIVE SESSION

The PRESIDING OFFICER. Under the previous order, the hour of 9 a.m. having arrived, the Senate will now go into executive session to consider Calendar Nos. 461 and 462.

The first nomination will be stated.

NOMINATION OF G. PATRICK MURPHY, OF ILLINOIS, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF ILLINOIS

The assistant legislative clerk read the nomination of G. Patrick Murphy, of Illinois, to be United States District Judge for the Southern District of Illinois.

Mr. REID. 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.

Ms. MOSELEY-BRAUN. Mr. President, I rise today in strong support of two outstanding judicial nominees from my state of Illinois, G. Patrick Murphy and Michael P. McCuskey.

It is therefore appropriate that I also say a few words about a matter of critical importance: the exceptionally large number of judicial vacancies in our federal court system.

Currently, there are 83 vacancies in the federal judiciary. This accounts for approximately one out of every ten federal judges. Thirty of the vacancies have been in existence for 18 months or longer and are therefore regarded as ''judicial emergencies.''

Illinois presently has seven vacant judgeships. One of these, in the U.S. District Court for the Southern District of Illinois, dates back to November of 1992. Another, in the Central District, dates back to October of 1994. Two of the nominees for these vacancies are awaiting action by the Senate Judiciary Committee and two will be confirmed today by the full Senate. In the Southern District, the chief judge went for more than a year without having time to hear a single civil case because his criminal docket was so full. In the Central District, major civil trials have had to be postponed because of the shortage of judges. Commenting on the imminent retirement of a third judge in his district, Marvin Aspen, the chief judge of the Northern District, recently told the Chicago Sun-Times that ''if Congress does not move quickly . . . in a short time we could have a serious backlog.'' Last week, Judge Aspen called the number of judicial vacancies nationwide ''an unprecedented scandal.'' The chief judge of the Southern District, Phil Gilbert, says that they are currently managing to get the job done, but they ''badly'' need additional judges. Michael Mihm of the Central District says that they are also continuing to function, but they are definitely feeling the pinch. They have had to delay at least one major civil trial, and are increasingly dependent on visiting judges. Litigants are often forced to travel long distances to get their day in court.

The situation in the Southern and Central Districts of Illinois is dire. There are four judgeships in the Southern District, and 2 of them are vacant, a vacancy rate of 50%, which is much higher than the nationwide rate of 10% vacancies. The Central District numbers are exactly the same. The Southern District vacancy is one of the oldest in the country. As of today, 1,972 days have passed without a judge in that seat. And the Central District seat has been vacant for 1,275 days.

Today, two Illinois nominees for those districts will be confirmed by the full Senate. These nominees, Mike McCuskey and Pat Murphy, have been pending on the floor for 147 days. There is no question of their qualifications; both were unanimously recommended by the Judiciary Committee in November.

Mike McCuskey was born in Peoria, and has served as a state court judge for the last nine years. Prior to attending law school, he taught high school history, and coached baseball. He worked his way through law school as a security guard. Judge McCuskey has a reputation as an outstanding jurist, fair, firm and thorough. He is also known for his community service, such as reading to grade school children and emceeing senior citizen activities at the County Fair.

Pat Murphy was born in Marion, Illinois. He enlisted in the Marines at the age of 17, and spent his 18th birthday in Vietnam. Upon returning to Illinois, he attended college and law school with the help of the GI Bill. After both of his parents died, he helped raise his four younger siblings, although, as he puts it, they all raised each other. Mr. Murphy has extensive legal experience, with over 100 jury trials and 200 bench trials under his belt. The first year he was eligible, he was elected to the prestigious American College of Trial Attorneys. He has a sterling reputation among all who have worked with him or against him. He is also known for his generosity to veterans, giving pro bono representation to any veteran who asks for help.

As both of these nominees have languished on the Senate calendar, the delay has taken its toll on their personal lives. Several weeks ago, Judge McCuskey was forced to choose between his home and his current state court job. Last year he signed a housing contract, which was finalized in March. Since he entered the contract, the rules of residency for a state court judge changed. This confirmation vote comes just in time for him. He can now move into his new house without worrying about losing his state court judgeship. If this confirmation vote did not come today, he would have been forced to default on his contract. Pat Murphy is a solo practitioner. He has been unable to predict his ability to continue to represent clients. Yet, he has had to make a living over the last one hundred and fifty days.

Consideration of these nominees has been long overdue, and I am so pleased that they will finally be confirmed by the full Senate. Both of these men are highly qualified and will be a credit to the federal judiciary. Moreover, the vacancies they fill will help resolve a crisis in Illinois—a crisis that is evident throughout our nation.

As Chief Justice Rehnquist stated in his 1997 Year-End Report on the Federal Judiciary, ''Vacancies cannot remain at such high levels indefinitely without eroding the quality of justice that traditionally has been associated with the federal judiciary.'' The Chief Justice placed much of the blame squarely on the Senate. He said, ''Some current nominees have been waiting a considerable time for a Senate Judiciary Committee vote or a final floor vote. The Senate confirmed only 17 judges in 1996 and 36 in 1997, well under the 101 judges it confirmed during 1994.''

By failing to move expeditiously on judicial nominations, the majority party in the Senate is failing to live up to its responsibilities to the American people. President Clinton has made 134 judicial nominations during the 105th Congress, but the Senate has confirmed only 51 of these individuals. As the Chicago Tribune editorialized earlier this year, ''If Republicans don't like the choices, let the Senate debate them and vote them down. Doing nothing, as the Senate has done lately, is cowardly and cynical.''

Worse yet, it is affecting the quality of justice in the United States. The increase in the number of judicial vacancies in combination with the growth in criminal and civil filings has created a huge backlog of federal cases. According to Chief Justice Rehnquist, since 1990, the number of cases filed in courts of appeals has increased by 21 percent and those filed in district courts have grown by 24 percent. There was a five percent increase in the criminal caseload in 1997. This resulted in the largest federal criminal caseload in 60 years.

According to the Administrative Office of the U.S. Courts, the number of active cases pending for at least three years rose 20 percent from 1995 to 1996. In 1997, Federal courts handled a record number of cases. Bankruptcy filings jumped more than 50 %, civil and appellate cases increased for the fourth consecutive year, and criminal caseloads were more crowded than at any time in the last 60 years. According to the most recent data provided by the Department of Justice, there are more than 16,000 federal cases that are more than three years old.

Time magazine wrote last year that ''some Republicans have as much as declared war on [President] Clinton's choices, parsing every phrase they've written for evidence of what they call judicial activism.'' This has discouraged qualified candidates from subjecting themselves to the confirmation process. For instance, last September, Justice Richard P. Goldenhersch of the Illinois Court of Appeals, withdrew his name from consideration for a federal judgeship, stating that, because of the ''poisoned atmosphere of the confirmation process, my nomination would be pending for an indefinite period of time.'' He stated that the protracted nature of the process was ''particularly unfair to the people of the Southern District of Illinois, who deserve a fully staffed court ready to hear their cases.''

In condemning President Clinton's judicial nominations, one of my Republican colleagues described the judicial branch last year as being full of ''renegade judges, [who are] a robed, contemptuous intellectual elite.'' And in explaining why the confirmation of a California appeals court judge had been delayed for two years, a senior member of the Republican majority stated, ''If

you want to blame somebody for the slowness of approving judges to the Ninth Circuit, blame the Clinton and Carter appointees who have been ignoring the law and are true examples of activist judging.''

The President's record of judicial appointments belies any assertion that he has sought to stack the federal judiciary with the types of judges referred to by my colleagues. The New York Times commented last year that what ''may be most notable about Clinton's judicial appointments may be reluctance to fill the court with liberal judges.'' The Times noted that a statistical analysis by three scholars ''confirms the notion that the ideology of Clinton's appointees falls somewhere between the conservatives selected by [Presidents] Bush and Reagan and the liberals chosen by President Carter.'' The Times quoted an author of the study, Professor Donald Songer of the University of South Carolina, as stating that Clinton's appointments were ''decidedly less liberal than other modern Democratic presidents.'' Professor Songer stated that, from an ideological standpoint, President Clinton's judges were most similar to judges selected by President Ford.

Republican members of the Senate thus cannot claim that they are safeguarding the judiciary from liberal jurists. Indeed, it is they who, in the words of Time magazine, are currently engaged in ''what has become a more partisan and ideological examination of all judicial nominees.'' As my colleague from Vermont, Senator LEAHY, stated last September, the ''continuing attack on the judicial branch [by Republican Members of Congress], the slowdown in the processing of the scores of good women and men the President has nominated to fill vacancies on the Federal courts around the country, and widespread threats of impeachment [against federal judges] are all part of a partisan ideological effort to intimidate the judiciary.''

Mr. President, Chief Justice Rehnquist has called the independence of the judiciary ''the crown jewel of our system of government.'' Our courts are revered around the globe precisely because of their ability to administer justice impartially and without regard to the prevailing political climate. Republicans in Congress are seeking to undermine judicial independence and freedom of action. A key element of their strategy has been to put a choke hold on the process of confirming nominees sent by President Clinton. This state of affairs must not be allowed to continue. As Chief Justice Rehnquist has stated, ''The Senate is surely under no obligation to confirm any particular nominee, but after the necessary time for inquiry it should vote him up or down.'' Let the Senate heed the words of the Chief Justice and commit itself to enabling the federal judiciary to be, as the Supreme Court pediments proclaim, the guardian of our liberty and the guarantor of equal justice under the law.

Mr. LEAHY. Mr. President, I come to the floor to congratulate Senator DURBIN and Senator MOSELEY-BRAUN on finally, at long last, achieving a vote on the nominations of Patrick Murphy and Judge Michael McCuskey. The Senators from Illinois have had to labor long and hard just to reach this point. I know that Senator DURBIN did everything that he could think of to bring to the attention of the Republican leadership the need to consider and confirm these two judicial nominees who have been languishing on the Senate calendar without action for the last six months. I, too, have spoken about the plight of the Federal courts in the Southern and Central Districts of Illinois more often over the last several weeks and months than I would like to remember.

We thank the Democratic Leader, Senator DASCHLE, for his efforts on behalf of these nominees and on behalf of achieving a vote. And I thank the Majority Leader for finally scheduling this vote and for working through whatever problems existed on the Republican side of the aisle that have delayed these nominations from early November to the end of the last session and for the first three months of this new session.

It is long past time for the Senate to consider the nominations of Patrick Murphy and Judge Michael McCuskey. The Senate Judiciary Committee unanimously reported these two nominations to the full Senate on November 6, 1997—almost six months ago. Their confirmations are desperately needed to help end the vacancy crisis in the Federal District Courts of Illinois.

Pat Murphy is an outstanding judicial nominee. A decorated Marine, he has practiced law in the State of Illinois for 20 years as a trial lawyer and tried about 250 cases to verdict or judgment as sole counsel. During his legal career, Mr. Murphy has made an extensive commitment to pro bono service—dedicating approximately 20 percent of his working time to representing disadvantaged clients in his community.

Judge Michael McCuskey is also an outstanding judicial nominee. Judge McCuskey served as a Public Defender for Marshall County in Lacon, Illinois, for 8 years and has served as a State court judge for several years, first on the bench in the 10th Judicial Circuit and then on the Third District Appellate Court of Illinois. The American Bar Association recognized his stellar qualifications by giving Judge McCuskey its highest rating of well-qualified for this nomination.

The mounting backlogs of civil and criminal cases in the dozens of emergency districts, like the Southern and Central Districts of Illinois, are growing more critical by the day. Indeed, in the Southern District of Illinois, where Pat Murphy will serve when confirmed, Chief Judge Gilbert has reported that his docket has been so burdened with criminal cases that he went a year without trying a civil case.

The Chief Justice of the United States Supreme Court has called judicial vacancies ''the most immediate problem we face in the federal judiciary.'' There is no justification for the Senate's delay in considering these two fine nominees for Districts suffering from judicial emergency vacancies.

I have urged those who have been stalling the consideration of the President's judicial nominations to reconsider and to work with us to have the Judiciary Committee and the Senate fulfill its constitutional responsibility. Those who delay or prevent the filling of these vacancies must understand that they are delaying or preventing the administration of justice. Courts cannot try cases, incarcerate the guilty or resolve civil disputes without judges.

Last week the Chief Judge of the Second Circuit Court of Appeals certified that the persisting vacancies on that Court require him to certify an emergency situation and to begin canceling hearings and proceeding with only one Second Circuit Judge on certain 3-judge appellate panels. There is a nominee for the Second Circuit on the Senate calendar awaiting Senate consideration, Judge Sonia Sotomayor.

I came to the Senate floor last week to plead with the Republican leadership to proceed to consideration of the nomination of Judge Sonia Sotomayor to the Second Circuit. I renew that plea today and urge a vote on this nomination before the Senate adjourns for a 2-week recess. We should not go on recess while the Second Circuit needs action on nominees to alleviate a crisis.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of G. Patrick Murphy, of Illinois, to be United States District Judge for the Southern District of Illinois?

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina (Mr. HELMS) would vote ''yea.''

The result was announced—yeas 98, nays 1, as follows:

[Rollcall Vote No. 61 Ex.]

YEAS—98

Abraham	Byrd	Dorgan
Akaka	Campbell	Durbin
Allard	Chafee	Enzi
Ashcroft	Cleland	Feingold
Baucus	Coats	Feinstein
Bennett	Cochran	Ford
Biden	Collins	Frist
Bingaman	Conrad	Glenn
Bond	Coverdell	Gorton
Boxer	Craig	Graham
Breaux	D'Amato	Gramm
Brownback	Daschle	Grams
Bryan	DeWine	Grassley
Bumpers	Dodd	Gregg
Burns	Domenici	Hagel

Harkin	Levin	Roth
Hatch	Lieberman	Santorum
Hollings	Lott	Sarbanes
Hutchinson	Lugar	Sessions
Hutchison	Mack	Shelby
Inhofe	McCain	Smith (NH)
Inouye	McConnell	Smith (OR)
Jeffords	Mikulski	Snowe
Johnson	Moseley-Braun	Specter
Kempthorne	Moynihan	Stevens
Kennedy	Murkowski	Thomas
Kerrey	Murray	Thompson
Kerry	Nickles	Thurmond
Kohl	Reed	Torricelli
Kyl	Reid	Warner
Landrieu	Robb	Wellstone
Lautenberg	Roberts	Wyden
Leahy	Rockefeller	

NAYS—1

Faircloth

NOT VOTING—1

Helms

The nomination was confirmed.

Mr. LEAHY. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

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

The motion to lay on the table was agreed to.

NOMINATION OF MICHAEL P. McCUSKEY, OF ILLINOIS, TO BE UNITED STATES DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF ILLINOIS

The PRESIDING OFFICER. The clerk will report the next nomination.

The bill clerk read the nomination of Michael P. McCuskey, of Illinois, to be United States District Judge for the Central District of Illinois.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Michael P. McCuskey, of Illinois, to be United States District Judge for the Central District of Illinois?

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

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. LEAHY. 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. LEAHY. 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. LEAHY. Mr. President, I withdraw the request for the yeas and nays.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Michael P. McCuskey, of Illinois, to be United States District Judge for the Central District of Illinois?

The nomination was confirmed.

Mr. LEAHY. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

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

The motion to lay on the table was agreed to.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

CONGRESSIONAL BUDGET FOR THE UNITED STATES GOVERNMENT FOR FISCAL YEARS 1999, 2000, 2001, 2002, AND 2003

The Senate continued with the consideration of the concurrent resolution.

AMENDMENT NO. 2218

The PRESIDING OFFICER. The pending amendment is Dorgan amendment No. 2218, on which there are 2 minutes of debate equally divided, with the Senator from North Dakota controlling 1 minute and the Senator from New Mexico controlling 1 minute.

The Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, the budget resolution contains a sense of the Senate that the Tax Code shall be sunsetted at the end of the year 2001. It doesn't provide what might be replacing that. It doesn't suggest whether after the current Tax Code is sunsetted there will be a flat tax, a VAT tax, a national sales tax; it just says sunset the Tax Code.

The chairman of the Finance Committee, Senator ROTH, says the following:

> I believe that a comprehensive overhaul of the Tax Code should be in place before any action is taken to sunset the existing Tax Code.

The Tax Executives Institute, which represents thousands of corporations around the country, has said the same thing. It would be irresponsible to say let's get rid of the Tax Code without telling people what they are going to put in its place. What do you say to somebody who is going to buy a home tomorrow and they expect their mortgage interest deduction is going to be——

Mr. FORD. Mr. President, may we have order?

The PRESIDING OFFICER. The Senator from Kentucky is correct. There will be order in the Senate.

Mr. FORD. I think the Senator from North Dakota should have some of his time back because nobody has heard him.

Mr. DORGAN. Mr. President, last evening, the Senator from New Mexico characterized the amendment as an amendment which supports the current Tax Code. It is a clever way to debate, I guess, what this amendment is about. I support reforming the current Tax Code, making it better, more simple, more fair, but I don't believe we ought to say, ''Let's abolish the current Tax Code and tell the American people there is nothing that we are going to put in its place this moment, you guess about that; you guess about that.''

It may be a national sales tax of 30 or 35 percent. That is what the recent study from the Brookings Institute says it would have to be. Maybe it is a flat tax where a billionaire pays the same rate as a person who works for $20,000 a year.

Let me conclude. The Senator from Maryland makes the point that I made last night. How would anybody tomorrow plan their expansion, plan their next action if they didn't know what the Tax Code was going to be in the year 2002?

How will anybody decide to buy a house wondering whether they are going to have a mortgage interest deduction?

How will anybody decide about their charitable contributions if they don't know that the tax system is going to allow that as a deduction? That is the point.

This is not the thing to do. The chairman of the Finance Committee said so and many, many others around the country, including the President, said so.

Let us strike this provision and replace it with the language I have suggested that supports the mortgage interest deduction, the charitable deduction, and others in the current code. We can improve the current code, and we should, but we ought not allow this provision to stay in the Budget Act.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from New Mexico has 1 minute.

Mr. DOMENICI. Mr. President, could we have order?

The PRESIDING OFFICER. Please, could we have order in the body.

Mr. DOMENICI. Mr. President, I compliment the occupant of the Chair, the distinguished Senator from Kansas, and I compliment the distinguished Senator from Arkansas, Senator HUTCHINSON. They have given us an opportunity to see to it that we reform the Tax Code of the United States. It has been talked about for so long and nothing ever happens. They have devised a way where they are saying to the committees of the U.S. Congress, and to the President, let us get on with it. And here is the leverage: If you do not, we will not have a Tax Code in the year 2001.

I believe this is the only way you are going to get tax reform when those who are in charge of the job—with all the special interests gobbling them up not wanting any change. I think the only way it will occur is if this sense-of-the-Senate proposal becomes law. It is not law today when we approve of it. It will become law when a committee sends a bill to the President. But we ought to go on record saying we want reform, we want major reform of a broken down code, and we want it soon, not 15 more years of debate.

If I have any additional time, I yield it.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. HUTCHINSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

AMENDMENT NO. 2279 TO AMENDMENT NO. 2218, AS MODIFIED

(Purpose: To express the Sense of the Senate regarding passage of an IRS restructuring bill that provides real relief for taxpayers and provides appropriate oversight as well as to express the Sense of the Senate that the tax code should be terminated)

Mr. HUTCHINSON. I have a second-degree amendment to the Dorgan amendment I send to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Arkansas [Mr. HUTCHINSON] proposes an amendment numbered 2279 to amendment No. 2218, as modified.

Mr. FORD. Parliamentary inquiry. How much time does the Senator from Arkansas have on his second-degree amendment?

The PRESIDING OFFICER. Under the order, there is 1 minute on each side.

Mr. DORGAN. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Did the unanimous consent request entered into last night prohibit second-degree amendments?

Mr. DOMENICI. No, it did not.

Mr. DORGAN. Second-degree amendments would be allowed? I did not hear your answer to Senator FORD. How much time is allowed?

The PRESIDING OFFICER. One minute on each side.

Mr. FORD. One minute.

Mr. HUTCHINSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. HUTCHINSON. I do not believe we need to be voting on the Dorgan amendment, which is simply a vote on behalf of the status quo. We need an affirmative vote on the need to sunset the current Tax Code.

The PRESIDING OFFICER. Would the Senator withhold?

Could we have order in the body?

Mr. BYRD. May we have a reading of the amendment?

The PRESIDING OFFICER. The clerk will please read the amendment.

The assistant legislative clerk read as follows:

Strike all after the first word of the matter proposed to be inserted and insert the following:

SENSE OF THE SENATE REGARDING PASSAGE OF THE SENATE FINANCE COMMITTEE'S IRS RESTRUCTURING BILL.

(a) FINDINGS.—The Senate finds that—

(1) the House of Representatives passed H.R. 2676 on November 5, 1997;

(2) the Finance Committee of the Senate has held several days of hearings this year on IRS restructuring proposals;

(3) the hearings demonstrated many areas in which the House-passed bill could be improved;

(4) on March 31, 1998, the Senate Finance Committee voted 20–0 to report an IRS restructuring package that contains more oversight over the IRS, more accountability for employees, and a new arsenal of taxpayer protections; and

(5) the Senate Finance package includes the following items which were not included in the House bill:

(A) removal of the statutory impediments to the Commissioner of Internal Revenue's efforts to reorganize the agency to create a more streamlined, taxpayer-friendly organization,

(B) the providing of real oversight authority for the Internal Revenue Service Oversight Board to help prevent taxpayer abuse,

(C) the creation of a new Treasury Inspector General for Tax Administration to ensure independence and accountability,

(D) real, meaningful relief for innocent spouses,

(E) provisions which abate penalties and interest after 1 year so that the IRS does not profit from its own delay,

(F) provisions which ensure due process of law to taxpayers by granting them a right to a hearing before the IRS can pursue a lien, levy, or seizure,

(G) provisions which forbid the IRS from coercing taxpayers to extend the 10-year statute of limitations for collection,

(H) provisions which require the IRS to terminate employees who abuse taxpayers or other IRS employees,

(I) provisions which make the Taxpayer Advocate more independent, and

(J) provisions enabling the Commissioner of Internal Revenue to manage employees more effectively.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the assumptions underlying the functional totals in this budget resolution assume that the Senate shall, as expeditiously as possible, consider and pass an IRS restructuring bill which provides the most taxpayer protections, the greatest degree of IRS employee accountability, and enhanced oversight.

SEC 302. SENSE OF CONGRESS REGARDING THE SUNSET OF THE INTERNAL REVENUE CODE OF 1986.

(a) FINDINGS.—Congress finds that a simple and fair Federal tax system is one that—

(1) applies a low tax rate, through easily understood laws, to all Americans;

(2) provides tax relief for working Americans;

(3) protects the rights of taxpayers and reduces tax collection abuses;

(4) eliminates the bias against savings and investment;

(5) promotes economic growth and job creation;

(6) does not penalize marriage or families; and

(7) provides for a taxpayer-friendly collections process to replace the Internal Revenue Service.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the provisions of this resolution assume that all taxes imposed under the Internal Revenue Code of 1986 shall sunset for any taxable year beginning after December 31, 2001 (or in the case of any tax not imposed on the basis of a taxable year, on any taxable event or for any period after December 31, 2001) and that a new Federal tax system will be enacted that is both simple and fair as described in subsection (a) and that provides only those resources for the Federal Government that are needed to meet its responsibilities to the American people.

The PRESIDING OFFICER. There is now 1 minute of debate on each side.

Mr. HUTCHINSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. HUTCHINSON. Mr. President, if I might just explain the amendment. There are two major provisions to the amendment. One would say that until we are able to replace this Tax Code, we need to restructure and reform the IRS. Senator ROTH has done a marvelous job in highlighting the abuses of the Internal Revenue Service. This puts us on record, in the sense of the Senate, that we should as expeditiously as possible provide taxpayer protections.

The second major provision is that we should set a date certain in which this massive, incomprehensible Tax Code will be sunsetted, and we will have a replacement code written 6 months in advance of that.

We give the sense of the Senate in those two respects.

This chart in the Washington Post shows what we did in the Taxpayer Relief Act regarding one provision, IRA rules. We complicated it from this to this. The American taxpayer knows that. We need to simplify, we need to reform the IRS. And there is nothing irresponsible about setting a sunset date on sunsetting the existing Tax Code.

We sunset the ISTEA bill, we sunset the higher education bill, we sunset the farm bill. But we just add to, and add to, and add to the Tax Code. We have elections. We have a process. We have hearings. We will have a responsible process by which we write a replacement code and the American people will come to a consensus.

I ask your support for this second-degree amendment.

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

Mr. HUTCHINSON. I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Who yields time in opposition?

Mr. DORGAN. Mr. President, I believe I have a minute in opposition.

The PRESIDING OFFICER. That is correct. The Senator from North Dakota has 1 minute.

Mr. DORGAN. Mr. President, this is, with all due respect, a sloppy way to legislate. I do not—I guess I heard part of this being read a moment ago. The reason it is offered, I assume, is some do not want to vote on the amendment that I offered.

I wrote the amendment, noticed it to the Senate. Everyone had an opportunity to read it, look at it yesterday, make a judgment about it. Now we have an amendment that is sent to the desk as a second-degree. Certainly you have a right to do that, but we are going to vote on my amendment. However, your amendment is disposed of, I might say to the Senator, my amendment is going to be offered as a second-degree. We are going to vote on my amendment. So we can do it sooner; we can do it later. One way or the other, we are going to vote on my amendment. It just seems to me that in a day in which we are going to be dealing with 30, 50, 60 amendments, if we start doing second degrees because somebody doesn't want to vote on an amendment, we will be here until next Tuesday.

As I said, the Senator has every right to offer a second degree. I don't contest that. I'm saying we are not going to get out of here if this is the way the Senate is going to do its business. We will not get out of here.

I wrote an amendment. I made it available to everybody in the Senate to see, review, look at it, to make a judgment. I expected when I came here this morning we would have a vote. That is what I thought the unanimous consent was about last evening. Now I discover we have a second-degree and we go through a reading. We will be here forever if this is the way we will do business.

Again I say if you think you will avoid a vote on this, you will not. When we dispose of this, if I'm recognized, I will offer a second degree. If I'm not, I will be here because I'm going to get recognized and I will offer a second degree, and when I do, we will vote on my amendment.

Mr. LEVIN. Mr. President, this sense-of-the-Senate amendment would put the Senate on record in support of sunsetting the tax code on December 31, 2001, before a system was set up to replace it and without assurance that such a system would be in place.

There is no question that the Internal Revenue Code is too complicated and needs reform. In fact, as a result of the tax bill which was signed into law last year, 285 new sections were added.

One of the problems with the amendment before us is that it would do away with the current tax system without a guarantee that it would be replaced in a timely and orderly manner, if at all, so people can plan their lives. The sunsetting is not dependent on the adoption of a replacement. Households and businesses rely on provisions of the tax code for budgeting purposes.

Mr. President, we need a new tax code, but we also must make sure that a simplified and fairer tax code is in place. To pretend that we can sunset the current code without knowing what will take its place and without having the guarantee of a replacement in a timely manner, is misleading.

The PRESIDING OFFICER (Mr. ENZI). All time has expired.

The question is on agreeing to the Hutchinson amendment No. 2279. The yeas and nays have been ordered. The clerk will call the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina (Mr. HELMS) would vote ''yea.''

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

The result was announced—yeas 59, nays 40, as follows:

[Rollcall Vote No. 62 Leg.]

YEAS—59

Abraham	Ashcroft	Bingaman
Allard	Bennett	Bond
Brownback	Grassley	Nickles
Burns	Gregg	Reid
Campbell	Hagel	Roberts
Chafee	Hatch	Roth
Coats	Hutchinson	Santorum
Cochran	Hutchison	Sessions
Collins	Inhofe	Shelby
Coverdell	Jeffords	Smith (NH)
Craig	Kempthorne	Smith (OR)
D'Amato	Kohl	Snowe
DeWine	Kyl	Specter
Domenici	Lott	Stevens
Enzi	Lugar	Thomas
Faircloth	Mack	Thompson
Frist	McCain	Thurmond
Gorton	McConnell	Warner
Gramm	Moseley-Braun	Wyden
Grams	Murkowski	

NAYS—40

Akaka	Feingold	Leahy
Baucus	Feinstein	Levin
Biden	Ford	Lieberman
Boxer	Glenn	Mikulski
Breaux	Graham	Moynihan
Bryan	Harkin	Murray
Bumpers	Hollings	Reed
Byrd	Inouye	Robb
Cleland	Johnson	Rockefeller
Conrad	Kennedy	Sarbanes
Daschle	Kerrey	Torricelli
Dodd	Kerry	Wellstone
Dorgan	Landrieu	
Durbin	Lautenberg	

NOT VOTING—1

Helms

The amendment (No. 2279) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. DORGAN. 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. DORGAN. 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. 2280 TO AMENDMENT NO. 2218, AS MODIFIED AND AMENDED

(Purpose: To strike section 301 of the concurrent resolution, which expresses the sense of Congress regarding the sunset of the Internal Revenue Code of 1986, and replace it with a section expressing the sense of Congress that important tax incentives such as those for encouraging home ownership and charitable giving should be retained)

Mr. DORGAN. Mr. President, I have a second-degree amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Dakota (Mr. DORGAN) proposes an amendment numbered 2280 to amendment No. 2218, as modified.

Mr. DORGAN. Mr. President, I ask unanimous consent that 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 amendment add the following:

SEC. . SENSE OF CONGRESS ON THE TAX TREATMENT OF HOME MORTGAGE INTEREST AND CHARITABLE GIVING.

(a) FINDINGS.—Congress finds that—

(1) current Federal income tax laws embrace a number of fundamental tax policies including longstanding encouragement for home ownership and charitable giving, expanded health and retirement benefits.

(2) the mortgage interest deduction is among the most important incentives in the income tax code and promotes the American Dream of home ownership—the single largest investment for most families, and preserving it is critical for the more than 20,000,000 families claiming it now and for millions more in the future;

(3) favorable tax treatment to encourage gifts to charities is a longstanding principle that helps charities raise funds needed to provide services to poor families and others when government is simply unable or unwilling to do so, and maintaining this tax incentive will help charities raise money to meet the challenges of their charitable missions in the decades ahead;

(4) legislation has been proposed to repeal the entire income tax code at the end of the year 2001 without providing a specific replacement; and

(5) sunsetting the entire income tax code without decribing a replacement threatens our Nation's future economic growth and unwisely eliminates existing tax incentives that are crucial for taxpayers who are often making the most important financial decisions of their lives.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the levels in this resolution assume that Congress supports the continued tax deductibility of home mortgage interest and charitable contributions and that a sunset of the tax code that does not provide a replacement tax system that preserves this deductibility could damage the American dream of home ownership and could threaten the viability of non-profit institutions.

Mr. DORGAN. Mr. President, let me explain to my colleagues that the findings are the same as the underlying amendment that I offered with the exception that at the end, under ''Sense of Congress''—I will simply read very briefly what I have added.

It is the sense of Congress that the levels in this resolution assume that Congress supports the continued tax deductibility of home mortgage interest and charitable contributions—

That was my previous amendment—

and that a sunset of the Tax Code that does not provide a replacement tax system that preserves this deductibility could damage the American dream of home ownership and could threaten the viability of nonprofit institutions.

This is a second degree that I am offering.

I don't know that I need to say much more about it except that it essentially is a vote on what I had offered in the first instance.

My intent here is very simple. It is not to denigrate those who have different ideas than I have about this issue. It is, however, to say that I think suggesting that we throw away the current Tax Code, as imperfect as it is and as much in need of reform as it is, without suggesting what will come in its place is to say to all Americans who are homeowners that we are not sure that we are going to have a tax system in the future that allows you to deduct your home mortgage interest, we are not sure we are going to have a tax system in the future that allows charitable contributions to be deducted.

So I think the responsible thing to do is to say to the American people that when there is a sunset, if there is, that there is a replacement that will be included in these provisions.

The PRESIDING OFFICER. Who yield's time?

Mr. DOMENICI. I yield to the Senator from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. HUTCHINSON. Mr. President, 15 minutes ago, 59 Senators voted in favor of what I think all of us support: reforming and restructuring the IRS and protecting the taxpayers to a date certain on sunsetting the Tax Code that no one in this country defends.

Do not be fooled. This amendment is a second-degree amendment offered by my dear colleague from North Dakota that would undo much of what we just did. We don't want to undo that. There is nothing in the sense of the Senate that we just adopted that would threaten in any way charitable deductions or home mortgage deductions or any of the other particular aspects of the current code that you may like. It would say that on a date certain we are going to have a new code that is fairer and simpler, more comprehensible to the American people, and that it is a tax code that they deserve.

I ask my colleagues to reject this second-degree amendment designed only to undo what we just expressed to the American people—that we believe the IRS is out of control and that we have a code that needs to be simplified and that needs to be made more fair.

I ask my colleagues to vote against this amendment.

Mr. DOMENICI. Mr. President, has all time expired?

The PRESIDING OFFICER. All time has expired.

Mr. DOMENICI. I ask unanimous consent that on the remaining stacked amendments there be no second-degree amendments in order.

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

Mr. DOMENICI. I move to table the second-degree amendment that is pending 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.

Mr. DORGAN. Mr. President, might I propose a parliamentary inquiry?

The PRESIDING OFFICER. We are in a nondebatable posture.

Is there objection?

Without objection, it is so ordered.

Mr. DORGAN. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator is recognized.

Mr. DORGAN. The second-degree amendment that I am offering does not in fact replace what the Senate voted on previously. Is that not correct?

The PRESIDING OFFICER. The Senator is correct. The language is added onto the amendment as amended.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from New Mexico to lay on the table the amendment of the Senator from North Dakota No. 2280. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER (Mr. INHOFE). Are there any other Senators in the Chamber who desire to vote?

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina (Mr. HELMS) would vote ''nay.''

The result was announced—yeas 1, nays 98, as follows:

[Rollcall Vote No. 63 Leg.]

YEAS—1

Thompson

NAYS—98

Abraham	Faircloth	Lott
Akaka	Feingold	Lugar
Allard	Feinstein	Mack
Ashcroft	Ford	McCain
Baucus	Frist	McConnell
Bennett	Glenn	Mikulski
Biden	Gorton	Moseley-Braun
Bingaman	Graham	Moynihan
Bond	Gramm	Murkowski
Boxer	Grams	Murray
Breaux	Grassley	Nickles
Brownback	Gregg	Reed
Bryan	Hagel	Reid
Bumpers	Harkin	Robb
Burns	Hatch	Roberts
Byrd	Hollings	Rockefeller
Campbell	Hutchinson	Roth
Chafee	Hutchison	Santorum
Cleland	Inhofe	Sarbanes
Coats	Inouye	Sessions
Cochran	Jeffords	Shelby
Collins	Johnson	Smith (NH)
Conrad	Kempthorne	Smith (OR)
Coverdell	Kennedy	Snowe
Craig	Kerrey	Specter
D'Amato	Kerry	Stevens
Daschle	Kohl	Thomas
DeWine	Kyl	Thurmond
Dodd	Landrieu	Torricelli
Domenici	Lautenberg	Warner
Dorgan	Leahy	Wellstone
Durbin	Levin	Wyden
Enzi	Lieberman	

NOT VOTING—1

Helms

The motion to lay on the table the amendment (No. 2280) was rejected.

VOTE ON AMENDMENT NO. 2280 TO AMENDMENT NO. 2218, AS MODIFIED AND AMENDED

The PRESIDING OFFICER. The question is on adoption of the Dorgan second-degree amendment.

Mr. HUTCHINSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. HUTCHINSON. I ask unanimous consent to speak for 30 seconds.

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

Mr. HUTCHINSON. Mr. President, I think Senator DOMENICI's motion to table gave all of us on this side of the aisle time to look closely at what the second-degree amendment by the Senator from North Dakota actually did. I have no objection to that second-degree amendment. I think it merely expresses—it does not undo or reverse the sense of the Senate that we adopted earlier with 59 votes. It expresses support for the charitable tax deduction and the homeowner deduction. I ask my colleagues to join me in support of Senator DORGAN's second-degree amendment.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I request unanimous consent to speak for 30 seconds simply to say the intent of the second-degree amendment was to say to the American people that whatever the merits of reforming our Tax Code—and most of us, myself included, think it does need reform—that when we decide to change the Tax Code, if we decide to do that, its replacement shall give some assurance to the American people that we are not going to scrap their ability to deduct their home mortgage interest, to scrap the ability to deduct charitable contributions. That is the purpose of that second-degree amendment. I appreciate very much support on that amendment.

THE PRESIDING OFFICER. The question is on agreeing to the second-degree amendment of the Senator from North Dakota.

The amendment (No. 2280) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. BUMPERS. Will the Senator from New Mexico yield for an observation? The last vote took approximately 25 minutes.

VOTE ON AMENDMENT NO. 2218, AS MODIFIED, AS AMENDED

The PRESIDING OFFICER. The question is on the first-degree amendment as further amended. The yeas and nays have been ordered.

Mr. DOMENICI. Mr. President, I ask that the yeas and nays be vitiated.

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

If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2218), as modified, as amended, was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. DOMENICI. We are ready for the next amendment, Mr. President.

AMENDMENT NO. 2170

The PRESIDING OFFICER. The next amendment is amendment No. 2170, offered by the Senator from Colorado, Senator ALLARD.

The yeas and nays have been ordered on the motion to waive the Budget Act.

Mr. ALLARD addressed the Chair.

The PRESIDING OFFICER. Who yields time? The Senator from Colorado is seeking recognition.

Mr. DOMENICI. I yield 1 minute.

Mr. ALLARD. Mr. President, I want to just briefly explain what my amendment does. Right now, the total debt that we are facing in this country is $5.6 trillion. The interest that we pay on that total debt is more than the entire defense budget, and I believe we need a plan to pay down that total debt.

My amendment proposes such a plan. It takes the surplus that is reflected in the budget proposal that is before us here on the floor of the Senate today, and takes those first 5 years and allocates them towards that debt pay-down plan. It says that after the 5 years that are reflected in the budget plan, then we dedicate $11.7 billion a year towards paying down the debt. If we will do that, we can pay down the debt in 30 years and save more than $3.7 trillion in interest.

The $11.7 billion which we set aside after the 5 years which is reflected in this budget, that is less than 1 percent of the total budget. I am here to ask the Senate to join me in putting in place a plan to pay down the total debt.

I reserve the remainder of my time.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I rise in opposition to the Allard amendment. It is going to impose excessively rigid strictures on the way we function. What it says, very simply, is that any time that income does not exceed expense, that revenues do not exceed outlays, there is a 60-vote point of order to make any change to accommodate it.

Just think what the consequences might be. We use our opportunities here to sometimes adjust to an economy that is in stress. We could be endangering our national security, because though a declaration of war may not have been made, the fact of the matter is that military preparation may be necessary in advance of that.

What happens if our outlays exceed our revenues? We cannot go ahead and take care of our necessary business. What happens in times of depression when, in fact, revenues may be down and we may have a need to increase our expenses to help us carry our citizens through that period of time?

What it does is it excessively restricts our ability to function. Proper fiscal policy is an important part of operating our Government. I urge my colleagues to vote no on the request to waive the Budget Act.

MOTION TO WAIVE THE BUDGET ACT

The PRESIDING OFFICER. The question is on agreeing to the motion to waive the Budget Act with respect to the Allard amendment No. 2170. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina (Mr. HELMS) would vote ''yea.''

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

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

The result was announced—yeas 53, nays 45, as follows:

[Rollcall Vote No. 64 Leg.]

YEAS—53

Allard	Frist	McConnell
Ashcroft	Gorton	Murkowski
Bennett	Gramm	Nickles
Brownback	Grams	Roberts
Burns	Grassley	Roth
Campbell	Gregg	Sessions
Chafee	Hatch	Shelby
Coats	Hutchinson	Smith (NH)
Cochran	Hutchison	Smith (OR)
Collins	Inhofe	Snowe
Coverdell	Jeffords	Specter
Craig	Kempthorne	Stevens
D'Amato	Kyl	Thomas
DeWine	Lieberman	Thompson
Domenici	Lott	Thurmond
Enzi	Lugar	Warner
Faircloth	Mack	Wyden
Feingold	McCain	

NAYS—45

Abraham	Dorgan	Lautenberg
Akaka	Durbin	Leahy
Baucus	Feinstein	Levin
Biden	Ford	Mikulski
Bingaman	Glenn	Moseley-Braun
Bond	Graham	Moynihan
Boxer	Hagel	Murray
Breaux	Harkin	Reed
Bryan	Hollings	Reid
Bumpers	Inouye	Robb
Byrd	Johnson	Rockefeller
Cleland	Kennedy	Santorum
Conrad	Kerrey	Sarbanes
Daschle	Kerry	Torricelli
Dodd	Kohl	Wellstone

NOT VOTING—2

Helms	Landrieu

The PRESIDING OFFICER. On this vote the yeas are 53, and the nays are 45. Three-fifths of the Senators present and voting, not having voted in the affirmative, the motion to waive the Budget Act is not agreed to.

The point of order is sustained, and the amendment falls.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. What is the next amendment?

AMENDMENT NO. 2195

The PRESIDING OFFICER. Amendment No. 2195, the amendment offered by the Senator from New Jersey, Senator LAUTENBERG, motion to waive the Budget Act, is the order of business.

Mr. LAUTENBERG. Mr. President, this amendment establishes a reserve fund to allow revenues, taxes paid by large corporate taxpayers, to be used in a manner that is directly connected to environmental cleanup.

Right now, the bill that we are considering permits only the use of $200 million out of a total revenue base of $1.7 billion to be used for environmental cleanup. Frankly, I think that is wrong.

What we need to do is make sure that these funds are available for the purpose that it is collected. We don't want to see it going to tax breaks or other programs. Only $200 million of this will be used to pay for the ''orphan shares,'' those shares for which no polluter can be found. It is insufficient to take care of the job. That is the way Superfund was originally designed.

I hope we can waive the budget point of order that has been raised.

The PRESIDING OFFICER. Senator from New Mexico.

Mr. DOMENICI. This is another reserve fund. The reserve fund has the advantage, for the proponent, of creating a new series of entitlement programs, thereby indirectly breaking the caps. If you would try to spend these in the normal way, we would be breaking the budget.

So it creates a series of potentially new entitlement programs. If we ever get taxes increased or other programs cut, the resources can be put into this reserve fund. I don't believe we ought to be doing this. I have objected to them regularly here on the floor when there is no real source of money.

I think we should sustain the budget point of order on this one and not start another approach to a new series of entitlement programs.

Mr. BAUCUS. Mr. President, I rise in support of the amendment offered by the ranking member of the Budget Committee, the senior Senator from New Jersey and my fellow member of the Environment and Public Works Committee, Senator LAUTENBERG.

This amendment will allow the Congress to increase funding for important natural resources and environment programs without increasing the deficit or lowering the surplus. That is an important point.

We would be able to address additional needs in these areas without affecting the overall deficit or surplus. The amendment would do this by allowing the excess receipts from a reinstated Superfund taxes to offset the cost of the programs.

What kind of programs might be funded through in this amendment? We could hasten the cleanup of hazardous waste sites. We could provide assistance to states to protect waterways from polluted runoff. We also could fund construction and maintenance for our deteriorating national parks, wildlife refuges, and other public lands.

These priorities were included in the President's proposed Environmental Resources Fund for America, but they are not included in Senate Concurrent Resolution 86.

The amendment would allow the authorizing committees, including the Environment and Public Works Committee on which Senator LAUTENBERG and I sit, to set direct spending levels for environmental and natural resources programs. Furthermore, it would allow any excess funds from an extension of the Superfund tax to offset the added costs.

The Republican budget assumes that if a Superfund tax is reinstated, $200 million would be used to pay for that

portion of the cleanup that is attributable to parties that are bankrupt or otherwise cannot pay their share. The balance of $1.5 billion each year could be used to offset the cost of unspecified spending or tax breaks.

By contrast, the Lautenberg amendment would direct the money from the Superfund tax to needed environmental improvements—investments in the future of our natural resources and sustained health of our environment, not just for us, but for our children.

Directing more resources to states to help address the problem of polluted runoff will be an investment in the future of clean water.

Cleaning up Superfund sites is an investment that can protect public health and foster economic redevelopment.

Maintaining our national parks—our national treasures—is an investment that we must make, or see that part of our heritage fall apart.

Mr. President, I commend the Senator from New Jersey for his amendment and urge my colleagues to support it for the future health of our citizens and the environment.

Mr. GRAHAM. Mr. President, I strongly support Senator LAUTENBERG's amendment to increase funding for the protection of the environment and our nation's natural resources. This important amendment would establish an environmental reserve fund, so that receipts from a reinstated Superfund tax can be used for environmental protection initiatives.

The environmental and natural resources programs funded in the President's Budget are critical to our efforts to protect these resources which are so vital to our society.

Several critical programs proposed by the President are not included in the Budget Resolution. Among others, these include operations and maintenance funds for the administration of the National Wildlife Refuge System and program support for the U.S. Fish and Wildlife Service's execution of the Endangered Species Act. Both of these programs are critical to the State of Florida and our ability to protect and preserve unique ecosystems, habitats, and species.

Today's 93 million acre National Wildlife Refuge System has its roots in the state of Florida. It was public outrage over the devastation of wading bird populations in Florida that led to the establishment of the Pelican Island Federal Bird Reservation in 1903. This action is recognized as the genesis of the National Wildlife Refuge System.

Each year, nearly 30 million people visit our National Wildlife Refuges and enjoy activities such as wildlife observation, hiking, fishing, photography, hunting, and environmental education. These lands are home to millions of migrating birds, big game, and hundreds of critically endangered species.

In the State of Florida, there are 25 National Wildlife Refuges that are an essential part of our natural heritage. I learned this lesson firsthand in May 1990 when I did my 241st workday at the ''Ding'' Darling Wildlife Refuge on Sanibel Island. Working with refuge naturalists, I spent the day surveying the refuge's bird population, cleaning up mangrove areas, reinforcing water retention ponds and speaking with local citizens who had a keen interest in the refuge's future.

I also learned that the success of wildlife refuges since 1903 had occurred not because of any action taken by the House or Senate, but in spite of congressional neglect. While Congress has been willing to fund refuges, it had failed to ascribe a mission for the refuge system or clearly define environmental objectives for each individual refuge.

This situation was corrected with the passage of the National Wildlife Refuge System Improvement Act in 1997. I was pleased to play an instrumental role in this law's enactment. It provides new protection to the more than 500 national wildlife refuges, and is a great step forward in our efforts to preserve the unique species and ecosystems located in these areas.

However, these lands must be maintained if they are to remain national treasures. The President has requested an increase of $25.8 million in FY 99 for the Fish and Wildlife Service operation and maintenance of the National Wildlife Refuge System. These funds would be used in the State of Florida for projects such as protection of the Florida Panther in the Ten Thousand Islands National Wildlife Refuge. They would support the Florida Keys Invasive Exotics Task Force, which is working to protect the Florida Keys from invasive exotic plants which threaten the restoration of the South Florida Ecosystem.

The current budget resolution does not support this increase. The LAUTENBERG Amendment, which I have cosponsored, will help ensure that the National Wildlife Refuge system receives the funds that are so critical to its future.

In addition to the National Wildlife Refuge System, the President's Budget request for an increase of $35.7 million in FY99 for the Fish and Wildlife Service's threatened and endangered species program is a critical element in our ongoing efforts to improve the level of protection of endangered species. As currently written, the Senate Budget Resolution does meet the President's request. Senator LAUTENBERG's amendment will give us the opportunity to review this decision and provide the required funds to this critical program.

I believe that the Endangered Species Act is one of our nation's most critical environmental statutes. While it goes without saying that the Act could be more effective in recovering endangered and threatened species, I believe that the ESA has helped to forestall further declines and possibly even the extinction of many of our most imperiled species.

Senate approval of this Amendment will give us the ability to review the current needs of the ESA program and appropriate the required funds to support these programs.

Funding for implementation of the ESA is critical both today and into the future. As the Senate considers the Endangered Species Reauthorization Bill introduced by Senators CHAFEE, BAUCUS, KEMPTHORNE, and REID, our commitment to provide funds to support the revisions in the ESA Reauthorization Bill will be essential. Without this commitment, we run the risk of losing an opportunity to boost the worthy cause of endangered species conservation.

Mr. LAUTENBERG. I make the point this is not a new entitlement. It is direct spending and the revenue source would be it.

MOTION TO WAIVE THE BUDGET ACT

The PRESIDING OFFICER. The question is on agreeing to the motion to waive the Budget Act. The yeas and nays have been ordered.

The clerk will call the roll.

The bill clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina (Mr. HELMS) would vote ''nay.''

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

The result was announced—yeas 47, nays 52, as follows:

[Rollcall Vote No. 65 Leg.]

YEAS—47

Akaka	Feingold	Levin
Baucus	Feinstein	Lieberman
Biden	Ford	Mikulski
Bingaman	Glenn	Moseley-Braun
Boxer	Graham	Moynihan
Breaux	Harkin	Murray
Bryan	Hollings	Reed
Bumpers	Inouye	Reid
Cleland	Johnson	Robb
Conrad	Kennedy	Rockefeller
D'Amato	Kerrey	Sarbanes
Daschle	Kerry	Specter
Dodd	Kohl	Torricelli
Dorgan	Landrieu	Wellstone
Durbin	Lautenberg	Wyden
Faircloth	Leahy	

NAYS—52

Abraham	Frist	McConnell
Allard	Gorton	Murkowski
Ashcroft	Gramm	Nickles
Bennett	Grams	Roberts
Bond	Grassley	Roth
Brownback	Gregg	Santorum
Burns	Hagel	Sessions
Byrd	Hatch	Shelby
Campbell	Hutchinson	Smith (NH)
Chafee	Hutchison	Smith (OR)
Coats	Inhofe	Snowe
Cochran	Jeffords	Stevens
Collins	Kempthorne	Thomas
Coverdell	Kyl	Thompson
Craig	Lott	Thurmond
DeWine	Lugar	Warner
Domenici	Mack	
Enzi	McCain	

NOT VOTING—1

Helms

The PRESIDING OFFICER. On this vote, the yeas are 47, the nays are 52.

Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained and the amendment falls.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. Thank you, Mr. President.

On the last vote, vote No. 64, the Allard motion to waive the Budget Act, I was unavoidably delayed and did not vote. But I want the RECORD to reflect that if I had voted I would have voted ''no.''

Thank you, Mr. President.

The PRESIDING OFFICER. The RECORD will so reflect.

AMENDMENT NO. 2213

The PRESIDING OFFICER. The question is on agreeing to amendment No. 2213 offered by Mr. BOND of Missouri.

The Senator from Missouri is recognized.

Mr. BOND. Mr. President, the section 202 Elderly Housing Program is the most important housing program for elderly low-income Americans providing both affordable low-income housing and supportive services designed to meet the special needs of the elderly. The President's budget request proposes reducing the funding from a current year level of $645 million to $109 million, an 83 percent cut.

On behalf of myself, Senator MIKULSKI, and numerous other colleagues, we offer this sense-of-the-Senate resolution to say that we must maintain the section 202 program. The alternative is to provide vouchers. Vouchers for the typical resident, an elderly woman, frail, in her seventies—to give her a voucher to go out and walk to find a new apartment, or new dwelling place, is simply unacceptable.

I urge my colleagues to show an overwhelming vote in support of the program that maintains housing that our frail elderly so badly need.

I thank the Chair.

The PRESIDING OFFICER. Who yields time in opposition? Is all time in opposition yielded?

Mr. DOMENICI. Mr. President, I suggest the absence of a quorum for 1 minute.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOMENICI. 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 PRESIDING OFFICER. If all time is yielded, the question is on agreeing to the amendment of the Senator from Missouri. 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 North Carolina (Mr. HELMS) is necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina (Mr. HELMS) would vote ''yea.''

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

The result was announced—yeas 97, nays 2, as follows:

[Rollcall Vote No. 66 Leg.]

YEAS—97

Abraham	Feingold	Lugar
Akaka	Feinstein	Mack
Allard	Ford	McCain
Ashcroft	Frist	McConnell
Baucus	Glenn	Mikulski
Bennett	Gorton	Moseley-Braun
Biden	Graham	Moynihan
Bingaman	Gramm	Murkowski
Bond	Grams	Murray
Boxer	Grassley	Reed
Breaux	Gregg	Reid
Brownback	Hagel	Robb
Bryan	Harkin	Roberts
Bumpers	Hatch	Rockefeller
Burns	Hollings	Roth
Byrd	Hutchinson	Santorum
Campbell	Hutchison	Sarbanes
Chafee	Inhofe	Sessions
Cleland	Inouye	Shelby
Cochran	Jeffords	Smith (NH)
Collins	Johnson	Smith (OR)
Conrad	Kempthorne	Snowe
Coverdell	Kennedy	Specter
Craig	Kerrey	Stevens
D'Amato	Kerry	Thomas
Daschle	Kohl	Thompson
DeWine	Kyl	Thurmond
Dodd	Landrieu	Torricelli
Domenici	Lautenberg	Warner
Dorgan	Leahy	Wellstone
Durbin	Levin	Wyden
Enzi	Lieberman	
Faircloth	Lott	

NAYS—2

Coats	Nickles

NOT VOTING—1

Helms

The amendment (No. 2213) was agreed to.

AMENDMENT NO. 2228

The PRESIDING OFFICER (Mr. HUTCHINSON). There are 2 minutes equally divided on the Bumpers amendment. The Senator from Arkansas is recognized for 1 minute.

Mr. BUMPERS. Mr. President, in 1975, the U.S. Congress passed a bill called the Individuals with Disabilities Education Act.

Mr. FORD. Mr. President, I apologize, but we cannot hear the Senator.

The PRESIDING OFFICER. The Senate will have to come to order before we proceed.

The Senator from Arkansas.

Mr. BUMPERS. Mr. President, we promised the school districts of this country that if they would abide by the rules we set for taking care of disabled children in school, we would foot 40 percent of the bill. We cried tears galore around here about unfunded mandates to the cities and the States and the counties, and we took care of it. Here is the biggest unfunded mandate of all. We promised the school districts of this country 40 percent for disabled children, and so far, after 23 years, we are giving them 9 percent.

You get a double whammy. You get a chance to fulfill that mandate and, No. 2, take care of a totally unjustified tax break we give the mining companies. We give them Federal lands for $2.50 an acre, they mine the gold and silver off of it, and we pay them to take it, a 15 percent depletion allowance. So I would take that depletion allowance and give it to disabled children.

The PRESIDING OFFICER. The Senator from Idaho is recognized for 1 minute.

Mr. CRAIG. Mr. President, this year this Senate will vote for $2.5 billion in new money to go to the disabled. We are doing our part for the first time. What the Senator from Arkansas fails to say is he is proposing half a billion dollars in new tax increases on the working men and women of the mining industries. It is not that simple. If you want to vote for a big tax increase, then vote not to table this amendment. But if you want to vote to maintain a strong mining industry in this country that is the foundation of our industrial might, then you ought to vote to table because we are doing the right thing this year. We are funding for the disabled with an additional $2.5 billion. I ask my colleagues to vote to table the amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment (No. 2228). The yeas and nays have been ordered on the motion to table.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina (Mr. HELMS) would vote ''yea.''

The PRESIDING OFFICER. (Mr. DEWINE). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 55, nays 44, as follows:

[Rollcall Vote No. 67 Leg.]

YEAS—55

Abraham	Daschle	McCain
Allard	DeWine	McConnell
Ashcroft	Domenici	Murkowski
Baucus	Dorgan	Nickles
Bennett	Enzi	Reid
Bingaman	Gorton	Roberts
Bond	Gramm	Roth
Breaux	Grams	Santorum
Brownback	Grassley	Sessions
Bryan	Hagel	Shelby
Burns	Hatch	Smith (NH)
Byrd	Hutchinson	Smith (OR)
Campbell	Hutchison	Stevens
Cleland	Inhofe	Thomas
Cochran	Johnson	Thompson
Conrad	Kempthorne	Thurmond
Coverdell	Kyl	Warner
Craig	Lott	
D'Amato	Mack	

NAYS—44

Akaka	Dodd	Glenn
Biden	Durbin	Graham
Boxer	Faircloth	Gregg
Bumpers	Feingold	Harkin
Chafee	Feinstein	Hollings
Coats	Ford	Inouye
Collins	Frist	Jeffords

Kennedy	Lieberman	Rockefeller
Kerrey	Lugar	Sarbanes
Kerry	Mikulski	Snowe
Kohl	Moseley-Braun	Specter
Landrieu	Moynihan	Torricelli
Lautenberg	Murray	Wellstone
Leahy	Reed	Wyden
Levin	Robb	

NOT VOTING—1

Helms

The motion to lay on the table the amendment (No. 2228) was agreed to.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I yield to the distinguished chairman of the Armed Services Committee as much time as he desires off the bill.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I wish to thank the able chairman.

AMENDMENTS NOS. 2191 AND 2192

Mr. THURMOND. Mr. President, I ask unanimous consent to withdraw my amendments numbered 2191 and 2192. In doing this, I do not in any way minimize the seriousness of the outlay problems that national defense faces in fiscal year 1999 and thereafter. I want to commend the chairman of the Budget Committee for working with the chairman of the Appropriations Committee and myself to reach an agreement on an amendment to help alleviate this problem. We appreciate the assistance of the chairman of the Budget Committee as well as his assurances that he will work with CBO, OMB and the Secretary of Defense to resolve this problem.

I thank the Chair and I yield the floor.

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

The amendments (Nos. 2191 and 2192) were withdrawn.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I thank Senator THURMOND for his kind remarks. Obviously, he has, for a number of weeks now, been very concerned about the situation with reference to the Defense Department and the many things we must do in order to be militarily prepared to take care of our men and women in the military.

I believe the issues that confront us have more to do with how you make estimates of what the program is going to cost than anything else. We are trying to work something out where those will be more realistically evaluated than perhaps have been in the past. I thank the Senator for his compliments and pledge I will do everything I can to get this done right.

Mr. THURMOND. Mr. President, again, I wish to thank the able chairman.

Mr. DOMENICI. 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. BROWNBACK. 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. BROWNBACK. Mr. President, I would like to inquire of the floor manager of the bill, what order of amendments do we have now? I have an amendment that I am certainly prepared to take up at this time.

Mr. DOMENICI. Mr. President, I understand that we have, between the minority and the majority, a list of six amendments that we would like to present. Senator BROWNBACK is No. 1 on that list; followed by Senator BOXER; followed by Senator SPECTER; followed by Senator LAUTENBERG; and then we would have another one in there, and we do not know whether it would be Senator CONNIE MACK or otherwise; and Senator KENNEDY.

I want everyone to know that we are trying very hard to get to a point where there is not very many amendments left for full debate. It does not mean we have yet arrived at how many would be entitled to a vote under the ''vote-arama'' with 1 minute. We are working on that right now. We need a lot of cooperation. But I think it is fair to proceed, I say to the leader, with this amendment. This is not one of the three or four we would choose to resolve these issues, but we had already made that commitment. And we will work on it as best we can.

I yield the floor.

Mr. BROWNBACK addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

AMENDMENT NO. 2177

Mr. BROWNBACK. Mr. President, I call up amendment No. 2177 to be the pending business.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

Amendment No. 2177 previously proposed by the Senator from Kansas [Mr. BROWNBACK].

Mr. BROWNBACK. As I understand, I have 15 minutes to make the presentation under the unanimous consent.

The PRESIDING OFFICER. That is correct.

Mr. BROWNBACK. I don't know that I will take that amount of time. If the Chair will advise when I have used 10 minutes, I will appreciate that.

I ask, as well, that PHIL GRAMM be added as a cosponsor to this amendment.

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

Mr. BROWNBACK. The Brownback amendment is a simple amendment that calls for a change in the budget law, the pay-go rules of the budget law, to allow for discretionary spending program eliminations, all those key words, to be used for tax cuts or to save Social Security. It allows for that usage to be able to do those things.

Now, according to current budget law—and I realize some of this can be arcane to a number of people—we cannot make cuts in discretionary spending programs in order to finance tax cuts. You have to make cuts in mandatory spending programs like Social Security and Medicare to pay for tax cuts. That is just not fair and it is not right and it is wrong.

That is why we put forward this amendment. At this time I will read the amendment because it is short, sweet, and to the point and it is important.

It is the sense-of-the-Senate that the functional tools underlying this resolution assume that—

(I) the elimination of a discretionary spending program may [with emphasis on the ''may''] be used for either tax cuts or to reform the Social Security system.

There is some other language under that.

That is the extent, basically, of the amendment.

Now, I want to ask people, I know a number of folks watching this have concerns about what is taking place in waste in Government spending. We have a $1.7 trillion Government on an annual basis. We have things in that Government—like tobacco subsidies, like corporate welfare—that when I go home and talk to people in Kansas, they say, why in the world are you still spending money on tobacco subsidies? Why are you spending money on corporate welfare? Why don't you cut those programs? I don't think most people recognize the system works to protect those programs like tobacco subsidies.

For instance, what you get is a system in place where there are a few people protecting tobacco subsidies, or corporate welfare, and a lot of people who want to eliminate it, but the few people can offset the greater number because if you eliminated tobacco subsidies today, what happens to the money? It just gets spent somewhere else. So people argue strongly in favor of their program no matter how wasteful it might be and say, even if you cut this, it will not reduce the budget, it will not cut taxes, it will just be spent somewhere else. That is the system. The system works against our getting rid of Government waste.

Now, what if we created a competitive force back the other way? What if you said, OK, if we eliminate tobacco subsidies, we can use that to pay for a tax cut. Or, if we eliminate corporate welfare, we can use that to save Social Security. So they create a competing force of people who want tax cuts or save Social Security against the domestic discretionary spending programs that in many cases are very wasteful of precious taxpayer dollars. So that all this amendment attempts to do is to create that competing force to knock out some of this wasteful Government spending that everybody knows is here but nobody can ever seem to get at.

We are at the point of record high levels of taxation. The average American family pays nearly 40 percent of

their income for taxes at all levels. It is the highest level since World War II. People are starting to ask why. Why are we paying such a high level of taxation? You add to that we are also broke, $5.4 trillion worth of debt, we have unfunded obligations more than double that amount, and yet we waste money on tobacco subsidies or we waste money on corporate welfare, and people don't get it.

The problem of it is the set of rules that we are operating under that create a system where the few, who protect a portion of waste that may be good for their constituents but is not good for the rest of the country as a whole, have a far greater stake in the system than the people who want to eliminate it, who, if they eliminated it, it just goes to be spent somewhere else and nothing happens to the debt or level of taxation or Social Security.

This amendment is very simple and straightforward on that. You eliminate—and it is not just cutting; it is eliminating programs. A lot of times people might cut back on a discretionary spending program. Say we cut tobacco subsidies $100 million and use that for offsetting tax cuts somewhere—corporate welfare is a better example in that area—the next year we just add it back. We still have the tax cut that is pulling and draining resources from the Federal Treasury, which frankly I don't mind because it goes back to taxpayers' pockets, but on the other side you haven't paid for that tax cut. What we say is eliminate—not just shave, not reduce, but eliminate—a program so that this one doesn't come back and you can have an actual true offset.

So, Mr. President, it is past the time for us to start changing the system that has yielded to us a $1.7 trillion Government, that maintains tobacco subsidies at a time when everybody in the world knows this contributes to the causes of cancer. We are trying to stop young people from starting to smoke, and yet we are still subsidizing tobacco subsidies. We still have corporate welfare all over the place, and we can't seem to get at it. This change in rule, this little change in rules would help us get at these issues. That is why I put this amendment forward.

At the appropriate time I will ask for the yeas and nays. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I rise in strong opposition to the amendment by the Senator from Kansas. This amendment calls for a change in the Budget Act that would allow discretionary programs to be completely eliminated in order to provide new tax breaks for purposes other than the initial direction for this funding. I'm not sure that I understand who would determine that. Would it be the Budget Committee that would determine that? Would it be the specific committees? Would we go to Environmental and say, eliminate this environmental cleanup program? Or would we go to the Department of Transportation and say, eliminate safety programs, eliminate parts of the programs that are not financed through the trust fund?

This would be an incredible departure from the rules that are established in the balanced budget agreement. It could threaten just about anything—education, anticrime efforts, environmental programs—defense, as well, by the way.

We know that we have a debate here between those who would typically like to spend more for defense or those who say, look, we have spent enough on defense to keep our security intact. How about the Coast Guard? You could come from a landlocked State and say, what do we need the Coast Guard for? How about other departments? Some might disagree with us on a program to protect our water or any number of programs that are often represented regionally.

Frankly, I see this as a terrible prospect to contemplate. The Budget Act is designed to ensure that if we incur permanent obligations such as permanent tax cuts or new mandatory spending, we pay for these obligations with permanent savings.

That is what the pay-as-you-go plan rules are all about. It has worked out well for many years. This amendment would change these rules. It says we should make cuts in temporary spending—that is, annually appropriated discretionary programs—and use those temporary cuts to fund permanent tax breaks. Well, it doesn't take a CPA to figure out that this can create serious problems in the long run. Cutting funding for a program in one year doesn't mean those savings are going to remain available in future years. Once you have a tax break on the books, its costs regularly occur, year after year.

I am not opposed to tax cuts for ordinary Americans. In fact, I supported targeted relief like the expanded child care credit that the President proposed. But I think we ought to pay for tax cuts with permanent savings. I am also concerned that Senator BROWNBACK's proposal could encourage further cuts from programs that educate us and help us continue the pursuit of a cleaner environment, put the cops on the streets, and make sure that our service people are well housed and equipped to do their duty.

The budget agreement is already calling for substantial real cuts in discretionary programs. Under the agreement, nondefense discretionary spending in 2002 will reach its lowest level in almost 40 years as a share of GDP. These cuts are getting close to the bone, and we need to be careful about cutting further, especially if further budget cuts are to be used for large tax breaks that could very well blow a hole in the budget for the future.

So, Mr. President, I hope my colleagues will agree that this is no time, nor is it the correct process, for radical surgery on the Budget Act. If we want to do that, we can discuss it within the Budget Committee. This is a new subject. Let us not create fiscal problems in the future by allowing short-term cuts to pay for long-term costs, because I suspect that in there, there is a mission, and that is to kind of take care of the people who are largely at the top of the ladder, who benefit from most of the tax cut proposals we have seen.

Let's not encourage further cuts in programs that deal with education and crime. Do you want to tell veterans—I am a World War II veteran. I served 3 years in the Army overseas during the war. Do you want to tell my colleagues—and many are not as fortunate as I am, to have this kind of a position—do you want to tell them that someone may want to cut their programs on behalf of the tax cuts for the well off? I don't see it, and I sure don't want to tinker with defense. I am not what you call a traditional hawk, Mr. President.

I urge my colleagues to reject this amendment.

Mr. BROWNBACK. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 8 minutes 36 seconds. The Senator from New Jersey has 9 minutes 12 seconds.

Mr. BROWNBACK. Mr. President, I want to respond to a few of the statements. I think the Senator from New Jersey, whom I appreciate, and I appreciate his service in the U.S. Senate, probably made the exact accurate point. That is, if you are going to cut veterans programs for tax cuts, people will come unglued, and it will not happen, because there will be a number of veterans out there saying, ''What are you doing cutting veterans programs and paying for tax cuts? I am not going to let you do that.'' And that would work.

If we went out and said, you know what, we are going to eliminate tobacco subsidies to pay for tax cuts, or we are going to cut the corporate welfare for the wealthiest 50 corporations in America and pay for a tax cut with that, would people come unglued? I sense an applause line in Kansas for something like that.

If I go to Kansas and say, ''I am going to cut veterans programs and write tax cuts,'' they will say, ''We are going to give you your head for that one.'' That is the whole point here. The system is currently tilted toward no tax cuts and growing Government, because if you are going to provide for a tax cut, you have to cut Social Security or Medicare basically to pay for that tax cut. That is wrong. We should not be cutting Social Security and Medicare. We should not be cutting them at all, let alone offset them against a tax cut. The system was set up exactly this way to build Government and make it bigger.

Why are we at $1.7 trillion and growing? It is because the system is built to

build. Why do we still subsidize tobacco? This makes absolutely no sense. So what we are trying to do here is make a little change.

The Senator from New Jersey raises another very important point about permanent savings paying for permanent tax cuts. I think that is a valuable issue to raise. That is why, in the measure, we state that you have to eliminate the program—not just cut it back, but eliminate the program to pay for tax cuts.

So let's take my example again. If we go to tobacco subsidies and say we are going to eliminate tobacco subsidies and pay for this tax cut, it will be a small tax cut. What about the next two then? Do you think they are going to be able to add back in tobacco subsidies once you get it finally pulled out by its roots? I don't think so. What if you are able to pull out corporate welfare by its roots to pay for that tax cut? Are we going to be able, the next year, to add back in that corporate welfare? I don't think so, once it is pulled out. There is such a system of inertia to build the bill that I think we are going to be able to get at this with this little change in the budget rules.

This is exactly the time to be doing this, as we will be looking forward to the future as to how we are going to protect, preserve, and save Social Security. We need to do that. What are we going to do to further tax cuts on this burdensome level of taxation that we have for the American people? This little budgetary change will actually help us make some sense and sanity out of this place to a lot of the American public.

So that is why I am putting this forward. Suggestions can be put forward by Members of Congress and by the Finance Committee on how you do it. That is the same way we do tax cuts right now—from Members, from people from the Finance Committee.

This is a good provision. If you asked the American people about this, they will say that is the way the place ought to work, instead of this arcane way that we have set it up that actually hurts the American public and maintains wasteful programs. That is why I am going to urge my colleagues to vote in favor of this measure.

Mr. President, I retain the balance of my time.

Mr. LAUTENBERG. Mr. President, I didn't hear the Senator's closing comment. Did he yield back his time or reserve it?

The PRESIDING OFFICER. He reserved the balance of his time.

Mr. LAUTENBERG. Mr. President, I have respect for the Senator from Kansas. We have gotten to know each other a little bit. When we disagree, it is with a purpose of accomplishing something. When he talks about getting a big applause line in Kansas if there were to be the elimination of the subsidy for tobacco, well, I happen to agree with the Senator on the elimination of the subsidy for tobacco, but I wonder whether it would get an applause line in North Carolina or Kentucky or South Carolina. What if I were to say, well, let's reduce the cost for the Corps of Engineers, we don't have to do all that flooding work, or maybe eliminate the program for agricultural subsidies because in New Jersey our farmers are pretty close to market and they don't need a lot of subsidy, they don't draw down subsidy?

The point I make—without being too challenging, or too pedantic—is that what the Senator described is exactly the problem, a Nation with 50 States, one Nation wanting each of us here—and there isn't anybody here who hasn't stood up to protect a program in their State without feeling that they are doing the right thing. I don't know of anybody here.

We have to respect those differences. I am not saying promote tobacco. I am not saying encourage agriculture. I am not saying that we ought to have our ports dredged and no one else ought to have an opportunity to move their economies along. When we lose our beaches in a storm, it is no different than a flood in Kansas, or a drought, or a tornado. It is our economy that is kept going. But, apart from that, the notion that we could suddenly change the rules and say, OK, who is it that is going to decide we are going to eliminate this program? I guarantee you that there will be quite a debate in this body about what programs get eliminated. There is only one way you can do this. That is through a deliberate, slow, and tedious discussion among us. It is called debate. It is called discussion, dialog.

I hope that the Senator from Kansas would not prevail with this. I think it would be a disastrous conclusion.

Imagine risking some of the services that we talked about. How would we feel about reducing the program in FEMA, the Emergency Services Program, where everybody calls up, picks up the phone, dials the big 911, saying, ''Help. Get out here. Hurry.'' We wouldn't have the funds to do it because we were giving tax breaks to well-off people. That would really create a stir in this country. I will tell you, it would be louder than an applause line.

I reserve the remainder of my time.

Mr. BROWNBACK. Mr. President, if I could respond to some of the comments of my colleague from New Jersey, for whom I have a great deal of respect. He makes the exact point I am making. Tobacco subsidies aren't cut because North Carolina and Kentucky and a few other States protect those basically. Everybody else says, ''Look, if you cut it, we are really not going to do it. We are not cutting taxes. We are not cutting spending.''

So, all right, I will go along on it. We are trying to create competitors. If somebody comes up with a good idea, a program, and a need, we are going to fund it. We have proven throughout history that we will fund that. That is why actually today there is nothing so permanent as a temporary Government program. That is one of President Reagan's lines. Because we will do it. The problem is we never undo it, or we never stop doing it. We don't have any competing force back the other way.

I think it would be a very helpful debate if we would have these regularly on the floor about, Should we actually be spending this money on corporate welfare? What if we gave it back to the taxpayer or used it to preserve and protect Social Security? That would be a good, healthy idea, because instead of the way we do it right now, which is basically we are going to add that spending, we will never look back here at what we previously paid for over the past 60 years because there is no competing force on the other side of it.

That is why I am suggesting this would be an excellent change for this body. It would be an excellent force that would be set up in favor of the taxpayer, in favor of good government, in favor of Social Security.

How much time is remaining on both sides?

The PRESIDING OFFICER. The Senator from Kansas has 3 minutes. The Senator from New Jersey has 5 minutes 20 seconds.

Mr. BROWNBACK. If the Senator from New Jersey would be willing to yield back his time, I would be willing to yield back at this time and ask for the yeas and nays at the appropriate time.

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. LAUTENBERG. I yield my time in fairness to the Senator from Kansas. I am going to, obviously, oppose the amendment.

I yield the time.

The PRESIDING OFFICER. All time is yielded.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

AMENDMENT NO. 2176

Mrs. BOXER. Mr. President, I call up amendment No. 2176.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from California (Mrs. BOXER) proposes an amendment numbered 2176.

Mrs. BOXER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

(The text of the amendment is printed in the March 30, 1998 edition of the RECORD.)

Mrs. BOXER. Mr. President, I ask that the following Senators be added to this amendment: Senators DASCHLE, SARBANES, MURRAY, JOHNSON, KENNEDY, BINGAMAN, and LANDRIEU.

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

Mrs. BOXER. Mr. President, in picking up where the Senator from Kansas left off, I think it is important when we recommend a priority, we figure out a way to pay for it.

I am going to give you and my colleagues in the U.S. Senate an opportunity to cut funding, which is what the Senator from Kansas is very concerned about, out of the Government travel budget—cut that funding by one-tenth of 1 percent—and take those funds away from traveling bureaucrats and put them into after-school programs.

I know you are a family man with many children and grandchildren. Often we talk about the joys of parenting and grandparenting. I think we all are concerned not only about our own children and grandchildren, but about America's children. I believe that is true across the party line.

I think if we ask ourselves the question right now, right here, what our children will be doing after school today, I really do not think the answer would come back in a way that satisfies us as U.S. Senators, as parents, as grandparents, and, frankly, as community members. Unfortunately, many of our children after school have no place to go, are alone, get into trouble with gang members, or are lured into gangs. Frankly, if you look at the crime statistics, which I will show you later on a chart, the highest crime rate among juveniles occurs from 3 to 6 p.m.

Here, we have an opportunity with this amendment, which I am very proud to offer today, to take a stand to fund up to 500 after-school programs for our children and to cut out unnecessary Government travel. It seems to me it is a choice that, as my children say, is a ''no-brainer.'' It makes sense.

If you look at the faces of these children, and just look at their hands that they are holding up to answer a question—this is an after-school program in Sacramento, Sacramento START, which I have seen. You can see in the faces of these children that they are interested, that they are engaged, that they are involved, that they are learning. Clearly, being in this program after school means they are not alone, they are not getting into trouble, they are not sitting home alone watching television, waiting for a working parent to arrive.

I want to show you some other photos of these children. Here is another one from Sacramento START. This program, which my amendment encourages, includes drug counseling and anticrime measures. They invite policemen and firemen and businesspeople in. Here you can see the children engaged with this police officer; they are very engaged in what he is explaining to them.

I am going to show you a couple of other photographs of these children.

Here is one from the city of Oakland's after-school program. It is a music after-school program where the children are preteens. We talk a lot about preventing teenage pregnancy and the need for abstinence and the need for our children to understand that their self-esteem is important to them. Here we see the faces of these children and how they are engaged in this music program. Why? Because there was some funding that they scraped together to put together an after-school program. These programs are holding together in a very difficult way, and they want to see the National Government get involved.

Here is another photo. This one is from Sacramento, also. You can see that this is an environmental lesson. They have, it looks like, a crocodile. The children are engaged in learning about science.

We love our children in this country. We cannot afford to abandon them just because the school bell rings at 3 o'clock. Our responsibility does not end at 3 o'clock.

Let me show you the crime statistics.

When do juvenile offenders commit violent crimes? You can see the spike up at 3 p.m., and it doesn't begin even turning down until 6 p.m.

If we overlay on this chart after-school programs that keep our children busy, we can see the real need for these programs. I might add that the victims of these crimes are also juveniles. The victims and the perpetrators of these crimes are juveniles.

I think when we support such an amendment as this, we are not only going to increase the academic performance of our children across the board—and I will explain that—but we also absolutely take a step forward to reducing the crime rate.

Mr. President, I ask that you let me know when I have 3 minutes remaining in my presentation.

Let's see what some law enforcement people are saying about after-school programs. This is a proclamation signed by Fight Crime: Invest in Kids. Fight Crime is made up of 170 of the Nation's leading police chiefs, sheriffs and prosecutors, and the presidents of the Fraternal Order of Police and the International Union of Police Associations, which together represent 360,000 police officers. Let's hear what they say about the need for after school programs.

No one knows better than we——

The law enforcement people——

that the most important weapons against crime are the investments which keep kids from becoming criminals—investments which enable all children to get the right start they need to become contributing citizens, and which show them that, as adults, they will be able to meet their families' basic needs through honest hard work.

What else is being said? Further:

We therefore call on all public officials to protect public safety by adopting common-sense policies to . . . provide for all of America's school-age children and teens, after-school programs.

So if you are pro—and this is important—pro-law enforcement, let us not turn our backs on law enforcement, who is urging us provide ''after-school programs and access to weekend and summer programs that offer recreation, academic support and community service experience.''

Let's see what the police chief of Los Angeles has said.

Police leaders know America's commitment to putting criminals in jail must be matched by its commitment to keeping kids from becoming criminals in the first place.

We are at a turning point in our country. We now know how important our children are to our future. We now know that if we invest in them, we save 10 times, 20 times on the other end when they are good citizens, when they learn, when they have self-esteem, when they get help with their homework. These are all important things that will happen from my amendment.

Remember, if you want to fight crime, this is certainly one way to do it.

What do we say in our amendment? We say that local school districts should design the program to meet the local needs. They will be competing with other local districts across this country. If we get a great application from Ohio and it brings in the police and it brings in the business community and it brings in the local college, all of those things will give that program higher scores. We say that the schools must offer at least two of the following activities: academic assistance; mentoring; recreational activities; or technology training. They have the option of offering any of the following in their program: drug, alcohol and gang prevention programs; health and nutrition counseling; or job skills preparation.

We also believe that this amendment is setting our Nation on the right track. Across the country we pay millions and billions of dollars for school facilities. We do not use these facilities after school. We put a lock on the door because it is 3 o'clock. So what happens? Our kids leave those buildings and they get in trouble. Then we wonder why we have to build more prisons for our society.

I would love to see us break this pattern of partisanship today. This is not a program that is new. Education is not new. These programs are out there already. They are working. If we in fact believe that our children are important—the Boxer amendment simply says cut out travel for the bureaucrats. They can take a little less travel. Put it into the classroom after school. Our children face many more risks today than our children faced when I was growing up. We know that. We know about drugs. We know about gangs. We know about the war of after-school hours. We know from our crime fighters that we need to get these kids off the streets.

I want to tell you about LA's Best after-school enrichment program. There are 5,000 students in 24 elementary schools who participate. LA's Best children, well, they just like school a lot more. I have been there. I have seen them. I invite anyone to go there. Some of these schools are in tough neighborhoods and some of them are in less tough neighborhoods. But the results of this program show that the

children who participate like school more. Their grades significantly improve. They show positive behavioral changes. There is less crime at LA's Best schools. LA's Best children feel safe.

Let's hear what the children say. We always talk here about how we love our children. Let's hear what they say.

LA's Best is the best place to be after school. I like the games and the work. I like going to the computer lab and I like going to the Library. But most of all I like the people.

Another child says:

If we didn't have LA's Best, I would probably still be going home to an empty house.

We used to call those kids latchkey children, home alone after school.

The PRESIDING OFFICER. The Senator has 3 minutes remaining.

Mrs. BOXER. Mr. President, let me tell you about Sacramento START.

I will close here and reserve my time.

The children in Sacramento START are showing a 75 percent increase in their grades because they are getting help with their homework, tutoring and mentoring, and they feel good about their lives when they go to Sacramento START. The homework of these children has improved—by 85 percent in quality and completion.

Why would we not step in to support these important programs? The President has suggested in his budget that we do so, in a much larger way. This is a small, small measure here, cutting out one-tenth of 1 percent of the Government travel budget and putting it into programs such as Sacramento START, such as a program like we have in the Tenderloin district in San Francisco, such as LA's Best, and give our kids something to say yes to.

Here is the closing photograph, because to me it says it all. This is a beautiful photograph from a program in the Tenderloin district in San Francisco. These are kids after school, loving what they have there in that afterschool program, enjoying their life, being kept busy learning, and it shows on their faces.

I hope we will have an overwhelming vote for this. I hope we will break down this terrible partisanship that is dominating today and cast a vote for our kids, cut our Government travel, go home and feel a little bit better about what we are doing here.

I yield the floor. Actually, I will reserve the few moments that I have.

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

Mr. LAUTENBERG. If the request could be deferred.

Mrs. BOXER. I defer that request.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, how much time do the proponents of the amendment have?

The PRESIDING OFFICER. The Senator from California has 1 minute 23 seconds.

Mr. LAUTENBERG. So the Senator is yielding me 1 minute?

Mrs. BOXER. If my colleague would like to support this amendment.

Mr. LAUTENBERG. I will support it because I think it is a terrific amendment. I commend the distinguished Senator from California for her leadership. Too many kids spend more of their waking hours without supervision, without constructive activity, and it is only in school that they are able to have some supervision that makes sense. As many as 5 million kids are home alone after school each week. The prospect of a child alone without proper supervision is sometimes too grim to even think about when we think about those who would molest them, those who would invade the privacy of the home, those kids who might get their hands on a weapon. We have seen what happens there.

I want to see that this amendment carries. It puts things in proper focus. We talk here constantly about children and about how important they are in our lives and what it means to every one of us. Anybody who has been a parent, a grandparent, niece or nephew, aunt or uncle, knows about the relationships that children need and require in terms of their growth and development.

So I support the amendment of the Senator from California. We want to make sure there are quality afterschool programs. The kids who do have good programs can do better in their schoolwork, get along better with their peers. I think it is a great amendment, and I want to see it pass even modestly if it passes. It doesn't have to be overwhelming.

The PRESIDING OFFICER. All time has expired for the proponents. The opponents have 15 minutes remaining.

The Senator from New Mexico.

Mr. DOMENICI. 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. DOMENICI. 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. DOMENICI. Mr. President, I ask it be in order for Senator SPECTER to proceed with an amendment that he has, and that time in opposition to the Boxer amendment, which is 15 minutes, be retained to be used by the opponents subsequent to the debate as agreed to heretofore on the Specter amendment.

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

Mrs. BOXER. May I ask the chairman a question?

Mr. DOMENICI. Of course.

Mrs. BOXER. Mr. Chairman, I know you are reserving your time to speak on the Boxer amendment. I am hoping to get back when you do that.

Would it be possible for me to just take 1 of your 15 minutes, because I don't know where you are going to come out on this, but just so I can at least have 1 minute to respond?

Mr. DOMENICI. Sure, when I said the opposition will have 15 minutes, we will have 14 and we will give 1 of them to the Senator from California.

Mrs. BOXER. That is very sweet of you. I appreciate that, Mr. Chairman. I hope maybe we are not in opposition, maybe we can come to agreement on this.

The PRESIDING OFFICER. The Senator from Pennsylvania.

AMENDMENT NO. 2254, AS MODIFIED

Mr. SPECTER. Mr. President, I call amendment No. 2254.

Mr. President, before the amendment is read, I ask unanimous consent I be permitted to modify the amendment. What I intend to do here is to change the source of the funding for an additional $2 billion for the National Institutes of Health. Instead of taking it from the tobacco reserve fund—instead, to have an across-the-board cut of four-tenths of 1 percent. That is the modification which I seek to make.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. I have no objection to the modification.

Mr. SPECTER. Did I understand the distinguished Senator to say that he had no objection to the modification?

Mr. DOMENICI. I did say that.

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

Mr. SPECTER. Mr. President, I ask unanimous consent the modification not be read because it simply strikes certain lines, which will be unintelligible, but the import of it is to have a four-tenths of 1 percent cut across the board.

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

The amendment, as modified, is as follows:

On page 17, line 9, increase the amount by $2,000,000,000.

On page 17, line 10, increase the amount by $2,000,000,000.

On page 25, line 8, decrease the amount by $2,000,000,000.

On page 25, line 9, decrease the amount by $2,000,000,000.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. I compliment the managers of the bill, especially my distinguished colleague Senator DOMENICI, for his very prodigious work on this budget and the budgets in the years that I have been here, going back to 1981.

I offer an amendment to what Senator DOMENICI has done with some trepidation, but I do so because I think it is a very important matter, and I offer this amendment really in my capacity as chairman of the appropriations subcommittee which has jurisdiction over the funding for Health and Human Services and for the National Institutes of Health.

As I read the budget resolution with my expert staff, there is not funding for the subcommittee to be able to add funds for the National Institutes of Health. The distinguished chairman

and I have had some disagreement on the import of the budget resolution, but as I read it, with my experts on the staff, there is only $350 million for outlays, which would not accommodate the kind of increase which this Senate is on record as being committed to.

Last year, a sense-of-the-Senate resolution was adopted to double NIH funding over the next 5 years, and that has been a rallying cry and one with which I agree. Were that standard to be met, it would mean more than $2.5 billion a year.

Notwithstanding that amendment having been adopted for fiscal year 1998, the year we are in, when the Budget Committee returned last year's budget, the health account was cut by $100 million. Therefore, Senator HARKIN, my distinguished ranking member on the subcommittee, and I had set a target of a 7.5 percent increase for NIH, which is a good bit below the doubling over 5 years. We thought that was all we could afford.

We then offered an amendment, similar to the one now being offered, for an across-the-board cut to enable us to increase NIH funding by $1.1 billion. That amendment was defeated 63 to 37, so that when it came to expressing our druthers, or our preferences, we were very generous as a Senate body, and said we would double NIH funding over 5 years, or more than $2.5 billion a year. But when it came time to specify where the money was going to come from and have a hard dollar amount, that was defeated, as I say, 63 to 37. We are very generous with our druthers, but we are not very generous with our dollars.

We had a hearing, coincidentally, just yesterday in our regular quarter for the experts at the National Institutes of Health to come in and testify about the grants which are made, about 28 percent of those which are offered, and there would be a very, very substantial additional number of grants awarded if the additional funds were there.

We have a total budget of $1.7 trillion. I believe that it is a matter of assessing our priorities. It is my submission in this amendment, with my distinguished ranking member, Senator HARKIN, that we ought to up the ante by at least $2 billion. I know that when it comes across the board, it is goring a lot of oxen, and there will be many who will object because it comes out of their funds. If we are going to articulate our priority for NIH, then we ought to put our money where our mouths are and put up the money to actually fund it.

I changed the thrust of the amendment, as noted, to move away from the tobacco reserve fund, because that is a giant pot we are talking about on the tobacco settlement, but I think it is pie in the sky. It is questionable, speculative, and perhaps doubtful that those funds will be realized.

In making the plans for our subcommittee, I want to know where we stand. That is why we are talking about hard dollars in this amendment. It is not too hard to say, ''Well, we'll get it from the tobacco reserve fund, because it really is highly speculative as to whether it will ever exist.''

I believe that with the identification of many of the genes by the National Institutes of Health, we are on the brink of conquering cancer, on the brink of conquering Alzheimer's, on the brink of conquering Parkinson's, on the brink of conquering heart disease, on the brink of conquering AIDS, on the brink of conquering many of the maladies which afflict mankind, but it takes dollars.

When you allow 28 percent of the grants, that means 72 percent of the doors are closed; 72 percent which are not allowed. If we open those doors, I think we will be enormously productive in seeing to it that we make the maximum effort to pursue breast cancer and prostate cancer and cervical cancer and Alzheimer's and a long list of maladies which confront us at the present time.

That is the essence of the amendment, Mr. President. I know my distinguished colleague, Senator HARKIN, wishes some time, so let me inquire at this point how much time is left on the 15 minutes of allocation.

The PRESIDING OFFICER (Mr. INHOFE). Eight minutes 20 seconds.

Mr. SPECTER. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. SPECTER. Mr. President, I will have printed in the RECORD a ''Dear Colleague'' letter on the amendment which I had intended to offer, as I described earlier, opening the tobacco reserve to permit it to be used for biomedical research. This letter was circulated on March 31, 1998, cosigned by Senator HARKIN, Senator BOXER, Senator HOLLINGS, and myself. We had a list of some 18 cosponsors to Senate Resolution 170, which was a sense-of-the-Senate resolution which I had submitted earlier in the session.

It had been my intention to have a freestanding sense-of-the-Senate resolution to increase NIH funding by $2 billion. I had made an effort, with the cooperation of our distinguished majority leader, to have that listed as a freestanding resolution which I had hoped to bring to a vote before the budget resolution came up. We had anticipated voting on it on Monday or Tuesday, but it was not cleared. So we did not have an opportunity to bring up that resolution.

The point of the resolution was to see how many people would say, as a matter of druthers or sense of the Senate, that they would support it, and contrast it to the number of people who would support the hard-dollar transfer. I do not know—the budget resolution moves so fast—how many more of the 18 who are cosponsors of Senate Resolution 170, which is sense of the Senate, will join here. These four Senators on this letter support increasing biomedical research by $2 billion.

Mr. President, I ask unanimous consent to have printed in the RECORD the ''Dear Colleague'' letter to which I referred.

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

U.S. SENATE,
Washington, DC, March 31, 1998.

DEAR COLLEAGUE: We intend to offer an amendment to expand the tobacco reserve fund to permit funding to be used for biomedical research. In addition this amendment would also expand the reserve to allow funds to be used for anti-tobacco education and prevention, counter-advertising, smoking cessation, transition assistance programs for tobacco farmers, and other public health research and prevention programs. The Senate is on record regarding doubling the funding over the next five years for the National Institutes of Health. To do that would require an average annual increase of $2.7 billion. This amendment would make it possible to increase funding for biomedical research by $2,000,000,000 as the first lesser step in reaching the goal of doubling the National Institutes of Health.

In the past few years, this nation has seen dramatic research developments that are offering great promise for developing treatments for a host of diseases. These developments have been made possible because Congress has year after year increased the funding to fight the war against disease.

There has never been broader bi-partisan support for comprehensive tobacco legislation. We therefore urge our colleagues to join with us in supporting this amendment as the first step toward adopting a tobacco reserve fund which can accommodate enactment of historic legislation to protect the health of this nation.

Sincerely,

TOM HARKIN,
ERNEST HOLLINGS,
ARLEN SPECTER.
BARBARA BOXER.

Mr. SPECTER. How much time remains, Mr. President?

The PRESIDING OFFICER. Six minutes 45 seconds.

Mr. SPECTER. I yield the floor.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, this is a budget year when the total amount of money available for discretionary spending out of which the NIH is funded was agreed to last year in the bipartisan budget agreement. It is a total dollar number for all of the Government that is not entitlement programs.

So it is for education, it is to run the agencies of our Federal Government, it is for the money the IRS needs to pay its workers, and on and on.

While it is very close to a freeze this year, there is an additional budget authority of $1.9 billion year over year and an additional $6.1 billion in outlays, about one-half percent. For those who say this portion of Government is growing dramatically, for the next 4 years, because of the agreement, it will be growing at about this amount or less, literally close to a freeze for a sum total of 4 additional years. Very tough.

Nonetheless—nonetheless—the President of the United States, in the President's budget, provided some restraint

by way of reductions in expenditures. I will just go through to give you examples. The President's budget, in function 150, international affairs, reduced that total function by $530 million; function 300, that is the environment, a $260 million reduction; function 350, agriculture, $240 million; function 370, housing and commerce, that is $640 million; function 400, a $1.25 billion reduction.

They go on all the way through. And the sum total in cuts is $7.83 billion. That means the President provided room for programs that he wanted and reduced these. What we have done in our budget resolution is we have taken these reductions but we have given different priorities to how we would spend the money.

I want to say to my good friend, Senator SPECTER, there is no one here who, when it comes right down to being in the trenches where you provide money for NIH, there is nobody who has been more of a leader than he. And, frankly, his subcommittee, which covers a myriad of programs—education, NIH, and on and on—is a subcommittee that is constantly under pressure.

I am not going to suggest, as some, that it always needs more and more money. Rather, I will say it is under difficult pressure because of the kinds of programs they have to fund. Having said that, in the budget resolution, where we have some responsibility to establish priorities, somebody else follows us and perhaps can change some, but we know that their subcommittee has most of the priorities that we are for and that he would like to fund. There is no other function with more priorities, other than perhaps the function of defense, which stands there singularly all the time.

What we did, we funded that program, because of its being a priority, by increasing significantly the NIH assumption for expenditures. We also increased in that function education because we knew that from the Republican standpoint we wanted to fund the disability program in education, and we wanted to fund some flexibility programs for the States so they could do some things on their own, being relieved of some mandates that we had given them.

In that alignment and that set of determining where we spend money and with that backdrop, we have provided in this budget resolution a larger increase in NIH, in the assumption for NIH—the assumption; the budget resolution isn't binding—we have provided the largest increase of any domestic program that is appropriated. That amount is $1.5 billion in the first year. That is an 11 percent increase. Then, in estimating our assumptions for the remaining 4 years, we increase that a total of $15.5 billion for the premier institution researching health in the world—the American National Institutes of Health.

We do not determine in the budget resolution which of the numerous NIH activities get what amount of money. I have been to the subcommittee with the distinguished chairman presiding, making a very strong, strong pitch that we put more money in researching mental illness. He recalls that. We were able over the years to raise those kinds of institutes to a level of funding where I can give you two or three which are now on the cutting edge again and which have excited young scientists and the very best to get into fields they might not have that are critical to our solving some of the enormous problems of the suffering of human beings, not only Americans but humans.

So I am an advocate. But I guess I would say, in a tight budget, ''Enough is enough.'' And $1.5 billion is enough; $15.5 billion over 5 years is enough. And I cannot do any better. I cannot make the funding any more sure in a budget resolution than I have done in this budget resolution. If Senator SPECTER is to prevail, we cannot assure anyone that the desired level of NIH funding will be what Senator SPECTER assumes by his amendment, because he is once again going to be back into the competition of taking all the money that his committee gets, and deciding among hundreds of programs how much the NIH gets. So that is one side of this coin.

Now, with every coin, there are two sides. When you add, you have to take away. Because the distinguished Senator did not try to break the budget. He did not try to break the caps, because he pledged last year—and he kept his pledge—that we would stay on this path of a balanced budget and the caps.

There are some who would like to break the caps for any good proposal. The distinguished Senator from Pennsylvania is not doing that. He is saying, let us cut other domestic programs to pay for the new increase over and above the $1.5 billion that we provided. And the Senator included defense in the .4 percent cut. So defense gets cut across the board, and domestic programs get cut across the board. So defense gets cut $1.1 billion over 1 year in order to pay for this $2 billion increase. I will just tick off some so everybody knows. The veterans get a $76 million reduction; the environment gets an $89 million reduction; agriculture, because it is smaller, gets a $17 million reduction; transportation, $160 million; and on and on.

It may very well be that the U.S. Senate today wants to say, in addition to what the budget resolution contains, with all the other programs being restrained dramatically, that in order to give it $2 billion more, we ought to do these things, including cutting defense $1.1 billion. I do not believe the Senate will do that. But if they choose to do that, then obviously the appropriators will have to give that every consideration. I do not see how we can do the defense one, because we are already having a very difficult time meeting the defense needs with the numbers that are in the budget and the firewall that protects.

Let me just share a thought with the distinguished Senator. I say to Senator SPECTER, you said you want to do this to defense also. I would like you to think about that, because if you do, then I believe the firewall prevails and you may have a supermajority requirement. But I leave that to you; that is not for me.

Having said what I have said, I do not want to detract from the fact that the National Institutes of Health are a fabulous community of the best scientists in the world. When you really look at what they are doing, they are on a course to cure many, many aspects of human suffering and human disease. When you add to what they are doing in the normal research, you add something like the genome mapping, the mapping of all the chromosomes of the human body, and those are being looked at in terms of their relationship to disease. You have a formidable group of scientists and research equipment moving in a path of, perhaps, what may be called the generation yet to come, which will be a wellness generation. That could be, when the dread diseases are no more.

So I don't want to sound like this is just a typical entity. It is a very prominent and important one. I do believe, consistent with limited resources and because we have to tax our people, we have limited resources. Some think they are taxed too much already. I believe the budget resolution treats this formidable research community fairly well.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. How much time remains on each side?

The PRESIDING OFFICER. Six and a half minutes.

Mr. SPECTER. Mr. President, if I may have the attention of the distinguished chairman, Senator HARKIN has made a request to have 5 minutes reserved and he is at another hearing. I wonder if we might accommodate him at a later time.

Mr. DOMENICI. You have 5 minutes remaining?

Mr. SPECTER. Yes.

Mr. DOMENICI. I will try to work it in.

Mr. SPECTER. I thank my distinguished colleague and friend, Senator DOMENICI, for his comments. He has enumerated programs which will be cut. It is a matter of priorities.

When he has recited there is an assumption of $1.5 billion for the National Institutes of Health, I have to disagree, because the Budget Committee assumes only an outlay increase of $350 million over the level from fiscal year 1998. There are also increases in education and child care programs. So there could not possibly be an increase at NIH with an increase of only $350 million in outlays.

As Senator DOMENICI has recited a number of cuts, let me just recite a

partial list of the people who come to me as chairman of this subcommittee, who want increases in funding for breast cancer, cervical cancer, colon cancer, Alzheimer's disease, cystic fibrosis, diabetes—including juvenile diabetes—kidney ailments, amyotrophic lateral sclerosis, Parkinson's, schizophrenia, scleroderma, epilepsy, heart disease, prostate cancer, pulmonary disorders, AIDS, osteoporosis, Huntington's disease, to mention only a few.

The fact is that many Senators receive awards from Alzheimer's or Parkinson's or AIDS, et cetera. This is a matter of priority, pure and simple.

Senator DOMENICI is a valued member of the committee. He and I sit next to each other on the Appropriations Committee, have for years, and he comes and talks about mental illness programs. We have accommodated that as a very high priority. That is what the Senator has to do, establish the priorities. I say that it is worth the fourtenths of 1 percent cut across the board for this high priority for the National Institutes of Health.

I yield the floor.

The PRESIDING OFFICER. The Senator has 3 minutes remaining.

Mr. DOMENICI. I reserve the remainder of my time, and I ask unanimous consent the 3 minutes remaining in opposition and 5 minutes remaining by the proponent be retained subsequent to the debate on the Kennedy amendment, which will start now.

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

AMENDMENT NO. 2183

The PRESIDING OFFICER. The pending question now is the Kennedy amendment numbered 2183.

The Senator has 15 minutes to explain his amendment.

Mr. KENNEDY. I yield myself 5 minutes.

This sense of the Senate is very, very simple and, I believe, extraordinarily compelling. I find it difficult to understand why it would not be accepted.

I think the best way to really explain it is to go through the amendment itself, because it is so simple and so compelling. All we are saying is that it is a sense of the Senate that we should pass a patient's bill of rights.

It says that Congress finds that patients lack reliable information about health plans and the quality of care that health plans provide. We have had demonstrated this through a number of different hearings in the Labor Committee and in other Committees. Secondly, it says that experts agree that the quality of health care can be substantially improved, resulting in less illness and less premature death. We have heard this statement or similar statements from the business community, from the provider community, in hearings before the Presidential Commission and the Labor Committee, and in many peer-reviewed journal articles written by experts in the field of quality measurement and improvement. No one can argue with this finding.

Third, this amendment finds that some managed care plans have created obstacles for patients who need to see specialists on an ongoing basis and that some have required women to get permission from their primary care physician before seeing a gynecologist. These were central findings, again, of the President's Commission on the Quality of Health Care and, again, these rights are overwhelmingly supported by the American people and by the doctors and other professionals who care for them.

Fourth, this amendment finds that a majority of consumers believe that health plans compromise their quality of care to save money. One study shows an astonishing 80 percent of the American people have reached that conclusion. All you have to do is see the movie ''As Good As It Gets,'' and see Helen Hunt's extraordinary performance. Attend any movie theater in this country if you have any questions on this particular issue, and they will be resolved.

Fifth, this amendment finds that the Federal preemption under the Employee Retirement Income Security Act of 1974 prevents States from enforcing protections for 125 million workers and their families receiving health insurance through the employer-based group health plans. This factual statement has been repeatedly confirmed by the U.S. Department of Labor and by the courts. In fact, Federal judges have pleaded with Congress to fix ERISA. State insurance commissioners see these problems on a daily basis, but their hands are tied with respect to these plans. There is no reason at all to maintain this special exclusion for one group of health plans. Those who make medical decisions that result in death or injury must be held accountable for those decisions.

Sixth, Mr. President, the Advisory Commission on Consumer Protection and Quality in the Health Care Industry has unanimously recommended a patient's bill of rights to protect patients against abuses by health plans and health insurers. Let me repeat this—the President's Commission, which included representation from health plans, corporations, consumers, providers and others, unanimously recommended that each patient be accorded the protections reported in their Bill of Rights. Regardless of whether they receive their health insurance through an employer or on their own.

So, this sense of the Senate says that the assumption underlying this resolution provides for enactment of legislation to establish a patient's bill of rights for participants in health plans. Then, Mr. President, we point out very briefly exactly what those protections ought to be, and if there are Members in the Senate who want to differ with these, I welcome the opportunity to debate those or discuss them.

This amendment says that our legislation should include the following provisions.

First, a guarantee of access to covered services, including emergency care, specialty care, gynecological care for women, and prescription drugs. Does anyone really dispute that we ought to be able to ensure patients have access to the coverage and health care that they have paid for?

Second, provisions to ensure the special needs of women are met, including protecting women from being forced to endure drive-through mastectomies. There are more than half a dozen Members of the Senate who have various pieces of legislation to address that particular need. This sense of the Senate refers to those efforts.

Third, provisions to ensure the special needs of children are met, including access to pediatric specialists and centers of pediatric excellence.

Mr. President, this is an extremely important and significant need. All you have to do is listen to parents and pediatricians. Senator REED is a leader in this particular issue. We know the kinds of challenges that exist, particularly for newborn babies. It used to be that 90 percent of the kinds of health difficulties that newborns faced were excluded from any coverage of health insurance.

Some insurance forms say any particular needs of a child that occur within the first 10 days of life ''will be outside the coverage of this insurance policy.'' The fact of the matter is that 90 percent of the difficulties occur during that period of time. But so many mothers do not know that. We are still facing very, very important needs in terms of protecting children in this country.

Four, provisions to ensure that special needs of individuals with disabilities and the chronically ill are met, including the possibility of standing referrals to specialists or the ability to have specialists act as the primary care provider.

Forcing a patient who has a legitimate need to see a specialist to jump through extra hoops before every appointment is counter-productive and more expensive in the long run. Persons with disabilities and chronic illnesses face these kinds of challenges every single day. They can cite chapter and verse about the various exclusions and barriers they face—not just physical barriers, but barriers put up by their health insurance. They have special needs and they need special protections.

Five, a procedure to hold health plans accountable for decisions and a procedure to provide for appeal of a health care decision to an independent impartial reviewer.

This is to make sure that when these accountants in many of the insurance companies say ''no'' to a patient—say that they are not entitled to that particular health care service—there is an appeal procedure that can bring about a timely and independent decision. I won't take the time now, nor do I have the time, to point out the number of

individuals who have lost their lives or been permanently disabled because the plan's accountant or an insurance executive turned thumbs down on a procedure recommended by the treating physician.

Six, measures to protect the integrity of the physician-patient relationship, including a ban on gag clauses and on improper incentive arrangements.

We have had testimony time and again that says that doctors cannot tell the patients about all of their options because the plan denies them the chance to do so. That is absolutely, completely wrong. We have other instances where doctors have moved ahead and prescribed expensive treatment, only to effectively be dropped from the panels of various HMO's. We want to protect the physicians in these circumstances. We want to permit the physicians to be able to do what they should be able to do, and that is to be able to practice medicine to the best of their abilities.

Finally, measures to provide greater information about health plans to patients and improve quality care.

Mr. President, that is the sum and substance of this amendment. I really question how anyone can take issue with the findings and how anyone can take issue with the kinds of protections that we believe ought to be accepted by the Senate and included in a patients' bill of rights.

This particular measure has the strong support of the American Medical Association, and of the AFL-CIO. It has the support of the National Breast Cancer Coalition; it has the support of Families USA; it has the support of the mental health community, including the National Alliance for Mental Illness, the National Mental Health Association and the American Psychological Association; it has the support of the Consumers Union and countless other consumer and patient groups representing hundreds of thousands of people.

So I hope that we can have this measure accepted as a sense of the Senate on this budget, and then we will go about the business of debating on the floor of the U.S. Senate the actual legislation that incorporates these provisions. If some Senators have better ideas and they want to adjust or change something, we will have the opportunity to do so. But let's go on record at this time, on this occasion, to say that we want to make sure that the patients in this country are going to be guaranteed the kind of protections that we would want for every member of our families, and that we are going to put health care needs first, rather than the bottom line of the health insurance industry. Let's say that we are going to permit our doctors, not industry accountants, to practice medicine.

Mr. President, I withhold the rest of our time.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Mr. President, how much time remains on the proponents' side?

The PRESIDING OFFICER. Seven minutes remain.

Mr. DOMENICI. There is a total of 15 on each side?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOMENICI. Senator DON NICKLES is on the way. I want to discuss the issue a little bit with the Senate.

Mr. President, my good friend, the distinguished Senator from Massachusetts, said that he doesn't know how anyone could disagree with these findings—the findings of a national commission appointed by the President. Well, just so everyone understands, the very commission made the findings, and then the commission itself split on whether they should be put in law or not. So I say, with reference to a sense of the Senate and whether we ought to adopt them in law, at least we ought to start with the premise that half of a commission was concerned about the broad picture of health care costs in America and other things and suggested that perhaps it would be better not to put them in law but to handle them some other way.

Let me talk a little bit about the upside of what is going on in America with reference to health care costs during this very short era when we have moved away from fee for service toward managed care and HMOs. In doing that, let me hearken back to the joy that permeates this body and the American people when they hear that we have the budget under control. We are in an era of balance.

Mr. President, it is almost unequivocal that had we not gone to managed care and HMOs, we would not be celebrating a balanced budget today. That is because under the other system—and I note that the doctors support regulating HMOs more—but under the doctor system, up, up and away went the costs. We had 3 or 4 years when the Federal Government's accounts that paid for health care were going up, compounded in double digits every year, which meant that in short order you would not be able to pay for Medicare, you would not be able to afford Medicaid because, even if we had the ability to borrow and borrow and incur debt, the States would not have been able to pay for it. So let's make sure that everybody understands this short era of moving to managed care and HMOs has brought within the reach of many, many Americans and many American businesses health care coverage they could not have afforded under the old system.

As a matter of fact, it was interesting. As I listened to my friend from Massachusetts, I thought about a couple of speeches I gave when we were talking about our not being competitive with Japan on automobiles. I was able to say to audiences that one of the reasons we are not competitive is because the automobile is carrying around in the trunk four times the health care costs the Japanese car is, because our health costs were so enormous as compared with theirs. I am not suggesting theirs is as good as ours, but neither am I suggesting that ours is four times better than theirs.

So I think when we talk about tying HMOs and managed care into some kind of rigidity in an effort to solve some problems that may be solved otherwise, we better be careful as to how much we do and how much we mandate versus how much we handle in other ways in an effort to get quality.

I also indicate, just by way of an observation, that it is a lot easier to find the shortcomings of HMOs and managed care than it was the old system, because this one is all focused in on management running a system. Before, it was hundreds and hundreds of doctors. To be able to focus on the lack of quality care is much easier. That works both ways. It is good because it calls it to our attention. But it ought to be easier to get quality care than it was before without having to write it into rigid law.

I note the presence of my friend, the Senator from Oklahoma.

I want to close by just saying that before we make it so impossible for managed care and health care to control costs within reason and deliver health care, everybody should understand that whatever we do we ought to get quality at the best price. We ought not get quality at the expense of those who are paying for it, and at the expense of the U.S. Government. That is what I think ultimately we should do when we get down to trying to legislate. This isn't legislating. It is just us giving our opinion and our ideas as a Senate. When it comes right down to it, that is what we are going to be talking about sincerely in our committees and on the floor.

Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 9 minutes remaining.

Mr. DOMENICI. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, how much time do we have?

The PRESIDING OFFICER. The Senator has 7 minutes.

Mr. KENNEDY. On the other side?

The PRESIDING OFFICER. Nine minutes.

Mr. KENNEDY. I yield 3 minutes to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. I thank the Senator from Massachusetts.

Mr. President, I rise in support of this resolution. Members of the Senate and the House often wonder about America and the districts and States, and try to perceive the issues that American families really care about. I invite the Members of the Senate to go to the movie theater and see ''As Good As It Gets,'' with the top actor award

going to Jack Nicholson and the top actress award going to Helen Hunt. At one point in this movie, Helen Hunt, the mother of an asthmatic child, vents on her beliefs about HMOs and managed care. Do you know what happens in movie theaters across America? They break out in applause—applauding the fact that this poor woman on the screen is struggling with an asthmatic child and is caught up with the bureaucracy of managed care.

I will concede the point made by the Senator from New Mexico. Managed care is designed to reduce costs. The people who manage these systems are trying to reduce costs, reduce services, and, of course, maximize their profits. The resolution offered by the Senator from Massachusetts looks at it from the perspective of the patient, of the family, and of the physician. Are we going to speak to that as well?

This goes beyond the bottom line. This goes to a basic question. If I go into a doctor's office with my wife, myself, or one of my children, can I trust that doctor giving me advice based on his medical education and the science that he has available? Or is he telling me that the option for my family is one dictated by some manual, some code, some book out of a managed care office in some part of the country that bears no relationship to my personal need?

That is what this is about—the trust that we need to restore so patients seeing doctors know they are getting medical advice and not insurance recommendations.

Second, accountability—that these managed care plans are held accountable. Today, they dictate to doctors what they will do, the procedures that are allowed, where they will take place, and how long they will last. Forget the patient. We are talking about the bottom line. When they make a mistake—and sometimes these mistakes are fatal—they are not held accountable under the law.

What Senator KENNEDY is suggesting here is not only restoring the trust between doctors and patients but also restoring accountability in the system. So that when the managed care clerk off somewhere in Omaha, NE, pages through the manual to decide your fate in that hospital bed they are held accountable—not just for the bottom line but what happens to your health, your family, and your future.

I am glad we are having this debate. I think this is just the opening salvo.

For those who think everybody is rosy in America, American families could care less, and managed care is all perfect, please take a trip to the movie theater and see ''As Good As It Gets.''

Mr. DOMENICI. Mr. President, I yield 3 minutes to the distinguished Senator from Pennsylvania and the remainder of my time to Senator NICKLES following that.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Thank you, Mr. President.

I would just suggest that if you went to a movie theater you would not see a Government-regulated movie because no one would go to it because it would be of such poor quality. It would be so burdened down by bureaucracy and red tape, because it simply could not produce the quality that the free market produces.

There have been dramatic changes in health care. This continues every day. I met the other day with the chairman of the national board that certifies health care plans. She told me they are constantly updating quality standards, constantly updating to see whether patients are getting the kind of care and access through these plans that are certified. It is important to let this dynamic system of health care operate in the system of the free market which has brought us so far. Do not burden it down with all sorts of bells and whistles and bureaucracies and red tape that will just stifle innovation, stifle quality, stifle progress in medicine, result in more uninsured, result in less comprehensive care. This is about patients.

Look, I am not a great fan of managed health care. But I am a fan of the marketplace working and getting the response. I would suspect that the Senator from Illinois knows that there are managers of health care companies who probably saw that movie. In fact, they didn't have to see that movie. For years, they have been coming to my office—and I know offices around this Capitol—and they have been going out in America getting the message. The Senator is right. A lot of people are upset about managed care. I am not a big fan of it, but I understand that, in time, the marketplace, the employers, and the employees will work much more effectively through that place in changing the system to produce quality where people will go somewhere else. Employers will go somewhere else. In fact, they are already. It is working out there. It takes time.

What we don't need to freeze in place is some Government standard implemented by a bunch of bureaucrats who take 4 years to implement regulations to control something that is already out of date. Let the dynamism work. Don't put the hand of the Federal Government over the system that has improved the quality of health care so dramatically for so many millions of people. Allow that system to continue to improve. Allow that system to continue to grow to serve more people more compassionately. Yes; there are problems. But don't add the ultimate problem—Government suffocation to a dynamic system where ''change'' is the operative word of the day.

Senator KENNEDY suggests that his bill is supported by the President's commission. His hand-picked commission does not support the legislation that the Senator has proposed. He would give you that impression. They recommended no legislation. They recommended the marketplace. It is in the process of working. It is working. In many areas it is working, and will continue to work. Managed care is still a relatively new thing.

Again, I repeat. I am not a big fan of managed care. But it is new. It is improving. Like any new product, it takes time to work out the bugs and to get to the point where they are doing the kind of customer satisfaction and quality that we need. But the last thing we need is to put the Government in charge of health care plans, the Government in charge of regulating what is quality and what is not. Oh, my goodness. Compare any private sector organization on quality. Compare what goes on at HCFA, at the IRS, or a whole variety of other agencies. Are we now, in Government, the arbiters of quality? Think about that. Do you really want the Government of the United States through their regulation process to dictate to you what quality is? I don't think so.

Mr. LAUTENBERG. Mr. President, I rise in strong support of the Kennedy amendment, which expresses the sense of the Senate that we should pass legislation establishing a patients' bill of rights.

Mr. President, legislation to reform the way health plans often treat patients is long overdue. The integrity of the doctor-patient relationship is being whittled away, and that must be stopped. For example, many health plans have gagged their doctors, preventing them from presenting their patients with all possible treatment options. That's wrong.

Mr. President, Democrats have introduced a bill that would remedy many of the problems that consumers are facing in their managed care health plans. Our bill would put an end to drive-through mastectomies. It would ensure that individuals with disabilities and others with special needs have direct access to specialists. And it would ensure that children have access to pediatric centers of excellence.

Mr. President, the American people are demanding that we enact a managed care reform bill this year. And that's exactly what Senator KENNEDY's amendment promises we will do. I commend the Senator for offering his amendment, and I urge all of my colleagues to vote for it.

Mr. GRASSLEY. Mr. President, I want the record to show that while I am not supporting the Kennedy amendment, I am supportive of many of the principles behind this amendment. I took the lead in sponsoring legislation (S. 701) last year to provide Medicare beneficiaries with consumer protections such as: (1) detailed comparative information and access to a 1–800 number for Medicare beneficiaries to choose the best health plan; (2) an expedited appeals process for urgent cases; (3) a prohibition on gag clauses that restrict patient/physician communications; (4) access to specialty care when needed, with special attention to the chronically ill; and (5) limits on the

use of financial incentives by managed care plans. Many of these provisions were enacted in the Balanced Budget Act of 1997. Often, Medicare sets the example for the private sector, and this is my hope.

I believe consumers should have good information about their health plans; that they should have protections in place for a fair and timely appeals process; that they should have access to specialty care when needed; and that physicians should be able to discuss all treatment options with their patients.

Regulating the private sector is more difficult because regulations cost money. These costs are shifted onto employers and ultimately employees. I will want to evaluate proposed legislation based on the impact this will have on employees' health benefits. I do not want to do anything to increase the number of uninsured, which is as much as 41 million Americans who lack health coverage. I commend my colleague from Massachusetts for raising this important issue, but as we all know ''the devil is in the details.'' I would like this issue to be debated and for legislation to be proposed and analyzed thoroughly for any unintended consequences to ensure that we are not doing more harm than good. We cannot afford to increase the number of uninsured and must be careful not to hurt those that currently have coverage.

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

The PRESIDING OFFICER. Your side has 5 minutes. The other side has 4 minutes.

Who yields time?

Mr. KENNEDY. Generally speaking, Mr. President, the proponents should go last.

Mr. NICKLES. Mr. President, I will be happy to go. We generally alternate back and forth. It doesn't make any difference.

Mr. President, I rise in strong opposition to the Kennedy amendment. At a certain point I will be offering a second-degree amendment.

Senator KENNEDY's amendment—maybe I should read from it. It is a sense of the Senate that Congress should pass the bill called the ''Consumer Bill of Rights,'' I believe.

Now, I might mention the Senator introduced this bill 2 nights ago. I have a copy of the bill which was introduced, the companion bill which is in the House. It is 68 pages. It is the Federal Government getting involved in many areas that possibly my colleagues haven't had a chance to examine. I know this bill has only been introduced for a couple days, but it is a pretty far-reaching bill. It is a bill that treats private plans differently than union plans. It is a bill that says we in Government know best. It is a bill that has lots and lots of mandates. It is a bill that will increase the cost of health care. It is a bill that does not track the President's Commission on Quality Care.

I met with some of the Commission on Quality Care just recently. They didn't have a consensus to legislate. As a matter of fact, there was a push by the administration and others that we need to legislate a patients' bill of rights. But that was not the consensus of the commission. As a matter of fact, the commission did not recommend legislation. Yet even though the commission, which studied this issue for 10 months, didn't recommend legislation, here comes a bill, 68 pages, and now, without even having the ink dry on the bill, we have people saying let's pass this.

It has a great title. I agree it is a great title. I compliment my colleague from Massachusetts. Boy, any time you say something has a bill of rights, it has to be good. Unfortunately, the closer you look at this legislation, it is not good. I don't think it is good if you increase costs for patients. I don't think it is good if you increase Federal mandates. I don't think it is good if you increase costs to where a lot of people cannot afford insurance. And I don't think there is a relationship between increasing regulations and increasing quality. As a matter of fact, it may be inversely related; you may have more Federal regulations and more money and resources that health care providers have, and instead of using those for providing quality, they are going to be using them to provide for compliance and health care quality goes down.

So while I compliment my colleague from Massachusetts for having a great title on this proposal that is only 2 days old, I don't think the Congress should be committing itself to passing it. I think it would be a serious mistake.

I might mention, this is not just the Senator from Oklahoma saying this. I am looking at health care providers who have serious reservations. I will just give you one example. This is a quote from the American Hospital Association regarding the bill which was recently introduced:

> However, the President's quality commission confirmed there is no consensus that Federal legislation introduced today by House and Senate Democrats is the way to achieve these best objectives. The AHA believes the private sector can and must meet the challenge to protect consumers and improving the quality of care. Federal legislation should be considered only if all private sector efforts fail.

We have not even given them a chance. We are saying we know best and we are going to mandate it. We are going to dictate it.

Mr. President, I will reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, I yield myself 3 minutes.

I am absolutely appalled at the response of our friends and colleagues on the other side. First of all, the President's panel unanimously said that these rights ought to be available to every American consumer, No. 1.

Now, what good does it do to have a right if you don't have a remedy? That is like saying we are for the Bill of Rights but we don't want to put it in the Constitution. Come on, Senators. You have to have a better answer than that. It doesn't hold up.

No. 2, this is not our legislation; this is a sense-of-the-Senate. I listened to my friend from Pennsylvania. He is talking about a slogan, not a program. What does he object to in here? Do you object to drive-by mastectomies? Do you object to making sure that women are going to have gynecological and obstetrical care? If you do, let's say it. Do you object to being able to get the best information and not have your doctor gagged?

This is what is in this amendment. This is what is important, not just some gray areas. So let's respond to what is in this sense-of-the-Senate. We have outlined it. It incorporates what the President's commission unanimously recommended should be available to every single consumer.

That is all we are saying—no specific legislation but extending it to every consumer. And if you think it is bureaucratic to say we are not going to permit health care plans to deny you at the emergency room when you have chest pains and are short of breath and may be having a heart attack, then go and defend that position.

Ask any consumer in this country. Ask any woman in this country. Ask any disabled person in this country. They are entitled to the best that their particular policy has guaranteed.

Finally, Mr. President, I am not going to yield to anyone about defending HMOs. I introduced the legislation and passed it in 1974. I supported it. We passed it five times here, and I led the fight for it.

All I want to do is to make sure that all of the HMOs are going to live up to what the best of the HMOs are living up to today. The best of the HMOs today support this. They support our resolution. We just want to make sure that every HMO is going to provide that kind of protection for the consumers they have enlisted and whose premiums they are accepting and using to pay very substantial salaries to their executives.

I withhold the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Just a couple of comments.

My colleague said that the President's Commission on Quality endorses these proposals, but they specifically did not endorse legislation. There is a big difference. Do we want to encourage the private sector to improve quality and access and information? You bet. But when you come up with a 68-page bill and say here is what you must do, there is a difference. The President's commission did not say legislate. The Senator's sense-of-the-Senate says legislate. The underlying sense-of-

the-Senate resolution provides for enactment of legislation to establish a patients' bill of rights which was just introduced 2 days ago that will increase health care costs. I think that is a serious mistake.

Mr. KENNEDY. Will the Senator yield?

Mr. NICKLES. No, not on my time. I only have a minute left.

So I just make the comment that people can talk about these goals. I will agree with the goals. But when you try to mandate them by legislation, saying that we know better, that we are going to dictate to the Mayo Clinic, here is what you must do, we are going to dictate to the Cleveland clinic; we know better, Congress knows better, the Senator from Massachusetts knows better, we are going to dictate it by legislation, I disagree. I do not think that will improve quality. I think it would be a serious mistake.

I urge my colleagues at the appropriate time to vote no on the Kennedy amendment, and I will offer a second-degree amendment shortly.

The PRESIDING OFFICER. The Senator from Massachusetts has 1 minute 25 seconds remaining.

Mr. KENNEDY. How much remains on the other side?

The PRESIDING OFFICER. Their time has expired.

AMENDMENT NO. 2281 TO AMENDMENT NO. 2183

(Purpose: To express the sense of the Senate concerning the enactment of a patient's bill of rights)

Mr. KENNEDY. Mr. President, I yield back the remainder of my time and send the amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Parliamentary inquiry. I believe time has to expire before the Senator can send a second-degree amendment to the desk.

The PRESIDING OFFICER. The Senator yielded back his time.

Mr. KENNEDY. Regular order.

Mr. NICKLES addressed the Chair.

Mr. KENNEDY. Regular order.

Mr. NICKLES. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The Senator from Massachusetts had the floor. He yielded his time back and sent the amendment to the desk.

Mr. KENNEDY. Regular order.

The PRESIDING OFFICER. So the second-degree amendment of the Senator from Massachusetts is the pending business.

The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY] proposes an amendment numbered 2281 to Amendment No. 2183.

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

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

The amendment is as follows:

Strike all after the first word and insert the following:

SENSE OF THE SENATE CONCERNING A PATIENT'S BILL OF RIGHTS.

(a) FINDINGS.—Congress finds that—

(1) patients lack reliable information about health plans and the quality of care that health plans provide;

(2) experts agree that the quality of health care can be substantially improved, resulting in less illness and less premature death;

(3) some managed care plans have created obstacles for patients who need to see specialists on an ongoing basis and have required that women get permission from their primary care physician before seeing a gynecologist;

(4) a majority of consumers believe that health plans compromise their quality of care to save money;

(5) Federal preemption under the Employee Retirement Income Security Act of 1974 prevents States from enforcing protections for the 125,000,000 workers and their families receiving health insurance through employment-based group health plans; and

(6) the Advisory Commission on Consumer Protection and Quality in the Health Care Industry has unanimously recommended a patient bill of rights to protect patients against abuses by health plan and health insurance issuers.

(b) SENSE OF THE SENATE.—It is the sense Senate that the assumptions underlying this resolution provide for the enactment of legislation to establish a patient's bill of rights for participants in health plans, and that legislation should include—

(1) a guarantee of access to covered services, including needed emergency care, specialty care, obstetrical and gynecological care for women, and prescription drugs;

(2) provisions to ensure that the special needs of women are met, including protecting women against ''drive-through mastectomies'';

(3) provisions to ensure that the special needs of children are met, including access to pediatric specialists and centers of pediatric excellence;

(4) provisions to ensure that the special needs of individuals with disabilities and the chronically ill are met, including the possibility of standing referrals to specialists or the ability to have a specialist act as a primary care provider;

(5) a procedure to hold health plans accountable for their decisions and to provide for the appeal of a decision of a health plan to deny care to an independent, impartial reviewer;

(6) measures to protect the integrity of the physician-patient relationship, including a ban on ''gag clauses'' and a ban on improper incentive arrangements; and

(7) measures to provide greater information about health plans to patients and to improve the quality of care.

(8) a requirement that the network of providers included in the plan are adequate to ensure the provision of services covered by the plan.

The PRESIDING OFFICER. There is now 20 minutes of debate divided equally on the amendment.

Who yields time?

Mr. KENNEDY. Mr. President, if the other side wants to yield back their time, I am prepared to yield time and move ahead to a rollcall vote on this.

Mr. President, I ask for the yeas and nays.

Otherwise we will have a long quorum call, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Does the Senator from New Mexico yield back time?

Mr. NICKLES. 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 (Mr. ROBERTS). Without objection, it is so ordered.

AMENDMENT NO. 2282

(Purpose: To express the sense of the Senate concerning health care quality)

Mr. NICKLES. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection to consideration of the amendment?

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, as I had understood, there had been representations that were made that the Senator from Oklahoma would be able to get a vote on his amendment and then we would go ahead with a vote on my amendment, the Kennedy-Durbin-Boxer amendment. That is my understanding. If my understanding is correct, I have no objection. Is that the——

Mr. NICKLES. That is correct.

Mr. KENNEDY. I have no objection, Mr. President.

The PRESIDING OFFICER. The Senator from Oklahoma has sent to the desk an amendment. If there is no objection, the clerk will report.

The legislative clerk read as follows:

The Senator from Oklahoma [Mr. NICKLES] proposes an amendment numbered 2282.

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

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

The amendment is as follows:

At the appropriate place, insert the following:

SEC. ___. SENSE OF THE SENATE ON HEALTH CARE QUALITY.

(a) FINDINGS.—The Senate makes the following findings:

(1) Rapid changes in the health care marketplace have compromised confidence in the our Nation's health system.

(2) American consumers want more convenience, fewer hassles, more choices, and better service from their health insurance plans.

(3) All Americans deserve quality-driven health care supported by sound science and evidence-based medicine.

(4) The Federal Government, through the National Institutes of Health, supports research that improves the quality of medical care that Americans receive.

(5) This resolution assumes increased funding for the National Institutes of Health for

1999 of $15,100,000,000, an 11-percent increase over current funding levels, which are 7 percent higher than in 1997.

(6) As the largest purchaser of health care services, the Federal Government has a responsibility to utilize its purchasing power to demand high quality health plans and providers for its health programs and to protect its beneficiaries from inferior medical care.

(7) The Federal Government must adopt the posture of private sector purchasers and insist on high quality care for the 67,000,000 medicare and medicaid beneficiaries and the 9,000,000 Federal employees, retirees, and their dependents.

(8) The private sector has proven to be more capable of keeping pace with the rapid changes in health care delivery and medical practice that affect quality of care considerations than the Federal Government.

(9) As Congress considers health care legislation, it must first commit to ''do no harm'' to health care quality, consumers, and the evolving market place. Rushing to legislate or regulate based on anecdotal information and micro-managing health plans on politically popular issues will not solve the problems of consumer confidence and the quality of our health care system.

(10) When health insurance premiums rise, Americans lose health coverage. Studies indicate that a 1 percent increase in private health insurance premiums will be associated with an increase in the number of persons without insurance of about 400,000 persons.

(11) Health care costs have begun to rise significantly in the past year. The Congressional Budget Office (referred to as ''CBO'') projects that the growth in health premiums will be 5.5 percent in 1998 up from 3.8 percent in 1997. CBO continues to project that premiums will grow about 1 percentage point faster than the Gross Domestic Product in the longer run. CBO also warns that new Federal mandates on health insurance could exacerbate this increase in premiums.

(12) The President's Advisory Commission on Consumer Protection and Quality in the Health Care Industry developed the Consumer Bill of Rights and Responsibilities. This includes information disclosure, confidentiality of health information, and choice of providers.

(13) The President's Commission further determined that private sector organizations have the capacity to act in a timely manner needed to keep pace with the swiftly evolving health system.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the assumptions underlying this resolution assume that the Senate will not pass any health care legislation that will—

(1) make health insurance unaffordable for working families and increase the number of uninsured Americans;

(2) divert limited health care resources away from serving patients to paying lawyers and hiring new bureaucrats; or

(3) impose political considerations on clinical decisions, instead of allowing such decisions to be made on the basis of sound science and the best interests of patients.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, this is a first-degree amendment and now has 30 minutes equally divided?

The PRESIDING OFFICER. The Senator is correct.

Mr. NICKLES. Mr. President, I have sent my amendment to the desk for various reasons, one of which is, my colleague from Massachusetts has an amendment which he calls a Patients' Bill of Rights. It sounds like a good title, but, frankly, I am concerned it will increase costs, I am concerned it will increase regulation, and because it will increase costs, the number of uninsured will rise, and without question it will increase regulation.

The bill that he refers to, the bill that he recently introduced—it also has the same title—called the Patients' Bill of Rights Act of 1998, is 68 pages long and has a lot of details in it. It has a lot of things that every health care plan in America would have to provide. That would cost a lot. It has a lot of the same language that is in the so-called PARCA, the Patients Access to Responsible Care Act. Estimates were made on that bill that it would increase costs 23 percent. That is a big increase. If you increase health care costs 23 percent, you are going to put a lot of people who had insurance in the uninsured category. I think that would be a serious mistake. People who have done their homework on this legislation, and maybe are experts in it, have come out and said, ''We have reviewed this Patients' Bill of Rights and find it severely lacking.''

Here is a quote from the Health Care Leadership Council. They said, ''a vote for the Kennedy amendment is a vote for greater involvement by lawyers and bureaucrats in our health care system. To improve American health care we need to empower individuals, not government. We need every medical dollar to go to medical services, not to lawyers and legal fees.''

One of the reasons for the reference to lawyers and legal fees is that it would allow insurers and businesses to be sued for not providing coverage; not just for the coverage, but also for pain and suffering, for punitive damages. So you would have health care insurers as well as businesses, who would be worried more about litigation than consumer care. I think that would be an enormously expensive provision, and people need to know it.

I will continue with the Health Care Leadership Council. They said:

The bureaucratic regulations that would result from the Democrats' patient bill of rights legislation would add unnecessary complexity to the health care system. Complexity steals time from patients and forces health care providers to focus on regulatory compliance instead of improving the quality of care.

The Chamber of Commerce of the United States, which represents companies throughout the country says:

We urge your opposition to an amendment expected to be offered by Senator KENNEDY to the budget resolution today expressing the sense of the Senate that a patient bill of rights proposal should be enacted this session . . .

The goal of improving health care quality can be better achieved through the power of the marketplace.

The National Federation of Independent Business says:

The Kennedy amendment would dangerously place the Senate on record in support of health care mandates prior to carefully examining the issues of cost, coverage, regulation and litigation. Additionally, it is premature given the work of respective health care task force groups in the Senate and House and private-sector efforts. Thus, we hope you will not rush to legislate on the basis of antidotes rather than sound decisionmaking. Big Government mandates substitute Government intervention for quality innovations currently taking place in the private health care market are the wrong prescriptions for America's health care system.

Also, I have a letter from the Council on Affordable Health Insurance:

Bill of rights is a cruel hoax when the cost of those rights will result in health insurance which is unaffordable for those privately purchasing or causes employers to drop health insurance coverage altogether. Both Congress and the States have enacted laws to make health insurance accessible to almost every American who seeks coverage. Access to health insurance is meaningless if Congress makes it unattainable because of regulations placing it financially out of reach for many Americans.

I ask unanimous consent that these letters be printed in the RECORD.

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

HEALTHCARE LEADERSHIP COUNCIL,
Washington, DC, April 1, 1998.

Hon. DON NICKLES,
Assistant Majority Leader,
U.S. Senate, Washington, DC.

DEAR SENATOR NICKLES: We understand that Senator Kennedy intends, during Senate floor debate on the Budget Resolution, to offer an amendment placing the Senate on record as supporting enactment of the provisions incorporated in the Patients' Bill of Rights legislation introduced by Senate and House Democrats yesterday. It is critical that the Senate strongly oppose this amendment.

The approach toward health care embodied in the Kennedy amendment is exactly the wrong medicine for our health care system. The Democrats' bill introduced yesterday would raise costs, increase the numbers of uninsured people and eliminate consumer choices.

A vote for the Kennedy amendment is a vote for greater involvement by lawyers and bureaucrats in our health care system. To improve American health care, we need to empower individuals, not government. We need every medical dollar to go to medical services—not to lawyers and legal expenses.

The bureaucratic regulations that would result from the Democrats' Patients' Bill of Rights legislation would add unnecessary complexity to the health care system. Complexity steals time from patients and forces health care providers to focus on regulatory compliance instead of improving the quality of care.

As you know, the members of the Healthcare Leadership Council are the chief executives of the nation's leading health care companies and organizations, America's health care innovators. We are working toward a market-based approach to making health care more accessible, more affordable and of the highest quality for all Americans. Again, we strongly urge the Senate to reject the government micromanagement approach to health care that is embodied in the Kennedy amendment.

Sincerely,

PAMELA G. BAILEY,
President.

CHAMBER OF COMMERCE OF THE
UNITED STATES OF AMERICA,
Washington, DC, March 31, 1998.

To Members of the U.S. Senate:

The U.S. Chamber of Commerce—the world's largest business federation, representing more than three million businesses and organizations of every size, sector, and region—strongly opposes proposals that will increase the cost of health coverage. We urge your opposition to an amendment expected to be offered by Senator Kennedy to the Budget Resolution today expressing the sense of the Senate that a patient bill of rights proposal should be enacted this session.

Health care reform easily has been one of the most emotional, complex and divisive domestic issues facing our nation. Many members of Congress have responded by considering a wide variety of proposals to regulate the health care marketplace, impose additional mandates, or most dangerously to expand medical malpractice liability. The Chamber strongly opposes these measures and may consider votes in connection with these proposals for inclusion in our annual ''How They Voted'' voting guide.

''Patient bill of rights'' proposals—such as that advocated by a majority of the deeply flawed Clinton managed care commission—more closely resemble provider than patient protections. Higher costs for health coverage will be the certain result of further government micro-management of the health care marketplace and increased litigation, making health coverage less affordable and available to small businesses and individuals. Of what use is the ''perfect'' health plan if businesses cannot afford to offer and employees cannot afford to accept health coverage?

The goal of improving health care quality can be better achieved through the power of the marketplace. The Chamber has recently joined other members of the business community in forming the Employer Quality Partnership, a new coalition intended to empower the health coverage purchaser—whether employer or individual consumer—with the tools necessary to evaluate health plan quality in a changing marketplace. In addition, we strongly supported the development of the American Association of Health Plan's Patients First initiative.

The expected Kennedy amendment is, at best, premature given the work of the respective health care taskforce groups in the Senate and House and private sector efforts like the Employer Quality Partnership and Patients First. We urge you not to commit today to legislation that will certainly prove a losing proposition tomorrow.

Sincerely,

R. BRUCE JOSTEN,
Executive Vice President.

THE HEALTH BENEFITS COALITION
FOR AFFORDABLE CHOICE & QUALITY,
Washington, DC, April 1, 1998.

DEAR SENATOR NICKLES: We urge your opposition to an amendment to be offered by Senator Kennedy to the Budget Resolution today putting the Senate on record in favor of passage of so-called ''patient protection'' legislation this session.

The Health Benefits Coalition agrees with you that Congress' first obligation is to Do No Harm. We share your view that patients would be hurt by any health care mandate bill that increases premiums on American families, reduces coverage or causes a new wave of costly litigation and regulation.

Concerns about congressional action increasing costs and reducing coverage are well-founded. An example is the Democrats' Patient Bill of Rights Act, unveiled just yesterday, which combines many of the worst elements of so-called ''patient protection'' proposals. It would result in further government micro-management of the health care marketplace and increased litigation, making health coverage less affordable and available to small businesses and individuals.

Ironically, by increasing costs and forcing millions of low-wage workers to choose between higher premiums or dropping coverage for their families, the Democrat proposal would hurt the very people who need help the most. Studies show that last year some six million Americans declined health insurance, largely because of cost, and these workers are ''more likely to be young, Hispanic or black, or unmarried and have low wages or low education levels''. (Health Affairs, Vol. 16, No. 6)

America has the finest health care system in the world because our private health care market—unlike a government run system—improves to meet consumers' needs. There is much that is currently being done voluntarily by health care plans and employers throughout the marketplace to improve the quality of care. However, if we trade the innovation and excellence of our private health care system for the regulation of a government-run system, this progress and innovation will be stifled. Furthermore, it won't be doctors making decisions about our health care—it will be Washington.

The Kennedy amendment would dangerously place the Senate on record in support of health care mandates prior to carefully examining the issues of cost, coverage, regulation and litigation. Additionally, it is premature given the work of the respective health care taskforce groups in the Senate and House and private sector efforts. Thus, we hope you will not rush to legislate on the basis of anecdotes, rather than sound decision-making. Big government mandates, which substitute government intervention for quality innovations currently taking place in the private health care market, are the wrong prescription for America's health care system.

Sincerely,

DAN DANNER,
Chairman, The Health Benefits Coalition, Vice President, National Federation of Independent Business.

HEALTH BENEFITS COALITION PARTICIPANTS:

National Federation of Independent Business
U.S.Chamber of Commerce
The Business Roundtable
National Association of Manufacturers
National Restaurant Association
Associated Builders and Contractors
National Association of Health Underwriters
American Automobile Manufacturers Association
National Business Coalition on Health
American Insurance Association
Food Marketing Institute
The ERISA Industry Committee
National Association of Wholesaler-Distributors
Food Distributors International
CIGNA
American Association of Health Plans
Association of Private Pension and Welfare Plans
National Retail Federation
Blue Cross and Blue Shield Association
Citizens for a Sound Economy
Society for Human Resource Management
Council for Affordable Health Insurance
Aetna U.S. Healthcare
Prudential HealthCare
Health Insurance Association of America
Healthcare Leadership Council
Humana Inc.
International Mass Retail Association
Self-Insurance Institute of America, Inc.
New York Life/NYLCARE Health Plans
Premier

COUNCIL FOR
AFFORDABLE HEALTH INSURANCE,
Alexandria, VA, April 1, 1998.

Hon. DON NICKLES,
Assistant Majority Leader,
U.S. Senate, Washington, DC.

DEAR SENATOR NICKLES: On behalf of the Council for Affordable Health Insurance, representing 3 million policyholders we are writing to voice our strong opposition to the Kennedy amendment No. 2183 to S. Con. Res. 86. The Kennedy amendment, Sense of the Senate resolution regarding Patient's Bill of Rights, although nonbinding would place Senators on record in favor of enacting legislation to establish a patient's bill of rights. A Bill of Rights is a cruel hoax when the cost of those rights will result in health insurance which is unaffordable for those privately purchasing or causes employers to drop health insurance coverage all together.

The ''rights'' listed in the Kennedy amendment amount to a litany of mandated benefits, and mandated providers. One only need to look to the states to see what these rights have cost policyholders. In the state of Maryland, there are over 40 state mandates. These mandates; some benefit related, others provider related, add more than 20% to the cost of insurance premium in that state. Major studies have been released in the last year that show the uninsured in the United States is increasing. The reason for the increase is not lack of access but lack of affordability!

Both the Congress and the states have enacted laws to make health insurance accessible to almost every American who seeks coverage. Access to health insurance is meaningless if the Congress makes it unattainable because of regulation placing it financially out of reach for many Americans.

The Kennedy amendment is premature when both the Senate and the House have established Health Care Task forces to carefully examine this issue. We are strongly opposed to the Kennedy amendment and urge Congress not to enact legislation which will increase the cost of health care insurance.

Sincerely,

ANGELA M. HUNTER,
Director of Federal Affairs.

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

The PRESIDING OFFICER. The Senator has 10 minutes 40 seconds.

Mr. NICKLES. I reserve the remainder of my time, because I have a couple of colleagues who wish to speak on this.

I ask that the second-degree amendment No. 2281 be withdrawn.

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

The amendment (No. 2281) was withdrawn.

Mr. NICKLES. I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time in opposition?

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. How much time do I have, Mr. President? Is it 15 minutes on our side?

The PRESIDING OFFICER. The Senator is correct.

Mr. KENNEDY. I yield myself 7 minutes.

Mr. President, I disagree with some of Senator NICKLES' findings, but I

have no quarrel with the general words, and I urge the Senate to support his amendment and then go ahead and support our sense-of-the-Senate amendment, because the sense-of-the-Senate amendment incorporates the basic kind of protections that are essential in order to protect working families in this country.

I might differ with some of the particular words that the Senator has provided in his resolution. I was just handed the resolution a moment or two ago. It says:

Sense of the Senate. It is the sense of the Senate that the assumptions underlying this resolution assume that the Senate will not pass any health care legislation that will—

(1) make health insurance unaffordable for working families.

How can you differ with that? I am not for making health insurance unaffordable.

And:

(2) divert limited health care resources away from serving patients to paying lawyers and hiring new bureaucrats. . .

I certainly agree with Senator NICKLES on that one.

And:

(3) impose political considerations on clinical decisions. . .

That is basically what we are talking about in our amendment. Restoring the patient-provider relationship.

I hope the entire Senate will support the NICKLES amendment, and then we get back to our amendment, the real enchilada, the real McCoy. The essential protections we have spoken of today are included in the sense of the Senate advanced by myself, Senator DURBIN, Senator BOXER and Senator SARBANES. Our amendment asks the Senate to pass legislation to ensure that women in this country are going to get the gynecological and obstetrical care they need. It identifies and ends the evils of forced drive-through mastectomies. It says that a person who has a medical emergency does not have to drive past the nearest emergency room to a more distant one in the plan. It says that we will eliminate the use of gag clauses, and respect our medical professionals and the decisions they make. And it says that health plans will be held accountable for their decisions that deny care for patients and result in serious illness or death for those individuals. Why should we continue to shield negligent plans?

This Senator listened carefully, and neither the Senator from Oklahoma nor the Senator from New Mexico nor the Senator from Pennsylvania have addressed for one single moment the six essential elements of our sense-of-the-Senate resolution—the elements of which are strongly endorsed by the American Medical Association, the National Breast Cancer Association, Families USA, Consumer's Union, the emergency physicians, groups representing people with mental and physical disabilities, pediatricians across this country and a great number of consumer and patient groups that understand exactly what is at risk.

We are going to vote. We are going to vote not only this afternoon, but we are going to vote continuously in this Congress until we pass this legislation. This afternoon is the first time.

But I certainly hope that Senator NICKLES' amendment will be supported, and I hope, if I can have the attention of the Senator from Oklahoma, that he will accord the same courtesy and support to our amendment as well, and we will have a happy afternoon here together.

I yield 5 minutes to the Senator from California.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. BOXER. Thank you very much, I say to my friend from Massachusetts, for his leadership on these issues.

I certainly am going to support the Nickles amendment, as the Senator from Massachusetts has stated. The Nickles amendment simply says we shouldn't do anything when we legislate on this issue of a patient bill of rights to make things worse for patients. Of course we wouldn't do that. But the ultimate vote comes on Senator KENNEDY's amendment, because that is a positive statement of things we must do and we should do for the average American who has an HMO plan and who deserves to have quality health care.

I think we should vote for the Nickles amendment and then for the Kennedy amendment.

I want to tell a couple of stories, because they really illustrate why the Kennedy amendment is so important.

In the course of looking at the HMO issue, I met a gentleman named Harry Christie from Woodside, CA. He had a daughter who, at age 9, developed a very rare cancer. And it required a very delicate operation that could really only be performed by a surgeon who had experience in dealing with what they call Wilms' tumors.

So Mr. Christie, as any parent, loving his child with all of his soul, went to find out which physicians could do this operation and found out who they were, went to his HMO, and said, ''I assume that you will pay for a specialist to perform this delicate operation on my daughter.'' The HMO said, ''Sorry, Mr. Christie, we do not have such a specialist on our staff. You will have to take a general surgeon, a very good general surgeon, or you will have to simply pay for this out of your own pocket.''

Mr. Christie made the argument to no avail: ''This is my child. She is 9 years old. This is a delicate operation. This is a rare tumor. And I will not have someone with no experience, no matter how good a surgeon, take a knife to my child.'' Well, they said, ''You're out of luck.'' Mr. Christie had to come up with $50,000, and he did. Years later, his daughter is now 14. She is cured of this disease. She had a successful operation. What if Mr. Christie had not been able to come up with the $50,000? She may never have recovered.

What is it that we are doing here? We tell people we believe in quality health care, and yet we stand here and say we cannot do anything about it. The Kennedy amendment says that if your plan does not have a specialist that you must have for you or your family, yes, you can go outside that plan.

We held a press conference on this important bill that we hope will pass the U.S. Senate soon. And we heard over satellite from a gentleman named David Garvey from Illinois. He had an HMO; he thought it was terrific. Everyone loves their HMO until they get sick. Then, unfortunately, too many find out it was not what they thought it would be. What happened to this family is, Barbara Garvey, his wife of 30-some years, got a very rare immune condition. She was on vacation in Hawaii. And the HMO said, ''No, no, no, no. We cannot treat her in Hawaii. She has to be flown on a commercial airplane, at your expense, back to Illinois.'' Well, to make a very sad story shorter, she never survived that experience because her immune system was so damaged in this particular anemia condition that she could not withstand the infections that she got on that airplane.

We have to take action. There is nothing in the Nickles amendment that disturbs me at all. Of course, when we take action, it ought to be with all the concerns that Senator NICKLES puts in. Of course we should not fix a plan because of political reasons—I do not even know what that means—but we should do it because we want to help the people of this country get quality health care. That means specialists, and that means, as Senator KENNEDY has pointed out, a plan where doctors will not be gagged. We do not want doctors gagged. We want doctors to be able to tell you the truth about your condition. And if there is a remedy that might be a little more expensive, you deserve the right to know. That is in the Kennedy amendment.

A woman who needs an OB-GYN—and many of us use our own OB-GYNs as our first line of support. We do not go to an internist, should not have to go through a gatekeeper, to get that kind of help. So we have a wonderful opportunity today to support both the Nickles amendment and the Kennedy amendment. We have an opportunity to say that patients in America who pay premiums deserve to have the quality put back in health care. This is a chance for us to make that statement.

I hope we will cross over party lines on both these amendments and go home feeling we have made a statement that is important to the American people and follow it up with real action on a real patients' bill of rights.

I yield back my time to Senator KENNEDY.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. NICKLES. I yield to the Senator from Tennessee 4 minutes. How much time remains on our side?

The PRESIDING OFFICER. The Senator has 10 minutes 15 seconds.

Mr. FRIST addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. FRIST. I rise to speak in favor of the amendment from the Senator from Oklahoma and in opposition to the amendment of the Senator from Massachusetts.

The amendment of the Senator from Oklahoma, which I think we are going to have widespread agreement on, basically says that—

> The Senate will not pass any health care legislation that will—
>
> make health insurance unaffordable for working families and increase the number of uninsured Americans . . .

And in addition, it will not pass any health care legislation that will—

> . . . impose political considerations on clinical decisions, instead of allowing such decisions to be made on the basis of sound science and the best interest of patients.

I would like to take the time and say why passage of the Nickles amendment means we should defeat the Kennedy amendment. Basically, physicians do not treat patients unless we know that the anticipated risks to that patient are outweighed by the benefits. If we were to pass the amendment by Senator KENNEDY, the Senator from Massachusetts, those unintended disadvantages would far outweigh the good intentions that we have.

No. 1 is the issue of cost. We know that if we are mandating benefits today the cost of health insurance goes up. When health insurance goes up, those hard-working men and women, the single mom, working mom with the child, can lose her health insurance.

So we feel good because we are out there arguing quality. However, what we are really doing is putting mandates on the American people. I can guarantee you, because the data shows it, we drive health care costs up when we impose mandates. Who is hurt? The people we think we are helping—the working poor people who are out there.

A study by the Lewin Group showed that a 1 percent increase in premium implies that 200,000 people will lose their insurance. In fact, they said 200,000 to 400,000 people will lose their insurance. Yet, when we hear a little increase of 1 percent in your insurance premium we think anybody can take that. They do not. People will lose their insurance with these mandates. We should make the commitment, which the Nickles resolution does, not to pass legislation that drives the price of health care costs up and makes the uninsured a bigger problem.

No. 2, good science. We need good science. Some mandates in some cases may be OK, but let us base that on good science where we are really helping people.

Length of stay—mastectomy. Let me point out length of stay, how long you stay in a hospital, is not even mentioned in the landmark NIH consensus statement and guidelines for the management of breast cancer. In the guidelines that were determined by consensus to effect quality of care, the length of stay is not mentioned. In fact, in this particular bill where we talk about length of stay, length of stay is not necessarily the right issue.

A 1996 study of 525 women who underwent outpatient mastectomies at Henry Ford Hospital in Michigan reported increased quality, accelerated physical recovery, earlier return to occupational activities, and numerous improved psychological advantages.

My point is, if we are talking quality, this rubric of quality, we need to look at critical quality issues. Inpatient versus outpatient isn't necessarily a quality issue. It is an oversimplification. There are numerous studies.

A 1995 study at the New Jersey College of Medicine of 133 women who underwent outpatient partial mastectomies showed a lower rate of postoperative infection and a higher rate of satisfaction in comparison to a group having surgery on an inpatient basis.

In addition, the amendment itself also has other mandates, mandating reimbursement for prescription drugs. That is something that Medicare does not even do. If you mandate coverage for prescription drugs, I will guarantee you, you are going to drive the costs of health care insurance up to the point that you are going to be driving people out of the marketplace where they will not have access to even an adequate level of health care.

Thus, in closing, I rise to support—and I hope we will have a 100–0 vote for the Nickles amendment. Listen to what the Nickles amendment says. Let us not hurt quality of health care when we think we are helping it.

I yield the floor.

The PRESIDING OFFICER. Who yields the time?

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. I yield the Senator from Maine 4 minutes.

The PRESIDING OFFICER. The Senator from Oklahoma has 6 minutes. The Senator from Maine is recognized.

Ms. COLLINS. Thank you, Mr. President.

All of us agree that medically necessary patient care should never be sacrificed to the bottom line, and that medical decisionmaking should remain in the hands of medical professionals, and not in the hands of accountants. The question is, how can we best achieve that goal? Is the answer, as the Senator from Massachusetts suggests, massive new Federal regulations, mandates, and a preemption of the State's traditional role to regulate insurance? Or is the answer to trust the private-sector organizations that have made great progress in improving the quality of health care plans? Or is, perhaps, the answer somewhere in between? Is the answer carefully crafted, minimal Federal legislation that supports the efforts in the private sector?

The reason this issue is so important is because we don't want to take a misguided step in the name of improving quality and end up making health insurance unaffordable for millions of Americans.

The Lewin Group recently released an important study that deserves the attention of all of our colleagues. It estimates that every 1 percent increase in private insurance premiums results in an additional 400,000 Americans who become uninsured. A 1 percent increase in costs brings 400,000 additional uninsured Americans.

Health insurance rates are already projected to increase by more than 5 percent in 1998. In fact, the Los Angeles Times reported earlier this week that California's largest HMO was seeking an 11 percent increase in some rates. Therefore, we face an extremely delicate balancing act as we attempt to respond to concerns about quality without resorting to unduly burdensome Federal Government controls and mandates that will further drive up the cost of insurance and reduce access. Furthermore, we want to make certain that our efforts actually improve the quality of health care and not simply increase the amount of Federal regulation.

Under the leadership of the Senator from Oklahoma, I serve on the Republican health quality task force. We recently heard from the director of the Mayo Clinic, who voiced their own reservations about the Federal Government's ability to regulate quality. To quote Dr. Bob Waller:

> Quality is a continuous process that must be woven into the fabric of how we think, act and feel. Government regulation places a stake in the ground that freezes in place a quality standard that may become obsolete very quickly. The Government simply cannot react quickly to the changing quality environment. The goal of quality is to continuously improve patient care—not to achieve some defined regulatory objective.

Congress, in its haste to do good, should take care not to violate the first principle of medicine, which is, ''first of all, do no harm.'' Congress should not be acting precipitously, but rather should engage in a thoughtful and thorough debate on how best to ensure that Americans continue to enjoy the highest quality health care in the world. The amendment offered by the assistant majority leader adopts a reasoned, balanced approach to improving health care quality. All of us should be able to agree, as the amendment states, that Congress should not do anything to make health insurance unaffordable for working families and to increase the number of uninsured Americans.

The PRESIDING OFFICER. The time allotted to the Senator has expired.

Ms. COLLINS. I urge my colleagues to join me in supporting the amendment offered by the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. How much time remains?

The PRESIDING OFFICER. The Senator has 4 minutes 53 seconds.

Mr. KENNEDY. Mr. President, I yield myself 2 minutes.

I urge our colleagues to support the Nickles amendment. I have outlined, as the Senator has, and, while I disagree with some of his statements, I think the Senate ought to go on record in favor of it. But I also invite others to support the amendment offered by myself, Senator DURBIN, Senator BOXER and others, which basically says the Senate should pass a patients' bill of rights. Our amendment and the rights embodied in it is commonsense.

As we know around here, if you don't have a remedy for a right, you don't have a right. We have a Bill of Rights that we have enshrined in the Constitution of the United States. We have that to ensure all of our rights. All we are saying now is let us go on record in support of the rights that are included in this sense of the Senate.

This amendment says that we will protect women from being thrown out of the hospital hours after a mastectomy and against the advice of their physician. We will assure that women are going to be able to get direct access to the gynecological and obstetrical care they need. These are rights that many plans say they already offer. With this amendment, we will make sure that they are realized.

We will make sure that children with special needs have access to qualified pediatric specialists. We will make sure that we protect the rights of persons with disabilities. These rights are written in some of the various insurance policies, but too often they are not realized. We want to make sure that every American, if they have a heart attack or a stroke, can go to the nearest emergency room.

Here are the basics, and they have been undisputed. No one has challenged that. Let's get aboard and say let us, in this Congress—Republicans and Democrats—draft legislation that will protect those consumers. That is what the President's commission did unanimously. It said these ought to be the rights of every single American. We have a chance this afternoon for the Senate of the United States to say ''yes.'' Every good plan already provides these rights. Consumers need protections against those insurance companies who put profits ahead of patients. Many organizations representing patients and doctors are on our side. Only those who profit from the current abuse are opposed to us.

I hope the Senate will go in favor of this resolution.

I yield the remaining time to the Senator from West Virginia.

The PRESIDING OFFICER. The Senator from West Virginia has 2 minutes 23 seconds remaining.

Mr. ROCKEFELLER. I thank the Senator from Massachusetts for his, as usual, stalwart defense of what is right in health care. I am struck by the referral of the Senator from Maine to the increased number of uninsured, which has always been put out by those—particularly the insurance companies—who oppose any kind of adding on to health care coverage or the quality of health care coverage in this country.

It is the oldest irony in the books. They have never supported anything, anything that I can remember, over the last 10 years that increased health insurance coverage. They have opposed everything. She quotes them—and she was even shot down by the Republican appointed CBO Director June O'Neill, who says in her letter, ''CBO has not estimated how PARCA [the bill referred to in the estimates under discussion] might affect the number of people covered by insurance.''

So on the one hand there is no argument, there is no case to be made about the increase; and secondly, in talking about this consumer bill of rights, we are talking about very, very fundamental things.

I had to take my own son into an emergency room within the last 2 weeks with my wife. There was nobody in the emergency room except us. It was held open, Sibley Hospital, because it was open and we were able to take advantage of it. It is the most important room in a hospital. This bill would guarantee that an emergency room would be open for everybody in America—not just people named Rockefeller or Kennedy—24 hours a day, 365 days a year. That is necessary.

I have another relative who has been through a mastectomy. People who say mastectomy quality is going up and people are not being urged to get out of hospitals simply don't know the facts because I have seen otherwise and I know otherwise.

I suggest we support the amendments of the Senator from Oklahoma and that we support the Senator from Massachusetts, both.

The PRESIDING OFFICER. The time of the Senator from Massachusetts has expired.

The Senator from Oklahoma has 2 minutes remaining.

Mr. NICKLES. I appreciate the fact that my colleagues on the Democratic side say they will support our amendment, but I want to inform them that our amendment is in direct contradiction with their amendment.

Our amendment says we shouldn't do anything to increase health care costs. My colleagues want to say that the proposal by the Senator from Massachusetts doesn't increase costs. They can say it, but it is not true.

The facts are the Lewin Group, for example, did a study on the so-called PARCA bill and said it increased costs 23 percent. Granted, the bill that the Senator introduced 2 days ago and is calling upon the Senate to pass may not be exactly the same thing, but it has a lot of common elements, and it will increase costs.

The Nickles resolution says we shouldn't increase costs because that increases uninsured. Common sense. And it says we shouldn't require health care providers to spend a lot of money defending themselves instead of providing quality care.

The proposal by my colleague from Massachusetts refers to the patient bill of rights. His bill of rights says we should pass legislation. I mention that the President's commission did not say we should pass legislation. They are not consistent. Should we try to improve quality care? Sure. Should we pass legislation mandating a fixed definition of quality care? I don't think so.

To give an example, a letter from Bob Waller of Mayo Clinic says, ''Providers of care are in the unique position based on the personal commitment to the well-being of the individual patient to drive quality improvement initiatives. Nothing could stifle innovation quicker than external mandatory standards.'' Now, that is not from some insurance carrier. That is the director of the Mayo Clinic, one of the top providers of quality health care in the world.

The Cleveland Clinic states:

We are already subject to extensive Federal, State and private regulations through oversight by private payors and accrediting bodies. Adding yet another layer of regulation will only further complicate matters, add administrative costs to our organization, and in all likelihood have little or no effect on the actual quality of care provided.

I ask unanimous consent to have these statements printed in the RECORD.

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

MAYO CLINIC

Mayo Clinic, Baylor Health Care System, and the Cleveland Clinic are all raising their voices in opposition to federal regulation of health care quality.

Dr. Bob Waller of the Mayo Clinic has stated: ''Quality is a continuous process that must be woven into the fabric of how we think, act and feel. Government regulation places a stake in the ground that freezes in place a quality standard that many become obsolete very quickly. The government simply cannot react quickly to the changing quality environment. The goal of quality is to continuously improve patient care—not to achieve some defined regulatory standard.''

BAYLOR HEALTH CARE SYSTEM

''There has been an enormous commitment on the part of Baylor Health Care System and providers throughout the country to evaluate and put in place the processes for continuous quality improvement. We believe it must be done at this level. Providers of care are in the unique position, based on their personal commitment to the well-being of the individual patient, to drive quality improvement initiatives. Nothing could stifle innovation quicker than external mandatory standards.''

CLEVELAND CLINIC

''We are already subject to extensive federal, state and private regulations through oversight by private payors and accrediting bodies. Adding yet another layer of regulation will only further complicate matters, add administrative costs to our organization, and in all likelihood have little or no effect on the actual quality of care provided''.

AMERICAN HOSPITAL ASSOCIATION (THIS WAS IN RESPONSE TO SENATOR KENNEDY'S BILL ANNOUNCED YESTERDAY)

''The President's quality Commission confirmed there is no consensus that federal legislation like that introduced today by House and Senate Democrats is the best way to achieve these objectives. The AHA believes the private sector can and must meet the challenge of protecting consumers and improving the quality of care. Federal legislation should be considered only if all private sector efforts fail.''

Mr. NICKLES. Mr. President, these are not insurers. They are providers of care saying that more regulation will do just the opposite—it will increase costs. Experts are saying the Kennedy proposal will increase costs and therefore increase the uninsured and add a lot of money being expended for defensive purposes in litigation, not for improving quality of care. That is a mistake.

I urge my colleagues to vote in favor of my amendment, cosponsored by Senators JEFFORDS, FRIST, COLLINS, and others. I thank them for their comments. I urge my colleagues to vote no on the Kennedy amendment.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, my friend from Oklahoma sets up a strawman and then knocks it down. There are not going to be any additional costs for those insurance companies and those HMOs that are doing a good job. Massachusetts' HMOs, for example, are the best in the nation. I have the highest regard for them. But there may be an extra cost for HMOs that are shortchanging the consumer—the Senator is right—but not for those that are doing what they have represented to the consumers. In other words, if they are doing a good job, they have nothing to fear. That is why we have the support of a number of HMOs at the present time. This sense of the Senate focuses on the ones that are not doing a good job.

I yield the floor.

The PRESIDING OFFICER. The Senator's time has expired.

UNANIMOUS CONSENT AGREEMENT

Mr. DOMENICI. Mr. President, I thank the Senators for participating in what has been an exciting debate. I have a consent agreement that has been worked out between the majority and the minority.

I ask unanimous consent that the following amendments be debated between now and approximately 4 o'clock, under the same terms as agreed to last night, with the exception of second-degree amendments, which are now limited to 10 minutes equally divided:

Brownback amendment No. 2177, which has already been debated; Boxer amendment No. 2167; Specter amendment No. 2254; Lautenberg amendment No. 2244; Kyl amendment No. 2221; the two amendments that we have just heard debated, the Nickles amendment and the Kennedy amendment, Nos. 2282 and 2183, respectively; a Hutchison from Texas amendment No. 2208; and the last in this series is the Rockefeller amendment No. 2226.

I further ask that at the conclusion or yielding back of time on each of these amendments, and any second degrees, all remaining time on the budget be considered yielded back, and the and the Senate proceed to stack rollcall votes, under the same terms as last night.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, for the information of all Senators, at approximately 4 p.m.—it looks like it will be a little bit after that—today, the Senate will begin what has been fondly called a ''vote-arama.'' Some might not want to say ''fondly''; they may have other words to describe it. I choose that today for no particular reason. If all Senators will remain in the Chamber and refrain from insisting on rollcall votes on their amendments, all Members will survive this cruel process and the Senate can conduct the final vote on this resolution within 3 or 4 hours after 4 p.m.

I understand that is wishful thinking, I say to my fellow Senators. Nonetheless, I urge my colleagues, once we start the ''vote-arama,'' to remain here in an attempt to work with us on the amendments that they may have to be included in the ''vote-arama'' or be disposed of otherwise. We still have a lot of amendments that we have not reached agreement on that might end up in the ''vote-arama.''

We are making some very significant headway. We started today with 72 amendments. We have worked to clear a number of those. Today, I think, with the amendments we will shortly adopt by voice vote, we are probably down to about 30 amendments that will fall into the ''vote-arama,'' and we have not had a chance on each of them to discuss them with the Senators. Perhaps a significant number of those will not require votes.

I yield so that my distinguished friend, the ranking member, can address the Senate.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. LAUTENBERG. Mr. President, I encourage all to listen carefully to what is proposed in this UC. The mission is to respond to the entreaties by Senators on both sides, ''When are we going to complete our work? We have plans to make, we have our appointments to keep.''

You cannot have it six ways. What we have done here is we have tried to be as considerate as possible. The Senator from New Mexico has clearly stated the case. I have a further request that would apply to both sides, and that is, where the subjects are in common in two or more amendments, if those parties would consent to try to consolidate, we can further eliminate any time for discussion. Even though it is only 1 minute on each side, we are looking at a considerable amount of time. I plead with our colleagues—10 minutes on their clock has to be the same as 10 minutes on our clock; they can't be a different 10 minutes.

So if we are going to keep the voting limited, I urge the chairman of the Budget Committee to exercise all of the ''meanness'' that he can, be a bad guy and criticize and punish and all that. This is serious, and if people don't want to be looking at this clock at midnight, then they are going to have to adhere to the rules as we have them. I think I heard the Chair declare that the unanimous consent is in place. I would like to get on with the business at hand and do what we can to expedite the program and the time.

Mr. DOMENICI. Mr. President, following the next amendment, which I think will be the Lautenberg amendment, we will propose to the Senate a long list of amendments that we will accept and propose to accept by voice vote or by accommodation by both sides agreeing. So we will do that and that will take care of another long list of amendments. Then what will be left will be the ''vote-arama,'' and we will try to narrow those down in our personal conversations with Senators. Our leader will be along shortly to discuss this with Senators, also.

According to the order, Senator LAUTENBERG's amendment will now be the pending business.

AMENDMENT NO. 2244

The PRESIDING OFFICER. The pending question is the Lautenberg amendment, No. 2244.

The Senator from New Jersey is recognized.

Mr. LAUTENBERG. Mr. President, this amendment presents a modified version of the budget that President Clinton submitted to the Congress last month. The amendment delineates all of the important priorities in the President's budget.

First, it maintains strict fiscal discipline and adopts the President's commitment to save Social Security first. The amendment reserves all surpluses—I want to emphasize all surpluses—until we solve Social Security's long-term problems. This will help ensure that when the baby boomers retire, Social Security will be there for them, just like it has been there for their parents and grandparents. Second, this amendment, like the President's budget, makes education a top national priority. It calls for an initiative to reduce class sizes by hiring 100,000 new teachers; it promotes higher standards and greater accountability; it provides more after-school opportunities for young people; and it would help modernize and rehabilitate many of our schools.

These initiatives are not included in the budget before us. That is one of its greatest shortcomings.

Third, this amendment, like the President's budget, includes a historic commitment to helping families afford

quality child care. It would double the number of children receiving child care subsidies by the year 2003. It would provide tax relief to working families who struggle to afford child care, whose biggest concern is that their kids are in good, safe, secure hands and it doesn't matter what your income is or what your assets are. Everybody wants that. It includes many other measures to improve the quality of child care. Again, the Republican budget in front of us fails to include a meaningful child care initiative and would do little for working parents and their kids.

Fourth, this amendment, like the President's budget, would expand Medicare to provide health care to many older Americans who now lack private insurance. It would assist those people to help them pay for their fair share so that there are no additional burdens on the taxpayers at large. The Republican budget rejects this proposal.

Fifth, this amendment, like the President's budget, includes a major investment in research, especially medical research at the National Institutes of Health, with all of the lifesaving possibilities it promises. The Republican budget claims to provide funding for NIH, but it provides no new money to do so. It merely assumes that the Appropriations Committee will cut other programs—cut education, cut environmental protection—to find the money to provide NIH with more resources. That is not likely to happen.

Sixth, this amendment includes a significant investment in our transportation infrastructure in accordance with the agreement reached on ISTEA funding. That includes not only funding for highways but transit and safety matters as well.

Seventh, this amendment, like the President's budget, reflects a commitment to environmental protection. It calls for reinstatement of the Superfund taxes on polluters and to use those funds for a variety of environmental objectives. The Republican budget, by contrast, uses most revenues from the Superfund tax for purposes that have nothing to do with environmental protection.

Mr. President, this amendment accommodates a wide range of Democratic priorities that have been shortchanged in the Republican budget—education, child care, health care, environment. We accommodate all of these priorities using real numbers scored by the Congressional Budget Office. This alternative budget fully complies with the discretionary spending caps in the balanced budget amendment, and it doesn't spend a penny of any surplus to meet the goals that we have had to modestly scale back some of the spending included in the President's original proposal.

We have adjusted the levels of both nondefense and defense discretionary spending to be consistent with the spending caps, and we have held about $15 billion in the President's funds for America's initiative in reserve. Those reserves will become available upon the enactment of tobacco legislation, if that legislation produces more revenues than proposed by the President.

I note that all of these priorities could be funded if we enact the proposal that Senator CONRAD and I have been advocating; that is, to promptly increase the cigarette taxes to $1.50 a pack. Mr. President, to avoid any confusion on this point, let me explain. We are assuming that many of the President's discretionary initiatives will be funded in authorizing legislation, which largely means tobacco legislation. We think that is the most likely way that many of these priorities will be funded. If so, they would all be scored by the Congressional Budget Office under the pay-as-you-go system separate from the discretionary spending caps. Of course, as the administration has proposed, this could also be accomplished with the rules change included in appropriations legislation.

The point is that, in any case, the President's priorities can be accommodated here within the current rules or with the rules change for tobacco legislation.

I want to be up front about this. I don't expect a Democratic substitute to be approved by this Senate. I am not asking for an extended debate about this proposal. We aren't looking for a partisan fight. We simply wanted to put this forward to reassert our support for the President's budget and to counter those who might try to argue that the President's priorities cannot be accommodated using the Congressional Budget Office scoring. We have shown that they can be. If the Senate wants to reject the President's proposals to expand Medicare, child care, reduce class size, that is their right. We can disagree. We can disagree on these in good faith. But we shouldn't just blame it on the Congressional Budget Office. It will be our choice and an expression of our priorities.

Speaking for most Democrats, we think that this budget represents the values and priorities that we care about and that this country ought to care about. It reflects our commitment to fiscal discipline. It saves Social Security first. It would improve the lives of millions of American families.

Mr. President, I yield the time so that the Democratic leader can use as much of that time as remains. How much time remains?

The PRESIDING OFFICER. Seven minutes eighteen seconds.

The distinguished Democratic leader is recognized.

Mr. DASCHLE. I thank the Chair.

Mr. President, let me commend the distinguished ranking member for his excellent statement.

Mr. President, it is with some disappointment that Democrats offer any substitute at all. The times when we work best are the times when we can find agreement in the Budget Committee, as we did last year. We were disappointed that agreement could not be reached to everyone's satisfaction. So we find ourselves compelled to offer an alternative to the budget now being proposed by the majority.

The distinguished ranking member has laid out very thoroughly some of the reasons why our resolution is superior and the reasons why Democrats feel compelled today to express our differences with our Republican colleagues about this budget.

Our plan very simply does what the President of the United States said we should do in his State of the Union address a couple of months ago. We put Social Security first. We provide targeted tax cuts for working families. We make very important domestic investments so that working families across this country can experience the tremendous economic gain and economic vitality that this country has realized in the last several years. We stay within the spending ceilings established in last year's budget agreement. We maintain balance in 1999 and produce budget surpluses well into the next century.

We are very proud of what we have been able to achieve thus far. It is on the basis of what we have achieved that we now propose a budget to build upon those achievements and allow this nation to be as successful in the future as we have in the past. Before I describe our fiscal priorities, let's take a brief look back at the past.

In 1993, the budget deficit was a whopping $290 billion, the highest deficit our Nation had ever experienced.

The deficit at that time was projected to grow to over $500 billion by the end of the decade. In 1993, the President presented an economic plan and the Democratic Congress—unfortunately, without the help of a single Republican vote—took action.

Today, the results are very obvious. The 1993 plan produced the largest deficit reduction in our history. The plan produced the first unified balanced budget in 30 years. The plan created 15 million new jobs. The plan contributed to the lowest unemployment rate in 25 years. The plan put us on the road to the lowest core inflation rate since 1965. The plan has led to the fastest annual growth rate in real average hourly earnings since 1976.

The results could not be more clear. Because we made the commitment in 1993, because we turned the economy around, because we were able to come to grips with the significant economic and fiscal problems that we were facing at that time and address them consequentially, we celebrate success in 1998. Now it is our responsibility to build upon that success.

We would like to highlight the differences between our vision for the future and that of our Republican colleagues. The most visible and the most important of those differences relates to public education. Our budget contains a series of proposals that will provide our children with the educational opportunities they need to successfully confront the challenges of

the 21st century. We provide tax credits for local districts that build and renovate public schools. We provide funds for local districts to hire an additional 100,000 teachers. This proposal will allow schools to reduce class size. For grades from 1 to 3, class size will be reduced from an average of 22 children down to 18. In addition, we provide opportunities for after-school learning programs. I will not elaborate on any of those proposals, because they have each been the subject of a targeted Democratic amendment already offered during this budget debate.

The Republican budget freezes spending on the most important educational programs. It freezes spending on the new programs I have outlined as well as the programs already established to provide children the opportunity to grow and to learn. As a result, 450,000 children will be denied access to safe after-school learning centers if this Republican budget passes; 30,000 kids will be denied access to Head Start if this Republican budget passes; 6,500 middle schools will not have drug and violence prevention coordinators if this Republican budget passes.

There is another important difference—and my colleague, the distinguished ranking member, noted the difference. Democrats have a fundamentally different approach to tackling the problem of teen smoking. On this issue there is a very clear difference between the Republican budget and our budget. Every American should carefully examine each side's approach to ending tobacco's insidious hold on young people in this country. Our proposal ends Joe Camel's reign over America's teenagers by fully funding the anti-youth-smoking initiatives, by providing tobacco-related medical research, by allowing smoking cessation programs, by ensuring public service advertising to counter the tobacco companies' targeting of our children today.

The Republican budget does none of those, not one. There is no anti-youth-smoking initiative, there is no tobacco-related medical research, there are no smoking cessation programs, there is no public service advertising—there is none. It stacks the deck against meaningful tobacco reform and the effort to end teenage smoking.

So we see a host of important initiatives in the Democratic plan—investing in education, anti-teen smoking efforts, health care and an array of other proposals designed to build upon the success our plan has enjoyed over the last 5 years. Unfortunately, our Republican colleagues have said no to virtually every single one—no to education, no to child care, no to comprehensive solutions to teen smoking.

For all these reasons, I ask my colleagues to say no to the Republican budget and to say yes to the way we have proposed to build upon our success in the past, to say yes to the Democratic alternative.

I yield the floor.

The PRESIDING OFFICER (Mr. SMITH of Oregon). The Senator from New Mexico is recognized.

Mr. DOMENICI. How much time remains on the Democrat side?

The PRESIDING OFFICER. The Senator from New Jersey has 18 seconds.

Mr. DOMENICI. I see the minority leader is here. Maybe he wants more than 18. He can try to get it off the bill, but I remind him that we made a deal we weren't going to do that, so I will keep my remarks brief.

First, Mr. President, I would like to say the basic difference between this proposal and the President's—and it is very fundamental, and everybody should understand it—is that we thought if there was going to be some new money to spend, that we ought to take a look at what American programs were most in need of money, and we found that there are two American programs. They are not State programs, they are not city programs, they are not school board programs—they are ''the U.S. Government does them, or they don't get done.'' They are the Social Security system and the Medicare system for our seniors—but we are all going to get to be seniors, so therefore all of us.

What we did in our budget was say very, very simply: If you settle this tobacco agreement—which seems to me to be getting further and further from reality, but let's just say if it gets settled—put all of the Federal Government's receipts from it into the program that is most in need and that has been most adversely affected by smoking. That is the Medicare Program.

It is interesting that while the President's program and the Democrat program—the President suggests $124 billion in new programs, and the litany sounds wonderful. We have heard some of it here this afternoon. I can't tell for certain, but it looks like the budget before us does a little better. It looks like it has $88 billion to $100 billion in new programs, new spending.

I ask, whether it is $124 billion in new money or $88 or $90 billion, is it right? Is it correct? Is it the right thing to do, to put not one nickel toward Medicare, which is the largest American program in jeopardy? And, as I debated this earlier in the week, I showed in a very simplified, simple chart, what will happen to the Medicare trust fund starting in about 10 years. And the deficit line goes in a line downward as if we are aiming it towards the middle of the Earth—which we used to say that's where Hades was, when we were little kids.

For starters, that is one big difference, and we are proud of that difference, for we put a very substantial number of billions into that very needy program so those national commissioners trying to put it together will have some extra resources to save Medicare for the seniors of today and the seniors of tomorrow.

When you do that, you cannot pay for all the new wish list of programs that have been alluded to here today and that our President alluded to in a dramatic speech to the American people as the State of the Union. As a matter of fact, had that wonderful pot of gold—to wit: the cigarette companies' agreement—not been around when the President of the United States was preparing his speech, he could not have told the American people that there were any new programs. You know why? Because he agreed. He agreed that for the next 5 years there would be little or no increases in the discretionary programs of this country. That was the deal. That was the agreement.

So, lo and behold, the expectation quotient rises from that night to this moment on the floor of the Senate, when the big pot of gold is there, to start a whole bunch of new American programs. Frankly, as I indicated, everybody should know that most of the list of good things that we cannot afford, that the Democrats are speaking to, most of them won't come into existence if we don't have a big, gigantic pot of gold coming from the tobacco companies. That is point No. 1.

Point No. 2: With reference to smoking and its relationship and cost to the American taxpayer, and to our programs, the distinguished occupant of the chair has the most forthright sense-of-the-Senate resolution that he will offer during this debate, and I hope we adopt it. It just says that every penny we get out of the tobacco settlement should go to Medicare, because Medicare suffers a $25-billion-a-year hit because of seniors who, when they were young, smoked, got sick, and Medicare pays their bill. Pretty logical. I commend him for it and for his leadership in that regard.

Nonetheless, they would ask, aren't we going to take care of some of the needs that we know about because of smoking? And we say yes. But we didn't wait around to do them based upon a settlement; we did it by reducing other programs and paying for them. So, for those who wonder, the National Institutes of Health, which everybody says should be increased so they can work on some prevention areas of cancer that have been affected by smoking, gets a $15.5 billion increase in the next 5 years, the largest in the history of any research entity that the United States funds.

And then, education. You see, we don't forget what we agreed to last year. We have a 5-year agreement on education, and it is one of the high-priority agreements between the President and the Congress. We didn't forget about it in the second year. We fully fund the increases in education, and they are very significant. What we said is, we should put $2.5 billion, minimum, for the disabled of our children being educated by our public schools.

A disgrace exists today with a Federal Government which mandated this assistance years ago, committed to pay 40 percent of its cost, and is still paying 9 percent as of this day. While the

schools foot the bill, we write the laws, even though we agreed last year that education money would first be applied there to bridge the gap between the 9 percent and the commitment. The President saw fit to go with new programs and not that; but not us—$2.5 billion. That means those school systems can hire new teachers. We don't have to pay for teachers from the Federal Government's tax coffers, which we have never done in history. We say relieve the burden on the schools and they can hire them.

We put an additional $6.3 billion in education—an increase—so that we can fund in due course some programs which will have flexibility built in for our public schools, including such things as teacher training and those kinds of things that will bring some accountability to the public school system of our country. And we are proud of that, too. It is not as if there is nothing in, it is just we chose these instead of others, and we think these are prudent choices.

Then we could go on from there and talk about criminal justice. We all know we cannot cut that; it must go up. We increased that in our budget, because it was a high priority item when we made our 5-year agreement that we worked so hard together on, Democrat and Republican and President.

So it is not as if we did not do some of these things that the Democratic leadership is here touting that they would do and we didn't do. It is just that we did not increase net spending by $84 billion. The Democrat budget does. Net tax increases of one type or another—$80 billion in that proposal. We did not do that much. The reduction in the surplus—there is a cutting of the surplus in half, under their proposal, from 8 to 4. That is not a lot of billions, as we throw them around here, but nonetheless a significant thing to note.

Mr. President, I believe the budget we produced in the Budget Committee, if it were to become the cornerstone for this year's appropriation bills and tax reduction—for there is $30 billion worth of tax reduction in ours. It is provided for by closing loopholes and other tax advantages, many of which have been listed as items that we should consider for more than a decade, and some of them 15 years.

So ours is pretty well balanced. I am convinced, having familiarized myself as best I can, and I think perhaps with a few exceptions as well as anyone in the Senate, ours would be good for the future growth of the American economy and would continue this dramatic, sustained economic growth that is bringing us revenues and bringing us jobs.

Frankly, Mr. President, I don't believe there is very much in the Democratic budget or the President's budget that would contribute significantly to those positive things that we all cherish and want so much.

I yield the floor and reserve whatever time I have.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, I will use a couple minutes of my leader time. I know we are out of time, and I don't want to take any time off the resolution.

I know the distinguished Budget chair has made his arguments, and I think they merit some response. I will yield in a moment to the distinguished ranking member as well.

Let me just make three points. First of all, the distinguished chair, the Senator from New Mexico, alluded to our budget proposal as one that seems to be outside the realm of the agreement we made last July. He also noted the Republican budget is in keeping with these same commitments.

Let there be no mistake about this, the Democratic alternative adheres to the requirements. It keeps the agreement—agreed to and signed by Republicans and Democrats last July—intact. That is the whole premise upon which we based our alternative budget resolution.

We recognize how important that agreement is. We recognize the importance of investments. But as I noted in my opening comments, there is a profound difference between the vision expressed in our resolution toward major investments in education, in child care, in those areas for which we believe it is essential this country continue to invest, and the Republican proposal which fails to invest in those areas.

The second point: He sets up a false choice. He says he believes it is important for us to recognize the critical nature of using tobacco revenue to shore up the Medicare program. I agree with that. I too think there is an important need to invest in Medicare to ensure its solvency. However, it is a false choice to say this is the only option available to us as we pass tobacco legislation. Indeed, the Senate Commerce Committee itself takes issue with the statement just made by the distinguished Budget Committee chair.

Yesterday, on a vote of 19 to 1, the Commerce Committee voted out its recommendations to the Senate with regard to tobacco legislation. They note it is important for us to take some of those revenues and dedicate them to reimbursing public health care programs in Medicare. However, they also say that, in addition to Medicare, it is critical we recognize the importance of prevention and cessation activities, efforts to stop teenage smoking, to support health-related research, to ensure tobacco farmers receive the resources they are going to need, to ensure that we deal with the tobacco-asbestos trust fund, to ensure that we deal with the problems in Medicaid, and to ensure that problems with black lung are addressed through these resources.

In other words, the committee, in the 19-to-1 vote just yesterday, said we agree with the distinguished Senator from New Mexico, but we think we ought to do more. We think that it is critical that we look at how we prevent teenage smokers from starting, how we assist tobacco farmers in during the transition, and how we deal with research in ways that are not adequately addressed in this budget.

I think it is very critical to acknowledge that on an overwhelming basis many in Congress have already indicated their support for dedicating tobacco revenues to an array of different needs including Medicare.

The bottom line is really very fundamental. We have to recognize that this is our one opportunity to state our priorities. Our priorities ought to be in education. Our priorities ought to be in child care. Our priorities ought to be in preventing teenage smoking. That is what our budget does. That is what our priorities are. And that is the difference in vision between Republican and Democratic budgets.

I ask the ranking member if he has any need to express himself prior to the time I yield the floor?

Mr. LAUTENBERG. If I can have 2 minutes.

Mr. DASCHLE. I yield 2 minutes of my leader time to the distinguished Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I don't want to take any more time than that, because we have an understanding about the use of time, but I do want to say to my friend and colleague, the chairman of the Budget Committee, who is so articulate and who is so knowledgeable about the budget, the only thing is he happens to be wrong. Other than that, we are in very good agreement.

What do I think the chairman is wrong about? Priorities. I think that when he lays out those things that are taken care of, we say, ''No, they are not taken care of,'' and we will do all we propose, all the President has offered by staying within the budget caps, and we are going to use the pay-as-you-go mantra; that is, nothing happens until it is paid for. That is the way we see it.

When I see the narrowness, the demand that the only way that we spend any of our surplus is on Medicare—and I submit, and I proposed this the other day—ask any grandparent, because by the time you get to Social Security, you are pretty much a grandparent, if they would rather worry today about shoring up Medicare or keeping their child or their grandchild from starting smoking.

I can tell you what the answer is going to be. They would say, ''Listen, we have lived a pretty good life, and we are worried about Medicare; we want you to help solve the problem, but if you are saying take a choice between keeping my youngster from getting hooked on tobacco, which will begin his or her final innings at sometime in life when it is very inopportune, take care of those kids.''

That is what we are asking for. If the revenues come from tobacco, we want those funds to be used for smoking cessation programs.

I think it is a fairly simple choice, and that is, do we want to say to the American public that we are going to try to deal with all of the problems that we have, but we are only going to do it if we have the money to spend and, if not, then we are going to have to forego that as well?

We committed to a balanced budget. I worked not only amicably but I think efficiently with my friend from New Mexico in getting a balanced budget into place. We were commended by people across this country, including leaders of both our parties.

I want it to continue that way, Mr. President, and I hope we will be able to have the votes that say, ''OK, let's give the priorities that are for the people a chance to be put into effect.''

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, how much time was used in excess of the 15 minutes?

The PRESIDING OFFICER. Six minutes 55 seconds of leader's time.

Mr. DOMENICI. I ask unanimous consent I be allowed to manage that amount of time in opposition.

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

Mr. DOMENICI. Mr. President, outside of this, Senator STEVENS wants to offer an amendment that is going to be accepted. I ask unanimous consent that he be permitted to do that without it being charged to either side.

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

AMENDMENT NO. 2253, AS MODIFIED

Mr. STEVENS. Mr. President, I call up amendment No. 2253, and I send a modification to the desk.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment, as modified, is as follows:

In the appropriate place in the bill, insert the following:

SEC. . SENSE OF THE SENATE REGARDING OUTLAY ESTIMATES OF THE DEPARTMENT OF DEFENSE BUDGET

(a) FINDINGS.—The Senate makes the following findings:

(1) The Balanced Budget Act of 1997 created a new era for federal spending and forced the Department of Defense to plan on limited spending over the five year period from fiscal year 1998 through 2002.

(2) The agreements forged under the Balanced Budget Act of 1997 specifically defined the available amounts of budget authority and outlays, requiring the Department of Defense to properly plan its future activities in the new, constrained budget environment.

(3) The Department of Defense worked with the Office of Management and Budget to develop a fiscal year 1999 budget which complies with the Balanced Budget Act of 1997.

(4) Based on Department of Defense program plans and policy changes, the Office of Management and Budget and the Department of Defense made detailed estimates of fiscal year 1999 Department of Defense outlay rates to ensure that the budget submitted would comply with the Balanced Budget Act of 1997.

(5) The Congressional Budget Office outlay estimate of the fiscal year 1999 Department of Defense budget request exceeds both the outlay limit imposed by the Balanced Budget Act of 1997 and the Office of Management and Budget's outlay estimate, a disagreement which would force a total restructuring of the Department of Defense's fiscal year 1999 budget.

(6) The restructuring imposed on the Department of Defense would have a devastating impact on readiness, troop morale, military quality of life, and ongoing procurement and development programs.

(7) The restructuring of the budget would be driven solely by differing statistical estimates made by capable parties.

(8) In a letter currently under review, the Director of the Office of Management and Budget will identify multiple differences between the Office of Management and Budget's estimated outlay rates and the Congressional Budget Office's estimated outlay rates.

(9) New information on Department of Defense policy changes and program execution plans now permit the Office of Management and Budget and the Congressional Budget Office to reevaluate their initial projections of fiscal year 1999 outlay rates.

(b) SENSE OF THE SENATE.—It is the Sense of the Senate that the totals underlying this concurrent resolution on the budget assume that not later than April 22, 1998, the Director of the Office of Management and Budget, the Secretary of Defense, and the Director of the Congressional Budget Office shall complete discussions and develop a common estimate of the projected fiscal year 1999 outlay rates for Department of Defense accounts.

SEC. . SENSE OF THE SENATE REGARDING OUTLAY ESTIMATES FOR THE BUDGETS OF FEDERAL AGENCIES OTHER THAN THE DEPARTMENT OF DEFENSE.

(a) FINDINGS.—The Senate makes the following findings:

(1) The federal civilian workforce in non-Defense Department agencies shrank by 125,000 employees, or 10 percent, between 1992 and 1997.

(2) The Balanced Budget Act of 1997 assumed over $60 billion in reductions in nondefense discretionary spending over the period 1998–2002.

(3) These reductions were agreed to notwithstanding ever-increasing responsibilities in agencies engaged in fighting crime, combating the drug war, countering terrorist threats, cleaning the environment, enforcing the law, improving education, conducting health research, conducting energy research and development, enhancing the nation's physical infrastructure, and providing veterans programs.

(4) All Federal agencies have worked closely with the Office of Management and Budget to balance much-needed programmatic needs with fiscal prudence and to submit budget requests for FY 1999 that comply with the Balanced Budget Act of 1997.

(5) Reductions in the President's requests, as estimated by the Office of Management and Budget, to comply with the Congressional Budget Office's estimates could seriously jeopardize priority domestic discretionary programs.

(6) There is no mechanism through which the Congressional Budget Office and the Office of Management and Budget identify their differences in outlay rates for nondefense agencies.

(7) Such consultation would lead to greater understanding between the two agencies and potentially fewer and/or smaller differences in the future.

(b) SENSE OF THE SENATE.—It is the Sense of the Senate that the totals underlying this concurrent resolution on the budget assume that not later than April 22, 1998, the Director of the Office of Management and Budget and the Director of the Congressional Budget Office, in consultation with the Secretaries of the affected nondefense agencies, shall complete discussions and develop a common estimate of the projected fiscal year 1999 outlay rates for accounts in nondefense agencies.

Mr. STEVENS. Mr. President, I am offering a Sense-of-the-Senate Amendment which urges the Office of Management and Budget, the Department of Defense, and the Congressional Budget Office to develop a common estimate of outlays under the fiscal year 1997 Defense budget.

Last year, the Congress passed the Balanced Budget Act of 1997—putting the Federal Government on a path to living within its means. The act specified the budget authority and outlay levels for the Defense Department for fiscal years 1998 and 1999.

The Department of Defense is a $250 billion organization—an organization which needs stability to run effectively.

The Defense Department relied on last year's Budget Act to build its fiscal year 1999 budget.

Currently, the fiscal year 1999 budget submitted by the Defense Department, and scored using OMB rates, complies with the Balanced Budget Act of 1997.

OMB and the Defense Department built their outlay rates based on the specific spending plans of each DOD program and based upon the policy changes contained in the fiscal year 1999 Defense budget. In many cases, the Defense Department increased outlay rates over last year's levels.

DOD also adjusted working capital fund policies, and billing rates, to generate positive balances and keep these funds solvent.

Mr. President, the Defense Appropriations Subcommittee, which I chair, has for the last 3 years, transferred cash into the working capital funds and directed DOD to change its billing rates and policies.

The Defense Department has done what the Congress asked. However, the Congressional Budget Office has estimated that outlays under the fiscal year 1999 Defense budget will exceed the limit imposed by the budget agreement, as well as the OMB quality estimate, by $3.7 billion. These differences are based on statistical analyses and projections of the future based on the past. While this may all be theoretically interesting, it has severe implications for the Defense Department.

The Defense Appropriations Subcommittee would have to totally restructure the fiscal year 1999 Defense budget to reduce outlays by $3.7 billion. We would have to cut military personnel funding unexpectedly forcing thousands of soldiers, sailors, and airmen out of the force structure.

We would have to cut operation and maintenance funds—funds which keep

our troops trained and ready, which pay to day-to-day bills for our bases, and which repair the aging equipment relied upon by our military personnel.

Lastly, we could turn to the procurement and research and development accounts—cutting $2–$10 of budget authority for every dollar in outlays we must save. This would bring modernization to a virtual halt and increase the cost of the remaining, less efficient programs. These cuts would not serve the Senate, and Defense Department, or the Nation well.

I understand that there may be new and more detailed information on the Defense Department's budget policies and execution plans—information that the Congressional Budget Office did not consider.

It is essential that there be a common agreement on the outlay estimate of the Defense budget—an agreement that does not punish DOD based on a disagreement over statistical predictions and historical interpolation.

My amendment urges that everyone work toward this common agreement—an agreement which I hope will allow us adequate flexibility to maintain balance in the fiscal year 1999 Defense budget.

Mr. THURMOND. Mr. President, I want to take a few minutes to address my colleagues on a subject which is of increasing concern to me. I have spent a great deal of time on the floor of the Senate during our consideration of the budget resolution for this fiscal year and the following 5 years. I have listened intently as the Senate has debated taxes, education, child care, Social Security, Medicare and other issues which Senators have raised with respect to this resolution.

It has been glaringly evident to me, and I suspect to some of my colleagues, that there has been little or no mention of national security issues during this debate. No one has raised the issue of defense spending. Maybe its because defense doesn't rank very high these days in the polls which reflect the concerns of the American people; Or maybe it's because everyone assumes that the defense budget is adequate and there is no reason to debate it. I am concerned first of all because I believe there is clear shortfall between the ambitious foreign policy of this Administration and the resources we are willing to provide for national defense.

The operational tempo of our military forces is at an all time high. American forces are deployed literally around the globe. The foreign policy of this Administration has raised the number of separate deployments to the highest in our history. Our servicemen and women spend more and more time away from their homes and families on more frequent and extended deployments. As a result, recruiting grows more difficult and retention is becoming an extremely serious problem—especially for pilots.

We are also beginning to see increasing indicators of readiness problems. Spare parts shortages, increased cannibalization, declining operational readiness rates, cross-decking of critical weapons, equipment and personnel foretell a potential emergence of readiness difficulties that could seriously cripple our military forces in the very near future. The Chiefs of the military services indicate that they are on the margin in readiness and modernization. The Chief of one of our military services has recently stated orally as well as in writing that his budget for fiscal year 1999 is, for the third year in a row, inadequate.

While, at the present time, the American people may not be expressing concern about threats to our national security or the readiness of our armed forces, we in the Senate are not relieved of our responsibilities to ensure that we have capable, effective military forces ready to defend our nation's vital interests. It is our job in the Congress to examine the readiness and capability of our armed forces and ensure that we have provided adequate resources and guidance to the Secretary of Defense so that he can carry out his mission with respect to our national security. I believe, as I have stated so many times on this floor, that nothing that we do here in the Congress is more important than providing for our national security. I intend to continue to make this point whenever I believe that we in the Senate may not be paying enough attention to this most critical issue.

Mr. President, the Congress has endeavored over the past several years to shore up our defense budgets with annual add-ons. However, reductions in the defense budgets over the last 3 years to pay for Bosnia have denigrated the effect of those congressional plus-ups. Almost half of the $21 billion we added to the defense budgets over the last 3 years which was intended to enhance readiness and modernization was spent instead for operations in Bosnia. With the increased optempo of our buildup in the Persian Gulf, the strain on our military forces and budgets is more and more evident.

As many of you are aware, we face a potentially serious problem of $3.6 billion resulting from scoring differences between the Office of Management and Budget and the Congressional Budget. The chairman of the Budget Committee, the chairman of the Appropriations Committee, and I were able to work out an amendment to help alleviate this problem. We appreciate the assistance of the chairman of the Budget Committee and trust that in his discussions with the Secretary of Defense, the Office of Management and Budget, and the Congressional Budget Office, he will resolve this problem. It is critical that this problem be resolved. Otherwise, the impact on the defense budget would be devastating to our military forces.

The Armed Services Committee will begin work on our markup during the Easter recess period. We intend to have our bill on the floor before the Memorial Day recess. Under the budget agreement, the Congress will not be adding funds to the defense budget. I know that the majority of Senators would not support adding funds to the defense budget in violation of the budget agreement. Therefore, we will conduct our markup consistent with the budget agreement. However, I have stated in the past and I say again, I believe that we are not providing adequate funds for defense. It remains my firm belief that we should provide additional funds for our national security.

Mr. STEVENS. Mr. President, there are a number of cosponsors to this amendment. The amendment I offer is a sense-of-the-Senate amendment which directs the Office of Management and Budget, the Department of Defense, and the Congressional Budget Office to develop a common estimate of outlays under the fiscal year 1999 defense budget. The modification of my amendment adds a corresponding sense-of-the-Senate section which urges OMB, CBO, and the Secretaries of nondefense agencies to also develop common estimates for the 1999 outlays for the nondefense discretionary programs.

I believe this amendment is one that is needed. It is a sense of the Senate, but it directs, as far as the Office of Management and Budget and CBO and the Defense Department, to find a common ground before we start marking up either the authorization bill or the appropriations bill. It has been cosponsored by both sides. I believe it will be accepted. I ask for the adoption of the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 2253), as modified, was agreed to.

Mr. DOMENICI. Mr. President, I say to Senator STEVENS, I understand, working with the other side, this amendment includes nondefense where there are serious discretionary estimating inconsistencies.

Mr. STEVENS. The chairman is right. We have added the nondefense portion. It deals, however, just with the discretionary accounts, both defense and nondefense discretionary. It is a matter that Appropriations must have resolved.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Mr. DOMENICI. Mr. President, I know that Senator HUTCHISON is waiting, but I want to use some of that 6 minutes. I am not sure I will use all of it. Let me take a little.

AMENDMENT NO. 2244

Mr. DOMENICI. Mr. President, I don't know how we judge right and wrong, whether I am right or wrong after an eloquent speech, as my friend called it. But, look, this afternoon we

are going to vote and sometimes in America, democracy says the one that gets the most votes wins. I don't know if that means you are right, but I can tell you we are going to win and they are going to lose. I don't know what that means, but I think that is pretty good.

In addition, let me suggest, I, too, am worried about what is happening to our young children who smoke. It is wonderful for me to be able to say that I smoked heavily until 8 years ago. I have eight children and not a single one smokes. So I am very pleased about that. I don't know what that means either, except it is just a statement of fact.

Mr. LAUTENBERG. Can I ask a question?

Mr. DOMENICI. Sure.

Mr. LAUTENBERG. Did they see you coughing?

Mr. DOMENICI. They did not. But they used to leave all kinds of little notes on my pillow and stuff them underneath.

Mr. President, let me just say, it is a question in politics if there is ever enough spending by a Government. How much is enough, I ask? Is $825 million provided in this budget resolution to take care of advertising to have a positive impact on our children smoking enough or should we have more?

I tell you, that is twice as much as the President asked for. I assume if a Democratic President has some $400 million and we have $825 million, that probably—probably—we have enough. Having said that, there are so many programs being talked about to come out of that pot of gold, that giant piggy bank, many of which nobody knows will even work. If you have national advertising programs and preventive programs in drugs where you are going into schools, talking to the kids, running advertising and it is not working a bit—in fact, there are more drugs—one would have a tendency to be a bit skeptical, it seems to me, about whether we know how to do that, be it for drugs or for cigarettes.

In the final analysis, we have decided in our budget resolution to take every priority that we can find consistent with our 5-year agreement and fund them as best we can consistent with the agreement; that there be no new discretionary spending.

What is happening now, just so everybody will understand, we asked those experts who talk about our money supply, our interest rates, the wonderful economy, what are we supposed to be most concerned about to keep the message out there that we are fiscally responsible and we are aiming at a balanced budget for a long time? They tell us, ''Don't breach the agreement that you entered into with reference to how much you can spend each year as you appropriate annually.''

We all say we will not do that. That is right. But, Mr. President, what this budget that is before us and what the President chose to do is to take another pot of money and say, ''We'll spend it another way and it won't count against those agreed-upon expenditures.''

That is called new entitlement programs.

So this litany of new programs cannot be paid for under the budget agreement. But it can be paid for if you choose to create new entitlement programs that will go on forever even though the money from which they are paid has a terminal time. So I believe we did the right thing. We look forward to an era of balanced budgets, an era of solid economic growth, an era during which we fix Social Security permanently and during which we fix Medicare permanently and we actually put our budget where our mouth is, and that is to do those things.

I yield back any time that I might have. And in due course I will make a point of order against the budget. But I do not choose to do it now.

I say to Senator HUTCHISON, if you would let me dispose of a series of amendments, I would really appreciate that.

AMENDMENTS NOS. 2187, 2204, 2217, 2212, 2225, 2233, 2235, 2236, 2237, 2239, 2240, 2246, 2248, 2250, 2253, 2258, 2263, 2264, 2266, 2269, AND 2270, EN BLOC

Mr. DOMENICI. Mr. President, I have a list of amendments by number. There are 21. And I will not cite each one but, rather, I will send the list to the desk for consideration. These amendments have been agreed to. And I would like to agree to them en bloc. There is no objection on our side and no objection on their side, the Democrat side. They are both Republican and Democrat amendments.

The PRESIDING OFFICER. Without objection, the enumerated amendments sent to the desk will be considered en bloc.

AMENDMENT NO. 2235

Mr. BINGAMAN. Mr. President, the amendment I am offering with Senator LIEBERMAN expresses the sense of the Senate that the next budget submission by the President, and the next Congressional budget resolution, should reclassify all civilian research and development activities within the Federal government, now scattered among 12 separate budget functions in the Budget Resolution, into one budget function—Function 250.

Function 250, entitled ''General Science, Space, and Technology,'' currently is comprised of funding for the National Science Foundation, NASA, and some R&D programs at the Department of Energy.

The purpose of the functional analysis in the Budget Resolution is to provide the Congress with insight into important crosscutting themes in the budget. When it comes to the federal investment on R&D, though, the current functional analysis in the Budget Resolution fails. It does not facilitate any sort of cross-cutting discussion about the size and direction of Federally supported science and technology research. In fact, our current budget function structure hides more than half of the Federal investment in civilian R&D. According to data from the Office of Management and Budget, in addition to the agencies and programs currently in Function 250, 20 other civilian departments and agencies have research and development programs of consequence. My amendment would address this problem by providing more transparency to our support of Federal R&D. No funds or programs would be shifted among agencies. But the President's next budget proposal would highlight where in each agency R&D was being supported. If the President were to implement the suggestion in this amendment, I believe that it would have the following beneficial effects.

No. 1, when all civilian R&D is placed into one budget function, it will become much easier for the Congress to examine the entire Federal R&D portfolio. Questions of balance, coverage, and emphasis within that portfolio will become easier to ask when the whole picture can be seen more easily.

No. 2, the proposed change in my amendment will facilitate the ability of each authorizing committee to review the Federally supported R&D under its jurisdiction, as one element in preparing its views and estimates for the Budget Committee. The amendment will also allow committees such as the Committee on the Budget or the Committee on Appropriations to conduct a global review of federal R&D early in the budget/appropriations process. The National Academy of Sciences has recommended that such a global look at R&D take place annually in Congress in its 1995 report, Allocating Federal Funds for Science and Technology. The Academy stated that the ''Congress should create a process that examines the entire [federal science and technology] budget before the total federal budget is dis agggregated into allocations to appropriations committees and subcommittees.'' This amendment would facilitate the implementation of this idea, which has broad support in the scientific and technical community.

No. 3, placing civilian R&D at mission agencies into Function 250 will reflect the reality that all Federal research and development, regardless of sponsoring agency, is interrelated. All Federal R&D, regardless of sponsoring agency, can and does make essential contributions to the general fund of knowledge. These are realities that are well known to the scientific and technical community. In the words of former IBM Vice President Lewis Branscomb, ''One cannot distinguish in any meaningful way 'basic' from 'applied research' by observing what a scientist is doing.''

No. 4, placing civilian R&D at mission agencies into Function 250 will elevate the prominence of R&D supported by those agencies in future budget and policy discussions.

I believe that this amendment will result in a valuable contribution to our institutional ability to understand and manage one of the most important parts of the Federal budget

I urge the adoption of both amendments.

AMENDMENT NO. 2236

Mr. BINGAMAN. Mr. President, this amendment is co-sponsored by myself, Senator GRAMM of Texas, and Senator LIEBERMAN. It expresses the sense of the Senate in favor of a basic principle that is widely supported in this body. That principle is that we should seek to double the Federal investment in civilian research and development over the next 10 years. This principle is contained in legislation co-sponsored by us, the chairman of the Budget Committee, and about 10 other Senators.

Mr. LIEBERMAN. Mr. President, I rise in support of the Sense of the Senate Amendment to double federal R&D investments over the next ten years. Federal support for research and development is all about creating wealth and opportunity and assuring a higher quality of life for our citizens. As policy makers, it is worth our while to focus on wealth creation because it enables everything else we want to do.

We have an awful lot of data these days that tell us there is a firm connection between R&D expenditures and subsequent economic growth. One commonly cited figure—derived from Dr. Robert Solow's Nobel prize-winning research—is that 50% of America's post-World War II growth can be attributed to technological innovation—innovation largely driven by the discoveries that flow out of the nation's R&D laboratories. Economists do not give us the tools to determine the optimum level of R&D spending, but is clear from all the data that we are far, far below the point of diminishing returns. Numerous studies indicate that the marginal rates of return on publicly-financed R&D investments are extraordinarily high. These high rates of return tell us that federal R&D expenditures are an especially efficient investment vehicle, that we are currently underinvesting in R&D, and that we are underutilizing our nation's existing R&D infrastructure, including its pool of talented scientist and engineers.

Why is the government involved in research in the first place? These days industry funds nearly twice as much R&D as government does, why don't we let them do all of it? The problem with that notion is that the private sector, for the most part, does not fund discovery—government does. The private sector funds the later phases of the innovation process—those phases closest to product development. Privately-financed R&D—which is mostly D—provides the critical link between research and the subsequent creation of new wealth and opportunity. It is vitally important, but it depends on publicly-financed R&D for fundamental knowledge creation.

The benefits of knowledge created in the nation's laboratories and universities are diffuse and typically yield economic returns only after a significant time lag—a time lag well beyond the planning horizon of most commercial firms. Moreover, the benefits cannot be anticipated in advance. The chemists and physical scientists who first conceived of utilizing nuclear magnetic resonance to determine chemical structure never imagined that their discovery would become the basis of a whole new medical diagnostic industry. Firms realize that they cannot capture most of the benefits of fundamental research. It is a classic market failure. The returns are very significant, however, and they are fully captured by the society as a whole.

Because federal investments are typically focused on the early phases of the innovation process, they exert tremendous leverage. This is part of the reason why the returns on federal R&D investments are so high. The early phases are the high-risk, high-payoff phases. There may be many misses, but the hits are very large indeed.

In recent years, we have not maintained federal R&D investments at traditional levels as a fraction of either discretionary spending or, more significantly, as a fraction of national income. I would argue that, in a society and an economy that are increasingly knowledge-intensive, we ought to be increasing our investments in knowledge creation not reducing them. Nonetheless, federal support for research and development has declined substantially since the 1960s as a percentage of national income. We have to turn this situation around. Robust federal support for R&D and the American research enterprise is one of the key elements in sustaining high levels of economic growth in the future. We cannot take America's current economic and technical leadership for granted. If we are to maintain our nation's leadership position, we must be prepared to make the requisite investments in our R&D system—the most productive system of its kind in the world.

The PRESIDING OFFICER. The question occurs on agreeing to the amendments en bloc.

Without objection, the amendments are agreed to en bloc.

The amendments (Nos. 2187, 2204, 2217, 2212, 2225, 2233, 2235, 2236, 2237, 2239, 2240, 2246, 2248, 2250, 2253, 2258, 2263, 2264, 2266, 2269 and 2270) were agreed to en bloc.

Mr. DOMENICI. I move to reconsider the vote by which the amendments were agreed to en bloc.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2229

Mr. DOMENICI. Mr. President, I add to the list amendment No. 2229, the Feinstein amendment. And I assume we will have to adopt that separately.

Mrs. FEINSTEIN. Mr. President, this amendment expresses the sense of the Senate that we must rededicate ourselves to making our public education system the best. These reforms, if implemented by states and local school districts in partnership with the federal government, will improve: The achievement of students; the quality of teaching; and the accountability of public school systems.

This sense of the Senate amendment has six elements. It calls on the federal government to work with states, school districts and local leaders to accomplish the following goals by the year 2005:

(1) Establish achievement levels and assessments in every grade for the core academic curriculum; measure each regular student's performance; and prohibit the practice of ''social promotion'' of students (promoting students routinely from one grade to the next without regard to their academic achievement);

(2) Provide remedial programs for students whose achievement levels indicate they should not be promoted to the next grade;

(3) Create smaller schools to enable students to have closer interaction with teachers;

(4) Require at least 180 days of instruction per year in core curriculum subjects;

(5) Recruit teachers who are adequately trained and credentialed in the subject or subjects they teach and encourage excellent, experienced teachers to remain in the classroom by providing adequate salaries; require all teachers to be credentialed and limit emergency or temporary teaching credentials to a limited period of time; hold teachers and principals accountable to high educational standards;

(6) Require all regular students to pass an examination in basic core curriculum subjects in order to receive a high school diploma.

U.S. SCHOOLS' PERFORMANCE UNIMPRESSIVE

In 1983—15 years ago—the National Commission on Excellence in Education issued its startling report on the decline of America's schools, titled ''A Nation at Risk.'' Our schools today are still at risk.

A February report this year revealed that American high school seniors are among the world's least prepared in math and science, scoring far below their peers in other countries. Overall, U.S. students outperformed only two countries in the Third International Mathematics and Science Study—Cyprus and South Africa. In twelfth grade advanced math and physics, U.S. students scored last in physics and next to last in math. American eighth graders scored well below the international average in math.

SAT scores today are near their lowest point ever, reports the Brookings Institute. The National Assessment of Educational Progress reported that math, science, writing and reading achievement have been flat for the past quarter century.

The U.S. Department of Education last fall reported that 29 percent of all

college freshmen require remedial classes in basic skills.

The 1997 annual report on our national education goals found that the high school dropout rate has increased and more teachers reported student disruptions in their classrooms.

The national goals report told us that performance has declined in reading achievement at grade 12 and in the percentage of secondary teachers who hold a degree in their main teaching assignment.

The goals report found no significant improvement in high school completion rate or reading achievement at grades 4 and 8.

ISSUE 1: ACHIEVEMENT LEVELS; NO SOCIAL PROMOTION

The first provision of my amendment urges the establishment of achievement levels and assessments in every grade for the core academic curriculum and calls on state and local schools to stop social promotion. Social promotion is the practice of schools' advancing a student from one grade to the next regardless of the student's academic achievement.

Forty-nine states are working to establish achievement standards and assessments, but few have completed the task. AFT found: ''In most districts, there are no agreed-upon explicit standards of performance to which students are held accountable.''

Educators widely agree that tough, clear academic content and performance standards are the only way to determine what students are learning and how quickly or slowly they are learning it. Standards should be the foundation of learning.

Social promotion is contrary to tough standards. Saying that social promotion is ''rampant,'' AFT leaders found that school districts' criteria for passing and retaining students is vague, that only 17 states have standards in the four core disciplines (English, math, social studies and science) that are well grounded in content and that are clear enough to be used.

It is time to end social promotion, a practice which misleads our students, their parents and the public.

I agree with the conclusion of the September 1997 study conducted by the American Federation of Teachers:

> Social promotion is an insidious practice that hides school failure and creates problems for everybody—for kids, who are deluded into thinking they have learned the skills to be successful or get the message that achievement doesn't count; for teachers who must face students who know that teachers wield no credible authority to demand hard work; for the business community and colleges that must spend millions of dollars on remediation, and for society that must deal with a growing proportion of uneducated citizens, unprepared to contribute productively to the economic and civic life of the nation.

HOW WIDESPREAD IS IT?

None of the districts surveyed by AFT have an explicit policy of social promotion, but almost every district has an implicit practice of social promotion. Almost all districts view holding students back as a policy of last resort and many put explicit limits on retaining students. Districts have loose and vague criteria for moving a student from one grade to the next. This approach, concludes AFT, is implicit approval of social promotion.

AFT found last year that 7 states are seeking to end social promotion by requiring students to meet the state standards before being promoted into certain grades, an increase over the 4 of the previous year.

Mike Wright, a San Diegian, is an example. Cited in the February 16 San Diego Union-Tribune, Mr. Wright say he routinely got promoted from grade to grade and even graduated from high school, even though he failed some subjects. At age 29, he is now enrolled in a community college program to learn to read—at age 29.

Social promotion is a cruel joke. We are fooling students. We are fooling ourselves. Students think a high school diploma means something. But in reality, we are graduating students who cannot count change, who cannot read a newspaper, who cannot fill out an employment application.

THE ACADEMIC COST OF NO ACHIEVEMENT LEVELS, SOCIAL PROMOTION

Students' need for remedial work is one measure of the harm of the lack of clear achievement levels and the practice of social promotion. Here are some examples:

A January 1998 poll by Public Agenda asked employers and college professors whether they believe a high school diploma guarantees that a student has mastered basic skills. In this poll, 63% of employers and 76 percent of professors said that the diploma is no guarantee that a graduate can read, write or do basic math.

In California, a December 1997 report from a state education accountability task force estimated that at least half of the state's students—3 million children—perform below levels considered proficient for their grade level.

Nationwide, about one third of college freshmen take remedial courses in college and three-quarters of all campuses, public and private, offer remediation, says the AFT study.

A March 27 California State University study found that more than two-thirds of students enter Cal State campuses in Los Angeles lack the math or English they should have mastered in high school. At some high schools, not one graduate going on to one of Cal State's campuses passed a basic skills test. At Cal State Dominguez Hills, for example, 8 out of 10 freshmen enrollees last fall needed remedial English and 87 percent needed remedial math.

Sadly, these numbers represent an increase. In the fall of 1997, 47 percent of freshmen enrolled at CSU needed remediation, compared to 43 percent in each of the previous three years. In math, 54 percent needed remedial help, compared to 48 percent in 1994.

Similarly, almost 35 percent of entering freshmen at the University of California do poorly on UC's English proficiency test and must receive help in their first year.

Florida spent $53 million in college on remedial education, says the AFT study.

In Boston, school principals estimate that half their ninth graders are not prepared for high school work.

In Ohio, nearly one fourth of all freshmen who attend state public universities must take remedial math or English (Cleveland Plain Dealer, July 7, 1997)

Employers tell me that their new hires are unprepared for work and they have to provide very basic training to make them employable. For example, last year, MCI spent $7.5 million to provide basic skills training (USA Today, 1996).

SUPPORT FOR ENDING SOCIAL PROMOTION IS WIDESPREAD

Fortunately, many policymakers are beginning to realize that we must stop social promotion. President Clinton called for ending it in his January 27 State of the Union speech. He said, ''We must also demand greater accountability. When we promote a child from grade to grade who hasn't mastered the work, we don't do that child any favors. It is time to end social promotion in America's schools.''

On February 23, the President sent Secretary Riley a memo asking him to prepare guidelines for educators on ending social promotion and guidelines for using federal funds to adopt sound promotion policies. ''Neither promoting students when they are unprepared or simply retaining them in the same grade is the right response to low student achievement,'' the President wrote. ''Both approaches presume high rates of initial failure are inevitable and acceptable.''

At least three states—Florida, Arkansas and Texas—explicitly outlaw social promotion.

The Chicago Public Schools have ditched social promotion. After their new policy was put in place, in the spring of 1997, over 40,000 students failed tests in the third, sixth and eighth and ninth grades and then went to mandatory summer school. Chicago School Superintendent calls social promotion ''education malpractice.'' He says from now on his schools' only product will be student achievement.

Cincinnati's students are now promoted based on specific standards that define what students must know.

In my own state, the San Diego School Board in February adopted requirements that all students in certain grades must demonstrate grade-level performance. And they will require all students to earn a C overall grade average and a C grade in core subjects for high school graduation, effectively ending social promotion for certain grades and for high school graduation. For example, San Diego's schools are requiring that eighth graders who do

not pass core courses be retained or pass core courses in summer school.

As long as we tolerate social promotion and the absence of standards, we will never know (1) what our students need to learn and (2) whether they have learned what they should learn. How, I ask, can you measure what you have accomplished if you don't know where you are going?

ISSUE 2: MORE REMEDIAL PROGRAMS

Some schools are trying to provide after-school help, tutoring and summer school remedial programs as ways of intervening when students are having learning problems, but a report by the American Federation of Teachers found that only 13 states require local school districts to provide academic intervention for students who fail to meet standards. Similarly, a report of the Council of Chief State School Officers in 1997 on math and science standards, found that states were doing very little to ensure that all students master the standards.

AFT's 1997 report on state standards found that only 13 states require and fund intervention programs to help low-performing students, up from 10 the previous year.

The Chicago Public School, for example, have launched a major revamping of their school system, and have made after-school programs a priority in helping students learn.

ISSUE 3: SMALLER SCHOOLS

The amendment calls on school districts to have smaller schools. In California, some campuses sprawl across acres and acres and schools can have thousands of students. The principal is just a voice over the loudspeaker. School personnel hardly know the names of the students.

I believe that elementary schools should have no more than 500 students; middle schools, 750 students; and high schools, 1,500 students. I believe that in smaller schools children have a stronger sense of community and connectedness, that school personnel become closer to and more effective with their students.

One study of 744 large high schools found that the dropout rate at schools with over 2,000 students was *double* that of schools with 667 or fewer students. Another study of 357 schools revealed that large schools have higher rates of class cutting, absenteeism, and classroom disorders.

I believe these studies make a compelling case.

ISSUE 4: LONGER SCHOOL YEAR

My amendment also urges states and school districts to have a school year of at least 180 days. The U.S. school year averages around 180 days, an outdated calendar based on our agrarian past over 100 years ago.

Currently, 29 states, the District of Columbia and Puerto Rico require a minimum of 180 teaching days. California now requires only 172 teaching days, but a new state law does provide incentive funds for adding up to eight professional days to the 172-day school year.

Many other countries have longer school years than we do. Students in England, Germany and Japan go to school between 220 and 243 days a year.

A 1993 study entitled ''Timepiece: Extending and Enhancing Learning Time'' observed that American school children spend more days out of school than in school and documented ''summer learning loss,'' finding that teachers spend four to six weeks every fall going over lessons from the previous school year. Similarly, A Nation at Risk recommended lengthening both the school day and the school year.

Along with setting high standards, we must put more time into teaching and learning and thus my amendment recommends 180 days of instructional time, which still would leave us with a school year shorter than many of our international competitors.

ISSUE 5. TRAINED TEACHERS

Class sizes cannot be reduced without hiring more teachers. And these teachers must be trained and credentialed teachers.

The National Commission on Teaching and Learning in November 1997 brought us some disturbing findings:

More than one-fourth of newly-hired teachers lack qualifications for their jobs.

The U.S. has no real system in place to ensure that teachers get access to the kinds of knowledge they need to help their students succeed.

Twenty-three percent of high school teachers do not even have a minor in their main teaching field.

School systems often waive or lower standards to hire people without qualifications to teach.

California, unfortunately, is a case example. We have 21,000 teachers on emergency credentials. In California, nearly 22,000 of the 240,000 public school teachers in California are not fully credentialed or have not passed a basic skills test. Half of California's math and science teachers did not minor in those subjects in college, yet they are teaching. The October 13, 1997, U.S. News and World Report reported that in Los Angeles, ''new teachers have included Nordstrom clerks, a former clown, and several chiropractors.''

The National Commission on Teaching and America's Future ranked California near the bottom of states in the quality of our public school teaching force because we have some of the highest proportions of uncertified or undertrained teachers, particularly in math and science. The Commission defined ''well-qualified'' as a teacher with full certification and a major in their assigned field. By this measure, only 65 percent of the state's teachers meet the standard. Nationally, that figure is 72 percent. In California, 46 percent of high school math teachers did not minor in math. The national average is 28 percent.

California will need up to 300,000 new teachers in the next decade because of our escalating enrollment. But a 1996 analysis by Policy Analysis for California Education found that my state could only expect about 9,000 new credentialed teachers per year if current trends continue.

Without good teachers, no school reform, however visionary or revolutionary, can improve student learning. This nation needs a major investment in teacher training, professional development and we need to pay teachers decent, professional salaries to attract and retain them.

ISSUE 6: FINAL EXAMS FOR GRADUATION

Without achievement levels or tests, students today can leave high school with a diploma.

According to the Council of Chief State School Officers, for the 1995–1996 school year, only 17 states require passing minimum competency tests for high school graduation. California, for example, does not require high school graduation exams.

The 1997 AFT report on state standards found that only 13 states have high school graduation exams based on 10th grade standards or higher.

Therefore, without standards, with social promotion rampant, a high school diploma means little. It is no measure of achievement. This has to stop.

THE PUBLIC EXPECTS PERFORMANCE, ACCOUNTABILITY

In a recent survey of Californians, 61 percent agreed that our schools need a ''major overhaul,'' up from 54 percent who answered the same question two years ago. A mere six percent believe that schools provide a ''quality education.''

A poll by Policy Analysis for California Education found that only 17 percent of Californians considers the state's schools ''good'' or ''excellent,'' down from about 33 percent three years ago. A 1997 poll in my state found that improving elementary and secondary education has replaced crime and immigration at Californians' top priority.

Nationally, a Wall Street Journal/NBC poll last year found that 58 percent of Americans say fundamental changes are needed in U.S. schools. A Garin-Hart poll last year found only 9% of the public believes our public education system ''works pretty well.'' Only 27 percent gave our schools an above-average rating. A whopping 84% of people favor establishing meaningful national standards.

CONCLUSION

I hope my colleagues will join me in supporting this amendment because we must stop shortchanging our students.

School achievement must mean something. It must mean more than filling up a seat at a desk for 12 years. A diploma should not just be a symbol of accumulating time in school. And school systems need to be accountable.

I hope today the Senate will go on record in support of this modest amendment that expresses 6 critical principles for school reform.

The PRESIDING OFFICER. The question occurs on agreeing to the amendment No. 2229.

Without objection, the amendment is agreed to.

The amendment (No. 2229) was agreed to.

Mr. DOMENICI. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. DOMENICI. I yield the floor.

Mrs. HUTCHISON. I ask the distinguished chairman of the committee, approximately how long is he asking authors of amendments to—

Mr. DOMENICI. We are operating under a time agreement where you are in control of 15 minutes and the opposition has 15 minutes.

Mrs. HUTCHISON. Thank you. We will certainly yield back part of our time. Well, I will wait and see what the opposition is.

AMENDMENT NO. 2208

Mrs. HUTCHISON. I call up amendment No. 2208 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

An amendment numbered 2208 previously proposed by [Mr. DOMENICI] for Mrs. HUTCHISON of Texas.

Mrs. HUTCHISON. I ask unanimous consent to add Senator GRAMS as a cosponsor of this amendment.

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

Mrs. HUTCHISON. Mr. President, this is what my amendment does. It is a sense of the Senate that this resolution assumes that any budget surplus should be dedicated to debt reduction or direct tax relief for hard-working American families.

It is really quite simple. This Congress has labored mightily for the last 2 years to come up with a balanced budget. This budget resolution, which has been so ably led by the Senator from New Mexico, and helped by the Senator from New Jersey, is an example of how difficult it has been to actually balance our budget. It has not been easy. It has been tough to make these hard choices, but Congress has done it.

We are talking about a balanced budget and, in fact, surpluses. I am saying, do not fritter away the victory. We have done the tough things. Now is not the time to get wimpy. Now is the time to remain tough, so that we will be able to assure our children and grandchildren that they will not inherit the $5 trillion of debt that has been built up in this country for the last 40 years. It is a time to say we are going to be responsible stewards of this country while we are on the watch deck.

It is time for us to say, it is the sense of the Senate that there are only two responsible choices for spending any budget surplus: either tax cuts for the hard-working American family that is today paying over 38 percent of its income in Federal, State and local taxes—and if you add the regulatory burden on top of that, government is costing the average American family, at the $50,000 level, 50 percent of its income. If we say we are going to give tax cuts to those hard-working Americans or we are going to start paying down the debt for our children and grandchildren, and to keep interest rates low, that would be the sense of this Senate for the responsible stewardship of our economy.

We have the highest debt burden today of any peacetime in American history. Economic research shows that tax cuts actually add to the economy. They generate work; they generate jobs; they generate buying power. So it would have a huge impact in a positive way. Debt reduction also has positive returns because certainly it will keep interest rates low and we can continue to invest in our savings.

Not only are taxes at record highs today, but the trend is in the wrong direction. Since President Clinton came into office in 1993, the tax burden as a percent of gross domestic product has climbed 2.1 percentage points. Just reducing taxes to the 1993 levels means the average family would have a tax windfall of $2,500. This is their money. This money is money they earn, and we believe it belongs to them. That is what this sense of the Senate would say to the American people—you earned this money, and it belongs to you, and if we are not going to give you direct tax relief, the surplus is going to pay down the debt so that you will be able to continue to enjoy the great economy we have and we will also give to our children the same stability in a great economy.

The amendment is very simple. I ask my colleagues to vote that we will not undo the hard choices and the hard work that we have done in this Congress over the last 3 years, but in fact we will do the right thing, and that is, give the money back to the people who earned it or pay down that debt so that our interest rates can stay low and so that we can stop paying so much interest.

Mr. President, I now yield the rest of our time—up to 5 minutes—to Senator GRAMS, the cosponsor of this resolution.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. GRAMS. Thank you very much, Mr. President.

I thank the Senator from Texas for all her fine work on this amendment.

I rise today to offer my strong support to Senator HUTCHISON's sense of the Senate calling on Congress to look at and to reserve any future budget surplus for tax relief and natural debt reduction or Social Security reform. But this amendment represents, I believe, some very sound, responsible fiscal policy, and again I commend Senator HUTCHISON for her leadership and her efforts on this very important issue.

The question of how to use the potential budget surplus has been debated extensively before this Chamber. In my view, tax relief and debt reduction and Social Security reform are all equally important. Tax relief will reduce the growing tax burden on our American families. As Senator HUTCHISON pointed out, from 38 percent to more than 50 percent of the incomes of our average families in this country are going to support government rather than supporting their families. But if we give tax relief, it will increase incentives to work, save and invest. It will help keep our economy strong. Debt reduction and Social Security reform will address our long-term fiscal imbalances. These are two closely related issues, and I believe they go hand in hand. We can and we should be addressing both of these at the same time.

There are compelling reasons for supporting this amendment. When we talk about how to use the budget surplus, let us not forget those who generated this surplus in the first place. If, as the administration is predicting, we do achieve a budget surplus, that surplus will have come directly from working Americans, from taxes paid by corporations, from individuals and investors. Clearly, this money belongs to the American people. It has been an overcharge. It is only fair to return it to the taxpayers who earned that money in the first place.

Families today, again, are taxed at the highest level since World War II, with 38 percent to 50 percent of a typical family budget going to pay taxes on the Federal, State and local level. Last year's tax cuts, I believe, moved us in the right direction, but in reality those tax cuts were too little, too late, too small. After spending the unexpected $225 billion revenue windfall last year, busting the 1993 spending caps, Washington delivered tax cuts only one-third as large as lawmakers had promised back in 1994.

Recent polls show that 89 percent of the American people believe that taxes on all levels of government should not consume more than 25 percent of their income. Again, 89 percent of Americans believe that all levels of taxes should not consume more than 25 percent of their income, and 77 percent also believe that estate taxes should be eliminated.

Lower tax rates, again, increase incentives to work, save and invest. They help families to maximize their income and improve their standard of living. They allow families to allocate their precious dollars to meet their own needs, not to go out and meet the needs of disconnected spenders located in Washington.

So, again, cut taxes and families today, who are forced to scrimp just to cover their monthly bills and their taxes, would find that they have more money to spend on their children's education, on their health care expenses,

on food, clothing and insurance, et cetera. If we are truly interested in giving our families the tools that they need to help raise their children, isn't it about time that Washington cut their taxes instead of limiting their choices?

Beyond the direct benefits to families, tax cuts can also have a substantial and very positive impact on the economy as a whole. John F. Kennedy proved it. Ronald Reagan proved it. So we should not spend a budget surplus that does not yet exist. If a surplus, however, does develop, the Government has no claim on it because the Government did not generate it. So I do not believe Washington should be first in line to reap the benefits of any surplus.

A surplus, again, will be the direct result of the hard work of the American people, and, therefore, it should be returned to the American people, either in the form of additional tax relief or beginning to pay down this tremendous $5.6 trillion national debt.

So, Mr. President, a vote for the Hutchison-Grams amendment is a vote for families. I believe it is a vote for fiscal sensibility in Washington, and I urge my colleagues very strongly to give it their support.

Thank you very much, Mr. President. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Mr. President, how much time does the Senator from Texas have?

The PRESIDING OFFICER. Four minutes 34 seconds.

Mr. DOMENICI. Is the minority going to respond?

I suggest the absence of a quorum, and I ask unanimous consent it be charged equally.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LAUTENBERG. 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. LAUTENBERG. I rise to oppose the amendment of the Senator from Texas, Senator HUTCHISON. It would reject President Clinton's call to save Social Security first.

Now, the Hutchison amendment calls for diverting part of any surplus for tax breaks. It therefore directly contravenes the President's plan to preserve Social Security benefits for baby boomers and other young Americans. For the first time in 30 years, Mr. President, we are probably going to have a budget surplus at the end of 1998—1998; that is, the current fiscal year. It ends September 30.

The forecast for the coming decade is for continued surpluses—$1 trillion over the next decade. We have tightened our belts, we have restored fiscal responsibility, and these surpluses are largely the product of our joint hard work.

What do we do with the surplus? On this question, the President has spoken clearly and unequivocally. I agree, before we spend a penny of any surplus, we should save Social Security first. A decade from now, the baby boom generation will begin to retire. Additionally, Americans probably, Lord willing, are going to be living longer and having fewer children. That means fewer workers will be contributing to Social Security for each beneficiary. These forces will put severe strains on the Social Security system. It could have a real impact on our economy.

If we do not maintain fiscal discipline, plan ahead, we could reduce the quality of life for our children and thus jeopardize the most important safety net for protecting senior citizens against poverty. That is why the President has been so insistent that we save Social Security first. That is why the amendment by the Senator from Texas is, in my view, misguided.

I heard the Senator talk about restraining ourselves, about returning money to the citizens as quickly as we can. The President shares that objective. What he says when he says save Social Security first, he talks about doing it through paying down the debt. If we look at where we are now, I have to say, the President's leadership in managing this economy is pretty good. This doesn't mean that our friends on the Republican side haven't worked together with us and the administration to do things. This isn't pointing a finger. It is recognizing where we are: The lowest inflation rate, perhaps, in 30 years, in terms of the consistency and the level of the rate; the lowest unemployment rate in decades; the best growth rate in the economy that we have seen in decades; perhaps the best economic condition that this country has ever seen—maybe any country has ever seen.

We are on the right track, and we are paying down debt. We have gone from almost $300 billion when President Clinton took over, down to a prospective surplus in 1998, a period of 6 years. That is quite an accomplishment.

Why is it, at a time like this, that we suddenly recognize, ''My gosh, we have a huge deficit out there and we better get it paid down''? The President agrees, except he provides the leadership to do it.

I urge my colleagues to resist the short-term temptations. Confirm the fact that we want to save Social Security. Confirm the fact that we want to pay down the debt. Let's continue to work together, not point fingers at who is at fault. If we are going to point fingers at who is at fault, we had better point fingers at those who helped us in the excellent job we have done together, and it was not all done by Alan Greenspan, as much respect as I have for him. I want to make sure Social Security will be there to protect younger Americans as it is here today for parents and grandparents.

Mr. President, we have had all kinds of attacks on the present condition. Frankly, I scratch my head and say, What are my friends looking at? I see a stock market that is thriving—and I am not here to prognosticate the future of the stock market, but I heard a very distinguished economist, a personal friend of mine, on the air this morning. His name is David Jones. He is with a New York firm. He says that he thinks the economy is in pretty good shape in terms of the market. He doesn't see any reason to get overly concerned about sudden market dips. He doesn't predict that the market is going to continue straight up, but he predicts it is on a good, solid base.

So the worry tree is sprouting buds here. I don't know whether it has to do with the political condition we will be facing when we get out there and talk to voters or exactly what it is. I want to be as frugal, as thrifty, as the next one, but I also want to make sure we maintain the service of our responsibilities to the people in our society, that those who don't have as much money as some at the top are still able to afford a college education for their child so that child can learn, to make sure there is sufficient housing for people, to make sure there are jobs for people who are moving from welfare to work. We had better have work for them.

There are lots of worries and concerns, as I guess there always are with mankind, no matter what the conditions are. Recognize what we have, recognize where we have come, and at least admit we are doing the right kind of a job.

So I don't want to do anything that will restrict the way we function with this economy of ours. That is why I don't want to succumb to the short-term temptation and take money out of programs to pay down the debt. We have a program laid out on just how we will do these things.

I hope my colleagues will say no to the amendment offered by the distinguished Senator from Texas.

I yield the floor.

Mrs. HUTCHISON. Mr. President, I say to my colleague from New Jersey that he can very well vote for my amendment and still do what he says he wants to do, and that is, save Social Security first, because my amendment just lays out the framework for what our priorities would be.

What it says is that there are only two reasons we should spend the surplus: For tax cuts for the hard-working American family, or for debt reduction, which would save Social Security.

I support saving Social Security first with all of the surplus, and that would be possible under my amendment. But what we are saying is, we are not going to do anything else with the surplus. We are not going to go on new spending binges. We are going to live within our income. We are going to prioritize our budget, just like every family in America does. We are going to live within that budget. And every penny of surplus can only go to one of two purposes: One is tax reductions on the

hard-working American family, and the second is to pay down debt. If we continue to pay all the debt, to save Social Security, you can vote for my amendment and be very happy that all of the Congress will support debt reduction as one of our two priorities.

I hope everyone will support this sense of the Senate, because I think it does set our priorities, just as this budget resolution does. That is what a budget does; it sets the priorities.

I yield the floor.

Mr. LAUTENBERG. Mr. President, is the Senator from Texas ready to yield back time? If so, I yield back my time.

Mrs. HUTCHISON. I ask unanimous consent to add Senator KYL as a cosponsor of the amendment.

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

Mrs. HUTCHISON. 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.

Mrs. HUTCHISON. I yield back the remainder.

Mr. LAUTENBERG. I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back.

AMENDMENT NO. 2176

Mr. DOMENICI. In the interest of reducing the time, I will accept the Boxer amendment numbered 2176, and I yield back the time I was going to use to speak, and she has yielded all her time but 1 minute.

Mr. LAUTENBERG. I yield that time back.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2176) was agreed to.

Mr. DOMENICI. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2226

Mr. DOMENICI. I believe we will go to Senator ROCKEFELLER, if he is ready.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, I call up my amendment numbered 2226 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

Amendment numbered 2226, previously proposed by the Senator from West Virginia [Mr. ROCKEFELLER].

Mr. ROCKEFELLER. Mr. President, we have a very interesting amendment to propose and I think a very important one. I want to say first, I fully support highway funding. Obviously, in a State like West Virginia, where it is mostly mountainous, highway funding is more important and more expensive than most places. I supported Senate passage of ISTEA. We are spending $217 billion on highway funding this year. When I was Governor, I helped get an amendment passed in this Congress, which was actually referred to as the Rockefeller amendment, which said if States had accumulated money, they went to the head of the line on interstate highway building and got their money from the Federal Government first.

Again, this is in no way an antihighway amendment, as some are very anxious to label it. It is, however, very much a proveteran amendment. The amendment has one purpose and one purpose only: To protect veterans funding from a midnight raid—nothing less—by the administration and the Budget Committee. The raid isn't really a raid, it is a ravage on the authority of the Veterans' Committee to see that the needs of the Nation's veterans are met. In this case, I am talking particularly about disabled veterans.

It is as simple as that. The veterans' account under the budget authority is being cut by $10.5 billion to pay for an enormous increase in highway funds. This money is in the veterans' budget baseline. And today they are taking it away from disabled veterans and putting it into highways, where we already have $217 billion. My point is they need to find another offset.

I think my colleagues would want to know just what is being done here, because it is not a pretty sight. First, what is the law about? Veterans law generally requires the VA to pay disability compensation to veterans for any injuries, diseases, or conditions they incur while they are in service in the military. After long debate, and for very good reasons, the Government long ago decided that veterans disability compensation is not limited to only combat-related conditions. The budget resolution would change that.

In 1993, the VA general counsel in a Republican administration interpreted the law to require the payment of disability compensation to veterans who could prove they had become addicted to tobacco while in military service if that addiction continued without interruption and resulted in an illness and disability.

It is important to remember that this is a very, very tough test for veterans to meet. And very few veterans—only about 8 percent of those who have made such claims—have been able to meet this test so far. In my home State of West Virginia, where there are approximately 200,000 veterans watching this debate closely, as of March 10, only 250 smoking-related disability claims have been filed and, of that number, only 6—6—had been granted so far. What this says to me is that these are tough claims to substantiate. This tough test is the very reason that so few claims have been filed and why so few have been granted.

Even the military now acknowledges that it played a significant role in fostering addiction in very young men and women in the service. How did the military do this? One, by distributing free cigarettes in C-rations and K-rations. Two, by creating a culture that encouraged smoking at every opportunity, a culture of ''smoke 'em if you've got 'em.'' And three, by selling tobacco products at vastly reduced prices, prices as much as 76% less than in civilian markets.

Mr. President, whether or not a veteran became addicted to tobacco during military service, the results of that addiction are issues that the VA has correctly decided, under existing law, should be determined by its triers of fact. This is the law currently. This is the law that the Budget Committee would unilaterally change.

Now we get to the midnight raid. In approving the fiscal year 1999 budget resolution, the Senate Budget Committee assumes a $10.5 billion cut from the veterans account—from disabled veterans, in effect—to partially fund the very large increase in ISTEA funds. The Budget Committee made this transfer based upon their decision to totally bar any veterans' claims for disabilities resulting from any tobacco-related illnesses. But not only did the Budget Committee make this raid on veterans' compensation for disabled veterans under the budget resolution, the Committee on Veterans' Affairs' jurisdiction over this issue is totally removed. And lo and behold, where does it appear to go? It appears to be solely placed in the realm of the Transportation Subcommittee of the Appropriations Committee.

Mr. President, this type of gimmickry makes a mockery of our budget process and of regular order in the Senate. It makes a mockery of the system of the Senate, which so many of our Senators are fond of talking about. This budget resolution will ultimately result in the erosion not only of the Veterans' Committee's authority, but of all authorizing committees' authority to determine policy. The budget committee is saying to us on the Veterans' Committee, we who take our work seriously, we will decide for you, we in the Appropriations Committee will decide for you; you will not decide policy in the authorizing committee.

Let's put a human face on this issue. Just who are the people that this VA compensation is helping? In Huntington, WV, Robert Christian is a 71-year-old World War II veteran. He entered the Navy when he was 17 years old. He began smoking cigarettes supplied by the Navy while on a ship headed to the Pacific, where he was involved in three separate invasions during that war.

Robert is just one of thousands of World War II veterans who became addicted to cigarettes supplied by the military. Don't talk about personal choice. His cigarettes were supplied by the military. So Robert smoked and has been addicted for 24 years. Today, he has bronchitis and emphysema as a result of his addiction. He receives regular treatments to help him breathe.

Because Robert and his physicians were able to make the connection between his bronchitis and his nicotine addiction, his medical disability has been service-connected by the Department of Veterans Affairs. Under the budget resolution, veterans like Robert would not be able to seek help. That is a disgrace.

His disability check is not a lot of money, I might add. But the real asset in this case is his VA health care. Now, as a service-connected veteran, Robert is able to go to the VA medical center for treatment of his service-connected condition. He is able to get his health care because he is service connected. This would change under the budget resolution.

And let's look at my friend, Larry Stotts of Spencer, WV. Larry joined the Marines at age 18, and he, too, began smoking the cigarettes supplied in service.

Larry is a Korean War combat veteran and one of the Chosin Few. The Chosin Few are veterans of a bloody battle—in driving snow and sub-zero temperatures—at the Chosin Reservoir in Korea in 1950.

After years of smoking beginning in the military, Larry has chronic obstructive pulmonary disease. It is so severely disabling that the VA has granted—under the very law now proposed to be struck down—a 100% service-connected disability and free medical care.

So when you take away this Department of Veterans Affairs compensation, remember that VA health care is now being provided on a priority basis. It has to do with your service-connected status or income level, and the first priority is for medical conditions linked to service in the military. A vote to deny VA compensation for smoking-related illnesses due to Government-sponsored nicotine addiction, which began in the service when these young men and women were teenagers, is also a vote to deny veterans health care—not just compensation for being disabled, but health care to thousands of veterans who turn to the VA for treatment of their smoking-related diseases. This is indeed a sorry statement about this country's sense of obligation to those who served our country. Mr. President, this issue is much clearer than all of this discussion of the law and the cost estimates. The issue is stunningly simple. Even if one opposes paying this compensation to a disabled veteran, or even if one is totally comfortable with the cost estimates that have been created, there is simply no reason—no reason—morally, ethically, or otherwise, to take away money from disabled veterans' programs and use it for other programs like tax cuts and highways. It is outrageous that veterans' programs are being looted in this way.

We are not asking for cuts in all accounts this year. In fact, we are not even demanding that others, such as Social Security disability recipients, lose their smoking-related compensation. No. Only veterans.

This year, we single out veterans and say: You, veterans, pay for all of this by giving up your rights. We imagine your satisfaction, disabled veterans, at $10 billion extra for highways, paid for by the loss of your rights to compensation as a disabled veteran.

I oppose this raid. I urge a vote in favor of my amendment, and I reserve the remainder of my time.

I will ask for the yeas and nays on my amendment after I yield to the Senator from Colorado. How much time is left?

The PRESIDING OFFICER. There are 3 minutes 5 seconds remaining.

Mr. ROCKEFELLER. I yield 2 minutes to the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. CAMPBELL. Mr. President, I thank my friend from West Virginia. I want to associate myself with his remarks. It is amazing to me how much we praise the actions of our military when they are putting their lives on the line and how quickly we forget them during peacetime or after they leave the military. This highway bill is important. I believe that, too, that our Nation's highways are in disrepair. But we have human beings that are also in disrepair in our veterans' ranks. We put $217 billion into the highway fund this year, which is almost $40 billion more than anybody expected. We have done a good job on funding our highways. I hope that we do an equally good job on funding the benefits for our sick veterans.

As my colleague from West Virginia mentioned, the administration—I don't, frankly, think they understand the ramifications of this because when I was in the service, I can remember, as Senator ROCKEFELLER alluded to, that there was no counseling not to smoke. In fact, as he said, it was ''smoke 'em if you got 'em.'' That was the common thing to do at virtually every break. We were told, ''If you want to smoke, go ahead, do it.'' There weren't any labels on the packs, and the cigarettes were free. You were actively encouraged to smoke. To say that it is somehow the veterans' fault and to say that they voluntarily smoked is a stretch of the imagination. I know we have potholes in our highways, but we ought to also be concerned with the bullet holes that were put in some of the veterans. To raid the veterans' health care funds to put it in the highways, I think, is absolutely outrageous.

I want to associate myself with the comments of my colleague from West Virginia. I applaud him for his courageous stand on trying to protect the veterans of our Nation.

I yield back my time.

Mr. ROCKEFELLER. Mr. President, I reserve the remainder of my time, and I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Mr. President, it is very difficult to listen to words like, ''The President of the United States is looting a veterans' health care program,'' and ''the Senate Budget Committee continues to loot.'' Mr. President, almost everybody on that Budget Committee who voted for this probably votes for everything the U.S. Congress proposes for veterans. But what has happened here is very, very interesting. Here is the expansion of a program in a dramatic way. One would assume it is rather dramatic, since it is going to cost about $10 billion over 5 years. Congress has never voted on the program, number one. It is so inconsistent, in terms of causal connection between something that happened while you are in the military and your death, that the President of the United States, on two occasions —not one, but two successive budgets—has not funded any money to administer this expanded program.

As a matter of fact, this year the President refused to fund it and removed the money needed from the veterans' overall available moneys, I assume because the President believed it probably was never going to happen. That is two points. The third point: Not a single claim under this proposed expansion has ever been granted to this day. I take that back. The staff says 200 claims have been granted.

What we are saying is the President is right on this one. Before the afternoon is finished, we hope we can talk about another way to see who is right without having to do what the distinguished Senator from West Virginia, Mr. ROCKEFELLER, asks for. We are working on that, because, if anything, Mr. President, and fellow Senators, we ourselves need some clarification about what this program is all about. I want to give two examples. I am not an expert like my friend Senator ROCKEFELLER, who is on the Veterans' Committee, apparently is, or Senator SPECTER, who works hard in that area and is chairman.

Here is one example. If a young man started to smoke when he was 16 years old and he smoked for 4 years, and he joined the Army when he was 20 and he smoked for 4 more years, and he only served 4 years and he got out, and then he continued to smoke for 40 years, and he got cancer, this expansion of the program never before considered says that the Federal Government, the military, is responsible for his cancer. Do you have that? He started smoking before he went in. He smoked for only 4 years while he was there. Now he gets a benefit for cancer. If he dies, his widow gets a widow's allowance because something happened to him in the military and we should pay for the death and a widow's allowance. Frankly, I do not believe anybody who has

been talking about this veteran's benefit understood that.

I will give you the more typical one. You join the military. Most of these are going to be people who were not in for a long time because they are the veterans who were coming in while we had the draft. So you have a 20-year-old joining and he smokes. Here is one. He smokes for the 2 years that he is in. Then he continues thereafter to smoke for 40 more years. He dies of cancer. His widow gets a benefit allowance because he smoked for 2 years in the military, and continued thereafter on the premise that he became addicted to nicotine in the military and, therefore, we should pay for it.

There are all kinds of examples like that. I don't know all of the examples. Of the three that I stated, one of them may not be exactly right. But I am in the ballpark about what is happening.

I believe we ought to follow the lead of the President and not permit this program to go into effect now. I did not say that we should kill the program. I said I believe we should come up with a way so that we don't implement the program now so that we don't create any false hope immediately, but that we find a way to get this program appropriately evaluated and that we find out here in the Congress what it is all about. I am hopeful before too long that we will have an approach to try to do that. I know frequently in these kinds of situations it doesn't do a lot of good to talk and to explain because maybe people have already made up their minds. I hope not on this.

Let me tell you, there is no question that we are not denying veterans any health benefits they are getting today. If 200 people have gotten the claims, it certainly is just the beginning. There will be many more. We ought to take a good look at it before we decide that it is right. Frankly, I look forward to taking another look at this in some appropriate way for a reasonable period of time. I hope the veterans' groups in this country will say, well, the Senate quite appropriately wanted to take a look. They did not say we weren't entitled to this. But it is very, very different than anything we have done before. In a sense, it is sort of saying if you smoked at any time in the military and smoked thereafter, that the military is responsible for everything that happens to you if you smoke for 25 more years because somehow or another you became nicotine addicted in those years while you were in the military.

I repeat: This does not change all of the veterans' benefits with reference to existing programs that are being carried out. I understand with reference to hospital treatment that Senator ROCKEFELLER is alluding to the fact that if this isn't continued on and if it doesn't continue starting right now that some veterans will not be as high up in the rank of using the veterans' facilities as they would be if this program were in effect. But I suggest even there that we ought to take a look for a reasonable period of time and get this analyzed thoroughly before we proceed.

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

The PRESIDING OFFICER. Who yields time?

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. Does the Senator from New Mexico yield time to the Senator from Idaho?

Mr. DOMENICI. I yield 5 minutes to the Senator from Idaho on my time in opposition to the distinguished Senator.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I reluctantly stand in opposition to the amendment by my colleague from West Virginia. I say that because I appreciate and share with him membership on the Veterans' Committee. So I don't take this opposition lightly. But I recognize its importance because of the broad sense of obligation we have to our veterans community. We in this Nation have elevated veterans and veterans' care to a high standard. That is why it is a Cabinet agency. It didn't just happen by accident.

We want to care for our veterans. Those men and women who have stood in harm's way for the defense of our freedoms deserve that care, and all of us appreciate the fact that is a great deal. That is why this budget spends $3 billion more over the next 5 years than was assumed in last year's bipartisan budget agreement. That is a true statement of commitment and obligation to our veterans. But this administration and I, and the chairman of the Budget Committee, have very real doubts whether allowing a post-service, smoking-related illness as a part of cash compensation to dependents is the right way to go—at a time certainly when our Veterans' Administration is strapped for cash to meet its current obligations to generate and create a new obligation that is estimated will cost $45 billion over the next 10 years and could reach as high as $10 billion a year by the year 2009.

That is the reality of what we are talking about. How did we get there? There was a question asked inside the Veterans' Administration whether it was reasonable and right. Could they compensate if this were true? The answer was yes. But the chairman of the Budget Committee is right. Did this Congress authorize it? No; we did not. Can we literally start a new extension of entitlement that could cost $10 billion a year without Congress speaking to it? I hope not. But that is the character of the amendment offered by my colleague from West Virginia.

I oftentimes do not like to use the argument that maybe we ought to study this. But maybe we ought to understand what we might be walking into. Is it really going to be, by the year 2009, a $10 billion expenditure at a time when our veterans' hospitals may be going unserved or unmodernized or unadministered, at a time when we are trying to strive for outpatient care, at a time when we are trying to build obligations for State-managed and shared veterans' nursing homes for the population of World War II veterans as they grow older and older? If this is the kind of expansion of entitlement we are talking about, how much of the other programs of the Veterans' Administration will we be starving out?

That is why I have to say no and will oppose the amendment, and hope we can look at the possibility of secondary amendments that would analyze and study to see what this obligation might be. We really do not have the parameters of it.

In the Veterans' Committee the other day, chaired by my chairman, Senator SPECTER, there was a general analysis of how they would interpret how they would judge. But, as we know, once you lay down a set of regulations and make arbitrary decisions about who is and who isn't eligible, all it takes is a court test to say, ''Wait a moment. You have judged me, my husband's, or my wife's illness improperly although they are deceased and I am entitled.'' And the judge says, ''Why not? It is the largess of the Treasury. And, by the way, the Veterans' Administration is being arbitrary anyway.'' Boom. We have a new expansion of an entitlement because this Congress didn't speak to it and this Congress didn't set the tight parameters necessary when we created new entitlement programs. We allowed an agency and their administrators to interpret and, therefore, to judge and, therefore, to define. I believe that is arbitrary. I think all of us do.

Let me remind you: $10 billion a year by the year 2009 is potentially $45 billion over the next 10 years. That is a big chunk of money.

The PRESIDING OFFICER. Who yields time? If neither side yields time, time is charged equally to both sides.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. Who yields time to the Senator from Pennsylvania?

Mr. ROCKEFELLER. Mr. President, I want to clarify the situation in my mind. Senator CRAIG has not yet offered his amendment. Therefore, 5 minutes for responding to that amendment is not at this point available to me.

The PRESIDING OFFICER. The Senator is correct.

Mr. ROCKEFELLER. Therefore, the Senator from West Virginia has 1 minute.

The PRESIDING OFFICER. One minute 14 seconds.

Mr. ROCKEFELLER. I will close on this portion.

Mr. DOMENICI. Let me ask the Senator if he would like a couple of minutes so he can give Senator SPECTER a couple minutes.

Mr. ROCKEFELLER. I want very much to give the chairman time.

Mr. DOMENICI. I yield 3 minutes to the Senator from West Virginia.

Mr. ROCKEFELLER. I yield 2 minutes to Senator SPECTER.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized for 2 minutes.

Mr. SPECTER. Mr. President, I believe that veterans are entitled to be compensated for illnesses related to smoking because that has been the determination of the General Counsel of the Veterans Administration and the doctors who have analyzed this program. The Veterans' Affairs Committee had an extensive hearing on this matter a few days ago. The reallocation of $10.5 billion to another expenditure line, I believe, is unfair to the veterans of America. Young people are taken away from homes. They are put in situations of stress. Cigarettes are provided either free or at a low cost. The determination has been made by the General Counsel that nicotine dependence is a disease and it is compensable. If the money is not to go for tobacco-related illnesses, it ought to remain in the VA funds generally, because the VA funds are very, very limited for the tremendous obligation owed to the veterans of America.

I believe another source of funding might be available from the tobacco funding. And as much as I want to see the highway program proceed, and highways are very necessary as a matter of infrastructure for America, I believe the veterans' benefits come first. I do not believe we need any additional studies on this matter. The analysis has been made extensively by the general counsel that it is a disease, that nicotine addiction is a disease, and the veterans are entitled to be compensated. These funds ought to be made available to the veterans, as Senator ROCKEFELLER has proposed.

How much time do I have, Mr. President?

The PRESIDING OFFICER. The Senator has 23 seconds.

Mr. SPECTER. I reserve the remainder of my time.

The PRESIDING OFFICER. If no one seeks recognition, time will run equally on both sides.

The Senator from West Virginia.

Mr. ROCKEFELLER. I ask the distinguished Senator from New Mexico if he wishes to speak. I would like to maintain my right to close the debate on my amendment.

Mr. DOMENICI. Mr. President, I have never been so certain that my eloquence had that much to do with matters, as to whether I spoke first or last, but normally I have been speaking last here as the floor manager when we are opposing an amendment. But I will not follow that now. I will speak now and let the Senator close.

I don't have much additional to say. Frankly, I think it is a mistake, however, to categorize the money that the President saved in the budget by saying he was putting this program off. I think it is a mistake to categorize it that it all went for highways. The truth of the matter is, it goes to discretionary spending for programs across the board, which include highways. Frankly, what is going to happen is, the programs of this country all go to the Appropriations Committee; if there is not enough money for highways, then they are apt to fund highways and cut NIH, or anything else, if they would like. It is going to be a matter of what is the highest priority.

So it seems to me we are talking about a program that the President of the United States for 2 consecutive years has said should not take effect, has provided no money to let it take effect. That, at least, is very questionable, whether the general counsel ruled or not. Congress never voted. And we believe some additional time ought to be taken on this matter.

Whatever time I have I yield back at this point.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, the distinguished floor manager indicates that the President of the United States has done this. I am not trying to protect the President of the United States. I think he is wrong on this also. I am trying to protect disabled American veterans who have been addicted to nicotine and who will be barred from getting compensation as a result of this. All I can say is that my amendment seeks to strike $10.5 billion that was put artificially, by trumped-up means, into the veterans' baseline. If there is a study or something to look at it in the future, it will then be too late—my purpose will be dead. I want to return to veterans that $10.5 billion which is ascribed to roads—which we treasure in West Virginia, but which, because of the good work of my senior colleague, we are doing very well with. And that is a common joke around here, and one which I enjoy and respect.

But I care about veterans. We have approximately 200,000 of them in West Virginia. We have 26 million of them in this country. This is a blatant attempt, under a whole new concept—despite our new understanding of addiction to tobacco in general, and our new understanding of addiction to tobacco by veterans in the service—which DOD now admits for the first time—to take money away from helping veterans and give it to highways.

Concrete and rebars and all of those things are important. But so are human beings who have served in this country's military service and who are addicted and have to go through an incredibly hard process to become classified as disabled to get this kind of help from VA.

Yes, as the manager has indicated, some will get their health care benefits. But that is not what we are talking about. We are talking about a process which, because of the addiction, they have to go through a very difficult process to achieve a status where they can get compensation for their disability due to addiction. It is a fundamental American matter, and it is also the law of the land at the current time.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. ROCKEFELLER. I yield back the remainder of my time and send an amendment to the desk.

AMENDMENT NO. 2283 TO AMENDMENT NO. 2226

Mr. DOMENICI. Mr. President, I send a second-degree amendment to the desk and ask it be reported.

Mr. ROCKEFELLER. Regular order, Mr. President. Mr. President, I believe I had——

The PRESIDING OFFICER. No; the time of the Senator had expired, and the manager was recognized.

The clerk will report the amendment of the Senator from New Mexico.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for himself, Mr. CRAIG and Mr. LOTT, proposes an amendment numbered 2283 to amendment No. 2226.

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

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

The amendment is as follows:

On page 14, line 7, strike ''$51,500,000,000.'' and all that follows through line 24, and substitute in lieu thereof the following: $51,500,000,000.

(B) Outlays, $42,800,000,000.

Fiscal year 2000:

(A) New budget authority, $51,800,000,000.

(B) Outlays, $44,700,000,000.

Fiscal year 2001:

(A) New budget authority, $52,100,000,000.

(B) Outlays, $45,700,000,000.

Fiscal year 2002:

(A) New budget authority, $51,400,000,000.

(B) Outlays, $45,800,000,000.

Fiscal year 2003:

(A) New budget authority, $52,000,000,000.

(B) Outlays, $46,900,000,000.

On page 25, line 8, strike ''−$300,000,000.'' and all that follows through line 25, and substitute in lieu thereof the following: −$300,000,000,

(B) Outlays, −$1,900,000,000.

Fiscal year 2000:

(A) New budget authority, −$1,200,000,000.

(B) Outlays, −$4,600,000,000.

Fiscal year 2001:

(A) New budget authority, −$2,700,000,000.

(B) Outlays, −$3,000,000,000.

Fiscal year 2002:

(A) New budget authority, −$3,800,000,000.

(B) Outlays, −$7,000,000,000.

Fiscal year 2003:

(A) New budget authority, −$5,400,000,000.

(B) Outlays, −$5,000,000,000.

In lieu of the language proposed to be stricken, insert:

(6) For reductions in programs in function 700, Veterans Benefits and Services: For fiscal year 1999, $500,000,000 in budget authority and $500,000,000 in outlays; for fiscal years 1999–2003, $10,500,000,000 in budget authority and $10,500,000,000 in outlays.

(7) Sense of the Senate on VA compensation and post-service smoking-related illnesses.

(a) FINDINGS.—The Senate finds that—

(i) the President has twice included in his budgets a prohibition on the entitlement expansion that the Department of Veterans Affairs (referred to as the ''VA'') is proposing to allow post-service smoking-related illness to be eligible for VA compensation;

(ii) Congress has never acted on this entitlement expansion;

(iii) the Congressional Budget Office and the Office of Management and Budget have concluded that this change in VA policy would result in at least $10,000,000,000 over 5 years and $45,000,000,000 over 10 years in additional mandatory costs to the VA;

(iv) these increased number of claims and the resulting costs may present undue delay and hardship on veterans seeking claim review;

(v) the entitlement expansion apparently runs counter to all existing VA policy, including a statement by former Secretary Brown that ''It is inappropriate to compensate for death or disability resulting from veterans' personal choice to engage in conduct damaging to their health.''; and

(vi) Secretary Brown's comment was recently reaffirmed by Acting Secretary of Veterans Affairs Togo West, who stated ''It has been the position of the Department and of my predecessor that the decision to use tobacco by service members is a personal decision and is not a requirement for military service. And that therefore to compensate veterans for diseases whose sole connection to service is a veteran's own tobacco use should not rest with the Government.''.

(B) SENSE OF THE SENATE.—It is the sense of the Senate that the function totals and assumptions underlying this resolution assume the following:

(i) The support of the President's proposal to not allow post-service smoking related illnesses to be eligible for VA.

(ii) The study and report required by paragraph (3) will be completed.

(iii) The Secretary of the Department of Veteran Affairs, the Office of Management and Budget, and the General Accounting Office are jointly required to—

(aa) jointly study (referred to in this section as the ''study'') the VA General Counsel's determination and the resulting actions to change the compensation rules to include disability and death benefits for conditions related to the use of tobacco products during service; and

(bb) deliver an opinion as to whether illnesses resulting from post-service smoking should be considered as a compensable disability.

(iv) The study should include—

(aa) the estimated numbers of those filing such claims, the cost resulting from such benefits, the time necessary to review such claims, and how such a number of claims will affect the VA's ability to review its current claim load;

(bb) an examination of how the proposed change corresponds to prior VA policy relating to post-service actions taken by an individual; and

(cc) what Federal benefits, both VA and non-VA, former service members having smoking-related illnesses are eligible to receive.

(v) The study shall be completed no later than July 1, 1999.

(vi) The Department of Veterans Affairs and the Office of Management and Budget shall report their finding to the Majority and Minority Leaders of the Senate and the chairmen and ranking minority members of the Senate Budget and Veterans' Affairs Committees.

The PRESIDING OFFICER. There are 10 minutes equally divided on each side on this second-degree amendment.

The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I yield myself 3 minutes, and then I yield 3 minutes to Senator CRAIG.

The PRESIDING OFFICER. The Senator only has 5 total.

Mr. DOMENICI. I yield myself 2.

Mr. President, this amendment is very simple, and I think it is a fair amendment. This amendment says that for the next year this program will be held in abeyance. And during that year, the Veterans' Administration, the General Accounting Office, and the Office of Management and Budget will meet, analyze, and make recommendations to the President of the United States and to the Congress of the United States.

I believe that enough has been said here on the floor, enough is there by virtue of the President of the United States deciding what he has decided for 2 consecutive years, that we really ought to make sure we receive the best information about what is the right and fair and honorable thing to do.

I do not believe that anybody expects we should pay a widow's allowance, and for cancer, for a veteran who spent 2 years in the military and smoked, or for a veteran who spent 4 years in the military and smoked, and then smoked for 40 years thereafter. I believe we need some clarification and some real details on this, because this is a very large expenditure of money and it should not be denied to veterans if, in fact, there is a reasonably causal relationship between a veteran's service and the illness from which a veteran died. If there is a reasonable causal relationship and it does encompass as many as might claim under this, then we ought to have this group of people spend at least a year, or whatever time it takes, and report to us on the effects of the General Counsel's interpretation of a general statute with relationship to nicotine.

I yield the remainder of my time to the distinguished Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, the chairman of the Budget Committee has explained our intent with this amendment. Let me read it:

> The Secretary of the Department of Veterans Affairs, the Office of Management and Budget and the GAO are jointly required to—
>
> jointly study (referred to in this section as the ''study'') the VA General Counsel's determination and the resulting actions to change the compensation rules. . .
>
> [and] deliver an opinion as to whether illnesses resulting from post-service smoking should be considered as a compensable disability.

That is one point. The other point, and I think the most important one that drives this process, that alludes to the potential $10 billion a year, or $45 billion over the next few years, is:

> . . . estimate the numbers of those filing such claims, the cost resulting from such benefits, the time necessary to receive such claims, and how such a number of claims will affect the VA's ability to review its current claim load.

In other words, this is not a dodge, this is a sincere effort to determine the impact of this potential program, that not one dime has been spent on yet. Are we truly going to damage other veterans' programs that are ongoing, that current veterans believe they are owed and, in all right, they are owed? I think we ought to have that information. That is exactly what this study does.

Does it shove it off for years and years? Not at all. The study concludes that this has to be completed no later than July 1, 1999. And the Department of Veterans' Affairs and the Office of Management and Budget and GAO shall report their findings to the majority and the minority leaders of the Senate and the ranking member and the chairman of the Senate Veterans' Affairs Committee.

This is an honest and sincere attempt not to legislate into the dark and to risk $10 billion or $45 billion, and to put in jeopardy current and future ongoing programs of the Veterans Administration, but to have a real understanding of where we might be treading.

I believe it is responsible, I believe it is right, and I hope my colleagues will join with the chairman of the Budget Committee in support of this second-degree. Let's find out where we are going before we launch on a commitment that we would never be able to walk away from once we created that obligation to veterans. If we truly have dependents out there who start receiving the money, we will never cut it off.

The PRESIDING OFFICER. The time of the proponent of the amendment has expired.

The Senator from West Virginia has 5 minutes.

Mr. ROCKEFELLER. Mr. President, I yield 1½ minutes to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. I thank my colleague.

Mr. President, I don't know how to say much in a minute and a half. Let me just say to my good friend from Idaho that I believe the second-degree amendment is not a step forward. I think it is a great leap sideways. A study is not what we are talking about. You don't have to be a rocket scientist to know what is at issue here. This is money that we believe should have gone to veterans for compensation. If it doesn't go directly for compensation, this $10 billion-plus ought to go into the VA budget. It ought to be there for disabled veterans. It ought to be there for health care for veterans.

There are a lot of gaps. There are a lot of holes in this VA budget. As is, we are not living up to a contract for veterans. My colleagues are absolutely right in what they are doing, and I rise to speak on the floor of the Senate to support the Rockefeller-Specter amendment. I hope we will defeat the second-degree amendment and pass this amendment.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, I yield 1 minute to the Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I oppose the amendment in the second degree because an additional study is not necessary. The matter has already been studied extensively by the Veterans Administration. There has been an opinion of the General Counsel that nicotine is a disease and that it is compensable. A study might be all right if we did not take $10.5 billion off what ought to be in the Veterans' Affairs account—the Department of Veterans' Affairs account—and put it somewhere else.

I believe the underlying amendment by the Senator from West Virginia is accurate. The second-degree amendment ought to be defeated.

I will yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, I ask the Presiding Officer to tell the Senator from West Virginia when he has only 1 minute remaining.

Mr. President, the Craig amendment would cut $10.5 billion in veterans' funds in the budget resolution.

No. 2, the Craig amendment still allows the money to be cut and then to reauthorize—as he says, we will do a study for a year—incidentally, by the same people, a study by exactly the same people who came up with this solution, to cut the money.

But in order to reauthorize the veterans' disability benefit, the Congress—everything would then be subject to PAYGO, and my colleagues had better understand that Congress would then have to cut off another veterans' benefit. So this is a blind path that we are going down. A vote in favor of the Craig amendment is a vote to shift $10.5 billion away from disabled veterans.

Mr. President, I yield back my time.

AMENDMENT NO. 2284 TO AMENDMENT NO. 2226

Mr. ROCKEFELLER. Mr. President, I send a perfecting amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. ROCKEFELLER] proposes an amendment numbered 2284 to amendment No. 2226.

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

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

The amendment is as follows:

On page 14, line 7, strike ''$51,500,000,000.'' and all that follows through line 24, and substitute in lieu thereof the following:
$51,000,000,000.
(B) Outlays, $42,300,000,000.
Fiscal year 2000:
(A) New budget authority, $50,800,000,000.
(B) Outlays, $43,700,000,000.
Fiscal year 2001:
(A) New budget authority, $50,100,000,000.
(B) Outlays, $43,700,000,000.
Fiscal year 2002:
(A) New budget authority, $48,400,000,000.
(B) Outlays, $42,800,000,000.
Fiscal year 2003:
(A) New budget authority, $48,000,000,000.
(B) Outlays, $42,900,000,000.
On page 25, line 8, strike ''−$300,000,000.'' and all that follows through line 25, and substitute in lieu thereof the following:
$200,000,000.
(B) Outlays, −$1,400,000,000.
Fiscal year 2000:
(A) New budget authority, −$200,000,000.
(B) Outlays, −$3,600,000,000.
Fiscal year 2001:
(A) New budget authority, −$700,000,000.
(B) Outlays, −$1,000,000,000.
Fiscal year 2002:
(A) New budget authority, −$800,000,000.
(B) Outlays, −$4,000,000,000.
Fiscal year 2003:
(A) New budget authority, −$1,400,000,000.
(B) Outlays, −$1,000,000,000.
On page 31, line 24, strike subsection (6) in its entirety.

The PRESIDING OFFICER. There are 5 minutes on a side on this amendment.

Mr. ROCKEFELLER. I yield back the remainder of my time and ask for the yeas and nays on the perfecting amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from West Virginia has yielded back all his time.

The Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, this puts us right back where we were at the beginning. What I would like to do is remind the Senate that we will have an opportunity to vote on the Domenici substitute which calls for the 1-year study, and that does have the General Accounting Office in it also, for those who are wondering whether it is just the Veterans' Administration and the OMB.

In addition, if we table this Rockefeller amendment, we will vote next on the Domenici amendment which will give us this 1-year study to make sure that we are doing the right thing.

I yield back the remainder of my time, and I move, at the appropriate time, to table the amendment. 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. Under the previous order, the question is on agreeing to the Brownback amendment No. 2177. The yeas and nays have been ordered. The clerk will call the roll.

Mr. DOMENICI. 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. DOMENICI. 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. DOMENICI. Mr. President, I don't know why we proceeded to the vote. We did not intend to go to a vote. We are going to stack the votes and have a series of votes.

The PRESIDING OFFICER. The rollcall was on the first series of votes. The Brownback amendment——

Mr. DOMENICI. We are not finished with our pool of amendments. We still have Senator KYL to offer his, and then we will have the entire package voted on one after the other.

The PRESIDING OFFICER. Does the Senator from New Mexico want to ask unanimous consent——

Mr. DOMENICI. That is the consent. There is consent that these six amendments be debated and that they then be voted on in order. Of that group, Senator KYL's has not yet been debated.

The PRESIDING OFFICER. The Chair recognizes the Senator from Arizona to call up an amendment.

Mr. KYL. Thank you, Mr. President.

AMENDMENT NO. 2221

Mr. KYL. Mr. President, I call up amendment No. 2221.

The PRESIDING OFFICER. The pending amendment is amendment No. 2221.

Mr. KYL. Mr. President, I ask unanimous consent that Senator SANTORUM be added as a cosponsor.

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

Mr. KYL. I note, Mr. President, that this amendment was supposed to have been discussed earlier. That undoubtedly accounts for the confusion, because it should have occurred already. However, I was not here at the time and, therefore, it will be the last amendment discussed prior to the time the votes start, for the benefit of my colleagues.

This is a very straightforward amendment. It expresses the sense of the Senate in favor of a supermajority vote for raising taxes.

Mr. President, the tax burden imposed on the American people has grown so large that it is beginning to act as a drag on the Nation's economy. As a share of the gross domestic product, revenues to the Treasury will rise from 19.9 percent this year to 20.1 percent next year. That would be higher than any year since 1945, and it would be only the third year in our entire history during which revenues have exceeded 20 percent of the national income. Notably, the first two times that revenues broke the 20 percent mark, the economy tipped into recession.

Mr. President, we are talking about something very serious, and that is the possibility that this great economic engine that has been creating budget surpluses for the Federal Government and a great standard of living for the American people could come to a screeching halt if we do not begin to do something about the tax burden imposed upon the American people.

Many of us believe it would have been prudent to consider more tax relief in the budget this year. But it seems to me that if the Congress and the President cannot agree on more tax

relief, we at least ought to be able to agree that taxes should go no higher. The House of Representatives, I inform my colleagues, is scheduled to vote in April on an initiative to make it much harder for Congress to raise taxes. It would require a two-thirds majority vote in each House in order to add to the tax burden.

The sense-of-the-Senate amendment that I have offered now will begin the debate in the Senate as well. I do not specify a particular percentage that would constitute a supermajority for purposes of raising taxes, but simply request that we go on record as expressing support for the principle that a supermajority should be required. I will briefly explain why.

A third of the Nation's population imposes tax limitations on their State governments. Voters have approved tax limits by wide margins, so this is not something new or risky. In my home state of Arizona, for example, a tax limitation passed with 72 percent of the vote, and we are one of the fastest growing States in the Nation. We have one of the lowest tax burdens, one of the highest rates of growth. In Florida, another high-growth State, a tax limitation amendment was adopted with 69.2 percent of the vote; in Nevada, with 70 percent. I daresay, Mr. President, these are probably three of the fastest growing States in the country.

A tax limitation ensures growth, reduces taxes, provides more jobs and, I believe, would be a good thing for the Federal Government to adopt for the entire country with respect to Federal taxes.

The proposed Constitutional amendment, which is referred to in the pending sense of the Senate amendment, now has 23 cosponsors in the Senate. It is something that was recommended by the National Commission on Economic Growth and Tax Reform. In fact, that commission, which you will recall was chaired by former HUD Secretary Jack Kemp, advocated the supermajority requirement in its report on how to achieve a simpler single-rate tax to replace the existing maze of tax rates, deductions, exemptions and credits that makes the Federal Tax Code so complicated as we know it today.

Here are the words of the commission:

> The roller-coaster ride of tax policy in the past few decades has fed citizens' cynicism about the possibility of real, long-term reform, while fueling frustration with Washington. The initial optimism inspired by the low rates of the 1986 Tax Reform Act soured into disillusionment and anger when taxes subsequently were hiked two times in less than seven years. The commission believes that a two-thirds supermajority vote of Congress will earn American's confidence in the longevity, predictability, and stability of the new tax system.

Mr. President, there is no small irony in the fact that it would have taken a two-thirds majority vote of the House and Senate to overcome President Clinton's veto and enact the 1995 Balanced Budget Act with its tax relief provisions. Yet, by contrast, the President's record-setting tax increase in 1993 was enacted with only a simple majority and, in fact, not even a majority of elected Senators at that. Vice President GORE broke a tie vote of 50–50 to secure passage of the tax increase in the Senate.

A tax limitation is based on a simple premise: that it ought to be at least as hard to raise people's taxes as it is to cut them.

Mr. President, I ask unanimous consent to have printed in the RECORD several documents.

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

[From Citizens for a Sound Economy Foundation, Apr. 8, 1997]

MAKING A TAXING DECISION: WHY CONGRESS SHOULD PASS THE TAX LIMITATION AMENDMENT

(By Scott Moody)

On April 15, Congress will have an historic opportunity to make a sincere commitment to the principles of a balanced budget and a smaller government by voting for the Tax Limitation Amendment (TLA) to the Constitution. If the Congress and the president mean it when they say the era of big government is over, then the deficit must be eliminated by reigning in government spending, reforming entitlements, and cutting wasteful and unnecessary programs. Passage of the TLA—which would require a two-thirds vote of Congress to raise taxes—will help take tax increases off the table. The message from taxpayers to members on both sides of the aisle is clear—pass the Tax Limitation Amendment.

A bipartisan message. According to voters all across America, creating a more accountable tax policy is a bipartisan responsibility. In fact, the congressional delegations from the twelve states that have adopted a supermajority tax provision are almost evenly split between Republicans and Democrats.[1] In the House of Representatives there are 68 Republicans and 50 Democrats who represent these states with a supermajority provision. In the Senate, representation is evenly split with 12 Republicans and 12 Democrats. This even split reveals that states with supermajority provisions do not strictly lean toward one political party or another. It also shows, and politicians on both sides of the aisle should take notice, that there is growing consensus among all taxpayers for tax limitation.

A two-thirds majority provision is gaining in popularity. Within the last five years, the trend toward tax limitation has accelerated. Of the twelve states with supermajority requirements, seven of them have been enacted or expanded since 1992. Although the requirement varies from state to state, the most popular provision requires a two-thirds (66 percent) majority vote to raise taxes. As shown below, voters are strongly supportive of tax limitation. Politicians can only ignore this tidal wave of support at their own peril.

1992

1. Arizona—Requires ⅔ elected majority, passed by 72 percent of voters.
2. Colorado—Requires ¾ elected majority, passed by 54 percent of voters.
3. Oklahoma—Requires ¾ elected majority, passed by 56 percent of voters.

1996

4. Florida—Requires ⅔ voter majority, passed by 70 percent of voters.
5. Nevada—Requires ⅔ elected majority, passed by 70 percent of voters.
6. Oregon—Requires ⅗ elected majority, passed by 52 percent of voters.
7. South Dakota—Requires ⅔ elected majority, passed by 74 percent of voters.

A TLA would boost economic growth and created new jobs. States that have adopted a tax supermajority provision have grown faster and created more jobs than states that do not have any tax limitation. A look at these states reveals that the existence of supermajority provisions help to limit tax and spending increases by state governments. As a result, more money is available for productive investment by businesses and individuals which boosts economic growth and creates new jobs. Other studies have found the same results:

A study by Jim Miller, former budget director under President Reagan, and Mark Crain, an economist at George Mason University, which is based on data from all 50 states found that a supermajority provision for raising results in a lower per-capita growth in state spending.[2]

Economist Dan Mitchell has also made a number of important discoveries on economic growth in his study of ten states that require a supermajority to raise taxes. He found that between 1980 and 1992, states with supermajority grew by 43 percent (35 percent without) and employment increased by 26 percent (21 percent without).[3]

Increased accountability. Passed by simple majorities, four of the last five major tax bills would not have met a two-thirds approval requirement. In fact, the last tax bill passed by one vote in the House of Representatives and the Vice-President broke a tied vote in the Senate. As a consequence, American taxpayers are not fully convinced that Congress has carefully weighed the pros and cons of increasing taxes that have since raised a staggering total of $666 billion.[4]

Judging by the large support of a two-thirds majority requirement by voters, most Americans realize the economic benefits of creating a more accountable tax policy in addition to a smaller tax burden. Many taxpayer from both sides of the political spectrum have, in most cases, overwhelmingly approved supermajority provisions for their own state. Now they expect Congress to do the same and pass the Tax Limitation Amendment.

FOOTNOTES

[1]These states are: Arizona, Arkansas, California, Colorado, Delaware, Florida, Louisiana, Mississippi, Nevada, Oklahoma, Oregon and South Dakota.

[2]Mark Crain and James Miller, ''Budget Process and Spending Growth,'' William and Mary Law Review, Spring 1990.

[3]Dan Mitchell, ''The Case for a Tax Supermajority Requirement: A Look at the States,'' Citizens for a Sound Economy Foundation, Issue Analysis, No. 25, April 12, 1996.

[4]James Perry, ''Growth, Prosperity, and Honest Government. The Case for Constitutional Tax Limitation,'' Americans for Tax Reform, Policy Brief, 1997.

OFFICIAL SUPPORTERS OF THE TAX LIMITATION AMENDMENT

American Conservative Union
Americans for Tax Reform
Associated Builders and Contractors
Association of Concerned Taxpayers
Chamber of Commerce of the United States
Christian Coalition
Citizens for a Sound Economy
Coalition for America
Competitive Enterprise Institute
Council for Citizens Against Government Waste
Family Research Council
National-American Wholesale Grocers Association/International Foodservice Distributors Association

Footnotes at end of article.

National Association of Manufacturers
National Association of Wholesaler-Distributors
National Federation of Independent Businesses
National Tax Limitation Committee
National Taxpayers Union
National Taxpayers United of Illinois
Seniors Coalition
Small Business Survival Committee
60 Plus Association
United Seniors Association

NATIONAL TAXPAYERS UNION,
Alexandria, VA, March 31, 1998.

Hon. JON KYL,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR KYL: National Taxpayers Union, America's largest grassroots taxpayer organization, strongly supports your ''Sense of the Senate'' Tax Limitation Amendment to S. Con. Res. 86, the FY '99 Budget Resolution.

Your amendment would put the Senate on record as favoring a super majority vote for the enactment of legislation that would raise tax rates, impose new taxes, or otherwise increase the amount of taxpayers' income that is subject to tax. As perhaps the most important tax limitation vote of this Session of Congress, National Taxpayers Union will likely score a ''YES'' vote on your amendment as one of the heaviest-weighted protaxpayer votes in our annual Rating of Congress.

In addition to supporting tax limitation, your amendment establishes the basic premise of any genuine tax reform. We urge your colleagues to join you in voting for the Kyl amendment on the floor of the Senate.

Sincerely,

JOHN E. BERTHOUD,
President.

[From Citizens for a Sound Economy Foundation, Apr. 12, 1996]

THE CASE FOR A TAX SUPERMAJORITY REQUIREMENT: A LOOK AT THE STATES

(By Daniel J. Mitchell)

A number of states require at least a three-fifths majority vote to raise taxes. These states have seen lower tax and spending increases, faster economic and job growth, and an accumulation of less debt. This evidence supports the case for a supermajority requirement to raise taxes at the federal level, which the House of Representatives is scheduled to vote on this Monday.

On April 15th, the House of Representatives will vote on whether the Constitution should be amended to require a two-thirds vote to raise taxes. A supermajority requirement eliminates the existing bias in favor of enacting higher taxes. Such a provision is particularly important during times when lawmakers are under pressure to control deficits and balance the budget. Simply stated, if higher spending cannot be achieved by increasing borrowing, the only other way of financing new spending is by raising taxes. Requiring a supermajority to raise taxes ensures that a simple majority of politicians cannot continue to spend other people's money and evade fiscal responsibility.

Critics charge that the supermajority requirement would be a risky, untested idea. This accusation is false. Ten states require at least a three-fifths vote of lawmakers to raise some or all taxes. Supermajorities, needless to say, are just one of many factors that influence these states' performance. It stands to reason, however, that making it harder to raise taxes would be at least partially responsible for these good numbers. Three of the states instituted the tax limit in 1992, but seven states have lived under this requirement for some time. In these states—Arkansas, California, Delaware, Florida, Louisiana, Mississippi, and South Dakota—the evidence shows that, on average, supermajority states have smaller tax and spending increases, grow faster, create more jobs, and accumulate less debt.

SUPERMAJORITY STATES CONTROL TAX BURDEN

On average, states with supermajorities saw their per capita tax collections jump by 102 percent between 1980 and 1992. This is too high, but it is much better than the average 121 percent increase in per capita tax collections that occurred in states without these supermajority protections. In other words, the tax burden rose nearly 20 percent faster in states that did not limit the ability of politicians to raise taxes.

LOWER SPENDING INCREASES IN SUPERMAJORITY STATES

In the supermajority states, per capita state spending on average increased by 132 percent between 1980 and 1992. While this is hardly a record to be proud of, states without supermajority tax requirements experienced average total per capita spending increases of 141 percent. This difference may not be very large, but taxpayers are grateful for even modest improvements in their state's fiscal performance.

SUPERMAJORITY STATES GROW FASTER

Lower taxes and lower spending are desirable, but the real reason for controlling the size of government is to promote prosperity. Not surprisingly, a supermajority is associated with faster economic growth. States with restrictions on the ability to raise taxes grew by an average of 43 percent in real terms from 1980 until 1992. States that made it easier for politicians to raise taxes, by contrast, only grew on an average of 35 percent during the same period.

SUPERMAJORITY STATES CREATE MORE JOBS

The combination of smaller government and faster growth in supermajority states means that there is more money available for the productive sector of the economy. This means more jobs. In states with supermajorities, total employment increased by an average of 26 percent between 1980 and 1992. In states that allow taxes to be raised by a simple majority, on the other hand, the number of jobs increased by an average of only 21 percent.

SUPERMAJORITY STATES INCUR LESS DEBT

One of the criticisms of supermajority requirements is that politicians would not have the power to raise taxes in times of fiscal crisis, thus subjecting state residents to higher levels of debt. Evidence from the states, however, appears to dispel this fear. In the seven states with supermajorities, state debt increased by an average of 271 percent between 1980 and 1992. This is not a good track record, but states without limits on higher taxes saw average debt increases of 312 percent in the same period.

CONCLUSION

Empirical data from the states suggests that tax supermajority requirements serve their intended purpose—helping to limit the growth of government and enabling a more rapid pace of economic growth and job creation. To be sure, a supermajority requirement does not guarantee sound economic policy. The record tax increase in California, for instance, was enacted in spite of a two-thirds majority requirement. And many states without supermajority requirements, such as Tennessee and Nevada, scored well in most categories (not surprisingly, the lack of a state income tax seems to be associated with more growth and less government). Nevertheless, examining the performances of states with and without supermajorities seems to confirm the well established relationships between sound fiscal policy and good economic performance. If federal lawmakers approve similar legislation on the federal level, there is every reason to expect positive results.

The PRESIDING OFFICER. The time of the Senator has expired. Who yields time against the amendment?

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I rise in opposition to the Kyl amendment. I assume we have 5 minutes.

The PRESIDING OFFICER. Five minutes.

Mr. LAUTENBERG. I rise in opposition to an amendment presented by Senator KYL that would call for a constitutional amendment and require a supermajority to vote to increase Federal revenues. This amendment effectively would grant special protection for tax loopholes. In this body, we only require a supermajority vote for things that deserve special protection—Social Security, for example. It would be wrong to give breaks for corporations and the well-off and permit them to have the same protection as the Social Security trust funds, and it would be outrageous to give those loopholes constitutional protection.

The Founding Fathers had it right the first time. A simple majority vote is all that should be required for this body to act. That is a democracy.

I oppose this amendment and urge my colleagues to vote against it. It calls for a sense of the Senate looking for a constitutional amendment to be offered here.

I am not going to take any more time. I hope that the Members will see that we are giving special protection to tax loopholes when certainly the status doesn't warrant it, but worse than that, we are talking about a constitutional amendment. Thank goodness it is a sense-of-the-Senate amendment. It has about as much force as so many of the other sense-of-the Senate amendments that we have already had here. I yield the floor.

Mr. DOMENICI. Has all time been yielded back?

The PRESIDING OFFICER. Does the Senator from New Jersey yield back his time?

Mr. LAUTENBERG. If the rest of the time has been yielded back, then I yield back the time I have.

The PRESIDING OFFICER. All time has been yielded back.

VOTE ON AMENDMENT NO. 2177

The PRESIDING OFFICER. We now proceed under the previous order to Brownback amendment No. 2177. The question is on agreeing to the amendment. 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 North Carolina (Mr. HELMS) is necessarily absent.

I further announce that, if present and voting, the Senator from North

Carolina (Mr. HELMS) would vote ''yea.''

Mr. FORD. I announce that the Senator from Hawaii (Mr. INOUYE) is necessarily absent.

The result was announced—yeas 52, nays 46, as follows:

{Rollcall Vote No. 68 Leg.}

YEAS—52

Abraham	Faircloth	Nickles
Allard	Frist	Reid
Ashcroft	Gramm	Roberts
Bennett	Grams	Roth
Bond	Grassley	Santorum
Brownback	Hagel	Sessions
Bryan	Hatch	Shelby
Burns	Hutchinson	Smith (NH)
Campbell	Hutchison	Smith (OR)
Coats	Inhofe	Stevens
Cochran	Kempthorne	Thomas
Collins	Kyl	Thompson
Coverdell	Lott	Thurmond
Craig	Lugar	Torricelli
D'Amato	Mack	Warner
DeWine	McCain	Wyden
Domenici	McConnell	
Enzi	Murkowski	

NAYS—46

Akaka	Feinstein	Leahy
Baucus	Ford	Levin
Biden	Glenn	Lieberman
Bingaman	Gorton	Mikulski
Boxer	Graham	Moseley-Braun
Breaux	Gregg	Moynihan
Bumpers	Harkin	Murray
Byrd	Hollings	Reed
Chafee	Jeffords	Robb
Cleland	Johnson	Rockefeller
Conrad	Kennedy	Sarbanes
Daschle	Kerrey	Snowe
Dodd	Kerry	Specter
Dorgan	Kohl	Wellstone
Durbin	Landrieu	
Feingold	Lautenberg	

NOT VOTING—2

Helms	Inouye	#

The amendment (No. 2177) was agreed to.

Mr. BROWNBACK. Mr. President, I move to reconsider the vote and I move to lay it on the table.

The motion to lay the amendment on the table was agreed to.

The PRESIDING OFFICER. The amendment before the Senate is Specter amendment numbered 2254. Under the previous order, there is 1 minute per side to debate the amendment.

Who yields time?

Mr. DOMENICI. I ask unanimous consent that we temporarily lay aside the Specter amendment and go to the amendment of Senator LAUTENBERG.

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

AMENDMENT NO. 2244

The PRESIDING OFFICER (Mr. COATS). The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, this amendment represents a modified version of the budget that President Clinton submitted to the Congress last month. The amendment incorporates all of the important priorities in the President's budget, maintains strict fiscal discipline, and adopts the President's commitment to save Social Security first. The amendment reserves all surpluses until we solve Social Security's long-term problem. That will help ensure when the baby boomers retire, Social Security will be there for them.

Secondly, like the President's budget, this makes education a top national priority, calling for an initiative to reduce class sizes by hiring 1,000 new teachers, promotes higher standards and greater accountability, and provides more after-school opportunities for young people.

In short, what this does is remind us all what the commitment is that the President made and what we would like to see in place. I will just say that this presents the President's budget in a modified form. I hope our colleagues will support it.

Mr. DOMENICI. Mr. President, without this counting as part of my 1 minute, if I could remind the Senators of where we are now. We have seven amendments stacked with reference to the previous order. Then we will start the 1-minute amendments, and on our side we have about 10. I am not sure how many are on the Democrat side, but we will work with those 10 and see if we can put those down. They are mostly sense-of-the-Senate amendments. For now, we are in a position to take up about six more. The time is supposed to be 10 minutes on the votes. I know that is difficult. For all additional time we take, we will be here later and later tonight in order to get it finished. This is a 10-minute vote on the Lautenberg amendment.

Now, let me say this is the Democrat amendment offered in committee. In the committee, it did not even receive all of the Democratic Senators' support. If you want to spend more money, like $88 billion more, vote for this. If you want to vote to put the moneys that we get from the tobacco settlement on Medicare instead of six new programs, vote for theirs. If you want to spend new money on at least eight more domestic programs, vote for theirs.

We have provided increases in NIH, education, the environment, and the criminal justice. We think that is a good priority.

Have I raised a point of order on this amendment?

The PRESIDING OFFICER. No.

Mr. DOMENICI. I make the point of order it is not germane.

Mr. LAUTENBERG. I ask to waive the point of order, and I request the yeas and nays on my motion.

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 waive the Budget Act.

The yeas and nays have been ordered.

The clerk will call the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) and the Senator from Oklahoma (Mr. INHOFE) are necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina (Mr. HELMS) would vote ''nay.''

Mr. FORD. I announce that the Senator from Hawaii (Mr. INOUYE) is necessarily absent.

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

The yeas and nays resulted—yeas 42, nays 55, as follows:

[Rollcall Vote No. 69 Leg.]

YEAS—42

Akaka	Durbin	Levin
Baucus	Feinstein	Lieberman
Biden	Ford	Mikulski
Bingaman	Glenn	Moseley-Braun
Boxer	Graham	Moynihan
Breaux	Harkin	Murray
Bryan	Johnson	Reed
Bumpers	Kennedy	Reid
Byrd	Kerrey	Robb
Cleland	Kerry	Rockefeller
Conrad	Kohl	Sarbanes
Daschle	Landrieu	Torricelli
Dodd	Lautenberg	Wellstone
Dorgan	Leahy	Wyden

NAYS—55

Abraham	Feingold	McConnell
Allard	Frist	Murkowski
Ashcroft	Gorton	Nickles
Bennett	Gramm	Roberts
Bond	Grams	Roth
Brownback	Grassley	Santorum
Burns	Gregg	Sessions
Campbell	Hagel	Shelby
Chafee	Hatch	Smith (NH)
Coats	Hollings	Smith (OR)
Cochran	Hutchinson	Snowe
Collins	Hutchison	Specter
Coverdell	Jeffords	Stevens
Craig	Kempthorne	Thomas
D'Amato	Kyl	Thompson
DeWine	Lott	Thurmond
Domenici	Lugar	Warner
Enzi	Mack	
Faircloth	McCain	

NOT VOTING—3

Helms	Inhofe	Inouye

The PRESIDING OFFICER. On this vote the yeas are 42, the nays 55. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained and the amendment falls.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Mr. President, it is quarter to 6. We are still working to try to get the list agreed on of what we are actually going to need to vote on. We still have probably 24 or 25 amendments that we still have to vote on—maybe more. But we are working to get that down. In order to get this completed, we need to really start to get rolling on these votes. We have been having them every 10 minutes. The Senator from Alaska is in the Chair. He knows how to do it. I urge Members to stay in the Chamber. We can move these along a lot faster. From here on they will be gaveled to a close after 10 minutes.

I yield the floor.

AMENDMENT NO. 2254

The PRESIDING OFFICER. The pending question is on agreeing to the Specter amendment No. 2254. There are 2 minutes equally divided.

The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, this amendment would provide for $2 billion extra for NIH to offset by four-tenths

of 1 percent a cut in all programs. This body has expressed a sense of the Senate that we should double NIH over 5 years, which will call for $2.5 billion a year. This is a lesser amount. We have expectations built up by the sense-of-the-Senate expression of our druthers. Now is the time to put our dollars behind it. Although there is paperwork to the contrary, Mr. President, although the budget does not determine how it is going to go, which is through the appropriations process, we will have only $350 million in additional outlays for an $80 billion budget by the subcommittee. We need this $2 billion if we are to move ahead on the important NIH functions.

Mr. DOMENICI. Mr. President, fellow Senators, we have $1.5 billion next year for NIH. We have added $1.5 billion to NIH in this budget; $15.5 billion over 5 years. The amendment would add another $2 billion. That would cut defense $1.1 million, environment $88 million, agriculture $17 million, veterans $76 million, justice $86 million, and so on.

I believe we have done enough with the $1.5 billion increase and $15 billion over five years. We should not now add $2 billion more and propose that we restrain every department of Government, including the Defense Department, for half the cuts.

I yield any time I have remaining.

The PRESIDING OFFICER. The time has expired.

Mr. DOMENICI. I move to table the Specter amendment and 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 question is on agreeing to the motion of the Senator from New Mexico to lay on the table the amendment of the Senator from Pennsylvania. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS), is necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina (Mr. HELMS) would vote ''yea.''

Mr. FORD. I announce that the Senator from Hawaii (Mr. INOUYE), is necessarily absent.

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

The result was announced—yeas 57, nays 41, as follows:

[Rollcall Vote No. 70 Leg.]

YEAS—57

Abraham	Chafee	Feinstein
Allard	Cleland	Gorton
Ashcroft	Coats	Graham
Bennett	Cochran	Gramm
Bingaman	Conrad	Grams
Bond	Coverdell	Gregg
Breaux	Craig	Hagel
Brownback	Dodd	Hatch
Burns	Domenici	Hutchinson
Byrd	Enzi	Hutchison
Campbell	Faircloth	Inhofe
Kempthorne	McConnell	Smith (NH)
Kerrey	Moynihan	Smith (OR)
Kyl	Murkowski	Stevens
Landrieu	Nickles	Thomas
Lott	Roberts	Thompson
Lugar	Roth	Thurmond
Mack	Sessions	Torricelli
McCain	Shelby	Warner

NAYS—41

Akaka	Frist	Mikulski
Baucus	Glenn	Moseley-Braun
Biden	Grassley	Murray
Boxer	Harkin	Reed
Bryan	Hollings	Reid
Bumpers	Jeffords	Robb
Collins	Johnson	Rockefeller
D'Amato	Kennedy	Santorum
Daschle	Kerry	Sarbanes
DeWine	Kohl	Snowe
Dorgan	Lautenberg	Specter
Durbin	Leahy	Wellstone
Feingold	Levin	Wyden
Ford	Lieberman	

NOT VOTING—2

Helms	Inouye

The motion to lay on the table the amendment (No. 2254) was agreed to.

AMENDMENT NO. 2221

The PRESIDING OFFICER. The pending amendment is now the Kyl amendment No. 2221. There are 2 minutes equally divided.

The Senator from Arizona.

Mr. KYL. Mr. President, colleagues, this is a very straightforward sense-of-the-Senate resolution. It would simply express the sense of the Senate that we support a supermajority to raise taxes. Many of the States in this country now have supermajorities. In some of the fastest growing States like Arizona and Florida and Nevada, our State legislatures pass supermajorities to raise taxes with 69, 70, 71 percent of the vote. It has not hurt the economy. In fact, it has helped the economy of those States.

The House of Representatives will be considering a constitutional amendment to do this. The Senate will probably not be considering that. But I do think it is important, before tax day, April 15, for the Senate to at least express its view that it ought to be as hard to raise taxes as it is to cut taxes. That means we should have some kind of a supermajority to raise taxes here in the U.S. Congress.

It is a sense of the Senate. It expresses a very simple proposition that Americans are taxed enough and that to tax them any more should require more than a bare majority of the House and the Senate.

The PRESIDING OFFICER. Who seeks time? One minute in opposition. Who seeks time?

Mr. LAUTENBERG. Mr. President, we oppose the use of the supermajority that the Senator proposes in this amendment, for a tax increase. We think it is inappropriate. We think it ought not be offered at this time. We hope everybody will stand against it, as opposed to putting into concrete the proposition that it should take a supermajority vote to close a wasteful corporate tax loophole, or other special interest tax break.

The PRESIDING OFFICER. The time of the Senator has expired. All time has been yielded back. Are the yeas and nays required?

Mr. KYL. 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 question is on agreeing to the amendment of the Senator from Arizona. 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 North Carolina (Mr. HELMS) is necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina (Mr. HELMS) would vote ''yea''.

Mr. FORD. I announce that the Senator from Hawaii (Mr. INOUYE), is necessarily absent.

The result was announced—yeas 50, nays 48, as follows:

[Rollcall Vote No. 71 Leg.]

YEAS—50

Abraham	Frist	Murkowski
Allard	Gorton	Nickles
Ashcroft	Gramm	Roberts
Bennett	Grams	Roth
Bond	Grassley	Santorum
Brownback	Gregg	Sessions
Burns	Hagel	Shelby
Campbell	Hatch	Smith (NH)
Coats	Hutchinson	Smith (OR)
Cochran	Hutchison	Snowe
Collins	Inhofe	Stevens
Coverdell	Kempthorne	Thomas
Craig	Kyl	Thompson
D'Amato	Lott	Thurmond
Domenici	Mack	Warner
Enzi	McCain	Wyden
Faircloth	McConnell	

NAYS—48

Akaka	Durbin	Leahy
Baucus	Feingold	Levin
Biden	Feinstein	Lieberman
Bingaman	Ford	Lugar
Boxer	Glenn	Mikulski
Breaux	Graham	Moseley-Braun
Bryan	Harkin	Moynihan
Bumpers	Hollings	Murray
Byrd	Jeffords	Reed
Chafee	Johnson	Reid
Cleland	Kennedy	Robb
Conrad	Kerrey	Rockefeller
Daschle	Kerry	Sarbanes
DeWine	Kohl	Specter
Dodd	Landrieu	Torricelli
Dorgan	Lautenberg	Wellstone

NOT VOTING—2

Helms	Inouye

The amendment (No. 2221) was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. D'AMATO. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2282

The PRESIDING OFFICER. The pending amendment is Nickles amendment No. 2282. The time is to be equally divided. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I thank Senator FRIST and Senator COLLINS for speaking on behalf of this amendment. I now recognize Senator JEFFORDS, who

is the principal cosponsor of this amendment, for our time.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I urge my colleagues to vote in favor of this amendment. It originally was a second-degree amendment to the Kennedy amendment. I understand that the Senator from Massachusetts agrees with our amendment. I appreciate that. But I point out that what we are doing now is trying to make sure that our health care system does what we want it to do, trying to make sure that it is fair to patients and trying to make sure that we provide what is necessary for us to improve the system that is now having some problems. I urge my colleagues to vote in favor of this amendment.

An important and necessary role for the Federal Government is to foster a competitive marketplace by ensuring that efficient and similar information about the product is available to consumers. Consumers can make their choices according to their own personal beliefs.

Another role is to ensure fairness, and this amendment provides that. I urge Members to vote for it.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I hope that our colleagues will vote in support of this sense-of-the-Senate amendment. It says that we should not pass legislation that makes health insurance unaffordable for working families; we should not divert limited health resources from serving patients; we should not impose political considerations on clinical decisions. I am all for that. Let's all support that.

But this does not address the issues raised when we talk about protecting basic rights of patients. The amendment I have offered gives the Senate the chance to go on record as saying it is time for Congress to decide that profits should not take priority over patients. My amendment and this amendment are not in conflict.

The broad principles in my amendment are supported by the American Medical Association, the disability groups, the advocates for mental health, consumer groups, the women groups, and the labor movement.

Let us all vote in favor of the Nickles amendment and then vote equally, and return the favor, for my amendment as well.

The PRESIDING OFFICER. All time has expired.

Mr. NICKLES. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the Nickles amendment No. 2282. 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 North Carolina (Mr. HELMS) is necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina (Mr. HELMS) would vote ''yea''.

Mr. FORD. I announce that the Senator from Hawaii (Mr. INOUYE) is necessarily absent.

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 72 Leg.]

YEAS—98

Abraham	Faircloth	Lugar
Akaka	Feingold	Mack
Allard	Feinstein	McCain
Ashcroft	Ford	McConnell
Baucus	Frist	Mikulski
Bennett	Glenn	Moseley-Braun
Biden	Gorton	Moynihan
Bingaman	Graham	Murkowski
Bond	Gramm	Murray
Boxer	Grams	Nickles
Breaux	Grassley	Reed
Brownback	Gregg	Reid
Bryan	Hagel	Robb
Bumpers	Harkin	Roberts
Burns	Hatch	Rockefeller
Byrd	Hollings	Roth
Campbell	Hutchinson	Santorum
Chafee	Hutchison	Sarbanes
Cleland	Inhofe	Sessions
Coats	Jeffords	Shelby
Cochran	Johnson	Smith (NH)
Collins	Kempthorne	Smith (OR)
Conrad	Kennedy	Snowe
Coverdell	Kerrey	Specter
Craig	Kerry	Stevens
D'Amato	Kohl	Thomas
Daschle	Kyl	Thompson
DeWine	Landrieu	Thurmond
Dodd	Lautenberg	Torricelli
Domenici	Leahy	Warner
Dorgan	Levin	Wellstone
Durbin	Lieberman	Wyden
Enzi	Lott	

NOT VOTING—2

Helms	Inouye

The amendment (No. 2282) was agreed to.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

AMENDMENT NO. 2183

Mr. KENNEDY. Mr. President, the next amendment is a sense of the Senate.

The PRESIDING OFFICER. Let the Chair call the amendment up. The amendment is No. 2183. The Senator is recognized for 1 minute.

Mr. KENNEDY. Mr. President, the time has come for action to protect families and curb the insurance company abuses. This amendment gives the Senate a chance to go on record as saying it is time for Congress to decide that profits should not take priority over patients.

I just ask our colleagues to read page 3 of this sense of the Senate. It ensures coverage of emergency services, and allows women direct access for obstetrical and gynecological care. It ensures women will not be subject to drive-through mastectomies. It meets the special needs of children and the special needs of individuals with disabilities. It provides for the protection of the relationship between the doctor and the patient, and the elimination of the gag clauses. And it provides greater information about health care plans to the patients.

Our opponents will argue that these rights will raise premiums. But it will not cost an additional cent for any of the good plans. It may cost more for those plans who do not currently do these things. We all know that the easiest way to save money is to deny care.

Let us stand for the patients and the medical profession. They have basically endorsed these rights, as has the President's commission. This amendment says that we are going to pass legislation which will protect them. That is what this sense of the Senate guarantees.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I urge my colleagues to vote against—Mr. President, may we have order?

The PRESIDING OFFICER. Would the Senators please take their conversations to the cloakroom.

The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I urge my colleagues to vote against Senator KENNEDY's amendment. I tell you, if you voted for the Nickles-Jeffords amendment, you should not vote for Senator KENNEDY's amendment, because the amendment we just adopted, I guess unanimously, said that we do not want to increase costs. The Kennedy amendment says, let us pass the so-called patients' bill of rights. That was introduced 2 days ago. It is 68 pages long. It has lots and lots of mandates, mandates that will increase costs. And as costs go up, the number of uninsured will go up.

This bill has hundreds of regulations in it. So if you want more regulations instead of patient care, that would be what you would be voting for in Senator KENNEDY's amendment. I mention that this is opposed by individuals from the Mayo Clinic to the Cleveland Clinic to some of the best health care providers in the world. They are saying: You are going to make us provide and spend our time litigating and regulating instead of providing quality health care.

I urge my colleagues to vote no on the Kennedy amendment. And if they voted in favor of the last amendment, they certainly should vote no on the next one. You cannot tell me this thing does not have significant costs to the consumers.

The PRESIDING OFFICER. Time has expired. All those in favor of the amendment——

Mr. NICKLES. I move to table the Kennedy amendment, and 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 question is on agreeing to the motion to lay on the table the amendment No. 2183. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina (Mr. HELMS) would vote ''yea.''

Mr. FORD. I announce that the Senator from Hawaii (Mr. INOUYE) is necessarily absent.

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

[Rollcall Vote No. 73 Leg.]

YEAS—51

Abraham	Frist	McCain
Allard	Gorton	McConnell
Ashcroft	Gramm	Murkowski
Bennett	Grams	Nickles
Bond	Grassley	Roberts
Brownback	Gregg	Roth
Burns	Hagel	Santorum
Campbell	Hatch	Sessions
Chafee	Hutchinson	Shelby
Coats	Hutchison	Smith (NH)
Cochran	Inhofe	Smith (OR)
Collins	Jeffords	Snowe
Coverdell	Kempthorne	Stevens
Craig	Kyl	Thomas
DeWine	Lott	Thompson
Domenici	Lugar	Thurmond
Enzi	Mack	Warner

NAYS—47

Akaka	Faircloth	Levin
Baucus	Feingold	Lieberman
Biden	Feinstein	Mikulski
Bingaman	Ford	Moseley-Braun
Boxer	Glenn	Moynihan
Breaux	Graham	Murray
Bryan	Harkin	Reed
Bumpers	Hollings	Reid
Byrd	Johnson	Robb
Cleland	Kennedy	Rockefeller
Conrad	Kerrey	Sarbanes
D'Amato	Kerry	Specter
Daschle	Kohl	Torricelli
Dodd	Landrieu	Wellstone
Dorgan	Lautenberg	Wyden
Durbin	Leahy	

NOT VOTING—2

Helms	Inouye

The motion to lay on the table the amendment (No. 2183) was agreed to.

AMENDMENT NO. 2208

The PRESIDING OFFICER. The next amendment is the Hutchison amendment numbered 2208, with 2 minutes equally divided.

The Senator from Texas is recognized for 1 minute.

Mrs. HUTCHISON. This is a budget that will set our spending priorities. What my amendment says is there are only two responsible ways to spend any future surpluses: to pay down the debt, to save Social Security; or to give tax relief to the hard-working American family. If Congress decides to put all the money into debt relief and Social Security, that is consistent with this amendment.

The only reason you would vote against this amendment is if you want Congress in the future to be able to go on spending binges and give the bill to our children. This allows us to put all the money on pay-down debt or to give tax relief.

It is important that we recognize that we have labored mightily. We should not snatch defeat from the jaws of victory on the balanced budget. This is our chance to take a stand. We are going to spend any future surpluses in only two ways—to pay down debt or to give tax relief to the hard-working American family.

I urge Members to support this.

Mr. LAUTENBERG. Mr. President, I strongly oppose the Hutchison amendment. It would reject President Clinton's call to save Social Security first. Yet, I hear conversations constantly about how everybody is saluting the sanctity of Social Security—preserve it, make sure we shore it up, make sure that we take care of it for future generations. But here we open the gate to use this money that would otherwise be reserved for Social Security for tax cuts. I think that the American people, if asked the question, would say no, we want to pay down the debt, shore up Social Security, and let's not use this for tax cuts, the benefit of which goes principally to those people in the higher income level.

I urge my colleagues to reject this amendment in the interest of saving Social Security first.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the amendment. 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 North Carolina (Mr. HELMS) is necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina (Mr. HELMS) would vote ''yea.''

Mr. FORD. I announce that the Senator from Hawaii (Mr. INOUYE) is necessarily absent.

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

The result was announced—yeas 53, nays 45, as follows:

[Rollcall Vote No. 74 Leg.]

YEAS—53

Abraham	Ford	McCain
Allard	Frist	McConnell
Ashcroft	Gorton	Murkowski
Bennett	Gramm	Nickles
Bond	Grams	Roberts
Breaux	Grassley	Roth
Brownback	Gregg	Santorum
Burns	Hagel	Sessions
Campbell	Hatch	Shelby
Coats	Hutchinson	Smith (NH)
Cochran	Hutchison	Smith (OR)
Collins	Inhofe	Stevens
Coverdell	Kempthorne	Thomas
Craig	Kyl	Thompson
DeWine	Lieberman	Thurmond
Domenici	Lott	Warner
Enzi	Lugar	Wyden
Faircloth	Mack	

NAYS—45

Akaka	Dorgan	Landrieu
Baucus	Durbin	Lautenberg
Biden	Feingold	Leahy
Bingaman	Feinstein	Levin
Boxer	Glenn	Mikulski
Bryan	Graham	Moseley-Braun
Bumpers	Harkin	Moynihan
Byrd	Hollings	Murray
Chafee	Jeffords	Reed
Cleland	Johnson	Reid
Conrad	Kennedy	Robb
D'Amato	Kerrey	
Daschle	Kerry	
Dodd	Kohl	
Rockefeller	Snowe	Torricelli
Sarbanes	Specter	Wellstone

NOT VOTING—2

Helms	Inouye

The amendment (No. 2208) was agreed to.

AMENDMENT NO. 2284

The PRESIDING OFFICER. The pending question is the Rockefeller amendment No. 2284. There has been a motion to table, and the yeas and nays are ordered. In the interest of moving things along, the Chair is going to recognize each side for 1 minute, so we will know what we are voting on.

The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, the budget resolution would take $10.5 billion of ''savings,'' which is in the baseline of the Veterans Administration budget, and remove it, excise it, and put it into more highway funds. There are $217 billion of highway funds over 5 years. What this would effectively also do is bar any veteran's claim for disability from a tobacco-related illness at a time when the test for getting a tobacco-related illness in the VA is incredibly difficult. Only 278 Americans, to this point, have achieved that. The whole issue on tobacco and the military has changed in the last 3 or 4 years. We want to restore the money, keep the money in the VA budget and not have it taken out and given to highways, which could find a different offset.

Mr. DOMENICI. Mr. President, I have moved to table.

I would like to withdraw my motion to table so the vote can be an up-or-down vote. I ask unanimous consent to be able to do that.

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

Mr. DOMENICI. Mr. President, I ask everyone on our side to vote in favor of this amendment. Then I want everybody to know that the subject matter will be the Domenici amendment. I will have a minute then, but I will use the remaining 30 seconds to tell you what I think we ought to do. This is potentially a $40 billion program. Congress never voted on it. The President has denied it twice and taken it out of his budget. We believe the best thing to do is to have one more solid look at it by the GAO, OMB, and the VA. They ought to report to us and the President before we engage in a $10 billion-a-year program which is built around the notion that if you ever smoked in the military and then you got out and smoked for 40 more years, you are to collect benefits from the military because you started smoking in the military. That is the essence of this debate.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 2284.

The yeas and nays have been ordered.

The clerk will call the roll.

The bill clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina (Mr. HELMS) would vote ''yea.''

Mr. FORD. I announce that the Senator from Hawaii (Mr. INOUYE) is necessarily absent.

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

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 75 Leg.]

YEAS—98

Abraham	Faircloth	Lugar
Akaka	Feingold	Mack
Allard	Feinstein	McCain
Ashcroft	Ford	McConnell
Baucus	Frist	Mikulski
Bennett	Glenn	Moseley-Braun
Biden	Gorton	Moynihan
Bingaman	Graham	Murkowski
Bond	Gramm	Murray
Boxer	Grams	Nickles
Breaux	Grassley	Reed
Brownback	Gregg	Reid
Bryan	Hagel	Robb
Bumpers	Harkin	Roberts
Burns	Hatch	Rockefeller
Byrd	Hollings	Roth
Campbell	Hutchinson	Santorum
Chafee	Hutchison	Sarbanes
Cleland	Inhofe	Sessions
Coats	Jeffords	Shelby
Cochran	Johnson	Smith (NH)
Collins	Kempthorne	Smith (OR)
Conrad	Kennedy	Snowe
Coverdell	Kerrey	Specter
Craig	Kerry	Stevens
D'Amato	Kohl	Thomas
Daschle	Kyl	Thompson
DeWine	Landrieu	Thurmond
Dodd	Lautenberg	Torricelli
Domenici	Leahy	Warner
Dorgan	Levin	Wellstone
Durbin	Lieberman	Wyden
Enzi	Lott	

NOT VOTING—2

Helms	Inouye

The amendment (No. 2284) was agreed to.

AMENDMENT NO. 2283 TO AMENDMENT NO. 2226

The PRESIDING OFFICER. The question now is on an amendment in the nature of a substitute numbered 2283.

The Senator from New Mexico is recognized for 1 minute.

This is the amendment to the pending Rockefeller amendment.

Mr. DOMENICI. Mr. President, essentially the Domenici amendment says this program, which has never been voted on by Congress, which has been put into regulation by order of the counsel for the Veterans Administration, which will cost ultimately $40 billion, we are saying let us wait 1 year and have the GAO, the Veterans Administration, and the OMB study it and report to us and to the President. The President has denied this program's efficacy, because of concern about the kinds of benefits and whether they are relevant to service in the military, 2 years in a row. We ought to take a little bit of time before we get involved in a $10-billion-a year program.

I will give you one example. A veteran who smoked 3 years before he went into the service, 4 years in the service, and 40 years thereafter his surviving spouse might very well collect a widow's benefit and other benefits under this particular program.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from West Virginia is recognized.

Mr. ROCKEFELLER. Mr. President, I hope all of my colleagues understand that by voting for the Domenici amendment—which I hope they will not—they will simply completely reverse the vote which they have just made and wipe it all out. That will seem strange, I think, to veterans. This is an up-or-down vote on veterans and their disability benefits. A 1-year study, in the humble opinion of the junior Senator from West Virginia, is a farce, because it is going to be made by exactly the same three groups that came up with the $10.5 billion cut out of the veterans account to put the money into highways. I doubt that they are going to be any different next year, because they will need the money. They will have to go get the money in the next year.

This cuts veterans. A ''no'' vote is what I would ask of my colleagues.

Mr. GRASSLEY. Mr. President, I support the amendment offered by Senator DOMENICI to the amendment offered by Senator ROCKEFELLER on disability compensation for veterans with smoking-related disabilities.

It seems to me reasonable to ask for more deliberate review of this issue. After all, President Clinton has twice proposed not to allow post-service smoking related illnesses to be eligible for VA disability compensation. Once the question has been thoroughly reviewed, we can then reconsider the matter.

This Domenici amendment would ask the General Accounting Office, the Office of Management and Budget, and the VA to review this matter over the next year. This will allow the main analytical resources of the Federal Government to come to bear on this question. And, when the assessment is finished, we will have greater confidence that we are doing the right thing.

With respect to the main Rockefeller amendment, we have to keep several things in mind. This would be an expensive program. According to the Congressional Budget Office, we are talking about around $10 billion over five years. It is also not clear that it is fair to all the other veterans who have service-connected disabilities which are clearly service-connected or low income veterans who have problems clearly related to military service that have led, or would lead, to receipt of disability compensation.

Furthermore, it is certainly possible that major inequities could result were the underlying amendment enacted. By this I mean that veterans who started smoking after military service could conceivably be eligible for disability compensation under terms of this amendment. Keep in mind also, that veterans who suffer from tobacco-related health problems can still qualify for health care services from the VA if they met the regular qualifying criteria.

The PRESIDING OFFICER. Does the Senator yield the remainder of his time?

Mr. ROCKEFELLER. I do.

Mr. DOMENICI. I ask for the yeas and nays on the Domenici amendment.

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 amendment of the Senator from New Mexico. 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 North Carolina (Mr. HELMS), is necessarily absent.

I further announce that, if present and voting the Senator from North Carolina (Mr. HELMS), would vote ''yea''.

Mr. FORD. I announce that the Senator from Hawaii (Mr. INOUYE), is necessarily absent.

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

The result was announced—yeas 52, nays 46, as follows:

[Rollcall Vote No. 76 Leg.]

YEAS—52

Abraham	Frist	McCain
Allard	Gorton	McConnell
Ashcroft	Gramm	Murkowski
Baucus	Grams	Nickles
Bennett	Grassley	Roberts
Bond	Gregg	Roth
Breaux	Hagel	Santorum
Brownback	Hatch	Sessions
Burns	Hutchinson	Shelby
Byrd	Hutchison	Smith (NH)
Chafee	Inhofe	Smith (OR)
Coats	Kempthorne	Stevens
Cochran	Kerrey	Thomas
Craig	Kyl	Thompson
DeWine	Landrieu	Thurmond
Domenici	Lott	Warner
Enzi	Lugar	
Faircloth	Mack	

NAYS—46

Akaka	Feingold	Mikulski
Biden	Feinstein	Moseley-Braun
Bingaman	Ford	Moynihan
Boxer	Glenn	Murray
Bryan	Graham	Reed
Bumpers	Harkin	Reid
Campbell	Hollings	Robb
Cleland	Jeffords	Rockefeller
Collins	Johnson	Sarbanes
Conrad	Kennedy	Snowe
Coverdell	Kerry	Specter
D'Amato	Kohl	Torricelli
Daschle	Lautenberg	Wellstone
Dodd	Leahy	Wyden
Dorgan	Levin	
Durbin	Lieberman	

NOT VOTING—2

Helms	Inouye

The amendment (No. 2283) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2226, AS AMENDED

The PRESIDING OFFICER. Now the question will be on the Rockefeller

amendment as amended by the Domenici substitute. The yeas and nays have been ordered.

Mr. DOMENICI. I ask the yeas and nays be vitiated.

The PRESIDING OFFICER. Is there objection?

The yeas and nays are vitiated.

THE PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2226), as amended, was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, for the benefit of the Senators, and this has been agreed to by the ranking member, we will now start the 1-minute ''vote-arama.'' From the list we will call up an amendment and it will be taken up. When it is finished, we will call up another one. We will alternate back and forth.

We are getting it down to a reasonable number on our side. We are hoping the other side will get rid of three or four more there, but we are going to start this way.

The first amendment on our side is the amendment of Senator GRAMS, No. 2222, and that will be followed by Senator KENNEDY, amendment No. 2184. For each one, they will tell you the title and then the Senator will have 1 minute to explain it.

Amendment No. 2222 by Senator GRAMS is called up.

AMENDMENT NO. 2222

The PRESIDING OFFICER. Amendment No. 2222 is before the Senate. One minute on each side. Senator GRAMS is recognized for 1 minute.

Mr. GRAMS. Mr. President, I rise to introduce an amendment expressing the sense of the Senate that projected budget surpluses should be dedicated to preserving and strengthening Social Security. This is a very simple and straightforward amendment. It asks Congress and the President to commit any budget surplus to reducing the Social Security payroll tax and use the tax reduction to set up personal retirement accounts for America's working men and women.

Mr. President, the latest report from the Treasury Department shows that we may have a budget surplus as large as $60 to $80 billion this year, if revenues continue to grow at the current rate. As I have argued repeatedly, this surplus comes directly from taxes paid by hard-working Americans, and it is only fair to return it to them in the form of tax relief, national debt reduction, or Social Security reform.

We all agree it is vitally important to save and strengthen Social Security. Many of my colleagues believe we should use the entire budget surplus to save the system, but the real question is how to do it.

Finally, this amendment is complementary to Senator ROTH's amendment. I believe the Roth amendment is an excellent one. I support it. The only difference is mine has the payroll tax reduction.

The PRESIDING OFFICER. The time of the Senator has expired. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I rise to oppose the Grams amendment. As he clearly says, the budget surplus should be used to, perhaps, establish personal savings accounts. At the same time I heard the Senator say we all want to save Social Security.

If we want to save it, then we ought to pay down the debt, shore up Social Security, and not turn over to the private sector the opportunity now to engage in individual savings accounts. This is not the place to do it. Perhaps it ought to be considered 1 day, but this would completely upset the principle of saving Social Security first. If we are going to talk about it, then we ought to really mean it and put all surpluses into saving Social Security and reducing the debt. I think that is the proper way to go, and I hope all my colleagues vote against this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment. Are the yeas and nays ordered?

Mr. GRAMS. 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 question is on agreeing to the amendment (No. 2222).

The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina (Mr. HELMS) would vote ''yea.''

Mr. FORD. I announce that the Senator from Hawaii (Mr. INOUYE) is necessarily absent.

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

The result was announced, yeas 50, nays 48, as follows:

[Rollcall Vote No. 77 Leg.]

YEAS—50

Abraham	Frist	McConnell
Allard	Gorton	Murkowski
Ashcroft	Gramm	Nickles
Bennett	Grams	Roberts
Brownback	Grassley	Roth
Burns	Gregg	Santorum
Campbell	Hagel	Sessions
Cleland	Hatch	Shelby
Coats	Hutchinson	Smith (NH)
Cochran	Hutchison	Smith (OR)
Coverdell	Inhofe	Specter
Craig	Kempthorne	Stevens
D'Amato	Kyl	Thomas
DeWine	Lott	Thompson
Domenici	Lugar	Thurmond
Enzi	Mack	Warner
Faircloth	McCain	

NAYS—48

Akaka	Durbin	Leahy
Baucus	Feingold	Levin
Biden	Feinstein	Lieberman
Bingaman	Ford	Mikulski
Bond	Glenn	Moseley-Braun
Boxer	Graham	Moynihan
Breaux	Harkin	Murray
Bryan	Hollings	Reed
Bumpers	Jeffords	Reid
Byrd	Johnson	Robb
Chafee	Kennedy	Rockefeller
Collins	Kerrey	Sarbanes
Conrad	Kerry	Snowe
Daschle	Kohl	Torricelli
Dodd	Landrieu	Wellstone
Dorgan	Lautenberg	Wyden

NOT VOTING—2

Helms	Inouye

The amendment (No. 2222) was agreed to.

Mr. CRAIG. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open for amendment.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

AMENDMENT NO. 2184

Mr. KENNEDY. Mr. President, I believe one of my amendments on the educational opportunity zones is before the Senate. Am I correct?

The PRESIDING OFFICER. Is the Senator talking about amendment No. 2184?

Mr. KENNEDY. Yes.

The PRESIDING OFFICER. The Senator has 1 minute.

Mr. KENNEDY. Mr. President, this is the last item of President Clinton's education proposal. It basically provides help and assistance to communities for these educational opportunity grants for those communities in this country, both in rural and urban areas, that are showing a special kind of designation in reforming and rehabilitating their total educational package.

This is one of the areas that has been recommended by most of the educational groups. It has been tried and tested in the past year and a half with very small, modest programs, with very substantial improvement in academic achievement and accomplishment.

It does provide $1.5 billion over 5 years, and it is paid for with an across-the-board cut in nondefense by less than two-tenths of 1 percent of the budget program. I hope the Senate will adopt the amendment.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, we have kept our word, and we have increased education spending by exactly what the President and the Congress decided to do last year in the Balanced Budget Act.

We provide an additional $8 billion in additional discretionary education funding over the next 5 years. In total, we will provide close to $20 billion in K–12 education funding this year. That is a 98 percent increase over the last 10 years.

We agree with the President on the funding. However, we disagree with the President on how to spend the money, because the President and his party want to make Washington, DC, education central. Republicans want to decentralize education decisionmaking and put power and resources into the hands of the States, the localities, and the families. We should oppose the amendment. I move to table the amendment.

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

The PRESIDING OFFICER. The yeas and nays have been requested. 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 lay on the table amendment No. 2184. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina (Mr. HELMS) would vote ''yea.''

Mr. FORD. I announce that the Senator from Hawaii (Mr. INOUYE) is necessarily absent.

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

The result was announced—yeas 54, nays 44, as follows:

The result was announced—yeas 54, nays 44, as follows:

[Rollcall Vote No. 78 Leg.]

YEAS—54

Abraham	Enzi	Mack
Allard	Faircloth	McCain
Ashcroft	Frist	McConnell
Bennett	Gorton	Murkowski
Bond	Graham	Nickles
Brownback	Gramm	Roberts
Burns	Grams	Roth
Byrd	Grassley	Santorum
Campbell	Gregg	Sessions
Chafee	Hagel	Shelby
Coats	Hatch	Smith (NH)
Cochran	Hutchinson	Smith (OR)
Collins	Hutchison	Snowe
Coverdell	Inhofe	Stevens
Craig	Kempthorne	Thomas
D'Amato	Kyl	Thompson
DeWine	Lott	Thurmond
Domenici	Lugar	Warner

NAYS—44

Akaka	Dorgan	Kerry
Baucus	Durbin	Kohl
Biden	Feingold	Landrieu
Bingaman	Feinstein	Lautenberg
Boxer	Ford	Leahy
Breaux	Glenn	Levin
Bryan	Harkin	Lieberman
Bumpers	Hollings	Mikulski
Cleland	Jeffords	Moseley-Braun
Conrad	Johnson	Moynihan
Daschle	Kennedy	Murray
Dodd	Kerrey	Reed
Reid	Sarbanes	Wellstone
Robb	Specter	Wyden
Rockefeller	Torricelli	

NOT VOTING—2

Helms	Inouye

The motion to lay on the table the amendment (No. 2184) was agreed to.

CHANGE OF VOTE

The PRESIDING OFFICER. The Senator from Virginia.

Mr. ROBB. Mr. President, on amendment 2184, believing it was an up-or-down vote, I voted in the affirmative. It was a tabling motion. Therefore, I inadvertently voted against my intentions. I ask unanimous consent that my vote be switched and that I be recorded as having voted in the negative. It would not affect the outcome of the vote.

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

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

The PRESIDING OFFICER (Mr. GREGG). Who seeks time on the next amendment? What is the will of the Senate?

Mr. DOMENICI. Mr. President, I understand that we are calling them up now. The Coverdell amendment is the next amendment we would like to call up on our side.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia has 1 minute.

AMENDMENT NO. 2262

Mr. COVERDELL. Mr. President, amendment No. 2262, parallels the House-passed resolution passed unanimously this week that Congress set aside money for Black Hawks—$36 million. In last year's foreign operations spending bill the President signed this provision into law. But the money has not been spent. Black Hawks will work better than any alternative in eradicating the poppyseed that grows in Colombia. This poppy is used for heroin, which is becoming increasingly a problem in American cities.

We have a choice. We can either fight heroin at the source, or we can treat the victims in our own neighborhoods. You do not win a war treating the wounded. Let us get serious in this drug war and pass the amendment.

I attempted to come to a resolution with the good Senator from Vermont, but we could not reach agreement. Therefore, we will have to vote on the amendment.

The PRESIDING OFFICER. The Senator's time has expired.

Who seeks time in opposition? Time in opposition is running. Unless someone seeks time—

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I am somewhat surprised by this because I understood I had an agreement with the Senator from Georgia. I understand now he does not want to follow through with that agreement. I have already told our side that we would not request a rollcall. I will stick to my agreement. We will not request one.

But I simply say there was a better way that would not have taken the money away from Bolivia fighting drugs. But we will just take this matter up when we get to conference. I will keep to my commitment to the leaders not to ask for a rollcall.

The PRESIDING OFFICER. The question occurs on agreeing to the amendment No. 2262.

The amendment (No. 2262) was agreed to.

Mr. DOMENICI. Mr. President, I report to the Senate, on the Republican side we have one amendment left, Senator NICKLES; on the Democratic side eight. I hope you can reduce that number some so we can get out of here earlier than any of us expected.

AMENDMENT NO. 2185, WITHDRAWN

Mr. DOMENICI. The next amendment to come up is Kennedy amendment No. 2185 regarding the EEOC.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for 1 minute.

AMENDMENT NO. 2185

Mr. KENNEDY. Mr. President, the equal employment amendment calls for a 15% increase in the budget for the Equal Employment Opportunity Commission for the coming year. Under this amendment the EEOC's budget will increase from $242 million to $279 million next year.

One of the most basic civil rights protected by current law is the right to equal opportunity in employment, your right to be free from job discrimination because of your race, your sex, your age, your ethnic background, your religion, or any disability you may have. This country has made significant progress against job discrimination, but we still have a long way to go to guarantee that you are hired or paid or promoted on the basis of your abilities. Too often, the right that you have on paper is not a right in reality, because your remedy is inadequate or non-existent.

The EEOC has the principal responsibility to combat discrimination in the workplace and that responsibility has grown significantly in recent years. The passage of the Americans with Disabilities Act, the growing awareness of the problem of sexual harassment in the workplace, and the effect of downsizing on older workers have all added greatly to the responsibilities of the EEOC, but there has not been a commensurate increase in the agency's resources. The Commission's workload is growing and its budget must keep up, or vast numbers of Americans will have a meaningless right—a right without a remedy.

In fact, EEOC funding has increased only by 5.2% over the last four years. That is not enough to keep up with inflation—let alone keep up with the agency's increased responsibilities. Without substantial new funding, the

EEOC will fall farther and farther behind in its vital work. I urge my colleagues to support this amendment.

The numbers tell the story. In 1990, 62,000 charges of discrimination were filed by employees in the private sector. That number increased to 81,000 in 1997, an increase of almost 30%. Ninety percent of the Commission's budget is allocated for fixed costs, with the vast majority—75%—going to salary and benefits. When its budget doesn't keep pace with inflation, the Commission must get along with fewer investigators and attorneys. As a result, although the workload has increased, the size of the staff has fallen. The number of employees declined from 2800 employees in 1993 to 2600 employees in 1997. Since 1980, the number of employees has dropped by 23%. Think about that—mushrooming responsibilities, declining resources. That's an invitation to employers to think they can get away with discrimination in the workplace.

The agency has tried to hold the line, but there is a limit to doing more with less. The Commission urgently needs this budget increase, and I want the Senate to approve it.

The PRESIDING OFFICER. Who rises in opposition?

The Senator from New Mexico is recognized for 1 minute.

Mr. DOMENICI. This sense-of-the-Senate amendment requests that the functional total in this budget that we assume in the EEOC should receive $279 million in budget authority. This is the level requested by the President. The amendment would raise a freeze baseline we assume by $37 million.

From my standpoint, ultimately the Appropriations Committee will determine between a freeze and a $37 million reduction, but if the Senator insists on this, then I have to move to table and ask for the yeas and nays.

I think you are just as apt to get the money without the amendment as you are with it, because it will be up to, incidentally, the man sitting in the chair, coupled with a couple of other Senators, which of the two levels will be funded. There is plenty of money for them to go either way.

Having said that, I urge you to withdraw your amendment. We stated the case here, but if you would like to vote.

Mr. KENNEDY. If we could have 2 minutes and maybe save ourselves time.

I ask unanimous consent to inquire of the manager, would we have the assurance of the chairman that he would bite for the higher amount? Is that what I understand the Senator is saying?

Mr. DOMENICI. Let's make sure we understand, I am not chairman at that point. In my capacity as a Senator, I agree that I will do everything I can in that regard.

Mr. KENNEDY. To get the amount.

That makes a good deal of sense to me.

Mr. President, I withdraw the amendment.

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

The amendment (No. 2185) was withdrawn.

AMENDMENT NO. 2188

Mr. DOMENICI. Is Senator WELLSTONE ready?

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 1 minute.

Mr. WELLSTONE. Thank you, colleagues.

The veterans' health care—some background—is funded by two sources: appropriations and a supplemental fund called the MCCR. The President's budget cut veterans' health care appropriations by $29 million, and the estimate is that the MCCR fund will generate $10 million less—a conservative estimate; CBO says much more than that.

This sense-of-the-Senate amendment simply puts that $40 million back. It makes the budget whole, takes it to last year's level. I hope there will be a strong vote for this. This is a vote to restore the funding and to make the veterans' health care system whole, at least as good as it was last year. We ought not to be cutting veterans' health care benefits. I hope I get an overwhelmingly positive vote on this.

Mr. DOMENICI. Mr. President, Senator WELLSTONE, if you will look at the budget, what we recommended is precisely what you are saying in your sense of the Senate. We reinstated $153 million in veterans' programs that the President had cut. Your amendment would be totally redundant.

I think what we could agree to here is that the amendment provides for an assumption that increases the level to the exact level you have recommended in your sense of the Senate. Thus, I don't think we need a sense of the Senate.

Mr. WELLSTONE. I say to my colleague my reading of it is different; otherwise, I would not have done the amendment. If you are right, there is no harm in a strong vote on this.

Mr. DOMENICI. Can we voice vote it?

Mr. WELLSTONE. I would like to have a recorded vote on it, but I assume, based upon the reaction, that there is overwhelming support for this amendment; is that correct?

Mr. DOMENICI. There is overwhelming support for the budget resolution, which does the same thing.

The PRESIDING OFFICER. All time has expired.

Mr. WELLSTONE. Let's have a voice vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2188) was agreed to.

Mr. DOMENICI. We really roll when everybody is sitting in their chair.

AMENDMENT NO. 2206

Mr. DOMENICI. Next is Senator REID on amendment No. 2206.

The PRESIDING OFFICER. The Senator from Nevada is recognized for 1 minute.

Mr. REID. Mr. President, the amendment that has been offered by Senator REID and Senator BRYAN is supported by all environmental groups in the country. It is supported by the Counsel for Environmental Quality and the Secretary of the Interior. The Endangered Species Act is an important act. We have worked very hard to come up with a compromise. We must have a source of funding that is realistic. This is not. This is a quick fix that will fail just as quickly. It is unrealistic to sell public lands basically from the State of Nevada for a national project.

The amendment we have offered says that the landowner, instead of programs included in the Endangered Species Recovery Act, should be financed from a dedicated source of funding, and the public lands should not be sold to fund the Landowner Incentive Program of the Endangered Species Recovery Act.

This amendment should be passed. It is the fair thing to do.

Mr. BRYAN. I rise today in support of the Reid/Bryan amendment which expresses the sense of the Senate that Federal public lands should not be sold to fund the landowner incentive program of the Endangered Species Recovery Act.

As some of my colleagues are aware, the budget resolution before us today assumes the landowner incentive program of the Endangered Species Recovery Act will be enacted. The landowner incentive program includes habitat reserve agreements, safe harbor agreements, habitat conservation plans, and recovery plan implementation agreements within the Act. The report accompanying the budget resolution calls for funding for these programs to be made available ''from the gross receipts realized in the sales of excess BLM land, provided that BLM has sufficient administrative funds to conduct such sales.''

Mr. President, this proposal is a short-sighted attempt to find a solution to a very legitimate issue. I support efforts to find a sustainable funding mechanism to provide incentives to landowners to undertake conservation measures that are necessary for the protection and recovery of threatened and endangered species. The problem with the proposal before us today is that it fails to establish a reliable source of funding. The one-time sales of BLM lands cannot be expected to provide a revenue source for habitat conservation plans and other landowner incentive programs that are designed to last for 50 years or longer. This proposal is a classic example of selling a capital asset to pay for operation and maintenance costs. In my opinion, it represents the utmost in fiscal irresponsibility.

In addition, this proposal would set a dangerous precedent regarding the management of our public lands by threatening the public land base available to future generations of Americans. Currently, the land disposal

method favored the BLM involves land exchanges. This process allows the BLM to dispose of land it no longer needs in exchange for land that is worthy of public ownership. The land exchange process allows the BLM to trade an asset it no longer deems desirable for one that it does. Ironically, the BLM often uses land exchanges as a means of acquiring critical habitat for threatened and endangered species. By disrupting the land exchange process, the land sale proposal in this resolution could actually weaken the federal government's ability to acquire private, environmentally sensitive land that rightfully belongs in public ownership.

Mr. President, I am also concerned with this proposal because it would effectively eviscerate another piece of legislation that I have sponsored concerning the BLM land disposal process in Southern Nevada. It is no secret that the public lands that this budget resolution contemplates being sold are those BLM lands in the Las Vegas valley. I have worked closely with Senator Reid and our House delegation for the last three years to develop the Southern Nevada Public Land Management Act, which provides local governments in southern Nevada with more input into the BLM land exchange and land sale process. Over the last several years, BLM land exchanges have contributed significantly to growth and development in the Las Vegas valley. My legislation would allow local governments and the BLM to work more closely together in managing growth in the valley. The land sale proposal in this budget resolution would destroy the ability of the Las Vegas community to have a voice in the BLM land sale process as envisioned under my legislation.

I strongly urge my colleagues to support the Reid/Bryan amendment and to reject the irresponsible sell off of our public lands as contained in this budget resolution.

Mr. DOMENICI. I yield the minute we have to Senator CHAFEE.

Mr. CHAFEE. I will take 30 seconds, and the Senator from Idaho will take 30 seconds.

More than half of all the endangered species in the United States are in private lands. In the Endangered Species Reauthorization Act, we put in moneys, we provide for assistance to private landowners, most of them small landowners. We do that.

The chairman of the Budget Committee provided that if any BLM lands are sold—if they are sold, those moneys, instead of going into the general treasury, will be used for the Endangered Species Act to help landowners, mostly small landowners.

AMENDMENT NO. 2285 TO AMENDMENT NO. 2206

(Purpose: To recognize potential alternative funding sources for landowner incentives under the Endangered Species Recovery Act)

Mr. KEMPTHORNE. I send to the desk a second-degree amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Idaho [Mr. KEMPTHORNE] proposes an amendment numbered 2285 to amendment No. 2206.

Mr. KEMPTHORNE. I ask unanimous consent that the reading of the amendment be dispensed with.

Mr. FORD. I object.

The PRESIDING OFFICER. The objection is heard. The clerk will report.

The assistant legislative clerk read as follows:

An amendment in the Second Degree to the Reid Amendment.

At the end of subsection (b)(2), strike ''Act.'' and insert the following:

''Act through their proceeds alone, if subsequent legislation provides an alternative or mixed, dedicated source of mandatory funding.''

Mr. KEMPTHORNE. I want to acknowledge the great work that the Senator from Nevada has done on the Endangered Species Act, along with the Senator from Montana and the chairman from Rhode Island.

This is not a question of whether we should sell excess BLM lands; it is taking place; it is a question of where the revenues should be utilized.

The Budget Committee—and I thank the chairman—came up with a revenue source that finally we could compensate landowners who voluntarily stepped forward so we could have an incentive to help species and to help property owners.

Now the effect of the second-degree is to say that rather than foreclose the use of that excess land revenue, we will continue to look at all different sources of revenue so that we can come up with ways that we can make good on our pledge, and that is, property owners should be compensated when they come forward and help us save species.

This is good for species, good for people, and it keeps all options open.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I acknowledge the good work of the Senator from Idaho, the Senator from Rhode Island, and certainly the ranking member of the full committee in coming up with a compromise. However, the amendment that I have, the underlying amendment, does everything they say it should do, except their amendment will still allow Western lands to be sold at a fire sale to provide a quick fix for the Endangered Species Act. We do not need a quick fix; we need a dedicated source of funding.

Mr. D'AMATO. 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 question is on agreeing to amendment No. 2285. The yeas and nays have been ordered.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina (Mr. HELMS) would vote ''yea.''

Mr. FORD. I announce that the Senator from Hawaii (Mr. INOUYE) is necessarily absent.

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

The result was announced—yeas 55, nays 43, as follows:

[Rollcall Vote No. 79 Leg.]

YEAS—55

Abraham	Enzi	McConnell
Allard	Faircloth	Murkowski
Ashcroft	Frist	Nickles
Bennett	Gorton	Roberts
Bingaman	Gramm	Roth
Bond	Grams	Santorum
Brownback	Grassley	Sessions
Burns	Hagel	Shelby
Campbell	Hatch	Smith (NH)
Chafee	Hutchinson	Smith (OR)
Cleland	Hutchison	Snowe
Coats	Inhofe	Specter
Cochran	Jeffords	Stevens
Collins	Kempthorne	Thomas
Coverdell	Kyl	Thompson
Craig	Lott	Thurmond
D'Amato	Lugar	Warner
DeWine	Mack	
Domenici	McCain	

NAYS—43

Akaka	Ford	Lieberman
Baucus	Glenn	Mikulski
Biden	Graham	Moseley-Braun
Boxer	Gregg	Moynihan
Breaux	Harkin	Murray
Bryan	Hollings	Reed
Bumpers	Johnson	Reid
Byrd	Kennedy	Robb
Conrad	Kerrey	Rockefeller
Daschle	Kerry	Sarbanes
Dodd	Kohl	Torricelli
Dorgan	Landrieu	Wellstone
Durbin	Lautenberg	Wyden
Feingold	Leahy	
Feinstein	Levin	

NOT VOTING—2

Helms	Inouye

The amendment (No. 2285) was agreed to.

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

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 2206

The PRESIDING OFFICER. The question is on the underlying amendment No. 2206.

The amendment (No. 2206) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2257

Mr. DOMENICI. Mr. President, the next amendment will be one from our side. It is our last amendment, which Senator NICKLES has. It is No. 2257.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. NICKLES. Mr. President, this is an amendment offered by myself and Senator MURKOWSKI. The net effect of it would be that if we are dealing with the budget process and the so-called wish list amendments, the sense of the Senate and sense of Congress would basically be ruled out of order. My amendment would instruct the Chair to make precatory amendments not germane to the budget resolution. That means you would need 60 votes to pass it. At one point, we had 100 amendments, and over two-thirds of them were precatory amendments; they were wishes. The word precatory means to wish. That doesn't change the budget resolution, and it wastes a lot of time. It means that, yes, we have some kind of sparring back and forth. I don't know how many votes we have had in the last couple of days, two-thirds of them have been sense of the Senate or sense of the Congress. And, really, they will have very little impact on the budget process. I think they have made the Senate look bad in the process.

I urge my colleagues to support the amendment. I am not going to request the yeas and nays unless it is necessary. I think this would help us do our business in a much more orderly and efficient manner.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. LAUTENBERG. Mr. President, I recognize the fact that the distinguished Senator from Oklahoma has sent up a sense-of-the-Senate resolution to prohibit sense-of-the-Senate resolutions. This amendment would prohibit those sense-of-the-Senate resolutions——

Mr. NICKLES. If the Senator will yield, this is a concurrent resolution.

Mr. LAUTENBERG. Then I owe the Senator an apology. I will start all over. I don't call attention to the fact that he has sent a sense-of-the-Senate resolution to the desk.

This amendment, however, Mr. President, would prohibit any Member of the Senate from offering a sense of the Senate or sense of the Congress amendment to a budget resolution. The budget resolution already places serious restrictions on minority participation. This is how we get there. When you are on this side next year, you will know how it feels to be in the minority and you will have an opportunity to amend things that you don't see.

I, frankly, don't see a lot of harm in it. It takes time, yes, but it gives a chance for an exchange of ideas that I think is important.

I make a point of order that the amendment is not germane.

Mr. NICKLES. Mr. President, I move to waive the point of order, and I tell my colleague that you can still pass sense-of-the-Congress resolutions with 60 votes.

The PRESIDING OFFICER. The question is on the motion to waive the point of order.

Mr. NICKLES. Mr. President, I ask for the yeas and nays.

Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk called the roll.

Mr. NICKLES: I announce that the Senator from North Carolina (Mr. HELMS) is necessarily absent.

I further announce that if present and voting the Senator from North Carolina (Mr. HELMS) would vote ''yea.''

Mr. FORD: I announce that the Senator from Hawaii (Mr. INOUYE) is necessarily absent.

The PRESIDING OFFICER. Are there any Senators wishing to vote or to change their vote?

The clerk will report.

Mr. FORD. Mr. President, how am I recorded?

The PRESIDING OFFICER. The Senator from Kentucky is reported as a negative. The clerk will report.

Mr. DASCHLE. Mr. President, how am I recorded?

The PRESIDING OFFICER. The Senator from South Dakota is reported as negative.

Mr. COVERDELL. Regular order.

Mr. DURBIN addressed the Chair.

The PRESIDING OFFICER. The yeas are 60——

Mr. FORD. Mr. President. You can't do that there, come on.

The PRESIDING OFFICER. The yeas are 60 and the nays are 38.

Mr. DURBIN. Mr. President, how am I recorded?

Mr. SARBANES. No, no, no, no, no.

Mr. DURBIN addressed the Chair.

Mr. SARBANES. Not when someone is seeking recognition here.

The PRESIDING OFFICER. The Chair is ruling the reporting of the vote can occur and the yeas are 60——

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

The PRESIDING OFFICER. And the nays are 38.

Mr. DASCHLE. 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. Is there objection?

Mr. SARBANES. I object.

Mr. NICKLES. Mr. President, I will renew my request. I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. NICKLES. Mr. President, I ask unanimous consent that Senator DURBIN be recognized to switch his vote.

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

VOTE CHANGE

Mr. DURBIN. Mr. President, no. I ask unanimous consent that my vote be changed to no.

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

Mr. LOTT. Are we waiting for the vote to be turned in?

The PRESIDING OFFICER. We are waiting for the vote to be reported.

Mr. LOTT. I thank the Chair.

The PRESIDING OFFICER. On this vote, the yeas are 59, the nays are 39, and the motion to waive is not sustained.

The yeas and nays resulted—yeas 59, nays 39, as follows:

[Rollcall Vote No. 80 Leg.]

YEAS—59

Abraham	Enzi	McCain
Allard	Faircloth	McConnell
Ashcroft	Frist	Murkowski
Bennett	Gorton	Nickles
Bond	Gramm	Robb
Breaux	Grams	Roberts
Brownback	Grassley	Roth
Burns	Gregg	Santorum
Byrd	Hagel	Sessions
Campbell	Hatch	Shelby
Chafee	Hutchinson	Smith (NH)
Cleland	Hutchison	Smith (OR)
Coats	Inhofe	Snowe
Cochran	Jeffords	Specter
Collins	Kempthorne	Stevens
Coverdell	Kyl	Thomas
Craig	Lieberman	Thompson
D'Amato	Lott	Thurmond
DeWine	Lugar	Warner
Domenici	Mack	

NAYS—39

Akaka	Feinstein	Leahy
Baucus	Ford	Levin
Biden	Glenn	Mikulski
Bingaman	Graham	Moseley-Braun
Boxer	Harkin	Moynihan
Bryan	Hollings	Murray
Bumpers	Johnson	Reed
Conrad	Kennedy	Reid
Daschle	Kerrey	Rockefeller
Dodd	Kerry	Sarbanes
Dorgan	Kohl	Torricelli
Durbin	Landrieu	Wellstone
Feingold	Lautenberg	Wyden

NOT VOTING—2

Helms	Inouye

Mr. LOTT. Mr. President, I move to reconsider the vote by which the motion was rejected.

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

The motion to lay on the table was agreed to.

Mr. LOTT. Mr. President, I thank Senator NICKLES for the magnanimous gesture he just made. However, I want to emphasize we are trying to move these votes, and the Chair was absolutely right, because it is up to the discretion of the Chair to respond when Members ask how they are recorded, but also when regular order is called for, especially when we are trying to move through all these votes, the Chair is under an obligation to bring this to a conclusion.

I think we had the right resolution here, but I want to make sure everybody understands, we are trying to move these votes through. We are trying to get to a conclusion, and that brings me to my next point.

It is 5 after 9. We still have, it looks like, as many as five amendments that

we may have to vote on. I urge Senators, if they are planning on calling up those amendments, to see if we can't work out something where maybe some of them can be accepted or not offered and that we not go through the process of having second-degree amendments offered at this point.

If we can do that, we can finish this within this hour, by 10 o'clock. I thank Senator REID and others for the work they have been doing in trying to help pare down the list. We are very close now, and I think it important we not lose the decorum we have exercised through a long day. I thank my colleagues for that.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, I also want to acknowledge the efforts made by the distinguished Senator from Oklahoma, Senator NICKLES, in resolving this minor problem. I appreciate very much his efforts to do what he did. I will say, however, that we have been working in good faith on both sides to try to move this along. Regular order is called, but also Senators deserve the right to be recognized when they seek recognition for purposes of clarification of their vote, so there is a need to be sensitive on both sides in a request of the Chair. I know that the Chair was accommodating or attempting to accommodate Senators.

I also join with the majority leader in asking the five remaining authors to work with us to see if we might reduce the number of rollcalls necessary. We are very close now, and I thank my colleagues on this side for cooperating thus far. Let's see if we can get it down to a couple, fewer than what we have right now. We can finish this within the hour, and I hope we can receive just a little more cooperation to make that happen. I yield the floor.

The PRESIDING OFFICER. The point of order is sustained. The amendment falls.

Mrs. MURRAY addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

AMENDMENT NO. 2216

Mrs. MURRAY. Mr. President, I call up amendment No. 2216.

The PRESIDING OFFICER. Amendment No. 2216 is the pending amendment. The Senator from Washington is recognized for 1 minute.

Mrs. MURRAY. Thank you, Mr. President.

Mr. President, my amendment increases Function 500 budget authority and outlays to include the President's education initiatives, and adds the Resolution level for IDEA. The offset is a Function 920 across-the-board reduction of less than one percent, taken from non-defense discretionary funds.

The President's budget request only included a level of $35 million for the Individuals with Disabilities in Education Act (I.D.E.A). To get the Federal Government back on track toward its responsibility to cover 40 percent of the cost of educating special education students at the local level, significant increases are necessary.

The Resolution level in fiscal year 99 for Function 500 is $500 million below a freeze. It does not provide enough funding for the important education initiatives requested by the President and supported by the American public: Continuing investments in education technology, including teacher training reflecting my Teacher Technology Training Act; creation of education empowerment zones; appropriations for Minority Teacher Recruitment; funding for the 21st Century Learning Centers; appropriations for Children's Literacy and Work Study; increases for Title I funding; an increase in the maximum Pell Grant; and increased funding for Safe and Drug-Free Schools.

My amendment makes education a higher priority within the construct of a balanced budget. I must point out that even with my amendment, the President and the Budget Committee have left other critical educational services unfunded. But by passing this amendment, we will take steps to stop the cuts to education, and get on the road toward results for American students.

Mr. President, the American people believe education should be a higher priority than its current 1.8 percent of total Federal outlays. They see the need to improve the quality of every Federal education program, minimize red tape, improve efficiency, and create collaboration. But, they also see our Nation facing increased enrollments, a teacher corps nearing retirement, and other factors which increase the overall need for education funding at this critical point in our history. The American people see that education must become a higher priority in our national budget.

Unfortunately, this budget fails to meet the education needs of America. It does not invest in the future. It cuts from services that are helping students in schools today. This budget resolution places America at a crossroads—and it takes us down the wrong road. A vote for the MURRAY amendment is a vote that honors our commitment to fund 40 percent of the cost of special education funding, but doesn't try to pit students against one another over limited federal dollars. We need to invest in the future, and we need a budget that reflects America's priorities.

Mr. President, when looking at the budget resolution as it came from the Committee, I think we need to ask ''what do the assumptions in the Republican budget resolution leave out?'' The answers are disturbing.

Within Function 500, for sub-function 501 (Elementary and Secondary Education), Chairman DOMENICI's Committee resolution starts with a freeze.

The resolution then adds $2.5 billion for funding for the Individuals with Disabilities in Education Act (IDEA), and $6.3 billion for Title VI School Reform efforts, for a total of $8.8 billion over 5 years.

From this amount, the majority then assumes that $2.2 billion will be saved through consolidation of current educational services, leaving their overall add to a freeze at $6.6 billion.

Mr. President, another important question now arises: Which important priorities of the American people were left out when the majority ignored the President's new initiatives?

The only education programs explicitly left unfunded by the discretionary Republican budget resolution are the President's new initiatives (such as educational empowerment zones; teacher technology training; the new transition to school program; community-based technology centers; and Safe and Drug-Free Schools coordinators). These programs total $2.4 billion.

When added to the $7.3 billion in mandatory spending for class size reduction, the total President's request level for new sub-function 501 funds is $9.7 billion over a freeze.

Because the Republicans assume $2.2 billion in consolidation, we need to ask another question: Which current programs will be cut under their $2.2 billion consolidation proposal?

This list could include any discretionary elementary and secondary education program, such as:

Title I Education for the Disadvantaged (including reading and math assistance for needy students; Even Start; Migrant Education; services for neglected and delinquent students; and others.)

America Reads Children's Literacy

Eisenhower Professional Development

Safe and Drug Free Schools and Communities

Magnet Schools

Education for Homeless Children and Youth

Inexpensive Book Distribution

Bilingual Education

Goals 2000

Arts in Education

Women's Educational Equity

School-to-Work

Vocational Education

The American people will remember that last year, during debates on consolidation and block granting, proponents of block-granting federal education funds proclaimed that by eliminating bureaucracy under block-granting, school districts would actually have more money to spend, not less. Hold-harmless provisions were discussed, which would purportedly assure that school districts would not see funding cuts.

But we had all heard this kind of talk before, from those who start by ''consolidating,'' and then take the next step to ''downsizing.'' Too often a block-grant equals a cut, and our school communities know it.

We were told that the fundamental philosophical question was whether or not we believed that individual school districts and parents and teachers know best how to handle education in their own communities, or whether we

believed those fundamental decisions are best left to bureaucrats in Washington, D.C.

I think the fundamental question is rather when certain people in positions of authority in Washington D.C. are going to listen to their state and local governments and the people. This is a time of incredible renewal in education. Republicans, Democrats and Independents in my state of Washington and other states are on a serious, measurable road to school improvement.

From school report cards, to higher standards, to increased family and community involvement—improvement is happening, accountability is present, and students and their parents are seeing results. At a minimum, there is a fundamental discussion about educational improvement going on in every community in my state. When federal consolidation is tied to questions of ''who knows best,'' I think those who do know best, the parents, teachers, students, and community leaders like those in my state have reason to feel betrayed.

Because money does matter. Yes, we need to consolidate services where it has an educational goal. Yes, the federal government works best when it creates red tape least—but Americans interested in improving education already have venues to make these changes. And these discussions—such as the one that will occur during the 1999 rewrite of federal elementary and secondary education programs—respect the knowledge and experience of those who actually learn with or work with federal education services.

But when the Congress ignores needed investments to improve school facilities and improve the quality of school personnel—then uses block-grants as cover for education cuts—local communities have reason to feel betrayed.

So, my hope is that those who want to improve the federal government's efforts to help students learn, and who see consolidation as a vehicle toward this end, will work with local school communities. My hope is that they will work with those of us who have experience in education. My hope is that we can work together to find results for students.

Because when the Congressional majority begins to pay attention to the appropriate federal role in school improvement, that is a positive step. Now that the discussion is joined, however, it must be productive, bipartisan, and aimed at efforts that will work.

When we look at this budget resolution, we also need to ask ''what do the assumptions in the President's budget request leave out?''

The President's budget request assumes less than sufficient funding (less than current-services funding, or complete terminations) for, among others:

Impact Aid (Construction and payments for Federal Property)

State Student Incentive Grant

Innovative Education Program Strategies

Ellender Fellowships

Literacy Programs for Prisoners

Urban Community Service

National Early Intervention Scholarships and Partnerships

State Grants for Incarcerated Youth Offenders

In addition, the President's budget includes only $35 million for funding for the Individuals with Disabilities in Education Act over a freeze annually. My amendment would meet the $500 million increase per year in Sen. DOMENICI's Committee reported resolution ($465 million over the President's level). For too long, the Congress has not met its obligation to pay 40 percent of the costs of educating each special education student.

Education, especially public education, is near and dear to the American people. Although the challenges are great, there are productive discussions happening in public schools across the country. Local people are making decisions that are producing results for students. We know we need to expect more from our schools than folks did in the past. We know we have an economy and a society full of new demands. Regardless of political persuasion, ethnicity, income, age, or any other dividing line one might find—all Americans want students to succeed. And there is broad recognition that we should do more, not less. More to improve the quality of our schools. And more to make education a higher priority in the federal budget. I urge adoption of the Murray amendment.

Mr. President, I ask unanimous consent that several letters regarding education funding be printed in the RECORD.

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

AMERICAN FEDERATION OF TEACHERS
April 1, 1998.

DEAR SENATOR: On behalf of over 950,000 members of the American Federation of Teachers (AFT), I urge you to oppose the FY 1999 Concurrent Resolution on the Budget, S. Con. Res. 86, unless changes are incorporated to rectify the following shortfalls.

Although the budget resolution assumes a $2.5 billion increase for IDEA over five years, a $500 million increase in FY 1999, total discretionary spending in Function 500 reflects only a $600 million increase over FY 1998. This level is $1.6 billion below the President's budget and $1 billion below the amount needed to maintain current program levels in education, job training, and social services.

This budget resolution should include funding for the President's initiatives in class size reduction and for school construction. The President requested $1.1 billion to recruit and train 100,000 new teachers over the next seven years in order to reduce class size to an average of 18 in grades 1–3, when children need the most help in learning to read proficiently and mastering the basics. The AFT also supports he President's proposal for more than $20 billion in interest-free bonds for school construction. An estimated one-third of all schools need extensive repairs and new academic facilities are needed to serve the booming enrollments in elementary and secondary schools. Instead, the budget resolution assumes a $6.3 billion increase, $522 million in FY 1999, for Title VI Innovative Program Strategies, an education block grant program, while assuming an estimated $2.2 billion in savings from unspecified consolidation of elementary and secondary education programs.

In addition, the AFT opposes savings assumed in discretionary spending resulting from repealing Davis-Bacon and the Service Contract Act beginning in the year 2000. The AFT also opposes the citing of S. 1133, The ''Parent and Student Savings Account Plus,'' as an illustration of tax relief, which would expand the use of Education IRAs to include private and religious school tuition for elementary and secondary students.

For these reasons, I urge you to oppose S. Con. Res. 86 unless amendments are adopted to address these concerns.

Sincerely,

GERALD D. MORRIS,
Director of Legislation.

NAPSEC
March 25, 1998.

Hon. PATTY MURRAY,
U.S. Senate,
Washington, DC.

DEAR SENATOR MURRAY: On behalf of the National Association of Private Schools for Exceptional Children (NAPSEC), an association that represents over 900 private special education schools for children with disabilities across the nation both nationally and through its Council of Affiliated State Associations, I urge you to oppose the FY 99 Budget Resolution when it is considered by the Senate.

Although the resolution adds a billion dollars for special education programs and Title VI innovative education strategies programs, the resolution provides only $600 million more for all education and related programs. The resolution would fund education programs at $1.1 billion below current service levels. Programs like Head Start, Title I, Pell Grants, and other education programs would have to be cut or frozen to make up the difference.

This action appears totally inappropriate considering the new challenges facing America's education system—rising enrollments at all levels, more students with special needs, growing teacher shortages, unsafe, overcrowding, and decaying schools, just to name a few.

Recent polls ranked increasing federal funding for education ahead of health care, reducing national debt, tax cuts, crime, and defense. I urge you to represent this priority by supporting a bipartisan budget resolution that makes increased investments in education. I also ask you to support the amendments that are offered that would increase funding for education.

Thank you for considering our request.

Sincerely,

SHERRY L. KOLBE,
Executive Director & CEO.

NSBA,
March 25, 1998.

Hon. PATTY MURRAY,
U.S. Senate, Washington, DC.

DEAR SENATOR MURRAY: The National School Boards Association, representing 95,000 school board members through its federation of 53 states and territories, urges you to make education your first priority and to oppose the FY 1999 Budget Resolution reported from the Senate Budget Committee last week because of its inadequate levels of funding for education.

The Senate Budget Committee's resolution is more than $1 billion below current services for discretionary spending in Function 500,

which includes education and related programs and is $1.6 billion below the President's request. While recommending a billion dollars more for special education and the Title VI innovative education strategies programs, the FY 1999 Budget Resolution provides only $600 million more for all education and training programs. Programs like Title I, Impact Aid, and charter schools would have to be cut or frozen to make up the difference.

In contrast, the FY 1999 Budget Resolution allocates increases for health and transportation over the next five years that are $20 billion and $30 billion higher, respectively, than the levels approved in last year's budget agreement. This increase will put further pressure on funding levels for education and other domestic programs.

Finally, the FY 1999 Budget Resolution also rejects creating new revenue streams for education such as tax incentives to encourage school construction and mandatory spending for new initiatives proposed by President Clinton.

When looked at as a totality, the FY 1999 Budget Resolution will result in cuts below the current level of services for education at a time when America's educational system is facing new challenges at the start of the 21st century.

Education is America's best investment. Education will continue to fuel a growing economy that is able to compete in world markets; provide the job-ready labor force that will contribute to the stability of the Social Security system; give all Americans the opportunity to achieve a higher standard of living for themselves and their families; and allow the United States to maintain its strong leadership role in the world. Last year, Congress and the Administration worked together to provides a substantial increase in the investment in higher education. This year, several important investments for elementary and secondary education have been targeted, and it is vitally important for our nation's schoolchildren that we make a commitment to fund them. Our nation's schools face unprecedented challenges: exploding enrollments; dramatic increases in students with special needs; overcrowded, inadequate, and unsafe school buildings; high demands for costly, new technology; and the commitment to reach high standards for all students. To meet the current challenges for elementary and secondary education, the federal government needs to expand its financial commitment to education funding, state and local funding cannot meet the expanded demands and expectations for our schools.

We hope to work with you to ensure a significant federal funding of the American public's top priority—education. We hope the year will not begin with a debate about cutting the federal investment in elementary and secondary education.

If you have any further questions about this issue, please call Laurie A. Westley, assistant executive director, at 703–838–6703.

Sincerely,

WILLIAM B. INGRAM,
President.
ANNE L. BRYANT,
Executive Director.

COMMITTEE FOR EDUCATION FUNDING
March 23, 1998.

Re: Oppose FY99 Budget Resolution That Falls Short of America's Education Investment Needs

DEAR SENATOR, The Committee for Education Funding, a nonpartisan coalition of over 90 education organizations reflecting the broad spectrum of the education community, urges you to oppose the FY99 Budget Resolution reported out by the Senate Budget Committee on March 18, 1998 because of its inadequate funding levels for education.

The Senate Budget Committee's Resolution is over $1 billion below current services levels for discretionary spending in Function 500, which includes education and related programs, and is $1.6 billion below the President's request. While recommending a billion dollars more for special education and the Title VI innovative education strategies programs, the resolution provides only $600 million more for all education and related programs. Programs like Head Start, Title I, Pell grants, or other education and related programs would have to be cut or frozen to make up the difference.

In contrast, the resolution allocates increases for health and transportation over the next five years that are $20 billion and $30 billion higher, respectively, than the levels approved in last year's budget agreement. These increases, while much needed, will put further pressure on funding levels for other domestic programs like education.

The budget resolution also rejects creating critical new revenue streams for education such as mandatory spending to reduce class size and tax incentives to encourage school construction as proposed in the President's budget.

Taken all together, this budget resolution is likely to result in cuts below current service levels for education at a time when America's educational system is facing new challenges at the start of the 21st century. These include rising enrollments at all levels; more students with special needs; growing teacher shortages and professional development needs; unsafe, overcrowded and outdated school facilities; access to rapidly advancing educational technology; and continuing access to postsecondary education for low income students.

Recent polls ranked increased federal funding for education ahead of health care, reducing national debt, tax cuts, crime and defense (Greenberg-Guinlan and the Tarrance Group, January 1998). We urge you to support a bipartisan budget resolution that makes increased investment in education the top budget priority to meet the growing needs of America's students and secure America's future. We also urge you to support amendments to the budget resolution that would increase funding for education.

Sincerely,

KENNETH G. MCINERNEY,
President.
EDWARD R. KEALY,
Executive Director.

NATIONAL PTA,
March 16, 1998.

Hon. PATTY MURRAY,
Committee on the Budget,
U.S. Senate, Washington, DC.

DEAR SENATOR MURRAY: The National PTA urges you to include education as a top funding priority in the FY 1999 budget resolution you are about to consider. There are thousands of excellent public schools in this country, but too many others lack the resources they need to provide a quality education for all children. These schools face formidable challenges, which include record-high student enrollments, an increase in the number of children with disabilities, a growing need for new and qualified teachers, extensive and expensive technology needs, and school facilities in desperate need of expansion and renovation. An increased federal financial investment is needed to address these national concerns.

For the past two years, Congress has increased federal funding for education, and National PTA supports this leadership. National PTA now urges lawmakers to continue this positive trend to assure that the benefits of this investment are long-lasting. Even with the recent spending growth, none of the major elementary and secondary education programs designed to expand educational opportunity or improve achievement is funded near the level needed to serve all who are eligible.

As you develop the FY 1999 Senate Budget Resolution, National PTA asks that you include an increase for discretionary education and children's programs sufficient to allow funding for new initiatives and increases in vital existing programs like Title I, IDEA, and Impact Aid. We also urge you to include in the budget an accommodation for new sources of funding for education, such as an infrastructure tax credit or mandatory education programs to reform schools and increase student learning.

Now is an excellent time to strengthen the federal investment in successful and cost-effective education programs. The nation's economic health is robust. The president's budget request is balanced and projects growing surpluses for at least the next ten years. Many vital interests will compete for discretionary funds this year, but investing in education is one of the best ways to assure that the national economy continues to prosper, and the stability of the Social Security system is strengthened.

We look forward to working with Congress to secure much-needed resources to improve the quality of public schools and to invest now for America's future.

Sincerely,

SHIRLEY IGO,
Vice President for Legislation.

Mr. President, I request the yeas and the nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I didn't want to interrupt, but some of us are having a little difficulty hearing even when there is quiet. Maybe Senators could make sure they are talking into the mike.

I didn't hear much of what Senator MURRAY said. But, Mr. President, let me say what I understand this amendment does. It asks for a $2.5 billion increase in education for special ed. It doesn't say where the money comes from, but it comes from somewhere in the budget.

The Republican budget before us asks $2.5 billion more for special ed than the President of the United States asked for. As a matter of fact, the President, after committing to dramatically increase special ed, increased it $38 million while we increase it $2.5 billion. We said where we took the money so that it is doable. This one does not even indicate what programs in the Government would be cut to pay for this. I don't believe this is the way we ought to do business here, and if the time has been yielded back, I yield mine. I move to table the Murray amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment.

Mrs. MURRAY. 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 question is on agreeing to the motion to lay on the table amendment No. 2216. 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 North Carolina (Mr. HELMS), is necessarily absent. I further announce that, if present and voting, the Senator from North Carolina (Mr. HELMS), would vote ''yea.''

Mr. FORD: I announce that the Senator from Hawaii (Mr. INOUYE), is necessarily absent.

The result was announced—yeas 55, nays 43, as follows:

[Rollcall Vote No. 81 Leg.]

YEAS—55

Abraham	Faircloth	McConnell
Allard	Frist	Murkowski
Ashcroft	Gorton	Nickles
Bennett	Gramm	Roberts
Bond	Grams	Roth
Brownback	Grassley	Santorum
Burns	Gregg	Sessions
Byrd	Hagel	Shelby
Campbell	Hatch	Smith (NH)
Chafee	Hutchinson	Smith (OR)
Coats	Hutchison	Snowe
Cochran	Inhofe	Specter
Collins	Jeffords	Stevens
Coverdell	Kempthorne	Thomas
Craig	Kyl	Thompson
D'Amato	Lott	Thurmond
DeWine	Lugar	Warner
Domenici	Mack	
Enzi	McCain	

NAYS—43

Akaka	Feinstein	Lieberman
Baucus	Ford	Mikulski
Biden	Glenn	Moseley-Braun
Bingaman	Graham	Moynihan
Boxer	Harkin	Murray
Breaux	Hollings	Reed
Bryan	Johnson	Reid
Bumpers	Kennedy	Robb
Cleland	Kerrey	Rockefeller
Conrad	Kerry	Sarbanes
Daschle	Kohl	Torricelli
Dodd	Landrieu	Wellstone
Dorgan	Lautenberg	Wyden
Durbin	Leahy	
Feingold	Levin	

NOT VOTING—2

Helms	Inouye

The motion to lay on the table the amendment (No. 2216) was agreed to.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER (Mr. BENNETT). The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I believe the next amendment is amendment No. 2220 by Senator BIDEN.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

AMENDMENT NO. 2220

Mr. BIDEN. Mr. President, recognizing reality and the hour, I am going to tell you what my amendment was going to be, and then I will withdraw it. This amendment was to see to it that the moneys from the tobacco settlement, if any, could have been used for VA health care, as well as Medicare. But looking at that lineup, I understand the outcome, and so I withdraw the amendment.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

The amendment (No. 2220) was withdrawn.

Mr. DOMENICI. The next amendment is the Feingold amendment.

AMENDMENT NO. 2224

Mr. FEINGOLD. Mr. President, I offer this amendment to establish a narrowly focused, deficit-neutral reserve fund to help people with disabilities become employed and remain independent. While it does not specify a specific proposal, I want it to be clear that we have crafted this reserve fund with a very specific measure in mind, and that is the bipartisan Work Incentives Improvement Act of 1998, S. 1858, which was developed under the leadership of the Senator from Vermont, Mr. JEFFORDS.

We truly offer people with disabilities a chance to leave the disability rolls and become self-sufficient taxpayers. If just 1 percent of the 7.5 million Americans with disabilities become successfully employed, it is estimated it will save, in cash assistance alone, over $3.5 billion. So I urge the body to support this narrowly targeted, capped, deficit-neutral reserve fund.

Mr. KENNEDY. Mr. President, I rise today to support Senator FEINGOLD in his amendment to create a disability reserve fund to allow people with disabilities to become employed and remain independent. The amendment would ensure that the budget resolution incorporates the flexibility to allow offsets for the bipartisan Work Incentive Improvement Act of 1998. This bill allows people with disabilities to become employed and remain independent, by providing more affordable and accessible health care.

Despite the extraordinary growth and prosperity the country is enjoying today, persons with disabilities continue to struggle to live independently and become fully contributing members of their communities. Of the 54 million disabled people in this country, many have the capacity to work and want to become productive citizens, but they are unable to do so because they are afraid of losing their health care.

Today, 7.5 million disabled Americans depend on public assistance. The cost to the taxpayer is $73 billion annually and will continue to increase at 6% a year. If we can support just one percent of the these 7.5 million individuals to become successfully employed, savings in cash assistance would total $3.5 billion over the work lives of these individuals.

Senator FEINGOLD's amendment creates a narrowly targeted reserve fund, which allows savings or revenues from various sources to be used to offset the costs associated with this proposal. The reserve fund is limited in the total spending it permits for this specific purpose, and is permissive—it allows the Senate leadership to use savings from unrelated areas to be dedicated to support disabled people to become employed. Work is a central part of the American dream, and it is time for this Congress to support our disabled citizens in achieving that dream.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, first of all, the amendment violates the Budget Act. This sets up a new reserve fund to create a new entitlement for disabled people. It permits the raising of taxes in order to pay for it, and in every respect it violates the Budget Act. I do not think I have to say much more.

We have denied any new reserve fund where specific revenues or resources have not been allocated. That is the case here. We think we have adequately taken care of the disabled under our budget. In many cases, we have done more than what the President has done. So with that, I make a point of order that the amendment is not in order under the Budget Act.

Mr. FEINGOLD. Mr. President, I move to waive the Budget Act as to the pending amendment, and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? 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 waive the Budget Act as to the amendment No. 2224. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. NICKLES: I announce that the Senator from North Carolina (Mr. HELMS), is necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina (Mr. HELMS), would vote ''no.''

Mr. FORD: I announce that the Senator from Hawaii (Mr. INOUYE), is necessarily absent.

The yeas and nays resulted—yeas 47, nays 51, as follows:

(Rollcall Vote No. 82 Leg.)

YEAS—47

Akaka	Feinstein	Lieberman
Baucus	Ford	Mikulski
Biden	Glenn	Moseley-Braun
Bingaman	Graham	Moynihan
Boxer	Harkin	Murray
Breaux	Hollings	Reed
Bryan	Jeffords	Reid
Bumpers	Johnson	Robb
Chafee	Kennedy	Rockefeller
Cleland	Kerrey	Sarbanes
Conrad	Kerry	Snowe
Daschle	Kohl	Specter
Dodd	Landrieu	Torricelli
Dorgan	Lautenberg	Wellstone
Durbin	Leahy	Wyden
Feingold	Levin	

NAYS—51

Abraham	Cochran	Gorton
Allard	Collins	Gramm
Ashcroft	Coverdell	Grams
Bennett	Craig	Grassley
Bond	D'Amato	Gregg
Brownback	DeWine	Hagel
Burns	Domenici	Hatch
Byrd	Enzi	Hutchinson
Campbell	Faircloth	Hutchison
Coats	Frist	Inhofe

Kempthorne	Murkowski	Smith (NH)
Kyl	Nickles	Smith (OR)
Lott	Roberts	Stevens
Lugar	Roth	Thomas
Mack	Santorum	Thompson
McCain	Sessions	Thurmond
McConnell	Shelby	Warner

NOT VOTING—2

Helms Inouye

The PRESIDING OFFICER. On this vote the yeas are 47, and the nays are 51. Three-fifths of the Senators present and voting not having voted in the affirmative, the motion to waive the Budget Act is not agreed to. The point of order is sustained. The amendment falls.

AMENDMENT NO. 2234

Mr. DOMENICI. Mr. President, we have just two amendments that require votes, but we have finally agreed on the Boxer amendment and there will not be a second-degree amendment. I ask that amendment No. 2234 be called up. This will be voice voted. It is already understood if the Republicans say ''no'' loud enough, you will win.

Mrs. BOXER. Mr. President, I thank my chairman for his many courtesies throughout the evening. I would have appreciated one more courtesy, which would have been accepting the amendment. I want to say to my colleagues that I urge a strong voice vote on this side. There isn't one penny of tobacco money in the budget resolution going for NIH research, and nothing for cancer research. So I hope you will give me a strong aye voice vote, even though I think the result is predetermined because I think with all the people getting cancer caused from cigarettes, it makes sense to use the reserve fund from the tobacco settlement for NIH funding.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2234) was rejected.

AMENDMENT NO. 2230

Mr. DOMENICI. Mr. President, the next amendment is Senator JOHN KERRY's amendment No. 2230.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, my amendment is subject to a budget point of order. Since that is the same 60 votes that it will require to accomplish this later, I am not going to ask my colleagues to make that vote tonight. What I would ask is that my colleagues, during the break, think about the appropriateness or inappropriateness of where we are currently allocating tobacco funds.

The entire purpose of the tobacco legislation is directed at stopping kids from smoking. Yet, that is going to require funding for various things, such as research and compliance. We need to assist the tobacco farmers. There are clearly a set of priorities for where tobacco money should go. I hope when we come back and take up the Commerce Committee bill, we will find it in ourselves to adopt those appropriate priorities.

I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. DOMENICI. Mr. President, we thank the Senator for doing that.

Senator ROBB is the last amendment that I think we have to have a vote on.

Mr. LAUTENBERG. Mr. President, will the Senator mind me asking to put a couple things in the RECORD.

Mr. DOMENICI. Of course.

Mr. ROBB addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

AMENDMENT NO. 2232

Mr. ROBB. Mr. President, I call up my amendment No. 2232.

The PRESIDING OFFICER. Amendment No. 2232 is now the pending business.

The Senator from Virginia is recognized.

Mr. ROBB. Mr. President, I regret very much that I am not in a position to do as my two previous colleagues have done because we have a bit of a dilemma for tobacco farmers. Everyone who has proposed legislation to include the legislation reported out of the Commerce Committee yesterday by a vote of 19–1 makes provisions for tobacco farmers in terms of transition.

The tobacco reserve fund, however, has been wisely fenced off by the chairman of the Budget Committee so that it might not be raided by those of us who might have other spending plans. But the only source of payment for any of the plans that have been proposed or considered is going to be the money that comes into that particular fund.

This amendment would simply make available that particular funding, along with Medicare, to fund any of the tobacco provisions that might otherwise bring down tobacco legislation for the tobacco farmers.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Everybody should recall that the Republican budget says unless and until the Congress of the United States produces legislation with 60 votes that does otherwise, we allocate whatever Federal moneys we receive from any cigarette settlement to the Medicare fund, which is the fund most entitled to it because it's the fund that is most abused by smoking—$25 billion a year.

So what we have now is an attempt to say, no, let's change it just a little bit, let's add another use to that fund. I don't believe we should do that.

I make a point of order that this amendment violates the Budget Act because it is not germane.

Mr. ROBB. Mr. President, I move to waive the point of order, and 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 question is on the motion to waive the Budget Act.

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

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is necessarily absent.

I further announce that if present and voting, the Senator from North Carolina (Mr. HELMS) would vote ''yea.''

Mr. FORD. I announce that the Senator from Hawaii (Mr. INOUYE) is necessarily absent.

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

The result was announced—yeas 31, nays 67, as follows:

[Rollcall Vote No. 83 Leg.]

YEAS—31

Akaka	Harkin	Moynihan
Baucus	Hollings	Reed
Breaux	Johnson	Robb
Byrd	Kennedy	Rockefeller
Cleland	Kerrey	Sarbanes
Conrad	Kerry	Thompson
Coverdell	Landrieu	Thurmond
Daschle	Lautenberg	Warner
Faircloth	Lugar	Wellstone
Ford	McConnell	
Graham	Mikulski	

NAYS—67

Abraham	Durbin	Lott
Allard	Enzi	Mack
Ashcroft	Feingold	McCain
Bennett	Feinstein	Moseley-Braun
Biden	Frist	Murkowski
Bingaman	Glenn	Murray
Bond	Gorton	Nickles
Boxer	Gramm	Reid
Brownback	Grams	Roberts
Bryan	Grassley	Roth
Bumpers	Gregg	Santorum
Burns	Hagel	Sessions
Campbell	Hatch	Shelby
Chafee	Hutchinson	Smith (NH)
Coats	Hutchison	Smith (OR)
Cochran	Inhofe	Snowe
Collins	Jeffords	Specter
Craig	Kempthorne	Stevens
D'Amato	Kohl	Thomas
DeWine	Kyl	Torricelli
Dodd	Leahy	Wyden
Domenici	Levin	
Dorgan	Lieberman	

NOT VOTING—2

Helms Inouye

The amendment (No. 2232) was rejected.

The PRESIDING OFFICER. On this vote the yeas are 31, the nays are 67. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained and the amendment falls.

The Senator from New Mexico.

Mr. DOMENICI. Mr. President, let me just say there are no more amendments that we have to have rollcall votes on before final passage. I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DOMENICI. Mr. President, I ask we agree to vote—to have a voice vote en bloc on the amendments that are on the list that I sent to the desk. I send that to the desk now. It is the list that we submitted which starts with No. 2271 and ends with No. 2252. I ask unanimous consent that those amendments

be voted en bloc, and that they be voice voted. There is an expectation that the ayes will prevail here. I call that to the attention of the Chair.

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

Mr. DOMENICI. I thank the Chair.

VOTE ON AMENDMENTS NOS. 2271, 2238, 2180, 2243, 2265, 2272 AND 2252, EN BLOC

The PRESIDING OFFICER. The question occurs on agreeing to amendments 2271, 2238, 2180, 2243, 2265, 2272, and 2252.

The amendments (Nos. 2271, 2238, 2180, 2243, 2265, 2272, and 2252) were agreed to.

The text of the amendments is printed in a previous edition of the RECORD.

AMENDMENT NO. 2238

TAX COMPLEXITY

Ms. MOSELEY-BRAUN. Mr. President, I am so pleased that the Senate has agreed to accept my amendment on tax complexity. Mr. President, two weeks from now is April 15, a day known as Tax Day. On that day, approximately 120 million Americans will file some type of tax return to the Internal Revenue Service. Of these taxpayers, more than 40 percent will file the short tax forms known as the 1040EZ, or the 1040 long form.

These two forms—only one page long—are designed to be simple and easy to complete, but Americans will pay millions of dollars to tax preparers to fill out these forms in their stead in order to avoid making a mistake and facing the wrath of the Internal Revenue Service.

The perception is that the tax code is too complicated, and frankly, these Americans have good reasons to be concerned. The Balanced Budget Act of 1997, passed by Congress last year and hailed as providing significant tax relief to every American, added over 1 million words and 315 pages to the Internal Revenue Code. The capital gains computation form alone grew from 19 lines to 54. Consequently the average taxpayer will spend 9 hours and 54 minutes preparing Form 1040 for the 1997 tax year. The total burden on all taxpayers of maintaining records, and preparing and filing tax returns is estimated to be in excess of 1,600,000 hours this year.

Tax relief is not just about financial relief, it is also about paperwork relief. This amendment states that it is the Sense of the Senate that this chamber give priority to tax proposals that simplify the tax code and reject proposals that add greater complexity to the code and increased compliance costs to the taxpayer. I think we have sent a sound message to the American people that we are committed to reducing complexity in this already onerous tax system.

AMENDMENT NO. 2243

Mr. LAUTENBERG. Mr. President, this amendment expresses the Sense of the Senate that Congress should fulfill the intent of the Amtrak Reform and Accountability Act of 1997 and appropriate sufficient funds in each of the next five years to enable Amtrak to implement its Strategic Business Plan.

In the Amtrak Reform and Accountability Act of 1997, Congress declared that ''intercity rail passenger service is an essential component of a national intermodal passenger transportation system.'' With the passage of this Act, Congress and the President effectively agreed to provide adequate appropriations over the next five years for Amtrak to implement its Strategic Business Plan so that it may achieve the goal of operating self-sufficiency.

I would like to take a moment to thank Senator LOTT for his cooperation on this amendment and for his commitment to providing the funding necessary for Amtrak to implement its Strategic Business Plan.

I would also like to thank Senator MCCAIN for his cooperation and assistance in working out the language of this amendment.

Finally, I would like to thank Senators ROTH, BIDEN and all of the cosponsors of this amendment for their continuing support of Amtrak.

I believe that for the first time in memory, we have a general commitment among members of Congress to provide Amtrak with the funding necessary for it to turn its financial situation around. We will accomplish this by providing Amtrak with the capital funds necessary to modernize its equipment and facilities. For too long, Congress underfunded Amtrak, leaving it with an aging and inefficient capital stock. By providing sufficient capital funding, we will allow Amtrak to increase the efficiency of its operations and attract new passengers by providing better, more reliable service.

Last year's $2.2 billion capital fund and the passage of the Amtrak Reform legislation brought the dawn of a new day for our national passenger railroad.

We need Amtrak to reduce congestion on our highways and in our skies. Congress and the President have demonstrated clear support for Amtrak as a national system and for continued federal appropriations. Too often in the past, we under-funded this important system. Today, Amtrak is operating under substantial challenges to meet strict business goals.

I believe Amtrak is up to the task and I hope and expect that we will provide them the funds we have promised and give Amtrak a fighting chance to succeed.

Mr. BIDEN. Mr. President, I am pleased to join with my good friend, the distinguished Ranking Member of the Budget Committee, FRANK LAUTENBERG, in introducing this amendment. We are in excellent company, joined by the distinguished Chairman of the Finance Committee, BILL ROTH, the distinguished Majority Leader, and other supporters of Amtrak.

As I testified just last week before Senator SHELBY'S Appropriations Subcommittee on Transportation, Amtrak is currently under the gun—both the Amtrak Reform Act we passed last year, and our current budget plans assume that Amtrak will be without operating subsidies beginning in 2002.

Personally, I am not convinced that this is a wise course of action. Virtually all passenger rail systems in the world are supported by public funds, because their benefits—reduced congestion on highways and at airports, less air pollution—are enjoyed by those who may never ride a train. Public support does not automatically signify inefficiency, Mr. President; in the case of passenger rail, it is a recognition that the public benefits are not fully paid for by individual ticket purchases.

But it is even clearer, Mr. President, that passenger rail deserves support for its major capital needs. Just as the federal government provides funds for highways, airports, ship channels, and ports, it has a proper role—justified by the strictest notions of economic efficiency—in providing support for the basic infrastructure of our national transportation system.

Despite the heavy burdens placed on Amtrak by years of under funding, Amtrak has responded with increased efficiency—and has undertaken a business plan that aims at operating self-sufficiency by the year 2002.

This amendment expresses the sense of the Senate that we should live up to our end of the deal we entered into when we passed the Amtrak Reform Act last year—we should, at an absolute minimum, provide Amtrak with the funds necessary for them to reach 2002 with the equipment, routes, and ridership that will make that self-sufficiency possible. That means providing Amtrak with the funds—both long-term high-return capital from its capital funds, as well as operating support—that they anticipate in that business plan.

And I must add, Mr. President, that following the recommendation of last year's Presidential Emergency Board, Amtrak has agreed to provide pay raises for its long-suffering workers. To make good on that commitment, and to provide similarly for all of the workers that have gone for years without a pay raise—or even a contact—Amtrak will require the funding level we commit to with his amendment.

I am gratified that we have the support of so many of my colleagues for this amendment. Today, we will put the Senate on record in support of funds for Amtrak that will allow them to achieve the goals that we have set for them. That, Mr. President, is the least we can do.

Mr. MACK. Mr. President, there has been a good deal of concern over whether the budget resolution actually provides adequate funding to allow the Labor-HHS subcommittee to provide increased funding for the National Institutes of Health as assumed in the budget.

After extensive conversations with the Chairman of the Budget Committee

Chairman and his staff, I am confident that the recommendations contained in the budget resolution would in fact allow for increased funding of the National Institutes of Health.

In fact, the Chairman of the Budget Committee has agreed to enter into a colloquy with me which explicitly states that the budget assumes a substantial increase over the Labor-HHS subcommittee's 1998 appropriated levels. The chairman has assured me that this funding level assumes increases to cover shortfall created by forward funding in last years Labor-HHS appropriations bill. Additionally, the budget assumes further increases to fund a number of Congressional priorities, including increased funding for the National Institutes of Health.

The full content of the colloquy is contained in a written statement which I will now send to the desk and ask that it be entered into the RECORD in its entirety.

Mr. President, as my colleagues will recall, during consideration of the 1998 Budget Resolution, I offered an amendment to express the sense of the Senate that funding for the National Institutes of Health should be increased by 100 percent over the next five years. It passed by a vote of 98–0.

The amendment I am offering today will help to ensure that the Senate continues to move forward toward achieving this goal. The 1999 Senate Budget Resolution assumes an increase of $1.5 billion for the National Institutes of Health for FY 1999, an 11% increase over the FY 1998 funding level.

I know the Chairman of the Budget Committee, Senator DOMENICI, has worked very hard in a tight budget year to include this increase in the Budget Resolution. I want to express my sincere thanks to Chairman DOMENICI and commend him for his leadership on this initiative. He, too, has been a true friend to NIH and I know he shares our commitment to increased funding for biomedical research.

I am aware of concerns raised by patient organizations and public health advocacy organizations with respect to future increases for NIH.

Based upon discussions I have had with both Chairman DOMENICI and with Chairman STEVENS today, I am convinced the budget resolution will, in fact, lead to the increases necessary to achieve the goal of doubling funding for NIH.

I have submitted into the RECORD a colloquy with Senator DOMENICI which addresses these concerns, and I encourage all interested parties to review this colloquy.

It is also important to remember that the Congress is at the beginning of the budget process. The House of Representatives has not acted on the Budget Resolution. There still must be a conference with the House.

At this time, I am convinced the Budget Committee has done its' best to provide the framework to increase funding for NIH by at least $1.5 billion in FY 1999. And, I am hopeful that the Appropriations Committee will do its best to support these recommendations.

For purposes of this Budget Resolution, I do believe it is important for the Senate to be on record with respect to our bipartisan commitment to NIH.

To that end, the amendment I offer today will express the Sense of the Senate in three areas.

First, it would reaffirm our commitment to double funding for NIH over the next five years.

Second, it would express the Sense of the Senate that appropriations for NIH should be increased by $2 billion in FY 1999.

Finally, it would express the Sense of the Senate that, at a minimum, appropriations for NIH should match the levels specified in the Budget Resolution.

Funding for NIH has always enjoyed strong bipartisan support in the Senate. Today should be no exception. I urge my colleagues to support this amendment.

ADDITION OF COSPONSORS—AMENDMENT NO. 2243

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the following Senators be added to the Amtrak sense-of-the-Senate amendment No. 2243: Senators MOYNIHAN, JEFFORDS, CHAFEE, KERRY, MOSELEY-BRAUN, LIEBERMAN, DURBIN, SARBANES, MIKULSKI, DODD, BAUCUS, LEAHY and HUTCHISON.

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

AMENDMENT NO. 2219

Mr. DOMENICI. Mr. President, we have one last thing, amendment No. 2219, by Senator DORGAN. Would you call that up? Here we are going to voice vote it. Let me make sure everybody understands, this amendment is supposed to fail. And there has been concurrence on that point as we deliberated on this subject.

The PRESIDING OFFICER. Amendment No. 2219 is before the Senate. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2219) was rejected.

AMENDMENTS WITHDRAWN

Mr. DOMENICI. Mr. President, I ask unanimous consent that all other pending amendments be withdrawn.

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

Amendment Nos. 2186, 2194, 2215, 2223, 2227, 2231, 2241, 2242, 2245, 2247, 2179, 2181, 2249, 2255, 2256, 2259, 2260, 2261, 2267, 2268, 2273, and 2274 were withdrawn.

AMENDMENT NO. 2204

Mr. KOHL. Mr. President, my amendment to the Budget Resolution I hope will be only the first step this Congress will take to prevent abuse and mistreatment of elderly and disabled patients in long-term care.

Mr. President, it is estimated that more than 43% of Americans over the age of 65 will likely spend time in a nursing home. The number of people needing long-term care service, both in nursing homes and home health care, is sharply increasing, and it will continue to do so as the Baby Boom generation ages. The vast majority of long-term care facilities do an excellent job in caring for their patients, but it only takes a few abusive staff to cast a dark shadow over what should be a healing environment.

A disturbing number of cases have been reported where long-term care workers with criminal backgrounds have been cleared to work in direct patient care, and have subsequently abused patients in their care. Most recently, The Wall Street Journal published a troubling article describing the extent of this problem and the difficulties we face in tracking known abusers. I ask that this article be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered. (See exhibit 1.)

Mr. KOHL. This article is only the tip of the iceberg. A recent report from the Nation's long-term care Ombudsmen indicates that in 29 states surveyed, 7,043 cases of abuse, gross neglect, or exploitation occurred in nursing homes and board and care facilities. Similar stories have appeared nationwide and abuse is not limited to nursing homes. It is far too easy for a health care worker with a criminal or abusive background to gain employment and prey on the most vulnerable patients.

Why is this the case? Because current state and national safeguards are inadequate to screen out abusive workers. All States are required to maintain nurse aide registries which include information about abusive workers. But these registries are not comprehensive or complete. First, many facilities do not report abuse complaints and instead, simply fire the worker. Second, these registries usually do not include abuse information about home health or hospice aides. Finally, and most important, there is no national system in place to track abusers, little information sharing between States, and no Federal requirement that a criminal background check be done on potential employees. A known abuser or someone with a violent criminal background in Iowa would have little trouble moving to Wisconsin and continuing to work with patients there.

I have introduced and continue to work on legislation that would create a national registry of abusive long-term care workers and require criminal background checks for prospective employees who participate in Medicare and Medicaid. Although this will not prevent all cases of abuse, I believe it will go a long way toward making sure that those who have a history of preying on the vulnerable are not paid to do so by Medicare and Medicaid.

This Budget Resolution includes a lot of different priorities and funding recommendations—some of which I agree with, and others that I believe deserve

more attention. But as we consider this Budget Resolution, we must not forget to protect our nation's most vulnerable citizens—the elderly and the disabled.

This amendment expresses our desire to establish a viable, efficient, and cost-effective national system that will screen out abusive workers and prevent them from working with patients. We should adopt this amendment to devote resources toward developing such a system. We should adopt this amendment to send a clear signal to potential abusers that we will not tolerate the mistreatment of our patients. And we should adopt this amendment to demonstrate our commitment to protecting the elderly and the disabled from known abusers and criminals. When a patient checks into a nursing home facility or receives home health services, they should not have to give up their right to be free of abuse, neglect, or mistreatment.

EXHIBIT 1

[From the Wall Street Journal]

MANY ELDERS RECEIVE CARE AT CRIMINALS' HANDS

(By Michael Moss)

When Carletos Bell applied to work at the San Antonio Convalescent Center, he didn't try to hide his violent criminal past. He disclosed his record of aggravated assault right on his application for nurse-assistant.

He got the job anyway, in June 1996. Six months later, Mr. Bell was charged with sexually assaulting a 71-year-old resident of the nursing home. He pleaded not-guilty and is now in jail awaiting trial.

The case illustrates a growing problem for nursing-home patients and owners alike: People with serious rap sheets are landing jobs as care givers for the elderly.

On Monday, a local trial judge in Denver gave a green light to the first-ever class-action lawsuit alleging nursing-home negligence. A pivotal claim is that many nurse-assistants had arrest records. A local attorney for the facility's former owner, GranCare Inc., denies the allegation of negligence.

Even before that ruling, crime against residents of nursing homes has been a growing concern among patient advocates. Efforts to draw attention to the problem have been stymied partly by the lack of good data. Advocates say there is severe underreporting of crimes—especially of rapes—because residents often fear retribution for leveling complaints.

Still, the U.S. Department of Health and Human Services' Office of Inspector General took disciplinary actions mostly related to nursing-home abuse in 382 cases in 1997, more than double a year earlier. The office received 1,613 reports of abuse allegations in that year, up 14% over a three-year period.

Lesser crimes abound as well. Four percent of nursing-home workers acknowledged they stole money, jewelry and other items from residents, in questionnaires completed as part of a soon-to-be-published study by Diana Harris, a sociologist at the University of Tennessee, Knoxville. Ten percent of workers said they saw other staff steal.

Nursing-home owners, in turn, are finding themselves at greater risk in lawsuits brought by injured residents. In some facilities, plaintiffs' attorneys are discovering that a large portion of the staff has a criminal past. At another San Antonio nursing home, the Crestway Care Center, where in 1995 two female residents said they were raped, half of the 69 male workers had arrest records and nearly one-quarter had felony convictions, according to pretrial fact-finding in a negligence lawsuit the women brought against the nursing home. The facility's owner at the time couldn't be reached. His attorney declined to comment. The suit was settled last year.

The plaintiffs' criminologist, Patricia Harris, noted in court papers, ''A setting which contains infirmed females who are unable to defend themselves creates an enhanced opportunity for sexual assaults.''

When trouble strikes, the involvement of a single employee with a felony record can send jury awards soaring. Last year, the owner of the nursing home where Mr. Bell worked, Living Centers of America, quickly settled a lawsuit brought by the resident whom Mr. Bell allegedly assaulted. Since then, investor group Apollo Management LP, headed by financier Leon Black, has acquired control of Living Centers and merged it with GranCare to form Paragon Health Networks Inc., of Atlanta.

''Until there is some public awareness, the problem of nursing homes employing criminal and sexual deviants is going to escalate,'' says the resident's attorney, Marynell Maloney, who also brought the other San Antonio case.

Living Centers' local attorney, Charles Deacon, says the job interviewer at the facility made a mistake in hiring Mr. Bell. Given Mr. Bell's record, says Mr. Deacon, ''there is no way the company would ever have wanted him.''

Employees with criminal records pose an industry-wide problem, says Mr. Deacon, who represents other nursing-home owners. ''They end up costing these companies a lot of money.''

A Boston jury last month sent a message to a home health-care provider by awarding $26.5 million to the estate of John Ward, who was beaten and stabbed to death in 1991, along with his grandmother. The perpetrator was a six-time convicted felon who was hired by an agency to care for Mr. Ward, age 32, at their home.

Rachel Schneider, acting co-president of the Visiting Nurse Association of Greater Boston, which settled the lawsuit after the jury's verdict, says the killings were ''one of those very unfortunate lessons.'' The agency began checking its workers for criminal records starting in 1994, she said.

Nursing-home owners, patient advocates and labor unions agree that an important step in combating nursing-home crime is to keep criminals from getting the jobs. Bills introduced in both houses of Congress would require Federal Bureau of Investigation background checks of would-be nurses' aides and other care givers.

A group of nursing-home owners, the American Health Care Association, says it supports the concept and favors imposing background-checks on care givers at hospitals and other providers, too. Patient advocates say there's no reason to limit the checks to nurses' aides. ''We think everybody—doctors, nurses, everyone—should be checked,'' says Elma Holder, founding director of the National Citizens' Coalition for Nursing Home Reform.

A growing number of states already have legislation mandating background checks, with mixed results. Illinois's two-year-old program for screening nurses' aides has turned up disqualifying criminal backgrounds on about 5% of the people who were checked. Their crimes ranged from theft to homicide. But nearly 90% of those who asked that the law be waived were permitted to take or keep jobs anyway.

''The law is a farce,'' says Violette King of Nursing Home Monitors, a local patient-advocacy group based in Godfrey, Ill. The state Department of Public Health responds by saying it weighs each waiver request carefully.

Spokesman Thomas Schafer cites the case of a man who murdered his girlfriend 24 years ago. He had been working in a nursing home without problems for 15 years when the new background-check program turned up his record. The state decided he wouldn't be a risk to the residents.

One thorny question is whether mere arrests should carry as much weight as convictions. In Colorado, it has become a point of contention in the Denver class-action suit. Of the 176 aides hired by Cedars Health Care Center in 1995 and 1996, 74 of them, or 42%, had arrest records, the plaintiffs' attorney has alleged.

''Most of these records reflect serious, and sometimes habitual, criminal behavior,'' alleges the complaint filed by Denver attorney Lynn Feiger, an employment-law specialist, on behalf of five current and former Cedars residents. More than 200 can join the suit, thanks to this week's ruling.

The nursing-home owner's attorney, Jerome Reinan, who is weighing an appeal of the class-action decision, argues that the threshold should be convictions. ''We're not aware at this point of any convictions that would made an employee ineligible for hiring,'' says Mr. Reinan.

State officials in Colorado say they are considering a number of ways to strengthen rules for screening nursing-home employees, including extending checks to probation reports and arrest records.

''An arrest record is certainly indicative of a pattern,'' says state Department of Public Health spokeswoman Jackie Starr-Bocian. ''We have had a concern here in Colorado for many years about issues of employment in nursing homes. Now it's a very grave concern because our unemployment rates are so low it's hard to find qualified applicants.''

AMENDMENT NO. 2240

Ms. MOSELEY-BRAUN. I believe that the Senate has taken a step in the right direction today by accepting my amendment that ensures that the Senate will not reduce the value of Social Security. Mr. President, Social Security is perhaps the most successful and important government program ever enacted in the United States. It has allowed millions of Americans to retire with dignity and has played a key role in bringing poverty among the elderly to the lowest level since the government began keeping poverty statistics.

But if you ask young adults—the twenty-something and thirty-something Americans—whether they believe Social Security will be there for them, they will tell you that they are more likely to see a UFO than receive Social Security benefits when they are old.

That's regrettable, Mr. President, not just because these young Americans are financing the benefits that my generation will receive from Social Security, but also because they have every right to benefit from Social Security when they reach their twilight years. Social Security was created not just for the current generation, or for our generation, but for all the generations that will follow.

The Senate, I think, has a responsibility to restore the faith of young Americans in their Social Security. In a recent poll, fewer than one-third of Americans age 55 and older expressed a

lack of confidence in the ability of the Social Security system to meet its long-term commitments. For those under age 55, however, nearly two-thirds expressed that view.

Frankly, young Americans have good reason to be worried. Americans are living longer and retiring earlier. As a result, retirees will collect Social Security benefits for a far longer time than was anticipated when the system was developed. That means that younger Americans may be paying into a system that will no longer provide benefits when it is time for them to retire.

The impact of these trends will be greatly magnified when the Baby Boom generation retires. Once the Boomers have retired, there will only be about tow working Americans contributing to Social Security for every retiree receiving benefits, down from over five just a generation ago.

Social Security is too important to the retirement security of too many people for us to retreat from that accomplishment. More than one-half of the elderly do not receive private pensions and more than one-third have no income from assets. For 60 percent of all senior citizens, Social Security benefits provide almost 80 percent of their retirement income. For 80 percent of all senior citizens, Social Security benefits provide over 50 percent of their retirement income.

It is our responsibility to act to ensure that the Social Security system provides the same value to new generations of Americans as it did to past recipients. It is my hope that in having passed this amendment, we will have demonstrated to younger Americans that we are committed to safeguarding the integrity of the Social Security system no only for their generation, but for all the ones that will follow.

I also want to say how pleased I am that the amendment I proposed that would express the Senate's sentiment that the Administration should include in its yearly budget a generational impact study will also be included in the budget resolution. I believe that this type of information will be useful in our decision making process and will lead us in a direction that is proactive, rather than reactive.

Again, I thank my colleagues for their support.

AMENDMENT NO. 2263

Mr. TORRICELLI. Mr. President, I would like to begin by acknowledging Senator SANTORUM's efforts on this amendment. I look forward to working with him in the future to preserve our nation's most vulnerable farmland.

We have heard a lot during the last decade about the dissolution and destruction of the American Family Farm. Indeed, the family farm is under serious threat of extinction. Today, there are 1,925,300 farms in the United States, the lowest number of farms in our nation since before the Civil War. The U.S. is losing two acres of our best farmland to development every minute of every day. In my state, New Jersey, we have lost 6,000 farms, or 40% of our total, since 1959. This reduction has serious implications for the environment, the economy and our food supply.

The threat comes partially from an anachronistic and unfair inheritance tax that threatens the generational continuity of the family farm, and partially from the fact that much of America's farmland is near major cities. As our cities sprawl into neighboring rural areas, our farms are in danger of becoming subdivisions or shopping malls.

Last year I strongly supported a significant reduction in the estate tax to keep farms in the family, preserve open space and ensure fairness in our tax code. This was an important victory for farmers across the nation. However, we also need programs like the Farmland Protection Program to reinforce this effort. That is why I am supporting Senator SANTORUM's amendment which will express the Sense of the Senate that Congress should reauthorize funds for the Farmland Protection Program. This critical program is designed to protect soil by encouraging landowners to limit conversion of their farmland to nonagricultural uses.

The Farmland Protection Program was authorized by the 1996 Farm Bill and provided $35 million over a six year period. However, the last of the funding was dispersed in FY1998 and there is no money in the budget for the program this year. This amendment will send a strong message that we remain committed to protecting our family farms and preserving our open spaces. I am proud to support Senator SANTORUM's amendment, and look forward to its acceptance by my colleagues.

AMENDMENT NO. 2266

Mr. BIDEN. Mr. President, of all the priorities included in the Budget Resolution now before the Senate, I believe that none is more important than continuing our fight against violent crime and violence against women.

To a great extent, this Budget Resolution meets this test—but, in at least one area of this crime front, I believe the Budget Resolution must be clarified.

The amendment does exactly that—by clarifying that it is the sense of the Senate that the Violent Crime Control Trust Fund will continue through fiscal year 2002.

First, let me point out that it is Senator BYRD who, more than anyone, deserves credit for the crime law trust fund. Senator BYRD worked to develop an idea that was simple as it was profound—as he called on us to use the savings from the reductions in the federal workforce of 272,000 employees to fund one of the nation's most urgent priorities: fighting the scourge of violent crime.

Senator GRAMM was also one of the very first to call on the Senate to ''put our money where our mouth was.'' Too often, this Senate has voted to send significant aid to state and local law enforcement—but, when it came time to ''write the check,'' we did not fund nearly the dollars we promised.

Working together in 1993, Senator BYRD, myself, Senator GRAMM, Senator DOMENICI and other Senators passed the Violent Crime Control Trust Fund in the Senate. And, in 1994, it became law in the Biden Crime Law.

Since then, the dollars from the Crime Law Trust Fund have: Helped add nearly 70,000 community police officers to our streets; helped shelter more than 80,000 battered women and their children; focussed law enforcement, prosecutors and victims service providers on providing immediate help to women victimized by someone who pretends to ''love'' them; forced tens of thousands of drug offenders into drug testing and treatment programs, instead of continuing to allow them to remain free on probation with no supervision and no accountability; constructed thousands of prison cells for violent criminals; and brought unprecedented resources to defending our southwest border—putting us on the path to literally double the number of federal border agents over just a 5 year period.

The results of this effort are already taking hold—according to the FBI's national crime statistics, violent crime is down and down significantly—leaving our nation with its lowest murder rate since 1971. And the lowest murder rate for wives, ex-wives and girlfriends at the hands of their ''intimates'' to an 18-year low.

In short, we have proven able to do what few thought possible—by being smart, keeping our focus, and putting our ''money where our mouths'' are—we have actually cut violent crime.

Today, our challenge is to keep our focus and to stay vigilant against violent crime. Today, the Biden-Gramm amendment before the Senate offers one modest step towards meeting that challenge—By confirming the Senate's commitment to fighting crime and violence against women will continue to at least 2002. By confirming the Senate's commitment that the Violent Crime Control Trust Fund will continue—in its current form which provides additional federal assistance without adding 1 cent to the deficit—to at least 2002.

The Biden-Gramm amendment offers a few very simple choices: Stand up for cops—or don't; stand up for the fight against violence against women —or don't; stand up for fighting the scourge of youth violence—or don't; stand up for building new prisons—or don't; stand up for increased border enforcement—or don't.

Every member of this Senate is against violent crime. Now, I urge all my colleagues to back up with words with the only thing that we can actually do for the cop walking the beat, the battered woman, the victim of crime—provide the dollars that help give them the tools to fight violent criminals and help restore at least some small piece of the dignity taken from them by a violent criminal.

Let us be very clear of the stakes here—frankly, if we do not continue the Trust Fund, we will not be able to continue such proven, valuable efforts as the Violence Against Women law. Nothing we can do today can guarantee that we, in fact, will continue the Violence Against Women Act when the law expires in the year 2000.

But, mark my words, if the Trust Fund ends, the efforts to provide shelter, help victims and get tough on the abusers and batterers will wither on the vine. Passing the amendment I offer today will send a clear, unambiguous message that the trust fund should continue and with it, the historic effort undertaken by the violence against women act that says by word, deed and dollar that the Federal Government stands with women and against the misguided notion that ''domestic'' violence is a man's ''right'' and ''not really a crime.''

STATEMENT ON THE MARKET ACCESS PROGRAM

Mr. KEMPTHORNE. Mr. President, I rise today in support of the Market Access Program. This program continues to be a vital and important part of U.S. trade policy aimed at maintaining and expanding U.S. agricultural exports, countering subsidized foreign competition, strengthening farm income and protecting American jobs.

The Market Access Program has been a tremendous success by any measure. Since the program was established, U.S. agricultural exports have doubled. In Fiscal Year 1997, U.S. agricultural exports amounted to $57.3 billion, resulting in a positive agricultural trade surplus of approximately $22 billion and contributing billions of dollars more in increased economic activity and additional tax revenues.

For example, the Idaho State Department of Agriculture received $125,000 of Market Access Program funds during the past year. These funds were used to promote Idaho and Western United States agricultural products in the international markets of China, Taiwan, Brazil, Mexico, Guatemala, and Costa Rica. One particular activity, the promotion of western U.S. onions in Central America, required $15,000 of MAP funds and generated inquiries for onions valued at $150,000.

Demand for U.S. agricultural products is growing 4 times greater in international markets than domestic markets. MAP has been an enormously successful program by any measure in supporting this growth. Since the program began in 1985, U.S. agricultural exports have more than doubled—reaching a record of nearly $60 billion in 1996; contributing to a record agricultural trade surplus of $30 million; and providing jobs to over 1 million Americans.

MAP is a key element in the 1996 Farm Bill, which gradually reduces direct income support over 7 years. Accordingly, farm income is now more dependent than ever on exports and maintaining access to foreign markets.

Two years ago, European Union (EU) export subsidies amounted to approximately $10 billion in US dollars. The EU and other foreign competitors also spent nearly $500 million on market promotion. The EU spends more on wine promotion than the US spends for all its commodities combined.

Mr. President, the Market Access Program should be fully maintained as authorized and aggressively utilized by the U.S. Department of Agriculture to encourage U.S. agricultural exports, strengthen farm income, counter subsidized foreign competition and protect American jobs.

Mrs. MURRAY. Mr. President, I am a cosponsor of amendment No. 2268 to S. Con. Res. 86 introduced by Senator KEMPTHORNE, expressing the Sense of the Senate that funding for the Market Access Program (MAP) should be fully maintained as authorized and aggressively utilized by the U.S. Department of Agriculture to encourage U.S. agricultural exports, strengthen farm income, counter subsidized foreign competition, and protect American jobs.

The MAP is an important trade promoting program that truly benefits the diverse agriculture of Washington state and the nation. The MAP is a partnership with private agriculture to promote U.S. agricultural goods around the world. It helps to level the playing field for our growers in a global marketplace made increasingly competitive by subsidies foreign governments provide to their growers.

This Sense of the Senate resolution corrects the misguided direction of the Budget Committee to cut the MAP. This proposed cut was one among many reasons that I voted against this Budget Resolution when it was passed out of the Budget Committee.

Since moving towards market-based agricultural programs under the 1996 FAIR Act, research and trade have become the new safety net for our growers. Without continuous and vigorous trade promotion, our growers will see market share decline and farmgate prices drop. Our growers are already suffering under depressed prices, they need us to maintain the MAP and other agricultural trade initiatives to remain competitive. I urge my colleagues to support this amendment.

Mrs. BOXER. Mr. President, I strongly support the Market Access Program. I urge my colleagues to support the sense of the Senate amendment, offered by my colleague Senator KEMPTHORNE, to assure funding for this very important and effective agricultural export program. I would like to point out to the Senate why this Market Access Program (MAP) is so important for agriculture in my State of California, and many other states as well.

Using the MAPs $90 million annual funding level as a fractional offset for the now $214 billion transportation package, has an enormous negative impact on American agricultural export efforts at the very time when our farmers are contending with constricted markets in Asia and increased EU help for competing agricultural exporters seeking to displace American products in the marketplace.

My objection is not against transportation needs but the termination of an important agricultural export tool.

The purpose of the MAP is to increase U.S. agricultural project exports. This increase in such exports helps to create and protect U.S. jobs, combat unfair trade practices, improve the U.S. trade balance, and improve farm income.

The MAP is an important tool in expanding markets for U.S. agricultural products. Continued funding for this program is an important step in redirecting farm spending away from price supports and toward expanding markets.

The MAP program has been significantly reformed over the last several years to meet congressional expectations—now only small business, farmer cooperatives and associations and state departments of agriculture can participate in the program. The funding level has been substantially reduced to a third of its former cost. It is a cost share program, requiring participants to provide matching funds to qualify for federal funding help.

And MAP works. The U.S. Department of Agriculture estimates that each dollar of MAP money results in an increase in agricultural product exports of between $2 and $7. The program has provided much needed assistance to commodity groups comprised of small farmers who would be unable to break into these markets on their own.

Mr. President, the Market Access Program has been an unqualified success for California farmers. For many California crops, the MAP has provided the crucial boost to help them overcome unfair foreign subsidies. I would like to share two of the successes of this program in California.

California produces about 85% of the U.S. avocado crop on over 6,000 farms that average less than 8 acres per farm. Between 1985 and 1993, California avocado growers utilized $2.5 million of their own money, combined with $3.4 million of MAP funds to achieve over $58 million in avocado sales in Europe and the Pacific Rim. This is better than a 17 to 1 return on our MAP investment that means jobs for Californians.

The growth of California walnuts exports also illustrates the success of this program. Since 1985, the year before the MAP began helping walnuts, 90% of the growth in California walnut sales has come from exports. And 90% of this export growth has been to markets where California walnuts have had MAP support. The total value of these exports in 1985 totaled $36 million. The total export value has now grown to $119 million.

We should not unilaterally disarm our export promotion program for agriculture when we are only months away from the commencement of WTO agricultural trade negotiations scheduled to commence in 1999.

Mr. President, the MAP is a wise investment in American agriculture and I urge my colleagues to support Senator KEMPTHORNE's amendment to support needed funding to USDA's Market Access Program in the Budget Resolution.

Mr. COCHRAN. Mr. President, I support the amendment of the Senator from Idaho, Mr. KEMPTHORNE, expressing the Sense of the Senate that funding for the Market Access Program should be fully maintained.

The Senate has on several occasions debated funding for the Market Access Program. Most recently, on July 23, 1997, the Senate voted 59–40 in favor of tabling an amendment to reduce the Market Access Program from $90 million to $70 million. The Senate, recognizing the importance of this program, firmly rejected the suggestion to reduce it by even $20 million. I hope the Senate will, by an even greater margin, express its support that the budget should not assume the reduction of this program.

The Market Access Program is one of the few tools that the Department of Agriculture has to combat the unfair trading practices of other countries. Since its inception in 1985, the Market Access Program and its predecessors, the Targeted Export Assistance Program and the Market Promotion Program, have assisted nearly 800 U.S. cooperatives, trade associations and corporations in promoting their products overseas.

Our agricultural exports have more than doubled—from $26.3 billion in 1985 to a forecast level of $58.5 billion in 1998. In large measure this moderate increase, even in the face of the Asian currency crisis, signifies the results of efforts we have made since the mid-1980's to enhance our export competitiveness and develop new markets overseas.

In fact, it is remarkable that the value of U.S. exports will increase slightly over last year and are only slightly below record 1996 levels even with the dire situation in Asian markets. U.S. farmers are particularly vulnerable to the instability of key Asian markets which account for 40 percent of our exports. The Market Access Program and other export programs are crucial to our farmer's ability to compete in a global marketplace.

NATIONAL PARKS AND ENVIRONMENTAL IMPROVEMENT ACT FUND

Mr. MCCAIN. Mr. President, I rise today to reaffirm a commitment made by the chairman of the Senate Budget Committee, Senator DOMENICI, to establish a National Parks and Environmental Improvement Fund in the FY'99 Budget Resolution. My colleague, Senator STEVENS, and I reached an agreement last year with the Budget Committee Chairman to designate this fund from the interest derived from an $800 million land settlement for the protection and enhancement of our national parks.

The fund will become a reality upon enactment of this year's budget resolution. I believe the reasons for creation of this fund could not be more compelling when directed toward the protection of our most coveted natural areas. The General Accounting Office found that while the park system and park visitation are growing, the financial resources available to protect and maintain our parks continue to fall short of the need. The estimated unmet capital needs has reached nearly $8 billion. In times of budgetary constraint, the interest from the fund, which could reach $50 million annually, will allow the Federal government to pay for much needed capital improvements within our National Parks and begin to address the multi-billion dollar backlog in repairs and maintenance. Beginning in FY'99, the interest targeted to the fund will allocate 40 percent to national parks, 40 percent for state grants and 20 percent for marine research.

Mr. President, our National Park System is our natural and historical heritage, set aside for the benefit of present and future generations. The National Parks and Environmental Improvement Fund will help us to fulfill our stewardship responsibilities and protect the integrity of our natural environment.

I applaud the leadership of my distinguished colleague, Senator DOMENICI, for including the fund as part of this year's budget resolution.

Mr. MACK. Senator DOMENICI, I understand that an assumption in this Budget Resolution considers that receipts from the sale of the surplus public lands could be used to fund recovery efforts on private land for endangered species. I would like to clarify that this would in no way alter the current arrangement with the Everglades Recovery Program which is also funded by land sales.

Mr. DOMENICI. That is correct, the surplus public land sales assumed in the resolution are restricted to excess Bureau of Land Management lands, and would not in any way slow progress with recovery of the Everglades. The lands proposed in the resolution would be lands that have not been designated for another purpose.

Mr. MACK. I thank the Senator for that clarification.

FEDERAL EXPENDITURES TO INCREASE U.S. ENERGY INDEPENDENCE

Mr. CHAFEE. Mr. President, the committee report accompanying the budget resolution includes a brief discussion of the Administration's so-called Climate Change Technology Initiative (CCTI) request for fiscal year 1999 and subsequent fiscal years. Specifically, the committee report states on page 22 that, ''[s]ince the President has not submitted a treaty or plan to implement the reductions called for in the agreement [Kyoto Protocol], providing additional funding for these technology programs in the 1999 budget is premature.'' The committee report goes on to state that, ''[a]s a result, the resolution assumes last year's levels of $730 million for these technology programs and does not provide the increases requested by the President.''

I am trying to understand the implication here. Setting aside the merit of the Administration's CCTI request, voluntary domestic activities to reduce greenhouse gas emissions, including tax incentives and research funding for energy efficient technology and renewables, are consistent with the existing 1992 Rio Climate Treaty that the United States has already ratified. While some use economic arguments to oppose any form of government subsidy, prudent investment along these lines does not constitute regulation and is in no way a form of Kyoto Protocol implementation.

Therefore, I ask my friend and colleague from New Mexico, Senator DOMENICI, if he and other members of the Budget Committee are arguing in the committee report that we cannot take steps to try to increase energy efficiency and advance renewables unless and until the Senate provides its consent to the Kyoto Protocol?

Mr. DOMENICI. Mr. President, I am not making such an argument. If I and other members of the Budget Committee believed that, we would have eliminated all current funding for energy efficiency and renewables technology programs in this budget resolution. I do have some concerns about the efficacy of the Kyoto Protocol, but the report language that you cited is intended to convey that additional funding for these programs is very difficult under existing budget limitations.

Mr. LUGAR. I welcome the Chairman's remarks. Promotion of energy efficiency and renewable energy programs can increase our energy security, address a variety of air pollution problems and lead to a stronger economy. I am pleased to learn that the Budget Resolution accommodates federal initiatives to enhance energy security and renewable energy provided that these initiatives can be funded within overall budget constraints.

Mr. CHAFEE. Mr. President, I thank the chairman of the Budget Committee for clarifying the report language. I yield the floor.

FUNDING FOR THE NATIONAL INSTITUTES OF HEALTH (NIH).

Mr. MACK. Mr. President one of my top priorities since coming to Congress has been support of programs to eradicate the effects of cancer and other diseases that affect the people of the United States. I know many here in the Senate share my concerns who have joined me in seeking to increase funding substantially for the National Institutes of Health (NIH). Indeed, the goal of this group as stated last year is to double funding for NIH over 5 years.

I am pleased that the Budget Resolution takes a substantial step toward meeting this goal and thank the Chairman of the Committee, Senator DOMENICI, for recommending a funding increase of $1.5 billion in FY1999 and $15.5 billion through 2003.

However, I would mention to the Chair that there has been much concern expressed by many public health advocacy groups that the Budget Resolution levels for the Appropriations' Subcommittee on Labor, Health and Human Services, and Education will not support this increase. Accordingly, I would ask the floor manager to alleviate these concerns by answering a few simple questions for me.

Has the Budget Committee assumed sufficient funds in their budget recommendation to allow the Labor-HHS subcommittee to match its 302(b) allocation from last year?

Mr. DOMENICI. First, I would like to state for the record that 302(b) allocations for the Committee on Appropriations are solely within the purview of that committee. The Budget Resolution is an expression of the Senate's priorities, and as such, makes recommendations to committees. However, the Budget Resolution assumptions do not bind the Appropriations Committee to any particular course of action, other than meeting the discretionary caps.

That being understood, the Budget Resolution assumes a substantial increase over the Freeze Baseline for the Labor-HHS subcommittee. The Freeze Baseline levels are based on FY 1998 appropriations action.

Mr. MACK. Does this assumed funding level also provide additional increases for shortfalls created due to forward funding in last year's Labor-HHS bill?

Mr. DOMENICI. The Freeze Baseline already includes spending previously approved by the subcommittee, including forward funding and advance appropriations.

Mr. MACK. Finally, does the assumed level also provide increases to match the Budget Committee's recommendation for increased NIH funding?

Mr. DOMENICI. The assumed increase exceeds the $1.5 billion increase for NIH in FY 1999 and is intended to fund other initiatives as well, such as IDEA.

Mr. MACK. I thank the Chairman of the Budget Committee. I believe he has been more than generous to the Labor, HHS Subcommittee and I hope that the Appropriations Committee will treat the subcommittee equally well.

To help that process, I sent to the desk a Sense of the Senate amendment, which provides that the Senate should provide such funds to match the recommendations for increased NIH funding as set forth in the Budget Resolution.

MARKET ACCESS PROGRAM

Mr. GORTON. I am concerned about one program which has been slated as an offset for transportation increases—the Market Access Program. The Market Access Program is a USDA cost-share program which provides assistance to U.S. agriculture when competing against subsidized nations overseas.

In the State of Washington we have seen a dramatic increase in apple exports from 4.5 million boxes to over 25.1 million—an increase of over 500 percent. Export sales now total well over $300 million. This success is due, in part, to the Market Access Program. MAP is absolutely essential if U.S. agriculture is to remain viable and competitive in the international marketplace.

Mr. DOMENICI. I fully understand your concern, and the agriculture community's concern, about the current position of MAP in the Budget Resolution. During the Conference on the Budget Resolution we will have an opportunity to take another look at this issue. In that event, I will commit to working with you to find alternatives. I want to assure you, the Committee went to great lengths to identify offsets for highway spending. As you know, we included MAP because it is one of several export programs through USDA.

Mr. GORTON. Thank you for your commitment to this effort. I look forward to working with you during the Conference Committee to see that this issue is resolved in a favorable manner.

SEC FEES

Mr. GREGG. I rise today to discuss efforts that were made to insert assumptions into the Budget Resolution that would hurt the Commerce, Justice, State, and Judiciary (CJS) Subcommittee. Those assumptions sought to amend the securities legislation that we negotiated with the Senate Banking Committee and House Commerce Committee in 1996. Specifically, they assume reductions in NASDAQ transaction fees. The result being that the Appropriations Committee pick up the cost of $73 million.

Prior to 1996, the 6(b) fees were paid by corporations to register securities. Some interests felt that the 6(b) fees had grown too large. During negotiations with the White House and the authorizing committees it was agreed that over the next ten years 6(b) fees would be reduced. The creation of the NASDAQ transaction fees was a concession made to the CJS subcommittee as part of a larger compromise that led to a phasing out of the Section 6(b) registration fees. The intent was to minimize the impact on the Appropriations process.

Since 1934, Section 31 transaction fees had been imposed on exchange listed securities but not on those sold in the Over the Counter (OTC) market. As part of the agreement in 1996, extending the section 31 fee to the OTC market allowed the 6(b) registration fees to be reduced while retaining adequate fee collections to support and offset the SEC's appropriation.

In arriving at the compromise that resulted in the ten year funding mechanism, it was acknowledged that surpluses over the SEC's funding would likely exist until the end of the ten year schedule. After that time the SEC was to be fully funded by direct appropriations.

Mr. DOMENICI. The Senator from New Hampshire should know that we do not have any assumptions in the Budget Resolution, before the Senate, that in any way changes or reduces the fees collected by the SEC.

Mr. GREGG. I want to thank the Senator from New Mexico for his effort on this important issue. We must preserve our ability to fund the SEC in the future, when we may not be so fortunate to have such a good economy.

Mr. KOHL. Mr. President, earlier today I supported an amendment offered by my distinguished colleague from West Virginia, Senator ROCKEFELLER. Senator ROCKEFELLER's amendment to the Budget Resolution would have restored $10.5 billion to the Veterans' Affairs Subommittee, offsetting that restoration by reducing funds allocated to the Transportation Subcommittee.

As we all know, the Senate ISTEA bill, now awaiting conference deliberations with the House, authorized approximately $217 billion for transportation over 6 years—about $171 billion for highways, about $41 billion for transit and about $2 billion for safety. These levels represent a 38 percent increase for transportation over the previous ISTEA bill. Under the Budget Resolution considered today, a significant portion of this increase is financed by a $10.5 billion reduction in funds set aside to pay for smoking related illnesses among veterans.

Mr. President, I believe we need to do more for infrastructure development—our investment in roads, bridges and transit must increase if we hope to maintain our quality of life while keeping up with the demands of the economy and the changing nature of our cities and towns. That said, veterans should not have to pay for that investment. It's not right, and perhaps more importantly, it's not necessary.

The ISTEA bill vastly increased transportation funds and took some big steps to improve the longstanding equity problem between those states that contribute more in gas tax revenues than they receive and those states that receive more than they contribute. However, while improving the donor state problem to some extent, the bill also provided generous increases in funding to many donee states. I would argue that we were too generous to those states. It was unacceptable to me that despite a 38 percent increase in the amount of funds made available for transportation, the ISTEA bill continued to have donor states give significantly more than they get back, and donee states get significantly more than they give. We could've done better. And if we had provided less of an increase to donee states, we could have avoided the need for controversial offsets, such as the reduction in veterans benefits that Senator ROCKEFELLER sought to restore. We all know that sometimes fairness is painful to swallow, and it seemed to me that in the highway bill, we simply gave everyone more in order not to inflict pain on some. Today we voted on whether veterans should feel that pain. But why

should we limit programs for our veterans in order to be even more generous to those who are already in an advantageous position under transportation formulas? Simply put, we should not. A more responsible course of action would have been to distribute highway dollars more fairly, limiting the increase overall by limiting the increase to states that were already getting more than their fair share.

Mrs. MURRAY. Mr. President, I am proud to be on the floor today as we discuss a budget that is balanced and does have a planned surplus for as far as the eye can see. It was only a few short years ago when we were here on the floor debating budgets that anticipated deficits well into the future. While I support the fiscal responsibility assumed in this budget, I have to rise in opposition. This budget does little to prepare for the next century and it allows the federal government to turn its back on our children. This budget is a failure for our children and our economic future.

During Committee consideration and floor debate, I attempted to amend this Resolution in an effort to ensure that children remain a top priority of the federal budget. Unfortunately, the Republicans chose to ignore the education and early development needs of our children. The Republican budget strategy is to spend for today and do little to plan for tomorrow.

As a new Member of the Senate Budget Committee in 1993, I was committed to reducing the deficits and restoring fiscal order to federal spending. I knew that it would be a tough challenge and a difficult task, but I also knew we owed our children this much. We had to end deficit spending and stop borrowing from their future.

I stood on this floor during the summer of 1993 when we debated the Deficit Reduction plan, which many of my Colleagues on the other side predicted would drive our economy into recession and do little to reduce the deficit. As we debate the fiscal year 1999 Budget Resolution, I am pleased to report that the discussion has gone from how to reduce the deficit to how to invest the surplus. The economy is strong and all indications show that economic growth will continue. Unemployment is at an all time low and interest rates are not raging out of control.

I am proud to have worked to get our fiscal house in order without jeopardizing our economic prosperity. I also welcome the new challenges of how to invest the surplus and maintain our investments in our future.

I am pleased that the Republican budget does do the right thing on Social Security. As called for by the President, the Resolution currently before us today does dedicate any budget surplus to saving Social Security. This is the kind of bipartisan work that I am pleased to be part of. Saving Social Security is important for current workers and future retirees.

Social Security is the most important anti-poverty program ever implemented by the federal government. As a result of the enactment of Social Security, far fewer seniors live in poverty when they retire. For many, having Social Security gave them the ability to retire. Without Social Security, old age would mean economic insecurity and instability. The program has been an unqualified success and we must continue this proud legacy.

We have made a commitment to today's workers that must be honored. When they retire or become disabled, Social Security will protect them and their families from economic disaster. We must do everything possible to maintain the success of Social Security.

But I am concerned that there are some who want to use the surplus to provide tax shelters to the most affluent. Make no mistake about it, simply allowing tax cuts to encourage workers to set up individual retirement accounts will not have Social Security. It will give those with more income a greater ability to shelter this income, but it does little to help Social Security. Keep in mind, Social Security is a social insurance plan, not a retirement plan. Insurance works best when the risk is spread across the population. Allowing the rich to shelter more of their income to save for retirement will not save Social Security.

Please do not hide behind saving Social Security to provide tax cuts to the most affluent. The American worker deserves a more honest and responsible approach. We can reform Social Security without dismantling the program. We need to work in a bipartisan manner to enact real reforms, not tax cuts in disguise.

I also urge my Colleagues on the other side not to fool themselves into thinking that dedicated all federal tobacco revenues to Medicare will save the program. Medicare's problems go well beyond just a cash reserve. Unlike Social Security, Medicare has always been a pay-as-you-go program. Simply throwing money at the program will do little to improve the long term condition of the Medicare program. We all know that structural changes are the real answer. We have to improve the health of senior citizens before we can hope to improve the financial health of Medicare.

I am pleased that my amendment regarding prevention benefits for Medicare beneficiaries was adopted by the Senate. If my Colleagues on the other side are serious about saving Medicare, we must increase the prevention focus within Medicare. It is simply beyond understanding why Medicare will not reimburse for prescription drugs to reduce cholesterol, but will pay for inpatient, acute care for by-pass surgery.

A greater focus on prevention will prove that we are serious about saving Medicare. Prevention benefits are the kind of reforms needed to really save Medicare. It seems almost insincere to target new federal tobacco revenues to Medicare and not put these benefits to use in improving the health status of senior citizens.

I think the greatest failure of this budget is the complete disregard for enacting real tobacco control legislation. The debate is not just about how to spend tobacco revenues, but enacting a national anti-smoking bill that could potentially wipe out smoking in less than one generation. We have an historic opportunity to end the plague of tobacco. We cannot afford to let this opportunity pass.

The Republican budget resolution creates huge roadblocks for enacting tobacco control legislation. I am concerned that the Resolution will block any new revenues for the Food and Drug Administration to regulate nicotine as a drug. Without new revenues, FDA cannot enforce youth access laws that prevent children from buying cigarettes. Without tobacco revenues, FDA cannot regulate an industry known for hiding the facts and lying to Congress. How can FDA challenge an industry that has creatively targeted our children?

There can be no anti-smoking national policy without a strong and well-financed FDA. Any attempt to pass anti tobacco legislation without a strong FDA will only fail. We will never end the tobacco companies attack on our children.

This Budget Resolution fails our children in many ways. Not just about tobacco, but in preparing them for the challenges they will face tomorrow. We have all seen study after study that proves we need to place education as a top priority at both the federal and state level. Our children do not have the resources and are not being given the opportunity to meet their potential.

I am disappointed in the lack of any effort in the Republican Budget Resolution to deal with overcrowded classrooms and decaying schools. How can we hope for high test scores when children have no heat in the classroom or windows covered with cardboard? How can we hope to prepare our children when there are 45 children in each classroom? How does a child receive the individual attention so important to cultivating their skills and their self esteem when there are 45 students for every teacher? Our classrooms boarder on chaos every day because of these deplorable conditions. Yet the Republican response was to simply ignore these problems.

These are not local problems as some may argue. A well educated and skilled work force is a national security issue. We cannot remain a global economic power without a well educated and skilled work force. If we do not dedicate the resources necessary to ensure that every child can learn and can learn in an environment that is geared toward more than just survival, we jeopardize our own economic stability. Education is not just a local concern or a concern of parents. Ask any business

owner about the need to have an adequate supply of skilled labor. I can assure you that this is not a local issue, but is becoming a national disgrace.

Ignoring investments in education is simply irresponsible and selfish. I urge my colleagues to do the right thing and address the pressing needs of today's classrooms. We can do better.

Mr. GRASSLEY. Mr. President, I wish to commend my colleague Senator DOMENICI, the Chairman of the Senate Budget Committee, for bringing a truly remarkable budget resolution to the Floor of the Senate. I truly never thought that I would be standing here during my lifetime preparing to vote on a resolution that will bring our federal budget into balance, even producing a surplus. This is going to be one of those rare occasions when the Congress will actually be following its own advice. We will advance beyond the rhetoric of talking about balancing the budget and actually balance the budget. And we are doing it 4 years ahead of time. This is a truly remarkable achievement.

If we continue on this course, something even more remarkable may begin to happen. The public may start to lose some of the skepticism about the Congress which has built up over the years.

Last year we were faced with many hard choices as we worked on the bipartisan Balanced Budget Act of 1997. It was a difficult time. The decisions which we made then were as tough as any decisions which we as legislators have ever had to make. But we joined hands, and for the good of the country we made them. Those difficult, sometimes bitter decisions are now bearing the sweet fruit of a balanced budget along with a possible surplus.

We should be hearing the blue bird of happiness here in the Senate CHAMBER, and continue to be careful with the taxpayers money. But that doesn't seem to be the case. Instead we are hearing the gremlin of spend, spend, spend. It seems that the lessons we have learned about tightening our belts and living within our means was fleeting at best. To make matters worse, we are talking about spending money that we do not have yet.

Another way that we are talking about spending money that we don't have in the various votes about spending the tobacco settlement money. This is not the appropriate time for this debate.

In addition, we are putting the cart before the horse. We are debating how to spend the money from a tobacco settlement before we have made the hard choices required to enact this settlement. What about liability limitations, advertising restrictions, billion dollar attorneys fees, tax deductibility questions, new federal regulations, and antitrust limits? These are just a few issues that must be carefully considered before Congress passes any tobacco legislation.

When we pass tobacco legislation, our goal—our priority—must be to eliminate youth smoking. When I can, I discourage people, both old and young, from smoking. I recently took my grandson Patrick to a town meeting, where AL GORE was speaking, that was organized to alert young people to the dangers of smoking. Let's make that clear, there is no one in this room who favors youth smoking. Any efforts to characterize anyone otherwise are disingenuous and frankly, unhelpful to this debate.

I believe that we must pass tobacco legislation this session. And we need to keep our priorities straight when we do this. Our priority must be to stop youth smoking, not to coddle the tobacco industry. This Budget Resolution protects the chances of passing solid tobacco settlement legislation this year. It takes the proceeds from this theoretical legislation and puts them in a reserve fund for Medicare—which pays the health-related costs that the state lawsuits were designed to address. It funds the issues won in the settlement—smoking cessation programs, health research, and such—from existing funds. We believe that these are important enough to fund them without waiting for new legislation. This allows us to stop arguing over how to spend the money long enough to consider the issues that must be solved for us to get this money. This gives us the strongest hand to enact legislation that creates a real, effective and lasting regime for reducing youth smoking.

Now is also not the time to talk about new entitlement programs. Now is the time to keep entitlements and spending in line with last year's bipartisan budget agreement. It is time to make sure the entitlements we have already can meet their commitments to the millions of Americans who depend on them.

Again, this is a good budget. This budget paves the way for real increases in spending for health research, child care, and other important programs. And we do it within the agreed upon budget caps.

I greatly admire the Chairman of the Senate Budget Committee and the skill and expertise which he has shown in crafting this budget resolution. This is a good resolution. This resolution keeps the faith with the American people as we continue to work to get a balanced budget and to keep it.

Mr. JEFFORDS. Mr. President, I rise today to commend Majority Leader LOTT, Chairman DOMENICI and the members of the Budget Committee for putting together a balanced fiscal blueprint for the Federal Government. The federal budget consists of more than 1,060 spending accounts that fund an estimated 113,000 programs, projects, and activities. The federal budget and a Congressional budget collapse these accounts into twenty budget functions. It was not too long ago that we talked about the ever-increasing deficit and the need to for fiscal restraint of these functions. Under this resolution, the budget would be balanced three years earlier than the Fiscal Year 2002 deadline set out in the Balanced Budget Agreement of 1997.

The budget we will be voting on provides for the first surplus in a generation. After reaching a peak of $290 billion in 1992, the unified budget deficit has declined to where the Congressional Budget Office projects a surplus in the current fiscal year of nearly $8 billion. Current laws and policies left unchanged, and real economic growth averaging 2.2 percent annually, the unified budget surplus is projected to grow to $67 billion by 2002. The budget achieves this surplus while also increasing spending by 3.6 percent over last year.

Even though the budget calls for increased spending, it maintains the principles of the Balanced Budget Agreement of 1997. This budget we have before us today embraces a bipartisan approach of protecting federal programs while preserving the principles of fiscal discipline.

Mr. President, Chairman DOMENICI has increased funding in some of the programs that are important to me as Chairman of the Labor and Human Resources Committee. The budget provides an additional $15 billion for the National Institute of Health, $5 billion for the IDEA educational programs, and $5 billion for Child Care Block Grants.

The budget provides funding for the $214 billion Intermodal Surface Transportation Efficiency Act that the Senate passed on March 12, 1998. The State of Vermont would average $118 million a year in highway money and $2.5 million for mass transit projects through 2003. Vermont will be able to use funds to reconstruct aging rail lines, repair bridges, and improve major roads throughout the state. Mass transit funding will go to small-town bus systems and minibuses for disabled and handicapped people in rural areas.

Mr. President, even though this budget provides additional funding on programs that are very important to me, we still have many challenges ahead. The Federal Government still has a $5.5 trillion debt. In Fiscal Year 1998, the Federal Government will spend about $250 billion on interest on the national debt. One out of every seven dollars in taxes goes simply to pay off the bondholders. This money gets diverted from important programs that the Federal Government provides. The Clinton Administration said that without enactment of any budget agreement, debt would have approached $7 trillion by 2002.

Mr. President, there is $14 trillion in unfunded obligations for the retirement and health care benefits of the Baby-boomer generation. That generation is now just ten years away from starting to impose its unprecedented burdens on its children and grandchildren. We as a nation need to begin to agree on a way to ensure the health care and retirement security of the Baby-boomer generation retirees.

The economy of the United States is booming and inflation has all but vanished. Unemployment is low and federal budget will be balanced for the first time in 30 years. This budget provides the building blocks to meet the challenges that lie ahead. I call upon my colleagues to build upon the work over the last decade at both ends of Pennsylvania Avenue and support this budget resolution.

Ms. MIKULSKI. Mr. President, I rise in firm opposition to S. Con. Res. 86, the Budget Resolution for fiscal year 1999. I do so with great disappointment.

Mr. President, last year the Congress produced an historic budget agreement. We produced a plan to finish the job we started in 1993 of eliminating the budget deficit. We worked together—across party lines—to balance the budget, to protect our seniors by ensuring the solvency of Medicare, and to provide for key investments in education and health care. We also provided real tax relief for working families.

I had hoped we would be able to continue to build off the framework of the 1997 Balanced Budget Act and Taxpayer Relief Act. Unfortunately, this budget resolution ignores the priorities that were at the core of those agreements.

I will oppose this resolution because it does not reflect the principles and priorities that I believe must be part of the budget. I want a budget that preserves the safety net for seniors, gets behind our kids, provides for safe streets and a safer world, and provides for investments in science and technology. I believe this budget is defective in each of these areas.

The Democratic budget alternative that was offered during our debate was strong where this resolution is deficient. It would have allowed for enactment of a comprehensive child care initiative to improve and expand the availability of quality, affordable child care and after school programs for school age children. No working parent should have to worry about finding suitable care for their child—a safe place with well-trained staff. The lack of adequate safe and affordable child care is a major concern of America's families. Our alternative would have gone a long way to meet that critical need.

The Democratic alternative was strong on education. It would have enabled us to improve the education of our children through initiatives to reduce classroom size, hire 100,000 more teachers, and to ensure that children attend school in safe and well-maintained facilities.

Our Democratic alternative was strong on Social Security. It made clear that before we spend one penny of any projected budget surplus, we should save Social Security first. Social Security is a sacred compact with America's seniors. We owe it to every senior citizen to ensure that Social Security is there for them, and that it will be there for today's workers when they retire.

Our Democratic alternative was strong on health care. It would have provided for vital new investments in health care research. It would have ensured that the funds generated by a comprehensive tobacco bill—a priority for the American people—could be used to fight teen smoking, to conduct tobacco-related health research, to provide programs for people who want to quit smoking, and to help tobacco farmers move to new crops.

I believe we produced a budget that should have had the support of a bipartisan majority. It was a common sense budget—that kept our commitment to a balanced budget, while providing for the sorts of investments in key priorities that are critical for getting our country ready for the next century.

I am deeply disappointed that our alternative was rejected. The Budget Resolution before us now does not meet America's needs. I cannot support it.

FOCUS ON TEACHER QUALITY

Mr. DEWINE. Mr. President, I rise today to speak on behalf of my Sense of the Senate Resolution which I have introduced.

In believe there is a crisis in teacher education in the United States. To me, that means we have to look to new ideas. If we are serious about restoring America as an academic power, I believe that we have to act immediately to find solutions. In the past, education reform has not been bold enough—and our children are suffering very serious consequences.

Some alarming statistics really brought this home for me:

36% of those now teaching core subjects—like English, math, science, social studies, and foreign languages—neither majored nor minored in those subjects.

A study conducted by the National Commission on Teaching and America's Future revealed that

More than one-quarter of newly hired public school teachers in 1991 lacked the qualifications for their jobs, and nearly one-fourth of all secondary teachers did not even have a minor in their main teaching field.

The Commission also found that

56% percent of high school students taking physical science were being taught by out-of-field teachers, as were 27% of those taking mathematics and 21% of those taking English.

This is bad enough—but there's also evidence that the least qualified teachers were most likely to be found in high-poverty and predominantly minority schools, and in lower-track classes. In fact, in schools with the highest minority enrollments, students had less than a 50% chance of getting a science or mathematics teacher who held a license and a degree in the field he or she taught.

This is a prescription for disaster on a truly national scale. With this failure of investment in properly trained teachers, we should not be surprised that students are doing so poorly on standardized tests. After all, if the teacher does not understand the subject he or she is teaching, then certainly the students will not learn what they need to know.

It is inexcusable that a country that leads the world in so many ways does not give its children the best academic resources available. The truth is, the United States will not remain a world leader unless we make a commitment to invest more in teacher quality—and soon.

I am encouraged that we have bipartisan interest in reforming the education system. However, we must address the problem of quality teachers before we merely reduce class size and hire 100,000 new teachers.

The answer, in my view, is to only certify quality teachers—and furthermore, to get the quality teachers to teach our neediest kids. All children, from K to 12th grade, deserve the chance to have well-educated, qualified teachers who will help them reach the limits of their academic potential.

I have introduced legislation that would provide assistance for the creation of teacher training facilities across the United States that will help train teachers who are either already in the classroom, or about to enter the teaching profession. While it is important to stem the tide of unqualified teachers reaching the classroom, we must also focus on helping teachers that are already in the classroom and need assistance in becoming the best teachers that they can be.

The Teacher Quality Act is commonsense legislation that will assist school districts in their struggle to maintain the highest possible academic standards for their children. The idea for this legislation developed out of my admiration for the Mayerson Academy in Cincinnati, Ohio. The Mayerson Academy was established in 1992 as a partnership between the Cincinnati business community and its schools. Its mission is to provide the highest quality training and professional development opportunities to the men and women responsible for educating the children of Cincinnati.

We also need to tap into the expertise of people who have a lot to offer our children, but who haven't trained specifically to be teachers. I have introduced legislation that will expand and improve the supply of well-qualified elementary and secondary school teachers, by helping States develop and implement programs for alternative certification or licensure of teachers.

The Alternative Certification and Licensure of Teachers Act will give people who would like to teach a chance to do so. These are people who can serve as mentors and role models—real-life examples of how a good education can make a huge positive difference in a student's future.

We need to bring the best possible people into America's classrooms—people who can inspire kids with their knowledge and experience. That's what this bill would accomplish.

When it comes to education, our national task is clear: We have to develop

an education system that will draw the best and brightest students into the teaching profession. The States need to be encouraged to provide incentives for people to become teachers, and restore a sense of pride to this profession.

Without strong teachers, our children will continue to struggle. But if we start attracting the best possible people into the classroom, there's really no limit to what our young people can achieve.

Please join me in voting for this Resolution so that we can begin a concerted focus on teacher quality in this country.

Ms. MOSELEY-BRAUN. Mr. President, today our economy is remarkably strong, and this year our budget will balance for the first time since 1969. In 1993, many of my colleagues and I passed a historic budget plan that set the stage for this strong economy. Today, I am proud to report that the Congressional Budget Office estimates a surplus of $8 billion this year.

In these past 4 years, we've achieved the lowest tax burden for working families in 20 years. Unemployment was 7.5 percent in 1992. Last month it fell to 4.7 percent, its lowest in 24 years. And since President Clinton took office, more than 13 million new jobs have been created. We have strengthened the economy while at the same time reducing the size of government.

For the past several days, we have been considering the Budget resolution for 1999. This resolution could have provided us the opportunity to take the next vital step in creating even a stronger economy and addressing some of our nation's most urgent needs. While this resolution has several provisions which I do believe will lead us in that direction, I also believe that it fails to seize the opportunity to address some of our nation's most immediate needs, and for that reason, I will not support this budget resolution.

First, let me say that I am pleased that the drafters of this resolution have made provisions for the Senate increases and offsets for reauthorization of ISTEA, assuming an additional $2.7 billion over five years for mass transit programs, $25.9 billion above last year's agreed to levels. In addition, I am pleased to see that an additional $5 billion in discretionary budget authority has been provided for the Child Care Block Grant, and I am additionally pleased to see provisions for the extension of the R&E tax credit, IRS reform, technical corrections to 1997 tax bill, and child care tax relief.

Over the course of this week, however, several good amendments have been offered that could have strengthened this budget resolution and made it an even clearer expression of our values. Unfortunately, most of those efforts failed here on the Senate floor. The majority—who did nothing to help erase the red ink our Administration inherited from them—continues to cling to failed economic policies.

For instance, this budget resolution fails to do anything in the way of addressing the $112 billion that the GAO reports is needed to bring America's crumbling schools up to code, or to address the need to strengthen our public school system. There is no greater challenge or threat to our nation's future prospects in this technological age and global economy than quality education for every American child. Failure to respond to that challenge is not only irresponsible, but destructive.

Equally distressing is that fact that this resolution does not do enough to address the current status of our Medicare and Social Security systems. This opportunity should have been used, I believe, to provide retirement security for our seniors. Social Security and Medicare have worked well together, bringing poverty among the elderly to its lowest level since we have been keeping statistics. Furthermore, these programs have helped to increase life expectancy among men and women. Millions of senior citizens deserve to have a decent retirement, and this budget fails to address their needs.

Do we need to operate these programs the same way? Of course not—but we do need to secure the guarantees they provide for Americans. The time for reform of both of these vital programs is now, and we do ourselves a disservice by not seizing this opportunity.

As with education, the issue is whether we are preparing our nation for the challenges of the next century.

We can fix these institutions and remain fiscally responsible. We have proven, in passing last year's budget agreement, that it is possible to address the needs of our nation and promote economic growth and a fair tax system at the same time.

It is unfortunate that politics prevented us from fashioning a budget resolution that could have served the needs of all the American people, and not just a few. I cannot in good conscience support this budget resolution, and I urge my colleagues to vote against it.

Ms. SNOWE. Mr. President, the FY 1999 budget resolution is the first resolution that has been crafted since the historic balanced budget agreement was reached and enacted just 10 short months ago.

I would first like to congratulate the Chairman of the Budget Committee, PETE DOMENICI, for bringing us to the point where a balanced budget is no longer just a projection at end of some indeterminate period of time—but may actually be a reality by the end of the current fiscal year. His years of dedication to balanced budgets and his ongoing commitment to being a responsible steward of the taxpayer's dollar may soon be rewarded—and I am pleased to have had the opportunity to serve with him on the Budget Committee during this historic time.

Furthermore, I believe that the resolution that Chairman has crafted deserves the support of no less than each of the 76 members who voted for last year's bipartisan agreement. This resolution is not only consistent with that agreement, but also adds critical funding for a multitude of programs that are priorities for many in the Senate: child care, health research at the National Institutes of Health (NIH), smoking cessation programs, and federal funding for the Individuals with Disability Education Act (IDEA), to name just a few. Any member who heralded last year's budget agreement—or who voted in favor the provisions and spending targets it contained—would be hard-pressed to explain why this resolution does not deserve their support this year.

Mr. President, as I stated during the recent markup of this resolution in the Budget Committee, I believe it is important that we establish several guiding principles in crafting the FY 1999 budget resolution. I am proud to say that the resolution we crafted—and which is now being considered by the full Senate—achieves all of these goals.

First, based on the 29-year losing streak we have had in balancing the federal budget, we have an obligation to craft a resolution that puts us on a credible and prudent path that will keep the budget balanced for many years to come.

Second, we must craft a budget resolution that is based on the balanced budget agreement that was enacted 10 short months ago.

Third, with an eye to the future, we must preserve the Social Security program before utilizing any portion of forthcoming surpluses for spending increases or tax cuts.

And, fourth, we must ensure that any monies generated by tobacco revenues in the months ahead be utilized to preserve and protect Medicare.

Although it would seem that these principles will be easy to attain, Congress' unproven track record of keeping the budget in balance, the tenuous nature of our economic assumptions, and the overwhelming desire of some individuals to ''spend'' money we don't even have, will make this difficult.

As I said, Congress has been on a 29-year losing streak when it comes to balancing the budget—we have no track record of getting the budget in balance or keeping it in balance. Therefore, much as I am pleased that CBO now projects an $8 billion surplus this year and total surpluses of $151 billion over the next five years, I believe we have an obligation to prove to the American people that we will ensure these projections become a reality not only for the next five years, but year-after-year in the future.

Achieving this goal will be harder than it looks. The simple fact is that the current outlook and surplus estimates are based on extremely tenuous projections. Therefore, to modify a well known saying, ''we shouldn't count our surpluses before they're hatched.''

First, our estimated surpluses are based on the assumption that we will

have no recessions or economic downturns in the coming 10 years. Based on the fact that we are now in the midst of one of the longest stretches of sustained economic growth in our nation's history, this seems to be a fragile estimate at best.

Specifically, as the chart behind me indicates, the current period of sustained economic growth first started in March 1991. If it continues until December 1998, it will match the duration of the longest peacetime expansion in U.S. history—the ''Reagan expansion''—which lasted 92 straight months (i.e. November 1982 to July 1990). Furthermore, if this expansion continues until early 2000, it will be longest period of expansion ever—peacetime or wartime—which was set in the 1960's (106 straight months, from February 1961—December 1969).

Therefore, If CBO's projection come true and growth is sustained through 2008, we will double the all-time record of 106 straight months set in 1969. Needless to say, with 61% of the economists surveyed by Blue Chip believing a recession is likely to occur before March 2000, these estimates of prolonged economic growth leading to substantial surpluses should be viewed with a health dose of skepticism.

Furthermore, our estimates for growth in even the *current* year are predicated on shaky estimates. Specifically, although the impact of the Asian economic crisis has seemed only slight up until now, we still do not know how severe the overall impact will be—and we certainly won't know until later in the year when it's too late to alter the budget.

Already, just two weeks ago, we learned that the U.S. trade deficit for the month of January soared to a new all-time record of $12 billion, as exports to Asia dropped precipitously. According to a recent Washington Post article, many economists expect that because of problems in Asia, the trade deficit will widen substantially this year from the $114 billion deficit posted in 1997—which was already the largest trade deficit our nation had posted in nine years. Needless to say, if this situation persists and worsens, there will be a drag on the U.S. economy.

In light of these risks, we would be wise to heed the caution of CBO when it comes to touting the budget outlook. As CBO outlined in their own January report, the economy is ''highly unlikely to develop precisely as the forecast predicts''—and even a moderate recession, such as the one experienced in the early 1990's, could lead to the budget outlook deteriorating by ''more than $100 billion'' for a year or more. In fact, if projected growth is even 0.5% lower than CBO projects over the next 10 years, the budget outcome will be $150 billion worse than projected in 2008.

It is because of CBO's own cautions that I am especially concerned with the economic and budget estimates of OMB. Although the CBO and OMB estimates are very close together, the simple fact is that OMB still provides a more favorable economic outlook in coming years. Specifically, as a result of more favorable growth estimates and lower inflation estimates, OMB's estimated surpluses are $66 billion—or 30 percent—higher than CBO. Therefore, prudence dictates that OMB's estimates be viewed with even greater skepticism than the already optimistic projections of CBO.

Clearly, if we are to establish a track record of balanced budgets, we must chart a prudent course in the budget resolution. And for this reason, we must adopt a resolution that not only follows CBO's more modest economic estimates, but that also adheres strictly to last year's balanced budget agreement. This body should do nothing to jeopardize that agreement, which put in place strict spending limits that will improve the chances of projected surpluses becoming actual surpluses.

Regrettably, the President does not seem to share this view. Rather, he views the recent favorable estimates as an opportunity to spend money, create new programs, and violate the terms and spirit of the budget agreement we reached just 10 short months ago!

By proposing to increase taxes by $105 billion and to increase spending by $118 billion, the President's budget would revert to the tax-and-spend policies that the American people believed we abandoned three years ago.

Furthermore, although President Clinton has urged that Congress not spend the surplus until Social Security is fixed, CBO now tells us that the President's own budget would not only spend the surplus, but also cause a deficit in three years! Specifically, as CBO stated in their March 4 preliminary analysis of the President's budget: ''CBO estimates that the President's policies will reduce projected baseline surpluses by $43 billion between 1999 and 2003—and will temporarily dip the budget back into red ink by a small amount in 2000.''

Needless to say, these aren't the kind of policies that Congress agreed to when we crafted the bipartisan balanced budget agreement last year—and that's not what the American people were led to believe would happen when President Clinton unveiled his budget proposal in February.

While some may argue that the President is not bound by last year's budget agreement because the budget may be balanced sooner than expected, I have only one thing to say: I don't remember any clause in the agreement that read: ''If a balanced budget is achieved prior to 2002, the terms and spending limits of this agreement are automatically waived.''

Fortunately, the Chairman of the Budget Committee, Pete Domenici, understands the need for prudence, and crafted this resolution accordingly.

As the budget before us demonstrates, the Chairman believes that we have an obligation to treat this favorable budget news as a chance to prepare for the future and address the long-term demands that retiring Baby Boomers will place on our budget in 10 short years.

Specifically, this resolution adheres to the budget agreement we struck 10 months ago. Also, he leaves every dime of every future surplus to the Social Security Trust Fund—which is just as the President urged us to do, though his own budget does not. And, finally, he ensures that Congress does not forget or ignore the plight of Medicare—a critical program that will be insolvent in 2008, which is long before Social Security will be insolvent, and sooner than many would like to remember.

To achieve this final goal, the Chairman has wisely walled-off any monies we receive from tobacco legislation and dedicated it to Medicare. In comparison, the President would like to target these monies to a host of new programs that he believes will have popular appeal. Perhaps targeting windfall revenues to a program that our elderly rely on for their medical needs isn't as appealing as handing out new ''goodies'' in an election year, but I certainly believe it would be more responsible and prudent.

In addition, when considering the cost of smoking-related illnesses on the Medicare program each and every year, linking any forthcoming tobacco revenue to the Medicare program is imminently appropriate. As the chart behind me indicates, Columbia University found that smoking-related illnesses cost the Medicare program $25.5 billion in 1995 alone. In fact, of the various forms of substance abuse that affect the Medicare program, tobacco-related illnesses accounted for 80% of the approximately $32 billion total costs in 1995.

Therefore, even assuming that these costs have not risen since 1995—which is doubtful—then the President's budget, which assumes tobacco revenues of approximately $13 billion in each of the coming five years, will not even come close to covering the costs of tobacco on the Medicare program. In fact, the President's assumption would cover only slightly more than half of these annual costs. Needless to say, the budget resolution's assumption that these monies be used to shore-up the Medicare program is more than justified when considering these facts.

Now, some members have expressed concern that walling-off tobacco revenues in this manner will harm our efforts to pass comprehensive tobacco legislation later this year. As a member of the Senate Commerce Committee—the Committee that will soon be marking-up this legislation—I cannot emphasize enough that this concern is unfounded.

The tobacco reserve fund does not imperil comprehensive tobacco legislation, as some members on the other side of the aisle will contend. Rather, just the opposite is true: It will protect future tobacco legislation.

The simple fact, Mr. President, is that the more uses we identify for possible tobacco revenues in the budget resolution, the more the urge to spend money will become the driving force for tobacco legislation. If that happens, the only winners will be the tobacco companies, because Congress will have lost sight of the true goal of that legislation: reducing—if not eliminating—teen smoking.

Tobacco companies would like nothing more than for those of us who are committed to passing comprehensive tobacco legislation to argue about how money will be spent. The simple fact is that if we divvy-up the pot of potential tobacco money in this resolution, we will face enormous pressure to simply pass a tobacco bill at all costs, regardless of its merits. Such a bill could well-contain many weak provisions that favor tobacco companies—but the pressure to ''spend the money'' will drive members to overlook the inherent flaws of such a bill.

As the Washington Post stated in a February 3 editorial: ''Mr. Clinton would pay for a fair amount of his program with a tobacco bill that he has thus far not submitted. He is relying on Congress to write it. He says that as a deterrent to smoking, it should raise the price of smoking $1.50 a pack in real terms over 10 years, and he proposes a division of the revenue. The problem with that will be if the money becomes more important than the rest of the bill, and the tobacco companies are able, as is their intent, to buy weaker legislation than might otherwise be passed.''

That's not an outcome that I want for tobacco legislation—and that's not the outcome that I believe the American people want either.

Unfortunately, those who would attempt to push for an advance-divvying of the tobacco ''piggy-bank'' drive us toward that outcome.

The fact of the matter is that the Chairman's mark will ensure that tobacco legislation to reduce teen smoking is able to move forward based on sound policy—not politics. Limiting the use of the federal share of future tobacco monies to Medicare is not an impediment to tobacco legislation—it is an enabler.

Mr. President, if I understand the argument of the minority accurately, they believe that limiting the use of the federal share of tobacco monies to Medicare will impose an additional hurdle to tobacco legislation. They are saying that it will prevent tobacco monies from being used for important tobacco-related purposes, such as smoking cessation programs and health research.

As the Chairman has outlined, his budget resolution does more for these programs today than any theoretical tobacco bill is able to do. This resolution provides $800 million for tobacco cessation and prevention programs, and $15 billion for research at the NIH. That's real money—not the illusory money that we simply hope tobacco legislation will generate in the future.

Now, some may argue that this budget simply does not provide enough for these or other smoking-related programs, and that any forthcoming tobacco legislation should provide additional monies for these purposes. That's a legitimate argument.

But the simple fact is that this budget will not prevent additional monies from being provided for such purposes if a tobacco bill is passed. In fact, the budget resolution will not even prevent tobacco monies from being diverted to programs that have nothing to do with tobacco.

The bottom line is that if tobacco legislation is brought up on the floor of the Senate and members wish to divert monies for any number of purposes—either related to smoking or not related to smoking—they can do that. It will simply take 60 votes to waive the point of order that this resolution would create against such spending—which is the same margin of votes that will be required to end debate on that same tobacco bill (achieve cloture).

Therefore, in light of the fact that it will take at least 60 votes to end debate on a tobacco bill and—ultimately—to pass a tobacco bill, this point of order is not onerous. It simply ensures that we keep our priorities straight from the start (Medicare), and ensures that the various ways we spend tobacco monies will have the same level of support as the tobacco bill itself.

The bottom line is that if Congress believes that more money is needed from the tobacco bill to pay for smoking cessation and other tobacco-related programs, garnering 60 votes to waive the point of order will not even be an issue. Therefore, arguing that this requirement—which is no more onerous than the 60-vote margin that will be required to end debate and pass the tobacco bill—endangers tobacco legislation, is completely inaccurate.

The bottom line is that this resolution seeks to protect tobacco legislation from being weakened or undermined by a ''rush for the money.'' So I hope that those who are concerned about tobacco legislation will join us in this effort to keep the focus of tobacco legislation on reducing teen smoking—not on spending money.

I want a strong, effective tobacco bill—I don't want it undermined and weakened because the ''politics of spending'' got in the way of good policy.

Mr. President, these and other principled decisions that are embodied in this resolution will undoubtedly be challenged by those who would like to open the fiscal floodgates and start spending at will or pass another round of tax cuts. However, I believe that as we move from a period of deficit politics to surplus politics, we should exercise discipline and prudence to ensure expectations are met—not re-open the federal credit card account that got us into so much trouble in the first place.

At the same time, maintaining fiscal discipline and adhering to last year's balanced budget agreement does not mean that we must ignore important issues confronting our nation today. Specifically, within existing budget constraints, we can and should address the educational needs of our children and tackle the child care crisis that is affecting countless families nationwide.

But funding these and other priorities doesn't require that we violate last year's spending caps—rather, they require that we prioritize our spending and have the will to target our spending accordingly.

In particular, I would like to highlight the manner in which the Chairman properly accommodated one such priority—child care—in this resolution. As the leaders of both parties an the Administration have demonstrated through a variety of proposals, improving child care should be a priority during the current Congress. And in light of the ever-expanding need for child care assistance, such a decision is not surprising.

In 1995, 62 percent of women with children younger than 6 years of age—which means 12 million children—were cared for by someone other than a parent during working hours, and the numbers have not improved. Yet the supply of child care does not meet demand, and existing child care is often unaffordable. In fact, on average, child care costs range from $3,000 to $8,000 per year, and can be even higher for infant care.

Safety is also a factor that looms heavily on parents' minds—in fact, a U.S. News and World Report article last August found that 76 children died in day care in 1996. This is tragic and should not be the case. Placing children in child care should be an act of confidence, not a leap of faith.

Finally, many families who wish to care for a young child at home—even for a short period of time—cannot afford to forgo the second income, while other families undertake great scarifies to do so. But what many American families share is that terrible feeling that they have no option. And it should not be this way.

That is why the assumptions of this budget resolution are so critical. Not only would this budget double funding for the Child Care Development Block Grant (CCDBG)—going from $5 billion to $10 billion—over the coming five years, but it would also ensure that any tax package subsequently passed by the Finance Committee provide tax relief to families struggling with child care. I believe that these are policies that both Democrats and Republicans alike can and should embrace.

In January, I introduced a comprehensive bill—the Caring for Children Act—with Senators Chafee, Hatch, Roberts, and Specter, that is designed to increase the availability of a safe and affordable child care. That legislation would expand the Dependent Care Tax Credit, and for the first

time make this credit available to families where a parent stays at home to care for a child. It also encourages public-private partnerships, provides increased funding for quality, and doubles funding for the Child Care Development Block Grant.

Although the budget resolution does not advocate any particular child care bill, I am pleased that the assumptions included in this budget would comport with our bill, and I hope that policies along these lines will be enacted in the coming months.

I know that other child care bills have been introduced in the Senate—including a bill introduced by Senator Dodd, along with Senators Murray and Conrad. I truly believe that we are not that far apart in terms of policy, and I look forward to a time when we can work together to bridge these differences.

At the same time, I also know that there are those who will be adamant that the increased funding provided in the budget resolution for the Child Care Development Block Grant be mandatory in nature. However, I believe that the large increase in discretionary funding provided in the resolution is the most fiscally responsible approach to this nation's child care needs—and is quite an accomplishment when considering the fiscal constraints imposed in last year's bipartisan balanced budget agreement.

To those who will say that the Appropriations Committee will not be able to locate additional funds within the discretionary caps for child care, say, If child care is truly a priority, then it is simply a matter of having the will—and casting the votes—to ensure that an additional $1 billion per year is identified during the appropriations process for child care as we weigh our spending priorities. And considering that the President has proposed more than $47 billion in non-defense discretionary cuts over the coming five years, this is hardly a practical impossibility—it is only a matter of will.

Mr. President, this decision to dramatically increase funding for child care is but one of many decisions contained in this resolution that will address shared priorities. While some may argue that the recent favorable budget outlook gives us leeway to fund these priorities out of surplus monies or hoped-for tobacco revenues, the bottom line is that Republicans and Democrats alike fought hard for, and agreed to, this bipartisan agreement only ten months ago.

We should not take steps now to violate not only that agreement, but our trust with the American people. We have a responsibility to abide by this agreement, and the Chairman provided very generous funding within these constraints to ensure that child care and other priorities are properly addressed.

The bottom line is that this resolution abides by last year's balanced budget agreement; provides increased funding for critically needed priorities; preserves every penny of every surplus over the coming five years to protect Social Security; and ensures that any windfall revenues from tobacco legislation will be used to buttress the Medicare program.

The fact that this budget resolution abides by last year's agreement should be reason enough for each of the 76 members who voted for last year's agreement—including 36 Democrats—to vote for this budget plan. And the fact that it contains these other strong provisions should lead to even stronger bipartisan support. Therefore, I urge that my colleagues support this soundly-crafted resolution.

Mr. President, there is a saying: ''Money's only something you need if you're around tomorrow.'' While this may be true for an individual, it doesn't make for good federal policy. Therefore, I congratulate the Chairman of the Budget Committee for recognizing that being a good steward of the federal budget requires that we ensure there is money around tomorrow—even if we are not.

Our children and grandchildren are counting on us to make decisions today that will ensure they are not left with a mountain of unpaid bills and a host of unresolved problems on the horizon. The budget that you have crafted—and that is now before this body—would protect them from both of these dangers, and I congratulate you for your continued foresight. Thank you, Mr. President, and I look forward to voting in favor of this resolution.

Mr. KERRY. Mr. President, today, the Senate will approve a budget which will go beyond a balanced budget and create a surplus for the first time in more than a generation. This has been a key objective for me since I came to the Senate in 1985. So there is reason for some satisfaction and relief tonight. However, as we balance the budget, the picture is not entirely appealing. Unfortunately, we have failed to provide adequate support for the critical needs of our nation's children.

The Federal government has run a deficit continuously for more than 30 years. It soared to dangerous levels in the 1980s during the Reagan and Bush Administrations. As a result of these deficits, our national debt has multiplied several times, exacting a toll on our economy, increasing interest rates, squeezing federal spending and making debt service one of the largest expenditures in the Federal budget.

In 1993, following President Clinton's election, we began the long journey back from crushing deficits and toward fiscal responsibility by passing an enormously successful economic plan. The power of our economy was unleashed and our nation has benefitted greatly: unemployment is at record low; interest rates are subdued; the stock market is surpassing all expectations; and economic growth continues to be robust. This path culminated in last year's agreement to balance the budget and provide substantial broad-based tax relief for working American families and small businesses. The 1999 Budget Resolution is another step on the path to fiscal responsibility. I commend the leaders with key roles in bringing us to this point: President Clinton and his advisers, The Senate Republican and Democratic leadership, and the Chairman and Ranking Member of the Senate Budget Committee.

I strongly support the fact that the budget resolution produces a surplus which we can use to begin to restore the financial credibility of the Social Security system or pay off our federal debt. But that is far from the only measure that should be applied to a budget. Deficit elimination is a vital objective, but it is neither an economic policy nor a statement of priorities for our nation or its government.

How we balance the budget is just as important as whether we do so.

This budget unfortunately will leave some critical American needs unmet. It misses a unique opportunity in America's history to assist children and families and resolve many of our most pressing problems in education, child care, health care and environment.

Our children face real problems, and although there are a number of areas where we could improve this resolution, I want to focus my remarks on its effect on our nation's children. The out-of-wedlock birth rate is too high. While the Gross National Product has doubled over the last two decades, the child poverty rate has increased 50 percent. An American child drops out of school every eight seconds, is reported neglected or abused every 10 seconds; and is killed by guns every hour and a half. As a society, we are creating these problems for our children. Yet we know that scientific evidence conclusively demonstrates that enhancing children's physical, social, emotional, and intellectual development will result in tremendous benefits for children, families and our nation.

America's children especially need support during the formative, preschool years in order to thrive and grow to become contributing adults. However, adequate child care is not affordable or even available for too many families. That is why I believe we must provide more help to working families to pay for critically needed, quality child care, an early learning fund to assist local communities in developing better child care programs, and sufficient funding to double the number of infants and toddlers in Early Head Start. President Clinton shares this view and included in his 1999 budget proposal my recommendations on this issue. However, the Republican leadership rejected this approach and included no additional mandatory funding for either child care subsidies or early childhood education. Further, the resolution goes out of its way to exclude child care from the tobacco reserve fund. Instead, the budget tentatively promises a $5 billion increase

only if Congress is willing to cut other worthy programs to do so. That is unacceptable to the working families in this country. I joined Senator DODD in offering an important amendment to rectify this situation and increase funding for these crucial programs. While this amendment secured a majority vote, under Senate rules that was insufficient so the amendment did not become part of the resolution.

Mr. President, we must develop an educational system which prepares our children and young people for adulthood. Today, we are failing too many of our children. Crumbling schools. Overcrowded classrooms. Inadequately prepared teachers. The federal government provides a small amount of the total funding for public elementary and secondary education—less than seven percent of total public spending on K–12 education comes from the federal government, down from just under 10 percent in 1980. We must back up our grand rhetoric with appropriate funding for these worthy programs.

With my enthusiastic support, Democrats offered a number of amendments to this resolution to increase the effectiveness of our educational system. Among them were amendments to reduce class size from a nationwide average of 22 in grades 1–3 to an average of 18, to provide funds to help local school districts hire an additional 100,000 teachers, and to develop federal tax credits to pay interest on nearly $22 billion in bonds to build and renovate our public schools, many of which are in disrepair with emphasis on the 100 to 120 school districts with the largest number of low-income children. Finally, Democrats proposed a $2.2 billion increase for after school programs, education opportunity zones, and the High Hopes Initiative.

I am deeply disappointed that the Republican budget resolution does not include any of these proposals and that Republicans again and again rejected these initiatives. The consequences of the Republican budget are clear. Half a million disadvantaged children will not receive the extra help they need to succeed in school. Approximately 450,000 students will be denied safe after-school care in 1999. Some 30,000 new children will be denied access to the Head Start program. Some 6,500 public schools will not have drug and violence prevention coordinators. 3.9 million attending or wanting to attend college will be denied an increase in their Pell Grants. If we are going to talk about education being a national priority, then we ought to match our grand rhetoric with real money. The budget resolution we are considering today does not meet this challenge.

Access to health care in our nation is also inadequate. President Clinton proposed three initiatives to provide Americans aged 55 to 65 new ways to gain access to health insurance by allowing those aged 62 to 65 to buy into Medicare, paying a fair premium for the coverage. It also would allow displaced workers over 55 access to similar Medicare coverage. The third initiative would allow Americans over 55 who have lost their retiree benefits access to their former employers' health insurance until age 65. These proposals would give many Americans who are too old for conventional health insurance yet not old enough to be eligible for Medicare access to basic health insurance coverage. However, the Republican budget proposal rejects all those proposals even though they pay for themselves with changes to the existing Medicare program.

Over the next five years, this Republican budget will spend $4 billion over five years less than President Clinton proposed for the Ryan White AIDS CARE program, drug abuse prevention and treatment, and Center for Disease Control prevention activities.

Last year, I traveled to Kyoto, Japan to attend the Climate Change Conference. The vast majority of the scientific community and policy makers the world over who have carefully examined the issue of global warming have concluded the science is compelling and that it is time to take additional steps to address this issue in a more systematic way. The Republican budget proposal, however, refuses to fund President Clinton's initiative to reduce greenhouse gas emissions early in the next century. This is a shortsighted approach which could pose a serious threat to our environment—indeed, to the survival of our planet—in future years. We cannot afford to continue avoiding the consequences of our own actions, or condemning future generations to a despoiled planet.

I am a strong supporter of President Clinton's Clean Water Initiative, an action plan to focus on remaining challenges to restore and protect our nation's waterways, protect public health, prevent polluted runoff and ensure community-based watershed management. But the Republican budget plan ignores this proposal.

I am pleased and relieved the budget is balanced, but the Senate nonetheless has failed to address glaring, fundamental needs of our nation and its people. The budget could have been and should have been much, much better. For these reasons, with disappointment and regret, I will vote no on this resolution, and join others in committing to try to alter the misplaced priorities to better reflect and meet our nation's real needs.

Mr. DODD. Mr. President, I rise today to express my views on the budget resolution. I commend the Budget Committee on the job it has done. Chairman DOMENICI and Senator LAUTENBERG should be praised for their efforts to bring a bill to the floor that balances the budget for the first time in 30 years. And yet, this resolution fails to adequately address some of our nation's most pressing priorities, including child care, education, and health care.

First, however, I would like to take a moment to discuss how we reached this historic moment when, for the first time since 1969, we present the American people with a budget that is in balance. The balanced budget we have today is a result of the hard work and progress we have made over the past few years to reduce the deficit. The effort dates back to 1990 when President Bush—despite strong opposition from his own party—boldly endorsed a plan that lowered the deficit by $500 billion and started us down the road to fiscal responsibility.

This effort was then continued by President Clinton in 1993 when he proposed a far-reaching economic plan, which is more appropriately called the Balanced Budget Plan of 1993. This balanced budget plan, which I supported, was enacted into law without a single Republican vote and has helped to reduce the deficit from $290 billion at the beginning of 1993 to an anticipated surplus this year. Despite the claims by my colleagues on the other side of the aisle that President Clinton's plan would doom our economy, this economic plan has put us on a road to solid recovery. It has reduced deficits by more than $1 trillion, led us to the lowest unemployment rate in 24 years, created 15 million new jobs, and resulted in the greatest number of Americans owning homes ever.

Most recently, Mr. President, we finished the job of balancing the budget when we enacted the Balanced Budget Act of 1997. The Balanced Budget Act of 1997, which I supported, not only reduced spending, but also cut taxes for the first time in 16 years, providing much-needed tax relief for working families. I was very pleased to support the Balanced Budget Act of 1997 because it protected our priorities such as fiscal discipline, child care, education, health care, and the environment.

Unfortunately, Mr. President, the resolution before us today fails to protect these priorities and turns its back on America's families and children. It fails to recognize many initiatives important to our children and families including quality child care, reducing class sizes, renovating and modernizing our children's schools, and promoting after-school learning.

The resolution provides no mandatory funding for either child care or early childhood education. Moreover, it explicitly excludes President Clinton's proposals to use any revenues from comprehensive tobacco legislation to pay for initiatives for children, including child care, anti-smoking education, children's health care, and improvements in education.

Clearly, the resolution before us shortchanges children, and that is why I offered an amendment to establish a deficit-neutral reserve fund.

The resolution also reduces funding for the Administration's education priorities by $2 billion, and as a result, about 450,000 students could be denied safe after-school care in 1999, some 30,000 new children could be denied access to the Head Start program, and

6,500 middle schools would not have drug and violence prevention coordinators. And yet, while Republican budget increases funding above the President's request for Impact Aid, Special Education, and the title VI block grant, these increases come at the expense of many other priorities that also strengthen our commitment to children and education.

Mr. President, this budget as a whole ill-serves children and families, and that is why I was pleased to support the Democratic alternative budget offered by Senator LAUTENBERG. The Democratic alternative would strengthen our commitment to our priorities by providing funding for key initiatives such as hiring an additional 100,000 teachers, creating more after-school programs, and doubling the number of children who receive child care assistance. Further, the Democratic alternative moves us toward our goal of one million children in Head Start by 2002, doubles the number of children in early Head Start, and places up to 500,000 children in after school learning centers.

In addition, Mr. President, the Democratic alternative maintains our commitment to other Democratic priorities such as cleaning up the environment and investing in our transportation infrastructure. Moreover, it would expand Medicare coverage to Americans ages 55–65. And not least, Mr. President, the Democratic alternative strengthens Social Security by reserving the entire unified budget surplus, while maintaining strict fiscal discipline by meeting the discretionary caps in all years.

I regret, Mr. President, that the Democratic alternative was defeated. And I regret that the resolution before us today is not one that I, in good conscience, can support. In my view, the Republican budget shortchanges America's working families. I am, however, hopeful that as we move forward in the budget process, we will craft legislation that focuses on priorities like child care, education, health care, and the environment. Finally, Mr. President, in our efforts to craft a budget that targets the needs of working families, it is imperative that we remain vigilant in our efforts to maintain fiscal responsibility.

Mr. KOHL. Mr. President, I rise in opposition to the Budget Resolution. And while I will not vote for the final product, I want to compliment both sides of the aisle this year's unique debate over our budget blueprint.

For the first time since I arrived in the Senate, the issue of balancing the budget was not an issue. The President started the debate this year by proposing a budget that balances this fiscal year—a full two years before the proposed Constitutional Balanced Budget Amendment would have demanded it. The Republican members of the Budget Committee countered with the balanced budget before us today, and Democrats offered up their substitute, also in balance.

This year, partisan attempts to play ''pin the blame for the deficit'' were replaced by a serious discussion of the government's priorities. Hot air gave way to an honest airing of our policy differences. We debated the questions that must be answered in the budget that will guide our legislative actions for the rest of the year—questions about how government should spend its time and energy in the coming fiscal year.

And it is because of the budget answers those questions that I must oppose this budget. Though the numbers add up, the policies do not.

In short, on too many issues of importance to the families of America, this budget is more than silent—it stifles discussion.

For example, the budget forbids consideration of a comprehensive child care program for the United States—a plan like that proposed by the President, by Senator DODD, or by Senator CHAFEE. Senator DODD offered an amendment to fix this, and it was defeated.

How can we support a budget that does not at least allow Congress to consider the child care needs of our youngest children and our hardest working families?

At a time when 60 percent of our preschool age children are regularly cared for by someone other than their parents, can we accept a budget that will not allow us to debate any proposals to increase the accessibility of decent child care?

At a time when we are learning more each day about the importance of brain development in the earliest years of life, can we accept a budget that will not allow us to discuss creating more quality early education opportunities?

At a time when the business world is waking up to the link between good child care and employee productivity, can we accept a budget that will not let Congress also explore how to help working parents work well?

This budget also precludes consideration of any of the various proposals to implement the tobacco settlement. Under the budget, the Hatch plan, the emerging McCain bill, the Chafee-Harkin bipartisan plan, the Conrad bill, or even the initial tobacco settlement between the State Attorneys General and the tobacco companies would be out of order on the Senate floor.

This budget silences Congress on two of the most pressing issues that face our nation today: How can we give our youngest children the best start to their educations and their lives? And how can we free our children from the deadly pressure to start smoking?

Despite these serious objections, I would like to thank the managers of the bill, and the whole Senate, for unanimously accepting my amendment to the Resolution expressing the Senate's intention to protect our nation's elderly and disabled patients from abuse, neglect and mistreatment in long-term care facilities.

And I would like to compliment the drafters of this budget for one section. The $30 billion tax cut envisioned in this budget does include $9 billion for child care tax credits.

As many of you know, I have worked hard to establish a tax credit to provide an incentive to private sector businesses willing to take actions that increase the supply of quality child care.

My credit will give incentives to large companies—like Wisconsin's Johnson Wax or Quad Graphics—that set up state of the art child care centers on-site. And it will provide an incentive for smaller companies—like the 80 companies in the New Berlin, Wisconsin Industrial Park that joined together to build a child care center open to the children of all of their employees.

In addition, my credit is not just for the costs of construction—but also for the other substantial costs of providing suitable quality child care: the costs of accrediting a center, of setting up a merit-based pay system for the woefully underpaid child care workers, for reserving slots in an existing child care facility, or for hiring a resource and referral firm to design the best child care option for a given company.

This proposal has the support of the President, child care advocates, the business community, and the 72 Senators who voted for it as part of last year's tax package. I am glad to see that the budget before us also would support it.

However, as much as I would like to see us move forward on my child care tax credit this year, it is only one part of the solution to the shortage of quality, educational child care in this country.

For years, the Federal budget stole from the future to fund programs and pork in the present. The enormous deficits of those years were a national shame.

Today, the budget is in balance and moving toward surplus. We have reason to be relieved, but not reason yet to be proud. We have stopped stealing from our grandchildren, true. But this budget does not let us even consider in a comprehensive way their earliest, and most important, educational needs.

We have an obligation to at least discuss how best to nurture our youngest children—and I cannot support a budget that will not allow that.

I urge my colleagues to vote down this budget.

Mr. DASCHLE. Mr. President, the Senate will soon voice its opinion on the FY1999 Budget Resolution. The debate on this year's resolution offered the American people an excellent opportunity to observe each party's fiscal priorities. A budget resolution is essentially a fiscal roadmap to the future. Within the confines of scarce resources, a budget resolution forces real choices upon the Democratic and Republican parties.

Earlier in the debate, Senate Democrats offered their vision for America's

future. Our plan put Social Security first, lived within the spending ceilings established in last year's budget agreement, and contained key domestic investments and targeted tax cuts for working families. Our budget did all of these things plus one more. According to the non-partisan Congressional Budget Office, it maintained balance in 1999 and produced a unified budget surplus for as long as CBO is willing to project.

Before taking a look forward and describing our budget priorities for the future, I would like to take a brief look back. Just over 5 years ago when President Clinton took office, the budget deficit stood at a whopping $290 billion—the highest level in this nation's history. What's worse, the deficit was projected to grow to over $500 billion by the end of the decade if nothing was done to attack this insidious problem. Fortunately, the President and the Democratic Congress, without the assistance of a single Republican vote, took action. Together we passed legislation in 1993 that began to both stem the flow of red ink and target investments and tax cuts toward working Americans and their families.

Our political opponents harshly criticized our approach. Although I will not name the names of those who went on record predicting failure for our economic policies, it is not an exaggeration to say that many were predicting a disaster of near biblical proportions. It can also be said that many who publicly predicted economic ruin in 1993 are still here today, and many who bravely cast their vote for this package in the face of this cascade of criticism are not.

And today the results are clear to all. The economic plan Democrats passed 5 years ago produced the largest amount of deficit reduction in our history. The 1993 plan put us in position for what we accomplished this year—the first unified balanced budget in 30 years. Our plan also provided the foundation for what most economists are calling the strongest economy in a generation. About 15 million new jobs have been created since its enactment. The unemployment rate is 4.6 percent—a 25-year low. The core inflation rate is 2.2 percent—the lowest level since 1965. And real average hourly earnings have increased by 2.3 percent in 1997 alone—the fastest annual growth rate since 1976. These positive indicators moved Goldman Sachs, a distinguished Wall Street investment firm, to conclude in their March 1998 report on the U.S. economy: ''the current U.S. economic environment is the best ever—steady growth without inflation. As the expansion turns seven years old this month, there is still no recession in sight . . . On the policy side, trade, fiscal, and monetary policies have been excellent, working in ways that have facilitated growth without inflation.''

The Democratic record on deficit reduction and economic growth is clear. Our prescriptions for both have produced unprecedented success. And today we come before the Senate with our plan for the future. This plan builds on our past success and is based on four key principles. First, we will keep the unified budget in balance in 1999 and as far into the future as the Congressional Budget Office is willing to project. Second, our plan generates unified budget surpluses of $143 billion over the period 1999 to 2003 and sets the full amount aside to shore up Social Security. Third, the Democratic plan gets the CBO seal of approval. According to CBO, it complies fully with the spending caps established in last year's budget agreement. Fourth, in stark contrast to the Republican budget we have been considering on the Senate floor this week, our plan provides funding for key domestic investments and targeted tax relief for working families and businesses.

Unfortunately, Senate Republicans defeated this proposal earlier this evening. I would like to take a moment now to discuss briefly the Republican fiscal prescription and how it differs from the plan we offered earlier. These differences are most visible and most important in the area of education. The Democratic budget proposes providing funds to help local school districts hire an additional 100,000 well-prepared teachers. This initiative would reduce class size in grades 1 through 3 from an average of 22 to 18. The Republican budget rejects this proposal.

The Democratic budget proposes federal tax credits for local school districts that build and renovate public schools. The Republican budget does not even mention school construction.

The Democratic budget proposes increasing discretionary funding for key education and training programs, including a $2.2 billion increase in 1999 alone. This funding increase supports the High Hopes initiative, after-school learning programs, and educational opportunity zones. The Republican budget freezes spending on most important education programs. As a result, about 450,000 kids will be denied access to safe after-school learning centers. About 30,000 kids will be denied access to Head Start. And about 6,500 middle schools will not have drug and violence prevention coordinators.

The story is similar on child care and basic research. Within the overall context of a balanced budget, Democrats are proposing important initiatives in each of these areas. And the Republicans? Well, they just say no. No to education. No to child care. And no to basic research.

The final, but important, difference between the Democratic and Republican budgets is each side's approach to ending tobacco's hideous hold on young people in this country. The Democratic budget contains a comprehensive proposal to end Joe Camel's reign over America's teenagers. Our budget fully funds anti-youth smoking initiatives, tobacco-related medical research, smoking cessation programs, and public service advertising to counter the tobacco's targeting of our kids. The Republican budget does none of these.

It would be bad enough if the Republican budget stopped there. Unfortunately for this generation of teenagers and those that follow, it does not. The Republican budget goes even farther. It establishes a supermajority requirement for any future legislation that attempts to tackle teen smoking in a comprehensive manner. If this Republican budget as currently constructed is adopted, a minority of this body will be able to dictate whether and how the Congress should reduce the power of tobacco companies and weaken the industry's hold on our kids. In other words, the Republican budget stacks the deck against meaningful tobacco reform.

In closing, Mr. President, the Democratic approach to tackling this nation's fiscal and economic problems has delivered results unmatched in recent history. Record deficit reduction and economic growth. Our budget plan for the future would continue this progress. It would maintain fiscal discipline while investing in key domestic initiatives such as education, child care and basic research. And the Democratic budget is the only plan that allows Congress to construct a comprehensive approach to reducing teen smoking and provides the resources to do so. At the same time, the Republican budget before us rejects many of these principles.

Therefore Mr. President, it is for all of these reasons that I ask my colleagues to just say no to this Republican budget.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I thank everyone for their patience and in particular staff on the Republican side and the Democrat side for the marvelous work they have done. Let me say we are going to vote on this shortly. I feel rather proud. What we are going to do is move in a strong direction toward saving Medicare, saving Social Security, a significant tax cut, increases in education, and increases in criminal justice, the National Institutes of Health and programs of that sort. Yet we have not broken the caps and we will have balanced budgets for quite some time if we follow this format as we implement it during the year.

Once again I thank everyone in that regard.

Mr. GORTON. Will the Senator yield for a moment? I am informed by staff that, assuming the passage of this resolution, it will be the earliest the Senate has ever passed a budget resolution and probably the first time that the manager has not lost a single amendment in which he was interested.

Mr. DOMENICI. Thank you very much.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Mr. President, I wanted to make the Members aware of that also,

and also congratulate Senators DOMENICI and LAUTENBERG for the way they have worked together and the way they moved us through this very long process. It has been completed in record time, and I think we all owe them a debt of gratitude and appreciation.

Several Senators addressed the Chair.

Mr. LOTT. Before I yield the floor, so Members will know this before we go to the vote, we will be in session tomorrow, but only for wrapup. We do have some Executive Calendar nominations I think we can clear. We have gotten agreement on the Shipping Act, so we will have debate on the bill and on one amendment, but the vote will not occur on that bill until we return. We will return on April 20, but the first recorded vote will be the morning of Tuesday, April 21. So after this recorded vote, that is the final vote for the night and for the week and the next will be April 21. Thank you all for your cooperation.

Mr. ROCKEFELLER. Will there be opportunity tomorrow to speak as in morning business?

Mr. LOTT. Absolutely.

Several Senators addressed the Chair.

Mr. DASCHLE. Mr. President, I want to also congratulate the distinguished chair and ranking member for the great job they did and commend everyone for their cooperation. We were able to finish tonight almost on time, in large measure because of the cooperation. I appreciate that. We come to a different conclusion about the final result, but there is no doubt about the cooperation and effort and leadership demonstrated by the chair and the ranking member.

Mr. LAUTENBERG. Mr. President, if I might add a word also, to say that working with our colleagues on the Republican side, particularly the chairman of the Budget Committee with whom I work closely and I consider a friend, we try to handle disagreements in a positive fashion. Sometimes it gets a little edgy, but rarely.

I also want to say I thought, and I was discussing it with a couple of Senators here, that there was a degree of comity in this deliberation that is an improvement, I think, over what we have seen in past years. It is a much better way to work. I thank our leader for his support and also to say to the majority leader that his steady hand helped move things along. It has been an excellent experience. I wish we had won more than we did, but we go away knowing that we had a fair chance at the deliberation. That is what counts.

I particularly want to say to PHIL GRAMM and to Senator NICKLES, I thank them for their gesture—with the encouragement of the majority leader—in kind of righting what we took to be a wrong. I want to acknowledge it publicly.

With that, I thank my friend from New Mexico and hope we will have lots of occasions to do these budget resolutions—with me in the majority seat. I hope we will be able to do this many times.

Mr. President, I thank the Democratic staff of the Budget Committee for a job well done. They are Amy Abraham, Phil Karsting, Dan Katz, Jim Klumpner, Lisa Konwinski, Diana Meredith, Marty Morris, Sue Nelson, Jon Rosenwasser, Paul Seltman, Scott Slesinger, Mitch Warren, and, with particular thanks, Bruce King.

Also, I extend my thanks to the Democratic floor staff and the Secretary for the Minority for a job exceptionally well done.

The PRESIDING OFFICER. The question now occurs on agreeing to S. Con. Res. 86, as amended.

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 North Carolina (Mr. HELMS) is necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina (Mr. HELMS) would vote ''nay.''

Mr. FOX. I announce that the Senator from Hawaii (Mr. INOUYE) is necessarily absent.

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

The result was announced—yeas 57, nays 41, as follows:

[Rollcall Vote No. 84 Leg.]

YEAS—57

Abraham	Faircloth	McConnell
Allard	Frist	Moynihan
Ashcroft	Gorton	Murkowski
Bennett	Gramm	Nickles
Bond	Grams	Robb
Brownback	Grassley	Roberts
Burns	Gregg	Roth
Campbell	Hagel	Santorum
Chafee	Hatch	Sessions
Cleland	Hutchinson	Shelby
Coats	Hutchison	Smith (NH)
Cochran	Inhofe	Smith (OR)
Collins	Jeffords	Snowe
Coverdell	Kempthorne	Specter
Craig	Kyl	Stevens
D'Amato	Lott	Thomas
DeWine	Lugar	Thompson
Domenici	Mack	Thurmond
Enzi	McCain	Warner

NAYS—41

Akaka	Feingold	Leahy
Baucus	Feinstein	Levin
Biden	Ford	Lieberman
Bingaman	Glenn	Mikulski
Boxer	Graham	Moseley-Braun
Breaux	Harkin	Murray
Bryan	Hollings	Reed
Bumpers	Johnson	Reid
Byrd	Kennedy	Rockefeller
Conrad	Kerrey	Sarbanes
Daschle	Kerry	Torricelli
Dodd	Kohl	Wellstone
Dorgan	Landrieu	Wyden
Durbin	Lautenberg	

NOT VOTING—2

Helms	Inouye

The concurrent resolution (S. Con. Res. 86), as amended, was agreed to.

(The text of the concurrent resolution will be printed in a future edition of the RECORD.)

Ms. COLLINS addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

PROVIDING SECTION 302 ALLOCATIONS

Ms. COLLINS. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the resolution.

The assistant legislative clerk read as follows:

A resolution (S. Res. 209) providing section 302 allocations to the Committee on Appropriations.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Ms. COLLINS. I ask unanimous consent that the resolution be agreed to and that the motion to reconsider be laid upon the table.

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

The resolution (S. Res. 209) was agreed to as follows:

S. RES. 209

Resolved, That (a) for the purposes of section 302(a) of the Congressional Budget Act of 1974 the estimated allocation of the appropriate levels of budget totals for the Senate Committee on Appropriations shall be—

For non-defense:

(1) $289,547,000,000 in total budget outlays,

(2) $255,450,000,000 in total new budget authority,

For defense:

(1) $266,635,000,000 in total budget outlays,

(2) $271,570,000,000 in total new budget authority,

For Violent Crime Reduction:

(1) $4,953,000,000 in total budget outlays; and

(2) $5,800,000,000 in total new budget authority,

For mandatory:

(1) $291,731,000,000 in total budget outlays; and

(2) $299,159,000,000 in total new budget authority,

until a concurrent resolution on the budget for fiscal year 1999 is agreed to by the Senate and the House of Representatives pursuant to section 301 of the Congressional Budget Act of 1974.

UNANIMOUS CONSENT AGREEMENT—S. CON. RES. 86

Ms. COLLINS. Mr. President, I ask unanimous consent that the concurrent resolution now remain at the desk, and when the Senate receives the House companion, all after the resolving clause be stricken, the text of S. Con. Res. 86 be inserted and the concurrent resolution be immediately agreed to. I further ask unanimous consent that the Senate insist on its amendment, request a conference with the House on the disagreeing votes, and the Chair be authorized to appoint conferees on the part of the Senate, all without further action or debate.

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

MORNING BUSINESS

Ms. COLLINS. Mr. President, I ask unanimous consent that there now be a

period for the transaction of morning business with Senators permitted to speak for up to 5 minutes each.

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

UPDATE ON THE ACCOUNTABLE PIPELINE SAFETY & PARTNERSHIP ACT

Mr. LOTT. Mr. President, I want to take a few moments to update my Senate colleagues on an important piece of legislation enacted in the last Congress. The bill, now a law, was about regulatory reform of a segment of the energy community, namely natural gas pipelines. As DOT begins the rulemaking process required by law, they do so with improved regulatory reform guidelines.

Although this law only affects one statute and one agency it is real regulatory reform. It is the government and industry working together to make each more efficient and effective. It is government being held accountable for its rulemaking and regulatory decisions.

This law, the Accountable Pipeline Safety and Partnership Act of 1996, passed the 104th Congress, bringing with it provisions that strengthen risk assessment, cost/benefit analysis and peer review. Last week the Department of Transportation announced its first participant in a demonstration program where the rules will be flexibly applied and pipeline safety will be improved.

The Accountable Pipeline Safety and Partnership Act has two important elements which make it unique. First, all new pipeline safety regulations must undergo a risk assessment and cost/benefit analysis. This is crucial, because it ensures that new regulations and limited public resources are focused to maximize public benefit. This is real regulatory reform.

The second notable element of the Accountable Pipeline Safety and Partnership Act is the risk management demonstration project. Intended to move the agency beyond the old ''command-and-control'' style of regulating, this project allows individual pipelines to propose their own safety procedures to DOT for review and approval. This type of risk management takes us to a higher and more sophisticated level of safety regulation. Once again, the agency is encouraged to direct limited resources towards activities that provide maximum safety to the public. This, too, is real regulatory reform.

The Office of Pipeline Safety, has received a number of applications from pipeline companies that want to participate in the risk management demonstration project. One company has been approved and five other applicants are close to approval. These proposals have bolstered innovation in safety policy, and have encouraged pipeline companies to think beyond simple compliance with existing standards. The government is learning to think ''outside of the box'' and to consider creative industry solutions. This genuine reengineering partnership illustrates the fruits of real regulatory reform.

The demonstration project illustrates a commitment by a number of DOT civil servants to the principles of this law. Three key staff deserve recognition for rapidly implementing the law: Kelley Coyner, Rich Felder, and Stacey Gerad. These civil servants ensured that the American public gets greater safety and environmental protection when industry is given flexibility. This law is a bargain for America.

The Accountable Pipeline Safety and Partnership Act has restored trust between regulators and the regulated community. This new found trust will permit the sharing of research information that can be translated into improved pipeline safety technology. This trust has maximized both government and private dollars.

Enacting this legislation is a formal recognition that there is a valid role for risk assessment and cost/benefit analysis in federal rulemaking. These steps must be taken when regulating, not simply as a check off or to satisfy requirements of transparency, but to genuinely incorporate the results into how the rules are made. Cost is an essential factor and cannot be dismissed by rulemakers.

This regulatory reform is the law of the land for a small sector of our federal system.

This incremental effort changed a public policy by establishing a new level of confidence among stakeholders. It did not create a cloud of legislative doubt and confusion. To the contrary, it received overwhelming support from both chambers of Congress. This initiative is indeed a genuine bipartisan regulatory reform approach.

Regulatory reform should be incremental and fully bipartisan. If this Congress considers just one element of the regulatory process this year I believe it should be risk. There is a clear consensus among our colleagues that changes must be made to the rulemaking process. Risk is the basis for every rule, and should be the center of our next legislative correction.

I frequently draw a comparison between risk and a dog's ear. As you wash a dog, it has a tendency to want to shake the water and shampoo off. Because a dog starts shaking at the head and will not stop until the final flick of the tail, holding the ear will stop the shaking. Just as the dog's ear is the starting point of a shake, risk is the starting point of the rulemaking process. Without a risk, there can be no rule. Without a free ear, a dog cannot spray water everywhere. The water and shampoo will be effectively applied to the desired subject, and not wasted by going everywhere. Get risk right and the regulated industry will have respect for the rulemaking process. Ignoring risk and working on anything else is like holding the dog's tail —you will get soaked as the dog shakes from the head down to its tail. Unnecessary rules and regulations will abound.

I want to thank my colleagues for their attention. Regulatory reform is a passion in which I have invested six years. It is an area I will remain engaged in because more legislative changes are needed. It may take years of incremental efforts, but only this step-by-step approach will generate the confidence and comfort necessary to reform the rulemaking process. Current regulations were enacted during the years when the philosophical approach was one-size-fits-all. This is no longer operative. These rules and procedures should be updated in a deliberate but incremental manner to reflect today's modern approach—an approach that permits innovative technology and offers flexibility.

Mr. President, the approval of this demonstration program is a validation of today's modern approach. Safety will not be jeopardized and environmental protection will not be compromised. It is a recognition that regulatory reform, when done incrementally and with the goal of producing effective regulations, can have a real impact on government's rulemaking.

LEADERSHIP TRAINING INSTITUTE FOR YOUTH

Mr. LOTT. Mr. President, I am extremely pleased to announce that students from the great state of Mississippi, and from a number of other states, are participating in the Leadership Training Institute for Youth. This year the program will be held in Missouri.

This invaluable program reaches out to our nation's most important resource, our children. As you know, ensuring safety and effectiveness in schools is an important priority for this Congress. This privately funded initiative helps Congress fulfill its fundamental goal of providing our nation's students with the best education in the world.

The Institute, headquartered in Arkansas, brings together students from communities throughout the nation and from families in all walks of life. It is important to recognize that the young people selected for the program might not have this kind of leadership opportunity available to them in their local communities or even in their home states.

The Leadership Training Institute instills in our youth a sense of purpose, belonging, spirituality, patriotism, and strong moral and ethical character. The Institute's teaching philosophy centers on biblical principles and the tenets espoused by America's founding fathers. Students learn that real leaders are people of faith, integrity, conviction, and moral fiber.

These high school and college age students are given hands-on experience in dealing with compelling political, social, and ethical issues. These students work with experts from a wide

range of disciplines to examine leadership competencies, civic responsibility, community and family values, as well as a number of other topics important to America's youth.

During the program, these future leaders will explore such issues as how to: achieve a smaller, more effective government; reduce the burden of taxes on America's working families; reform the IRS; improve education and expand learning opportunities; and, combat violence and drugs in schools.

Mr. President, this sounds like our Senate's agenda.

These students will also meet with local, state, and national leaders to reflect on issues that truly matter—such as family, faith and freedom. As you know, family, faith and freedom must be the cornerstone of our public policy.

Mr. President, I think this is an outstanding initiative and commend the efforts of the Leadership Training Institute for offering this model program to Mississippi's youth.

These young achievers are our nation's future business executives and public officials. It gives me great hope for America's future to know that these young minds are being exposed to the challenging programs being offered by the Leadership Training Institute. I firmly believe that each student who graduates from the Institute will posses the strong, solid moral and value driven foundation needed to guide our nation into the next century.

Again, I want to express my deep appreciation to the Leadership Training Institute for Youth for conducting this exemplary program.

ELOQUENT TRIBUTES TO SENATOR ABE RIBICOFF

Mr. KENNEDY. Mr. President, earlier this year, the Senate lost one of our ablest, most respected, and most beloved former colleagues, Senator Abraham A. Ribicoff of Connecticut.

Senator Ribicoff served his constituents and his country with extraordinary distinction over a career that spanned more than four decades. His interests ranged far and wide, and his achievements were legion in both domestic and foreign policy. He led the effort to establish the Departments of Education and Energy. He was a consistent and eloquent advocate for civil rights, and an opponent of bigotry in all its forms. He was a brilliant leader in advancing the cause of peace in the Middle East. In these and many other ways, he was a giant for the people of Connecticut and the nation.

For my family, Senator Ribicoff was far more than the distinguished leader of a neighboring state. He was a loyal friend and trusted adviser, and one of President Kennedy's closest and most loyal friends.

My brother had immense respect for him. They had served together in the House of Representatives in the 1940's and early 1950's. After Congressman Ribicoff went on to become Governor of Connecticut, and my brother was elected to the Senate, they continued their close ties.

At the Democratic Convention in 1956, Abe encouraged Jack to run for Vice President. Four years later, Abe was one of my brother's strongest supporters in his 1960 campaign for the White House.

When Jack became President in 1961, he chose Governor Ribicoff to join his Cabinet as Secretary of Health, Education, and Welfare, and he did an outstanding job. But in many ways, he was a legislator at heart. He was elected to the Senate in 1962, the same year I was elected, and we served together for 18 beautiful years until he retired in 1980. In a sense, I inherited Abe from Jack, and our friendship was all the stronger because of that.

At Senator Ribicoff's funeral, our colleague Senator DODD and U.S. Circuit Judge Jon O. Newman delivered eloquent eulogies that captured the essence of Abe's remarkable public life. I ask unanimous consent that these moving tributes be printed in the RECORD.

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

EULOGY FOR SENATOR ABRAHAM A. RIBICOFF

(By Senator Christopher J. Dodd)

The sadness of losing our friend Abraham Ribicoff is reflected in the faces gathered here today. Whether you called him Governor, Senator, or simply Abe, as the people of Connecticut did for more than four decades, he was truly in a class by himself. We are thus gathered to honor the memory of an outstanding American.

Abe Ribicoff believed fervently that the highest calling one can have in American life is public service.

He is the only person in our Nation's history to have served as a state legislator, a municipal judge, a United States Representative, a Governor, a Cabinet Secretary, and a United States Senator.

As many of you recall—Abe had a gift of giving speeches short and to the point. He had to. It took so long to introduce him properly.

But to appreciate Abraham Ribicoff, it is important to understand that he did more than occupy an impressive collection of public offices. What distinguished Abe Ribicoff from his peers, both past and present, is not the number of offices he held, but the manner in which he held them.

In Abe Ribicoff's politics, there was no place for meanness, no place for personal attacks. Abe understood the importance of public opinion. But he never relied on polls to shape his political decisions.

Abe was guided in his life's work by integrity, candor, high principle, and a deeply-held belief in the goodness and decency of Americans.

I remember his 80th birthday celebration. It was a wonderful evening, Casey. He spent a good deal of his remarks reminiscing. Not about his work on the great issues of his day, nor the times he spent with Prime Ministers and Presidents. Abe Ribicoff spoke at length that evening about John Moran Bailey, the legendary Democratic party chairman from Connecticut. In John Bailey, Abe recognized a master of the political craft.

Now, why do I mention this? Because to have a true understanding of the man, Abe Ribicoff, you must begin with this fact: Abe loved politics. At his core, Abe Ribicoff was a first class politician: a quality shared by all great political leaders.

And Abe had uncanny political instincts. Abe could size up a situation, or spot a shift in opinion, on just the slightest whiff of information.

Yet his gift was not to just understand swings in public mood, but to anticipate them, and then shape those swings for the public good.

He was always several steps ahead of the average politician, but never out of step with the American people.

Allow me to illustrate what I mean.

In 1954, Abe won his first race for Governor by less than one percentage point. Then he went out and told the Connecticut State Police to arrest people who exceeded the speed limit. There are probably people here who can attest to the vigor and extent of that effort. His allies said the public would never support him.

Abe thought differently. As one historian said, Abe had ''an unerring instinct for the right move at the right time in the complicated game of politics.''

His get-tough policy saved lives, and it was extremely popular with the people of Connecticut.

One of the defining moments in Abe's public life took place in 1968 at the Democratic National Convention.

Here was a man—a first-term Senator, not unaware that he was confronting the National leadership of his party—willing to stand and make a public plea for civility.

In doing so, he appealed to what is best about our Nation and ourselves—our capacity for tolerance and understanding, our belief that, in a truly civilized society, we live by the rule of law, not the rule of force.

In that moment, America learned what his family, his friends, and the people of Connecticut had long known—Abe Ribicoff was a National gift.

On another occasion during Abe's tenure in the Senate, Mississippi Senator John Stennis introduced a resolution calling for northern and southern schools to be integrated at the same speed. The resolution was seen as pure symbolism designed to embarrass northern liberals.

Abe Ribicoff confounded everyone. He supported Stennis. ''The North'', Abe said, ''is guilty of monumental hypocrisy.'' Thanks largely to him, the resolution passed. And thanks to Abe Ribicoff, the Senate went back to work debating civil rights, not symbols.

Time and time again during his Senate years, Abe demonstrated his considerable political skills and his remarkable sense of timing. His Senate colleagues—regardless of political party—and Presidents—irrespective of political persuasion—looked to Abe Ribicoff for leadership.

He created the Departments of Energy and Education. He took the Tokyo Round trade legislation through the Senate, advancing the global trade that today strengthens prosperity in our country and so many others.

Abe Ribicoff met with Anwar Sadat and saw in him a man seriously interested in peace—and Abe had the strength to say so, controversial as that was.

Abe urged the newly elected President, Jimmy Carter, to make peace in the Middle East a priority, and he stood with him in that battle.

Abe Ribicoff also believed deeply that America is a land of opportunity and equal justice. He abhorred discrimination in all its forms. He knew it in his own life.

During his campaign for Governor in 1954, an ugly whispering campaign questioned whether Connecticut was ready for a Jewish Governor. Abe Ribicoff threw aside his notes and answered from the heart:

> In this great country of ours, anybody, even a poor kid from immigrant parents in New Britain, [can] achieve any office . . ., or any position in private or public life, irrespective of race, color, creed, or religion.

The voters of Connecticut answered by electing Abe Ribicoff their Governor.

In 1956, a young Senator from Massachusetts was mentioned as a possible vice-presidential candidate. Ironically, many Catholics questioned whether America was ready for an Irish Catholic after what had happened to Al Smith less than three decades earlier.

Abe Ribicoff, speaking to the Irish Catholic leadership of the Democratic party, took exception:

''I never thought'', he said, ''I'd see the day when a man of the Jewish faith had to plead before a group of Irish Catholics about allowing another Irish Catholic to be nominated for the position'' of Vice-President.

In 1976, similar questions were raised about whether a born-again Baptist could serve as President of the United States. Without a moment's hesitation, this Connecticut yankee answered: judge the man, judge his ideas. But do not judge his personal faith.

Abraham Ribicoff, this son of Polish Jewish immigrants, lived most of his professional life at the highest, most auspicious levels. He knew his share of Governors, Senators, Presidents, Prime Ministers and Kings.

But he also knew the hardship of growing up poor among the factories and mills of New Britain, Connecticut.

Perhaps those experiences help explain why even as he rose to the highest levels of American public life, he never forgot about those whom he served. He understood that the power of government, the laws of the land, mean nothing if not harnessed to help ordinary citizens surmount everyday obstacles as well as attain their noblest aspirations.

It's hard to step away from politics. Most politicians don't do it very well. Abe surprised everyone in 1979 when he said he would not run for another term. As he said so often: ''there is a time to come, and a time to go.''

Abe Ribicoff's impeccable sense of timing was at work again. I remember how proud I was that day in 1980 when he placed my name in nomination for his seat in the United States Senate. Even though he was leaving politics, he offered his assistance.

I suggested we spend an early morning shaking hands with commuters headed for New York. I'll never forget what he said: ''Chris, if I were willing to stand in the cold dawn shaking hands on a train platform in Stamford, I'd run again myself.''

I consider myself very fortunate to have succeeded Abe in the United States Senate, and to have been able to call on him many times for advice and guidance. No one of my generation could have had a better political mentor or friend.

I have spoken of Abraham Ribicoff as a public servant. He was also a husband, a father, and a very proud grandfather. To you, Casey, and the family I convey—on behalf of Abe's colleagues in the United States Senate and the people of Connecticut—our deepest sorrow.

Allow me to close with an appropriate reading from Hebrew text.

Even a long life ends too soon,
But a good name endures forever.
Blessed is he whose noble deeds remain his memorial
After his life on earth is ended.

EULOGY FOR SENATOR ABRAHAM A. RIBICOFF

(By U.S. Circuit Judge Jon O. Newman)

Casey, Jane and Steve, Peter and Mercedes, Peter and Robin, and all the family; Governor Roland, Governor O'Neill, Senators and Members of Congress; and the many friends of Abe Ribicoff.

We are mourning the death yet celebrating the life of one of the most remarkable public figures of our time. The specifics of his career are well known to all of you. Who else in American public life has served as state legislator, state court judge, U.S. Congressman, Governor, cabinet secretary, and three-term U.S. Senator?

But the offices held do not convey the substance of the man. Time does not permit a full chronicling of his achievements nor would such a litany adequately reveal what was most important about the public service of Abe Ribicoff—it was the way he went about the task of translating representative government into action. He did not measure public opinion to see what course was safe. He relied on his instincts, his mind, his heart, and ultimately his conscience to guide him toward leadership roles on the vital issues that confronted his state, his nation, and the world.

He was in the forefront of those issues, often identifying them long before they became politically attractive. In Connecticut, his issues were fiscal responsibility, court reform, education, and highway safety. On the national scene, he was a leader in the battles for federal aid to education before that concept became a fact of American life; for Medicare, when that program was just a distant proposal; for welfare reform long before it was understood that welfare needed reforming; and for a host of programs to aid children, medical research, and environmental protection.

Abe Ribicoff believed in civil rights and played a key role in crafting the historic Civil Rights Act of 1964, skillfully bridging the political chasm that separated legislators in the North and the South.

Years later, he led the efforts to create the Department of Education and the Department of Energy.

He was a major figure on the international scene. His issues ranged from free trade to nuclear non-proliferation to strategic arms control. Perhaps his major foreign policy role concerned the Middle East peace effort that culminated in the Camp David Accord. At a time when skeptics doubted the possibility of any progress on that front and politicians feared the risks of trying, he broached the matter forcefully, yet tactfully, to the leadership of Israel and Egypt and to then-President-elect Carter. It was Abe Ribicoff who privately suggested to Anwar Sadat that he make his historic visit to Jerusalem.

Abe Ribicoff was that essential figure in the life of a vibrant democracy—a link between the citizens who gave him their votes and their trust, and the seats of governmental power where he made the system work for the public interest. He won votes but he did not pander. He exercised governmental power but he did not abuse it. He respected people and institutions, and he brought out the best in both.

And always he conducted himself with dignity, and a keen sense of who he was and where he came from. He was at east with presidents and kings, with corporate leaders in Hartford and shipyard workers in New London.

He was a complex man—at times serious and reserved, at times relaxed and full of cheer; tough when necessary, then warm, sensitive and caring; a man admitted from afar who won devotion from those who knew him well.

It seemed to me that there was a wonderful blend of characteristics in this uncommon man—always the urbane sophistication yet on occasion just a trace of innocence that never left the son of immigrant parents whose climb to the top began in a tenement on Star Street in New Britain.

Connecticut was always in his heart. He loved the State, its cities and towns, its villages and countryside, and especially his beloved Cornwall.

Throughout his career, he enjoyed the loyalty and dedication of his staff members, and he always encouraged their advancement to careers on their own. I can assure you that when Abe Ribicoff was in your corner, your changes to success were immeasurably improved. He sponsored my entire public and judicial career, and he was my closest friend in public life.

In an era of widespread cynicism about the political and governmental systems of our Nation, Abe Ribicoff lived the sort of public life that represented the best in the American democracy. He did so because he believed in that democracy.

On the night he needed his campaign for governor in 1954, this is what he said to the people of Connecticut:

''When I was a boy growing up in New Britain, Connecticut, as a young boy I would walk to the outskirts of the town through the fields, heavy with the smell of summer

growth, and I would lie under a tree and I would dream. Yes, I dreamed the American Dream. And what was the American Dream?

''Frankly, at that time, I never dreamed that some day I would be a nominee for governor. I knew this great country because I had studied its history, and loved it. I knew that in this great country, any boy or girl could dream the dreams that could send them vaulting to the sky, no matter high. I knew that in America generations after generations, no matter how humble, could rise to any position in the United States of America, whether it be in private industry, in business, in the professions, or in government.

''Now, it is not important whether I win or lose—that is not important tonight at all. The important thing, ladies and gentleman, is that Abe Ribicoff is not here to repudiate the American Dream. Abe Ribicoff believes in that American dream and I know that the American dream can come true. I believe it from the bottom of my heart, and your sons and daughters, too, can have the American dream come true.''

Abe Ribicoff helped make democracy work, and he served throughout his extraordinary career as he lived and as he died—with decent instincts, with integrity, and with dignity. He loved his family, his God, his state, and his country, and all of us who knew him have lasting memories of a remarkable human being.

ELOQUENT TRIBUTES TO ''GOOSE'' McADAMS

Mr. KENNEDY. Mr. President, earlier this year, Michael E. McAdams, a respected consultant and friend to many of us here in Washington, D.C., passed away.

Mr. McAdams—affectionately known as ''Goose'' by his many friends and associates—was a passionate, intelligent, effective advisor and consultant. During his extraordinary career, he worked closely with me, with our colleagues Senator DODD, Senator BIDEN, and Senator PELL as well as with Speaker Tip O'Neill and many others, and we admired and respected him very much.

In addition, Goose worked abroad with the National Democratic Institute. To citizens of South Africa, Botswana, Czechoslovakia, and many other countries, he brought his vast knowledge of the institutions of democracy, and his fervent belief that democracy is the best hope for freedom and political stability.

At his funeral, the eulogies by Senator DODD and by Goose's friend Joseph Hassett recalled Goose's extraordinary life in very moving terms. I ask unanimous consent that these eloquent tributes be printed in the RECORD.

There being no objection, the tributes were ordered printed in the RECORD as follows:

MICHAEL EGAN MCADAMS

September 5, 1944—February 25, 1998

''FINAL WORDS FOR MY FRIEND''

(By Christopher J. Dodd)

Hope, Steve and Simon, Wootie and Peter—this is for you.

Walt Whitman said ''Logic and sermons never convince.'' The same could be said of eulogies.

There's no way to say good-bye to your best friend.

A friend made at any time of life is a treasure. But a friend made in youth and kept for life is the rarest, most wonderful gift. Michael and I shared that gift for nearly our entire lives.

So, little did I suspect that cold January morning, waiting for the Georgetown Prep School bus at the corner of Wisconsin and Q Streets, that the goofy looking, gangly, string bean of a 14 year old—with arms and legs flailing like a windmill, loping down the street, would become my closest pal over the next 40 years.

I was about to meet my new classmate, Michael Egan McAdams, ever after to be known as Goose—the Goose, Gooser, the Goo, and many other variations of the name.

People often asked how Goose obtained his nickname. Like any good story, there are competing versions. Jay Hickey has his. I have mine. And since I'm the one up here speaking, I'll give you what will from now on be considered the official version.

I gave him the name.

As a schoolboy, he had long legs and a long neck. He also loved basketball, and had a special fondness for a Harlem Globetrotter named Goose Tatum.

Anyway, the name stuck with him for life and he never complained.

And when you think about it, why should he have complained?

The goose is a noble creature. The goose is loyal for life.

The goose flies in a flock to protect his fellow travelers.

And when not in flight, the goose rests in gaggles, where he builds large comfortable nests with his companions.

The goose is neither a duck, nor a swan. It is something separate, with its own classification. That was our Goose, too. He was special. And we felt special when he stretched his long arms to welcome us into his company.

There's an old saying from around the time of the Civil War: ''The goose hangs high.'' It means that all is wonderful, and it refers to the fact that geese fly higher in good weather.

With our Goose, we, too, flew high. His enthusiasm for life was infectious. He shared with us his love of politics, language and friends. He loved the bright uncluttered light of the Eastern Shore. With him, life always offered a fresh idea, a good story, a laugh to share.

Over the next four decades of our friendship, much of Goose's physical appearance changed for the better, thank God.

The clothes he wore that January day years ago, however, remained virtually unchanged over the years. Shirt tail hanging out—shoes that defied description and pants whose cuffs were not only never introduced to his socks, but did not even come close to meeting them.

But the ''piece de resistance'', the trademark, the symbol, by which we could all spot Goose in a crowd for the rest of our lives, was the sport jacket.

The mangiest piece of apparel I had ever seen. Yellowish/brown in color—with holes and fuzz balls all over—lapels an ⅛ of an inch wide and a hem that hung just above his skinny butt.

While I am confident Goose must have bought several of these sport coats over the years, I'm not absolutely certain that the one he was wearing the day we met is different than the one he insisted on being buried in today.

Now, to the unacquainted, Goose must have appeared just a sloppy guy. But to those gathered here today to say good-bye to our friend, it says far less about Goose's wardrobe than it does about the wonderful person wearing that coat.

On his list of priorities, Goose has always placed himself last. Throughout the years that I knew him, Goose was always doing for others—helping plan events, talking to friends' children, or just listening to our streams of woe.

I cannot recall a single instance when Goose was not available to his friends. I can't recall a single major event in my own life over these past 40 years when my pal Goose was not at my side.

And while we had a very special relationship, I know that many of you gathered here today had a similar connection with Goose.

During those intense four days earlier this week at the Arlington Hospital, I found myself getting angry with Goose's selfishness, for not taking better care of himself. I got angry at myself and others for selfishly asking too much of Goose over the years.

And then, despite my very deep and unconsolable grief at the loss of my friend, I realized that Goose—the 14 year old boy I met so long ago, and the man I said I loved and good-bye to 5 minutes before he died—loved people, loved his friends, loved being involved in the lives of the people he cared so much about. So rather than spend time analyzing Goose's life, let us just accept the fact that more or less, Goose lived life the way he wanted to, and we, whom he called friends for however long or short a time—were given a glorious gift from God.

Now I am not going to take you on a maudlin 40 year journey of our friendship. Some of the best times Goose and I had together, I am going to enjoy remembering all by myself.

Goose's interests were not restricted. In fact, one of the most appealing qualities was his curiosity, but throughout the years of our friendship, three things have remained constant: His love of politics, his love of words and his devotion and loyalty to his friends.

Bear with me while I share a few memories. Throughout his life, Goose was a Yellow-dog Democrat.

From the time he entered the hospital, Goose would drift in and out of sleep.

On the occasions when he was awake, politics was on his mind. ''Why did you vote for that Ronald Reagan Airport?'' he asked. ''I heard your latest polls were up, have you checked the cross-tabs?'' And when I suggested that I should bow out of giving the eulogy at Senator Abe Ribicoff's funeral in New York, he waved at me with something less than all five fingers and gave me the sign to get up to New York and do my job. Always the campaign manager!

Goose's family were Adlai Stevenson Democrats and he loved being around politics. In January 1961, we hiked to President Kennedy's Gala in the snow and watched the Inaugural Parade together all the next day.

It was at Georgetown Prep that I painfully learned how not only interested Goose was in politics, but also, how adept he was at the game. My good friends Jay Hickey, Paul Bergson and I ran against each other for the office of Vice President of the Yard.

For whatever reason, probably because I characteristically got into the race late, Goose had signed on as Jay's campaign manager.

And even though Goose designed posters for me which read, ''In Dodd We Trust,'' ''Holy Dodd We Praise Thy Name,'' and ''All Glory to Dodd''—which for obvious reasons the good Jesuits would not allow up—Jay won the race.

I did not know what the future would hold for me in those days, but I made a promise to myself that I would never enter another political contest without Goose at my side. And that is where he has been for a quarter of a century.

Today, my friend Jay Hickey works for the Horse Council and I'm entering my 24th year in Congress. I rest my case.

Over the years, Goose has also worked for Senator Kennedy, Senator Pell, Senator Biden, Speaker O'Neill, and numerous other candidates, both at home and abroad.

He was particularly proud of the work he did abroad with the National Democratic Institute teaching the fundamentals of democracy to people in such far flung places as South Africa, Botswana and Czechoslovakia.

One of my favorite Goose campaign stories was how, unbeknownst to Goose, his candidate for president in a foreign country had been found guilty of assassination in his younger years.

Goose designed the campaign and then convinced the electorate that while the charge was true, it had merely been a college prank!

For a person who was so enamored of language, Goose had the most atrocious penmanship of anyone I know.

Like his attire, Goose's handwriting is the same today as it was when I was copying his homework in the bus on the way to Prep. Goose was extremely bright and handled his schoolwork with apparent ease. Not surprisingly, his strengths were languages—Latin, Greek, and English.

Goose could roar through a crossword puzzle.

His love of words and language was also clear in his almost unquenchable appetite for books.

I have never known a better-read person or a person who was more able to retain what he had just devoured. And his taste in literature was completely eclectic—history, biography, novels, science fiction, poetry. Goose adored books.

How prophetic that his last book was a rereading of *Moby Dick*, which he couldn't stop talking about.

But to really understand Goose's love affair with words, you only had to bring up the subject of music. From my earliest recollection of Goose, he took such pleasure from songs.

Now, I love Goose, but despite my deep affection for him and despite what he thought, any song he sang came out sounding the same—''Greenback dollar''.

I can still see him standing on the hall landing on Manning Place—guitar in hand, convinced he was one audition away from joining the Kingston Trio. Then it was the Everley Brothers, Simon and Garfunkel, and countless other groups whose names I never understood, let alone their music.

I don't have the slightest idea who wrote or sang the song, ''The House of the Rising Sun.'' But for a period of several years, it seems, the only memory I have of Goose is him singing that damn song.

Music was the only interest we did not share in common. But it made little or no difference to my pal Goose. Only a few weeks ago, he put on some music videos and insisted I watch them.

It always impressed me that Goose was open to new sounds. A few years ago, he wanted me to hear ''The Cure''. I thought he was involved in some kind of holistic healing!

For Goose, the most significant voice was Bob Dylan's. He deeply believed that Dylan was one of the most important poets of this century.

Goose loved Bob Dylan. Maybe because Dylan was the only singer whose voice was worse than his.

Goose must have told me a thousand times how meaningful it was for him to have been in Newport during the 1965 Folk Festival, when Dylan went electric. For Goose, it was a moment of historic importance, like the moon landing or the end of World War II.

How incredibly ironic that on the day we lose Goose, Bob Dylan finally receives the long overdue recognition at the Grammy's.

Two thoughts passed through my head:

(1) How sorry I was Goose wasn't with us to hear this news; and

(2) That old fox, Goose, didn't waste any time up there pulling a few strings for people he cared about. I bet Bob Dylan would be surprised to know he had an angel named Goose.

In Goose, Dylan would have found a person who truly was ''Forever Young''—who fulfilled that song's hope of a ''heart always . . . joyful'' and a ''song always . . . sung.'' Goose possessed a freshness, an honesty, a sense of mirth and wonder that grow rare with age.

It was Goose's devotion and loyalty to his friends that I will miss the most. Once he was on your side, he was immovable, and what pride and pleasure he took in his friends' success, and how incredibly comforting his silent presence could be when the news was not good.

Over the past days, as we have reminisced about our memories of Goose, one point was repeated over and over and over again:

Goose had the ability to forge strong bonds of friendship with not only a wide range of people intellectually and professionally, but also with people from completely different generations, oftentimes within the same family.

Understand what I am saying. I do not just mean being friendly to someone's children or their parents. I mean forming long, serious friendships with these people, separate and distinct from each other.

A mere glance around this church reflects what I am saying.

The reason Goose did this so easily was because he treated everyone alike.

He didn't talk down to children, or try to ingratiate himself with someone's parents. He answered questions honestly—and most importantly, he listened. Goose had an easy and natural way with his male friends—and he had long lasting and trusting relationships with women.

A friend of mine who did not know Goose that well told me a story that explains why. One summer afternoon, she and a group of women friends were sitting by his pool on the Eastern Shore. This woman said to him: ''You must be in heaven surrounded by beautiful women.'' ''No,''

Goose said, ''surrounded by smart women.'' Goose's fondness for kids is well known. There are many young people here today who have come long distances because they wanted to say goodbye themselves.

I always loved the story of one young lady who is here today. When she was about 10 years old she decided the godfather she had been given at birth was not performing very well. On her own, she went to Goose and asked him if he would take on the job.

The night Goose arrived at the hospital, a dear friend to Goose suggested a book be kept of all the calls and visitors. When asked why, she said so Goose will know that he has friends.

Well Goose, we never kept the book and we lost you too quickly. But we know that you know this church is filled with your friends. Therefore, in the words of another great Irishman, you can say:

Think when man's glory
Most begins and ends
And say, my glory is
I had such friends.

The last thing I want to tell you is how strong Goose was at the end. When given the news that there was no hope, he was furious. Then anger became resolve and very quickly he set his house in order. Goose's friends Tom Bryant and Jackie were at his side early Wednesday morning.

Goose left us with great strength and dignity.

So dear friends—
Do not let your grief be equal to his worth
For then your sorrow
Hath no end.

''GOOSE'' BY JOSEPH M. HASSETT

The essence of Goose was the total intensity with which he lived every minute of his life. So much of that intensity was invested—not in some selfish pursuit of his own—but in the sheer delight of talking with his friends—amusing them, supporting them, and glorying in their triumphs.

Goose was unnatural in our success-besotted age because he was a true believer in the ancient Roman religion summed up by Horace when he said ''Carpe diem quam minimum credula postero'' (Seize the day, trusting as little as possible to tomorrow). Trusting as little as possible to tomorrow was another part of the essence of Goose. He seized the day with such intensity that his life burned like a firecracker's fuse. And in the spark and crackle of that shimmering fuse lies the awful logic of Goose's early death: the fuse burned too intensely to burn too long.

William Butler Yeats revealed this logic in terms of the difference between lives that burn slowly like damp faggots and those that consume themselves in the flash of intensity. Yeats could have been writing about Goose when he wrote these lines about Robert Gregory:

Some burn damp faggots, others may consume
The entire combustible world in one small room
As though dried straw, and if we turn about
The bare chimney is gone black out
Because the work has finished in that flare.

* * * * *

What made us dream that he could comb grey hair?

What made us dream that our beloved Goose could comb grey hair? His life burned too brightly for that, consuming itself in the lavish gifts of his genius for friendship, his prodigal profusion of empathy for his friends, his delight in the simple fact of their being there.

Goose had a unique and precious ability to experience and communicate the sublimity of a moment of being alive. I think, for example, of the beautiful glow of pure joy radiating from Goose on a Sunday afternoon's sail on Rehoboth Bay: Coach at the tiller, the wind behind us, the late afternoon sun angling off the water in silver glitter, and Goose's exultation in this splendor of it all.

That exultant glow was Goose's special brand of magic. It was an ability to recreate the rapture the Romantics thought had vanished from the world—what Shelley called the ''clear, keen joyance'' of the skylark; what Wordsworth called ''the hour of splendour in the grass''; what Keats heard in the nightingale singing ''of summer in full-throated ease.''

Every one of you, I know, experienced just such a moment with Goose—a moment in which he made this tarnished world shine; and made it shine for you—because of you, because of something you did. And so, when Goose died, a spot of joy in each of us died with him.

That is why it is such a bitter pill we swallow here this morning. We do have, at least, the consolation of our beautiful memories of our dear, dead Goose. His kindred spirits, the Romans, thought that such moments were a form of immortality, that memorable characters like Goose live on in the memories of their friends.

No doubt many of your memories will feature Goose's voice, talking the midnight through in full-throated ease. None of us will forget those nocturnal plumbings of the depths of life, the universe and everything. They may have taken place at Channing's mistake, at your house, at your parents' house, at Dolan's at Bethany, at John Sis's parents', at John and Mary Sis's at Wintergreen, at Bobby Sis's in Annapolis, at Julio and Jean's, at Baba Groom's on the Eastern Shore, at 104 West Street, at 77 Holly Road, at the Roma, Poor Roberts, the Raw Bar . . . Wherever those conversations took place, they are the stuff of beautiful memories. And better still, is the memory of waking up the next morning and gradually becoming aware that, somewhere in the depths of the house, Goose was already sounding the themes of the new day. We still have our memories of that happy voice.

The Greek poet Callimachus wrote a beautiful poem about the way in which the voices of conversations like those we had with Goose can live on in our memory. Callimachus's poem grew out of the death of his friend Heraclitus while on a journey to Caria in Asia Minor. When the bitter news reached Callimachus, he was filled with grief. But there was room amongst the tears for the comforting memory of how the two friends had talked long into the night, had, as Callimachus said in his poem, ''tired the sun with talking and sent him down the sky.'' Callimachus heard the voice of his friend from those conversations in the sound of nightingales singing, Goose-like, in full-throated ease. William Cory translated Callimachus's poem into eight lines of English. I leave them with you as a memento of our dear pal Goose:

They told me Heraclitus, they told me you were dead,
They brought me bitter news to hear and bitter tears to shed.
I wept as I remembered how often you and I
Had tired the sun with talking, and sent him down the sky.
And now that thou art lying my dear old Carian guest,
A handful of gray ashes, long, long ago at rest,
Still are thy pleasant voices, thy nightingales, awake;
For Death, he taketh all away, but them he cannot take.

MASSACHUSETTS HOUSE OF REPRESENTATIVES ASKS CONGRESS TO RESTORE FOOD STAMPS TO LEGAL IMMIGRANTS

Mr. KENNEDY. Mr. President, last week, the conferees on the Agricultural Research bill made a down payment toward restoring food stamps for the needy legal immigrants. The conference report on the bill includes $818 million for this program. It is far less than the $2 billion proposed in the President's budget, and it covers a much smaller group of immigrants.

The conferees' proposal is a bipartisan effort. Both Republicans and Democrats urged them to take this step as soon as possible.

Yet, the Republican leadership in the Senate is ignoring the urgent need. The Republican budget does not include a single penny to restore food stamps to immigrant children, refugees, Hmong veterans, or elderly and disabled legal immigrants, and the Republican leadership has declined to allow the Senate to pass the Agricultural Research bill.

The food stamp cut-off has hurt immigrant families, and it has also hurt state and local governments, who must fill the gap. As a result, governors and state legislatures have joined Congress to restore these food stamp benefits. As Governor Bush of Texas said, ''Food stamps are a federal program and the federal responsibility, but the federal government is shirking its responsibility. The rules have changed unfairly and retroactively for those least able to help themselves.''

Today, the Massachusetts House of Representatives passed a resolution urging Congress to restore adequate federal funding to the food stamp program so needy immigrants in the Commonwealth of Massachusetts can receive desperately needed food aid. I ask unanimous consent that this resolution be placed in the RECORD following my remarks.

It is time for the Senate to act on the Agricultural Research bill. It is unconscionable that these benefits can continue to be denied.

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

THE COMMONWEALTH OF MASSACHUSETTS—RESOLUTION

Whereas, in August of nineteen hundred and ninety-six, the United States Congress enacted the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, so-called; and

Whereas, Congress in said act forbade use of Federal funds to provide SSI benefits and food stamp benefits for financially needy immigrants lawfully residing in the United States; and

Whereas, legal immigrants pay taxes and contribute in many ways to the productivity and vitality of our communities; and

Whereas, the United States was founded and built by immigrants; and,

Whereas, Congress should be applauded for the restoration of SSI benefits for legal immigrants through passage of the Balanced Budget Act of 1997; and

Whereas, Congress must continue in this effort by resolving to restore its financial responsibility in the Food Stamp Benefits Program as the present situation imposes a financial burden on the States and needy residents of the States: Now therefore be it

Resolved, That the Massachusetts House of Representatives requests that the President and the Congress of the United States restore to the States the authority to provide Federally funded food stamp benefits to needy, lawful residents of the United States; and be it further

Resolved, That the Massachusetts House of Representatives respectfully requests that the President and the Congress of the United States restore to the Commonwealth adequate Federal funding to allow for the provision of food stamp benefits for financially needy immigrants lawfully residing in this Commonwealth; and be it further

Resolved, That a copy of these resolutions be transmitted forthwith by the clerk of the House of Representatives to the President of the United States of America, the presiding officer of each branch of the United States Congress and each member of the Massachusetts Congressional Delegation.

RUNNING' UTES

Mr. HATCH. Mr. President, I spent part of last weekend in San Antonio at the Alamodome watching some of the most exciting basketball I have seen in a long time.

I was there as one of the ''Runnin' Utes'' biggest fans. In a state that has a strong basketball tradition, the University of Utah men's basketball team has given us an extraordinary season. Our entire state is proud of this team and proud of its coach, Rick Majerus.

It is a tribute to the exceptional skills of any college team to make it to the ''Final Four.'' The two games on Saturday evening were a sports fan's dream. Stanford and North Carolina put their best into the games, and they were exciting to watch.

Of course, I am disappointed in the outcome of Monday's final championship game in which Utah lost to another fine team from the University of Kentucky—a team which has become known as the ''Comeback Cats.''

Nevertheless, Monday night's championship game caps a brilliant season for the Utes that started with the longest undefeated streak in the country and ended in a fantastic tournament run to the finals. The championship battle showcased two teams that were not favored to be there. Despite Kentucky's tremendous history and great success in the 1990s, the Wildcats were overshadowed by other teams who filled the top spots in the polls all year. Similarly, Utah was overlooked by many sportswriters for much of the year, even though it began the season with the best record in the country.

Mr. President, the University of Utah's season was a great accomplishment not only for the team, but also for the entire university community, the Western Athletic Conference, and the great State of Utah.

Since taking over the reins at the ''U'' in 1989, Coach Rick Majerus has made Utah one of the best teams in the country during the 1990s. He has done so by encouraging tremendous discipline and work ethic, stressing both basketball fundamentals and positive attitude. Rick Majerus is also a coach who cares about his players beyond their ability to play ball; he understands the importance of other aspects of the university mission, including academics and community citizenship. It is important to note that Ute players have excelled in other pursuits as well. Seniors Michael Doleac and Drew Hansen, for example, are headed for medical school and law school respectively.

Mr. President, I am extremely proud of the University of Utah for a tremendous year. It is said that everyone loves a winner. Well, this team has been truly outstanding both on and off the court. They have won with grace and lost with dignity. These same attributes are reflected in the loyal Utah fans. Some 4000 die-hard supporters viewed the game on a giant screen in the university's Huntsman Center. And, despite the heartbreaking loss, Ute fans have continued to be proud of their team. After the players and

coaches returned to campus late Tuesday, they joined students and fans in an exuberant pep rally to celebrate their achievements. On Wednesday, a parade was held in their honor, culminating on the steps of City Hall. Mayor Deedee Corradini and the city council presented the team with the key to the city.

I want to congratulate the entire Ute team: The coaching staff, including Coach Majerus and his great assistant coaches Donny Daniels, Jeff Judkins, and Brock Brundhorst. And, my hat is off to the players: Michael Doleac, Drew Hansen, Andre Miller, Hanno Mottola, Alex Jensen, Jordie McTavish, David Jackson, Nate Althoff, Greg Barratt, Jon Carlisle, Trace Caton, Britton Johnsen, and Adam Sharp. Thanks for giving us so much to cheer about.

THE VERY BAD DEBT BOXSCORE

MR. HELMS. Mr. President, at the close of business yesterday, Wednesday, April 1, 1998, the federal debt stood at $5,540,550,647,696.94 (Five trillion, five hundred forty billion, five hundred fifty million, six hundred forty-seven thousand, six hundred ninety-six dollars and ninety-four cents).

One year ago, April 1, 1997, the federal debt stood at $5,375,122,000,000 (Five trillion, three hundred seventy-five billion, one hundred twenty-two million).

Five years ago, April 1, 1993, the federal debt stood at $4,225,874,000,000 (Four trillion, two hundred twenty-five billion, eight hundred seventy-four million).

Ten years ago, April 1, 1988, the federal debt stood at $2,509,151,000,000 (Two trillion, five hundred nine billion, one hundred fifty-one million).

Fifteen years ago, April 1, 1983, the federal debt stood at $1,237,481,000,000 (One trillion, two hundred thirty-seven billion, four hundred eighty-one million) which reflects a debt increase of more than $4 trillion—$4,303,069,647,696.94 (Four trillion, three hundred three billion, sixty-nine million, six hundred forty-seven thousand, six hundred ninety-six dollars and ninety-four cents) during the past 15 years.

WAKE-UP CALL ON ENCRYPTION

Mr. LEAHY. Mr. President, it is time the Administration woke up to the critical need for a common sense encryption policy in this country. I have been sounding the alarm bells about this issue for several years now, and have introduced encryption legislation, with Senator BURNS and others, in the last Congress and again in this one, to balance the important privacy, economic, national security and law enforcement interests at stake. The volume of those alarm bells should be raised to emergency sirens.

Because of the sorry state of our current encryption policies and, specifically, our export controls on encryption, we are seeing increasing numbers of high-tech jobs and expertise driven overseas. Recently, a large computer security company, Network Associates, announced that it will make strong encryption software developed in the United States available through a Swiss company. Encryption technology invented with American ingenuity, will now be manufactured and distributed in Europe, and imported back into this country. All those good, high-tech jobs associated with Network Associates' encryption product are now in Europe, not in Silicon Valley, not in Vermont, not in any American town, because of our outdated export controls on encryption.

Network Associates is not the first American company to face the dilemma of how to supply its customers, both domestic and foreign, with the strong encryption they are demanding and also comply with current export restrictions on encryption. Other companies, including Sun Microsystems, are cooperating with foreign companies to manufacture and distribute overseas strong encryption software originally developed here at home.

I have said before, and repeat here again, that driving encryption expertise overseas is a threat to our national security, driving high-tech jobs overseas is a threat to our economic security, and stifling the widespread, integrated use of strong encryption is a threat to our public safety. That is why I have called in legislation for relaxation of our export controls on encryption.

Over the past month, we have learned of two serious breaches of computer security that threaten our critical infrastructures. Both incidents were apparently caused by teenagers using their home computers to trespass into the computer systems of the Department of Defense, the telephone network, the computer system for an airport control tower, and into the computer database of a pharmacy containing private medical records. One of these adolescent explorations in cyberspace disrupted telephone service in Rutland, Massachusetts and shut down the control tower at a small airport.

The conduct of these teenagers is now the subject of criminal investigation, due in large part to the great strides we have made in updating our criminal laws to protect critical computer networks and the information on those networks. I am proud to have sponsored these computer crime laws in the last two Congresses. But targeting cybercrime with criminal laws and tough enforcement is only part of the solution. While criminal penalties may deter some computer criminals, these laws usually come into play too late, after the crime has been committed and the injury inflicted.

We should keep in mind the adage that ''the best defense is a good offense.'' Americans and American firms must be encouraged to take preventive measures to protect their computer information and systems. A recent report by the FBI and Computer Security Institute released shows that the number of computer crimes and information security breaches continues to rise, resulting in over $136 million in losses in the last year alone.

The lesson of the recent computer breaches by the teenagers is that all the physical barriers we might put in place can be circumvented using the wires that run into every building to support the computers and computer networks that are the mainstay of how we do business. A well-focused cyber-attack on the computer networks that support telecommunications, transportation, water supply, banking, electrical power and other critical infrastructure systems could wreak havoc on our national economy or even jeopardize our national defense or public safety.

We have been aware of the vulnerabilities of our computer networks for almost a decade. In 1988, I chaired hearings of the Subcommittee on Technology and the Law on the risks of high-tech terrorism. It became clear to me that merely ''hardening'' our physical space from potential attack is not enough. We must also ''harden'' our critical infrastructures to ensure our security and our safety.

That is where encryption technology comes in. Encryption is one important tool in our arsenal to protect the security of our computer information and networks. Both former Senator Sam Nunn and former Deputy Attorney General Jamie Gorelick, who serve as co-chairs of the Advisory Committee to the President's Commission on Critical Infrastructure Protection, testified at a hearing last month that ''encryption is essential for infrastructure protection.''

Yet, even computer security experts agree that U.S. encryption policy has ''acted as a deterrent to better security.'' As long ago as 1988, at my High-Tech Terrorism hearing, Jim Woolsey, who later became the director of the Central Intelligence Agency, testified about the need to do a better job of using encryption to protect our computer networks.

I have long advocated the use of strong encryption by individuals, government agencies and private companies to protect their valuable computer information. Indeed, a major thrust of the encryption legislation I have introduced is to encourage—and not stand in the way of—the widespread use of encryption. This would be a plus for both our law enforcement and national security agencies.

Unfortunately, we still have a long way to go to update our country's encryption policy to reflect that this technology is a significant crime and terrorism prevention tool. I am particularly concerned by the testimony of former Senator Sam Nunn last month that the ''continuing federal government-private sector deadlock over encryption and export policies''

may pose an obstacle to the cooperation needed to protect our country's critical infrastructures.

At the heart of the encryption debate is the power this technology gives computer users to choose who may access their communications and stored records, to the exclusion of all others. For the same reason that encryption is a powerful privacy enhancing tool, it also poses challenges for law enforcement. Law enforcement agencies want access even when we do not choose to give it.

The FBI has made clear that law enforcement wants immediate access to the plaintext of encrypted communications and stored data, and, absent industry capitulation, will seek legislation to this effect. Indeed, while much of this debate has focused on relaxation of export controls, the FBI has upped the ante. Recognizing that the encryption genie is out of the bottle, the FBI has indicated it may seek import restrictions and domestic controls on encryption.

The FBI has told me in response to written questions that: ''[I]f the current voluntary efforts are not successful,. . . it is the responsibility of the FBI. . . to seek alternative approaches to alleviate the problems caused by encryption. This would include legislative remedies which effectively address law enforcement concerns regarding the import of robust encryption products, as well as encryption products manufactured for use in the U.S.''

The Administration has not disavowed this position. In a recent letter to the Minority Leader, the Administration expressed a preference for a ''good faith dialogue'' and ''cooperative solutions'' over ''seeking to legislate domestic controls,'' but has clearly not ruled out the latter approach.

Even as our law enforcement and intelligence agencies try to slow down the widespread use of strong encryption, technology continues to move forward. Ironically, foot-dragging by the Administration on export controls and threats by the FBI to call for domestic encryption controls, have only motivated computer scientists to find alternative means to protect the privacy of online communications that may, in fact, pose more of a challenge to law enforcement.

Indeed, the terms of the current encryption debate may soon become moot. The New York Times reported a few weeks ago that Ronald Rivest of MIT has developed a new method for protecting the confidentiality of electronic messages that does not use encryption. Instead, this method breaks a message into separate packets, each marked with a special authentication header, and then ''hides'' those packets in a stream of other packets. Eavesdroppers would not know which packets were the ''wheat'' part of the message and which packets were the irrelevant ''chafe''. As Mr. Rivest noted in his article announcing this technique, ''attempts by law enforcement to regulate confidentiality by regulating encryption must fail, as confidentiality can be obtained effectively without encryption and even sometimes without the desire for confidentiality by the two communicants.''

I know that others of my colleagues, including Senators BURNS, DASCHLE, ASHCROFT, KERREY, and MCCAIN, share my appreciation of importance of this encryption issue for our economy, our national security and our privacy. This is not a partisan issue. This is not a black-and-white issue of being either for law enforcement and national security or for Internet freedom. Characterizing the debate in these simplistic terms is neither productive nor accurate.

Delays in resolving the encryption debate hurt most the very public safety and national security interests that are posed as obstacles to resolving this issue. I look forward to working with these colleagues on sensible solutions in legislation, which will not be subject to change at the whim of agency beauracrats.

Every American, not just those in the software and high-tech industries and not just those in law enforcement agencies, has a stake in the outcome of this debate. We have a legislative stalemate right now that needs to be resolved, and I plan to work closely with my colleagues on a solution in this congressional session.

I commend Senator ASHCROFT for holding an encryption hearing last month and providing a forum to discuss the important privacy and constitutional interests at stake in the encryption debate. How we resolve this debate today will have important repercussions for the exercise of our constitutional rights tomorrow. Do you agree with me that every American, not just those in the high-tech industries and not just those in law enforcement agencies, has a stake in the outcome of this debate?

Mr. ASHCROFT. Yes, I do. The testimony presented at the hearing made clear that how we resolve the law enforcement issues at the heart of the encryption debate may affect the exercise and protections of important First, Fourth and Fifth amendment rights. While we must ensure law enforcement the appropriate amount of access we cannot do so at the expense of important constitutional liberties. As I mentioned at the hearing, the FBI has argued that a system of mandatory access to private communications—or a system in which the federal government strongly ''persuades'' individuals to hand over their rights to the FBI—would make it easier for law enforcement to do its job. Of course it would, but it would also make things easier on law enforcement if we simply repealed the Fourth Amendment.

Mr. LEAHY. These constitutional issues are vital ones for Congress to consider. I understand that efforts are underway for industry stakeholders to reach some accommodation with the Administration. I encourage constructive dialogue between the Administration and industry and, in fact, have been urging a dialogue between law enforcement and industry for over a year. But Congress will continue to exercise necessary oversight to ensure that the privacy and other constitutional rights of Americans are protected.

Mr. ASHCROFT. As the Chairman of the Judiciary Subcommittee on the Constitution, Federalism and Property Rights, you can be assured that the subcommittee will stand ready to provide oversight to ensure that no constitutional right of any American is compromised. Several very important rights were addressed by the witnesses during the hearing, and the constitutional concerns of law-abiding citizens must be respected. Importantly, in the ongoing dialogue between industry and federal law enforcement we must make sure that the interests of the citizens of the U.S. are represented and their constitutional rights respected. We must ensure that everyone in the negotiations—including the administration—views the constitutional rights of law abiding citizens as non-negotiable absolutes, not as bargaining chits.

Mr. LEAHY. I have been concerned about companies, such as Sun Microsystems and Network Associates, using foreign companies to manufacture and distribute strong encryption, which was developed in the United States but may not be exported under U.S. regulations. These instances are just the latest examples that delays in resolving the encryption debate is driving overseas cryptographic expertise and high-tech jobs, to the detriment of our economy and our national security. Do you share these concerns?

Mr. ASHCROFT. Yes, I certainly share those concerns. The impact to our national security is clear and under the current Administration policy the United States is sending some of our greatest talent and products to foreign shores, enabling foreign competitors, both to industry and to our national security, to gain a strong foothold. In just the past few weeks, Network Associates, our largest independent maker of computer security software, decided to allow its Dutch subsidiary to begin selling strong encryption that does not provide a back door for law enforcement surveillance. This move by Network Associates was necessitated by our current wrong-headed export provisions. We have to re-examine these policies. Simply put, strong encryption means a strong economy. Mandatory access, by contrast, means weaker encryption and a less secure, and therefore less valuable, network. This recent example of the export of a manufacturing enterprise and the accompanying intellectual capital is only one example of a bad policy weakening our economy.

Mr. LEAHY. In my view, encryption legislation should promote the following goals:

First, legislation should ensure the right of Americans to choose how to protect the privacy and security of their communications and information;

Second, legislation should bar a government-mandated key escrow encryption system;

Third, legislation should establish both procedures and standards for access by law enforcement to decryption keys or decryption assistance for both encrypted communications and stored electronic information and only permit such access upon court order authorization, with appropriate notice and other procedural safeguards;

Fourth, legislation should establish both procedures and standards for access by foreign governments and foreign law enforcement agencies to the plaintext of encrypted communications and stored electronic information of United States persons;

Fifth, legislation should modify the current export regime for encryption to promote the global competitiveness of American companies;

Sixth, legislation should not link the use of certificate authorities with key recovery agents or, in other words, link the use of encryption for confidentiality purposes with use of encryption for authenticity and integrity purposes;

Seventh, legislation should, consistent with these goals of promoting privacy and the global competitiveness of our high-tech industries, help our law enforcement agencies and national security agencies deal with the challenges posed by the use of encryption; and

Eighth, legislation should protect the security and privacy of information provided by Americans to the government by ensuring that encryption products used by the government interoperate with commercial encryption products.

Do you agree with these goals?

Mr. ASHCROFT. Yes, I agree with these goals and will look to these same items as a reference point for the drafting, introducing and passage of encryption reform legislation.

Mr. LEAHY. Would the Senator agree to work with me on encryption legislation that achieves these goals and that we could bring to the floor this Congress?

Mr. ASHCROFT. Yes. I believe it is critical for us to address this issue and soon. I also believe that we should work together to produce a piece of legislation that demonstrates our position on encryption policy.

EQUAL PAY DAY

Mr. LEAHY. Mr. President, tomorrow, April 3, 1998, is Equal Pay Day. This is the day by which women will have had to work all of 1997 and the first three months of 1998 to make what a man made in 1997 alone. We are not talking about jobs requiring different skills or abilities. We are talking about equal pay for equal work. This is not a glass ceiling, this is a glass wall. Women cannot break the glass ceiling until the wall comes down and they are given the equal pay that they deserve.

Early in the next century, women—for the first time ever—will outnumber men in the United States workplace. In 1965, women held 35 percent of all jobs. That has grown to more than 45 percent today. And in a few years, women will make up a majority of the workforce.

Fortunately, there are more business and career opportunities for women today than there were thirty years ago. Unlike 1965, federal, state, and private sector programs now offer women many opportunities to choose their own futures. Working women also have opportunities to gain the knowledge and skills to achieve their own economic security.

But despite these gains, working women still face a unique challenge—achieving pay equity. The average woman earns 74 cents for every dollar that the average man earns. According to a study by the National Academy of Sciences, one-half of the pay gap is due to discrimination. This is unacceptable.

This discrimination is evident even in traditionally female professions such as nursing. For example, Marcelle, my wife, is a registered nurse. Female registered nurses make on average $7,600 a year less than men. It is unacceptable when female nurses make only 80 percent of the wages of their male counterparts for the same work.

My home state of Vermont is a leader in providing pay equity. According to the Institute for Women's Policy Research, Vermont ranks third in providing equal pay. Even with this ranking, the average woman in Vermont still is making less than 76 cents for every dollar that the average man makes in Vermont. We must work in the Senate and in the workplace to close this gap.

I am pleased to join Senator DASCHLE in reintroducing the Paycheck Fairness Act. This legislation will help to address the problem of pay inequality by redressing past discrimination and increasing enforcement against future abuses.

Senator HARKIN is also a true leader on pay equity. I am an original cosponsor of his bill, the Fair Pay Act, which prohibits pay discrimination based on sex, race or national origin. These two pieces of legislation will help to provide women with what they deserve: equal pay for equal work.

I understand that these bills will not solve all of the problems of pay inequity, but they will close legal loopholes that allow employers to routinely underpay women. By closing these loopholes, we will help women achieve better economic security and provide them with more opportunities.

Women are being advanced in the workplace and the glass ceiling is slowly cracking. Last year, President Clinton appointed Madeline Albright as the first female Secretary of State, and I am proud that Vermont is also a leader in advancing women in the workplace. The University of Vermont has a female president, Dr. Judith Ramaley, and Martha Rainville was recently elected Adjutant General of the Vermont National Guard—the first woman in the nation to hold this position. While women are advancing in the workplace, we need to ensure that they are receiving fair pay for their work.

I want to commend Senator DASCHLE and Senator HARKIN on their initiative in introducing the Paycheck Fairness Act and the Fair Pay Act. I also want to recognize and commend the hundreds of organizations around the country that will recognize tomorrow as Equal Pay Day.

POSITIVE SYSTEMS

Mr. BURNS. Mr. President, I stand today to recognize one of Montana's next generation jewels—Positive Systems in Whitefish, Montana. As a result of the dedication and commitment to their industry, Positive Systems has been recognized by the 1998 Governor's Excellence in Exporting Award Certificate of Appreciation.

Incorporated in 1991, Positive Systems provides a technical service in a rather unique and young industry. Dale Johnson, Cody Benkelman and Ron Behrendt designed a digital aerial photography service that will benefit many sectors of our economy. Positive Systems is the only business using such methods in the rapidly growing aerial mapping industry. These three men from different backgrounds combined their skills to launch this new enterprise.

Positive Systems has mapped landscapes throughout the world working for everyone from farmers to NASA. The four cameras mounted in a small aircraft take pictures in the visible spectrum as well as in the near infrared. Although the human eye is capable of sensing just a portion of the entire light spectrum, the cameras can see much more. The camera lenses pick up the nearest infrared which has several remarkable attributes including the fact that it interacts with chlorophyll, reflecting very well off of healthy plants.

By designating a color to the near infrared the cameras can detect the amount of light bouncing off of a given plant—the more reflective the plant, the healthier it is. In an age of high-tech, precision agriculture, every advantage helps. An acre of farmland, for instance, can support upward of 11,000 heads of lettuce; so to lose even a few acres on a corporate farm can mean a huge financial impact.

Understanding the whole system is a primary focus at NASA, where the Earth sciences program is providing government funds for private sector research into global change over time. In addition, Positive System teams with

NASA for standard education and land use projects. They have recently been awarded a contract with NASA's John C. Stennis Space Center to map 1,000 square miles of Mississippi's coastal region.

The system engineered by the Whitefish company, in fact, is so far out on the cutting edge that Positive Systems has had to wait for the rest of the world to catch up.

I would like to congratulate Positive Systems on the Certificate of Appreciation. This kind of growth and opportunity for a small Montana business is impressive. As a member of the U.S. Senate Small Business Committee, it is becoming increasingly clear that business owners can effectively reach a global market regardless of where they live. Positive Systems has demonstrated they can compete and succeed.

Thank you, Mr. President, I yield the floor.

CONGRESS SHOULD PASS IRS REFORM BY APRIL 15

Mr. FAIRCLOTH. Mr. President, I rise to make a few remarks about legislation to reform the Internal Revenue Service.

Mr. President, April 15 is just around the corner, and I would guess that sometime between now and then, many a taxpayer will curse the IRS, and quite probably the Congress, too, for the tax bill they face. The American people are taxed too much, and they are due for some tax relief this year.

Even figuring out how much tax to pay has become a nightmare. At 17,000 pages, the tax code and regulations are so complicated that no one but a few tax attorneys and accountants who make their living off that tangle of laws can ever hope to understand it, let alone the average working family.

Mr. President, it looks increasingly like the Senate will fail to pass legislation to reform the IRS before adjourning at the end of this week for Easter recess. I am deeply disappointed that we appear unlikely to pass such legislation before April 15. Last week, I asked the Senate leadership to pass IRS reform legislation before April 15. In just a moment, I will describe some of the features I think should be included in such a bill.

The American people deserve an IRS Reform bill as soon as possible. Last December, I held a hearing in Raleigh, North Carolina on IRS abuse of taxpayers. I was shocked at some of the stories I heard. In response, I introduced legislation to create an all private citizen oversight board for the IRS. My bill would give the oversight panel the authority to delve into the auditing and collections practices of the IRS which have lead to well documented abuse of taxpayers. The board would also have oversight of IRS procurement practices. That should help ensure that we never see the IRS waste another $4 billion, as it did trying to develop a failed computer system.

Why is the Senate about to recess without having passed an IRS reform bill? In the crazy world of Washington, D.C., it seems that when the Congress tries to stop the IRS from improperly collecting taxes, budget rules require that the ''loss'' of revenue be offset with more taxes, making it almost impossible to clean house at the IRS. And so the Senate has now been diverted over the question of how to ''pay'' for an IRS reform bill, and which tax increases are least objectionable to use for that purpose.

The referee in such matters is the Joint Committee on Taxation. The accountants and tax experts at this committee review all tax proposals, and make a determination as to which measures result in a loss of revenue, and which are revenue neutral.

No matter what the green eye shade experts say, it just seems wrong to ask the American people to pay for IRS reform. IRS reform legislation should not impose new taxes. Fortunately, there are a great many good ideas for reforming the IRS which even the Joint Committee on Taxation staff have said can be enacted without the need for new taxes.

First among these is the creation of an IRS oversight board, such as the one I have proposed in my own IRS reform legislation, S. 1555. There are a number such reforms which can be implemented without any need for offsetting revenues, including: a requirement that IRS agents explain taxpayers' right to them in interviews; low-income taxpayer clinics; archiving IRS records so that Congress can delve into the inner workings of the agency; cataloging complaints of IRS employee misconduct; prohibiting the IRS from seizing taxpayers' homes in small deficiency cases, among others. One idea that would impose no additional cost, but which I am sure would make a big difference for frustrated taxpayers who struggle to find a person to talk to in within the massive IRS bureaucracy: require that all IRS notices must contain the name and telephone number of an IRS employee to contact.

In fact, of the 75 separate reforms currently being considered by the Senate Committee on Finance, over 50 are revenue neutral, according to the Joint Committee on Taxation. At a minimum, these reforms should be considered as soon as possible. If any revenues are needed to pay for additional reform, I suggest that Congress look first to the IRS's own budget before turning to the American people.

For those who worry that the IRS will not have enough resources to collect taxes, it is worth noting that the IRS budget has grown by a whopping 71 percent in real terms since 1981. Many working families haven't been so fortunate. Simply freezing the IRS budget at 1998 levels would generate an additional $500 million in savings, which could be applied to offset more costly IRS reforms. That would also help make it clear that Congress considers taxpayers to be at least as important as the IRS bureaucracy.

Mr. President, I recently wrote an editorial for the Wall Street Journal on the subject of IRS reform, which appeared on March 31, 1998. I ask unanimous consent that this article appear in the RECORD at the conclusion of my remarks.

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

(See Exhibit 1.)

Mr. FAIRCLOTH. In conclusion, Mr. President, I believe that the Senate can and should pass IRS reform legislation before April 15. I hope my colleagues will join me in pushing for such a reform bill as soon as possible.

EXHIBIT 1

[From the Wall Street Journal, Mar. 31, 1998]

WILL IRS REFORM GET ''SCORED'' INTO TAX INCREASE?

(By Lauch Faircloth)

In the crazy world of Washington, D.C., legislation to reform the Internal Revenue Service is beginning to look more and more like a bill to increase taxes by several billion dollars. This outrage must be stopped, and soon.

Last fall, the House of Representatives passed legislation based on the recommendations of the National Commission on Restructuring the IRS, the so-called Kerrey-Portman Commission. Most of the provisions of that bill are good, commonsense measures that will make the IRS more accountable to the public and reform the way the IRS conducts its business. Some of the ''taxpayer bill of rights'' provisions, however, have been ''scored'' by the Joint Committee on Taxation as costing the government revenue. In Washington-speak, this means that these provisions require an ''offset''—better known to most Americans as a tax increase.

House bill drafters were creative in finding a ''loophole closer'' for their IRS reform bill's offset. Their idea is to clarify the deduction for accrued vacation pay, which would net an additional $2.85 billion over five years. In this case, the loophole closer probably is just that; it's arguable that federal tax court decisions have strayed from the intent of Congress in 1987 legislation concerning the proper treatment of the taxation of vacation pay as deferred compensation. But there are precious few other true loophole closers where that one came from. Virtually every other potential ''revenue offset'' on the table would come from one of two sources—a laundry list of 43 tax increases proposed by the president, or unspecified tobacco tax settlement money. Either way, they are tax increases.

And there's another problem: The Senate version of IRS reform is shaping up as two to three times more expensive than the bill passed by the House last fall, according to staffers of the Senate Finance Committee. That means that congressional staffers drafting the revised bill must dip into their bag of ''loophole closers'' (translation—tax increases) suggested by the president to pay for the additional lost revenue to the government.

I find it patently offensive that any reform of the Internal Revenue Service should impose a cost on the American people. After all, the IRS employs more than 100,000 people, 46,000 of whom work in enforcement, with a total budget of over $8 billion. The entire Drug Enforcement Administration—our frontline defense in the war on drugs—has a staff of only 8,500. The IRS can audit any American at any time, but drug traffickers

would have nothing to fear under the present administration's priorities.

What is the solution? For one thing, the omnibus approach to IRS reform—cobbling together many reforms into one large bill—should be reconsidered, Many worthwhile tax reforms have been ''scored'' as resulting in no lost revenue to the government. In other words, they don't cost a thing. They should go forward on their own.

Chief among these provisions is an oversight board for the IRS. The House IRS reform bill included such a board, Recall that Treasury Secretary Robert Rubin originally opposed that idea, until the president gave it his surprise endorsement. What followed was a series of negotiations between Congress and the administrations over the makeup of such a board. The board is still too weak, and I have offered my own legislation to create a board of nine members, all private citizens. I do not think the Secretary of the Treasury, the Commissioner of the IRS or the IRS employees' union representative should be on such a board, as they would be under the House version. That's just too much like the fox guarding the hen-house.

Other provisions that do not result in lost revenue to the federal government include strengthening the office of the taxpayer advocate; prohibiting executive branch influence over taxpayer audits; changing the way IRS records are archived to provide greater oversight; establishing low-income taxpayer clinics; and reforming certain sections of the tax code that were intended to provide taxpayer privacy protections, but that IRS attorneys have instead used to shield the IRS's inner workings from congressional oversight.

If offsets are needed, let's look first at the massive $8 billion budget of the IRS itself before turning to the taxpayers. That budget has increased 71% in real terms since 1981. Merely keeping the IRS budget at last year's levels would yield half a billion dollars. Also, don't forget that the president's own budget plan has a list of more than $30 billion in suggested spending cuts. That would more than pay for even the most ambitious tax reform, as long as Congress holds the line on new federal spending. And before we dismiss waste and fraud as a source of savings, recall that the Social Security Administration has just uncovered a very expensive scam—prison inmates have been receiving as much as $3.46 billion in improper Social Security checks each year. That money could help save Social Security and clean up the IRS.

The bottom line is this: The American people should not be asked to pay for IRS reforms. Congress should focus on trimming the IRS budget, or using the savings from federal spending cuts suggested by the president to clean house at the IRS. That way, Congress can offer the American people some much-needed relief, without a dose of castor oil.

PRODUCT LIABILITY AND BIOMATERIALS ACCESS

Mr. FRIST. Mr. President, each year, American companies are forced to lay off workers or shut down entirely, but it's not because of hard economic times. Instead, the costs of product liability insurance and outrageous damage awards are driving them out of business. We now live in the most litigious society on earth. Our courts are packed with frivolous lawsuits filed by people seeking multi-million dollar payments for modest damages. As a result, we are all paying a huge price—from the job market to the supermarket. Let us take the first step by reforming the product liability system.

Congress did just that, when it sent President Clinton the Product Liability Legal Reform Act. This legislation was a carefully crafted bipartisan bill that, among other things, would have limited most punitive damage awards to twice the plaintiff's compensatory damages, or $25,000—whichever is greater. The bill would have simply injected predictability and sanity into our out-of-control legal system and protected American companies from unfair and outrageous damage awards.

The American people and America's employers, however, were dealt a big blow when President Clinton vetoed this bipartisan, common-sense reform effort. Almost 90 percent of the American people supported the bill. Consumers already pay 30 percent more on the price of a step ladder and 95 percent more for the price of childhood vaccine due to outrageous product liability costs, and we simply can't afford to pay any more. American workers and businesses needed this bill to help stem to tide of job loss and help create new jobs.

So, why would Mr. Clinton veto this legislation? Possibly because the most vocal opponents of this bill the plaintiff's trial lawyers—were also the target supporters of his re-election effort. The President had a choice to make. He had to choose between the plaintiff's trial bar who provide him millions in dollars in campaign funds, and American workers particularly those in manufacturing jobs. He choose the trial lawyers. Unfortunately, his decision is not only bad politics, is terrible policy for the American People. That's way even many prominent members of this own party in Congress were shocked his veto.

Negotiations continue with the White House on product liability reform, but to date I have seen no significant movement that would constitute real progress. Thus far, only watered-down proposals that attempt to deceive the American people into believing that real reform will take place have been offered.

My purpose in coming to the floor today is to challenge my colleagues to act on real product liability reform. Or, send the one part of this legislative effort that there is some consensus on to the President. I am speaking of Senators MCCAIN and LIEBERMAN's Bio-materials Access Assurance Act.

Every year 7.5 million patients are threatened when medical suppliers choose to discontinue a product because the liability concerns outweigh any potential gains. In my experience as a cardio-thoracic surgeon, you can't overstate the vital nature of bringing the best and newest technology to the operating table. The list of life-saving devices affected is too long to mention. Everything from annuloplasty rings and tissue valves used in valve implantation to the blood filters and cardiotomy reservoirs needed for heart surgery are all at risk of serious shortage if the Congress does not act.

Many implantable devices are already in short supply. At least 14 biomaterials suppliers have limited or stopped selling the raw materials used in the manufacture of devices. Many major suppliers have stopped selling materials to the U.S. market because of liability concerns. Dow Chemical no longer manufactures medical grade resin for the implant market. Dupont has discontinued the supply of Teflon, Dacron, and Delron used in the permanent medical implant industry.

A 1997 study indicated where this problem is going within the next one to three years: U.S. manufacturers will divert resources from research and development to the search for replacement materials; and financial resources for investment will begin to dry up and innovation within our boarders will suffer.

Further, within three to 10 years: A biomaterials ''crisis'' will occur; major segments of the biomaterials industry will move overseas, killing smaller manufacturers where we see so much innovation today; patients will not have access to life-saving and life-enhancing implants.

Let me be clear: These devices save millions of lives every year. I've used these implants and devices in my own surgical practice to save the lives of hundreds. My hands as a surgeon and my patients are witnesses to the importance of this issue. The time to act is now.

We have another opportunity this year to bring both of these important legislative initiatives to the President's desk. I sincerely hope that both ends of Pennsylvania are up to the challenge.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the President Officer laid before the Senate messages from the President of the United States submitting a treaty and sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 12:39 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 87, Concurrent resolution to correct the enrollment of S. 419.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 247. Concurrent resolution recognizing the contributions of the Reverend Dr. Martin Luther King, Jr., to the civil society of the United States and the world and to the cause of nonviolent social and political change to the advance social justice and equality for all races and calling on the people of the United States to study, reflect on, and celebrate the life of Dr. Martin Luther King, Jr., on the thirtieth anniversary of his death.

The message further announced that the House has passed the following bills, in which it requests the concurrent of the Senate:

H.R. 1151. An act to amend the Federal Credit Union Act to clarify existing law with regard to the field of membership of Federal credit unions, to preserve the integrity and purposes of Federal credit unions, to enhance supervisory oversight of insured credit unions, and for other purposes.

H.R. 2400. An act to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent and referred as indicated:

H.R. 1151. An act to amend the Federal Credit Union Act to clarify existing law with regard to the field of membership of Federal credit unions, to preserve the integrity and purposes of Federal credit unions, to enhance supervisory oversight to insured credit unions, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

The following bill, previously received from the House of Representatives, for the concurrence of the Senate, was read twice and referred as indicated:

H.R. 3310. An act to amend chapter 35 of title 44, United States Code, for the purpose of facilitating compliance by small businesses with certain Federal paperwork requirements, to establish a task force to examine the feasibility of streamlining paperwork requirements applicable to small businesses, and for other purposes; to the Committee on Governmental Affairs.

The following concurrent resolution was read and referred as indicated:

H. Con. Res. 247. Concurrent resolution recognizing the contributions of the Reverend Dr. Martin Luther King, Jr., to the civil society of the United States and the world and to the cause of nonviolent social and political change to advance social justice and equality for all races and calling on the people of the United States to study, reflect on, and celebrate the life of Dr. Martin Luther King, Jr., on the thirtieth anniversary of this death; to the Committee on the Judiciary.

ENROLLED BILL SIGNED

The following enrolled bill, previously signed by the Speaker of the House, was signed on today, April 2, 1998, by the President pro tempore (Mr. THURMOND):

S. 750. An act to consolidate certain mineral interests in the National Grasslands in Billings County, North Dakota, through the exchange of Federal and private mineral interests to enhance land management capabilities and environmental and wildlife protection, and for other purposes.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on April 2, 1998 he had presented to the President of the United States, the following enrolled bill:

S. 750. An act to consolidate certain mineral interests in the National Grasslands in Billings County, North Dakota, through the exchange of Federal and private mineral interests to enhance land management capabilities and environmental and wildlife protection, 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–4500. A communication from the Secretary of the Interior, transmitting, pursuant to law, a report relative to a Bureau of Reclamation project; to the Committee on Energy and Natural Resources.

E–4501. A communication from the Secretary of Defense, transmitting, pursuant to law, a report relative to the Federal Voting Assistance Program; to the Committee on Rules and Administration.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MCCAIN, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 1609. A bill to amend the High-Performance Computing Act of 1991 to authorize appropriations for fiscal years 1999 to 2000 for the Next Generation Internet program, to require the Advisory Committee on High-Performance Computing and Communications, Information Technology, and the Next Generation Internet to monitor and give advice concerning the development and implementation of the Next Generation Internet program and report to the President and the Congress in its activities, and for other purposes (Rept. No. 105–173).

By Mr. HATCH, from the Committee on the Judiciary, without amendment and with a preamble:

S. Res. 201. A resolution to commemorate and acknowledge the dedication and sacrifice made by the men and women who have lost their lives while serving as law enforcement officers.

By Mr. HATCH, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 1723. A bill to amend the Immigration and Nationality Act to assist the United States to remain competitive by increasing the access of the United States firms and institutions of higher education to skilled personnel and by expanding educational and training opportunities for American students and workers.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. D'AMATO, from the Committee on Banking, Housing, and Urban Affairs:

Arthur Levitt, Jr., of New York, to be a Member of the Securities and Exchange Commission for the term expiring June 5, 2003. (Reappointment)

(The above nominations were reported with the recommendation that he be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. HATCH, from the Committee on the Judiciary:

Ivan L. R. Lemelle, of Louisiana, to be United States District Judge for the Eastern District of Louisiana.

Arthur J. Tarnow, of Michigan, to be United States District Judge for the Eastern District of Michigan.

George Caram Steeh, III, of Michigan, to be United States District Judge for the Eastern District of Michigan.

A. Howard Matz, of California, to be United States District Judge for the Central District of California.

Richard H. Deane, Jr., of Georgia, to be United States Attorney for the Northern District of Georgia for the term of four years.

Stephen C. Robinson, of Connecticut, to be United States Attorney for the District of Connecticut for the term of four years.

Daniel C. Byrne, of New York, to be United States Marshal for the Eastern District of New York for the 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. DASCHLE:

S. 1905. A bill to provide for equitable compensation for the Cheyenne River Sioux Tribe, and for other purposes; to the Committee on Indian Affairs.

By Mr. LEAHY:

S. 1906. A bill to require the Senate to remain in session to act on judicial nominations in certain circumstances; to the Committee on Rules and Administration.

By Mr. DASCHLE:

S. 1907. A bill to amend the Internal Revenue Code of 1986 to allow a refundable tax credit for wetland restoration and conservation expenses; to the Committee on Finance.

By Mr. MOYNIHAN (for himself and Mr. D'AMATO):

S. 1908. A bill to amend title XVIII of the Social Security Act to carve out form payments to Medicare+Choice organizations amounts attributable to disproportionate share hospital payments and pay such amounts directly to those disproportionate share hospitals in which their enrollees receive care; to the Committee on Finance.

By Mr. MCCAIN:

S. 1909. A bill to repeal the telephone excise tax; to the Committee on Finance.

By Mr. BREAUX:

S. 1910. A bill to clarify the applicability of authority to release restrictions and encumbrances on certain property located in Calcasieu Parish, Louisiana; to the Committee on Commerce, Science, and Transportation.

By Mr. D'AMATO:

S. 1911. A bill to amend the Internal Revenue Code of 1986 to provide a $500 nonrefundable credit to individuals for the payment of

real estate taxes; to the Committee on Finance.

By Mr. FORD (for himself and Mr. BOND):

S. 1912. A bill to amend title 10, United States Code, to exclude additional reserve component general and flag officers from the limitation on the number of general or flag officers who may serve on active duty; to the Committee on Armed Services.

By Mr. BAUCUS (for himself and Mr. BURNS):

S. 1913. A bill to require the Secretary of the Interior to sell leaseholds at the Canyon Ferry Reservoir in the State of Montana and to establish a trust fund for the conservation of fish and wildlife and enhancement of public hunting and fishing opportunities in the State; to the Committee on Environment and Public Works.

By Mr. GRASSLEY:

S. 1914. A bill to amend title 11, United States Code, to provide for business bankruptcy reform, and for other purposes; to the Committee on the Judiciary.

By Mr. LEAHY:

S. 1915. A bill to amend the Clean Air Act to establish requirements concerning the operation of fossil fuel-fired electric utility steam generating units, commercial and industrial boiler units, solid waste incineration units, medical waste incinerators, hazardous waste combustors, chlor-alkali plants, and Portland cement plants to reduce emissions of mercury to the environment, and for other purposes; to the Committee on Environment and Public Works.

By Mr. DURBIN:

S. 1916. A bill for the relief of Marin Turcinovic, and his fiancee, Corina Dechalup; to the Committee on the Judiciary.

By Mr. DURBIN (for himself, Mr. CHAFEE, Mr. REED, and Mrs. BOXER):

S. 1917. A bill to prevent children from injuring themselves and others with firearms; to the Committee on the Judiciary.

By Mr. DORGAN (for himself, Mr. DASCHLE, Mr. WELLSTONE, Mr. JOHNSON, Mr. CONRAD, Mr. HARKIN, and Mr. BAUCUS):

S. 1918. A bill to require the Secretary of Agriculture to make available to producers of the 1998 and subsequent crops of wheat and feed grains nonrecourse loans that provide a fair return to the producers in relation to the cost of production; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. MURKOWSKI (for himself, Mr. NICKLES, Mrs. HUTCHISON, and Mr. DOMENICI):

S. 1919. A bill to provide for the energy security of the Nation through encouraging the production of domestic oil and gas resources from stripper wells on federal lands, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. MURKOWSKI (for himself, Mr. NICKLES, and Mrs. HUTCHISON):

S. 1920. A bill to improve the administration of oil and gas leases on Federal lands, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. JEFFORDS (for himself and Mr. DODD):

S. 1921. A bill to ensure confidentiality with respect to medical records and health care-related information, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. CAMPBELL:

S. 1922. A bill to amend chapter 61 of title 5, United States Code, to make election day a legal public holiday, with such holiday to be known as ''Freedom and Democracy Day''; to the Committee on the Judiciary.

By Mr. COVERDELL (for himself, Mr. BREAUX, and Mr. DEWINE):

S. 1923. A bill to amend the Federal Water Pollution Control Act to ensure compliance by Federal facilities with pollution control requirements; to the Committee on Environment and Public Works.

By Mr. MACK (for himself, Mr. KERRY, Mr. D'AMATO, Mrs. FEINSTEIN, Mr. BOND, Ms. MOSELEY-BRAUN, Mr. COVERDELL, Mrs. BOXER, Mr. GREGG, Mr. KENNEDY, Mr. THURMOND, Mr. ROBB, Mr. GRAMS, Mr. BUMPERS, Mr. COATS, Mr. DODD, Mr. INHOFE, Mr. INOUYE, Mr. SANTORUM, Mr. DURBIN, Ms. SNOWE, Mr. WYDEN, and Mr. HOLLINGS):

S. 1924. A bill to restore the standards used for determing whether technical workers are not employees as in effect before the Tax Reform Act of 1986; to the Committee on Finance.

By Mr. CAMPBELL (for himself and Mr. INOUYE):

S. 1925. A bill to make certain technical corrections in laws relating to Native Americans, and for other purposes; to the Committee on Indian Affairs.

By Mr. GRASSLEY:

S. 1926. A bill for the relief of Regine Beatie Edwards; to the Committee on the Judiciary.

By Ms. MOSELEY-BRAUN:

S. 1927. A bill to amend section 2007 of the Social Security Act to provide grant funding for 20 additional Empowerment Zones, and for other purposes; to the Committee on Finance.

By Mr. LEAHY:

S. 1928. A bill to protect consumers from overcollections for the use of pay telephones, to provide consumers with information to make informed decisions about the use of pay telephones, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mrs. HUTCHISON (for herself, Mr. MURKOWSKI, Mr. NICKLES, and Mr. DOMENICI):

S. 1929. A bill to amend the Internal Revenue Code of 1986 to provide tax incentives to encourage production of oil and gas within the United States, and for other purposes; to the Committee on Finance.

By Mr. NICKLES (for himself, Mr. DOMENICI, Mr. MURKOWSKI, Mrs. HUTCHISON, Mr. BREAUX, and Mr. CRAIG):

S. 1930. A bill to provide certainty for, reduce administrative and compliance burdens associated with, and streamline and improve the collection of royalties from Federal and outer continental shelf oil and gas leases, and for other purposes; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. CAMPBELL (for himself, Mr. CONRAD, Mr. DASCHLE, Mr. JOHNSON, and Mr. MCCAIN):

S. Res. 206. A resolution to recognize 50 years of efforts with respect to the creation of the Crazy Horse Memorial, honoring the great Oglala Sioux leader, Tasunke Witko, popularly known as ''Crazy Horse'', and to express the Sense of the Senate with respect to the Crazy Horse Memorial; to the Committee on Indian Affairs.

By Mr. JEFFORDS (for himself, Mr. SPECTER, Mr. AKAKA, and Mr. LEAHY):

S. Res. 207. A resolution commemorating the 20th anniversary of the founding of the Vietnam Veterans of America; to the Committee on the Judiciary.

By Mr. LOTT (for himself and Mr. DASCHLE):

S. Res. 208. A resolution to establish a special committee of the Senate to address the year 2000 technology problem; considered and agreed to.

By Ms. COLLINS:

S. Res. 209. A resolution providing section 302 allocations to the Committee on Appropriations; considered and agreed to.

By Mr. D'AMATO (for himself, Mr. MOYNIHAN, Mr. ASHCROFT, and Mr. BINGAMAN):

S. Con. Res. 88. A concurrent resolution calling on Japan to establish and maintain an open, competitive market for consumer photographic film and paper and other sectors facing market access barriers in Japan; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DASCHLE:

S. 1905. A bill to provide for equitable compensation for the Cheyenne River Sioux Tribe, and for other purposes; to the Committee on Indian Affairs.

THE CHEYENNE RIVER SIOUX TRIBE EQUITABLE COMPENSATION ACT

Mr. DASCHLE. Mr. President, today I am introducing legislation to compensate the Cheyenne River Sioux Tribe for losses the tribe suffered when the Oahe dam was constructed in central South Dakota and over 100,000 acres of tribal land was flooded. Its passage will help the tribe rebuild their infrastructure and their economy, which was seriously crippled by the Oahe project during the 1950s. It is extraordinary that it has taken four decades to reach this point. The importance of passing this long-overdue legislation as soon as possible cannot be stated too strongly.

This legislation was developed with the assistance of Chairman Gregg Bourland and Council Member Louis Dubray of the Cheyenne River Sioux Tribe. Both men have worked tirelessly to bring us to this point and I am grateful for their assistance. This legislation represents one element of their progressive vision for providing the members of the Cheyenne River Sioux Tribe with greater opportunities for economic development and to fulfill the debts owed to the tribe by the federal government.

The Cheyenne River Sioux Infrastructure Development Trust Fund Act is the companion bill to the Lower Brule Sioux Tribe Infrastructure Development Trust Fund Act, which passed by unanimous consent in November of 1997, and the Crow Creek Sioux Tribe Infrastructure Development Trust Fund Act of 1996, which passed the Congress unanimously in 1996.

The bill is based on an extensive analysis of the impact of the Pick-Sloan Dam Projects on the Cheyenne River Sioux Tribe, which was performed by the Robert McLaughlin Company. The McLaughlin report was reviewed by the General Accounting Office, which found that the losses suffered by the tribe justify the establishment of a $290 million trust fund,

which is the amount called for in this legislation.

It represents an important step in our continuing effort to fairly compensate the tribes of South Dakota for the sacrifices they made decades ago for the construction of the dams along the Missouri River and will further the goal of improving the lives of Native Americans living on those reservations.

To fully appreciate the need for this legislation, it is important for the committee to understand the historic events that are prologue to its development. The Oahe dam was constructed in South Dakota pursuant to the Flood Control Act (58 Stat. 887) of 1944. That legislation authorized implementation of the Missouri River Basin Pick-Sloan Plan for water development and flood control for downstream states.

The Oahe dam flooded 104,000 acres of tribal land, forcing the relocation of roughly 30 percent of the tribe's population, including four entire communities. Equally as important, the tribe lost 80 percent of its fertile river bottom lands—lands that represented the basis for the tribal economy. Prior to the flooding, the tribe relied on these lands for firewood and building material, game, wild fruits and berries, as well as cover from the severe storms that characterize winters in South Dakota and shelter from the heat of the prairie summer. Indian ranchers no longer had places to shelter their cattle in the wintertime, causing a significant loss in the value of their operations.

The loss of these important river bottom lands can be felt today. Last year, during the extreme winter of 1996–1997, the tribe lost roughly 30,000 head of livestock, including 25,000 head of cattle. Without adequate natural shelter, the remaining Indian ranchers along this stretch of river can expect to continue to have difficulty scratching out a living in future years when the winter turns particularly hard.

Mr. President, the damage caused by the Pick-Sloan projects touched every aspect of life on the Cheyenne River reservation. Ninety percent of the timber on the reservation was wiped out, causing shortages of building material and firewood. Wildlife, once abundant in the river bottom, became more scarce. The entire lifestyle of the tribe changed as it was forced to relocate much of its people from the lush river bottom lands to the windswept prairie.

Most Americans, if not all, are familiar with the many broken promises of the United States Government to Native Americans during the 1800's. For Indian tribes located along the Missouri River in the State of South Dakota, the United States Government still has not met its responsibilities for compensation for losses suffered as a result of the construction of the Pick-Sloan dams. This proposed legislation is intended to correct that situation as it applies to the Cheyenne River Sioux Tribe.

We cannot, of course, remake the lost lands and return the tribe to its former existence. We can, however, help provide the resources necessary to the tribe to improve the infrastructure on the Cheyenne River reservation. This, in turn, will enhance opportunities for economic development which will benefit all members of the tribe. Perhaps most importantly, it will fulfill part of our commitment to improve the lives of Native Americans—in this case the Cheyenne River Sioux.

I strongly urge my colleagues to approve this legislation this year. Providing compensation to the Cheyenne River Sioux Tribe for past harm inflicted by the federal government is long-overdue and any further delay only compounds that harm. I ask unanimous consent that the entire 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. 1905

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

(a) SHORT TITLE.—This Act may be cited as the ''Cheyenne River Sioux Tribe Equitable Compensation Act''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) Congress approved the Pick-Sloan Missouri River Basin program by passing the Act of December 22, 1944, commonly known as the ''Flood Control Act of 1944'' (58 Stat. 887, chapter 665; 33 U.S.C. 701–1 et seq.)—

(A) to promote the general economic development of the United States;

(B) to provide for irrigation above Sioux City, Iowa;

(C) to protect urban and rural areas from devastating floods of the Missouri River; and

(D) for other purposes;

(2) the Oahe Dam and Reservoir project is a major component of the Pick-Sloan program, and contributes to the economy of the United States by generating a substantial amount of hydropower and impounding a substantial quantity of water;

(3) notwithstanding the contributions referred to in paragraph (1), the Oahe Dam and Reservoir project has contributed little to the economy of the Tribe;

(4) the Oahe Dam and Reservoir project overlies the eastern boundary of the Crow Creek Indian Reservation;

(5) the Oahe Dam and Reservoir project has—

(A) inundated the fertile, wooded bottom lands of the Tribe along the Missouri River that constituted the most productive agricultural and pastoral lands of the Tribe and the homeland of the members of the Tribe; and

(B) as a result of that inundation, severely damaged the economy of the Tribe and the members of the Tribe;

(6) the Secretary appointed a Joint Tribal Advisory Committee that examined the Oahe Dam and Reservoir project and that advisory committee correctly concluded that—

(A) the Federal Government did not justify, or fairly compensate the Tribe for, the Oahe Dam and Reservoir project when the Federal Government acquired 104,492 acres of land of the Tribe for that project; and

(B) the Tribe should be adequately compensated for the taking described in subparagraph (A); and

(7) after applying the same method of analysis used for the compensation of similarly situated Indian tribes, the Comptroller General of the United States determined the amount of compensation for the taking described in paragraph (6) and determined that the appropriate amount of compensation to pay the Tribe for the taking would be $290,722,958;

(8) the Tribe is entitled to receiving additional financial compensation for the taking described in paragraph (6)(A) in a manner consistent with the determination of the Comptroller General under paragraph (7); and

(9) the establishment of a dual cash account with the amounts made available to the Tribe under this Act is consistent with the principles of self-governance and self-determination.

(b) PURPOSES.—The purposes of this Act are as follows:

(1) To provide for additional financial compensation to the Tribe for the taking of 104,402 acres of land of the Tribe for the Oahe Dam and Reservoir project in a manner consistent with the determination of the Comptroller General of the United States described in subsection (a)(7).

(2) To provide for the establishment of the Cheyenne River Sioux Recovery Account, a dual cash account to be managed by the Office in order to make payments to the Tribe to carry out projects under a plan prepared by the Tribe.

SEC. 3. DEFINITIONS.

In this Act:

(1) ACCOUNT.—The term ''account'' means the Cheyenne River Sioux Recovery Account established under section 4.

(2) CHEYENNE RIVER SIOUX TRIBE; TRIBE.—The term ''Cheyenne River Sioux Tribe'' or ''Tribe'' means the Itazipco, Siha Sapa, Minnicoujou, and Oohenumpa bands of the Great Sioux Nation that reside on the Cheyenne Reservation, located in central South Dakota.

(3) FUND ACCOUNT.—The term ''Fund Account'' means a consolidated account for tribal trust funds in the Treasury of the United States that—

(A) is managed by the Secretary, through the Office, in accordance with applicable law; and

(B) as of the date of enactment of this Act, is numbered 14X8365.

(4) OFFICE.—The term ''Office'' means the Office of Trust Fund Management within the Department of the Interior.

(5) PROGRAM.—The term ''Program'' means the power program of the Pick-Sloan Missouri River Basin program, administered by the Western Area Power Administration.

(6) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

SEC. 4. CHEYENNE RIVER SIOUX TRIBAL RECOVERY ACCOUNT.

(a) CHEYENNE RIVER SIOUX TRIBAL RECOVERY ACCOUNT.—The Secretary of the Treasury shall establish in the Fund Account a dual cash account to be known as the ''Cheyenne River Sioux Tribal Recovery Account''. The dual cash account shall have a principal component and an interest component. The interest component of the account shall be used to make payments to the Tribe in accordance with this Act. The principal component of the account may not be expended. The corpus and the income of the account may be invested in accordance with applicable law.

(b) FUNDING.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), beginning with fiscal year 1999, and for each fiscal year thereafter, until such time as the aggregate of the amounts deposited is $290,722,958, the Secretary of the Treasury shall deposit into the fund an amount equal to 10 percent of the receipts

from the deposits to the Treasury of the United States for the preceding fiscal year from the Program.

(2) PERCENTAGE AMOUNT.—Beginning with fiscal year 2004, if no other law provides for the compensation to parties in conjunction with an applicable plan for the Program, the Secretary of the Treasury shall deposit into the fund an amount equal to 25 percent of the receipts from the deposits to the Treasury of the United States for the preceding fiscal year from the Program, until such time as the aggregate of the amounts deposited into the fund from such receipts and receipts deposited under paragraph (1) equals the amount specified in paragraph (1).

(3) ADDITIONAL INTEREST.—If, by the date that is 60 days after the end of a fiscal year, the Secretary of the Treasury fails to deposit into the fund an amount determined under paragraph (1) or (2), the Secretary of the Treasury shall deposit, in addition the applicable amount required to be deposited under paragraph (1) or (2), interest on the amount required to be deposited, determined for the period beginning on the day after the termination of that 60-day period and ending on the date on which the amount determined under paragraph (1) or (2) is deposited, and based on a rate of interest that is commonly referred to as the Treasury overnight rate.

(c) WITHDRAWAL.—

(1) IN GENERAL.—Subject to paragraph (2), in accordance with section 202 of the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4022), the Tribe may, in accordance with that Act, voluntarily withdraw some or all of the funds held in trust for the Tribe by the United States and managed by the Secretary through the Office.

(2) LIMITATION.—No amount of principal withdrawn under this subsection may be expended by the Tribe. The Tribe may withdraw funds under this subsection on the condition that the Tribe may expend only the interest earned on the principal.

(e) PAYMENT OF INTEREST TO TRIBE.—In accordance with this Act, the Secretary, acting through the Office, and in a manner consistent with the first section of the Act of June 24, 1938 (52 Stat. 1037 et seq., chapter 648; 25 U.S.C. 162a) shall make payments to the Tribe from the interest credited to the interest component of the account, beginning at the end of the first fiscal year during which interest is credited to the account. The Tribe shall use the payments made under this subsection only for carrying out projects and programs pursuant to the plan prepared under subsection (f).

(f) PLAN.—

(1) IN GENERAL.—The governing body of the Tribe shall, not later than 18 months after the date of enactment of this Act, prepare a plan for the use of the payments made to the Tribe under subsection (e).

(2) CONTENTS OF PLAN.—The plan developed under this subsection shall provide for the manner in which the Tribe will expend the payments referred to in paragraph (1) to promote—

(A) economic development;

(B) infrastructure development;

(C) the educational, health, recreational, and social welfare objectives of the Tribe and its members; or

(D) any combination of the activities referred to in subparagraphs (A) through (C).

(3) PLAN REVIEW AND REVISION.—The Tribal Council of the Tribe shall make available for review and comment by the members of the Tribe a copy of the plan before the plan becomes final, in accordance with procedures established by the Tribal Council. The Tribal Council may, on an annual basis, update the plan by revising the plan in a manner that provides the members of the Tribe to review and comment on any proposed revision.

(4) AUDIT.—The activities of the Tribe in carrying out the plan under this subsection shall be audited as part of an annual audit conducted for the Tribe. The auditors that conduct the audit shall include in the written findings of that audit a determination whether the funds received by the Tribe under this section were expended in a manner consistent with this section to carry out the plan under this subsection.

(g) TRANSFERS; LIMITATIONS.—

(1) WITHDRAWAL AND TRANSFER OF FUNDS.—In a manner consistent with the requirements of this Act, upon request of the Secretary of the Interior, the Secretary of the Treasury shall withdraw amounts in the interest component of the account and transfer such amounts to the Secretary of the Interior for use in accordance with paragraph (2). The Secretary of the Treasury may only withdraw funds from the account for the purpose specificed in paragraph (2).

(2) PAYMENTS TO TRIBE.—The Secretary of the Interior shall use the amounts transferred under paragraph (1) only for the purpose of making annual payments to the Tribe.

(4) PROHIBITION ON PER CAPITA PAYMENTS.—No portion of any payment made under this subsection may be distributed to any member of the Tribe on a per capita basis.

SEC. 5. ELIGIBILITY OF TRIBE FOR CERTAIN PROGRAMS AND SERVICES.

(a) IN GENERAL.—No payment made to the Tribe pursuant to this Act shall result in the reduction or denial of any service or program to which, pursuant to Federal law—

(1) the Tribe is otherwise entitled because of the status of the Tribe as a federally recognized Indian tribe; or

(2) any individual who is a member of the Tribe is entitled because of the status of the individual as a member of the Tribe.

(b) EXEMPTIONS FROM TAXATION.—No payment made pursuant to this Act shall be subject to any Federal or State income tax.

(c) POWER RATES.—No payment made pursuant to this Act shall affect Pick-Sloan Missouri River Basin power rates.

SEC. 6. SALE OF WESTERN AREA POWER AUTHORITY.

(a) IN GENERAL.—If, before the amount specified in section 4(b)(1) is deposited into the Fund, the United States sells or otherwise transfers title to the assets and income of the Western Area Power Authority to an entity other than the United States—

(1) an amount of the proceeds from that sale equal to the difference between the amount specified in section 4(b)(1) and the aggregate amount that, as of the sale of power authority, had been paid into the Fund, shall be deposited in the Fund; or

(2) the purchaser may assume responsibility for making payments to the Treasury of the United States for deposit in the Fund in amounts determined under section 4(b)(1).

(b) SECURITY.—If a purchaser assumes the responsibility for making the payments and shall provide the Tribe with appropriate security to secure those payments.

By Mr. LEAHY:

S. 1906. A bill to require the Senate to remain in session to act on judicial nominations in certain circumstances; to the Committee on Rules and Administration.

THE JUDICIAL EMERGENCY RESPONSIBILITY ACT OF 1998

Mr. LEAHY. Mr. President, last week, faced with five continuing vacancies on a 13-member Court, Chief Judge Winter of the United States Court of Appeals for the Second Circuit certified the judicial emergency caused by these continuing vacancies, began canceling hearings and took the unprecedented step in the Second Circuit of authorizing 3-judge panels to be composed of two visiting judges and only one Second Circuit Judge.

The Judiciary Committee has reported to the Senate the nomination of Judge Sotomayor to the Second Circuit, but her nomination continues to sit on the Senate calendar. Her nomination was received back in June 1997. She was favorably reported by a Committee vote of 16 to 2, once the Committee finally considered her nomination. She is strongly supported by both New York Senators, yet the nomination continues to languish without consideration.

Three additional outstanding Second Circuit nominees are pending before the Judiciary Committee and await their confirmation hearings. Judge Rosemary Pooler was nominated back on November 6, 1997, as was Robert Sack, a partner in the law firm of Gibson Dunn & Crutcher. The final pending nomination to the Second Circuit was received two months ago, back on February 11, when the President nominated Chester J. Straub, a partner in the law firm of Wilkie Farr & Gallagher.

I have been urging action on the nominees to the Second Circuit for many months. The Senate is failing in its obligations to the people of the Second Circuit, to the people of New York, Connecticut and Vermont. We should call an end to this stall and take action.

Last Friday I urged consideration of the nomination of Judge Sotomayor without further delay and requested that the Judiciary Committee proceed to hold the necessary hearings on the three other Second Circuit nominees this week so that they, too, might be confirmed before the upcoming recess.

I do not believe that the Senate should be leaving for two weeks' recess and leaving the Second Circuit with vacancies for which it has qualified nominations pending. This is too reminiscent of the government shutdown only a couple of years ago and the numerous times of late when the Republican congressional leadership has recessed without completing work on emergency supplemental and disaster relief legislation.

In his most recent Report on the Judiciary the Chief Justice of the United States Supreme Court warned that persisting vacancies would harm the administration of justice. The Chief Justice of the United States Supreme Court pointedly declared: ''Vacancies cannot remain at such high levels indefinitely without eroding the quality of justice that traditionally has been associated with the federal judiciary.''

The people and businesses in the Second Circuit need additional federal judges confirmed by the Senate. Indeed, the Judicial Conference of the United States recommends that in addition to the 5 vacancies, the Second

Circuit be allocated an additional 2 judgeships to handle its workload. The Second Circuit is suffering harm from Senate inaction. That is why the Chief Judge of the Second Circuit had to declare the Circuit in a state of emergency.

Must we wait for the administration of justice to disintegrate further before the Senate will take this crisis seriously and act on the nominees pending before it? I hope not.

As part of my efforts to encourage the Senate to do its job, I am today introducing the Judicial Emergency Responsibility Act. The purpose of this bill is to supplement the law by which Chief Justice Winter certified the emergency and to require the Senate to do its duty and to act on judicial nominations before it recesses for significant stretches of time when a Circuit Court is suffering from a vacancy emergency.

I urge prompt action on the bill and immediate action on the nomination of Judge Sonia Sotomayor to the Second Circuit.

By Mr. DASCHLE:

S. 1907. A bill to amend the Internal Revenue Code of 1986 to allow a refundable tax credit for wetland restoration and conservation expenses; to the Committee on Finance.

WETLANDS RESTORATION AND CONSERVATION LEGISLATION

Mr. DASCHLE. Mr. President, today I am introducing legislation to provide a refundable tax credit to farmers for the restoration and conservation of wetlands.

We have learned over the years the extraordinary value that wetlands can provide as habitat for plants and waterfowl, as a filter for water and as a buffer against flooding. At the same time, anyone who has ever owned a farm in South Dakota with what we call prairie potholes can appreciate the frustration wetlands can generate, making it logistically difficult to till the field efficiently and, of course, impossible to grow crops on lands that are flooded.

To add insult to injury, farmers often need to pay property taxes on these wetlands, even though they provide no financial return.

As a nation, we have recognized the dilemma this presents and have taken steps in the past to provide farmers with a means of obtaining some value for their efforts to protect wetlands. For years the Department of Agriculture has allowed farmers to enroll wetlands into the Wetland Reserve Program, while the U.S. Fish and Wildlife Service has worked with conservation groups to provide farmers with long-term easement options. Recently, Congress enacted legislation I sponsored to allow farmers to enroll wetlands in the Conservation Reserve Program.

Unfortunately, due to the funding caps, many farmers cannot enroll their wetlands into the CRP while others are reluctant to use the WRP or U.S. Fish and Wildlife easements. Consequently, despite these efforts, many wetlands throughout this country continue to present farmers with a challenge: ensuring their protection without any compensation.

In addition, over the last century, many wetlands have been drained, filled or otherwise degraded. These areas represent a vast reservoir of potentially important wetlands that could provide useful environmental functions if fully restored. The time has come for Congress to establish a more comprehensive set of incentives to both restore degraded wetlands and ensure their long-term protection.

Under the legislation I am introducing today, owners of wetlands, farmed wetlands and prior-converted croplands that are surrounded by or immediately adjacent to actively farmed cropland in the same ownership are eligible for a tax credit. To take advantage of this credit, farmers must restore to fully functioning condition their farmed wetlands or prior converted croplands condition according to a restoration plan approved by the Natural Resources Conservation Service. A tax credit equal to the restoration costs will be available under this bill. To protect the water quality of wildlife values, a maximum of three associated acres of non-wetland may be eligible for the credit for every acre of wetland. To ensure that the federal government does not pay twice to protect the same wetlands, those enrolled in CRP or WRP are not eligible for this credit.

The bill provides a tax credit equal to 50% to 70% of the soil-specific Conservation Reserve Program (CRP) rental rate for eligible wetland and associated non-wetland acres, plus any certification fee. This may be taken in each year of the conservation agreement in which the eligible land is not used for agricultural production or drained, dredged, filled, leveled, or otherwise manipulated for that purpose.

A farmer who enters into an agreement to conserve the eligible wetland and associated non-wetland acres for a period of not less than 10 years will receive 50% of the annual CRP rental rate; a farmer who agrees to conserve the wetland for not less than 20 years will receive 60% of the annual CRP rental rate; and a farmer who agrees to conserve the wetland for 30 years will receive 70% of the annual CRP rental rate. Certification of compliance with the agreement must be made at least every 5 years.

As a long-term alternative to the conservation credit, farmers may opt for an easement credit, which would be equal to the fair market value of the land in agricultural use, as determined by a certified appraisal. This would be based on the charitable donation by the landowner of a deed restriction, granted in perpetuity on the use which may be made of the eligible land to a qualified conservation organization, exclusively for conservation purposes. The full credit may be taken in the year in which the deed restriction is recorded.

Mr. President, Americans increasingly are becoming aware of the tremendous environmental benefits that wetlands provide. From critical waterfowl habitat to reducing the severity of flooding, wetlands are a critical component of our landscape. What may not be as widely appreciated is the nature of the farmer's role in protecting this resource.

The time has come for us to both acknowledge the contributions made by farmers to the conservation of wetlands and provide them with appropriate incentive to preserve them. Farmers should not be penalized for doing the right thing. This legislation will take a giant step toward making available fair and reasonable compensation for their efforts in this regard.

I urge my colleagues to join me in supporting this legislation. It represents an idea that is popular with conservation organizations as well as producers, and I am hopeful that Congress will enact it in the very near future. I ask unanimous consent that the full 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. 1907

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REFUNDABLE CREDIT FOR WETLAND RESTORATION AND CONSERVATION EXPENSES.

(a) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to refundable credits) is amended by redesignating section 35 as section 36 and by inserting after section 34 the following new section:

"SEC. 35. WETLAND RESTORATION AND CONSERVATION EXPENSES.

''(a) ALLOWANCE OF CREDIT.—In the case of an eligible taxpayer, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year in an amount equal to the sum of—

''(1) the wetland restoration credit, plus

''(2) the wetland conservation credit, plus

''(3) the wetland easement credit.

''(b) WETLAND RESTORATION CREDIT.—

''(1) IN GENERAL.—The wetland restoration credit for any taxable year is an amount equal to the wetland restoration expenditures paid or incurred by the eligible taxpayer for such taxable year.

''(2) WETLAND RESTORATION EXPENDITURES.—For purposes of this subsection, the term 'wetland restoration expenditure' means an expenditure for the restoration of farmed wetland or prior converted wetland to fully functioning wetland condition—

''(A) pursuant to a restoration plan approved by the Natural Resources Conservation Service of the Department of Agriculture, and

''(B) paid or incurred during the first 5 years of the qualified conservation agreement or qualified conservation easement relating to such farmed wetland or prior converted wetland.

Such term shall not include any expenditure which is required to be made pursuant to any Federal or State law.

''(c) WETLAND CONSERVATION CREDIT.—

''(1) IN GENERAL.—The wetland conservation credit for any taxable year is an amount equal to the sum of—

''(A) the applicable percentage of the soil-specific Conservation Reserve Program rental rate applicable to the eligible taxpayer's qualified wetland for such taxable year under title XII of the Food Security Act of 1985, plus

''(B) any fee for certification of compliance paid or incurred by the eligible taxpayer in such taxable year with respect to the qualified conservation agreement relating to such qualified wetland.

''(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1)(A), the applicable percentage is equal to, in the case of an eligible taxpayer who has entered into a qualified conservation agreement with a term of—

''(A) at least 10 years, but less than 20 years, 50 percent,

''(B) at least 20 years, but less than 30 years, 60 percent, and

''(C) 30 years, 70 percent.

''(3) DENIAL OF CREDIT IF WETLAND EASEMENT CREDIT IS ELECTED.—With respect to any qualified wetland with respect to which the taxpayer makes an election under subsection (d) for any taxable year, the wetland conservation credit with respect to such qualified wetland for such taxable year is zero.

''(d) WETLAND EASEMENT CREDIT.—

''(1) IN GENERAL.—At the election of the eligible taxpayer, the wetland easement credit for any taxable year is an amount equal to the fair market value of any qualified wetland of the taxpayer subject to a qualified conservation easement.

''(2) DETERMINATION OF VALUE.—For purposes of paragraph (1), the value of such qualified wetland is the fair market value of such qualified wetland in agricultural use (as determined by a certified appraisal) during the taxable year (determined as of the date of the grant of the easement).

''(3) ELECTION.—An election under this subsection shall apply to the taxable year for which made.

''(e) DEFINITIONS.—For purposes of this section—

''(1) ELIGIBLE TAXPAYER.—The term 'eligible taxpayer' means a taxpayer who—

''(A) owns property which consists of—

''(i) wetlands, farmed wetlands, or prior converted wetlands, and

''(ii) the surrounding or immediately adjacent actively farmed cropland, and

''(B) with respect to such property, has entered into a qualified conservation agreement or a qualified conservation easement.

''(2) QUALIFIED WETLAND.—

''(A) IN GENERAL.—The term 'qualified wetland' means—

''(i) wetland, including farmed wetland or prior converted wetland, which through the use of wetland restoration expenditures is being converted to fully functioning wetland condition, plus

''(ii) as determined under a qualified conservation agreement or a qualified conservation easement, such surrounding or immediately adjacent nonwetland as is appropriate to buffer the water quality or wildlife habitat values associated with the wetland, but only to the extent the nonwetland acreage is not more than 3 times greater than the wetland acreage.

''(B) CERTAIN PROPERTY EXCLUDED.—Such term shall not include any acre of land with respect to which contract or easement payments are received in the taxable year from the Conservation Reserve Program or the Wetlands Reserve Program under title XII of the Food Security Act of 1985.

''(3) WETLAND, FARMED WETLAND, AND PRIOR CONVERTED WETLAND.—The terms 'wetland', 'farmed wetland', and 'prior converted wetland' shall have the meanings given such terms by title XII of the Food Security Act of 1985.

''(4) QUALIFIED CONSERVATION AGREEMENT.—

''(A) IN GENERAL.—The term 'qualified conservation agreement' means an agreement by the eligible taxpayer—

''(i) with a governmental unit referred to in section 170(c)(1),

''(ii) for a term of not less than 10 years and not more than 30 years,

''(iii) under which the taxpayer agrees to comply with the conservation requirements of subparagraph (B) with respect to the qualified wetland, and

''(iv) under which the taxpayer agrees to obtain a certification of compliance not less than every 5 years during the period of the agreement.

''(B) CONSERVATION REQUIREMENTS.—An eligible taxpayer complies with the conservation requirements of this subparagraph if—

''(i) the taxpayer does not use the qualified wetland for agricultural production, and

''(ii) the taxpayer does not drain, dredge, fill, level, or otherwise manipulate the qualified wetland (including the removal of woody vegetation, or any activity which results in impairing or reducing the flow, circulation, or reach of water) for the purpose, or that has the effect, of making production of an agricultural commodity or development of built structures on such wetland possible.

''(5) QUALIFIED CONSERVATION EASEMENT.—The term 'qualified conservation easement' means an easement granted in perpetuity by the eligible taxpayer restricting the use which may be made of the qualified wetland to a qualified organization exclusively for conservation purposes (as defined in section 170(h)).

''(f) SPECIAL RULES.—

''(1) DENIAL OF DOUBLE BENEFIT.—

''(A) IN GENERAL.—No credit shall be allowed under subsection (a) for any expense for which a deduction or credit is allowed under any other provision of this chapter.

''(B) GRANTS.—No credit shall be allowed under subsection (a) for any expense to the extent that funds for such expense are received under any Federal, State, or local program.

''(2) MARRIED COUPLES MUST FILE JOINT RETURNS.—If the taxpayer is a married individual (within the meaning of section 7703), this section shall apply only if the taxpayer and the taxpayer's spouse file a joint return for the taxable year.''

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 1324(b) of title 31, United States Code, is amended by inserting before the period '', or from section 35 of such Code''.

(2) The table of sections for subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by striking the last item and inserting the following:

''Sec. 35. Wetland restoration and conservation expenses.

''Sec. 36. Overpayments of tax.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

By Mr. MOYNIHAN (for himself and Mr. D'AMATO):

S. 1908. A bill to amend title XVIII of the Social Security Act to carve out form payments to Medicare+Choice organizations amounts attributable to disproportionate share hospital payments and pay such amounts directly to those disproportionate share hospitals in which their enrollees receive care; to the Committee on Finance.

THE MANAGED CARE FAIR PAYMENT ACT OF 1998

Mr. MOYNIHAN, Mr. President, I rise today to introduce with my colleague Senator D'AMATO, the ''Managed Care Fair Payment Act of 1998,'' a companion to H.R. 2701 which was introduced in the House of Representatives last year by my colleague and friend, Representative RANGEL.

In the Balanced Budget Act of 1997 (BBA), Congress and the President agreed to ''carve out'' the payment made to Medicare HMOs attributed to the cost for graduate medical education (GME), and instead make the payment for GME directly to teaching hospitals. The BBA did not contain, however, a provision passed by the Senate to ''carve out'' payments to disproportionate share hospitals—often called DSH payments.

Medicare DSH payments are paid to almost 2000 hospitals that serve a ''disproportionate share'' of low-income—often uninsured—patients. The DSH adjustment for each hospital is determined by a complex set of formulas relating to a hospital's location, size and percentage of low-income patients.

Until 1998, Medicare's payments to private health plans were based on the average payments made on behalf of Medicare beneficiaries in the fee-for-service program. Under the BBA, Medicare+Choice payment rates are no longer directly linked to local fee-for-service spending. Instead, they blend average spending locally and nationally. Because the DSH payment was not carved out in the BBA, the DSH payment will continue to be made with the expectation that HMOs will, when negotiating rates with hospitals, ''pass on'' the DSH payment to hospitals that serve a large number of low-income, uninsured individuals. Unfortunately, as was the case before the BBA was enacted, DSH payments to managed care plans will likely not be passed on to hospitals. This bill seeks to correct this problem by ''carving out'' the DSH payment from the Medicare+Choice payments to managed care plans and giving the payments directly to hospitals.

This issue is particularly important to New York state. Hospitals in New York currently receive approximately $700 million per year in DSH payments. The number of New York Medicare beneficiaries enrolled in HMOs and other managed care plans has grown by nearly 86 percent to more than 300,000 since 1995. At this level of penetration, a DSH carve out would redirect $150 million each year to New York's 127 DSH hospitals.

To preserve the viability of hospitals that provide the bulk of the care to low-income—often uninsured—patients, it is imperative, as managed care enrollment grows, that Medicare DSH payments be carved out from HMO payments. The bill I am introducing today does just that—it would carve out 100 percent of the DSH funds

from the managed care payment rate, beginning in January 1999 and pay these funds directly to hospitals. These payments must go directly to hospitals that serve the poor. I urge my colleagues to join me in supporting the Managed Care Fair Payment Act of 1998.

I ask unanimous consent that the full 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. 1908

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 ''Managed Care Fair Payment Act of 1998''.

SEC. 2. CARVING OUT DSH PAYMENTS FROM PAYMENTS TO MEDICARE+CHOICE ORGANIZATIONS AND PAYING THE AMOUNTS DIRECTLY TO DSH HOSPITALS ENROLLING MEDICARE+CHOICE ENROLLEES.

(a) IN GENERAL.—Section 1853(c)(3) of the Social Security Act (42 U.S.C. 1395w–23(c)(3)), as inserted by section 4001 of the Balanced Budget Act of 1997, is amended—

(1) in subparagraph (A), by striking ''subparagraph (B)'' and inserting ''subparagraphs (B) and (D)'',

(2) by redesignating subparagraph (D) as subparagraph (E), and

(3) by inserting after subparagraph (C) the following:

''(D) REMOVAL OF PAYMENTS ATTRIBUTABLE TO DISPROPORTIONATE SHARE PAYMENTS FROM CALCULATION OF ADJUSTED AVERAGE PER CAPITA COST.—

''(i) IN GENERAL.—In determining the area-specific Medicare+Choice capitation rate under subparagraph (A) for a year (beginning with 1999), the annual per capita rate of payment for 1997 determined under section 1876(a)(1)(C) shall be adjusted, subject to clause (ii), to exclude from the rate the additional payments that the Secretary estimates were payment during 1997 for additional payments described in section 1886(d)(5)(F).

''(ii) TREATMENT OF PAYMENTS COVERED UNDER STATE HOSPITAL REIMBURSEMENT SYSTEM.—To the extent that the Secretary estimates that an annual per capita rate of payment for 1997 described in clause (i) reflects payments to hospitals reimbursed under section 1814(b)(3), the Secretary shall estimate a payment adjustment that is comparable to the payment adjustment that would have been made under clause (i) if the hospitals had not been reimbursed under such section.''.

(b) ADDITIONAL PAYMENTS FOR MANAGED CARE ENROLLEES.—Section 1886(d)(5)(F) of the Social Security Act ((42 U.S.C. 1395ww(d)(5)(F)) is amended—

(1) in clause (ii), by striking ''clause (ix)'' and inserting ''clauses (ix) and (x)'', and

(2) by adding at the end the following:

''(ix)(I) For portions of cost reporting periods occurring on or after January 1, 1999, the Secretary shall provide for an additional payment amount for each applicable discharge of any subsection (d) hospital that is a disproportionate share hospital (as described in clause (i)).

''(II) For purposes of this clause, the term 'applicable discharge' means the discharge of any individual who is enrolled under a risk-sharing contract with an eligible organization under section 1876 and who is entitled to benefits under part A or any individual who is enrolled with a Medicare+Choice organization under part C.

''(III) The amount of the payment under this clause with respect to any applicable discharge shall be equal to the estimated average per discharge amount that would otherwise have been paid under this subparagraph if the individuals had not been enrolled as described in subclause (II).

''(IV) The Secretary shall establish rules for an additional payment amount, for any hospital reimbursed under a reimbursement system authorized under section 1814(b)(3) if such hospital would qualify as a disproportionate share hospital under clause (i) were it not so reimbursed. Such payment shall be determined in the same manner as the amount of payment is determined under this clause for disproportionate share hospitals.''.

By Mr. MCCAIN:

S. 1909. A bill to repeal the telephone excise tax; to the Committee on Finance.

THE TELEPHONE EXCISE TAX REPEAL ACT OF 1998

Mr. MCCAIN. Mr. President, I rise to offer a bill to repeal the three percent federal excise tax that all Americans pay every time they use a telephone.

Under current law, the federal government taxes you three percent of your monthly phone bill for the so-called ''privilege'' of using your phone lines. This tax was first imposed one hundred years ago. To help finance the Spanish-American War, the federal government taxed telephone service, which in 1898 was a luxury service enjoyed by relatively few. The tax reappeared as a means of raising revenue for World War I, and continued as a revenue-raiser during the Great Depression, World War II, the Korean and Vietnam Wars, and the chronic federal budget deficits of the last twenty years.

Earlier this month, however, we received some long-overdue good news: thanks to the Balanced Budget Act enacted by the Congress in 1997, the Congressional Budget Office projected an $8 billion federal budget surplus for 1998. Mr. President, that announcement should mean the end of the federal phone excise tax.

Here's why. First of all, the telephone is a modern-day necessity, not like alcohol, or furs, or jewelry, or other items of the sort that the government taxes this way. The Congress specifically recognized the need for all Americans to have affordable telephone service when it enacted the 1996 Telecommunications Act. The universal service provisions of the Act are intended to assure that all Americans, regardless of where they live or how much money they make, have access to affordable telephone service. The telephone excise tax, which bears no relationship to any government service received by the consumer, is flatly inconsistent with the goal of universal telephone service.

It's also a highly regressive and unfair tax that hurts low-income and rural Americans even more than other Americans. Low-income families spend a higher percentage of their income than medium- or high-income families on telephone service, and that means the telephone tax hits low-income families much harder. For that reason the Congressional Budget Office has concluded that increases in the telephone tax would have a greater impact on low-income families than tax increases on alcohol or tobacco products. And a study by the American Agriculture Movement concluded that excise taxes like the telephone tax impose a disproportionately large tax burden on rural customers, too, who rely on telephone service in isolated areas.

But, in addition to being unfair and unnecessary, there is another reason why we should eliminate the telephone excise tax. Implementation of the Telecom Act of 1996 requires all telecommunications carriers—local, long-distance, and wireless—to incur new costs in order to produce a new, more competitive market for telecommunications services of all kinds.

Unfortunately, the cost increases are arriving far more quickly than the new, more competitive market. The Telecom Act created a new subsidy program for wiring schools and libraries to the Internet, and the cost of funding that subsidy has already increased bills for business users of long-distance telephone service and for consumers of wireless services. Because of more universal service subsidy requirements and other new Telecom Act mandates, more rate increases for all users will occur later this year and next year.

Mr. President, the fact that the Telecom Act is imposing new charges on consumers' bills makes it absolutely incumbent upon us to strip away any unnecessary old charges. And that means the telephone excise tax.

Mr. President, the telephone excise tax isn't a harmless artifact from bygone days. It collects money for wars that are already over, and for budget deficits that no longer exist, from people who can least afford to spend it now and from people who will have new bills to foot as the 1996 Telecom Act gets implemented. That's unfair, that's wrong, and that must be stopped.

San Juan Hill and Pork Chop Hill have now gone down in history, and so should this tax.

Mr. President, I ask unanimous consent that the text of the bill appear in the RECORD.

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

S. 1909

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REPEAL OF TELEPHONE EXCISE TAX.

(a) IN GENERAL.—Effective with respect to amounts paid pursuant to bills first rendered on or after January 1, 1999, subchapter B of chapter 33 of the Internal Revenue Code of 1986 (26 U.S.C. 4251 et seq.) is repealed. For purposes of the preceding sentence, in the case of communications services rendered before December 1, 1998, for which a bill has not been rendered before January 1, 1999, a bill shall be treated as having been first rendered on December 31, 1998.

(b) CONFORMING AMENDMENT.—Effective January 1, 1999, the table of subchapters for

such chapter is amended by striking out the item relating to subchapter B.

By Mr. D'AMATO:

S. 1911. A bill to amend the Internal Revenue Code of 1986 to provide a $500 nonrefundable credit to individuals for the payment of real estate taxes; to the Committee on Finance.

THE WORKING MIDDLE-CLASS TAX RELIEF ACT OF 1998

Mr. D'AMATO. Mr. President, last year, the Congress delivered some long-overdue and much-deserved tax relief to the American people. The Taxpayer Relief Act of 1997 provided the first middle-class tax cut in 16 years.

The tax cuts we passed last year are making a difference in the monthly budgets of working middle-class families. But we can and we must do more. These families still send too much of their hard-earned money to Washington. And between federal, state, and local taxes, the average American's tax bill is nearly 35 percent of their total income. In fact, most Americans spend more time working to pay their tax bills than they spend working to provide food, clothing, and shelter combined. We absolutely must continue our efforts to reduce the tax burden.

One area that escaped our tax-cutting efforts last year was the enormous property tax bills paid by homeowners. Last year, hardworking Americans paid about $209 billion in real-estate property taxes. This was more than one-and-one-half times what individuals paid in state income taxes.

In addition, property tax rates have increased almost twice as fast as inflation. Property taxes are spiraling out of control, and the time has come to give homeowners some real relief.

Homeownership is the American dream, but that dream now comes with a tax bill that puts a heavy burden on working families. This property tax bill also provides a disincentive to any young couple considering purchasing a home. We in Washington should change that equation—we should be doing everything we can to encourage and assist homeownership.

Today, I am introducing the ''Working Middle-Class Tax Relief Act of 1998.'' This bill will allow homeowners to take a federal tax credit for the first $500 of property taxes paid on their personal residence. The Working Middle Class Tax Relief Act will provide real help to working families who are struggling to make ends meet, and it will send a strong message that homeownership can become a reality for all Americans.

Here are a few examples of how my bill works. Under current law, there are nearly 36 million taxpayers who do not get any savings on property taxes because they don't file an itemized federal tax return. Under my bill, every dollar of property tax that they pay, up to $500, will come back to them in the form of federal tax savings.

Of course, millions of other Americans do itemize. Take, for example, a typical family of four with a taxable income of $42,000, and a property tax bill of $3,000. Under current law they receive a $450 federal tax benefit. By turning the first $500 of property taxes into a tax credit, my legislation would give this typical family an additional $425 savings, for a total tax benefit of $875.

This savings to homeowners could cut their property tax bill by one-third or more, and in some cases wipe it out all together. This legislation will let working families keep more of their money. That's the way it should be. After all, the American people know how to manage their own money much better than Washington does.

The Working Middle-Class Tax Relief Act is real savings for the 66 million Americans who have realized the dream of owning a home, and it will help millions more achieve that dream.

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. 1911

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 ''Working Middle Class Tax Relief Act of 1998''.

SEC. 2. NONREFUNDABLE TAX CREDIT FOR REAL ESTATE TAXES ON PRINCIPAL RESIDENCE.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to nonrefundable personal credits) is amended by inserting after section 25A the following:

''SEC. 25B. REAL ESTATE TAXES ON PRINCIPAL RESIDENCE.

''(a) IN GENERAL.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the lesser of—

''(1) the applicable dollar amount, or

''(2) the amount allowable as a deduction under section 164 (determined without regard to subsection (c)(3) thereof) for State, local, and foreign real property taxes paid or accrued by the taxpayer on property for periods the property was owned and used by the taxpayer as the taxpayer's principal residence.

''(b) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) APPLICABLE DOLLAR AMOUNT.—The applicable dollar amount shall be determined in accordance with the following table:

''For taxable years beginning in:	The dollar amount is:
1999	$100
2000	200
2001	300
2002	400
2003 and thereafter	500.

''(2) PRINCIPAL RESIDENCE.—The term 'principal residence' has the meaning given such term by section 121, except that the period for which a dwelling unit is treated as a principal residence of the taxpayer shall include the 30-day period ending on the first day on which it would (but for this paragraph) be treated as the taxpayer's principal residence.

''(3) JOINT RETURN REQUIRED.—Rules similar to the rules of paragraphs (2), (3), and (4) of section 21(e) shall apply.

''(4) OWNERSHIP AND USE.—Rules similar to the rules of paragraphs (1), (2), (3), (4), and (7) of section 121(d) shall apply.''

(b) DENIAL OF DOUBLE BENEFIT.—Section 164(c) of the Internal Revenue Code of 1986 (relating to deduction denied in case of certain taxes) is amended by adding at the end the following:

''(3) Taxes on real property to the extent of the amount of the credit allowed under section 25B.''

(c) CONFORMING AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 25A the following:

''Sec. 25B. Real estate taxes on principal residence.''

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

By Mr. FORD (for himself and Mr. BOND):

S. 1912. A bill to amend title 10, United States Code, to exclude additional reserve component general and flag officers from the limitation on the number of general or flag officers who may serve on active duty; to the Committee on Armed Services.

NATIONAL GUARD LEGISLATION

Mr. FORD. Mr. President, today I join Senator BOND, my fellow co-chairman of the National Guard Caucus, in introducing legislation to allow the Secretary of Defense to increase the number of National Guard and reserve generals on active duty.

Deputy Secretary of Defense John Hamre brought it to our attention that under current law, guard and reserve general officers brought on active duty for more than 180 days count against the service's active duty ceilings specified in 10 U.S.C. 526. Our proposed legislation would exempt full-time active duty guard and reserve general officers from the limit in title 10. But we only allow the exemption so it does not exceed 3 percent of the current limit of 877 general officers.

This legislation will encourage the military services to assign guard/reserve general officers to a wider variety of non-traditional assignments allowing these general officers to gain a greater depth of experience. The legislation will greatly enhance the total force idea, by providing a more seamless integration of the reserve and active component senior leadership. Senator BOND and I also believe this legislation will foster a greater appreciation by the active duty service leadership of the expertise available from the guard and reserve community.

This legislation would eliminate the disincentive to expand guard and reserve general officers assignments by easing the one-for-one reserve component versus active component offset. There are currently 22 Guard and Reserve general officers on full time active duty. All but three of those officers are serving in assignment directly related to Guard and Reserve matters. This legislation would exempt up to 25 Guard and Reserve general officers

from counting against active duty general officer end strength.

Senator BOND and I would encourage the Senate Armed Services Committee to include this legislation in the fiscal year 1999 defense authorization bill.

I ask unanimous consent that the bill and section-by-section be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follow:

S. 1912

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXCLUSION OF ADDITIONAL RESERVE COMPONENT GENERAL AND FLAG OFFICERS FROM LIMITATION ON NUMBER OF GENERAL AND FLAG OFFICERS WHO MAY SERVE ON ACTIVE DUTY.

Section 526(d) of title 10, United States Code, is amended to read as follows:

''(d) EXCLUSION OF CERTAIN RESERVE OFFICERS.—(1) Subject to paragraph (2), the limitations of this section do not apply to the following reserve component general or flag officers:

''(A) A general or flag officer who is on active duty for training.

''(B) A general or flag officer who is on active duty under a call or order specifying a period of less than 180 days.

''(C) A general or flag officer who is on active duty under a call or order specifying a period of more than 179 days.

''(2) The number of general or flag officers of an armed force covered by paragraph (1)(C) at any one time may not exceed the number equal to three percent of the number specified for that armed force under subsection (a).''.

AUTHORIZED STRENGTH: GENERAL AND FLAG OFFICERS ON ACTIVE DUTY

SECTION BY SECTION ANALYSIS

Section 526(a) limits the number of general and flag officers on active duty in the Army (302), Navy (216), Air Force (279) and Marine Corps (80). Section 526(d), title 10, United States Code provides that these limits do not apply to reserve general or flag officers who are on active duty for training or who are on active duty under a call or order specifying a period of less than 180 days.

The intent of the proposed language is to exempt Reserve and National Guard general/flag officers from the limits in Section 526(a), up to a maximum of 3% of the total number of general and flag officers currently authorized for each Service.

RESERVE/GUARD GENERAL/FLAG OFFICER EXEMPTION JUSTIFICATION

Currently, any Reserve or Guard general officer ordered to active duty for a period of more than 179 days counts against the Service's active duty general and flag officer limit.

Greater participation by Reserve and Guard senior leadership in the day-to-day planning, decision-making and execution will lead to a more seamless Total Force and will immeasurably benefit both the Reserve and Active Components. Reserve and Guard officers will gain greater depth of experience from their full-time assignment and Active Component will gain greater understanding of the assets the Reserve and Guard community bring to the table.

This legislation will also encourage the Services to assign Reserve and Guard general and flag officers to a wider variety of non-traditional billets, to include joint assignments.

This section amends Section 526 by adding a provision to exempt a number of Reserve and Guard general and flag officers serving on full-time active duty from the limits of subsection (a).

By Mr. BAUCUS (for himself and Mr. BURNS):

S. 1913. A bill to require the Secretary of the Interior to sell leaseholds at the Canyon Ferry Reservoir in the State of Montana and to establish a trust and fund for the conservation of fish and wildlife and enhancement of public hunting and fishing opportunities in the State; to the Committee on Environment and Public Works.

THE MONTANA FISH AND WILDLIFE CONSERVATION ACT OF 1998

Mr. BAUCUS. Mr. President, I rise today to announce the introduction of ''The Montana Fish and Wildlife Conservation Act of 1998.'' I am pleased to be joined on this bill by my Colleague from Montana, Senator BURNS. This bill will help protect important lands in Montana for the use and enjoyment of all Americans. It will protect our hunting and fishing heritage and ensure that our children and our grandchildren can enjoy our great wild lands, just as we do today.

Canyon Ferry Reservoir sits just east of Helena, Montana. Along the north shore of the reservoir, there are 265 cabin sites that have been leased by the Bureau of Reclamation for over two decades. On these sites, families have built cabins and houses, car ports and garages, and planted lawns and gardens. Many families now live in these cabins year-round.

These cabin sites have been a constant management problem for the Bureau of Reclamation. In addition to managing the reservoir, the Bureau of Reclamation has been forced to play landlord. Like all landlords, the Bureau of Reclamation has often been at odds with the cabin owners over rental payments and maintenance of the property. This conflict has damaged public good will and created administrative expenses for the government as appeals are filed to respond to the conflict of the day.

The Montana Fish and Wildlife Conservation Act establishes an equitable means of resolving these conflicts and, at the same time, provide substantial benefit to the public. This Act proposes to sell all 265 cabin sites through a sealed bid process with the minimum bid set at fair market value determined in accordance with federal appraisal standards. All existing lease arrangements would have to be honored by the purchaser of the 265 cabin sites, and each cabin owner would have to be given an option to purchase their cabin site from the successful bidder. In this way, the Act ensures that the public will receive a maximum return on the investment, while at the same time, fully protecting the interests of the current leaseholders.

The Montana Fish and Wildlife Conservation Act of 1998 would use the proceeds from this sale to establish two funds for the conservation of fish and wildlife and would return 10% of the proceeds to the U.S. Treasury.

The first fund established by this Act, the Canyon Ferry-Missouri Trust, would be a perpetual endowment fund with 45% of the proceeds from the sale of the cabin sites. It would be used for the public acquisition of property at Canyon Ferry Reservoir and along the Missouri River and its tributaries upstream to the confluence of the Madison, Jefferson, and Gallatin Rivers.

This trust would be managed by a board consisting of representatives of local and statewide sportsmens organizations and local landowners. The Canyon Ferry-Missouri River Endowment would be used to purchase public access to hunting and fishing sites and to acquire property and conservation easements to enhance public hunting and fishing opportunities at the reservoir and along the Missouri. All property acquired by this trust would be purchased from willing sellers.

The second fund, Montana Hunter and Fisherman Access Fund would be a state-wide fund established with another 45% of the proceeds from the sale of the cabin sites. It would be used to acquire public access to federal lands in Montana and to acquire property and conservation easements to enhance public hunting and fishing opportunities across the state. This fund would be managed by the Bureau of Land Management, the Forest Service, and Fish and Wildlife Service. This fund could be used to acquire property only from willing sellers.

The remaining 10% of the proceeds from the sale of the cabin sites would be returned to the U.S. Treasury.

The Montana Fish and Wildlife Conservation Act of 1998 presents an exciting opportunity for us to ensure that our children can enjoy hunting and fishing just as we do. This bill will improve access to public lands and will protect important fish and wildlife habitat for the benefit of all Americans. It does so by selling cabin sites which currently are providing very few benefits to the general public while causing significant management conflicts and expenses for the Bureau of Reclamation.

This is a fair bill that is widely supported by cabin owners, local land owners, and sportsmen throughout Montana. There are a number of issues that still need to be ironed out with this bill. In particular, the Canyon Ferry Recreation Association (the association of cabin owners) has expressed concern that they may not financially be able to step into the role of landlord for those leasees who are unable to purchase the cabin sites should be Association be the highest bidder. We'll have to work through these and other issues as this bill moves forward.

Nonetheless, Mr. President, I believe that this bill is a good start. I look forward to working with my Colleague from Montana and with all the members of the Senate to finalize and pass

this legislation for the benefit of America's fish and wildlife heritage.

Mr. President, I urge my colleagues to join me in supporting this important bill.

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. 1913

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 ''Montana Fish and Wildlife Conservation Act of 1998''.

SEC. 2. FINDINGS.

Congress finds that—

(1) it is in the interest of the United States for the Secretary of the Interior to sell leaseholds at Canyon Ferry Reservoir in the State of Montana for fair market value if the proceeds from the sale are used—

(A) to establish a trust to provide a permanent source of funding to acquire access or other property interests from willing sellers to conserve fish and wildlife and to enhance public hunting and fishing opportunities at the Reservoir and along the Missouri River;

(B) to establish a fund to be used to acquire access or other property interests from willing sellers to increase public access to Federal land in the State of Montana and to enhance hunting and fishing opportunities; and

(C) to reduce the Pick-Sloan project debt for the Canyon Ferry Unit;

(2) existing trusts in the State of Montana, including the Rock Creek Trust and the Montana Power Company Missouri-Madison Trust, have provided substantial public benefits by conserving fish and wildlife and by enhancing public hunting and fishing opportunities in the State of Montana;

(3) many Federal lands in the State of Montana do not have suitable public access, and establishing a fund to acquire easements to those lands from willing sellers would enhance public hunting and fishing opportunities in the State of Montana;

(4) the sale of the leaseholds at the Reservoir will reduce Federal payments in lieu of taxes and associated management expenditures in connection with the ownership by the Federal Government of the leaseholds while increasing local tax revenues from the new owners of the leased lots; and

(5) the sale of the leaseholds at the Reservoir will reduce expensive and contentious disputes between the Federal Government and leaseholders, while ensuring that the Federal Government receives full and fair value for the acquisition of the property.

SEC. 3. DEFINITIONS.

In this Act:

(1) CFRA.—The term ''CFRA'' means the Canyon Ferry Recreation Association, Incorporated, a Montana corporation.

(2) FUND.—The term ''Fund'' means the Montana Hunter and Fisherman Access Fund established under section 6(a).

(3) LESSEE.—The term ''lessee'' means the holder of a leasehold described in section 4(b) as of the date of enactment of this Act, and the holder's heirs, executors, and assigns of the holder's leasehold interest.

(4) PURCHASER.—The term ''Purchaser'' means the person or entity that purchases the 265 leaseholds under section 4.

(5) RESERVOIR.—The term ''Reservoir'' means the Canyon Ferry Reservoir in the State of Montana.

(6) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(7) TRUST.—The term ''Trust'' means the Canyon Ferry-Missouri River Trust established under section 5(a).

SEC. 4. SALE OF LEASEHOLDS.

(a) IN GENERAL.—Subject to subsection (c) and notwithstanding any other provision of law, the Secretary shall sell at fair market value—

(1) all right, title, and interest of the United States in and to all (but not fewer than all) of the leaseholds described in subsection (b), subject to valid existing rights; and

(2) easements for—

(A) vehicular access to each leasehold;

(B) access to and the use of 1 dock per leasehold; and

(C) access to and the use of all boathouses, ramps, retaining walls, and other improvements for which access is provided in the leases as of the date of this Act.

(b) DESCRIPTION OF LEASEHOLDS.—

(1) IN GENERAL.—The leaseholds to be conveyed are—

(A) the 265 cabin sites of the Bureau of Reclamation located along the northern portion of the Reservoir in portions of sections 2, 11, 12, 13, 15, 22, 23, and 26, Township 10 North, Range 1 West; plus

(B) any small parcels contiguous to the leaseholds (not including shoreline property or property needed to provide public access to the shoreline of the Reservoir) that the Secretary determines should be conveyed in order to eliminate inholdings and facilitate administration of surrounding land remaining in Federal ownership.

(2) ACREAGE; LEGAL DESCRIPTION.—The acreage and legal description of each property shall be agreed on by the Secretary and the Purchaser.

(c) PURCHASE PROCESS.—

(1) IN GENERAL.—The Secretary shall—

(A) solicit sealed bids for all of the leaseholds; and

(B) subject to paragraph (2), sell the leaseholds to the bidder that submits the highest bid above the minimum bid determined under paragraph (2).

(2) MINIMUM BID.—Before accepting bids, the Secretary, in consultation with interested bidders, shall establish a minimum bid based on an appraisal of the fair market value of the leaseholds, exclusive of the value of private improvements made by the leaseholders before the date of the conveyance, by means of an appraisal conducted in accordance with the appraisal procedures used under Federal law, including, to the extent practicable, the procedures specified in sections 2201.3 through 2201.3–5 of title 43, Code of Federal Regulations.

(3) RIGHT OF FIRST REFUSAL.—If the highest bidder is other CFRA, CFRA shall have the right to match the highest bid and purchase the leaseholds at a price equal to the amount of that bid.

(d) CONDITIONS.—

(1) CONSIDERATION.—As consideration for the conveyance under subsection (a), the Purchaser shall—

(A) contribute to the Trust the amount that is equal to 45 percent of the purchase price of the leaseholds;

(B) contribute to the Fund the amount that is equal to 45 percent of the purchase price of the leaseholds; and

(C) pay the Secretary for deposit in the Treasury of the United States an amount that is equal to 10 percent of the purchase price of the leaseholds.

(2) NO CHARITABLE DEDUCTION.—The Purchaser, any owner, member, or other interest holder in the Purchaser, and any leaseholder shall not be entitled to a charitable deduction under the Internal Revenue Code of 1986 by reason of the making of the contribution under subparagraph (A) or (B) of paragraph (1).

(3) OPTION TO PURCHASE.—

(A) IN GENERAL.—The Purchaser shall give each leaseholder of record of a leasehold conveyed under this section an option to purchase the leasehold at fair market value.

(B) NONPURCHASING LESSEES.—

(i) RIGHT TO CONTINUE LEASE.—A lessee that is unable or unwilling to purchase a property shall be permitted to continue to lease the property for fair market value rent under the same terms and conditions as the existing leases, including the right to renew the term of the existing lease for 2 consecutive 5-year terms.

(ii) COMPENSATION FOR IMPROVEMENTS.—If a lessee declines to purchase a leasehold, the Purchaser shall compensate the lessee for the full market value of the improvements made to the leasehold.

(4) HISTORICAL USE.—The Purchaser shall honor the existing property descriptions and historical use restrictions for the leaseholds, as determined by the Bureau of Reclamation.

(e) ADMINISTRATIVE COSTS.—Any administrative cost incurred by the Secretary incident to the conveyance under subsection (a) shall be reimbursed by the Purchaser.

SEC. 5. CANYON FERRY-MISSOURI RIVER TRUST.

(a) ESTABLISHMENT.—The Secretary shall encourage establishment of a nonprofit charitable permanent perpetual trust, similar in structure and purpose to the existing trusts referred to in section 1(2), to be known as the ''Canyon Ferry-Missouri River Trust'', to provide a permanent source of funding to acquire land and interests in land from willing sellers at fair market value to conserve fish and wildlife, enhance public hunting and fishing opportunities, and improve public access at the Reservoir and along the Missouri River and its tributaries from the confluence of the Madison River, Gallatin River, and Jefferson River downstream to the Reservoir.

(b) BOARD OF TRUSTEES.—

(1) MEMBERSHIP.—The trust referred to in subsection shall have a Board of Trustees consisting of 1 representative of each of—

(A) local agricultural landowners;

(B) a local hunting organization;

(C) a statewide hunting organization;

(D) a fisheries conservation organization; and

(E) a nonprofit land trust or environmental organization.

(2) CONSULTATION.—In managing the Trust, the Board of Directors shall consult with representatives of—

(A) the Bureau of Reclamation;

(B) the Forest Service;

(C) the Bureau of Land Management;

(D) the United States Fish and Wildlife Service;

(E) the Montana Department of Fish, Wildlife, and Parks;

(F) the Montana Science Institute at Canyon Ferry, Montana; and

(G) local governmental bodies (including the Lewis and Clark and Broadwater County Commissioners).

(c) USE.—

(1) PRINCIPAL.—The principal amount of the Trust shall be inviolate.

(2) EARNINGS.—Earnings on amounts in the Trust shall be used to carry out subsection (a) and to administer the Trust.

(d) MANAGEMENT.—Land and interests in land acquired under this section shall be managed for the purposes described in subsection (a).

SEC. 6. MONTANA HUNTER AND FISHERMAN ACCESS FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States an interest-bearing account, to be known as the

''Montana Hunter and Fisherman Access Fund'', for the purpose of acquiring land and interests in land in the State of Montana from willing sellers at fair market value to—

(1) improve public access to Federal land in the State of Montana for hunting or fishing; and

(2) enhance public hunting and fishing opportunities in the State of Montana through the conservation of fish and wildlife.

(b) USE.—

(1) PRINCIPAL.—The principal amount of the Fund shall be inviolate.

(2) EARNINGS.—

(A) IN GENERAL.—Earnings on amounts in the Fund shall be used to carry out subsection (a).

(B) ADMINISTRATION.—The earnings shall be used at the joint direction of—

(i) the Chief of the Forest Service;

(ii) the Director of the Bureau of Land Management; and

(iii) the Director of the United States Fish and Wildlife Service.

(c) MANAGEMENT.—Land and interests in land acquired under this section shall be managed for the purposes described in subsection (a).

By Mr. GRASSLEY:

S. 1914. A bill to amend title 11, United States Code, provide for business bankruptcy reform, and for other purposes; to the Committee on the Judiciary.

THE BUSINESS BANKRUPTCY REFORM ACT OF 1998

Mr. GRASSLEY. Mr. President, today I am introducing ''The Business Bankruptcy Reform Act of 1998.'' As Members of this body may remember, the National Bankruptcy Review Commission submitted a list of recommendations to Congress in October of last year. So far, the public has tended to focus on the consumer bankruptcy recommendations, which unfortunately would have made it easier to get into bankruptcy and would have given consumers even more of an upper hand. I think that these recommendations were fatally flawed, and that's why I introduced the Consumer Bankruptcy Reform Act with Senator DURBIN last year to tighten up the bankruptcy system and provide new consumer protections when creditors use abusive tactics.

The legislation I am introducing today will make many badly-needed reforms to the business provisions of the bankruptcy code. This legislation will provide—for the first time ever—new protections for patients of hospitals and HMOs and nursing homes that declare bankruptcy. Under current law, the bankruptcy process is oriented toward protecting the interests of creditors and helping the debtor corporation reorganize. And that is all we need most of the time.

But hospitals and HMOs and nursing homes are different. Patients are uniquely vulnerable and Congress needs to take special care to ensure that patients are protected during the bankruptcy process. For that reason, this bill allows a bankruptcy judge to appoint a patient ombudsman to make sure that the bankruptcy process is fair to patients. If the ombudsman determines that the quality of patient care is declining, he must notify the bankruptcy court so that corrective action can be taken.

This legislation also requires that the bankruptcy trustee ensure patients are transferred to other hospitals when a health care provider is winding down. Under current bankruptcy law, there's no such requirement. Under current law, patients could just be thrown out and have nowhere to go. Congress can't let that happen.

Importantly, to the extent that there are some State laws which already require a State agency to place patients when health care providers go under, this legislation will allow those agencies to recoup their expenses from the estate of the bankrupt health care provider. Otherwise, the bankruptcy code forces State taxpayers to pay for something which should be paid for by the defunct health care provider.

Following a recommendation of the National Bankruptcy Review Commission, this legislation provides an important new protection for employee health care and pensions. Under current law, if money is withheld from wages to pay for health care insurance or pension contributions, but a company declares bankruptcy before the withheld money is actually transferred, then the bankruptcy code prohibits the company from transferring this money. In practical terms, this means that workers lose their health insurance and forfeit pension contributions. I think this is wrong. So, my legislation will create a special carve out so that withheld money can go for its intended purpose.

The Business Bankruptcy Reform Act also makes several changes to the way securities transactions are treated under the bankruptcy code. Many of these changes are supported by the administration. I would call my colleagues' attention to one provision in particular. As we all know, home mortgage rates are at an all time low, allowing many Americans to purchase homes for the first time or to move into a larger home to accommodate a growing family. One factor in keeping mortgage interest rates very low is the existence of a robust secondary market where mortgage lenders can spread the risk by issuing securities backed up by home mortgages. With the risk spread by a securities market, mortgage bankers can make loans at lower interest rates.

Unfortunately, a provision of the bankruptcy code threatens to undermine the viability of this important secondary market. And if the secondary market dries up, then lenders will have to raise interest rates. Under current law, it isn't clear that the income stream going to the purchaser of the mortgage-backed securities will continue if the lender declares bankruptcy. In my bill, we expressly say that the income stream belongs to the securities purchaser and not the bankrupt lender. This change will help ensure that the secondary market stays strong by providing much-needed certainty to purchasers of mortgage-backed and other asset-backed securities.

On another topic, this legislation enacts the model law on international bankruptcies. When I held a hearing on international bankruptcies before my subcommittee last year, I learned that many times bankruptcy proceedings in this county are hampered because foreign countries won't cooperate with our bankruptcy courts. This model law would provide for standard procedures for recognizing and cooperating with foreign bankruptcy proceedings. If other countries—especially our trading partners—follow our lead in enacting this model law, then our bankruptcy proceedings will be treated fairly and American creditors will be able to get a fair shake for the first time when trying to collect from a foreign corporation which has declared bankruptcy.

The development of bankruptcy systems is a critically important factor in ensuring that international trade will continue to expand and benefit the United States economy. Many international insolvency specialists tell me that the lack of a good bankruptcy system in the Asian countries is making the Asian financial crisis even worse. When we finally get to consider the IMF funding bill, I intend to offer an amendment which would require the IMF to push for meaningful bankruptcy reforms when they provide loans to countries in economic trouble. I hope that my colleagues will support me in this effort.

Finally, the legislation I'm introducing today will provide for special fast-track procedures for businesses that declare bankruptcy which have less than $5 million in debt. Right now, these cases often languish for years in bankruptcy without a real hope of reorganizing. I believe that the bankruptcy code should identify cases which have no realistic chance of reorganizing and get them into chapter 7 as quickly as possible. In this way, creditors will get more of what they are owed. Most of these special fast-track proceedings were recommended by the Bankruptcy Review Commission, although I've added some changes to reduce the chances that clever bankruptcy lawyers will find a way to keep a company in chapter 11 which should be liquidated. The Business Bankruptcy Reform Act also contains special tax provisions so that taxing authorities will receive effective notice of a bankruptcy.

Mr. President, I believe that this bill will do much good for patients, for creditors and for all Americans whose lives are increasingly affected by business bankruptcies. I hope that we can pass this bill in this Congress.

By Mr. LEAHY:

S. 1915. A bill to amend the Clean Air Act to establish requirements concerning the operation of fossil fuel-fired

electric utility steam generating units, commercial and industrial boiler units, solid waste incineration units, medical waste incinerators, hazardous waste combustors, chlor-alkali plants, and Portland cement plants to reduce emissions of mercury to the environment, and for other purposes; to the Committee on Environment and Public Works.

OMNIBUS MERCURY EMISSIONS REDUCTION ACT OF 1998

Mr. LEAHY. Mr. President, today I am introducing the ''Omnibus Mercury Emissions Reduction Act of 1998.'' As United States Senators, we all have a responsibility to build a nation for our children. As a recent grandfather, this commitment has never been more real for me. I am introducing this comprehensive piece of legislation to eliminate mercury—one of the last remaining poisons without a specific control strategy—from our air, our waters and our forests. By eliminating mercury from our natural resources, we will protect our nation's most important resource—our children and grandchildren.

As we learned from the campaign to eliminate lead, our children are at the greatest risk from these poisons. I often ask myself how many Albert Einsteins have we lost in the last generation because of the toxics they have been exposed to? Just as with lead, we know that mercury has much graver effects on children at very low levels then it does on adults. The level of lead pollution we and our children breathe today is one-tenth what it was a decade ago. That figure by itself is a tribute to the success of the original Clean Air Act. I want to achieve the same results with mercury.

Mercury is toxic in every known form and of utterly no nutritional value. At high enough levels it poisons its victims in terribly tragic ways. In Japan, victims of mercury poisoning came to be known as suffering from Minimata Disease, which took its name from the small Minimata Bay in which they caught fish for their food.

For years, the Chisso Company discharged mercury contaminated pollution in the Bay, which was taken into the flesh of fish and then the people who ate them. Their disease was frightfully painful, causing tremors and paralysis, and sometimes leading to death. Thankfully, discharges of mercury like those in Minimata Bay have been eliminated. But a torrent of air pollution still needlessly pours this heavy metal into the air of North America, poisoning lakes and streams, forests and fields and—most importantly—our children. Mercury control needs to be a priority now because we know, without a doubt, of the neurological damage it causes.

This is not to say that men, women and children are doubled over in agony as they were three decades ago in Japan. But wildlife are being killed—we know that endangered Florida panthers have been fatally poisoned by mercury and that loons are endangered as well. In Lake Champlain we now have fish advisories for walleye, trout and bass even though we have relatively no mercury emissions within our own state borders.

Instead, we Vermonters are exposed to mercury and other pollutants that blow across Lake Champlain and the Green Mountains every day from other regions of the country. The waste incinerators and coal-fired power plants are not accountable to the people of Vermont and therefore a federal role is needed to control the pollution.

That is part of the reason voters send us here. They expect Members of the Congress to determine what is necessary to protect the public health and the environment nationally, then require it. And in many cases, perhaps most, we have done that. But not with respect to mercury.

Mr. President, what I propose is that we put a stop to this poisoning of America. It is unnecessary, and it is wrong. Mercury can be removed from products, and it has been done. Mercury can be removed from coal-fired powerplants, and it should be done. With states deregulating their utility industries, this is the best opportunity to make sure powerplants begin to internalize the cost of their pollution. We cannot afford to give them a free ride into the next century at the expense of our children's health.

So, too, should mercury be purged from chlor alkali plants, medical waste incinerators, municipal combustion facilities, large industrial boilers, landfills, lighting fixtures and other known sources.

My bill directs EPA to set mercury emission standards for the largest sources of mercury emissions. The bill requires reducing emissions by 95 percent, but it also lets companies choose the best approach to meet the standard at their facility whether through the use of better technology, cleaner fuels, process changes, or product switching.

We will hear a lot of rhetoric about how much implementing this bill will cost. In advance of those complaints I want to make two points. First, when we were debating controls for acid rain we heard a lot about the enormous cost of eliminating sulphur dioxide. But what we learned from the acid rain program, is that when you give industry a financial incentive to clean up their act they will find the cheapest way. More often than not, assertions about the cost of controlling pollution grossly overestimate and distort reality. If you look at electricity prices of major utilities since the acid rain program was implemented, their rates have remained below the national average and some have actually decreased—even without adjusting for inflation.

Secondly, and most importantly, the bottom line here should not be the cost of controlling mercury emissions, but the cost of NOT controlling mercury. While we may not be able to calculate how many Einstein's we have lost, if we lose one the price has been too high.

By Mr. DURBIN:

S. 1916. A bill for the relief of Marin Turcinovic, and his fiancee, Corina DeChalup; to the Committee on the Judiciary.

PRIVATE RELIEF LEGISLATION

Mr. DURBIN. Mr. President, I rise today to introduce a private bill for the relief of Marin Turcinovic of Croatia and his wife Corina DeChalup of France. My bill would grant permanent resident status to Marin and Corina, affording them the legal security they need to rebuild their lives in this country.

Marin Turcinovic first arrived in the United States from Croatia in January 1990. He was admitted on an H–1 visa as a member of the band Libertas. On February 8, 1990, during the period of his authorized stay, Marin was hit by a car in Fairview, New Jersey. Both his legs were shattered. His spinal cord was severed, leaving him paralyzed below the neck. He will probably never walk again. His then-fiancee, Corina DeChalup of France, immediately came to the United States. Both Marin and Corina have been in the United States since their initial entries, and neither now has legal status.

Marin requires 24-hour medical care for his survival. An insurance settlement from the car accident litigation provides Marin with lifetime medical and rehabilitative care, in a specially modified house located in the Beverly community of Chicago. According to Marin's lawyers, the insurance settlement that provides for Marin's lifetime shelter and medical care would not cover him at another location. A medical malpractice suit against the doctors who initially provided care to Marin is pending.

Corina and Marin married in February 1996, 6 years after his accident. Corina is an essential part of Marin's life. She has been with Marin throughout his ordeal and has been instrumental in coordinating his medical care. She has directly provided care for Marin, and he could never have reached the degree of recovery he now enjoys without her support.

Before arriving in the U.S., Corina, a university graduate, worked as a tour guide for a Yugoslavian tourist agency. Although her days are primarily devoted to Marin, she has the skills and desire to find part-time employment and would like to obtain authorization to work.

According to Marin and Corina's lawyer, Corina has no way to legally gain permanent resident status in the U.S. Because she entered the U.S. under the visa waiver pilot program, she was subject to an order of deportation, without the right to an administrative hearing, once she overstayed her 90-day authorized admission in February 1990. Since 1994, she has received a stay of deportation in 1-year increments. She cannot currently travel to see her family in

France, and she has no assurance that her stay will be renewed from 1 year to the next.

Marin was placed in deportation proceedings in 1997 at his request. This allowed him to seek a suspension of deportation, a legal remedy that in the past has resulted in permanent resident status. Although Marin's application was granted, the grant is conditional. If Marin's grant does not fall within the annual quota set by the Illegal Immigration Reform and Immigration Responsibility Act of 1996, it is unclear to what status he will revert. There is a possibility that Marin would be issued an order of voluntary departure.

Corina's status depends on Marin. If granted permanent resident status, Marin will be able to petition for Corina, but she will face a 4- to 5-year wait before qualifying for resident status, herself.

Mr. President, 8 years ago, fate tragically changed forever the lives Marin Turcinovic of Croatia and Corina DeChalup of France. A terrible accident in the United States left Marin permanently injured, making his return home impossible. Fortunately for Marin, he had the love and support of Corina, without whom he may not have made it this far. Given the tremendous adversity that Marin and Corina already face on a day-to-day basis, I believe it appropriate for Congress to grant them permanent resident status. Such status would clear up much of the uncertainly that currently clouds their future, and would allow Marin and Corina to rebuild their lives in our country with confidence.

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. 1916

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PERMANENT RESIDENCE.

Notwithstanding any other provision of law, for purposes of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), Marin Turcinovic and his fiancee, Corina Dechalup, shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fees.

SEC. 2. REDUCTION OF NUMBER OF AVAILABLE VISAS.

Upon the granting of permanent residence to Marin Turcinovic and his fiancee, Corina Dechalup, as provided in this Act, the Secretary of State shall instruct the proper officer to reduce by the appropriate number during the current fiscal year the total number of immigrant visas available to natives of the country of the aliens' birth under section 203(a) of the Immigration and Nationality Act (8 U.S.C. 1153(a)).

By Mr. DURBIN (for himself, Mr. CHAFEE, Mr. REED, and Mrs. BOXER):

S. 1917. A bill to prevent children from injuring themselves and others with firearms; to the Committee on the Judiciary.

THE CHILD FIREARM ACCESS PREVENTION ACT

Mr. DURBIN. Mr. President, I rise today with Senators CHAFFEE, REED and BOXER, to introduce the Child Firearm Access Prevention Act.

The tragedy which occurred in Jonesboro, AR, last week raises many questions. Two come to mind immediately. Why do children kill? I do not know the answer to that. I have heard a variety of opinions from people who suggest that violent television and violent movies are somehow contributing to this. There are others who say, if the children would just pray in school, it would make all the difference in the world. Some look to the families more than the schools; others think the schools have a greater role to play.

We will debate this at length, and I am sure many of us will come up with a lot of different explanations as to why children reach the point in their young lives where they would take the life of another.

But the tragedy in Jonesboro raised another question which I think we can address because it is a simpler question. How do children at that young age come to possess lethal weapons? Think about it. An 11-year-old and a 13-year-old with 10 firearms—rifles, shotguns, and handguns, and 3,000 rounds of ammunition—went into the woods behind that middle school, tricked the students out with a fake fire alarm, opened fire and shot off somewhere in the range of 30 to 40 rounds before they were finally stopped.

Four little girls were killed. A teacher, who deserves all of our recognition and praise for her courage, stood in the line of fire to protect one of those little girls and lost her own life. This teacher, the mother of a 2-year-old, lost her life defending her students.

How do kids come into possession of firearms? They do not buy them. In most States it is unthinkable that they would even approach a counter and try. And yet, day after day in America there is further evidence of children, younger and younger, being found with firearms.

The day after the Jonesboro, AR, tragedy, in Cleveland, OH, a 4-year-old showed up at a day-care center with a loaded handgun.

In my home State of Illinois, in Marion, IL, a high school student showed up at school the next day with a handgun.

In Daly City, CA, the day after Jonesboro, a 13-year-old was arrested for attempting to murder his principal with a semiautomatic pistol.

There is something we can do about this. I am not sure that it will solve the problem completely, but it can help. Fifteen States have already recognized this problem and done something about it. These States have passed a child access prevention law which is known as a CAP law, saying to those who purchase and own handguns, it is not enough for you to follow the law in purchasing them and to use those guns safely; you have another responsibility. If you are going to own a firearm in your home, you have to keep it safely and securely so that children do not have access to it.

And these laws are effective. Florida was the first state to pass a CAP law in 1989. The following year, unintentional shooting deaths of children dropped by 50 percent. Moreover, a study published in the Journal of the American Medical Association in October 1997 found that there was a 23% decrease in unintentional firearm related deaths among children younger than 15 in those states that had implemented CAP laws. According to the Journal of the American Medical Association, if all 50 states had CAP laws during the period of 1990–1994, 216 children might have lived.

Should we consider these state laws as a national model? I think the obvious answer is yes, because the tragedy in Jonesboro, which we will not forget for a long, long time, unfortunately, is not unique. Every day in America 14 young people, ages 19 and under, are killed in gun homicides, suicides and unintentional shootings, with many more wounded.

The scourge of gun violence frequently attacks the most helpless members of our society—our children.

Mr. President, what I propose today is Federal legislation that will apply to every State, not just 15, but every State. And this is what it says. If you want to own a handgun, a rifle or shotgun, and it is legal to do so, you can; but if you own it, you have a responsibility to make certain that it is kept securely and safely.

You may buy a trigger lock. Senator HERB KOHL of Wisconsin has a proposal that all handguns be sold with trigger locks. I support it. I am a cosponsor of it. It makes sense.

How many times do you read in the paper, how many times do you listen on TV, to kids with their playmates and the gun goes off and someone is killed? A trigger lock, as Senator KOHL has proposed, is sensible. It should be required. It shouldn't even be debated. I think that legislation will go a long way toward reducing gun violence.

But beyond that proposal, the legislation I propose today, says to every gunowner, if it is not a trigger lock, put that gun in a place where that child cannot get to it.

As to these two kids, 11 and 13 years old, God only knows what was going through their minds when they were setting out to get the guns to go out and start shooting. They first stopped at the parents of one of the kids and wanted to pick up that parents' guns. That parent had the guns under lock and key in a vault and they couldn't get to them. So they thought about it and said, wait a minute, my grandfather has some, too; let's go over to his place. And that is where they came up with the weapons and the ammunition.

In one instance, one parent had taken the necessary steps to take the guns and keep them away from kids. Sadly, it appears—and I just say ''appears'' because I do not know all the details—in another case that did not happen.

Now a lot of people will say to me, ''There they go again, those liberals on Capitol Hill. Another bill, another law to infringe on second amendment rights.'' Oh, I know I will hear from the folks from the National Rifle Association, all the other gun lobbies, screaming bloody murder about the second amendment.

But look at the 15 States that have already passed these child access prevention laws, to protect kids, to say to gun owners ''you have a special responsibility.'' You will not find a list of the most liberal States in America. The first State to pass this legislation in 1989 was Florida. The list goes on: Connecticut, Iowa, California, Nevada, New Jersey, Virginia, Wisconsin, Hawaii, Maryland, Minnesota, North Carolina, Delaware, Rhode Island, and in 1995, the last State to pass a child access prevention law, certainly no bleeding heart State by any political definition, was Texas. The Texas law says it is ''unlawful to store, transport or abandon an unsecured firearm in a place where children are likely to be and can obtain access to it,'' and it is a criminal misdemeanor if you do it.

I am going to ask my colleagues in the Senate to not only return home during this recess and to not only witness those sad events on television—the funerals in Jonesboro, the tributes—but to also resolve to do something about it. That is what we are here for. That is why we were elected to the Senate and the House, not just to be sad as we should be, but to do something about it. Not to infringe on people's right to own firearms, but to say ''Own them responsibly, put them securely in your homes, keep them safely, keep them away from children.''

Mark my words, my friends, and you know this from human experience, no matter where you hide a gun or a Christmas gift, a kid is going to find it. You can stick it in a drawer and say, ''Oh, they will never look behind my socks, that is the last place in the world,'' or up on some shelf in the closet and believe your child can't reach that, but you know better. You know when you are gone and the house is empty those kids are scurrying around and looking in those hiding places. So I hope we can address this issue.

First, Senator KOHL's legislation for these child safety devices, these trigger locks, will help. But then take the extra step, follow these 15 States and enact a federal law.

But please, let this Senate and this House, before we leave this year, do something to make certain that those troubled children cannot get their hands on a firearm. I think every parent in America, particularly those of children of school age, paused at least for a moment after they heard about Jonesboro and thought, could it happen to my son, my daughter, my grandson, my granddaughter? The sad reality of life in modern America, is, yes, it could. There are so many weapons being kept so carelessly that it could happen to any of us or any of our children in virtually any school in America.

Mr. President, I know that the Senate has a very busy schedule and limited opportunity this year, but I hope as part of our work we will let the lesson of the tragedy of Jonesboro result in legislation that will be designed to protect children and schoolteachers and innocent people in the future.

Mr. President, I ask unanimous consent that a copy of the legislation be printed in the RECORD.

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

S. 1917

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 ''Child Firearm Access Prevention Act''.

SEC. 2. CHILDREN AND FIREARMS SAFETY.

(a) SECURE GUN STORAGE OR SAFETY DEVICE.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

''(34) The term 'secure gun storage or safety device' means—

''(A) a device that, when installed on a firearm, prevents the firearm from being operated without first deactivating or removing the device;

''(B) a device incorporated into the design of the firearm that prevents the operation of the firearm by anyone not having access to the device; or

''(C) a safe, gun safe, gun case, lock box, or other device that is designed to be or can be used to store a firearm and that can be unlocked only by means of a key, a combination, or other similar means.''.

(b) PROHIBITION AND PENALTIES.—Section 922 of title 18, United States Code, is amended by adding at the end the following:

''(y) PROHIBITION AGAINST GIVING JUVENILES ACCESS TO CERTAIN FIREARMS.—

''(1) DEFINITION OF JUVENILE.—In this subsection, the term 'juvenile' means an individual who has not attained the age of 18 years.

''(2) PROHIBITION.—Except as provided in paragraph (3), any person that—

''(A) keeps a loaded firearm, or an unloaded firearm and ammunition for the firearm, any of which has been shipped or transported in interstate or foreign commerce or otherwise substantially affects interstate or foreign commerce, within any premise that is under the custody or control of that person; and

''(B) knows, or reasonably should know, that a juvenile is capable of gaining access to the firearm without the permission of the parent or legal guardian of the juvenile;

shall, if a juvenile obtains access to the firearm and thereby causes death or bodily injury to the juvenile or to any other person, or exhibits the firearm either in a public place, or in violation of subsection (q), be imprisoned not more than 1 year, fined not more than $10,000, or both.

''(3) EXCEPTIONS.—Paragraph (2) does not apply if—

''(A) the person uses a secure gun storage or safety device for the firearm;

''(B) the person is a peace officer, a member of the Armed Forces, or a member of the National Guard, and the juvenile obtains the firearm during, or incidental to, the performance of the official duties of the person in that capacity;

''(C) the juvenile obtains, or obtains and discharges, the firearm in a lawful act of self-defense or defense of 1 or more other persons; or

''(D) the person has no reasonable expectation, based on objective facts and circumstances, that a juvenile is likely to be present on the premises on which the firearm is kept.''.

(c) ROLE OF LICENSED FIREARMS DEALERS.—Section 926 of title 18, United States Code, is amended by adding at the end the following:

''(d) The Secretary shall ensure that a copy of section 922(y) appears on the form required to be obtained by a licensed dealer from a prospective transferee of a firearm.''.

(d) NO EFFECT ON STATE LAW.—Nothing in this section or the amendments made by this section shall be construed to preempt any provision of the law of any State, the purpose of which is to prevent children from injuring themselves or others with firearms.

By Mr. DORGAN (for himself, Mr. DASCHLE, Mr. WELLSTONE, Mr. JOHNSON, Mr. CONRAD, Mr. HARKIN, and Mr. BAUCUS):

S. 1918. A bill to require the Secretary of Agriculture to make available to producers of the 1998 and subsequent crops of wheat and feed grains nonrecourse loans that provide a fair return to the producers in relation to the cost of production; to the Committee on Agriculture, Nutrition, and Forestry.

THE COST OF PRODUCTION SAFETY NET ACT OF 1998

Mr. DORGAN. Mr. President, we now have had two crop years under the 1996 farm law and soon farmers across this country will be planting their spring crops for the third year of this seven-year farm law. It is time to take a serious look at how this new farm law, often called the Freedom to Farm law, is working. Is it achieving the goals and promises that were made? What is happening to our nation's system of family farm agriculture under this law? Is it creating new hope and new opportunities for a new generation of family farms on the land? Or is it pushing more and more family farm operators off the land and further depopulating rural America?

Launched during a period of high grain prices with a flurry of optimism and hope, the Freedom to Farm law is taking family farmers down a very rocky path and even more uncertain future. The initially generous farm payments that fueled its passage are now giving way to the harsher realities of not having a working safety net.

When poor crops, low prices, escalating production costs, and abnormal weather all arrive at the same time, the current farm law, with its capped commodity loan rates and declining transition payments, is poorly suited to respond to the disastrous conditions facing many of our farm families. During the debate of the 1996 farm bill, I said that the time would come when

farm commodity prices would fall well below the costs of production and we would need a working safety net for our nation's family farmers. In fact, the failure to have a working safety net was the primary reason that many of us could not support the 1996 farm bill.

The proponents of the Freedom to Farm law promised that a second look would be taken if rural America ran into trouble under their farm bill. As we begin the third crop year under this farm law, there is no question that large portions of rural America are in serious trouble. The economic crisis in the countryside is being demonstrated every week by the hundreds of farm auction notices that appear in rural America's newspapers, particularly our agricultural weeklies. The sheer volume of these farm auctions demands that the farm bill debate be reopened, so that we can make the needed midcourse corrections to this farm law.

Behind the escalating exodus of farmers this spring is the underlying issue of farm commodity prices. The value of North Dakota's spring wheat and barley crops this past year have each dropped by 41 percent from the previous year. This is a combined total of $659 million less than the year before. That's a tremendous drain of money out of farmers pockets and North Dakota's farm economy. It is why our farms are not cash flowing and our bankers are having more and more difficulty in financing their borrowers for another year.

After talking with North Dakota farmers and the agricultural community, I'm convinced the problem is not just the blizzards and floods that we have experienced in the past few years, nor is it just confined to North Dakota.

There are a number of underlying problems that must be addressed within our nation's farm policies. We need increased agricultural research to combat specific crop disease problems such as fusarium head blight, which is also known as scab. This disease has had a devastating effect on producers in many parts of North Dakota. We need to recognize that the current Federal Crop Insurance program is not adequately addressing disaster conditions, particularly in regions which have suffered a succession of weather-related disasters. We need to address a multitude of trade issues that are adversely affecting our foreign agricultural markets, and unfairly interfering in our domestic markets.

BOTTOM LINE IS FARM PRICES

We can talk for hours about the variety of problems that are facing farmers, but the bottom line is and always has been the commodity prices that our farmers receive when they seek to sell their harvests in the marketplace. The simple fact is that ever since the passage of the 1996 farm law wheat prices have been on a downward slide, and there is nothing in place to stop these prices from falling further.

Today, I am introducing legislation which would strengthen the farm commodity loan safety net, by establishing a new targeted commodity loan program geared to the actual costs of production. This is an addition to the current commodity loan program. My bill would not take anything away from producers, nor would it change any of the existing programs in current law. The legislation I am introducing would establish a new tier of marketing loans to provide a working safety net targeted to our nation's family farms for wheat and feed grains.

We need to provide farmers, particularly our wheat producers, an effective marketing tool so that they can hold off selling their harvests until prices improve sufficiently to meet their production costs. They need a functional loan program that allows orderly marketing so that the supply they offer to the market demands a better price.

When Congress told family farmers it was going to phase out price supports and farmers would have to get their price from the marketplace, Congress should have established a commodity loan program to allow such orderly marketing. Without a decent commodity loan, too many farmers are forced to sell grain when the market offers dirt cheap prices.

To provide a working safety net, we need to increase the loan rate to bring it more in line with the costs of production and give wheat producers greater equity with other commodities. We also need a loan that lasts at least 12 months and can be extended for another 6 months, if needed.

The U.S. Department of Agriculture has determined that the most recent five year average of the economic costs of production for wheat is $5.00 per bushel. Under my plan, the loan rate would be pegged at a minimum of 75% of those costs. That would mean a minimum wheat loan of $3.75 per bushel, compared to the $2.58 maximum under the current farm law.

I am greatly concerned that the current wheat loan lags significantly behind other commodities in relationship to production costs. For example, the current maximum loan rate under the 1996 farm law for corn is 72% of its economic costs of production. The maximum loan rate under current law for soybeans is set at 89% of its costs of production. Yet, the maximum loan available for wheat under the current farm law is just 52% of the costs of production.

Equity among major farm commodities requires that Congress take a close look at why there is such a great discrepancy among loan rates for our major commodities in relationship to the costs of production of these commodities. Based on the fact that current wheat loans are at the lowest level in relationship to production costs, it is not surprising that wheat country is in greater economic trouble than the other sections of our nation's agriculture.

This legislation is a companion bill to S. 26, the Agricultural Safety Net Act, introduced by Senator DASCHLE and cosponsored by myself and others. Both bills seek to improve the underlying commodity loan program and provide higher, more meaningful commodity loan rates for our producers. S. 26 would remove the commodity loan caps in the current farm law. As a result, commodity loan rates could actually be set at 85 percent of the simple five-year Olympic average of prices received by farmers. S. 26 provides an important cushioning effect for farm prices and would help stabilize farm prices and thereby help farmers meet the challenges of price volatility in the marketplace.

The bill I am introducing today would add a critically important bottom line to ensure that farmers receive cost of production returns on a basic level of production. It establishes that commodity loan rates for wheat and corn must be at a minimum level of 75 percent of the economic costs of production. Other feed grain loan rates would be based on the historic relationship of using their feed equivalency value to corn.

TARGETING FARM PROGRAMS TO FAMILY FARMERS

There is one more essential reform. My plan targets the benefits to family farmers. My new loan program would be available on the first 20,000 bushels of wheat, and 30,000 bushels of corn, and similar amounts for other feed grains for each farm. By setting a limit on the amount of loans available to any farm, it not only ensures that the primary benefits go to our family farmers, but it also means that overproduction will be subject to the disciplines of market forces.

We cannot afford to cover every bushel produced in this country, so we need to target them to the family farm. If somebody wants to farm the entire township or even the entire county they can do so, but we do not need to give them a safety net for everything they produce. If they wish to take the risks of such endeavor, they should be free to do so. But, they shouldn't have the government as their silent partner.

One of the major problems of past farm programs has been that they were not targeted to an initial basic production level to family farmers. The farm programs were basically open-ended programs. The more you produced, the greater benefits you received. Thus the benefits of the farm program tended to accumulate at the top, rather than spreading out across the base of family farmers in rural America. Rather than carrying out our nation's historic goal of maintaining a widely-dispersed system of family farm agriculture, unfortunately the Freedom to Farm law, continued the old farm program's top-loaded pattern in its transition payment scheme.

My plan would target the benefits of a working safety net directly related to the costs of production to the initial production of family farmers in this

country. It is a true safety net designed to fit the typical family farmer. The simple fact is that our family farmers are the ones that have the greatest need for a safety net based on production costs. It makes good sense and good public policy to target our farm program to our family farmers. Such a safety net is particularly important to the beginning farmer and other low-equity farmers because it provides an assurance that they can more fully recover their costs during periods of low prices. It provides the stability they need to build their farm operation and it gives rural America the opportunity to reinvigorate the family farm system.

My plan continues to let farmers plant whatever they want, based on market signals. But it would also let them market their grain more effectively in response to those same market signals. It provides a new working safety net, and gives family farmers a tool they need as they do business in a market filled with far more powerful interests and forces, most of whom want lower, not higher, prices.

There are those who are fearful that if Congress reopens the farm bill debate that somehow the nation would return to the production controls and government involvement in planting decisions of past farm programs. This is simply not the case. I don't know of anybody who seriously wants to go back to such government involvement in agricultural production decisions.

In fact, those who believe that is the framework of agricultural policy choices, are not only misreading the current situation, but also did not listen very closely to the debate in the 1996 farm law. The debate was not about government production controls. The debate was whether or not there should be a safety net for family farmers, and how should that safety net be constructed. There were no bills offered in the farm bill debate to return to production controls. The debate was about whether to phase out farm programs in their entirety or to reform our nation's farm laws so that family farmers have a working safety net.

How do we construct a safety net that provides greater marketing capabilities into the hands of our family farmers? That is the debate we must have in this session of Congress. We cannot afford to wait while thousands of family farmers are in the process of leaving their homesteads and their chosen profession, and their dreams, and thousands of others are at increased risk of being forced out of agriculture.

Mr. President. During this past Christmas season, I received a copy of a family holiday letter from a fourth generation family farm couple that announced their decision to leave their chosen profession of farming and ranching. George and Karen Saxowsky of Hebron are scheduled to have their farm auction this spring. It is a powerful letter that captures the challenges, frustrations, and dreams of those families who have been struggling to make a livelihood in agriculture. They consider themselves lucky, because they were not forced by the bank to make the decision to leave farming. Yet, they have a host of loans and bills to pay and are not sure of how they will get all of that done. I ask unanimous consent that this letter be printed in the RECORD.

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

Holiday Greetings to our Friends and Families:

It is early Sunday morning and while the house is still quiet with everyone sleeping and the trees are so beautifully frost covered, I thought I would dash off a quick line in spite of my resolution not to send a letter this year—when I bought the Christmas cards I really loved the message but thought, that is enough reading for most people!

In April we had the worst blizzard ever—the city of Hebron was without electricity for 48 hours, but we did have it most of the time. A ''city'' friend and classmate of George's called during the blizzard to say he just loves a good blizzard—my perspective was different so as a gift to him I started a chronicle of the storm, the events that went with it, and the aftermath in a blow-by-blow account that took 15 typed pages; it was my way of coping and I handled everything fine at the time but now I can't read it without crying. Jason was off the farm during the whole thing but Glendon was here and such wonderful help and such a trooper.

March had gone out like a lamb with 60 degree days. The predictions were the storm would miss us; then changed to 3–5 inches of snow with wind and it would end Friday night. We had just bought another large portable (can be moved with two tractors) calf shelter, so now had two, and have lots of corrals, wind breaks, protection, feed and hay on hand—so felt pretty confident we were ready.

The storm actually raged all day Friday, Saturday, and on into Sunday afternoon with gusts through the evening. We got some outrageous amounts of snow—after twenty-four inches it didn't matter anymore.

The cattle started running with the storm, the guys were able to get them turned around and back to corrals but that was just the beginning of the nightmare! We chased different herds into protected areas (of course they don't want to go), then we worked on getting 70 calves into the calf-shelter and decided to haul those that were freezing from the corrals into the barn (the pick-ups, tractors nor bobcat could get through the snow) fighting 50 mph winds, George bought one calf while I tried to help Glendon bring another—going up hill and fighting the wind in thigh deep snow—I just couldn't do it. We got those two to the barn, decided they were in such bad shape if we were going to save them they would have to go to the house so took them there, then reassessed the situation. Glendon said, ''If we do another trip I'll have to pull Mom and the calf, in the calf sled, up hill, in the blizzard!'' And that was the truth of it.

The tractor bucket broke, but they couldn't get the tractor to the shop to weld it so in the raging blizzard they brought the welder, on a calf sled, from the shop to the house, pulled my stove ahead to plug it in, drove the tractor up on the porch and welded it in the kitchen doorway—twice. The stories just go on and on (guess you had to be there)! Those poor guys worked all day in the blizzard, came in exhausted, took a quick nap and went back out. At 7:30 Saturday night they were coming in for supper when they heard loud cracks in the barn—the roof beams were cracking from the weight of the snow! They stayed out and shoved off the roof until 11:30 (figured they moved about 3 tons of snow and ice), then got up at five the next morning and worked all day again.

As the storm abated Sunday evening I could hear Glendon yelling and ran to see what was going on now, but couldn't find him. Here, they had found a cow lying on its side drowning in muck. Glendon was lying flat on his belly holding the cows head out of the muck while George was trying frantically to get the tractor down to him. I plowed through four foot deep snow to help—the first tractor got wet and quit. (All during the storm we had distributor caps in the oven drying out!) He got the Bobcat—it quit; he got the next tractor and we made it down there, tore a fence down, put chains on the cow and pulled her out. She died; as did a calf that had been buried in the snow someplace in the ten feet where we had pulled the cow and we didn't even see, until the snow melted enough, that it was under her; as did those two calves in the basement; as did a calf that had followed its mother to the water fountain, got stuck in the snow and froze to death standing up—we must have walked by that calf fifty times but with the blizzard didn't see it—they get snow covered really fast; as did the cow in the corral with a roof over her head with water and hay right beside her; as did . . . well, you get the picture. It continued for fourteen days after the storm, every day we lost at least one cow and/or calf. We took them to the vets for autopsies and what-not but it just seemed there was nothing we could do to save them. One day we made it to 5:00 without any dying and thought the curse was broken but by midnight we had lost a cow and a calf. It was terrible, terrible time, but we lived through it—but not alone. Friends were there for us. On the Friday after the storm, one called to tell us to get out of the house and come to town for a Fireman's Dance—we were just too exhausted and depressed—but he was pushy (he did the same thing for us after last year's cow incident on I–94. We went, and visited with other farmer-ranchers who were in the same boat—it really was so helpful and encouraging.

We were really dreading the first snow of this winter. Long about October, George started talking about quitting farming—I took it as a mid-life crisis; a one time slide. But, he kept talking . . . and then started making plans. We would put in a crop in '98 and quit in '99. I still thought 'this-too-shall-pass'' but he just got more serious. In November I started getting calls asking if I would like a job off the farm? I have to tell you, I was so flattered that they even considered me capable of doing what they needed; I had been self-employed for almost 25 years. I turned them down, but it did start the wheels turning. Then, there was an ad in the paper for a job in Hebron with benefits. We talked about it and I applied; they offered me the job and I took it. This was not easy, now we couldn't put a crop in this spring as the job is 40 hours a week including every other Saturday and George can't farm without me.

The bottom line is; a 47 year old, 4th generation farmer in his 27th year of farming is quitting farming.

I started working at the Credit Union on December 1st. I thought my world would fall apart—the week before I started work everything just 'went-to-hell-in-a-basket' and I almost decided I couldn't do it! We sold a semi load of cattle, checked the night before and the market was strong so loaded them up early in the morning. At 10:00 the auctioneer called and said the bottom had fallen out of

the market, a bunch of Canadian cattle had just hit the meat packing plants and their buyers weren't buying. George was gone so I had decided what to do; with paying to have them hauled out, and back, then to sale again I said to let them go, when George got home he agreed with me but at the next sale the price was strong again—George and I said, ''That's why we're getting out of farming—there is no predictability!!''

It was like the farm really needed both of us—as much for moral support as the labor itself. The clincher almost came on Sunday night (before my new job on Monday morning) when I had planned a special ''last-supper'' of T-bones and had them thawing on the counter while I was working on the computer—the cats jumped up on the counter and ate them!! Monday morning came and—I went to work. I was so surprised, but I just love my job!! I don't know if it is the people I work with, the people that come in, the feeling of accomplishment, the challenge of balancing the books or what (there is life after farming???) but, I am really happy that I followed through!! In training the hardest part was the balancing out and having everything in the main office by 3:00—one night it was 5:15. Until we actually balance I am always so grateful if I am ''long'' on the money side so at least then they know I didn't take it!! I seem to have the hang of it now, so it is less stressful, easier and even balancing is fun! Everyone is so nice, and I really am trying hard—but keep me in your prayers!

It sounds like we are having an auction sale in March on the Saturday before Palm Sunday. We are planning on renting out the land and selling the cattle but still living on the farm. George will continue making hay to sell, doing custom combining and has been working with the local electrician and for elevator doing some carpentry stuff. I thought the deal was if I took a job he would stay home until the cows were gone but . . . I guess not!!

I have friend who just lost her 38 year old son-in-law to a 24 hour illness. Then, trying to come back home from her daughter and grandchildren she was delayed three days as the planes couldn't land due to fog. She was home three days when her house caught on fire. The good news is we're small town. We care about and support each other. We may have our little squabbles and irritations but we get over it and move on! Pastors sermon today was about helping each other cut the tops off some of the ills we have to climb and walking with them through the valley of grief for their upbuilding, encouragement, and consolation. We thought of you, our friends and family! With that thought in mind, we wish you little knolls rather than mountains to climb, friends to share the valleys with a sincere * * *.

Merry Christmas and a very Happy New Year!!

George and Karen Saxowsky, Hebron, North Dakota

Mr. DORGAN. Mr. President, in reading this letter, I am reminded of the reasons why it is so important that our nation provide a national agricultural policy framework that not only fosters a family farm system of agriculture, but purposefully sets out to undergird that system and provide the tools that are necessary for our family farmers and ranchers to have the opportunity to be successful.

It is for this reason that I am introducing the Cost of Production Safety Net Act. I am pleased to include Senators DASCHLE, WELLSTONE, JOHNSON, CONRAD, HARKIN and BAUCUS as cosponsors to my bill. I encourage others to join in this effort and look forward to having a meaningful debate on our nation's agricultural future in the remaining months of this session.

By Mr. MURKOWSKI (for himself, Mr. NICKLES, Mrs. HUTCHISON, and Mr. DOMENICI):

S. 1919. A bill to provide for the energy security of the Nation through encouraging the production of domestic oil and gas resources from stripper wells on federal lands, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. MURKOWSKI (for himself, Mr. NICKLES, and Mrs. HUTCHISON):

S. 1920. A bill to improve the administration of oil and gas leases on Federal lands, and for other purposes; to the Committee on Energy and Natural Resources.

THE FEDERAL STRIPPER WELL ROYALTY REDUCTIONS LEGISLATION

Mr. MURKOWSKI. Mr. President, I rise today to introduce two important pieces of legislation relating to oil and gas production on federal lands. The first is a bill to authorize and direct the Secretary of the Interior to provide permanent regulatory authority to reduce the royalty rate for stripper oil and gas wells on federal lands.

This legislation is necessary, Mr. President, because of the depressed world oil price situation. With oil prices falling below $15 per barrel, it is more and more difficult for domestic energy companies to produce oil at a reasonable price. While this is good news to U.S. consumers because gasoline is at its lowest price ever when adjusted for inflation, it is not welcome news to small and independent oil and gas producers who will be especially hard hit.

Under ''normal'' circumstances, stripper wells are on the edge of profitability. Low world oil prices threaten stripper wells and the jobs associated with those wells. That, in turn, has ripple effects elsewhere in the economy through loss of jobs in the industries that supply goods and services to producers, and in the communities where they operate.

Mr. President, according to the Interstate Oil and Gas Compact Commission, there are approximately 430,000 stripper oil wells and 170,000 stripper gas wells in the U.S. A sizeable number of these, perhaps as many as 30,000, are on federal lands.

What is absolutely astounding, Mr. President, is the fact that stripper wells individually average a little more than 2 barrels of oil and 16 thousand cubic feet of gas production per day, yet in 1996 collectively contributed 352 million barrels of oil (more than 11 percent of U.S. production, and 5 percent of U.S. consumption), and almost 1 billion cubic feet of natural gas.

There are 38,000 jobs associated with stripper wells, and another 46,000 outside of the industry related to stripper wells. We cannot afford to lose stripper well production and the vital role they play in national energy security. Nor can we afford to lose the jobs associated with them. That is why I am introducing today the Federal Oil and Gas Stripper Well Preservation Act of 1998. I am pleased to be joined by Senator NICKLES and Senator HUTCHISON in sponsoring this important legislation.

Mr. President, our bill is very simple: it authorizes and directs the Secretary of the Interior to provide permanent regulatory authority to reduce the royalty rate for stripper oil and gas wells on federal lands. The Secretary already has limited authority to grant stripper oil well royalty reductions. We want to ensure that there is permanent authority to do so.

We also want to make sure that the Secretary has permanent authority to grant royalty rate reductions for stripper gas wells, something that the Secretary recently has declined to do.

Second, our bill requires the Secretary to suspend any minimum royalty (if applicable) and per acre lease rental on stripper oil and gas wells on federal lands during the time of any royalty rate reduction. This will ensure that stripper well operators are afforded the greatest leeway during hard times.

And finally, our bill requires the applicable lease rental and minimum royalty to be reinstated once the Secretary terminates a stripper well royalty rate reduction.

Mr. President, I believe this legislation will make a significant contribution in stemming the tide of lost production from our Nation's stripper oil and gas wells. Once plugged and abandoned, these wells—and their vital contribution to national energy security—are more likely than not permanently lost. We should not lose this valuable national asset.

I invite my colleagues to join Senator NICKLES, Senator HUTCHISON and me in sponsoring the Federal Oil and Gas Stripper Well Preservation Act of 1998.

TRANSFER OF CERTAIN FEDERAL OIL AND GAS LEASE MANAGEMENT FUNCTIONS

Mr. President, the second piece of legislation I introduce today relating to federal oil and gas production addresses the performance of oil and gas lease management activities on federal lands. We have been hearing for some time now that States are very much interested in assuming certain oil and gas lease management functions that are now performed by the U.S. on federal oil and gas leases. We saw strong interest from States in assuming certain royalty management functions when we considered and ultimately enacted the Federal Oil and Gas Royalty Simplification and Fairness Act in 1996. Devolution of federal oil and gas regulatory functions to States is a concept whose time has come.

The legislation I introduce today along with Senator NICKLES and Senator HUTCHISON would do the following: transfer the Bureau of Land Management's (BLM) authority to perform certain oil and gas regulatory duties to States; institute distinct and reasonable time frames for leasing decisions and appeals; require responsible actions to increase leasing; and reduce federal appeals delays by rejecting stay requests from parties that have no standing.

We believe this legislation will generate savings to the Treasury by increasing administrative efficiencies, eliminating duplication of effort, decreasing time frames on leasing and appeals decisions, and increasing certainty in leasing. We also believe the bill will increase federal acreage available for exploration and development, improve the domestic oil and gas resource base, and promote oil and gas production on federal lands.

The key feature of the bill is the transfer from BLM to States authority over such activities as: well drilling and production operations; well testing and completion; conversion of a producing well to a water well; well abandonment procedures; inspections; enforcement activities; and site security. Many States already perform these functions on federal leases, and are willing to do so on a permanent basis. By transferring federal responsibility for these activities, federal resources could be used for other purposes.

Our bill also requires BLM and the Forest Service to offer competitive oil and gas leases 90 days after lands are ''nominated'' by prospective lessees. The bill requires BLM and the Forest Service to render final decisions on administrative appeals within two years. These provisions will eliminate costly delays and litigation, allow realization of lease revenues (bonuses, rents, royalties) sooner, and provide stability and clarity to planning.

Mr. President, we believe the transfer of lease management functions can be achieved with significant savings to States and the Treasury and will not disrupt lease management functions or impair important resource production. We urge our colleagues in the Senate to join in supporting this important legislation.

By Mr. JEFFORDS (for himself and Mr. DODD):

S. 1921. A bill to ensure confidentiality with respect to medical records and health care-related information, and for other purposes; to the Committee on Labor and Human Resources.

THE HEALTH CARE PIN ACT

Mr. JEFFORDS. Mr. President, today, I join with my good friend Senator CHRISTOPHER DODD, in announcing the introduction of the Health Care Personal Information Nondisclosure Act of 1998—The Health Care PIN Act. This legislation will establish necessary national standards to protect the confidentiality of each American's medical records.

Information technology presents our nation with the difficult challenge of ensuring that we reap its benefits without sacrificing one of our most important values: the right to individual privacy. In order to maintain control over our personal medical information, Congress must pass health care confidentiality legislation—as quickly as possible.

The time is ripe for action. There have been major technological advances in health care's administrative, delivery, and payment systems. These advances have the potential to improve the quality of patient care. For example, electronic pharmaceutical records make it possible for pharmacists to identify potential drug interactions before filling a prescription. However, we must also have guarantees that our personal health care information is not being used inappropriately.

Congress has made repeated attempts to enact a comprehensive federal privacy law but has, to date, been unsuccessful. The loose web of protections at the federal and state levels that has evolved in the absence of a comprehensive law leaves many aspects of health information unprotected.

The Health Care PIN Act represents a synthesis of recommendations from many sources. It draws heavily from the discussion draft that I worked on with Senator BENNETT and the ''Medical Information Privacy and Security Act,'' introduced by Senator LEAHY and Senator KENNEDY. The Labor and Human Resources Committee has held three hearings on the confidentiality of health care information, and the testimony and comments provided at each of those hearings has been invaluable—especially, the administration's recommendations presented by Secretary Shalala in September.

Under the terms of the Kassebaum/Kennedy legislation, if Congress fails to enact federal privacy legislation by August 1999, the Secretary of Health and Human Services is required to promulgate regulations establishing electronic privacy standards in the year 2000. This is too important a matter of public policy to be done outside of the legislative process and it is another reason why I intend to make this task one of the highest priorities of the Labor and Human Resources Committee.

Other nations have taken steps to protect patient privacy. In 1995, the European Union enacted the Data Privacy Directive. The EU Directive requires that individuals have rights of consent, access, correction, and remedies for failure to protect confidential personal information. This Directive requires that by October 1998, if countries trading with any of the 15 European Union member states do not introduce similar rules, data cannot be transmitted between these countries. If we do not act promptly, this initiative raises the concern that the European Union could limit the flow of health care data between our countries for research and restrict the ability of American companies to compete overseas.

The Health Care PIN Act would preempt state laws relating to medical records confidentiality—with the important exception of public health issues and those areas having a history of discrimination, such as mental health and HIV–AIDS. Since most health plans exchange health care information over the borders of many states, we need one privacy standard in this county—rather than 50 different ones—in order to achieve the greatest benefits from information technology and also ensure that all Americans have a uniform standard of privacy protection.

The Act requires that individually identifiable health care information not be released unless authorized by patient consent. With very few exceptions, individually identifiable health care information should be disclosed for health purposes only, which includes the provision and payment of care and plan operations. Under the legislation, patients would have the right to copy and correct their medical records. In order to achieve accountability, the Health Care PIN Act provides that civil and criminal penalties would be imposed on individuals who use information improperly through unauthorized disclosure.

Our individual right to privacy at times must be balanced against the need to protect the health of others. The Health Care PIN Act allows for the disclosure of health information without patient consent for the release of information to public health authorities for disease reporting. In addition, patient consent would not be required to disclose information needed for legitimate law enforcement purposes, including purposes required by state law such as the reporting of gunshot victims. Quality care requires more than the free flow of information between providers, payers, and other users of health information. It requires trust between a patient and a care giver. For our health care system to be effective, as well as efficient, patients must feel comfortable sharing sensitive information with health professionals. Technology has provided the tools to allow the ease of access to health care information. Now, the Health Care PIN Act is needed to ensure the confidentiality of this personal health information.

It is my intent to work closely with the other members of the Labor and Human Resources Committee, and Senators BENNETT and LEAHY, to enact legislation this year that will establish national standards to protect medical information and enhance quality of health care for all Americans.

Mr. DODD. Mr. President, I am pleased to join the Chairman of the Labor and Human Resources Committee, Senator JEFFORDS, in introducing the Health Care Personal Information Nondisclosure (PIN) Act of 1998. This legislation is designed to offer Americans the peace of mind that comes with

knowing that their most personal and private medical information is protected from misuse and exploitation.

Medicine has changed dramatically since the time Norman Rockwell painted the scene of a doctor examining his young patient's doll. The flow of medical information is no longer confined to doctor-patient conversations and hospital charts. Recent technological advances have introduced more efficient methods of organizing data that allow information to be shared instantaneously—helping to contain costs—and even save lives. The national database of medical information provides a prime example of the benefits of these advances. Through the use of a simple computer, emergency room doctors are now equipped with a quick and inexpensive means of accessing the medical records needed to properly treat unconscious patients.

Unfortunately, as we saw all too clearly just a few months ago, our laws have not kept pace with technology. In February the Washington Post exposed the activities of two pharmacies that were sharing personal medical information about prescription drug use with unauthorized third parties. And, most disturbingly, these actions were perfectly legal. Clearly, the existing patchwork of state laws protecting medical records are proving to be inadequate to address the public's concerns.

These concerns are so strong that in some cases they threaten to actually negate the benefits of advances in medicine and technology. The fear of discrimination and exploitation has led some ethnic communities with susceptibility to certain conditions to urge their members to avoid genetic testing. The fear that sensitive medical information might be released without authorization has led patients to avoid full disclosure of mental health concerns to their physicians and to unnecessarily forego opportunities for treatment.

I believe that the Health Care PIN Act offers the privacy protections that the public demands. This legislation sets clear guidelines for the use and disclosure of medical information by health care providers, researchers, insurers, employers and others. The Health Care PIN Act provides individuals with control over their most personal information, yet promotes the efficient exchange of health data for the purposes of treatment, payment, research and oversight. To ensure the accountability of entities and individuals with access to personal medical information, the legislation imposes stiff penalties for unauthorized disclosures.

The Health Care PIN Act provides consumers with a strong, nationally uniform set of privacy protections. However, in areas of privacy law in which states have been the most active—namely in the confidentiality of sensitive mental health and public health records—states could continue to establish additional protections.

I would also like to indicate my intent to work with Senator JEFFORDS to incorporate into this legislation protections against genetic discrimination in both employment and health insurance. Although we were unable to resolve this issue before introduction of this legislation, I am confident that we can reach consensus on this critical and timely issue.

This legislation represents commonsense middle ground in the range of proposals that have been offered both this and the previous Congress. I look forward to working with Senator JEFFORDS, as well as with Senators BENNETT, LEAHY, and KENNEDY, who have contributed so much to this debate, to move forward quickly to enact comprehensive, bipartisan legislation.

By Mr. CAMPBELL:

S. 1922. A bill to amend chapter 61 of title 5, United States Code, to make election day a legal public holiday, with such holiday to be known as ''Freedom and Democracy Day''; to the Committee on the Judiciary.

FREEDOM AND DEMOCRACY DAY LEGISLATION

Mr. CAMPBELL. Mr. President, as our nation approaches the Millennium, it is an appropriate time to renew the appreciation and understanding of the American people in the democratic heritage and principles which make our country the greatest in the world. That is why I am introducing legislation today to rename Election Day as Freedom and Democracy Day and to renew civic responsibility.

The two main objectives of this legislation are first, to broaden and increase voter turnout, and second, to restore appreciation for our country's most fundamental expression of freedom and its democratic underpinnings—the right to vote. As a nation, we must all be concerned that voter apathy is so high, while voter participation is so low. Voting, it seems, has become a neglected, if not cumbersome, privilege of Americans. In the past 20 years, voter participation in presidential election years has remained barely above 50 percent, and during midterm congressional election years it has not been more than 50 percent.

I am alarmed at the unfortunate fact that voter participation has declined to the point that it is now among the lowest of any democratic nation. The rate of voter participation among younger Americans—the future leaders, teachers, and business executives—has declined significantly. It is our responsibility as elected officials, and, more importantly, as American citizens, to support additional efforts to strengthen the electoral process, to encourage civic awareness, and to promote active participation in the exercise of liberty.

Therefore, the first goal of the bill is to renew civic spirit and highlight the importance of Americans to fulfill their civic responsibilities by making Election Day a legal public holiday, known as Freedom and Democracy Day. This designation gives new meaning to the importance of voting on the first Tuesday in November. We need to stress the importance of self-government, encourage Americans to exercise their freedom and liberty as citizens by voting, and encourage Americans to reinvigorate their support for their civic duties.

Although my bill designates this day as a legal public holiday, I want to emphasize that Freedom and Democracy Day will remain a regular workday. The bill specifically does not reference statutes relating to pay and leave of federal employees, and it does not affect the regular operations of the federal government.

We as legislators and as citizens should do more to promote voter turnout and increase understanding of the value and importance of the right to vote. That is why the second objective of this bill is to encourage communities, schools, civic organizations, charitable organizations, companies, radio and television broadcasters, and public officials at all levels of government to support and celebrate Freedom and Democracy Day. The legislation encourages these key segments of society to sponsor and publicize appropriate celebrations and events which stress the importance of participation in self government. Their programs and support will send a strong message that the legitimacy of the democratic process is created from the consent of the governed, and voiced in the full participation of an informed, aware and active citizenry.

I believe my bill provides a starting point for a renewed spirit and appreciation of freedom and democracy. It is my sincere hope that given more incentive to vote, more Americans will seize and exercise this expression of freedom. It is a small step in the overall effort to encourage all American citizens to take pride and participate in their representative system of government.

Much of the voter apathy reflects many citizens' lack of faith in all levels of government. In America, power is supposed to be delegated from the citizen and loaned to the government. The Founding Fathers, who pledged their lives, their fortunes and their sacred honor for a new country, knew that as a nation we must leave room for change and growth and development. They knew the nation they left for us would modernize, rethink, and restructure.

Let us be vigilant in remembering that the American idea of democracy is a government ''of the people, by the people, for the people.'' This is the idea of freedom and liberty; uniquely American. And, it is the goal of this bill to strengthen the American people's right to freedom and celebrate the spirit of democracy in the country which first empowered citizens with ''certain unalienable rights.''

Mr. President, I ask unanimous consent that the bill be entered into the RECORD.

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

S. 1922

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress finds that—

(1) democratic government derives its legitimacy from the consent of the governed, as manifested in the full participation of an informed and aware electorate;

(2) since 1960 the rate of voter participation in the United States has declined and is now among the lowest of any nation with a democratic form of government;

(3) since 1972 the rate of voter participation among young people in the United States has declined significantly;

(4) the Federal Government should encourage personal responsibility and the broader understanding of the value and importance of the right to vote; and

(5) the establishment of a legal public holiday on election day, the first Tuesday after the first Monday in November of each even numbered year, could provide a substantial incentive to increase voter participation by the American public.

SEC. 2. SENSE OF THE CONGRESS.

It is the sense of the Congress that educators, civic and charitable organizations, radio and television broadcasters, and public officials at all levels of government should help the people of the United States celebrate Freedom and Democracy Day through appropriate celebrations and events which stress the importance of self-government.

SEC. 3. DESIGNATION OF ELECTION DAY AS LEGAL PUBLIC HOLIDAY.

Section 6103 of title 5, United States Code, is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following:

''(d)(1) Subject to paragraph (2), the first Tuesday after the first Monday in November in each even numbered year, Election Day, shall be a legal public holiday, with such holiday to be known as Freedom and Democracy Day.

''(2) Freedom and Democracy Day—

''(A) shall be a regular workday;

''(B) shall not be treated as a legal public holiday for purposes of statutes relating to pay and leave of employees as defined by section 2105 of this title; and

''(C) shall not affect the regular operations of the Federal Government.''.

By Mr. COVERDELL (for himself, Mr. BREAUX, and Mr. DEWINE):

S. 1923. A bill to amend the Federal Water Pollution Control Act to ensure compliance by Federal facilities with pollution control requirements; to the Committee on Environment and Public Works.

THE FEDERAL FACILITIES CLEAN WATER COMPLIANCE ACT OF 1999

Mr. COVERDELL. Mr. President, I rise today to introduce legislation with the Senior Senator from Louisiana and the Junior Senator from Ohio. This legislation—The Federal Facilities Clean Water Compliance Act of 1998—will guarantee that the federal government is held to the same full range of enforcement mechanisms available under the Clean Water Act as private entities, states, and localities. Each federal department, agency, and instrumentality will to be subject to and comply with all Federal, State, and local requirements with respect to the control and abatement of water pollution and management in the same manner and extent as any person is subject to such requirements, including the payment of reasonable service charges.

Last year marked the twenty-fifth anniversary of the Clean Water Act. This Act has been an effective tool in improving the quality of our nation's rivers, lakes, and streams. Over that period of time, however, states have not had the ability to impose certain fines and penalties against federal agencies for violations of the Clean Water Act. This is a double standard that should not be continued.

In 1972, Congress included provisions on federal facility compliance with our nation's water pollution laws in section 313 of the Clean Water Act. Section 313 called for federal facilities to comply with all federal, state, and local water pollution requirements. However, in 1992, the United States Supreme Court ruled in *U.S. Dept. Of Energy* v. *Ohio*, that States could not impose certain fines and penalties against federal agencies for violations of the Clean Water Act and the Resource Conservation Recovery Act (RCRA). Because of this decision, the Federal Facilities Compliance Act (H.R. 2194) was enacted to clarify that Congress intended to waive sovereign immunity for agencies in violation of RCRA. Federal agencies in violation of the RCRA are now subject to State levied fines and penalties. However, this legislation did not address the Supreme Court's decision with regard to the Clean Water Act.

The Federal Facilities Clean Water Compliance Act of 1998 makes it unequivocally clear that the federal government waives its claim to sovereign immunity in the Clean Water Act. The federal government owns hundreds of thousands of buildings, located on millions of acres of land, none of which have to abide by the same standards as a private entity does under the Clean Water Act. This legislation simply ensures that the federal government lives by the same rules it imposes on everyone else.

Mr. BREAUX. Mr. President, I am pleased to join Senator COVERDELL today in introducing the ''Federal Facilities Clean Water Compliance Act of 1998''.

My primary reason for sponsoring the bill with the Senator from Georgia is to make the federal Clean Water Act equitable by requiring that it apply to and be enforced against the federal government.

Currently, states, local governments and the private sector do not have immunity from the act's enforcement. By the same principle, the federal government should not be granted such immunity from the clean water statute and this bill provides that parity.

The bill also provides that the federal government would be subject to all the same enforcement mechanisms that apply to states, local governments and the private sector under the Clean Water Act.

Fairness, safety, public health and environmental protection all dictate that Federal agencies should be held to the same standards for water pollution prevention and control as apply to states, local governments and the private sector.

Equity is ensured by the Coverdell-Breaux bill because all levels of government and the private sector would be treated the same under the Clean Water Act's enforcement programs. No one would be allowed immunity.

To paraphrase a well-known adage, what's good for states, local governments and the private sector in terms of clean water should be good for the federal government.

In addition to the provisions stated previously, the Coverdell-Breaux bill reflects the adage's fairness principle in another fashion.

The bill would hold the federal government accountable to comply not only with its own clean water statute, but also with state and local clean water laws. Again, equity would be upheld. And, safety, public health and environmental protection would be strengthened.

Other provisions are contained as well in the legislation which Senator COVERDELL and I are introducing today. For example the EPA administrator, the Secretary of the Army and the Secretary of Transportation would be authorized to pursue administrative enforcement actions under the Clean Water Act against any non-complying federal agencies. It also includes provisions for federal employees' personal liability under the act's civil and criminal penalty provisions and a requirement that the federal government pay reasonable service charges when complying with clean water laws.

Over the past 25 years, the United States has made dramatic advances in protecting the environment as a result of the Clean Water Act. We have all benefitted as a result.

Today, I encourage other Senators to join Senator COVERDELL and I as cosponsors of the bill to bring equity to the clean water program and to make possible the expansion of its public and private benefits.

By Mr. MACK (for himself, Mr. KERRY, Mr. D'AMATO, Mrs. FEINSTEIN, Mr. BOND, Ms. MOSELEY-BRAUN, Mr. COVERDELL, Mrs. BOXER, Mr. GREGG, Mr. KENNEDY, Mr. THURMOND, Mr. ROBB, Mr. GRAMS, Mr. BUMPERS, Mr. COATS, Mr. DODD, Mr. INHOFE, Mr. INOUYE, Mr. SANTORUM, Mr. DURBIN, Ms. SNOWE, Mr. WYDEN, and Mr. HOLLINGS):

S. 1924. A bill to restore the standards used for determining whether technical workers are not employees as in effect before the Tax Reform Act of 1986; to the Committee on Finance.

THE TECHNICAL WORKERS FAIRNESS ACT OF 1998

Mr. MACK. Mr. President, today Senator KERRY and I introduce the Technical Workers Fairness Act of 1998. This bill would repeal Section 1706 of the 1986 Tax Reform Act, something that is long overdue and is now supported by a strong bipartisan consensus.

Section 1706 added a new subsection (d) to Section 530 of the Revenue Act of 1978. For the class of businesses known as ''technical services firms'' who provide technical services to their customers, Section 1706 removed the Section 530 employment tax safe harbors that otherwise apply to all other types of businesses that use the services of independent contractors. These Section 530 safe harbors were enacted by Congress in 1978 to protect business taxpayers, especially small businesses, from arbitrary IRS decisions interpreting the common law employment test in employment tax audits.

Yet Section 1706 leaves one group of taxpayers back in the pre-Section 530 days. As a result of Section 1706, if a technical services firm hires, as an independent contractor, a computer programmer, systems analyst, software engineer, or similarly-skilled worker who will perform services for that firm's customers, then the technical services firm—which is operating in a so-called ''three-party'' arrangement—must prove to the IRS that this worker is an independent contractor under the centuries-old common law employment test that Congress found so troublesome in 1978. Even if the firm can show that it has a reasonable basis for treating the worker as an independent contractor—for instance, if its past treatment of this worker as an independent contractor was approved by the IRS in prior IRS audits, or its treatment is consistent with industry practice or a relevant court ruling, all of which constitute a ''safe harbor'' under Section 530—none of these factors is relevant because of the enactment of Section 1706.

The harm caused to the technical services industry and its workers by Section 1706 is more than theoretical. Technical services firms which use independent contractors—even if they act in good faith—can be severely penalized by the IRS and forced to pay ''unpaid'' employment taxes even though the contractors have already paid these same taxes in full. In fact, some IRS auditors have used Section 1706 to claim that even incorporated independent contractors are not legitimate. Left with only the common law employment test to demonstrate a worker's status to the IRS, many technical services firms will not hire any independent contractors in order to avoid tempting an IRS audit.

In 1991, the Treasury Department issued a 100-page study of Section 1706, as required by Congress. The Treasury Study found that tax compliance is actually better-than-average among technical services workers compared to other contractors in other industries. It also found the scope of Section 1706 was ''difficult to justify on equity or other policy considerations.'' Further, Section 1706 is the only occasion since the enactment of Section 530 that Congress has ever cut back on the safe harbor protections in Section 530. In fact, in response to concerns that IRS decisions in independent contractor audits were too often arbitrary and unpredictable, in the Small Business Job Protection Act of 1996 Congress expanded the Section 530 protections and even shifted the burden of proof from the taxpayer to the IRS. More recently, the Department of Labor's Bureau of Labor Statistics found that many high-tech professionals are actually being forced to work as employees when their preference is to be independent contractors.

It is time to repeal Section 1706 and end the discrimination against this one industry.

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. 1924

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 ''Technical Workers Fairness Act of 1998''.

SEC. 2. RESTORATION OF STANDARDS FOR DETERMINING WHETHER TECHNICAL WORKERS ARE NOT EMPLOYEES.

(a) REPEAL OF SECTION 530(d) OF THE REVENUE ACT OF 1978.—Section 530(d) of the Revenue Act of 1978 (as added by section 1706 of the Tax Reform Act of 1986) is repealed.

(b) EFFECTIVE DATE.—The amendment made by subsection (c) shall apply to periods ending after the date of enactment of this Act.

Mr. KERRY. Mr. President, I join Senator MACK in supporting his legislation to repeal Section 1706 of the 1986 Tax Reform Act. We must take this opportunity to repeal an unfair section of employment tax law which singles out only the computer and high-technology industry and makes it difficult for firms in that industry to retain the services of self-employed contractors.

For many years, the common law test used to classify a worker as an employee or an independent contractor for employment tax purposes lacked precision and predictability. In 1978, in Section 530 of the 1978 Revenue Act, Congress acted to allow taxpayers, as an alternative to the common law test, to use a ''reasonable basis'' safe haven test to classify a worker. However, in 1986, Congress enacted Section 1706 which eliminated all Section 530 protections from only the technical services industry, and only in so-called ''three party situations'' in that industry in which a worker is paid by a technical service firm to perform services for a customer.

I have heard from a number of computer consultants in Massachusetts who believe this unfairly discriminates against the computer consulting industry and seriously impairs the ability of legitimate self-employed computer consultants to work effectively in the marketplace. Many firms in Massachusetts will not use the services of valid self-employed contractors because they believe doing so could attract an Internal Revenue Service audit and potentially subject the companies to penalties or back tax liabilities.

For many years, along with many of my colleagues in the Senate, I have worked unsuccessfully to develop and enact a new definition of ''leased employee.'' The legislation introduced by Senator MACK today is another effort to resolve this problem; it will repeal Section 1706 and thereby renew the ''reasonable basis'' safe haven test to classify workers in the computer consultant industry. A 1991 Treasury Department report stated that the tax compliance rates of computer consultants were somewhat better than those of other workers who are classified as independent contractors. That study also found that the treatment of technical service workers as independent contractors actually ''increases tax revenue'' which ''tends to offset'' any revenue loss that might result from any noncompliance by such individuals ''because direct compensation to independent contractors is substituted for tax favored employee fringe benefits.''

Repealing Section 1706 will allow companies to hire computer consultants without fearing a negative ruling from the IRS. We should take this step this year, and I look forward to working with Senator MACK to gain Congressional passage of this legislation.

By Mr. CAMPBELL (for himself and Mr. INOUYE):

S. 1925. A bill to make certain technical corrections in laws relating to Native Americans, and for other purposes; to the Committee on Indian Affairs.

TECHNICAL CORRECTIONS LEGISLATION

Mr. CAMPBELL. Mr. President, today I introduce legislation to make certain technical corrections to a number of unrelated laws affecting Indian tribes.

I am pleased to be joined in this effort by my friend and colleague from Hawaii, Senator INOUYE.

The bill will allow us to address a series of minor amendments to Indian laws in one piece of legislation, without having to introduce and legislate on a number of separate bills.

I conferred with the delegation of each state involved on each of these amendments and the delegations generally support the respective amendment affecting tribes in their states.

The bill contains a total of 14 amendments addressing a variety of issues including: increasing the allowable lease terms of reservation lands; reservation boundary adjustments; amendments to facilitate water rights settlements; clarification of federal service areas for tribes; and a number of others.

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. 1925

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZATION FOR 99-YEAR LEASES.

The second sentence of subsection (a) of the first section of the Act of August 9, 1955 (69 Stat. 539, chapter 615; 25 U.S.C. 415), is amended—

(1) by inserting ''lands held in trust for the Confederated Tribes of the Grand Ronde Community of Oregon,'' after ''lands held in trust for the Cahuilla Band of Indians of California,''; and

(2) by inserting ''the Cabazon Indian Reservation,'' after ''the Navajo Reservation,''.

SEC. 2. GRAND RONDE RESERVATION ACT.

Section 1(c) of the Act entitled ''An Act to establish a reservation for the Confederated Tribes of the Grand Ronde Community of Oregon, and for other purposes,'' approved September 9, 1988 (102 Stat. 1594), is amended—

(1) by striking ''10,120.68 acres of land'' and inserting ''10,311.60 acres of land''; and

(2) in the table contained in that subsection, by striking all after

''4	7	30	Lots 3, 4, SW¼NE¼, SE¼NW¼, E½SW¼;	240''

through the end of the table, and inserting the following:

''6	8	1	N½SW¼	29.59
6	8	12	W½SW¼NE¼, SE¼SW¼NE¼NW¼, N½SE¼NW¼, N½SW¼SW¼SE¼	21.70
6	8	13	W½E½NW¼NW¼	5.31
6	7	7	E½E½	57.60
6	7	8	SW¼SW¼NW¼, W½SW¼	22.46
6	7	17	NW¼NW¼, N½SW¼NW¼	10.84
6	7	18	E½NE¼	43.42
6	.....	.....	Total	10,311.60''.

SEC. 3. SAN CARLOS APACHE WATER RIGHTS SETTLEMENT.

Section 3711(b) of the San Carlos Apache Tribe Water Rights Settlement Act of 1992 (106 Stat. 4752) is amended by striking ''subsections (c) and (d) of section 3704'' inserting ''section 3704(d)''.

SEC. 4. YUROK SETTLEMENT RECOGNITION.

Section 4 of Public Law 98–458 (25 U.S.C. 1407) is amended—

(1) in paragraph (2), by striking ''or'' at the end;

(2) in paragraph (3), by inserting ''or'' at the end; and

(3) by inserting after paragraph (3) the following:

''(4) are distributed pursuant to—

''(A) the judgment of the United States Claims Court (which was subsequently reorganized as the United States Court of Federal Claims) in Jesse Short et al. v. United States, 486 F2d. 561 (Ct. Cl. 1973); or

''(B) any other judgment of the United States Court of Federal Claims in favor of 1 or more individual Indians,''.

SEC. 5. SELF-DETERMINATION CONTRACT CARRY-OVER EXPENDITURE AUTHORIZATION.

Notwithstanding any other provision of law, any funds that were provided to the Ponca Tribe of Nebraska for any of the fiscal years 1992 through 1998 pursuant to a self-determination contract with the Secretary of Health and Human Services that the Ponca Tribe of Nebraska entered into under section 102 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450f) that were retained by the Ponca Tribe of Nebraska to carry out programs and functions of the Indian Health Service may be used by the Ponca Tribe of Nebraska to purchase or build facilities for the health services programs of the Ponca Tribe of Nebraska.

SEC. 6. NAVAJO-HOPI LAND DISPUTE SETTLEMENT ACT.

Section 12 of the Navajo-Hopi Land Dispute Settlement Act (Public Law 104–301; 110 Stat. 3653) is amended—

(1) in subsection (a)(1)(C), in the first sentence, by inserting ''of surface water'' after ''on such lands''; and

(2) in subsection (b), striking ''subsection (a)(3)'' both places it appears and inserting ''subsection (a)(1)(C)''.

SEC. 7. TREATMENT OF CERTAIN DEMONSTRATION PROJECTS.

(a) IN GENERAL.—The Secretary of the Interior shall take such action as may be necessary to extend the terms of the projects referred to in section 512 of the Indian Health Care Improvement Act (25 U.S.C. 1660b) so that the term of each such project expires on October 1, 2002.

(b) AMENDMENT TO INDIAN HEALTH CARE IMPROVEMENT ACT.—Section 512 of the Indian Health Care Improvement Act (25 U.S.C. 1660b) is amended by adding at the end the following:

''(c) In addition to the amounts made available under section 514 to carry out this section through fiscal year 2000, there are authorized to be appropriated such sums as may be necessary to carry out this section for each of fiscal years 2001 and 2002.''.

SEC. 8. CONFEDERATED TRIBES OF COOS, LOWER UMPQUA, AND SIUSLAW INDIANS RESERVATION ACT.

Section 7(b) of the Coos, Lower Umpqua, and Siuslaw Restoration Act (Public Law 98–481, 98 Stat. 2253) is amended by adding at the end the following:

''(4) In Lane County, Oregon, a parcel described as beginning at the common corner to sections 23, 24, 25, and 26 township 18 south, range 12 west, Willamette Meridian; then west 25 links; then north 2 chains and 50 links; then east 25 links to a point on the section line between sections 23 and 24; then south 2 chains and 50 links to the place of origin, and containing .062 of an acre, more or less, situated and lying in section 23, township 18 south, range 12 west, of Willamette Meridian.''.

SEC. 9. HOOPA VALLEY RESERVATION BOUNDARY ADJUSTMENT.

Section 2(b) of the Hoopa Valley Reservation South Boundary Adjustment Act (25 U.S.C. 1300i–1 note) is amended—

(1) by striking ''north 72 degrees 30 minutes east'' and inserting ''north 73 degrees 50 minutes east''; and

(2) by striking ''south 15 degrees 59 minutes east'' and inserting ''south 14 degrees 36 minutes east''.

SEC. 10. CLARIFICATION OF SERVICE AREA FOR CONFEDERATED TRIBES OF SILETZ INDIANS OF OREGON.

Section 2 of the Act entitled ''An Act to establish a reservation for the Confederated Tribes of Siletz Indians of Oregon'', approved September 4, 1980 (94 Stat. 1073 and 1074), is amended—

(1) in the first sentence, by striking ''The Secretary'' and inserting ''(a) The Secretary''; and

(2) by adding at the end the following:

''(b) Subject to the express limitations under sections 4 and 5, for purposes of determining eligibility for Federal assistance programs, the service area of the Confederated Tribes of the Siletz Indians of Oregon shall include Benton, Clackamas, Lane, Lincoln, Linn, Marion, Multnomah, Polk, Tillamook, Washington, and Yamhill Counties in Oregon.''.

SEC. 11. MICHIGAN INDIAN LAND CLAIMS SETTLEMENT.

Section 111 of the Michigan Indian Land Claims Settlement Act (111 Stat. 2665) is amended—

(1) by striking ''The eligibility'' and inserting the following:

''(b) TREATMENT OF FUNDS FOR PURPOSES OF CERTAIN FEDERAL PROGRAMS AND BENEFITS.—The eligibility''; and

(2) by inserting before subsection (b), as designated by paragraph (1) of this section, the following:

''(a) TREATMENT OF FUNDS FOR PURPOSES OF INCOME TAXES.—None of the funds distributed pursuant to this Act, or pursuant to

any plan approved in accordance with this Act, shall be subject to Federal or State income taxes.''.

SEC. 12. MISCELLANEOUS TECHNICAL CORRECTIONS.

(a) AUTHORIZATION.—Section 711(h) of the Indian Health Care Improvement Act (25 U.S.C. 1665j(h)) is amended by striking ''for each'' and all that follows through ''2000,'' and inserting ''for each of fiscal years 1996 through 2000,''.

(b) REFERENCE.—Section 4(12)(B) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4103(12)(B)) is amended by striking ''Indian Self-Determination and Education Assistance Act of 1975'' and inserting ''Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.)''.

SEC. 13. TRANSFER OF WATER RIGHTS.

The Jicarilla Apache Tribe Water Rights Settlement Act (106 Stat. 2237 et seq.) is amended by adding at the end the following:

''SEC. 12. TRANSFER OF WATER RIGHTS.

''(a) IN GENERAL.—In accordance with the requirements of section 2116 of the Revised Statutes (25 U.S.C. 177), the transfer of water rights set forth in paragraph (5) of the stipulation and settlement agreement between the Jicarilla Apache Tribe and other parties to the case referred to in section 8(e)(1)(B)(ii), that was executed on October 7, 1997, is approved.

''(b) EFFECTIVE DATE.—The approval under subsection (a) shall become effective on the date of entry of a partial final decree by the court for the case referred to in that subsection that quantifies the reserved water rights claims of the Jicarilla Apache Tribe.''.

SEC. 14. NATIVE HAWAIIAN HEALTH SCHOLARSHIP PROGRAM.

(a) ELIGIBILITY.—Section 10(a)(1) of the Native Hawaiian Health Care Act of 1988 (42 U.S.C. 11709(a)(1)) is amended by striking ''meet the requirements of section 338A of the Public Health Service Act (42 U.S.C. 2541)'' and inserting ''meet the requirements of paragraphs (1), (3), and (4) of section 338A(b) of the Public Health Service Act (42 U.S.C. 254*l*(b))''.

(b) TERMS AND CONDITIONS.—Section 10(b)(1) of the Native Hawaiian Health Care Act of 1988 (42 U.S.C. 11709(b)(1)) is amended—

(1) in subparagraph (A), by inserting ''identified in the Native Hawaiian comprehensive health care master plan implemented under section 4'' after ''health care professional'';

(2) by redesignating subparagraphs (B) through (D) as subparagraphs (C) through (E), respectively;

(3) by inserting after subparagraph (A) the following:

''(B) the primary health services covered under the scholarship assistance program under this section shall be the services included under the definition of that term under section 12(8),'';

(4) by striking subparagraph (D), as redesignated, and inserting the following:

''(D) the obligated service requirement for each scholarship recipient shall be fulfilled through the full-time clinical or nonclinical practice of the health profession of scholarship recipient, in an order of priority that would provide for practice—

''(i) first, in any 1 of the 5 Native Hawaiian health care systems, and

''(ii) second, in—

''(I) a health professional shortage area or medically underserved area located in the State of Hawaii, or

''(II) geographic area or facility that is—

''(aa) located in the State of Hawaii, and

''(bb) has a designation that is similar to a designation described in subclause (I) made by the Secretary, acting through the Public Health Service,'';

(5) in subparagraph (E), as redesignated, by striking the period and inserting a comma; and

(6) by adding at the end the following:

''(F) the obligated service of a scholarship recipient shall not be performed by the recipient through membership in the National Health Service Corps, and

''(G) the requirements of sections 331 through 338 of the Public Health Service Act (42 U.S.C. 254d through 254k), section 338C of that Act (42 U.S.C. 254m), other than subsection (b)(5) of that section, and section 338D of that Act (42 U.S.C. 254n) applicable to scholarship assistance provided under section 338A of that Act (42 U.S.C. 254*l*) shall not apply to the scholarship assistance provided under subsection (a) of this section.''.

By Mr. GRASSLEY:

S. 1926. A bill for the relief of Regine Beatie Edwards; to the Committee on the Judiciary.

PRIVATE RELIEF LEGISLATION

Mr. GRASSLEY. Mr. President, today I am proposing a private relief bill, under the Immigration and Nationality Act, that would classify Regine Beatie Edwards as a child, and therefore, allow her to become a citizen of the United States.

This bill originates from a request of Mr. Stan Edwards, a United States citizen and Regine's adopted father, concerning his daughter's naturalization application. Regine Beatie Edwards was born on August 3, 1980 in Germany and arrived in the United States with her mother on October 16, 1994. In 1997, Mr. Edwards, on several occasions, contacted the Immigration and Naturalization Service to obtain the proper form to apply for his daughter's naturalization. In response, the INS sent Mr. Edwards the form N–643, Application for Certificate in Behalf of an Adopted Child, and notified him that the adoption must be completed and that the application must be submitted by his daughter's 18th birthday. On January 13, 1997, Regine was legally adopted by Mr. Edwards. At this time, Regine was 16½ years old. After the completion of the adoption, Mr. Edwards delivered his daughter's application, in person, to the INS office in Omaha, Nebraska on March 27, 1997.

Over the following months, Mr. Edwards became concerned about the amount of time that had passed since the submission of the application to the INS. In January of 1998, the INS reported that Regine Edwards' application was to be denied because the adoption had not been completed by the child's 16th birthday and that the form N–643 was the incorrect form for application. This new information contradicted what the INS had previously told Mr. Edwards that Regine had to be adopted by her 18th birthday. The INS indicated that Mr. Edwards' daughter had met three of the four qualifications to qualify for citizenship. As a result of this misinformation, Regine did not meet the qualification of an adoption by a citizen parent before the child had reached the age of sixteen. In response to the incorrect information given in this case, the INS refunded the money for the N–643 application to Mr. Edwards.

I feel that Regine Edwards should not be denied citizenship due to the wrong information provided by the Immigration and Naturalization Service. The Edwards family fulfilled the qualifications that they were originally told by the INS were necessary. Unfortunately, Mr. Edwards was misinformed which has cost his daughter the opportunity for citizenship at this time. Mr. President, I ask you and my fellow colleagues to support this young woman by allowing her to fulfill her wish to become a United States citizen and not deprive her of this opportunity.

By Ms. MOSELEY-BRAUN:

S. 1927. A bill to amend section 2007 of the Social Security Act to provide grant funding for 20 additional Empowerment Zones, and for other purposes; to the Committee on Finance.

THE EMPOWERMENT ZONE ENHANCEMENT ACT OF 1998

Ms. MOSELEY-BRAUN. Mr. President, it gives me great pleasure to introduce the Empowerment Zone Enhancement Act of 1998. This legislation, I believe, will build on the economic success we have built over the last several years.

We have worked to make this the strongest economy in a generation—by balancing the budget, investing in education and training, and opening up new markets for American products around the world. But we have also worked to make this the most inclusive economy in history, so everyone has a chance to participate, and no one is left behind. Further, we have stressed Community Empowerment. A strategy that gives people the tools—and acts as a catalyst for community collaboration—then communities can tap the ingenuity and enthusiasm of every citizen, and restore our downtowns and distressed areas to a level even our grandparents would be proud of.

I believe that we are beginning to see results in this Community Empowerment Philosophy. The Empowerment Zone Initiative is the cornerstone program to ensure that all Americans benefit from the strong economy. The purpose of the EZ/EC Initiative is to assist distressed urban and rural communities to develop and implement holistic revitalization programs. In the first round of the Initiative, 105 urban and rural EZ's and EC's were designated.

This Initiative has not only produced the intended benefits of creating economic opportunity, broad-based community partnerships and sustainable community development, but has also had far-reaching spin-off benefits in bringing together all segments of the EZ/ECs around the goal of community revitalization.

Over $4 Billion in private investment has been leveraged in the EZ and EC's. Nearly 20,000 jobs have been created that have been filled by people who have previously not had access to economic opportunity. Entrepreneurship

opportunities have been created for people with a dream and the economic opportunity to see that dream realized. Job training and education opportunities have been created for nearly 45,000 residents. More than 12,000 Housing units have been constructed or rehabilitated. Communities have addressed public safety, infrastructure and environmental clean-up needs through more than 350 programs. More than 52,000 children, youth and adults have been provided with services to help overcome challenges and contribute to their communities growth. In short, the EZ/EC Initiative has proven to be a successful holistic approach to community revitalization and economic development.

The Taxpayer Relief Act of 1997 authorized designation of 20 additional Empowerment Zones (15 urban and 5 rural), and provided for tax incentives for these new zones. However, that Act did not provide the flexible grant funding critical to the core concept and mission of the EZ/EC Initiative. This bill provides for $1.7 billion in grant funds over a 10-year period, $1.5 billion for the urban zones and $0.2 billion for the rural zones. The application process for the second round of Empowerment Zones will begin in a few weeks. Communities will have several months to put together a comprehensive strategic plan that leverages private investment and provides for economic opportunity.

We can rebuild even our poorest areas—if all the people in the community get together and decide to do it, and then find the tools they need to get it done. That's why we are so committed to our approach. We believe in government as a catalyst—helping to bring communities together to plan their future, and giving them the tools they need to reach that future. And it's working. For the first time in 30 years, we're seeing success.

From the South Bronx to areas of the Mississippi Delta to South Central LA to North Kenwood in Chicago—there is a growing American renaissance that is turning abandoned buildings, empty lots, and crime-ridden street corners into new homes, new hope and new opportunity for the millions of Americans. This success makes us more and more convinced we're on the right track to reverse decades of decay, and to remake America's distressed areas into sources of pride and prosperity.

The hardest part is getting started, and we've got it started now all across the country. Now it's just a matter of moving up the momentum by expanding the number of zones. With communities working from the inside, the federal government helping draw investment from the outside—I know this is a battle we're going to win.

I urge all of my colleagues to join me in supporting quick passage of this legislation. I ask unanimous consent that the full 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. 1927

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the ''Empowerment Zone Enhancement Act of 1998''.

SEC. 2. FUNDING ENTITLEMENT FOR ADDITIONAL ENTERPRISE ZONES.

(a) ENTITLEMENT.—Section 2007(a)(1) of the Social Security Act (42 U.S.C. 1397f(a)) is amended—

(1) in subparagraph (A), by striking ''in the State; and'' and inserting ''in the State designated pursuant to section 1391(b) of the Internal Revenue Code of 1986;'';

(2) in subparagraph (B), by striking the period at the end and inserting ''; and''; and

(3) by adding after subparagraph (B) the following new subparagraph:

''(C) 10 grants under this section for each qualified empowerment zone in the State designated pursuant to section 1391(g) of such Code.''.

(b) AMOUNT OF GRANTS.—Section 2007(a)(2) of that Act (42 U.S.C. 1397f(a)(2)) is amended—

(1) in the heading of subparagraph (A), by inserting ''ORIGINAL'' before ''EMPOWERMENT'';

(2) in subparagraph (A), in the matter preceding clause (i), by inserting ''described in paragraph (1)(A)'' after ''empowerment zone'';

(3) by redesignating subparagraph (C) as subparagraph (D); and

(4) by inserting after subparagraph (B) the following new subparagraph:

''(C) ADDITIONAL EMPOWERMENT GRANTS.—The amount of each grant to a State under this section for a qualified empowerment zone described in paragraph (1)(C) shall be—

''(i) if the zone is designated in an urban areas, $10,000,000, or

''(ii) if the zone is designated in a rural area, $4,000,000,

multiplied by the proportion of the population of the zone that resides in the State.''.

(c) TIMING OF GRANTS.—Section 2007(a)(3) of that Act (42 U.S.C. 1397f(a)(3)) is amended—

(1) in the heading of subparagraph (A), by inserting ''ORIGINAL'' before ''QUALIFIED'';

(2) in subparagraph (A), in the matter preceding clause (i), by inserting ''described in paragraph (1)(A)'' after ''empowerment zone''; and

(3) by adding after subparagraph (B) the following new subparagraph:

''(C) ADDITIONAL QUALIFIED EMPOWERMENT ZONES.—With respect to each qualified empowerment zone described in paragraph (1)(C), the Secretary shall make—

''(i) 1 grant under this subsection to the State in which the zone lies, on the date of the designation of the zone under such part I; and

''(ii) 1 grant under this subsection to such State, on the first day of each of the nine fiscal years that begin after the date of the designation.''.

(d) FUNDING.—Section 2007(a)(4) of that Act (42 U.S.C. 1397f(a)(4)) is amended—

(1) by relocating and redesignating the matter following the caption as subparagraph (A);

(2) by inserting ''ORIGINAL GRANTS.—'' after the subparagraph designation ''(A)'';

(3) in subparagraph (A), as so redesignated, by inserting before the period ''for empowerment zones and enterprise communities described in subparagraphs (A) and (B) of paragraph (1)''; and

(4) by adding after subparagraph (A), as so redesignated, the following new subparagraph:

''(B) ADDITIONAL GRANTS.—$1,700,000,000 shall be made available to the Secretary for grants under this section for empowerment zones described in paragraph (1)(C).''.

SEC. 3. USE OF GRANTS FOR LOAN FUNDS AND SIMILAR ARRANGEMENTS.

Section 2007(b) of the Social Security Act (42 U.S.C. 1397f(b)) is amended by adding at the end the following new paragraph:

''(5)(A) In order to assist disadvantaged adults and youth in achieving and maintaining economic self-support, a State may use amounts paid under this section to fund revolving loan funds or similar arrangements for the purpose of making loans, loan guarantees, financial services, or related activities more accessible to residents, institutions, organizations, or businesses.

''(B) Interest earned by, and repayments of principal and interest on loans made from, revolving funds or similar arrangements described in subparagraph (A) shall be credited to such funds.

''(C) The funding of, or holding of funds in, a revolving loan fund or similar arrangement in accordance with subparagraph (A), in amounts reasonably necessary to carry out the purposes of such subparagraph (A), shall be deemed to comply with any requirement to minimize the time elapsing between transfer of funds from the United States Treasury and the issuance of payments for program purposes.''.

SEC. 4. RESPONSIBILITY FOR ENVIRONMENTAL REVIEW.

Section 2007 of the Social Security Act (42 U.S.C. 1397f) is amended—

(1) by redesignating subsection (f) as subsection (h); and

(2) by inserting after subsection (e) the following new subsection:

''(f) ENVIRONMENTAL REVIEW.—

''(1) EXECUTION OF RESPONSIBILITY BY THE SECRETARY OF HOUSING AND URBAN DEVELOPMENT AND THE SECRETARY OF AGRICULTURE.—

''(A) APPLICABILITY.—This subsection shall apply to grants under this section in connection with empowerment zones and enterprise communities designated under section 1391(a) of the Internal Revenue Code of 1986 and empowerment zones designated under section 1391(g) of such Code—

''(i) by the Secretary of Housing and Urban Development in the case of those located in urban areas; and

''(ii) by the Secretary of Agriculture in the case of those located in rural areas.

''(B) EXECUTION OF RESPONSIBILITY.—With respect to grants described in subparagraph (A), the Secretary of Housing and Urban Development and the Secretary of Agriculture, as appropriate, shall execute the responsibilities under the National Environmental Policy Act of 1969 and other provisions of law which further the purposes of such Act (as specified in under this section if the State, unit of general local government, or Indian tribe, as designated by the Secretary in accordance with regulations issued by the Secretary under paragraph (2)(B), assumes all of the responsibilities for environmental review, decisionmaking, and action pursuant to such Act, and such other provisions of law as the regulations of the Secretary specify, that would otherwise apply to the Secretary were the Secretary to undertake such projects as Federal projects.

''(B) IMPLEMENTATION.—The Secretary of Housing and Urban Development and the Secretary of Agriculture shall each issue regulations to carry out this subsection only after consultation with the Council on Environmental Quality. Such regulations shall—

''(i) specify any other provisions of law which further the purposes of the National Environmental Policy Act of 1969 and to which the assumption of responsibility as provided in this subsection applies;

''(ii) provide eligibility criteria and procedures for the designation of a State, unit of general local government, or Indian tribe to assume all of the responsibilities in this section;

''(iii) specify the purposes for which funds may be committed without regard to the procedure established under paragraph (3);

''(iv) provide for monitoring of the performance of environmental reviews under this subsection;

''(v) in the discretion of the Secretary, provide for the provision or facilitation of training for such performance; and

''(vi) subject to the discretion of the Secretary, provide for suspension or termination by the Secretary of the assumption under subparagraph (A).

''(C) RESPONSIBILITIES OF STATE, UNIT OF GENERAL LOCAL GOVERNMENT, OR INDIAN TRIBE.—The Secretary's duty under subparagraph (B) shall not be construed to limit any responsibility assumed by a State, unit of general local government, or Indian tribe with respect to any particular release of funds under subparagraph (A).

''(3) PROCEDURE.—The Secretary shall approve the release of funds for projects subject to the procedures authorized by this subsection only if, not less than 15 days prior to such approval and prior to any commitment of funds to such projects (except for such purposes specified in the regulations issued under paragraph (2)(B)), the recipient submits to the Secretary a request for such release accompanied by a certification of the State, unit of general local government, or Indian tribe which meets the requirements of paragraph (4). The approval by the Secretary of any such certification shall be deemed to satisfy the Secretary's responsibilities pursuant to paragraph (1) under the National Environmental Policy Act of 1969 and such other provisions of law as the regulations of the Secretary specify insofar as those responsibilities relate to the releases of funds for projects to be carried out pursuant thereto which are covered by such certification.

''(4) CERTIFICATION.—A certification under the procedures authorized by this subsection shall—

''(A) be in a form acceptable to the Secretary;

''(B) be executed by the chief executive officer or other officer of the State, unit of general local government, or Indian tribe who qualifies under regulations of the Secretary:

''(C) specify that the State, unit of general local government, or Indian tribe under this subsection has fully carried out its responsibilities as described under paragraph (2); and

''(D) specify that the certifying officer—

''(i) consents to assume the status of a responsible Federal official under the National Environmental Policy Act of 1969 and each provision of law specified in regulations issued by the Secretary insofar as the provisions of such Act or other such provision of law apply pursuant to paragraph (2); and

''(ii) is authorized and consents on behalf of the State, unit of general local government, or Indian tribe and himself or herself to accept the jurisdiction of the Federal courts for the purpose of enforcement of the responsibilities as such an official.

''(5) APPROVAL BY STATES.—In cases in which a unit of general local government carries out the responsibilities described in paragraph (2), the Secretary may permit the State to perform those actions of the Secretary described in paragraph (3). The performance of such actions by the State, where permitted, shall be deemed to satisfy the responsibilities referred to in the second sentence of paragraph (3).''.

SEC. 5. PERFORMANCE MEASUREMENT AND EVALUATION; GRANT ADJUSTMENTS.

Section 2007 of the Social Security Act (42 U.S.C. 1397f), as amended by section 4, in further amended by adding after subsection (f) the following subsection:

''(g) PERFORMANCE MEASUREMENT SYSTEM, REPORTS, AND EVALUATIONS, GRANT ADJUSTMENTS, AND RELATED MATTERS.—

''(1) APPLICABILITY.—The requirements of this subsection—

''(A) apply to all grants made by a State, from grants to the State under subsection (a)(2)(C), to lead implementing entities (as defined in paragraph (7)) for empowerment zones designated pursuant to section 1391(g) of the Internal Revenue Code of 1986 (26 U.S.C. 1391(g)); and

''(B) are in addition to the annual report and biennial audit requirements applicable to States under section 2006.

''(2) PERFORMANCE MEASUREMENT SYSTEM.—The lead implementing entity for an empowerment zone shall establish a performance measurement system acceptable to the Secretary to assist in assessing the extent to which its strategic plan is being implemented and funds made available under subsection (a)(2)(C) are being used effectively.

''(3) PERFORMANCE REPORT.—Each lead implementing entity shall submit to the Secretary (and make available to the public upon request), at such time and in such manner as the Secretary shall prescribe, a report including an assessment of the progress the empowerment zone has made toward implementing its strategic plan, and such other information as the Secretary shall prescribe. To the extent practicable, the report shall also include information available to the lead implementing entity with respect to the use of tax incentives available to empowerment zones designated pursuant to section 1391(g) of the Internal Revenue Code of 1986.

''(4) PERFORMANCE EVALUATIONS, ADJUSTMENTS, AND RECORDKEEPING.—

''(A) PERFORMANCE EVALUATIONS.—The Secretary shall regularly evaluate the progress of the lead implementing entity for the empowerment zone in implementing the strategic plan for the zone, on the basis of performance reviews and any other information that the Secretary may require.

''(B) ADJUSTMENTS.—On the basis of the Secretary's evaluation under subparagraph (A), the Secretary may direct the Secretary of Health and Human Services to adjust, reduce, or cancel the grant to a State under subsection (a)(2)(C) for the current or any future fiscal year or years, except that amounts already properly expended by a lead implementing entity on eligible activities under this Act shall not be recaptured or deducted from future grants to the State.

''(5) RETENTION OF RECORDS.—Each lead implementing entity shall keep such records relating to funds received from grants to the State under subsection (a)(2)(C), including the amounts and disposition of such funds and the types of activities funded, as the Secretary determines to be necessary to enable the Secretary to evaluate the performance of the lead implementing agency and to determine compliance with the requirements of this subsection.

''(6) SECRETARY'S ACCESS TO DOCUMENTS.—The Secretary shall have access, for the purpose of evaluations and examinations pursuant to paragraph (4)(A), to any books, documents, papers, and records of any grantee or other entity or person that are pertinent to grant amounts received in connection with this section.

''(7) DEFINITIONS.—For purposes of this subsection—

''(A) The term 'lead implementing entity' means the local government or governments, the governance body of an empowerment zone as specified in the strategic plan, or any non-profit entity that is principal administrator of an empowerment zone.

''(B) The term 'Secretary' means the Secretary of Housing and Urban Development for purposes of grants under this section with respect to urban areas and means the Secretary of Agriculture for purposes of grants under this section with respect to rural areas, except as the context otherwise indicates.

SEC. 6. TECHNICAL AMENDMENTS.

Section 2007(b) of the Social Security Act is amended—

(1) in paragraph (2), in the matter preceding subparagraph (A), by striking ''to prevent''; and

(2) in paragraph (4), in the matter preceding subparagraph (A), by striking ''maintain'' and inserting ''maintaining''.

By Mr. LEAHY:

S. 1928. A bill to protect consumers from overcollections for the use of pay telephones, to provide consumers with information to make informed decisions about the use of pay telephones, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE CONSUMER PAY TELEPHONE PROTECTION ACT

Mr. LEAHY. Mr. President, I have voiced my great disappointment many times with how the Telecommunications Act of 1966 is costing consumers millions of dollars.

I complained about this at the time that Act passed, and continue to be concerned that Vermonters are being taken to the cleaners.

I was one of five Senators to vote against that bill. I thought it was clear then, and it should be clear by now to everyone, that the Telecommunications bill means higher costs for consumers.

As other hi-tech industries, such as computer technology, offer lower and lower prices over time—the telephone and cable TV industries are presenting consumers with higher and higher charges.

For example, I am mad as heck that pay phone charges in Vermont went up to 35 cents—from 10 cents.

But what annoys me more is that if I do not have exact change—if I use two quarters—the change the phone company keeps is more than the ten cents the call used to cost.

I have been know to say ''keep the change'' in restaurants, or when I buy a newspaper.

But I do not like phone companies taking my change. I am fed up with pay phone service providers nickel and diming consumers.

This bill will make phone companies provide change to consumers at the pay phone—or provide a credit in the amount of the lost change to the consumer or to states to be used to help consumers.

My bill will also give the FCC broad powers to give states authority to control pay phone rates, if necessary.

The bill permits pay phone providers in Vermont to issue a credit when

change is not provided to the consumer which would go to Vermont. This means that Vermont could provide better pay phone service for public safety or health reasons.

For example, this fund could be used by states to provide better pay phone service to those with disabilities, or those living in nursing homes. It would provide funding for pay phones to be placed in remote areas in case of emergencies.

I would rather this change go directly to the consumer, and believe when this bill is fully implemented that most consumers will not be overcharged for calls.

In the meantime, however, I would rather have the change used to benefit Vermonters than go to the phone companies.

There are over 2 million pay phones in the United States. The Washington Post explained on Monday that if 75 percent of those pay phones charge 35 cents for a local call and if just one person a day overpays 15 cents at each of those phones, companies would get more than $230,000 extra a day, or about $7 million a month.

My guess is that this hugely underestimates the size of this windfall.

Keep in mind this windfall, in Vermont, is on top of the raise from 10 cents to 35 cents. I have also noticed fewer and fewer phone booths except at places such as airports or train stations where consumers are in a hurry and may not have time to track down change.

My bill goes beyond just keeping phone companies from getting windfall profits. It calls for a national investigation of monopoly pricing and price gouging in the pay telephone markets.

It goes further than that—it then gives the Federal Communications Commission the tough new authority to deal with this problem. It allows them to give states the right to establish rates for local calls if necessary to stop this overcharging. Remember, when Vermont was in charge before the Telecommunications Act passed the pay phone rates were a dime.

My bill will also encourage the development of new technologies so that consumers are not overcharged for local phone calls to begin with.

My bill also provides funding—and the money comes from telephone companies not consumers—for public interest pay phones. These are phones which the FCC has determined each state should provide to its citizens in areas where there otherwise might not be a phone. They did this in a decision issued on October 7, 1996.

This was a good idea—but there is no federal funding to implement the decision.

In addition, it is uneconomic for a phone company to provide a pay phone in remote areas of Vermont. But in a roadside emergency these phones could be vital. My bill would provide for this program using money that now just goes out of your pockets to the phone companies.

Also, public interest pay phones could be placed in nursing homes, emergency homeless shelters, emergency rooms in hospitals, and other similar places.

Emergency 911 calls would be free from these phones, and other calls would cost but at least there would be a phone in a location where there otherwise might not be one.

What is best about this approach is that Vermont would decide how to use this funding that now goes directly into the coffers of phone companies.

I have also designed the bill in a way that prevents phone companies from trying to take advantage of this situation.

The bill gives the FCC board powers to ensure that the pay phone providers ''do not pass any costs relating to such compliance to consumers.''

It also mandates that the FCC monitor this situation and ensure that implementation does not result in any reduction in pay phone service.

The bill requires that pay phone companies which charge more than 10 cents for local phone calls provide either cash change or other alternatives to consumers, or credits to states equal to the value of the unpaid change.

These credits to states would be used by states for telecommunications activities that promote the public interest, such as safety, health, emergency services, or education and promote public interest pay phones in hospitals, schools, emergency homeless shelters, facilities for the disabled, and at similar types of locations.

The bill directs the FCC, within one year of the bill's enactment, to issue proposed rules that apply to pay phone providers that charge more than 10 cents for local pay phone calls. Companies would have to provide for cash change or automatically credit the appropriate public service agency in the respective states to account for instances in which change is not provided at the pay phone.

The bill requires that the FCC ensure that pay phone providers do not pass any costs of compliance with this bill on to consumers and that pay phone providers in no way reduce or limit service based on this anti-windfall requirement.

The FCC is given major new powers to take action to prevent any price gouging including giving states back the authority to regulate the price of local calls.

The bill requires that small stickers or other notice be posted on pay phones for the purpose of advising consumers when cash change will not be provided.

The bill directs the FCC to reconsider its rules under which the FCC removed authority from states to regulate the charge for local calls made over pay phones. The FCC would reexamine the need for states to have greater decision making roles where local competition between pay phone providers is not present.

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. 1928

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 ''Consumer Pay Telephone Protection Act of 1998''.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress makes the following findings:

(1) Some payphone service providers have increased the charge for the use of a coin-operated pay telephone for a local call to 35 cents but have not put into place a system for providing change to users of such telephones for amounts deposited in such telephones in excess of such charge.

(2) Payphone service providers should charge pay telephone users only for the actual time of use of pay telephones.

(3) Most consumers, if given a choice, would prefer that any amount of such excess deposits that are not refunded to consumers be used for pay telephones for public health, safety, and welfare purposes rather than have such excess deposits accrue to the financial benefit of payphone service providers.

(4) There are approximately 2,000,000 pay telephones in the United States, and payphone service providers accrue substantial revenue at the expense of Americans who do not have the exact amount of the charge for their use.

(5) A decision of the Federal Communications Commission to deregulate the provision of payphone service was premature and did not address adequately the need for local competition that would benefit users of pay telephones.

(6) The decision of the Commission does not promote the widespread deployment of affordable payphone service that would benefit the general public, nor does the decision promote the widespread deployment of public interest telephones.

(7) The use of coin-operated pay telephones represents an increasing commercial activity that substantially affects interstate commerce.

(8) Public interest telephones should be maintained in each State and should be provided to promote the public safety, health, and welfare.

(b) PURPOSE.—The purpose of this Act is—

(1) to require payphone service providers—

(A) to provide cash change to pay telephone users who deposit amounts for local telephone calls in excess of the amounts charged for such calls; or

(B) in the event that such providers do not provide such change, to transfer amounts equal to such change to appropriate State entities for public interest purposes related to telephone service;

(2) to encourage such changes in pay telephone technology as are needed to assure that payphone service providers—

(A) do not overcharge pay telephone users who do not have the exact amount of the charge for local pay telephone calls; and

(B) do not charge pay telephone users for any time in which pay telephones are not actually in use; and

(3) to require the Federal Trade Commission to determine—

(A) whether dysfunctions exist in the market for payphone service including locational monopolies in which the size of the market concerned results in the availability of payphone service from a single provider; and

(B) whether rates for coin-operated pay telephones for local telephone calls are market based.

SEC. 3. PUBLIC INTEREST PAY TELEPHONES.

Section 276(b)(2) of the Communications Act of 1934 (47 U.S.C. 276(b)(2)) is amended to read as follows:

''(2) PUBLIC INTEREST PAY TELEPHONES.—

''(A) SENSE OF CONGRESS.—It is the sense of Congress that—

''(i) in the interest of the public health, safety, and welfare, public interest pay telephones should be available and maintained in locations where there would not otherwise likely be a pay telephone; and

''(ii) such public interest pay telephones should be fairly and equitably supported.

''(B) USE OF FUNDS.—In accordance with such regulations as the Commission shall prescribe, each State agency that receives amounts under subsection (c)(2)(A) shall use such amounts to promote or otherwise support the installation, maintenance, and use of public interest pay telephones, including specially designed payphones for the disabled and the provision of payphone service in remote locations, nursing homes, emergency homeless shelters, hospitals, facilities that assist the disabled, schools, and other appropriate locations determined by the State agency concerned.''.

SEC. 4. REQUIREMENT FOR CHANGE AT PAY TELEPHONES.

(a) REQUIREMENT.—Section 276 of the Communications Act of 1934 (47 U.S.C. 276), as amended by section 3 of this Act, is further amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following new subsection (c):

''(c) CHANGE AT PAY TELEPHONES.—

''(1) REQUIREMENT.—

''(A) IN GENERAL.—Except as provided in paragraph (2), a payphone service provider shall provide any individual using a pay telephone of such provider to make a telephone call described in subparagraph (B) an amount of cash change equal to the amount (if any) by which the amount deposited by the individual for the call exceeds the charge for the call.

''(B) COVERED TELEPHONE CALLS.—Subparagraph (A) applies to any local telephone call the charge for which exceeds 10 cents.

''(2) ALTERNATIVE USE OF EXCESS COLLECTIONS.—

''(A) TRANSFER.—In accordance with such regulations as the Commission shall prescribe, a payphone service provider may, in lieu of providing cash change under paragraph (1)—

''(i) transfer any excess amounts collected by the provider at pay telephones to the State agency in the State in which the telephones are located that is responsible for the support of public interest pay telephones under subsection (b)(2); or

''(ii) if the State has no such agency by reason of a determination under subparagraph (B), transfer such excess amounts to the Commission for use under subparagraph (D).

''(B) STATE OPTION.—

''(i) STATE OPTION.—The chief executive officer of each State may determine whether or not to permit the transfer of funds to an agency of such State under subparagraph (A).

''(ii) REVOCATION.—The chief executive officer of a State may revoke any previous decision with respect to the State under this subparagraph.

''(iii) NOTICE.—The chief executive officer of a State shall notify the Commission, in writing, of any determination or revocation of a determination under this subparagraph.

''(C) USE BY STATES.—

''(i) IN GENERAL.—A State agency receiving amounts under subparagraph (A) shall utilize such amounts for purposes of promoting and supporting public interest pay telephones in the State under subsection (b)(2).

''(ii) ADDITIONAL USE.—In the event that amounts received by a State agency under subparagraph (A) exceed the amounts determined by the agency to be required to properly promote and support public interest pay telephones in the State, the agency shall utilize the excess amounts for purposes relating to providing universal service or improving telephone service in the State under section 254.

''(D) USE BY COMMISSION.—

''(i) DEPOSIT.—The Commission shall deposit any amounts received by the Commission under subparagraph (A) in an account in the Treasury established for that purpose.

''(ii) AVAILABILITY.—Under such regulations as the Commission shall prescribe, the Commission shall utilize amounts in the account under clause (i) to assist States that receive amounts under subparagraph (A) with additional assistance to promote and support public interest pay telephones under subsection (b)(2).

''(E) NOTICE TO CONSUMERS.—

''(i) IN GENERAL.—In the event a payphone service provider decides to transfer excess amounts deposited at any given pay telephone under subparagraph (A) for purposes of supporting public interest pay telephones under subsection (b)(2), the provider shall post at such pay telephone a notice informing potential users of such pay telephone that any such excess amount shall not be returned as cash change or credit but shall be utilized for such purposes.

''(ii) ADDITIONAL NOTICE.—Nothing in clause (i) shall be interpreted to limit a State from requiring additional notices with respect to the matters set forth in that clause.

''(3) REGULATIONS.—

''(A) REQUIREMENT.—Not later than one year after the date of enactment of the Consumer Pay Telephone Protection Act of 1998, the Commission shall prescribe the regulations required under this subsection.

''(B) ADDITIONAL ELEMENTS.—The regulations shall—

''(i) provide for the monitoring of the compliance of payphone service providers with the provisions of this subsection;

''(ii) ensure that such providers do not pass any costs relating to such compliance to consumers; and

''(iii) ensure that the implementation of such provisions do not result in any reduction in payphone service, including the imposition of time limits on local telephone calls or other reductions or limitations in such service.

''(C) EFFECTIVE DATE.—The regulations shall provide that the provisions of the regulations take effect not earlier than 6 months after the date of the final issuance of the regulations and not later than 12 months after that date.''.

(b) STUDY OF ALTERNATIVE TECHNOLOGIES.—

(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Federal Communications Commission shall submit to Congress a report on the availability of technologies or systems that permit persons who do not have exact change to utilize pay telephones for local telephone calls without being overcharged for such calls.

(2) ELEMENTS.—The report shall address the use of tokens, cash debit cards, systems for crediting the monthly telephone bills of individuals who use pay telephones, and such other technologies and systems as the Commission considers appropriate.

SEC. 5. STUDY OF COMPETITIVENESS OF PAY TELEPHONE MARKET.

(a) STUDY.—

(1) IN GENERAL.—The Federal Trade Commission shall, in consultation with the Federal Communications Commission, carry out a study of competition in the market for intrastate payphone service, including—

(A) whether or not locational monopolies in such service exist by reason of the size of particular markets for such service;

(B) whether or not potential users of such service are effectively barred from choice in such service in particular markets by reason of difficulties in identifying a variety of payphone service providers in such markets;

(C) whether or not rates for local pay telephone calls are market-based; and

(D) whether or not there is evidence of monopoly pricing in such service.

(2) SCOPE OF COMMENT.—In carrying out the study, the Federal Trade Commission shall seek comment from a variety of sources, including State and local public entities, consumers and consumer representatives, and payphone service providers and their representatives.

(b) REPORT.—Not later than one year after the date of enactment of this Act, the Federal Trade Commission shall submit to Congress a report on the results of the study carried out under subsection (a). The report shall include the findings of the Commission with respect to the matters set forth under paragraph (1) of that subsection.

(c) FEDERAL COMMUNICATIONS COMMISSION ACTION.—Notwithstanding any provision of the Communications Act of 1934 (47 U.S.C. 151 et seq.), the Federal Communications Commission may, as a result of the study under subsection (a), conduct a rule-making proceeding in order to accomplish any of the following:

(1) To set limitations on rates for local pay telephone calls.

(2) To permit the States to establish rates for such calls on a cost basis.

(3) To set limitations on the commissions that payphone service providers may pay to persons who lease space to such providers for pay telephones.

(4) To prohibit payphone service providers from entering into exclusive contracts with persons who lease space to such providers for pay telephones which contracts cover multiple locations.

By Mrs. HUTCHISON (for herself, Mr. MURKOWSKI, Mr. NICKLES, and Mr. DOMENICI):

S. 1929. A bill to amend the Internal Revenue Code of 1986 to provide tax incentives to encourage production of oil and gas within the United States, and for other purposes; to the Committee on Finance.

THE U.S. ENERGY ECONOMIC GROWTH ACT

Mrs. HUTCHISON. Mr. President, a healthy domestic energy industry is critical to our nation's security and our economic well-being. That is why I am pleased today to introduce the U.S. Energy Economic Growth Act. My legislation provides much needed tax relief for the domestic oil and gas industry. It is a part of the omnibus Domestic Oil and Gas Security Enhancement Plan that I've developed with Senator MURKOWSKI and Senator NICKLES. Together, our comprehensive legislation represents the most sweeping tax and regulatory relief since before the Gulf War.

Our package could not come at a more critical time. The price of crude

oil recently dipped to its lowest level since April 1994. This downturn in world oil prices has exposed America's independent producers to great risk. If current market conditions persist, as is expected, thousands of wells could become uneconomic and be shut-in or plugged. It is time we acted to ensure this does not happen, and my bill is the first step in that direction.

The U.S. Energy Economic Growth Act will do three things.

MARGINAL WELL TAX RELIEF

First, this bill provides tax relief for producers who operate marginal oil and gas wells. A marginal oil well is one that produces less than 15 barrels per day or produces heavy oil. A marginal gas well is one that produces less than 90 thousand cubic feet a day. Those who operate marginal wells are most at risk in times of lower oil prices. The National Petroleum Council (NPC) reported that America has over 500,000 marginal wells that collectively produce nearly 700 million barrels of oil equivalent each year. Texas alone has over 100,000 marginal wells. These wells contribute nearly 80,000 jobs and generate close to $14 billion each year in economic activity.

In 1996, abandonment or plugging of these marginal wells led to a loss of more than 3,600 high-quality jobs and a loss of $84.1 million in earnings in 1996. States and federal governments lost $18.5 million in severance taxes and an equal amount of ad valorem taxes from wells plugged during 1996.

Many domestic oil and gas businesses rely on these marginal wells as the backbone of their operations. However, as global market factors cause commodity prices to fluctuate, the economic viability of these wells is precarious. Marginal wells provide countless jobs, energy security and federal tax and royalty revenues. The tax credits in my bill will help keep these marginal wells in production and Americans employed. My bill provides for a maximum $3 per barrel tax credit for the first 3 barrels of daily production from an existing oil well. In addition, marginal gas well will receive $0.50 per mcf for the first 18 mcf of daily natural gas production.

In addition, this tax credit would only occur when prices are low. This credit is phased out when prices for oil and natural gas increase.

INACTIVE WELL TAX RELIEF

The second plank of my bill creates an incentive for independent oil and gas producers to recover abandoned wells and put them back into production. This provision allows producers to exclude income attributable to oil and natural gas from a recovered inactive well. In order to qualify, the oil or gas well must have been abandoned for at least two years prior to the date of enactment. In addition, this incentive would only apply to wells that are brought back on line within 5 years of the date of enactment.

This economic incentive has a proven track record. In Texas, a similar law resulted in returning over 6,000 wells to production. The estimated annual production from these wells is worth $565 million at the wellhead, and approximately $1.65 billion to the economy of Texas each year. The wealth from this incentive provides over 10,000 direct and indirect jobs each year. The Texas legislature receives an estimated $22 million in additional annual tax revenues, over ten thousand jobs have been created, and $1.65 billion a year in wealth is generated. Over 90,000 idle wells remain in Texas. This incentive package would help return them to production and allow them to contribute to a strong economy in America.

Thirteen states have inactive well recovery programs, including Alaska, Arkansas, California, Florida, Kansas, Louisiana, Mississippi, Montana, New Mexico, North Dakota, Oklahoma, Texas, Wyoming. This federal program would allow the benefits experienced by Texas and other states to continue to grow and to be shared by the rest of the country.

Importantly, this provision increases the stream of revenue going into the federal government in two ways. First, royalty owners will pay federal taxes on income generated from the recovered well. Currently, no taxes are paid on these wells because they are inactive. Returning them to production will increase the royalties paid to the federal government. Secondly, the new jobs created will add significantly to the taxes paid on wages and earnings.

This one-time shot-in-the-arm for the industry will provide countless jobs and considerable economic benefit to our communities.

OTHER INCENTIVES

The third provision of my bill makes changes to the tax code that makes it easier for producers to take full advantage of already existing tax credits. Under these provisions, both geological and geophysical expenditures on domestic production and delay rental payments would be allowed to be expensed at the time incurred rather than capitalized over the length of the well. This election would allow producers more control over their income stream without changing the amount of tax.

In addition, two relatively new types of drilling methods are included as a qualified enhanced oil recovery method for purposes of the Enhanced Oil Recovery Tax Credit. These two drilling methods, hydro-injection and horizontal drilling, would be included on the list of qualified methods. They provide us with some of the most innovative means of drilling and we should encourage producers to utilize these and other productive methods.

Mr. President, my legislation provides incentives for the most threatened parts of the oil and gas industry. Relief for marginal and inactive wells encourages full utilization of existing wells, clearly provides jobs and helps the local economy grow. I encourage my colleagues to support this legislation and their local communities by making marginal and inactive wells productive contributors to the local economy. Our energy security depends upon it.

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. 1929

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 ''United States Energy Economic Growth Act''.

TITLE I—PRODUCTION FROM MARGINAL AND INACTIVE WELLS

SEC. 101. TAX CREDIT FOR MARGINAL DOMESTIC OIL AND NATURAL GAS WELL PRODUCTION.

(a) CREDIT FOR PRODUCING OIL AND GAS FROM MARGINAL WELLS.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business credits) is amended by adding at the end the following new section:

''SEC. 45D. CREDIT FOR PRODUCING OIL AND GAS FROM MARGINAL WELLS.

''(a) GENERAL RULE.—For purposes of section 38, the marginal well production credit for any taxable year is an amount equal to the product of—

''(1) the credit amount, and

''(2) the qualified crude oil production and the qualified natural gas production which is attributable to the taxpayer.

''(b) CREDIT AMOUNT.—For purposes of this section—

''(1) IN GENERAL.—The credit amount is—

''(A) $3 per barrel of qualified crude oil production, and

''(B) 50 cents per 1,000 cubic feet of qualified natural gas production.

''(2) REDUCTION AS OIL AND GAS PRICES INCREASE.—

''(A) IN GENERAL.—The $3 and 50 cents amounts under paragraph (1) shall each be reduced (but not below zero) by an amount which bears the same ratio to such amount (determined without regard to this paragraph) as—

''(i) the excess (if any) of the applicable reference price over $14 ($1.40 for qualified natural gas production), bears to

''(ii) $4 ($0.40 for qualified natural gas production).

The applicable reference price for a taxable year is the reference price for the calendar year preceding the calendar year in which the taxable year begins.

''(B) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 1999, each of the dollar amounts contained in subparagraph (A) shall be increased to an amount equal to such dollar amount multiplied by the inflation adjustment factor for such calendar year (determined under section 43(b)(3)(B) by substituting '1998' for '1990').

''(C) REFERENCE PRICE.—For purposes of this paragraph, the term 'reference price' means, with respect to any calendar year—

''(i) in the case of qualified crude oil production, the reference price determined under section 29(d)(2)(C), and

''(ii) in the case of qualified natural gas production, the Secretary's estimate of the annual average wellhead price per 1,000 cubic feet for all domestic natural gas.

''(c) QUALIFIED CRUDE OIL AND NATURAL GAS PRODUCTION.—For purposes of this section—

''(1) IN GENERAL.—The terms 'qualified crude oil production' and 'qualified natural gas production' mean domestic crude oil or natural gas which is produced from a marginal well.

''(2) LIMITATION ON AMOUNT OF PRODUCTION WHICH MAY QUALIFY.—

''(A) IN GENERAL.—Crude oil or natural gas produced during any taxable year from any well shall not be treated as qualified crude oil production or qualified natural gas production to the extent production from the well during the taxable year exceeds 1,095 barrels or barrel equivalents.

''(B) PROPORTIONATE REDUCTIONS.—

''(i) SHORT TAXABLE YEARS.—In the case of a short taxable year, the limitations under this paragraph shall be proportionately reduced to reflect the ratio which the number of days in such taxable year bears to 365.

''(ii) WELLS NOT IN PRODUCTION ENTIRE YEAR.—In the case of a well which is not capable of production during each day of a taxable year, the limitations under this paragraph applicable to the well shall be proportionately reduced to reflect the ratio which the number of days of production bears to the total number of days in the taxable year.

''(3) DEFINITIONS.—

''(A) MARGINAL WELL.—The term 'marginal well' means a domestic well which during the taxable year has marginal production (as defined in section 613A(c)(6)).

''(B) CRUDE OIL, ETC.—The terms 'crude oil', 'natural gas', 'domestic', and 'barrel' have the meanings given such terms by section 613A(e).

''(C) BARREL EQUIVALENT.—The term 'barrel equivalent' means, with respect to natural gas, a conversion ratio of 6,000 cubic feet of natural gas to 1 barrel of crude oil.

''(d) OTHER RULES.—

''(1) PRODUCTION ATTRIBUTABLE TO THE TAXPAYER.—In the case of a marginal well in which there is more than one owner of operating interests in the well and the crude oil or natural gas production exceeds the limitation under subsection (c)(2), qualifying crude oil production or qualifying natural gas production attributable to the taxpayer shall be determined on the basis of the ratio which taxpayer's revenue interest in the production bears to the aggregate of the revenue interests of all operating interest owners in the production.

''(2) OPERATING INTEREST REQUIRED.—Any credit under this section may be claimed only on production which is attributable to the holder of an operating interest.

''(3) PRODUCTION FROM NONCONVENTIONAL SOURCES EXCLUDED.—In the case of production from a marginal well which is eligible for the credit allowed under section 29 for the taxable year, no credit shall be allowable under this section unless the taxpayer elects not to claim the credit under section 29 with respect to the well.''.

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b) of such Code is amended by striking ''plus'' at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting '', plus'', and by adding at the end the following new paragraph:

''(13) the marginal oil and gas well production credit determined under section 45D(a).''.

(c) CREDIT ALLOWED AGAINST REGULAR AND MINIMUM TAX.—

(1) IN GENERAL.—Subsection (c) of section 38 of such Code (relating to limitation based on amount of tax) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

''(3) SPECIAL RULES FOR MARGINAL OIL AND GAS WELL PRODUCTION CREDIT.—

''(A) IN GENERAL.—In the case of the marginal oil and gas well production credit—

''(i) this section and section 39 shall be applied separately with respect to the credit, and

''(ii) in applying paragraph (1) to the credit—

''(I) subparagraphs (A) and (B) thereof shall not apply, and

''(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the marginal oil and gas well production credit).

''(B) MARGINAL OIL AND GAS WELL PRODUCTION CREDIT.—For purposes of this subsection, the term 'marginal oil and gas well production credit' means the credit allowable under subsection (a) by reason of section 45D(a).''.

(2) CONFORMING AMENDMENT.—Subclause (II) of section 38(c)(2)(A)(ii) of such Code is amended by inserting ''or the marginal oil and gas well production credit'' after ''employment credit''.

(d) CARRYBACK.—Subsection (a) of section 39 of such Code (relating to carryback and carryforward of unused credits generally) is amended by adding at the end the following new paragraph:

''(3) 10-YEAR CARRYBACK FOR MARGINAL OIL AND GAS WELL PRODUCTION CREDIT.—In the case of the marginal oil and gas well production credit—

''(A) this section shall be applied separately from the business credit (other than the marginal oil and gas well production credit),

''(B) paragraph (1) shall be applied by substituting '10 taxable years' for '1 taxable years' in subparagraph (A) thereof, and

''(C) paragraph (2) shall be applied—

''(i) by substituting '31 taxable years' for '22 taxable years' in subparagraph (A) thereof, and

''(ii) by substituting '30 taxable years' for '21 taxable years'.''.

(e) COORDINATION WITH SECTION 29.—Section 29(a) of such Code is amended by striking ''There'' and inserting ''At the election of the taxpayer, there''.

(f) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of such Code is amended by adding at the end the following item:

''45D. Credit for producing oil and gas from marginal wells.''

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to production after the date of the enactment of this Act.

SEC. 102. EXCLUSION OF CERTAIN AMOUNTS RECEIVED FROM RECOVERED INACTIVE WELLS.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to items specifically excluded from gross income) is amended by redesignating section 139 as section 140 and by inserting after section 138 the following new section:

''SEC. 139. OIL OR GAS PRODUCED FROM A RECOVERED INACTIVE WELL.

''(a) IN GENERAL.—Gross income does not include income attributable to independent producer oil from a recovered inactive well.

''(b) DEFINITIONS.—For purposes of this section—

''(1) INDEPENDENT PRODUCER OIL.—The term 'independent producer oil' means crude oil or natural gas in which the economic interest of the independent producer is attributable to an operating mineral interest (within the meaning of section 614(d)), overriding royalty interest, production payment, net profits interest, or similar interest.

''(2) CRUDE OIL AND NATURAL GAS.—The terms 'crude oil' and 'natural gas' have the meanings given such terms by section 613A(e).

''(3) RECOVERED INACTIVE WELL.—The term 'recovered inactive well' means a well if—

''(A) throughout the 2-year period ending on the date of the enactment of this section, such well is inactive or has been plugged and abandoned, as determined by the agency of the State in which such well is located that is responsible for regulating such wells, and

''(B) during the 5-year period beginning on the date of the enactment of this section, such well resumes producing crude oil or natural gas.

''(4) INDEPENDENT PRODUCER.—The term 'independent producer' means a producer of crude oil or natural gas whose allowance for depletion is determined under section 613A(c).

''(c) DEDUCTIONS.—No deductions directly connected with amounts excluded from gross income by subsection (a) shall be allowed.

''(d) ELECTION.—

''(1) IN GENERAL.—This section shall apply for any taxable year only at the election of the taxpayer.

''(2) MANNER.—Such election shall be made, in accordance with regulations prescribed by the Secretary, not later than the time prescribed for filing the return (including extensions thereof) and shall be made annually on a property-by-property basis.''

(b) MINIMUM TAX.—Section 56(g)(4)(B) of the Internal Revenue Code of 1986 is amended by adding at the end the following new clause:

''(iii) INACTIVE WELLS.—In the case of income attributable to independent producers of oil recovered from an inactive well, clause (i) shall not apply to any amount allowable as an exclusion under section 139.''

(c) CLERICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 of such Code is amended by striking the item relating to section 139 and inserting the following:

''Sec. 139. Oil or gas produced from a recovered inactive well.

''Sec. 140. Cross references to other Acts.''

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

TITLE II—OTHER INCENTIVES

SEC. 201. ELECTION TO EXPENSE GEOLOGICAL AND GEOPHYSICAL EXPENDITURES.

(a) IN GENERAL.—Section 263 of the Internal Revenue Code of 1986 (relating to capital expenditures) is amended by adding at the end the following new subsection:

''(j) GEOLOGICAL AND GEOPHYSICAL EXPENDITURES FOR DOMESTIC OIL AND GAS WELLS.—Notwithstanding subsection (a), a taxpayer may elect to treat geological and geophysical expenses incurred in connection with the exploration for, or development of, oil or gas within the United States (as defined in section 638) as expenses which are not chargeable to capital account. Any expenses so treated shall be allowed as a deduction in the taxable year in which paid or incurred.''

(b) CONFORMING AMENDMENT.—Section 263A(c)(3) of the Internal Revenue Code of 1986 is amended by inserting ''263(j),'' after ''263(i),''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to expenses paid or incurred after the date of enactment of this Act.

(2) TRANSITION RULE.—In the case of any expenses described in section 263(j) of the Internal Revenue Code of 1986, as added by this section, which were paid or incurred on or before the date of enactment of this Act, the

taxpayer may elect, at such time and in such manner as the Secretary of the Treasury may prescribe, to amortize the unamortized portion of such expenses over the 36-month period beginning with the month in which the date of enactment of this Act occurs. For purposes of this paragraph, the unamortized portion of any expense is the amount remaining unamortized as of the first day of the 36-month period.

SEC. 202. ELECTION TO EXPENSE DELAY RENTAL PAYMENTS.

(a) IN GENERAL.—Section 263 of the Internal Revenue Code of 1986 (relating to capital expenditures), as amended by section 201(a), is amended by adding at the end the following new subsection:

''(k) DELAY RENTAL PAYMENTS FOR DOMESTIC OIL AND GAS WELLS.—

''(1) IN GENERAL.—Notwithstanding subsection (a), a taxpayer may elect to treat delay rental payments incurred in connection with the development of oil or gas within the United States (as defined in section 638) as payments which are not chargeable to capital account. Any payments so treated shall be allowed as a deduction in the taxable year in which paid or incurred.

''(2) DELAY RENTAL PAYMENTS.—For purposes of paragraph (1), the term 'delay rental payment' means an amount paid for the privilege of deferring development of an oil or gas well.''

(b) CONFORMING AMENDMENT.—Section 263A(c)(3) of the Internal Revenue Code of 1986, as amended by section 201(b), is amended by inserting ''263(k),'' after ''263(j),''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to payments made or incurred after the date of enactment of this Act.

(2) TRANSITION RULE.—In the case of any payments described in section 263(k) of the Internal Revenue Code of 1986, as added by this section, which were made or incurred on or before the date of enactment of this Act, the taxpayer may elect, at such time and in such manner as the Secretary of the Treasury may prescribe, to amortize the unamortized portion of such payments over the 36-month period beginning with the month in which the date of enactment of this Act occurs. For purposes of this paragraph, the unamortized portion of any payment is the amount remaining unamortized as of the first day of the 36-month period.

SEC. 203. EXTENSION OF SPUDDING RULE.

(a) IN GENERAL.—Section 461(i)(2)(A) of the Internal Revenue Code of 1986 (relating to special rule for spudding of oil or gas wells) is amended by striking ''90th day'' and inserting ''180th day''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1997.

SEC. 204. ENHANCED OIL RECOVERY CREDIT EXTENDED TO CERTAIN NONTERTIARY RECOVERY METHODS.

(a) IN GENERAL.—Clause (i) of section 43(c)(2)(A) of the Internal Revenue Code of 1986 (defining qualified enhanced oil recovery project) is amended to read as follows:

''(i) which involves the application (in accordance with sound engineering principles) of—

''(I) one or more tertiary recovery methods (as defined in section 193(b)(3)) which can reasonably be expected to result in more than an insignificant increase in the amount of crude oil which will ultimately be recovered, or

''(II) one or more nontertiary recovery methods which are required to recover oil with traditionally immobile characteristics or from formations which have proven to be uneconomical or noncommercial under conventional recovery methods.''

(b) QUALIFIED NONTERTIARY RECOVERY METHODS.—Section 43(c)(2) of the Internal Revenue Code of 1986 is amended by adding at the end the following new subparagraphs:

''(C) QUALIFIED NONTERTIARY RECOVERY METHOD.—For the purposes of this paragraph—

''(i) IN GENERAL.—The term 'qualified nontertiary recovery method' means any recovery method described in clause (ii), (iii), or (iv), or any combination thereof.

''(ii) ENHANCED GRAVITY DRAINAGE (EGD) METHODS.—The methods described in this clause are as follows:

''(I) HORIZONTAL DRILLING.—The drilling of horizontal, rather than vertical, wells to penetrate any hydrocarbon-bearing formation which has an average in situ calculated permeability to fluid flow of less than or equal to 12 or less millidarcies and which has been demonstrated by use of a vertical wellbore to be uneconomical unless drilled with lateral horizontal lengths in excess of 1,000 feet.

''(II) GRAVITY DRAINAGE.—The production of oil by gravity flow from drainholes that are drilled from a shaft or tunnel dug within or below the oil-bearing zone.

''(iii) MARGINALLY ECONOMIC RESERVOIR REPRESSURIZATION (MERR) METHODS.—The methods described in this clause are as follows, except that this clause shall only apply to the first 1,000,000 barrels produced in any project:

''(I) CYCLIC GAS INJECTION.—The increase or maintenance of pressure by injection of hydrocarbon gas into the reservoir from which it was originally produced.

''(II) FLOODING.—The injection of water into an oil reservoir to displace oil from the reservoir rock and into the bore of a producing well.

''(iv) OTHER METHODS.—Any method used to recover oil having an average laboratory measured air permeability less than or equal to 100 millidarcies when averaged over the productive interval being completed, or an in situ calculated permeability to fluid flow less than or equal to 12 millidarcies or oil defined by the Department of Energy as being immobile.

''(D) AUTHORITY TO ADD OTHER NONTERTIARY RECOVERY METHODS.—The Secretary shall provide procedures under which—

''(i) the Secretary may treat methods not described in clause (ii), (iii), or (iv) of subparagraph (C) as qualified nontertiary recovery methods, and

''(ii) a taxpayer may request the Secretary to treat any method not so described as a qualified nontertiary recovery method.

The Secretary may only specify methods as qualified nontertiary recovery methods under this subparagraph if the Secretary determines that such specification is consistent with the purposes of subparagraph (C) and will result in greater production of oil and natural gas.''

(c) CONFORMING AMENDMENT.—Clause (iii) of section 43(c)(2)(A) of the Internal Revenue Code of 1986 is amended to read as follows:

''(iii) with respect to which—

''(I) in the case of a tertiary recovery method, the first injection of liquids, gases, or other matter commences after December 31, 1990, and

''(II) in the case of a qualified nontertiary recovery method, the implementation of the method begins after December 31, 1997.''

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 1997.

By Mr. NICKLES (for himself, Mr. DOMENICI, Mr. MURKOWSKI, Mrs. HUTCHISON, Mr. BREAUX, and Mr. CRAIG):

S. 1930. A bill to provide certainty for, reduce administrative and compliance burdens associated with, and streamline and improve the collection of royalties from Federal and outer continental shelf oil and gas leases, and for other purposes; to the Committee on Energy and Natural Resources.

THE ROYALTY ENHANCEMENT ACT OF 1998

Mr. NICKLES. Mr. President, once again, our domestic oil and gas producers are facing devastating losses due to a significant drop in oil prices. This crisis creates a dangerous situation for the industry and for our national security. Unfortunately, the policies and practices of the Administration have exacerbated the problem, not helped. If we are to maintain a viable domestic petroleum industry, we must reverse these practices. An important step towards this end is reforming the Department of Interior's erratic, ever-changing royalty valuation practices. The Royalty Enhancement Act, that I am introducing today, will reduce regulatory costs and promote development of federal oil and gas resources vital to our national security. It will also significantly reduce the administrative costs associated with the federal royalty payment system.

Minerals Management Service (MMS), the agency within the Department of Interior given responsibility for administering royalties from federal leases, has imposed on oil and gas producers a bureaucratic labyrinth of rules and regulations. One of the most fundamental concepts of our society is the ability of any citizen, in particular, citizens who are parties to contracts with the federal government to be assured that the Federal government will not overreach and unilaterally interpret those contracts. Such a situation is what we have today with oil and gas producers who have contracted with the Federal government to expend their capital and resources to explore for, drill and produce valuable oil and gas reserves in the United States and offshore.

In the past few years oil and gas producers, both independent and major, have become increasingly frustrated with the unwillingness by MMS to produce a simplified and certain valuation method that accurately captures the value of oil or gas at the lease. This is the value that a federal oil and gas lessee owes and the American taxpayer deserves to be paid.

Recently, the MMS has proposed a new oil valuation rule which is the most administratively burdensome and complex method, available to the government. This new rule looks like the Clinton health care plan and makes the IRS code look simple. In short, the current MMS valuation system is badly broken and their outstanding oil proposal will only make it worth.

In 1995, I introduced the Federal Oil and Gas Royalty Simplification and Fairness Act because of the importance of federal royalty revenues to the United States Treasury and States.

The purpose of that legislation was to streamline and simplify the royalty management program for the over 20,000 federal lessees who are required to file over 3,000,000 reports annually. Despite the bipartisan support for my bill, MMS resisted this much needed reform during the entire legislative process. Fortunately, Congress saw the wisdom and need for the law and sent it to the President and it became effective in August, 1996.

Why is Congressional action needed, Mr. President? Despite the obvious importance of the oil and gas industry to our national economy and global stability, the MMS has failed to get the message we sent them in 1996 that the American people can no longer tolerate their ineffective and inefficient bureaucracy. The MMS valuation rules contain complicated formulas that can be both confusing and inaccurate. These ambiguous rules lead inevitably to expensive disputes and litigation that unnecessarily drain resources of the federal government and the lessees.

To ensure that the American people receive their full and fair value of production royalties from oil and gas produced on federal lands, we need to create a royalty valuation system that provides certainty, simplicity and fairness to the federal government, States, oil and gas producers and the American taxpayers. Only by doing this will companies want to take the risk of spending their capital to develop and produce federal oil and gas for our nation's use and benefit. It is important that we maintain the viability of existing production on federal lands and encourage development of the new frontiers of production in the deep waters off our coastlines.

Mr. President, my colleagues from New Mexico, Alaska, Texas and Louisiana, Senators DOMENICI, MURKOWSKI, HUTCHISON and BREAUX, join me today in introducing the Royalty Enhancement Act which is the Senate companion of H.R. 3334, a bill introduced this session by Congressman THORNBERRY. This bill cuts through the horrendously complicated and ambiguous current rules and provides certainty, simplicity and fairness to both the taxpayers and the companies who enter into oil and gas leases with the federal government.

This legislation will replace the current complicated and complex system of royalty valuation with a much clearer, simpler method of royalty payment that would avoid valuation disputes. This method will allow companies to pay the federal government its royalty share in actual barrels of oil or cubic feet of natural gas.

The bill contains a comprehensive well-designed royalty payment method that will streamline auditing and accounting systems for both the government and the producers and will reduce administrative costs. Reduced costs will help keep production economic for a longer period, extending the life of producing wells and thus providing more royalties from this continued production. The best way to be absolutely certain that the government receives fair market value at the lease is for the government to take production in-kind and have it marketed and sold by qualified private sector marketers who possess the expertise and experience to receive the best value for the United States.

Mr. President, it is not fair to subject companies who produce oil and gas on federal lands to the whim of the MMS with their record of retroactive second-guessing of valuation years after oil and gas has been produced and sold. It is fundamentally unfair to the American people for the agency's uncertain and ambiguous rules and practices to create delay in receipt of royalty revenues to the Treasury and to bear the expense of the government's bureaucracy. For these reasons, I am introducing the Royalty Enhancement Act of 1998.

Mr. President, 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. 1930

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Royalty Enhancement Act of 1998.''

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

SEC. 2. DEFINITIONS.

In this Act:

(1) AFFILIATE; AFFILIATED.—

(A) The term ''affiliate'' or ''affiliated'' means that a person controls, is controlled by, or is under common control with another person. Affiliation shall be determined on a lease-by-lease and asset-by-asset basis.

(B) For the purposes of this Act, based on the instruments of ownership—

(i) Ownership in excess of 50 percent constitutes control.

(ii) Ownership of at least 10 percent and not more than 50 percent creates a rebuttable presumption of control only if each owner has a separate and independent right to control or utilize the capacity of the asset.

(iii) Ownership of less than 10 percent does not constitute control.

(2) COMPENSATORY ROYALTY.—The term ''compensatory royalty'' means a payment made to a royalty owner as compensation for loss of income that it may suffer due to a lease being drained of oil and gas by wells drilled on lands adjacent to the lands subject to the lease.

(3) COMPRESSION.—The term ''compression'' means the process of raising the pressure of gas.

(4) CONDENSATE.—The term ''condensate'' means liquid hydrocarbons (normally exceeding 40 degrees of API gravity) recovered at the surface without resorting to processing. Condensate is that stabilized mixture of liquid hydrocarbons at atmospheric pressure that results from condensation of petroleum hydrocarbons existing initially in a gaseous phase in an underground reservoir.

(5) DELIVERY POINT.—The term ''delivery point'' means—

(A) for a lease premise for which a production measurement meter is approved in accordance with applicable laws before the date of enactment of this Act—

(i) subject to clause (ii), the existing approved meter location, or

(ii) a delivery point requested by a lessee and approved in accordance with subparagraph (B); or

(B) for a lease premise for which no production measurement meter is approved before the date of the enactment of this Act, that point on or near the lease premises, approved by the appropriate agency in accordance with applicable laws and regulations, where lease production can be measured and reported in a manner that is practical, economical, and verifiable, except that such point may be at a location off the lease premises where, if necessary, production can be allocated back to the lease premises.

(6) ELIGIBLE SMALL REFINER.—The term ''eligible small refiner'' means a refiner that—

(A) has applied to the Secretary for certification as an eligible small refiner;

(B) has a total crude oil and condensate refining capacity (including the refining capacity of any person who controls, is controlled by, or is under common control with such refiner) not exceeding 100,000 barrels per day;

(C) is a corporation, company, partnership, trust or estate organized under the laws of the United States or of any State, territory, or municipality thereof, or is a person who is a United States citizen; and

(D) has continuously operated a refinery in the United States for no less than 6 months immediately preceding the date of application for certification as an eligible small refiner.

(7) ELIGIBLE SMALL REFINER PORTION.—The term ''eligible small refiner portion'' means the portion of all royalty oil volumes required to be offered for sale to eligible small refiners. The eligible small refiner portion shall be 40 percent of all royalty oil volumes, unless the Secretary determines that a greater share is in the public interest.

(8) FERC.—The term ''FERC'' means the Federal Energy Regulatory Commission.

(9) FIELD.—The term ''field'' means a geographic region situated over one or more subsurface oil or gas reservoirs that encompass at least the outermost boundaries of all oil and gas accumulations known to be within those reservoirs vertically projected to the land service.

(10) FORCE MAJEURE.—The term ''force majeure'' means foreseen and unforeseen acts of God, strikes, lockouts, or other industrial disturbances, acts of the public enemy, wars, blockades, insurrections, riots, epidemics, landslides, lightning, hurricanes or storms, hurricane or storm warnings which, in the judgment of the party affected by such event, require the precautionary shutdown or evacuation of Production facilities, earthquakes, fires, floods, washouts, disturbances, explosions, accidental breakage to lines of pipe, machine breakage, freezing of wells or lines of pipe, partial or entire failure of wells, and any other cause of a similar nature beyond the reasonable control

of the party affected which renders that party unable to carry out its obligations under this Act. Force majeure as used in this Act shall not include market conditions.

(11) GAS.—The term ''gas'' means any fluid, whether combustible, noncombustible, hydrocarbon, or nonhydrocarbon, that—

(A) is extracted from a reservoir;

(B) has neither independent shape nor volume;

(C) tends to expand indefinitely; and

(D) exists in a gaseous or rarefied state under standard temperature and pressure conditions.

(12) GATHERING.—The term ''gathering'' means the movement of unseparated, unidentifiable lease production upstream of the delivery point to a central accumulation point on or immediately adjacent to the lease premises, unit, or communitized area.

(13) GISB.—The term ''GISB'' means the Gas Industry Standards Board, as incorporated in the State of Delaware on September 26, 1994.

(14) LEASE OPERATOR; OPERATOR.—Each of the terms ''lease operator'' and ''operator'' means any person, including a lessee, who has control of or who manages operations on lease premises, according to the terms of the joint operating agreement or any other agreement or method by which an operator is designated, on Federal onshore lands or who has been designated as an operator on the outer continental shelf by applicable law.

(15) LEASE PREMISES.—The term ''lease premises'' means all land and interests in land owned by the United States that are subject to an oil and gas lease issued under the mineral leasing laws, including mineral resources of mineral estates reserved to the United States in the conveyance of a surface or non-mineral estate.

(16) LEASE PRODUCTION.—The term ''lease production'' means any produced oil or gas that is attributable to, originating from, or allocated to a Federal onshore or an outer continental shelf lease premises.

(17) LESSEE.—The term ''lessee'' means any person to whom the United States issues an oil and gas lease, or any person to whom operating rights under an oil and gas lease have been assigned.

(18) MERCHANTABLE CONDITION; MARKETABLE CONDITION.—Each of the terms ''merchantable condition'' and ''marketable condition'' means the condition of oil or gas that is sufficiently free of impurities to meet the requirements of or is accepted by the first transporter of royalty oil and royalty gas from that lease premises either prior to or at the delivery point. Whether or not lease production is in merchantable condition shall not affect the responsibility for the bearing of costs of gathering or transportation, as provided by this Act.

(19) MINIMUM ROYALTY.—The term ''minimum royalty'' means that minimum amount of annual royalty that a lessee must pay, as specified in the lease or in applicable leasing regulations.

(20) NET PROFIT SHARE LEASE ROYALTY PRIOR TO PAYOUT.—The term ''net profit share lease royalty prior to payout'' means the specified share of the net profit from production of oil and gas as provided in the lease.

(21) OIL.—The term ''oil''—

(A) means a mixture of hydrocarbons that exists in the liquid phase in natural underground reservoirs and remains liquid at atmospheric pressure after passing through surface separating facilities; and

(B) includes condensate.

(22) OIL AND GAS LEASE; LEASE.—Each of the terms ''oil and gas lease'' and ''lease'' means any contract, profit-share arrangement, or other agreement issued or maintained in accordance with the Outer Continental Shelf Lands Act (43 U.S.C. 1301 et seq.) or the Mineral Land Leasing Act (30 U.S.C. 181 et seq.) and issued or approved by the United States that authorizes exploration for, extraction of, or removal of oil or gas.

(23) OPERATING RIGHTS.—The term ''operating rights'' means the interest created by a lease or derived therefrom authorizing the holder of that interest to enter upon the lease premises to conduct drilling and related operations, including production of oil or gas from such lands in accordance with the terms of the lease. A record title owner is the owner of operating rights under a lease except to the extent that the operating rights or a portion thereof have been transferred from record title.

(24) PERSON.—The term ''person'' means an individual natural person, proprietorship, firm (private or public), corporation, business, limited liability company, unincorporated association, association, partnership, trust, consortium, joint venture, joint stock company.

(25) PROCESSING; PROCESS.—Each of the terms ''processing'' and ''process''—

(A) means any process designed to remove elements or compounds (hydrocarbon and nonhydrocarbon) from oil or gas;

(B) includes absorption, adsorption, or refrigeration; and

(C) does not include lease or field processes, such as natural pressure reduction, mechanical separation, heating, cooling, dehydration, and compression on the upstream side of the delivery point.

(26) PRODUCING; PRODUCED; PRODUCTION.—The term ''producing'', ''produced'', or ''production'' means the act of bringing hydrocarbons to the surface.

(27) QUALIFIED MARKETING AGENT.—The term ''qualified marketing agent'' means a person with whom the Secretary has contracted to receive, handle, transport, deliver, market, process, dispose of, broker, or sell, or any combination thereof, royalty oil or royalty gas taken in kind by the United States from, or that is attributable to, an oil and gas lease.

(28) REGULATED PIPELINE; REGULATED FACILITY.—Each of the terms ''regulated pipeline'' and ''regulated facility''—

(A) means a pipeline, truck, tanker, barge, or other modality of carriage for oil or gas, the operation of which is subject to regulation by a State governmental authority or Federal governmental authority (or both) with respect to the rates that may be charged shippers for transportation service; and

(B) includes, but is not limited to—

(i) a pipeline performing the interstate movement of gas subject to regulation by the Federal Energy Regulatory Commission under the Natural Gas Act (15 U.S.C. 717 et seq.);

(ii) a pipeline whose movements of oil are subject to regulation by the Federal Energy Regulatory Commission under the Interstate Commerce Act (49 U.S.C. 1 et seq.); and

(iii) any pipeline, truck, tanker, barge or other modality of carriage for Oil or Gas whose rates for carriage are regulated by a governmental authority under State law.

(29) ROYALTY GAS.—The term ''royalty gas'' means that fraction or percentage of gas produced from or attributable to lease premises, that the United States as lessor is entitled to take in kind under the terms of an oil and gas lease.

(30) ROYALTY OIL.—The term ''royalty oil'' means that fraction or percentage of oil produced from or attributable to lease premises, that the United States as lessor is entitled to take in kind under the terms of an oil and gas lease.

(31) ROYALTY SHARE.—The term ''royalty share'' means that fraction or percentage of royalty oil or royalty gas (or both) produced from or attributable to lease premises, that the United States as lessor is entitled to take in kind under the terms of an oil and gas lease.

(32) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(33) TENDER.—The term ''tender'' means the act by which a lessee makes royalty oil or royalty gas produced from lease premises available to the United States for receipt.

(34) TRANSPORTATION; TRANSPORT.—Each of the terms ''transportation'' and ''transporting'' means any movement (including associated or related activities to facilitate movement such as compression and dehydration), upstream or downstream of the delivery point of royalty oil or royalty gas that is not gathering as defined herein including movement described as transportation in this paragraph. Such transportation shall include but not limited to—

(A) the movement of unseparated, unidentifiable lease production to a point not on or immediately adjacent to the lease premises, unit, or communitized area; and

(B) any movement of separated, identifiable lease production regardless of whether such movement is on or off the lease premises, unit or communitized area.

(35) TRANSPORTER.—The term ''transporter'' means a person or entity who is transporting or providing transportation.

(36) UNITED STATES.—The term ''United States'' means the United States of America and any agency, department, or instrumentality thereof.

SEC. 3. RIGHTS, OBLIGATIONS, AND RESPONSIBILITIES.

(a) RIGHTS, OBLIGATIONS, AND RESPONSIBILITIES OF THE UNITED STATES.—

(1) GENERAL RULE.—Except as otherwise provided in section 8 of this Act, all royalty oil and royalty gas accruing to the United States under any oil and gas lease shall be taken in kind by the United States at the applicable delivery point for each lease premises.

(2) OWNERSHIP AND RECEIPT BY UNITED STATES.—Ownership of all right, title and interest in royalty oil and royalty gas produced from oil and gas lease premises governed by this Act shall remain in the United States until sale or other disposition by the United States. Nothing in this Act shall limit the right of the United States to have royalty oil or royalty gas stored after its production in such tanks or other surface facilities as the lessee may be expressly obligated to furnish under any applicable lease term. The United States shall not delay or defer the receipt of lease production, delay receipt of new production, or physically segregate the royalty share prior to receipt by the United States. The United States shall have custody, possession, and responsibility attendant thereto for royalty oil and royalty gas at and beyond the delivery point.

(3) SELECTION OF AND CONTRACTS WITH A QUALIFIED MARKETING AGENCY.—(A) Except as provided in subsection (b), the Secretary shall, for each lease premises, contract with a person to act as a qualified marketing agent to market and dispose of royalty oil and royalty gas. Each qualified marketing agent shall be authorized to advise and consult with the Secretary on the sale and disposition of the royalty oil and royalty gas and to directly sell and broker the royalty oil and royalty gas.

(B) To be eligible for a contract under this paragraph to act as a qualified marketing agent, a person must have the expertise necessary to receive, handle, transport, deliver, market, process, dispose, broker, or sell royalty oil and royalty gas in accordance with

this Act. Under rules promulgated by the Secretary, the Secretary may designate any person as ineligible or place other requirements on a person to act as a qualified marketing agent for a particular lease premises under this paragraph by reason of such person being affiliated with persons engaged in the, transporting, processing, or purchasing of oil or gas for that lease premises.

(C) The Secretary shall contract with not more than one qualified marketing agent for each lease premises for royalty oil and not more than one qualified marketing agent for each lease premises for royalty gas.

(D) The Secretary shall solicit competitive bids for contracts for qualified marketing agents. The Secretary shall promulgate final rules within 12 months after the date of the enactment of this Act regarding the competitive manner in which qualified marketing agents shall be selected.

(E) The compensation of each qualified marketing agent—

(i) shall be determined and made by the Secretary without further appropriation based on the services to be performed by the qualified marketing agent; and

(ii) shall be established in the contract between the qualified marketing agent and the United States.

(F) Except as otherwise provided in subsection (b), the Secretary shall be solely responsible for obtaining and contracting with qualified marketing agents and shall be authorized to pay qualified marketing agents from proceeds derived from the sale of royalty oil and royalty gas without further appropriation.

(G) Each contract shall—

(i) require the qualified marketing agent to dispose of and sell royalty oil and royalty gas in an open, nondiscriminatory, and competitive manner; and

(ii) prohibit the qualified marketing agent from precluding any person from competing for the handling, gathering, transporting, marketing, processing, or purchasing of royalty oil and royalty gas solely by reason of the person being a lessee or person affiliated with a lessee, qualified marketing agent; gatherer, royalty payor, transporter, processor, or purchaser.

(8) To further the purposes of this Act the Secretary shall be provided the greatest latitude in contracting with qualified marketing agents to market and dispose of royalty oil or royalty gas, contracts with qualified marketing agents under this Act shall be exempted from otherwise applicable federal procurement and property disposition laws, including but not limited to the Armed Services Procurement Act of 1947, 10 U.S.C. 2304, et seq. or the Federal Property Administration Services Act, 41 U.S.C. 253, et seq., or their implementing regulations.

(4) TRANSPORTATION COST.—Each contract under paragraph (3) shall require the Secretary to bear the costs of any transportation of royalty oil and royalty gas without further appropriation as specified by this Act incurred prior to the sale or other disposition of the royalty oil and royalty gas by the qualified marketing agent.

(5) PROCESSING.—The qualified marketing agent under paragraph (3) shall—

(A) have the right to process royalty oil and royalty gas, after receipt at the delivery point for the recovery and sale of valuable products; and

(B) require the Secretary to bear any applicable costs of exercising such right without further appropriation.

(6) COMPLIANCE WITH STANDARDS.—In taking in kind, processing, and shipping royalty oil and royalty gas, the United States and its qualified marketing agent shall comply with all procedures which are customary or required of processors and shippers, including but not limited to the applicable FERC-approved GISB standards, nominations of volumes, scheduling of deliveries, and the movement of oil or gas in or through the facilities of the initial transporter and any subsequent transporter. The United States and its qualified marketing agent shall separately contract with transporters, purchasers, and processors. The Secretary and his qualified marketing agent shall assume responsibility and any liability associated with such duties.

(7) FAIR MARKET VALUE REQUIREMENTS.—The net proceeds received by the United States from the sale of royalty oil and royalty gas shall satisfy in full the Secretary's responsibility to receive fair market value as defined by any applicable statute or lease provision.

(b) RIGHTS, OBLIGATIONS AND RESPONSIBILITIES OF STATES.—

(1) SELECTION OF QUALIFIED MARKETING AGENTS.—At its option and for the mutual benefit of the United States and the State, a State entitled to revenues under the provisions of section 35 of the Mineral Leasing Act (30 U.S.C. 191) or section 8(g) of the Outer Continental Shelf Lands Act (43 U.S.C. 1353) may elect to act on behalf of the Secretary in selecting qualified marketing agents to sell or dispose of royalty oil or royalty gas produced from lease premises with the State or from section 8(g) lease premises adjacent to the State, whichever is applicable. If it makes such an election, the State shall enjoy all the rights and assume all obligations that the United States would otherwise have under this Act. If a State selects a qualified marketing agent that has contracted to market production from State leases, the contract with the qualified marketing agent shall be on terms no less favorable to the interests of the United States than the contract with the State. A State may make such an election from time to time in accordance with paragraph (4).

(2) COMPLIANCE WITH REQUIREMENTS.—A State that elects to act under this section shall—

(A) exercise such rights in accordance with the requirements established by this Act governing royalty in kind; and

(B) be subject to the rights, responsibilities, and obligations of the United States under this Act, as may be applicable, including those set forth in subsection (a) and in no event shall regulations be applicable to a State which do not apply in substance to the United States to the extent required by applicable law.

(3) NOTICE; EFFECTIVE PERIOD OF ELECTION.—A State may elect to act under this section after giving the Secretary 90 days notice. The election is effective 90 days after the date the Secretary receives notice of the election. The election shall remain in effect for a period of not less than 3 years. After the initial term, a State must give sufficient notice to the United States, but in no event less than 180 days, to terminate an election period.

(4) COVERED OIL AND GAS.—A State's election under this subsection shall apply to all royalty oil and royalty gas within the State and section 8(g) lands adjacent to the State, as applicable.

(5) EXISTING CONTRACTS.—If a contract between a qualified marketing agent and the United States exists that has not expired, the State's election shall be subject to that existing contract.

(6) LIMITATION ON DEDUCTIONS FROM STATE SHARE OF RECEIPTS.—If a State makes an election under this section, payment of the State's share of receipts for the sale of royalty oil and royalty gas shall be made without deductions for costs applicable to the services provided by the State under the net receipts sharing provisions of the Mineral Leasing Act.

(c) RIGHTS, OBLIGATIONS, AND RESPONSIBILITIES OF THE LESSEE.—

(1) EFFECT OF TENDER BY LESSEE.—A lessee shall tender royalty oil and royalty gas to the United States at the delivery point for each lease premises, except as provided in section 6. Upon such tender for any lease premises, all royalty obligations of the lessee shall be considered fulfilled and fully satisfied for the amount tendered, including any express or implied obligation or duty to market, except as provided in section 6. If the United States fails to take in kind the entire volume tendered, the lessee's obligation or duty shall nonetheless be fully satisfied.

(2) MEASUREMENT OF LEASE PRODUCTION.—A lessee shall measure or cause to be measured lease production, including royalty oil and royalty gas, at the delivery point in accordance with any applicable laws and lease terms.

(3) TERMINATION OF RESPONSIBILITIES OF LESSEE.—A lessee shall have no responsibility or obligation for royalty oil or royalty gas after tendering it in accordance with paragraph (1) and shall not be liable for any costs or liability downstream of the delivery point associated with the royalty oil or royalty gas.

(4) REPORTING AND RECORDKEEPING.—With respect to royalty oil and royalty gas taken in kind by the United States, a lessee shall not be subject to the reporting and RECORD KEEPING requirements of the Federal Oil and Gas Royalty Management Act (30 U.S.C. 1701 et seq.) or other applicable laws for any lease, other than records or reports necessary to verify the quantity of royalty oil or royalty gas produced from a lease premises.

(d) RIGHTS, OBLIGATIONS, AND RESPONSIBILITIES OF QUALIFIED MARKETING AGENTS.—

(1) IN GENERAL.—In accordance with the terms of its contract with the United States, a qualified marketing agent shall—

(A) advise and consult with the United States regarding the terms and conditions of sales to purchasers;

(B) arrange for the receipt, handling, transporting, delivery, marketing, processing, disposition, brokering and sale of royalty oil and royalty gas; and

(C) be authorized to enter into sales contracts on behalf of the United States.

(2) MOVEMENT OF ROYALTY OIL AND ROYALTY GAS.—A qualified marketing agent shall be authorized to make any arrangements necessary to move royalty oil and royalty gas downstream of the applicable delivery point, and shall be authorized to enter into transportation and processing contracts on behalf of the United States.

(3) REQUIREMENT TO TAKE.—A qualified marketing agent shall be required to take 100 percent of the royalty share tendered by the lessee from each lease premises on a daily basis.

(4) ENHANCEMENT OF REVENUES TO UNITED STATES.—In handling, marketing, and disposing of royalty oil and royalty gas, a qualified marketing agent shall utilize its experience and expertise to seek opportunities to enhance revenues to the United States, including opportunities for the sale of royalty oil and royalty gas at or away from the lease premises, depending on the facts and circumstances relevant to receiving, handling, transporting, delivering, marketing, processing, disposition, brokering, and sale of the royalty oil or royalty gas.

(5) AFFILIATE TRANSACTIONS.—Qualified marketing agent sales to itself or an affiliate shall be made in accordance with the following standards:

(A) When selling royalty oil and royalty gas to an affiliate, a qualified marketing

agent shall not give preference to an affiliate, including but not limited to, favoring the affiliate with lower sales prices, rights of first refusal or more favorable terms than those offered to nonaffiliated purchasers of royalty oil and royalty gas.

(B) The managing employee of the qualified marketing agent shall periodically certify that it has complied with these provisions. The civil penalty provisions of section 109(d) of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1719(d)) shall apply to any qualified marketing agent who violates subparagraph (A).

SEC. 4. COSTS RESPONSIBILITY.

(a) MERCHANTABLE CONDITION.—The lessee shall bear the costs of placing royalty oil and royalty gas in merchantable condition at the delivery point, if not produced in such condition at the well: *Provided, however,* That gathering and transportation costs under this Act shall be governed solely by section 4(b) and section 5, and responsibility for such costs shall not be dependent upon whether the royalty oil or royalty gas is in merchantable condition at the time of gathering or transportation.

(b) GATHERING AND TRANSPORTATION OF ROYALTY OIL AND ROYALTY GAS.—

(1) GATHERING.—The lessee shall bear the costs of gathering royalty oil and royalty gas.

(2) TRANSPORTATION.—The United States shall bear the costs of transporting royalty oil and royalty gas to and beyond the delivery point until disposition or sale by the United States. Transportation costs shall include associated or related activities to facilitate movement, such as the costs of compression and dehydration associated with transportation. The movement of unseparated, unidentifiable lease production to a point not on or immediately adjacent to the lease premises, unit or communitized area and the movement of separated, identifiable lease production regardless of whether such movement on or off the lease premises, unit or communitized area shall be considered transportation. Transportation costs shall be governed solely by the definitions and provisions in this Act relating to transportation and responsibility for the payment of such costs shall not be dependent upon whether the royalty oil and royalty gas is in merchantable condition at the time of transportation.

(c) LIMITATION ON LESSEE'S RESPONSIBILITY FOR COSTS.—With respect to all royalty oil and royalty gas taken in kind by the United States, the lessee shall bear no costs other than those specifically identified in this section. After the royalty share is taken in kind, the United States shall dispose of and market its royalty oil and royalty gas and the lessee shall have no obligation to dispose of or market the United States royalty share of production.

(d) REIMBURSEMENT OF COSTS.—In bearing the cost of transporting royalty oil and royalty gas, the United States shall reimburse the lessee for transportation costs without further appropriation in accordance with the provisions of subsection (b) of this section and section 5.

SEC. 5 TRANSPORTER CHARGES.

(a) DETERMINATION.—The lessee or its affiliate shall determine and calculate, where applicable, the transportation charges governed by this Act in accordance with subsections (b) and (c).

(b) REIMBURSEMENT FOR TRANSPORTATION COSTS PRIOR TO THE DELIVERY POINT.—

(1) TRANSPORT BY REGULATED PIPELINE OR FACILITY.—Reimbursement to a lessee for costs of transporting royalty oil and royalty gas produced by the lessee and subsequently transported through a regulated pipeline or facility before the delivery point shall be—

(A) for nonaffiliated transactions, the actual rate paid under the tariff by the lessee, or

(B) for affiliated transactions, the lower of the tariff rate or the actual rate paid under the tariff.

(2) TRANSPORT BY SHIPMENT-BY-SHIPMENT TARIFF JURISDICTION PIPELINE OR FACILITY.—Reimbursement to a lessee for transportation costs incurred to transport royalty oil through a pipeline or facility for which jurisdiction for purposes of a tariff is determined on a shipment-by-shipment basis, shall be the tariff rate for all shipments by the lessee through the same pipeline or facility if there is a shipment through the pipeline or facility to which a tariff applies.

(3) TRANSPORT BY UNREGULATED PIPELINE OR FACILITY.—(A) Reimbursement to a lessee for transportation costs incurred to transport royalty oil or royalty gas through an unregulated pipeline or facility before the delivery point shall be—

(i) for nonaffiliated transactions, the actual costs incurred by the lessee; or

(ii) for affiliated transactions—

(I) if third party oil or gas is being transported through the pipeline or facility, the weighted average (by volume) third party charge; or

(II) if no third party oil or gas is being transported through the pipeline or facility, not to exceed the pipeline or facility owner's or its affiliate's costs of operating the pipeline or facility, including a return on undepreciated capital investment, subject to paragraph (4).

(B) For purposes of subparagraph (A)(ii)(II) the term ''costs of operating'' means the sum of the following:

(i) Direct operating, maintenance, and repair costs and expenses.

(ii) Indirect costs (including but not limited to costs such as information systems, business services and technical services) allocated to the pipeline or facility, in an amount not exceeding 15 percent of the amount of direct costs that applies under clause (I).

(iii) An allowance for capital investment calculated on the basis of either of the following, as may be, elected by the lessee:

(I) depreciation, plus a return on the undepreciated capital, or

(II) a return on depreciable capital investment.

Return under subclauses (I) and (II) shall be at a rate equal to twice the rate payable for bonds with a Standard and Poor's industrial BBB bond rating.

(4) ALLOWANCE OF HIGHER TRANSPORTATION COSTS.—If the amount specified in paragraph (3)(A)(ii) does not adequately reflect the costs of the transportation services provided by a lessee or its affiliate, the lessee may request a different transportation reimbursement from the Secretary. For pipelines in more than 200 meters of water, the Secretary may allow a higher rate of return, sufficient for an investment in the fabricating, installing, operating, and maintaining such pipelines as compared to pipelines in waters of less than 200 meters.

(5) RESTRICTION ON DISCLOSURE.—The United States and its qualified marketing agent shall keep confidential and shall not disclose the transportation charge or any facts or information related thereto used by a lessee or its affiliate for reimbursement under this subsection.

(c) CHARGES FOR TRANSPORTATION COSTS BEYOND THE DELIVERY POINT.—

(1) IN GENERAL.—Charges by the lessee or its affiliate for transportation of royalty oil or royalty gas through an unregulated pipeline or facility beyond the delivery point shall be a negotiated rate, that—

(A) shall not exceed the highest rate charged for transportation provided to a third party, if third party oil or gas is being transported through the pipeline or facility; or

(B) shall be the fair commercial value of the transportation services provided by the lessee or its affiliate if no third party oil or gas is being transported through the pipeline or facility.

(2) DETERMINATION OF COMMERCIAL VALUE.—The standard to be used to determine the commercial value for purposes of paragraph (1)(B) shall be based upon the transportation services provided and not on the ownership of the pipeline or facility by the lessee or its affiliate.

(d) ARBITRATION.—

(1) IN GENERAL.—If negotiations between a qualified marketing agent and an entity owning the pipeline or facility do not result in a mutually agreeable negotiated charge for transportation under subsection (c), then the qualified marketing agent on behalf of the Secretary or the entity owning the pipeline or facility may, at any time during the negotiation, require that such matter be submitted to arbitration in accordance with this subsection.

(2) SELECTION OF ARBITRATORS.—Any dispute regarding a charge for transportation that is not resolved by agreement shall be determined by a panel of 3 arbitrators upon written notice given by either party to the other, which notice shall also name one arbitrator. The party receiving such notice shall, within 10 business days thereafter, by written notice to the other party, name the second arbitrator, or failing to do so, the first party who gave notice shall name the second arbitrator. The two arbitrators so appointed shall name the third, or failing to do so within 5 business days then upon the request of either party, the third arbitrator shall be a certified arbitrator appointed by a professional arbitrator association. Whether appointed by the two party-named arbitrators or by a professional arbitration association, the third arbitrator shall be knowledgeable about and experienced in the transportation of oil or gas or both, as applicable.

(3) HEARING.—An arbitration hearing shall be held within 20 calendar days following the selection of the third arbitrator. At the hearing, each party shall submit a proposed transportation rate and evidence to support such rate as it sees fit.

(4) DECISION.—The panel of arbitrators shall determine which of the rates submitted by the parties shall be the transportation charge used. The arbitrators shall render a written decision within 10 calendar days after the hearing under paragraph (3) based on a majority vote of the 3 arbitrators. Such decision shall be final and binding on the United States, the qualified marketing agent, and the lessee and its affiliate, and shall be enforceable in any court having jurisdiction.

(5) EXPENSES.—Each party shall bear its expenses of prosecuting its own case in any arbitration, and the parties shall share equally any other expenses of the arbitration, including compensation for the third arbitrator at a rate that is fair and reasonable to the United States.

(6) USE OF EMPLOYEE OF PARTY AS ARBITRATOR.—(A) Any arbitrator named by the parties may be permanent or temporary officer or employee of the Federal or State Government, or an employee of any party to the dispute, if all parties agree that the person may serve.

(B) In implementing this paragraph, the qualified marketing agent on behalf of the Secretary may use the services of one or more employees of other agencies to serve as arbitrators to be named by the qualified

marketing agent. The Secretary may enter into an interagency agreement that provides for the reimbursement by the user agency or the parties of the full or partial costs of the services of such an employee.

(7) LIMITATION ON DISCLOSURE.—Any party (including the United States and its qualified marketing agent) to an arbitration proceeding shall keep confidential and shall not disclose the results of the arbitration or any facts, evidence, or information related thereto provided in confidence to the arbitrators.

(8) INTERIM RATE.—(A) The royalty oil and royalty gas shall be transported at the dispute rate during the interim period, subject to an obligation to refund if the rate is later reduced as a result of arbitration.

(B) Any refund under subparagraph (A) shall be made with interest at the average short-term rate as specified in section 6621 of the Internal Revenue Code of 1986.

(9) DELAY OR CURTAILMENT OF PRODUCTION PROHIBITED.—At no time during such arbitration or dispute shall lease production be delayed or curtailed.

SEC. 6. IMBALANCES.

(a) REQUIREMENT TO RESOLVE IMBALANCES.—

(1) IN GENERAL.—If the amount of royalty oil or royalty gas production taken by the United States from a lease premises during a calendar month differs from the amount of royalty oil or royalty gas production attributable to that lease premises for that calendar month, and the difference results from the circumstances described in paragraph (2), the difference (in this section referred to as a ''royalty share imbalance'') shall be resolved in accordance with this section.

(2) CIRCUMSTANCES.—The circumstances referred to in paragraph (1) are the following:

(A) A force majeure event at the delivery point that prevents the United States transporter from receiving royalty oil or royalty gas;

(B) A failure by the United States or its qualified marketing agent to receive, transport, and market its royalty oil or royalty gas tendered for a one-time occurrence of not more than 3 consecutive days in any calendar quarter; or

(C) A difference between the amount made available to the United States at the delivery point by the lease operator on behalf of the lessee and the United States royalty share of total production.

(b) IMBALANCE ACCOUNTS.—

(1) MAINTENANCE OF INFORMATION.—Each lease operator shall maintain information on the quantity of royalty oil and royalty gas produced from or attributable to each lease premises and the amount of royalty oil or royalty gas production taken by the United States from each lease premises. The information shall include—

(A) the quantities of royalty oil and royalty gas taken in kind by the United States at the delivery point;

(B) the quantities of royalty oil and royalty gas produced from and attributed to the lease premises; and

(C) the current month and cumulative royalty share imbalances.

(2) REPORT.—(A) Each lease operator shall—

(i) submit a royalty share imbalance report to the qualified marketing agent for the United States with respect to the lease no later than 60 days after the expiration of each month of production from the lease; or

(ii) if all information for the report is not available by such date, file or cause to be filed with the qualified marketing agent a report that contains estimated quantities, and file a revised final report showing actual quantities no later than 60 days after information on all actual quantities is received.

(B) The royalty share imbalance report submitted under subparagraph (A) to the qualified marketing agent shall constitute formal notice of a royalty share imbalance, which shall be remedied in accordance with subsection (c).

(c) MANAGING IMBALANCES.—

(1) IN GENERAL.—If a royalty share imbalance occurs during any calendar month, the lease operator shall work with the United States (through its qualified marketing agent) to settle the royalty share imbalance in a manner consistent with the existing production balancing agreements or practices among operating rights owners.

(2) ROYALTY OIL IMBALANCE.—In the case of a royalty share imbalance with respect to royalty oil, and in the absence of multiple operating rights owners, additional quantities of oil may be taken by either a lessee or the United States through its qualified marketing agent to expeditiously settle such royalty share imbalance as soon as is reasonably practicable, as determined by the lease operator.

(3) ROYALTY GAS IMBALANCE.—(A) In the case of a royalty share imbalance with respect to royalty gas during any calendar month and in the absence of multiple operating rights owners, the lease operator shall work with the United States (through its qualified marketing agent) to arrange for increased or decreased quantities of gas to be taken beginning the month after receipt of such notice by qualified marketing agent, to expeditiously settle such royalty share imbalances as soon as is reasonably practicable.

(B) Additional quantities taken in a month by either a lessee or the United States to reduce a royalty share imbalance with respect to royalty gas shall not exceed 25 percent of that month's royalty gas.

(C) Until final settlement pursuant to subsection (d), royalty share imbalances with respect to royalty gas shall be reduced chronologically in the order in which they were created.

(d) FINAL IMBALANCE REPORT AND FINAL SETTLEMENT.—

(1) FINAL IMBALANCE REPORT.—Upon permanent cessation of production from a lease, the lease operator shall file a final imbalance report that—

(A) contains the information described in subsection (b); and

(B) states that the lease premises has permanently ceased production and that a royalty share imbalance exists.

(2) FINAL SETTLEMENT.—The parties to a royalty share imbalance shall settle such royalty share imbalance using the same final settlement procedures as set forth in the existing production balancing agreement between the operating rights owners, if any. In the absence of such an agreement, within 60 days of the final imbalance report, each party that received excess quantities shall, at its option, make delivery of the excess quantities or make a cash payment, to the parties who received insufficient quantities. The cash payment shall be based on the net proceeds (in terms of actual value received) from the sale of such excess quantities for value at the lease premises or the lessee may make delivery of the imbalance volume. No interest shall accrue, prior to the date of any settlement, on any imbalance.

SEC. 7. ROYALTY-IN-KIND FOR TRUCKED, TANKERED, OR BARGED OIL OR GAS.

(a) APPLICATION.—This section shall apply to royalty oil or royalty gas produced from onshore or offshore lease premises for which there is no pipeline connection at the well such that the royalty oil and royalty gas is transported by truck, tanker, or barge from the lease premises.

(b) SELECTION OF TRANSPORTER.—

(1) IN GENERAL.—To further the efficient and cost-effective taking of royalty oil or royalty gas in kind from such lease premises, the qualified marketing agent shall select and utilize a transporter who is transporting oil or gas for a lessee from the lease premises, or for the operator of the lease premises.

(2) EXCEPTION.—Royalty oil or royalty gas taken in kind may be transported in any other manner agreed to by the qualified marketing agent and the lessee or lease operator.

(c) RELATIONSHIP TO OTHER LAWS.—

(1) LAWS REGARDING OIL OR GAS TRANSPORTATION.—This section shall not alter or abridge any State or Federal law regulating the transportation of oil or gas by truck, tanker, or barge.

(2) FEDERAL ROYALTY PREPAYMENT PROVISIONS.—Nothing in this Act shall modify, abridge, or alter the provisions of section 7(b) of the Federal Oil and Gas Royalty Simplification and Fairness Act (30 U.S.C. 1726) with respect to the prepayment of royalty.

SEC. 8. LIMITATIONS ON APPLICATION.

(a) LEASE ROYALTY CLAUSES AND ROYALTY PAYMENTS.—This Act does not apply to royalty payments of the following types:

(1) Compensatory royalties.

(2) Minimum royalties.

(3) Net profit share lease royalties prior to payout.

(b) PRIOR ROYALTY RATE REDUCTION DETERMINATIONS.—This Act shall not modify or alter any royalty rate reduction determination made by the Secretary before or after the date of enactment of this Act. The amount of royalty oil and royalty gas taken in kind by the Secretary shall be the amount calculated by such reduced royalty rate.

(c) AUDIT OF ELIGIBLE SMALL REFINER.—The Secretary shall have the right to audit the reports of eligible small refiners related to the volume of royalty oil received as are required under the provisions of this Act during normal business hours, at reasonable times, to verify the accuracy of such reports.

SEC. 9. REPORTING.

(a) REPORTING BY LEASE OPERATOR.—A lease operator on behalf of the lessee shall provide or cause to be provided all volume reports required under the oil and gas lease to the United States, but shall be relieved of the obligation of providing any royalty related and all royalty-in-value reports for any royalty oil or royalty gas taken in kind by the United States required pursuant to the oil and gas lease terms or applicable statutes. A lease operator on behalf of the lessee shall make available or cause to be made available such information as is customarily provided to third party sellers of lease production on a timely basis.

(b) REPORTING BY QUALIFIED MARKETING AGENT.—A qualified marketing agent shall provide or cause to be provided to the United States any valuation or related royalty reports required by the Secretary.

SEC. 10. AUDIT.

(a) AUDIT OF LEASE OPERATOR.—The Secretary shall have the right to audit the reports the Lease Operator files on behalf of lessees related to the volume of oil and gas produced as are required under this Act during normal business hours, at reasonable times to verify the accuracy of such reports.

(b) AUDIT OF QUALIFIED MARKETING AGENT.—The Secretary shall have the right to audit the reports of qualified marketing agents required under this Act during normal business hours, at reasonable times, to verify the accuracy of such reports. Any information and records regarding sales of royalty oil and royalty gas shall be obtained, where necessary, from a qualified marketing agent.

SEC. 11. LEASE TERMS NOT AFFECTED.

In accordance with the terms of oil and gas leases issued by the Secretary, the Secretary shall exercise the right to be paid oil and gas royalties in amount pursuant to this Act and lessee shall pay such oil and gas royalties in amount pursuant to provisions of this Act. Nothing in this Act shall alter or abridge the rights of a lessees under an oil and gas lease, including the right to explore for, operate, drill for, or produce oil and gas or to otherwise operate the lease. The rights, duties, or obligations that exist between the United States and a lessee which arise under an oil and gas lease with respect to oil or gas used on the lease premises or gas unavoidably lost prior to the delivery point shall not be affected, abridged, or altered by this Act. When oil or gas is used on, or for the benefit of, a lease premises at a facility handling production from more than one lease premise, or at a facility handling unitized or communitized production, the proportionate share of each lease's production (actual or allocated) necessary to operate the facility may be used royalty-free.

SEC. 12. ELIGIBLE AND SMALL REFINERS.

(a) SALE OF ROYALTY OIL TO ELIGIBLE SMALL REFINERS.—(1) The Secretary shall direct qualified marketing agents to offer for sale to eligible small refiners the eligible small refiner portion in accordance with the provisions set forth in this section.

(2) The sale of royalty oil from the eligible small refiner portion to an eligible small refiner is intended for processing, or trading for equivalent barrels for processing, in the eligible small refiner's refineries located in the United States and not for resale in-kind or value.

(3) The Secretary shall annually review and recertify or withdraw the continuing eligibility of previously certified eligible small refiners.

(4) The eligible small refiner portion shall be offered to eligible small refiners from royalty oil volumes to be sold by each qualified marketing agent. The Secretary shall maintain a current list of all Eligible Small Refiners. Upon the selection of a Qualified Marketing Agent by the Secretary, the Secretary shall promptly notify all Eligible Small Refiners of the selection of the Qualified Marketing Agent. The notification shall contain the name and address of the Qualified Marketing Agent as well as a brief description of the federal leases and lease products to be marketed by that Qualified Marketing Agent. Within 15 days after notice by the Secretary, any Eligible Small Refiner who is interested in receiving Royalty Oil from the leases of the Qualified Marketing Agent, shall submit a Notice of Interest to the Qualified Marketing Agent. The Notice shall generally state the volumes location and quality of Royalty Oil desired by the Small Refiner. When marketing Royalty Oil, the Qualified Marketing Agent shall contact the Small Refiner(s) who has (have) submitted a Note of Interest and shall offer to sell the 40% portion to the Small Refiner(s) who submitted a Notice. The Small Refiner shall purchase such Royalty Oil at the weighted average price for the remaining volumes of like quality at the same location sold by the Qualified Marketing Agent.

(5) Nothing in this section shall preclude any eligible small refiner from participating in any open and advertised or negotiated sale by qualified marketing agents. Royalty oil volumes obtained by any eligible small refiner in any open and advertised or negotiated sale shall not be included in calculating limitations on eligibility as defined in subsection (b).

(b) LIMITATIONS ON ELIGIBILITY.—No eligible small refiner may purchase royalty oil from the eligible small refiner portion for delivery at a rate that exceeds 60 percent of the combined crude oil and condensate distillation capacity of that eligible small refiner's currently operating refineries located in the United States unless the Secretary determines that it is in the public interest to allow all eligible small refiners to purchase royalty oil at a greater rate. The Secretary shall promulgate rules and regulations to determine an eligible small refiner's current operating capacity.

(c) FEES, CREDITWORTHINESS, AND SURETY REQUIREMENTS.—(1) The purchase of royalty oil from the eligible small refiner portion pursuant to this section shall not be subject to any fees or charges not required of all purchasers of royalty oil.

(2) The Secretary shall establish conditions for each eligible small refiner's creditworthiness at the time of determining and reviewing eligibility.

(3) Creditworthiness requirements for eligible small refiners shall not exceed standard industry requirements governing non-Federal crude oil purchasers, and the Secretary may not require surety in excess of the estimated value of 60 days anticipated deliveries of royalty oil from the eligible small refiner portion to individual eligible small refiners.

(d) ELIGIBLE SMALL REFINER ADVISORY PANEL.—The Secretary shall convene an eligible small refiner advisory panel to assist in developing policies and procedures to implement the provisions of this Act. The eligible small refiner advisory panel shall be comprised of representatives from 3 small refiners, 3 qualified marketing agents and 3 lesses who have participated in the small refiner program established pursuant to section 36 of the Mineral leasing Act (30 U.S.C. 192) or section 1353 of the Outer Continental Shelf Lands Act (43 U.S.C. 1353).

(e) Pursuant to the recommendations of the Small Refiner's Advisory Group, the Secretary shall develop and implement procedures to ensure a fair and equitable opportunity for interested eligible small refiners to purchase royalty oil from the eligible small refiner portion.

(f) REPORTS ON RIK.—The Secretary may require any eligible small refiner to submit a report demonstrating the eligible small refiner's compliance with subsection (a)(2).

(g) REPEAL OF EXISTING ROYALTY-IN-KIND AUTHORITY.—Section 36 of the Mineral Leasing Act (30 U.S.C. 192) and section 1353 of the Outer Continental Shelf Lands Act (43 U.S.C. 1353) are repealed.

SEC. 13. APPLICABLE LAWS.

(a) MOVEMENT, DISPOSITION, AND SALE OF ROYALTY OIL AND ROYALTY GAS.—In arranging for the movement, disposition and sale of royalty oil and royalty gas, the United States and its qualified marketing agents shall be subject to all laws that apply to the movement, disposition, and sale of oil and gas.

(b) NO ADDITIONAL PRIORITY OF SERVICE OR MOVEMENT.—In any pipeline, truck, barge, railroad, or other carrier downstream of the delivery point, royalty oil and royalty gas shall not be afforded a priority of service or movement, nor assigned a capacity right which is superior to that identified in—

(1) the contract for carriage of royalty oil and royalty gas entered into by the transporter with the United States or the qualified marketing agent, or

(2) the tariff applicable to such carrier, if any.

(c) MEANING OF TERMS USED.—The meaning of the terms used in this Act shall be supplemented by reference to generally accepted accounting principles and prevailing industry practices and procedures.

(d) LAWS APPLICABLE TO STRIPPER OR MARGINAL PRODUCTION NOT AFFECTED.—Nothing in this Act shall modify, abridge or alter the provisions of the Deep Water Royalty Relief Act of 1995 (43 U.S.C. 1337), or any other Federal law applicable to stripper or marginal production.

SEC. 14. INDIAN LANDS.

This Act shall not apply with respect to Indian lands.

SEC. 15. EFFECTIVE DATE; REGULATIONS.

(a) IN GENERAL.—Except as provided in subsection (b), this Act shall become no later than effective 18 months after the date of enactment of this Act, and shall apply with respect to the production of oil and gas on or after the first day of the month following the effective date of this Act.

(b) REGULATIONS.—The Secretary shall issue all regulations required for implementation of this Act within one year after the date of enactment of this Act.

Mr. DOMENICI. Mr. President, the current royalty system is an elaborate after-the-fact game of ''Gotch ya.''

Producers are put in the unenviable position of being second-guessed, some times years later, by the Minerals Management Service (MMS). This current system is unfair to oil and gas producers. It is expensive and inefficient for the federal government.

Under the current system, only the lawyers benefit. It results in a lot of law suits and big legal bills.

The MMS tried to fix the system by proposing a ''producer is always the loser rule.''

Under the proposed rules, (now abandoned) the producers would have always lost. The MMS tried a rule tying the fair market value to the NYMEX.

If producers sold their production for less than the NYMEX price, they would have had to pay the royalty on the ''phantom'' income i.e. the difference between the price they actually received and the NYMEX price. If, on the other hand, they sold their production for more than the NYMEX, they would have had to pay the royalty on the amount they actually received. This would have been a very unsatisfactory approach.

Fortunately, most independent producers don't have to use that approach. However, the existing valuation formula for calculating fair market value is complicated, fraught with exceptions, and hard to administer.

The question: What is fair market value for oil is not as simple as it sounds.

Some of the variable factors include the quality or refinery value of crude oil; the transportation costs necessary to move that oil to a refiner; relative access to various refineries or markets which may value a particular type of crude oil differently; the supply, vis-a-vis, the demand for certain types of oil or alternative supplies, and whether the contract is a long-term or short-term commitment made by either the refiner or the producer.

Other factors that influence value include: the volume of the crude oil produced at the lease. This could affect the unit logistical costs; seasonality; and service requirements of the producer.

Another question more complicated than it sounds is this: What are the appropriate, allowable, deductible expenses?

Under the current system it costs the MMS about $60 million annually to debate this question and to administer our royalty collection program. It takes several hundred employees, many of them auditors, to oversee the current royalty program. In contrast, royalty-in-kind programs in Canada need only 33 employees to administer their approach.

With a royalty-in-kind system, the producer would give some of its production from the federal lands as a royalty-in-kind payment.

A royalty-in-kind program is an accurate way to determine a fair market value. The federal government would sell its share of the oil on an open and competitive market. What you can sell it for is, per se, fair market value. That is the essence of what the ''Royalty-in-Kind'' Program, along with the use of the Qualified Marketing Agents (''QMA''), would allow.

The goal should be treating the producers fairly, maximizing revenues for the federal government, and distributing an accurate amount of royalties to the states.

The bill being introduced today by Senator NICKLES, MURKOWSKI, HUTCHINSON and I would provide a better way for the federal government and the Minerals Management Service (MMS) to collect, with certainly, a fair value for its crude oil.

PROVISIONS OF THE BILL

The federal government would take its royalty ''in kind'' at the applicable delivery point for each federal onshore and offshore lease.

Title of the royalty share taken in-kind would be in the name of the federal government.

The U.S. would contract with qualified marketing agents (QMAs).

The federal government would select a QMA for each lease on a competitive bid basis.

States entitled to revenues under the net receipts sharing provisions of the Mineral Leasing Act or Section 8(g) of the Outer Continental Shelf Lands Act would be allowed to elect to select the QMA.

In selecting a QMA, the State would act for the mutual benefit of the State and the federal government. The payment from the federal government to any State for its share of royalty taken in-kind from federal leases within a State's boundary would not be subject to cost deductions under the net receipts sharing provisions of the applicable statutes.

The lessee must tender the royalty share at the delivery point. This would completely satisfy the lessee's royalty obligation.

The lessee would bear the costs of place royalty oil and royalty gas in a merchantable condition at the delivery point. The lessee would be responsible for gathering costs. Transportation costs would be borne by the federal government.

Mr. President, this is an excellent approach. My only concern is that the final legislative product adequately address the problem of the marginal well that produces a few barrels a day and is in an isolated area. The legislation needs to make sure that there is a workable mechanism for these isolated wells.

I also note that some, including the New Mexico state lands commissioner, have suggested a multi-state pilot program prior to moving to the nationwide royalty-in-kind program. I respect those views.

I hope, that as we move through the hearing process the Committee can take testimony on whether to proceed with a multi-state pilot program or whether existing pilots have provided sufficient information for us to implement a national program.

I want to recognize Senator NICKLES for his leadership on this issue and look forward to working with him, Senator MURKOWSKI and Senator HUTCHISON on moving this legislation through the process so that we can start a royalty-in-kind program in the near future.

ADDITIONAL COSPONSORS

S. 364

At the request of Mr. LIEBERMAN, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 364, a bill to provide legal standards and procedures for suppliers of raw materials and component parts for medical devices.

S. 414

At the request of Mrs. HUTCHISON, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 414, a bill to amend the Shipping Act of 1984 to encourage competition in international shipping and growth of United States imports and exports, and for other purposes.

S. 597

At the request of Mr. BINGAMAN, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 597, a bill to amend title XVIII of the Social Security Act to provide for coverage under part B of the medicare program of medical nutrition therapy services furnished by registered dietitians and nutrition professionals.

S. 1069

At the request of Mr. MURKOWSKI, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 1069, a bill entitled the ''National Discovery Trails Act of 1997.''

S. 1251

At the request of Mr. D'AMATO, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 1251, a bill to amend the Internal Revenue Code of 1986 to increase the amount of private activity bonds which may be issued in each State, and to index such amount for inflation.

S. 1325

At the request of Mr. FRIST, the names of the Senator from Maine (Ms. COLLINS) and the Senator from Minnesota (Mr. WELLSTONE) were added as cosponsors of S. 1325, a bill to authorize appropriations for the Technology Administration of the Department of Commerce for fiscal years 1998 and 1999, and for other purposes.

S. 1334

At the request of Mr. BOND, the name of the Senator from Louisiana (Mr. BREAUX) was added as a cosponsor of S. 1334, a bill to amend title 10, United States Code, to establish a demonstration project to evaluate the feasibility of using the Federal Employees Health Benefits program to ensure the availablity of adequate health care for Medicare-eligible beneficiaries under the military health care system.

S. 1360

At the request of Mr. ABRAHAM, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 1360, a bill to amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to clarify and improve the requirements for the development of an automated entry-exit control system, to enhance land border control and enforcement, and for other purposes.

S. 1406

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. 1406, a bill to amend section 2301 of title 38, United States Code, to provide for the furnishing of burial flags on behalf of certain deceased members and former members of the Selected Reserve.

S. 1680

At the request of Mr. DORGAN, the name of the Senator from Wyoming (Mr. THOMAS) was added as a cosponsor of S. 1680, a bill to amend title XVIII of the Social Security Act to clarify that licensed pharmacists are not subject to the surety bond requirements under the medicare program.

S. 1868

At the request of Mr. NICKLES, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 1868, a bill to express United States foreign policy with respect to, and to strengthen United States advocacy on behalf of, individuals persecuted for their faith worldwide; to authorize United States actions in response to religious persecution worldwide; to establish an Ambassador at Large on International Religious Freedom within the Department of State, a Commission on International Religious Persecution, and a Special Adviser on International Religious Freedom within the National Security Council; and for other purposes.

S. 1873

At the request of Mr. COCHRAN, the name of the Senator from Texas (Mr. GRAMM) was added as a cosponsor of S. 1873, a bill to state the policy of the

United States regarding the deployment of a missile defense system capable of defending the territory of the United States against limited ballistic missile attack.

S. 1882

At the request of Mr. JEFFORDS, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 1882, a bill to reauthorize the Higher Education Act of 1965, and for other purposes.

S. 1900

At the request of Mr. D'AMATO, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. 1900, a bill to establish a commission to examine issues pertaining to the disposition of Holocaust-era assets in the United States before, during, and after World War II, and to make recommendations to the President on further action, and for other purposes.

S. 1903

At the request of Mr. THOMAS, the names of the Senator from Minnesota (Mr. GRAMS), the Senator from Alaska (Mr. MURKOWSKI), the Senator from New Hampshire (Mr. SMITH), and the Senator from Virginia (Mr. WARNER) were added as cosponsors of S. 1903, a bill to prohibit the return of veterans memorial objects to foreign nations without specific authorization in law.

SENATE CONCURRENT RESOLUTION 50

At the request of Mr. HUTCHINSON, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of Senate Concurrent Resolution 50, a concurrent resolution condemning in the strongest possible terms the bombing in Jerusalem on September 4, 1997.

SENATE CONCURRENT RESOLUTION 77

At the request of Mr. SESSIONS, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of Senate Concurrent Resolution 77, a concurrent resolution expressing the sense of the Congress that the Federal government should acknowledge the importance of at-home parents and should not discriminate against families who forego a second income in order for a mother or father to be at home with their children.

SENATE RESOLUTION 176

At the request of Mr. DOMENICI, the names of the Senator from South Dakota [Mr. JOHNSON], the Senator from Vermont [Mr. JEFFORDS], the Senator from Missouri [Mr. BOND], and the Senator from Texas [Mrs. HUTCHISON] were added as cosponsors of Senate Resolution 176, a resolution proclaiming the week of October 18 through October 24, 1998, as ''National Character Counts Week.''

SENATE RESOLUTION 194

At the request of Mrs. HUTCHISON, the name of the Senator from Georgia [Mr. COVERDELL] was added as a cosponsor of Senate Resolution 194, a resolution designating the week of April 20 through April 26, 1998, as ''National Kick Drugs Out of America Week.''

AMENDMENT NO. 2176

At the request of Mrs. BOXER the names of the Senator from Maryland [Mr. SARBANES], the Senator from Washington [Mrs. MURRAY], the Senator from South Dakota [Mr. JOHNSON], the Senator from Massachusetts [Mr. KENNEDY], the Senator from New Mexico [Mr. BINGAMAN], and the Senator from Louisiana [Ms. LANDRIEU] were added as cosponsors of amendment No. 2176 proposed to S.Con.Res. 86, an original concurrent resolution setting forth the congressional budget for the United States Government for fiscal years 1999, 2000, 2001, 2002, and 2003 and revising the concurrent resolution on the budget for fiscal year 1998.

AMENDMENT NO. 2189

At the request of Mr. FRIST the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of amendment No. 2189 intended to be proposed to S.Con.Res. 86, an original concurrent resolution setting forth the congressional budget for the United States Government for fiscal years 1999, 2000, 2001, 2002, and 2003 and revising the concurrent resolution on the budget for fiscal year 1998.

AMENDMENT NO. 2205

At the request of Mr. JOHNSON his name was added as a cosponsor of amendment No. 2205 proposed to S.Con.Res. 86, an original concurrent resolution setting forth the congressional budget for the United States Government for fiscal years 1999, 2000, 2001, 2002, and 2003 and revising the concurrent resolution on the budget for fiscal year 1998.

AMENDMENT NO. 2208

At the request of Mrs. HUTCHISON the names of the Senator from Minnesota [Mr. GRAMS] and the Senator from Arizona [Mr. KYL] were added as cosponsors of amendment No. 2208 proposed to S.Con.Res. 86, an original concurrent resolution setting forth the congressional budget for the United States Government for fiscal years 1999, 2000, 2001, 2002, and 2003 and revising the concurrent resolution on the budget for fiscal year 1998.

AMENDMENT NO. 2215

At the request of Mr. KERREY the names of the Senator from Nevada [Mr. REID], and the Senator from Illinois [Ms. MOSELEY- BRAUN] were added as cosponsors of amendment No. 2215 proposed to S.Con.Res. 86, an original concurrent resolution setting forth the congressional budget for the United States Government for fiscal years 1999, 2000, 2001, 2002, and 2003 and revising the concurrent resolution on the budget for fiscal year 1998.

AMENDMENT NO. 2221

At the request of Mr. KYL the names of the Senator from New York [Mr. D'AMATO], and the Senator from Pennsylvania [Mr. SANTORUM] were added as cosponsors of amendment No. 2221 proposed to S.Con.Res. 86, an original concurrent resolution setting forth the congressional budget for the United States Government for fiscal years 1999, 2000, 2001, 2002, and 2003 and revising the concurrent resolution on the budget for fiscal year 1998.

AMENDMENT NO. 2224

At the request of Mr. JEFFORDS his name was added as a cosponsor of amendment No. 2224 proposed to S.Con.Res. 86, an original concurrent resolution setting forth the congressional budget for the United States Government for fiscal years 1999, 2000, 2001, 2002, and 2003 and revising the concurrent resolution on the budget for fiscal year 1998.

AMENDMENT NO. 2229

At the request of Mrs. FEINSTEIN the names of the Senator from California [Mrs. BOXER] and the Senator from New Mexico [Mr. BINGAMAN] were added as cosponsors of amendment No. 2229 proposed to S.Con.Res. 86, an original concurrent resolution setting forth the congressional budget for the United States Government for fiscal years 1999, 2000, 2001, 2002, and 2003 and revising the concurrent resolution on the budget for fiscal year 1998.

AMENDMENT NO. 2237

At the request of Mr. KERREY the name of the Senator from New Hampshire [Mr. GREGG] was added as a cosponsor of amendment No. 2237 proposed to S.Con.Res. 86, an original concurrent resolution setting forth the congressional budget for the United States Government for fiscal years 1999, 2000, 2001, 2002, and 2003 and revising the concurrent resolution on the budget for fiscal year 1998.

AMENDMENT NO. 2243

At the request of Mr. LAUTENBERG the names of the Senator from New York [Mr. MOYNIHAN], the Senator from Vermont [Mr. JEFFORDS], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Massachusetts (Mr. KERRY), the Senator from Illinois (Ms. MOSELEY-BRAUN), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Illinois (Mr. DURBIN), the Senator from Maryland (Ms. MIKULSKI), the Senator from Connecticut (Mr. DODD), the Senator from Montana (Mr. BAUCUS), the Senator from Vermont (Mr. LEAHY), and the Senator from Texas (Mrs. HUTCHISON) were added as cosponsors of amendment No. 2243 proposed to S.Con.Res. 86, an original concurrent resolution setting forth the congressional budget for the United States Government for fiscal years 1999, 2000, 2001, 2002, and 2003 and revising the concurrent resolution on the budget for fiscal year 1998.

AMENDMENT NO. 2246

At the request of Mr. LAUTENBERG his name was added as a cosponsor of amendment No. 2246 proposed to S.Con.Res. 86, an original concurrent resolution setting forth the congressional budget for the United States Government for fiscal years 1999, 2000, 2001, 2002, and 2003 and revising the concurrent resolution on the budget for fiscal year 1998.

AMENDMENT NO. 2253

At the request of Mr. STEVENS the names of the Senator from West Virginia (Mr. BYRD), the Senator from South Dakota (Mr. DASCHLE), the Senator from Michigan (Mr. LEVIN), and

the Senator from New Jersey (Mr. LAUTENBERG) were added as cosponsors of amendment No. 2253 proposed to S.Con.Res. 86, an original concurrent resolution setting forth the congressional budget for the United States Government for fiscal years 1999, 2000, 2001, 2002, and 2003 and revising the concurrent resolution on the budget for fiscal year 1998.

AMENDMENT NO. 2258

At the request of Mr. FRIST the name of the Senator from Illinois (Ms. MOSELEY-BRAUN) was added as a cosponsor of amendment No. 2258 proposed to S.Con.Res. 86, an original concurrent resolution setting forth the congressional budget for the United States Government for fiscal years 1999, 2000, 2001, 2002, and 2003 and revising the concurrent resolution on the budget for fiscal year 1998.

AMENDMENT NO. 2263

At the request of Mr. SANTORUM the names of the Senator from California (Mrs. BOXER), the Senator from Ohio (Mr. DEWINE), the Senator from New Jersey (Mr. TORRICELLI), and the Senator from Vermont (Mr. JEFFORDS) were added as cosponsors of amendment No. 2263 proposed to S.Con.Res. 86, an original concurrent resolution setting forth the congressional budget for the United States Government for fiscal years 1999, 2000, 2001, 2002, and 2003 and revising the concurrent resolution on the budget for fiscal year 1998.

At the request of Mr. LEAHY his name was added as a cosponsor of amendment No. 2263 proposed to S.Con.Res. 86, supra.

AMENDMENT NO. 2265

At the request of Mr. COCHRAN his name was added as a cosponsor of amendment No. 2265 proposed to S.Con.Res. 86, an original concurrent resolution setting forth the congressional budget for the United States Government for fiscal years 1999, 2000, 2001, 2002, and 2003 and revising the concurrent resolution on the budget for fiscal year 1998.

At the request of Mrs. MURRAY her name was added as a cosponsor of amendment No. 2265 proposed to S.Con.Res. 86, supra.

At the request of Mrs. FEINSTEIN her name was added as a cosponsor of amendment No. 2265 proposed to S.Con.Res. 86, supra.

At the request of Mr. KEMPTHORNE the names of the Senator from Vermont (Mr. JEFFORDS), the Senator from Oregon (Mr. WYDEN), the Senator from Missouri (Mr. BOND), the Senator from South Dakota (Mr. JOHNSON), the Senator from Illinois (Mr. DURBIN), the Senator from Illinois (Ms. MOSELEY-BRAUN), the Senator from Louisiana (Ms. LANDRIEU), the Senator from Florida (Mr. GRAHAM), the Senator from Oregon (Mr. SMITH), the Senator from North Dakota (Mr. CONRAD), the Senator from Idaho (Mr. CRAIG), the Senator from California (Mrs. BOXER), the Senator from North Dakota (Mr. DORGAN), and the Senator from Iowa (Mr. GRASSLEY) were added as cosponsors of amendment No. 2265 proposed to S.Con.Res. 86, supra.

At the request of Mr. FRIST his name was added as a cosponsor of amendment No. 2265 proposed to S.Con.Res. 86, supra.

AMENDMENT NO. 2266

At the request of Mr. GRAMM the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of amendment No. 2266 proposed to S.Con.Res. 86, an original concurrent resolution setting forth the congressional budget for the United States Government for fiscal years 1999, 2000, 2001, 2002, and 2003 and revising the concurrent resolution on the budget for fiscal year 1998.

At the request of Mr. BYRD his name was added as a cosponsor of amendment No. 2266 proposed to S.Con.Res. 86, supra.

AMENDMENT NO. 2268

At the request of Mr. COVERDELL the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of amendment No. 2268 proposed to S.Con.Res. 86, an original concurrent resolution setting forth the congressional budget for the United States Government for fiscal years 1999, 2000, 2001, 2002, and 2003 and revising the concurrent resolution on the budget for fiscal year 1998.

SENATE CONCURRENT RESOLUTION 88—CALLING ON JAPAN TO ESTABLISH AND MAINTAIN AN OPEN, COMPETITIVE MARKET FOR CONSUMER PHOTOGRAPHIC FILM AND PAPER

Mr. D'AMATO (for himself, Mr. MOYNIHAN, Mr. ASHCROFT, and Mr. BINGAMAN) submitted the following concurrent resolution; which was referred to the Committee on Finance:

S. Con. Res. 88

Whereas the current financial crisis in Asia underscores the fact that the health of the international economic system depends on open, competitive markets;

Whereas structural reform in Japan is critical to the resolution of the Asian financial crisis;

Whereas for many years the United States Trade Representative has reported to Congress in the National Trade Estimate on numerous barriers to entering and operating in the Japanese market;

Whereas Japan's restrictive policies deny opportunities to United States companies and their workers seeking access to Japanese markets;

Whereas the United States Trade Representative has engaged over the last several years in an intensive review of the Japanese distribution system;

Whereas on June 16, 1996, the United States Trade Representative found that the Government of Japan created and tolerated a market structure that impedes United States exports of consumer photographic film and paper;

Whereas the European Union has sought to remove these same barriers to distribution that restrain European exports to Japan;

Whereas it is important that United States companies and workers not be disadvantaged by other countries following Japan's model of protecting its market through a closed distribution system and other market access barriers;

Whereas a recent panel of the World Trade Organization failed to address the closed distribution system and market access barriers in Japan;

Whereas the Government of Japan has consistently stated that it is committed to deregulation, transparency, nondiscrimination, and open distribution systems accompanied by vigorous enforcement of competition laws;

Whereas the Government of Japan stated in recent proceedings of the World Trade Organization on consumer photographic film that it is committed to promote distribution policies that make the Japanese market more open to imports and to actively discourage restrictive business practices; and

Whereas fulfilling these public statements would benefit both United States trade and Japanese consumers, significantly raising the standard of living in Japan: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress—

(1) calls upon the Government of Japan to live up to the standards it has set for open competitive markets;

(2) calls upon the Government of Japan to fully implement the representations that it made to a dispute settlement panel of the World Trade Organization regarding deregulation, transparency, nondiscrimination, open distribution systems, and vigorous enforcement of competition laws with respect to consumer photographic film and paper as well as other sectors, such as autos and auto parts, glass, and telecommunications, that face similar market access barriers in Japan;

(3) urges the President, the United States Trade Representative, and other appropriate officers of the executive branch to exercise fully existing authority to achieve these objectives; and

(4) requests the President to report to Congress, not later than July 15, 1998, and not less frequently than every six months thereafter, regarding progress in eliminating market restrictions in Japan for consumer photographic film and paper.

Mr. D'AMATO. Mr. President, the current financial crisis in Asia underscores the need for open, competitive markets, free from manipulation. Clearly, industrial policy does not work. Managed trade and managed commerce is a failure. It simply does not work. Mr. President, we have said it all along—when you manipulate trade and erect barriers to open and free trade, the consumer gets hurt.

Mr. President, today we are submitting a resolution which is aimed at forcing Japan to put their money where their mouth is. This Resolution makes it clear that Japan must fulfill its publicly stated commitments to open its markets for photographic film and paper, and other sectors facing market access barriers. The bureaucrats in Japan should be on notice that the U.S. Congress will not tolerate their intervention into the free market. The United States maintains free and open markets in every sector of the economy. Americans should expect nothing less of any of our trading partners.

Plain and simple, Mr. President, the Japanese Government has allowed Fuji to use Japan's lax anti-trust laws and

closed-market system to erect barriers to free and open competition. The Japanese government, however, maintains that this is not true and that their markets are open and free. This Resolution will simply encourage the Japanese government to demonstrate their openness.

The Government of Japan has said publicly that they did not build, support, and tolerate a market structure that thwarts foreign competition, and in which exclusionary business practices are commonplace. This Resolution simply allows the Japanese government to demonstrate their resolve to open, free and fair trade.

Mr. MOYNIHAN. Mr. President, I wish to associate myself fully with the remarks of my distinguished colleague from New York. Kodak has compiled volumes of evidence, based on more than 100 years of experience in the Japanese market, that clearly document the thicket of laws and regulations that have the intent—and the effect—of curbing sales of foreign photographic film and paper. Through an elaborate system of restrictions on sales and distribution, Japan has succeeded in severely limiting market access for foreign film and paper.

Nearly three years ago, on May 18, 1995, Kodak filed a petition with the U.S. Trade Representative under section 301 of the Trade Act of 1974, urging action on the broad range of trade barriers. After a formal investigation, Ambassador Barshefsky found that Japan's practices were indeed in violation of our trade laws, and dispute settlement proceedings in the World Trade Organization were begun. The verdict from the WTO, issued in its final form on January 30, 1998, was a great disappointment. But certainly not the end of the argument, nor the end of Kodak's attempts to penetrate the Japanese market.

The resolution that I am pleased to cosponsor today emphatically endorses the initiative that Ambassador Barshefsky and Secretary Daley unveiled on February 3, 1998, which will put the Government of Japan to the test. During the course of the WTO proceedings, as my colleagues are aware, the Japanese Government asserted that its market was fully open to foreign film and paper. And so our government has proposed that we monitor that proposition, by collecting data and examining, every six months, the progress that Kodak—and other foreign suppliers—have made in competing in the Japanese film and paper market.

This initiative is worthy of our support, Mr. President, and I urge my colleagues to join in supporting this resolution.

Mr. ASHCROFT. Mr. President, The World Trade Organization (WTO) decision this year against the United States' photographic film and paper industry sounded an alarm for U.S. companies participating in the global arena. Rubber stamping Japanese-style protectionism, the WTO left American companies at a troubling disadvantage in Japan and other Asian countries that replicate the ''successful'' Japanese model. It is troubling that many ailing Asian economies, after being bailed out by U.S. tax dollars, are still pursuing protectionist trade practices against the very taxpayers that paid their bill.

In the film case, the WTO found that the Japanese market is open to the Eastman Kodak Co., despite the fact that Japan admits that its system of trade barriers was designed as a ''defensive measure for the substantial advances of Eastman Kodak after import liberalization'' under the General Agreement on Tariffs and Trade (GATT). This decision flies in the face of the U.S. film industry.

Equally intolerable is the fact that this Japanese-style protectionism is being used to block an array of critical U.S. exports. Even though Japan has the second largest flat glass market in the world, it has systematically excluded foreign imports through an exclusive distribution system in violation of its 1995 Flat Glass Agreement with the United States. The U.S. also has a ''market opening'' agreement with Japan on automobiles, but the Administration reported just recently that Japan has failed to keep the agreement's ''key objectives'' and has reversed progress made last year under the accord.

I am deeply alarmed at the danger that the WTO's misconceived ruling in this case will have. Japan now has a license from the WTO to shelter its domestic film and paper producers from competition. Under the WTO ruling, our Asian trading partners will be encouraged to follow in Japan's protectionist footsteps by taking two steps back for every one step forward in trade liberalization. For instance, China recently announced reductions in overall tariff levels from 23 to 17 percent, but China has been implementing an automobile industrial policy much like Japan's to undercut the gains achieved from tariff reductions.

It is time to stand up and say, ''No more.'' No more will we ignore mercantilist trade policies that block U.S. products and destroy American jobs. No more will we allow foreign companies to use their illegitimate gains from their closed market to subsidize exports to our open market. No more will we accept a playing field for our products that is not level. No more, Mr. President.

As the world's second largest economy, Japan must guarantee the same free and open access to its market as Japanese companies enjoy in the U.S. market. Without that guarantee, U.S. businesses are put at an immediate competitive disadvantage when entering the international arena.

Therefore, Senators D'AMATO, MOYNIHAN, BINGAMAN, and I rise today to submit a Sense of the Senate that the U.S. should use all available tools against Japan's toleration of a systematic anticompetitive market that impedes U.S. exports. We need to be able to reassure American companies and the many U.S. workers they employ that we are tough on countries that break the rules of free trade.

We also request the Clinton Administration take swift and aggressive action to open Japan's market, not just for film, but also for the U.S. industries that repeatedly struggle to address the intricate web of Japanese protectionism.

The Administration must confront Japan's trade barriers forcefully, or the competitiveness of U.S. companies in that market will be continually undermined. In 1996, the U.S. Trade Representative made a finding under Section 301 that Japan's restrictions on Kodak film were a burden to U.S. commerce and an impediment to U.S. film exports. However, the USTR office stated that using Section 301 to address such trade barriers is too aggressive a policy. I strongly disagree.

When the United States makes trade agreements, the American people expect them to be honored. If trade agreements can be violated without sanction by the WTO, then our rights must be secured through the use of our own law. The only alternative is to accept a new wave of protectionism in Japan and other nations.

I supported the Senate proposal on ''fast track'' authority for the President, but if this Administration is unable to ensure that our trading partners live up to their promises under agreements already negotiated, I see little reason to think that Congress will give fast track authority to pursue a new round of agreements. The Administration claims to have negotiated 30 separate free trade agreements with Japan, but U.S. exporters clearly are being denied the benefits they had expected from these agreements. Congress and the American people rightfully expect the Administration to ensure a level playing field for U.S. companies. The WTO's intolerable ruling in the Kodak film case requires you and your colleagues in the Administration to take a more activist and aggressive approach to opening Japanese markets across the board, before protectionism proliferates throughout Asia.

SENATE RESOLUTION 206—RELATIVE TO THE CRAZY HORSE MEMORIAL

Mr. CAMPBELL submitted the following resolution; which was referred to the Committee on Indian Affairs:

S. RES. 206

To recognize 50 years of efforts with respect to the creation of the Crazy Horse Memorial, honoring the great Oglala Sioux leader, Tasunke Witko, popularly known as ''Crazy Horse'', and to express the Sense of the Senate with respect to the Crazy Horse Memorial.

Whereas Tasunke Witko, popularly known as ''Crazy Horse'', was one of the greatest Native American warriors and spiritual leaders of the United States;

Whereas Crazy Horse fought to defend the rights and lives of the Sioux Indians and all Native Americans;

Whereas Crazy Horse is best known for leading a force of Cheyenne and Oglala Sioux warriors to victory over George Armstrong Custer in the Battle of Little Big Horn;

Whereas in 1940, several Sioux Indian chiefs invited the late sculptor, Korczak Ziolkowski, to create a memorial to their great leader, Crazy Horse, by carving a tribute to Crazy Horse into the Black Hills in South Dakota on a mountain popularly known as ''Thunderhead Mountain'';

Whereas on June 3, 1948, the Crazy Horse Memorial was dedicated, which is the date on which the first blast was made to shape the memorial on Thunderhead Mountain;

Whereas at the time of that dedication, Korczak Ziolkowski vowed that the Crazy Horse Memorial would be a nonprofit educational and cultural project that would be financed solely through private, nongovernmental sources;

Whereas Korczak Ziolkowski dedicated his life to the creation of the Crazy Horse Memorial and continued that work through his death on October 20, 1982; and

Whereas once complete, the Crazy Horse Memorial, with a height of 563 feet and length of 641 feet, will be the largest sculpture in the world: Now, therefore, be it

Resolved, That—

(1) the Senate recognizes—

(A) that June 3, 1998, commemorates the 50th anniversary of the blast on the mountain known as Thunderhead Mountain in the Black Hills of South Dakota that constituted the first step made toward the completion of the Crazy Horse Memorial;

(B) the admirable efforts of the late Korczak Ziolkowski, the sculptor responsible for the design and techniques involved in the creation of the Crazy Horse Memorial; and

(C) that the creation of the Crazy Horse Memorial, from its inception, has been accomplished through private donations and without any Federal funding; and

(2) it is the sense of the Senate that the Crazy Horse Memorial will constitute a tribute to—

(A) Tasunke Witko, a great Oglala Sioux warrior and spiritual leader; and

(B) all Native Americans.

Mr. Campbell. Mr. President, Congress is beginning its annual process of writing a budget and appropriating funds. This is important work and gets a great deal of media coverage and public scrutiny. But I think we tend to get so caught up in this process that we forget some people in this country accomplish great things without a single dollar from Washington.

One shining example is the Crazy Horse Memorial. The Ziolkowski family has worked for 50 years carving the image of the Oglala Sioux leader and his horse out of Thunder Mountain in South Dakota. They have relied entirely on private donations, twice turning down $10 million in federal funds.

Today I am submitting a resolution recognizing the 50th anniversary of the memorial and the efforts of the Ziolkowski family.

Crazy Hourse is a permanent fixture in our history as the man who led a force of Cheyenne and Oglala Sioux to victory over George Armstrong Custer at the Battle of Little Big Horn. thanks to the Ziolkowskis and their many benefactors, he will become a permanent fixture on our landscape as well.

Korczak Ziolkowski began this task at the request of Sioux Indian Chief Henry Standing Bear, who said ''My fellow chiefs and I would like the white man to know the red man has great heroes too.'' Though Korczak passed away in 1982, the work is continue by his widow, Ruth, and seven of their children. The ambition behind this project is breathtaking. When complete, it will be the largest sculpture in the world. All four of the heads on Mount Rushmore could fit inside Crazy Horse's head. Future plans call for a university and a medical training center to be built at the base of the mountain.

Mr. President, this resolution is about more than the dedication of the Ziolkowski family or the legacy of a great Indian leader. It honors the spirit of hard work and independence that make America the country it is. It honors all people who have followed a dream. I urge my colleagues to assist in its passage in time for the memorial's 50th anniversary on June 3, 1998.

SENATE RESOLUTION 208—CONCERNING THE YER 2000 TECHNOLOGY PROBLEM

Mr. LOTT (for himself and Mr. DASCHLE): submitted the following resolution; which was considered and agreed to.

S. RES. 208

SENATE RESOLUTION 207—RELATIVE TO THE VIETNAM VETERANS OF AMERICA

Mr. JEFFORDS (for himself, Mr. SPECTER, Mr. AKAKA, and Mr. LEAHY) submitted the following resolution; which was referred to the Committe on the Judiciary:

S. RES. 207

Whereas the year 1998 marks the 20th anniversary of the founding of the Vietnam Veterans of America;

Whereas the history of the Vietnam Veterans of America organization is a story of America's gradual recognition of the tremendous sacrifices of its Vietnam-era veterans and their families;

Whereas the Vietnam Veterans of America is dedicated to serving its membership through advocacy for its membership;

Whereas the Vietnam Veterans of America provides public and member awareness of critical issues affecting Vietnam-era veterans and their families;

Whereas the local grassroots efforts of Vietnam Veterans of America chapters like Chapter One in Rutland, Vermont, which was founded 18 years ago in April 1980, have greatly contributed to the quality of lives of veterans in our Nation's communities;

Whereas the Vietnam Veterans of America promotes its principles through volunteerism, professional advocacy, and claims work; and

Whereas the future of the Vietnam Veterans of America relies not only on its past accomplishments, but on future accomplishments of its membership that will ensure the Vietnam Veterans of America remains a leader among veterans advocacy organizations: Now, therefore, be it

Resolved, That the Senate—

(1) commemorates the 20th anniversary of the founding of the Vietnam Veterans of America and commends it for its advancement of veterans rights which set the standard for other veterans organizations around the country;

(2) asks all Americans to join in the celebration of the 20th birthday of the Vietnam Veterans of America and 20 years of advocacy for Vietnam veterans; and

(3) encourages the Vietnam Veterans of America to continue into the next millennium to represent and promote the goals of its organization in the veterans community and on Capitol Hill, and to continue organizing to keep its national membership of 51,000 members and 500 chapters strong.

Mr. JEFFORDS. Mr. President, I rise today with great pride and enthusiasm to submit a Senate Resolution Commemorating the 20th Anniversary of the founding of the Vietnam Veterans of America. This resolution has the cosponsorship of Senator SPECTER, Senator AKAKA and Senator LEAHY. The resolution also points out that April marks the 18th Anniversary of the founding of Vietnam Veterans of America's first local chapter in my home town of Rutland, Vermont.

Mr. President, the VVA is a Congressionally chartered national veterans service organization exclusively dedicated to Vietnam-era veterans and their families. In the late 1970s, America had come through its longest and most divisive war. Many of the millions of veterans who served during that period felt that their concerns were not being addressed by the veterans community and by the federal government.

In January, 1978, Bobby Muller and a small band of Vietnam veterans came to Washington, D.C. to create an advocacy organization to push for federal action to address the needs of this unique veteran population. The VVA, initially known as the Vietnam Veterans Coalition and then the Council of Vietnam Veterans, went to work focusing first on the dissemination of government information and coordination of relations between the federal government and the veteran.

In time it became clear that, like many other organizations, this one could not survive simply by making a good case for its initiatives—it needed to build a strong membership base in order to wield political power. By the summer of 1979, the new Vietnam Veterans of America began to focus on building its membership.

The growth of the organization was slow initially, but a breakthrough came following resolution of the American Hostage Crisis in Iran in January, 1981. It became clear to many Americans that if the hostages deserved a jubilant homecoming, so did the veterans of Vietnam. Vietnam veterans began to clamor for action in the form of programs that would place the last generation of wartime veterans on the same footing as veterans from previous wars.

The strength of the organization grew with the increase in membership. The public also became more willing to

deal with the neglected veterans issues unique to the Vietnam war. This culminated in the dedication of the Vietnam Veterans Memorial in November, 1982. The activities around the Memorial rekindled a sense of camaraderie among the veterans and the feeling of a shared experience too significant to ignore.

Since then, the VVA has made great strides in the kinds of services it provides to its membership, including the founding of the Vietnam Veterans of America Legal Services that provides assistance to veterans seeking benefits and services from the government. VVA has also published critical information around benefits for Post-Traumatic Stress Disorder and Agent Orange illnesses.

I can personally vouch for the incredible efforts of people like Albert and Mary Trombley, Jake Jacobsen, Dennis Ross, Clark Howland, and of course the late Mike Dodge and Don Bodette to establish and foster the growth of grassroots organizations like Chapter 1 in Rutland, Vermont. This individual leadership has ensured a steady growth in VVA's size, stature, and prestige.

The legislative accomplishments of the VVA through its high-profile presence on Capitol Hill have been impressive. Organizations like Vietnam-era Veterans in Congress, which now boasts 70 members, have served the overall membership well by supporting the pragmatic agenda of the VVA and sticking to its founding principle that ''Never again will one generation of veterans abandon another.''

Today, the VVA has a national membership of 51,000 with more than 500 chapters. VVA state councils in 43 states coordinate the activities and programs of its national organization, ensuring that grassroots input to Congress continues to ensure that the federal government meets its obligations to its Vietnam veterans.

Mr. President, this Resolution expresses the Senate's gratitude to the organization for its advocacy for its members and wishes it continued success in the years to come.

Resolved,

SECTION 1. ESTABLISHMENT OF THE SPECIAL COMMITTEE.

(a) ESTABLISHMENT.—There is established a special committee of the Senate to be known as the Special Committee on the Year 2000 Technology Problem (hereafter in this resolution referred to as the ''special committee'').

(b) PURPOSE.—The purpose of the special committee is—

(1) to study the impact of the year 2000 technology problem on the Executive and Judicial Branches of the Federal Government, State governments, and private sector operations in the United States and abroad;

(2) to make such findings of fact as are warranted and appropriate; and

(3) to make such recommendations, including recommendations for new legislation and amendments to existing laws and any administrative or other actions, as the special committee may determine to be necessary or desirable.

No proposed legislation shall be referred to the special committee, and the committee shall not have power to report by bill, or otherwise have legislative jurisdiction.

(c) TREATMENT AS STANDING COMMITTEE.—For purposes of paragraphs 1, 2, 7(a)(1)–(2), and 10(a) of rule XXVI and rule XXVII of the Standing Rules of the Senate, and section 202 (i) and (j) of the Legislative Reorganization Act of 1946, the special committee shall be treated as a standing committee of the Senate.

SEC. 2. MEMBERSHIP AND ORGANIZATION OF THE SPECIAL COMMITTEE.

(a) MEMBERSHIP.—

(1) IN GENERAL.—The special committee shall consist of 7 members of the Senate—

(A) 4 of whom shall be appointed by the President pro tempore of the Senate from the majority party of the Senate upon the recommendation of the Majority Leader of the Senate; and

(B) 3 of whom shall be appointed by the President pro tempore of the Senate from the minority party of the Senate upon the recommendation of the Minority Leader of the Senate.

The Chairman and Ranking Minority Member of the Appropriations Committee shall be appointed ex-offico members.

(2) VACANCIES.—Vacancies in the membership of the special committee shall not affect the authority of the remaining members to execute the functions of the special committee and shall be filled in the same manner as original appointments to it are made.

(3) SERVICE.—For the purpose of paragraph 4 of rule XXV of the Standing Rules of the Senate, service of a Senator as a member, chairman, or vice chairman of the special committee shall not be taken into account.

(b) CHAIRMAN.—The chairman of the special committee shall be selected by the Majority Leader of the Senate and the vice chairman of the special committee shall be selected by the Minority Leader of the Senate. The vice chairman shall discharge such responsibilities as the special committee or the chairman may assign.

SEC. 3. AUTHORITY OF SPECIAL COMMITTEE.

(a) IN GENERAL.—For the purposes of this resolution, the special committee is authorized, in its discretion—

(1) to make expenditures from the contingent fund of the Senate;

(2) to employ personnel;

(3) to hold hearings;

(4) to sit and act at any time or place during the sessions, recesses, and adjourned periods of the Senate;

(5) to require, by subpoena or otherwise, the attendance of witnesses and the production of correspondence, books, papers, and documents;

(6) to take depositions and other testimony;

(7) to procure the services of individual consultations or organizations thereof, in accordance with the provisions of section 202(i) of the Legislative Reorganization Act of 1946; and

(8) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a nonreimbursable basis the services of personnel of any such department or agency.

(b) OATHS FOR WITNESSES.—The chairman of the special committee or any member thereof may administer oaths to witnesses.

(c) SUBPOENAS.—Subpoenas authorized by the special committee may be issued over the signature of the chairman after consultation with the vice chairman, or any member of the special committee designated by the chairman after consultation with the vice chairman, and may be served by any person designated by the chairman or the member signing the subpoena.

(d) OTHER COMMITTEE STAFF.—The special committee may use, with the prior consent of the chairman of any other Senate committee or the chairman of any subcommittee of any committee of the Senate and on a nonreimbuseable basis, the facilities or services of any members of the staff of such other Senate committee whenever the special committee or its chairman, following consultation with the vice chairman, considers that such action is necessary or appropriate to enable the special committee to make the investigation and study provided for in this resolution.

(e) USE OF OFFICE SPACE.—The staff of the special committee may be located in the personal office of a Member of the special committee.

SEC. 4. REPORT AND TERMINATION.

The special committee shall report its findings, together with such recommendations as it deems advisable, to the Senate at the earliest practicable date.

SEC. 5. FUNDING.

(a) IN GENERAL.—From the date this resolution is agreed to through February 29, 2000, the expenses of the special committee incurred under this resolution shall not exceed $575,000 for the period beginning on the date of adoption of this resolution through February 28, 1999, and $575,000 for the period of March 1, 1999 through February 29, 2000, of which amount not to exceed $200,000 shall be available for each period for the procurement of the services of individual consultants, or organizations thereof, as authorized by section 202(i) of the Legislative Reorganization Act of 1946.

(b) PAYMENT OF BENEFITS.—The retirement and health benefits of employees of the special committee shall be paid out of the contingent fund of the Senate.

SENATE RESOLUTION 209—PROVIDING SECTION 302 ALLOCATIONS TO THE COMMITTEE ON APPROPRIATIONS

Ms. COLLINS submitted the following resolution; which was considered and agreed to:

S. RES. 209

Resolved, That (a) for the purposes of section 302(a) of the Congressional Budget Act of 1974 the estimated allocation of the appropriate levels of budget totals for the Senate Committee on Appropriations shall be—

For non-defense: (1) $289,547,000,000 in total budget outlays, (2) $255,450,000,000 in total new budget authority;

For defense: (1) $266,635,000,000 in total budget outlays, (2) $271,570,000,000 in total new budget authority;

For Violent Crime Reduction: (1) $4,953,000,000 in total budget outlays; and (2) $5,800,000,000 in total new budget authority;

For mandatory: (1) $291,731,000,000 in total budget outlays; and (2) $299,159,000,000 in total new budget authority,

until a concurrent resolution on the budget for fiscal year 1999 is agreed to by the Senate and the House of Representatives pursuant to section 301 of the Congressional Budget Act of 1974.

AMENDMENTS SUBMITTED

CONCURRENT RESOLUTION ON THE CONGRESSIONAL BUDGET

HUTCHINSON AMENDMENT NO. 2279

Mr. HUTCHINSON proposed an amendment to amendment No. 2218

proposed by Mr. DORGAN to the concurrent resolution (S. Con. Res. 86) setting forth the congressional budget for the United States Government for fiscal years 1999, 2000, 2001, 2002, and 2003 and revised the concurrent resolution on the budget for fiscal year 1998; as follows:

Strike all after the first word of the matter proposed to be inserted and insert the following:

_____. SENSE OF THE SENATE REGARDING PASSAGE OF THE SENATE FINANCE COMMITTEE'S IRS RESTRUCTURING BILL.

(a) FINDINGS.—The Senate finds that—

(1) the House of Representatives passed H.R. 2676 on November 5, 1997;

(2) the Finance Committee of the Senate has held several days of hearings this year on IRS restructuring proposals;

(3) the hearings demonstrated many areas in which the House-passed bill could be improved;

(4) on March 31, 1998, the Senate Finance Committee voted 20–0 to report an IRS restructuring package that contains more oversight over the IRS, more accountability for employees, and a new arsenal of taxpayer protections; and

(5) the Senate Finance package includes the following items which were not included in the House bill:

(A) removal of the statutory impediments to the Commission of Internal Revenue's efforts to reorganize the agency to create a more streamlined, taxpayer-friendly organization,

(B) the providing of real oversight authority for the Internal Revenue Service Oversight Board to help prevent taxpayer abuse,

(C) the creation of a new Treasury Inspector General for Tax Administration to ensure independence and accountability,

(D) real, meaningful relief for innocent spouses,

(E) provisions which abate penalties and interest after 1 year so that the IRS does not profit from its own delay,

(F) provisions which ensure due process of law to taxpayers by granting them a right to a hearing before the IRS can pursue a lien, levy, or seizure,

(G) provisions which forbid the IRS from coercing taxpayers to extend the 10-year statue of limitations of collection,

(H) provisions which require the IRS to terminate employees who abuse taxpayers or other IRS employees,

(I) provisions which make the Taxpayer Advocate more independent, and

(J) provisions enabling the Commissioner of Internal Revenue to manage employees more effectively.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the assumptions underlying the functional to totals in this budget resolution assume that the Senate shall, as expeditiously as possible, consider and pass an IRS restructuring bill which provides the most taxpayer protections, the greatest degree of IRS employee accountability, and enhanced oversight.

SEC. 302. SENSE OF CONGRESS REGARDING THE SUNSET OF THE INTERNAL REVENUE CODE OF 1986.

(a) FINDINGS.—Congress finds that a simple and fair Federal tax system in one that—

(1) applies a low tax rate, through easily understood laws, to all Americans;

(2) provides tax relief for working Americans;

(3) protects the rights of taxpayers and reduces tax collection abuses;

(4) eliminates the bias against savings and investment;

(5) promotes economic growth and job creation;

(6) does not penalize marriage or families; and

(7) provides for a taxpayer-friendly collections process to replace the Internal Revenue Service.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the provisions of this resolution assume that all taxes imposed under the Internal Revenue Code of 1986 shall sunset for any taxable year beginning after December 31, 2001 (or in the case of any tax not imposed on the basis of a taxable year, on any taxable event or for any period after December 31, 2001) and that a new Federal tax system will be enacted that is both simple and fair as described in subsection (a) and that provides only those resources for the Federal Government that are needed to meet its responsibilities to the American people.

DORGAN AMENDMENT NO. 2280

Mr. DORGAN proposed an amendment to amendment No. 2218 proposed by him to the concurrent resolution, S. Con. Res. 86, supra; as follows:

At the end of the amendment add the following:

SEC. . SENSE OF CONGRESS ON THE TAX TREATMENT OF HOME MORTGAGE INTEREST AND CHARITABLE GIVING.

(a) FINDINGS—Congress finds that—

(1) current Federal income tax laws embrace a number of fundamental tax policies including longstanding encouragement for home ownership and charitable giving, expanded health and retirement benefits.

(2) the mortgage interest deduction is among the most important incentives in the income tax code and promotes the American Dream of home ownership—the single largest investment for most families, and preserving it is critical for the more than 20,000,000 families claiming it now and for millions more in the future.

(3) favorable tax treatment to encourage gifts to charities is a longstanding principle that helps charities raise funds needed to provide services to poor families and others when government is simply unable or unwilling to do so, and maintaining this tax incentive will help charities raise money to meet the challenges of their charitable missions in the decades ahead;

(4) legislation has been proposed to repeal the entire income tax code at the end of the year 2001 without providing a specific replacement; and

(5) sunsetting the entire income tax code without describing a replacement threatens our Nation's future economic growth and unwisely eliminates existing tax incentives that are crucial for taxpayers who are often making the most inportant financial decisions of their lives.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the levels in this resolution assume that Congress supports the continued tax deductibility of home mortgage interest and charitable contributions and that a sunset of the tax code that does not provide a replacement system that preserves this deductibility could damage the American dream of home ownership and could threaten the viability of non-profit institutions.

KENNEDY AMENDMENT NO. 2281

Mr. KENNEDY proposed an amendment to amendment No. 2183 proposed by him to the concurrent resolution, S. Con. Res. 86, supra; as follows:

Strike all after the first word and insert the following:

SENSE OF THE SENATE CONCERNING A PATIENT'S BILL OF RIGHTS.

(a) FINDINGS.—Congress finds that—

(1) patients lack reliable information about health plans and the quality of care that health plans provide;

(2) experts agree that the quality of health care can be substantially improved, resulting in less illness and less premature death;

(3) some managed care plans have created obstacles for patients who need to see specialists on an ongoing basis and have required that women get permission from their primary care physician before seeing a gynecologist;

(4) a majority of consumers believe that health plans compromise their quality of care to save money;

(5) Federal preemption under the Employee Retirement Income Security Act of 1974 prevents States from enforcing protections for the 125,000,000 workers and their families receiving health insurance through employment-based group health plans; and

(6) the Advisory Commission on Consumer Protection and Quality in the Health Care Industry has unanimously recommended a patient bill of rights to protect patients against abuses by health plan and health insurance issuers.

(b) SENSE OF THE SENATE.—It is the sense Senate that the assumptions underlying this resolution provide for the enactment of legislation to establish a patient's bill of rights for participants in health plans, and that legislation should include—

(1) a guarantee of access to covered services, including needed emergency care, specialty care, obstetrical and gynecological care for women, and prescription drugs;

(2) provisions to ensure that the special needs of women are met, including protecting women against ''drive-through mastectomies'';

(3) provisions to ensure that the special needs of children are met, including access to pediatric specialists and centers of pediatric excellence;

(4) provisions to ensure that the special needs of individuals with disabilities and the chronically ill are met, including the possibility of standing referrals to specialists or the ability to have a specialist act as a primary care provider;

(5) a procedure to hold health plans accountable for their decisions and to provide for the appeal of a decision of a health plan to deny care to an independent, impartial reviewer;

(6) measures to protect the integrity of the physician-patient relationship, including a ban on ''gag clauses'' and a ban on improper incentive arrangements; and

(7) measures to provide greater information about health plans to patients and to improve the quality of care.

(8) a requirement that the network of providers included in the plan are adequate to ensure the provision of services covered by the plan.

NICKLES AMENDMENT NO. 2282

Mr. NICKLES proposed an amendment to the concurrent resolution, S. Con. Res. 86, supra; as follows:

At the appropriate place, insert the following:

SEC. . SENSE OF THE SENATE ON HEALTH CARE QUALITY.

(a) FINDINGS.—The Senate makes the following findings:

(1) Rapid changes in the health care marketplace have compromised confidence in the our Nation's health system.

(2) American consumers want more convenience, fewer hassles, more choices, and better service from their health insurance plans.

(3) All Americans deserve quality-driven health care supported by sound science and evidence-based medicine.

(4) The Federal Government, through the National Institutes of Health, supports research that improves the quality of medical care that Americans receive.

(5) This resolution assumes increased funding for the National Institutes of Health for 1999 of $15,100,000,000, an 11-percent increase over current funding levels, which are 7 percent higher than in 1997.

(6) As the largest purchaser of health care services, the Federal Government has a responsibility to utilize its purchasing power to demand high quality health plans and providers for its health programs and to protect its beneficiaries from inferior medical care.

(7) The Federal Government must adopt the posture of private sector purchasers and insist on high quality care for the 67,000,000 medicare and medicaid beneficiaries and the 9,000,000 Federal employees, retirees, and their dependents.

(8) The private sector has proven to be more capable of keeping pace with the rapid changes in health care delivery and medical practice that affect quality of care considerations than the Federal Government.

(9) As Congress considers health care legislation, it must first commit to ''do no harm'' to health care quality, consumers, and the evolving market place. Rushing to legislate or regulate based on anecdotal information and micro-managing health plans on politically popular issues will not solve the problems of consumer confidence and the quality of our health care system.

(10) When health insurance premiums rise, Americans lose health coverage. Studies indicate that a 1 percent increase in private health insurance premiums will be associated with an increase in the number of persons without insurance of about 400,000 persons.

(11) Health care costs have begun to rise significantly in the past year. The Congressional Budget Office (referred to as ''CBO'') projects that the growth in health premiums will be 5.5 percent in 1998 up from 3.8 percent in 1997. CBO continues to project that premiums will grow about 1 percentage point faster than the Gross Domestic Product in the longer run. CBO also warns that new Federal mandates on health insurance could exacerbate this increase in premiums.

(12) The President's Advisory Commission on Consumer Protection and Quality in the Health Care Industry developed the Consumer Bill of Rights and Responsibilities. This includes information disclosure, confidentiality of health information, and choice of providers.

(13) The President's Commission further determined that private sector organizations have the capacity to act in a timely manner needed to keep pace with the swiftly evolving health system.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the assumptions underlying this resolution assume that the Senate will not pass any health care legislation that will—

(1) make health insurance unaffordable for working families and increase the number of uninsured Americans;

(2) divert limited health care resources away from serving patients to paying lawyers and hiring new bureaucrats; or

(3) impose political considerations on clinical decisions, instead of allowing such decisions to be made on the basis of sound science and the best interests of patients.

DOMENICI (AND OTHERS) AMENDMENT NO. 2283

Mr. DOMENICI (for himself, Mr. CRAIG, and Mr. LOTT) proposed an amendment to amendment No. 2226 proposed by Mr. ROCKEFELLER to the concurrent resolution, S. Con. Res. 86, supra; as follows:

On page 14, line 7, strike ''$51,500,000,000.'' and all that follows through line 24, and substitute in lieu thereof the following:
$51,500,000,000.
(B) Outlays, $42,800,000,000.
Fiscal year 2000:
(A) New budget authority, $51,800,000,000.
(B) Outlays, $44,700,000,000.
Fiscal year 2001:
(A) New budget authority, $52,100,000,000.
(B) Outlays, $45,700,000,000.
Fiscal year 2002:
(A) New budget authority, $51,400,000,000.
(B) Outlays, $45,800,000,000.
Fiscal year 2003:
(A) New budget authority, $52,000,000,000.
(B) Outlays, $46,900,000,000.

On page 25, line 8, strike ''−$300,000,000.'' and all that follows through line 25, and substitute in lieu thereof the following:
−$300,000,000,
(B) Outlays, −$1,900,000,000.
Fiscal year 2000:
(A) New budget authority, −$1,200,000,000.
(B) Outlays, −$4,600,000,000.
Fiscal year 2001:
(A) New budget authority, −$2,700,000,000.
(B) Outlays, −$3,000,000,000.
Fiscal year 2002:
(A) New budget authority, −$3,800,000,000.
(B) Outlays, −$7,000,000,000.
Fiscal year 2003:
(A) New budget authority, −$5,400,000,000.
(B) Outlays, −$5,000,000,000.

In lieu of the language proposed to be stricken, insert:

(6) For reductions in programs in function 700, Veterans Benefits and Services: For fiscal year 1999, $500,000,000 in budget authority and $500,000,000 in outlays; for fiscal years 1999–2003, $10,500,000,000 in budget authority and $10,500,000,000 in outlays.

(7) Sense of the Senate on VA compensation and post-service smoking-related illnesses.

(A) FINDINGS.—The Senate finds that—

(i) the President has twice included in his budgets a prohibition on the entitlement expansion that the Department of Veterans Affairs (referred to as the ''VA'') is proposing to allow post-service smoking-related illness to be eligible for VA compensation;

(ii) Congress has never acted on this entitlement expansion;

(iii) the Congressional Budget Office and the Office of Management and Budget have concluded that this change in VA policy would result in at least $10,000,000,000 over 5 years and $45,000,000,000 over 10 years in additional mandatory costs to the VA;

(iv) these increased number of claims and the resulting costs may present undue delay and hardship on veterans seeking claim review;

(v) the entitlement expansion apparently runs counter to all existing VA policy, including a statement by former Secretary Brown that ''It is inappropriate to compensate for death or disability resulting from veterans' personal choice to engage in conduct damaging to their health.''; and

(vi) Secretary Brown's comment was recently reaffirmed by Acting Secretary of Veterans Affairs Togo West, who stated ''It has been the position of the Department and of my predecessor that the decision to use tobacco by service members is a personal decision and is not a requirement for military service. And that therefore to compensate veterans for diseases whose sole connection to service is a veteran's own tobacco use should not rest with the Government.''.

(B) SENSE OF THE SENATE.—It is the sense of the Senate that the function totals and assumptions underlying this resolution assume the following:

(i) The support of the President's proposal to not allow post-service smoking related illnesses to be eligible for VA.

(ii) The study and report required by paragraph (3) will be completed.

(iii) The Secretary of the Department of Veterans Affairs, the Office of Management and Budget, and the General Accounting Office are jointly required to—

(aa) jointly study (referred to in this section as the ''study'') the VA General Counsel's determination and the resulting actions to change the compensation rules to include disability and death benefits for conditions related to the use of tobacco products during service; and

(bb) deliver an opinion as to whether illnesses resulting from post-service smoking should be considered as a compensable disability.

(iv) The study should include—

(aa) the estimated numbers of those filing such claims, the cost resulting from such benefits, the time necessary to review such claims, and how such a number of claims will affect the VA's ability to review its current claim load;

(bb) an examination of how the proposed change corresponds to prior VA policy relating to post-service actions taken by an individual; and

(cc) what Federal benefits, both VA and non-VA, former service members having smoking-related illnesses are eligible to receive.

(v) The study shall be completed no later than July 1, 1999.

(vi) The Department of Veterans Affairs and the Office of Management and Budget shall report their finding to the Majority and Minority Leaders of the Senate and the chairmen and ranking minority members of the Senate Budget and Veterans' Affairs Committees.

ROCKEFELLER AMENDMENT NO. 2284

Mr. ROCKEFELLER proposed an amendment to amendment No. 2226 proposed by him to the concurrent resolution, S. Con. Res. 86, supra; as follows:

On page 14, line 7, strike ''$51,500,000,000.'' and all that follows through line 24, and substitute in lieu thereof the following:
$51,000,000,000.
(B) Outlays, $42,300,000,000.
Fiscal year 2000:
(A) New budget authority, $50,800,000,000.
(B) Outlays, $43,700,000,000.
Fiscal year 2001:
(A) New budget authority, $50,100,000,000.
(B) Outlays, $43,700,000,000.
Fiscal year 2002:
(A) New budget authority, $48,400,000,000.
(B) Outlays, $42,800,000,000.
Fiscal year 2003:
(A) New budget authority, $48,000,000,000.
(B) Outlays, $42,900,000,000.

On page 25, line 8, strike ''−$300,000,000.'' and all that follows through line 25, and substitute in lieu thereof the following:
$200,000,000.
(B) Outlays, −$1,400,000,000.
Fiscal year 2000:
(A) New budget authority, −$200,000,000.
(B) Outlays, −$3,600,000,000.
Fiscal year 2001:

(A) New budget authority, −$700,000,000.
(B) Outlays, −$1,000,000,000.
Fiscal year 2002:
(A) New budget authority, −$800,000,000.
(B) Outlays, −$4,000,000,000.
Fiscal year 2003:
(A) New budget authority, −$1,400,000,000.
(B) Outlays, −$1,000,000,000.

On page 31, line 24, strike subsection (6) in its entirety.

KEMPTHORNE AMENDMENT NO. 2285

Mr. KEMPTHORNE proposed an amendment to amendment No. 2206 proposed by Mr. REID to the concurrent resolution, S. Con. Res. 86, supra; as follows:

At the end of subsection (b)(2), strike ''Act,'' and insert the following:

''Act through their proceeds alone, if subsequent legislation provides an alternative or mixed, dedicated source of mandatory funding.''

THE CHILD SUPPORT PERFORMANCE AND INCENTIVE ACT OF 1998

ROTH (AND OTHERS) AMENDMENT NO. 2286

Ms. COLLINS (for Mr. ROTH for himself, Mr. MOYNIHAN, Mr. MURKOWSKI, Mr. ROCKEFELLER, Mr. BAUCUS, Mr. CHAFEE, Mr. KENNEDY, Mr. ABRAHAM, Mr. JEFFORDS, Mr. SANTORUM, Mr. GRASSLEY, Mr. GRAHAM, and Ms. MOSELEY-BRAUN) proposed an amendment to the bill (H.R. 3130) to provide for an alternative penalty procedure for States that fail to meet Federal child support data processing requirements, to reform Federal incentive payments for effective child support performance, and to provide for a more flexible penalty procedure for States that violate interjurisdictional adoption requirements; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Child Support Performance and Incentive Act of 1998''.

SEC. 2. TABLE OF CONTENTS.

The table of contents of this Act is as follows:

TITLE I—CHILD SUPPORT DATA PROCESSING REQUIREMENTS

SEC. 101. ALTERNATIVE PENALTY PROCEDURE.

(a) IN GENERAL.—Section 455(a) of the Social Security Act (42 U.S.C. 655(a)) is amended by adding at the end the following:

''(4)(A)(i) If—

''(I) the Secretary determines that a State plan under section 454 would (in the absence of this paragraph) be disapproved for the failure of the State to comply with section 454(24)(A), and that the State has made and is continuing to make a good faith effort to so comply; and

''(II) the State has submitted to the Secretary a corrective compliance plan that describes how, by when, and at what cost the State will achieve such compliance, which has been approved by the Secretary,

then the Secretary shall not disapprove the State plan under section 454, and the Secretary shall reduce the amount otherwise payable to the State under paragraph (1)(A) of this subsection for the fiscal year by the penalty amount.

''(ii) The Secretary may only impose a single reduction of the amount otherwise payable to the State under paragraph (1)(A) of this subsection for a fiscal year for the failure of the State to comply during such fiscal year with section 454(24)(A) or with any other provision of this part that imposes a requirement with respect to the establishment or operation of an automated data processing and information retrieval system.

''(B) In this paragraph:

''(i) The term 'penalty amount' means, with respect to a failure of a State to comply with section 454(24)—

''(I) 4 percent of the penalty base, in the case of the 1st fiscal year in which such a failure by the State occurs;

''(II) 8 percent of the penalty base, in the case of the 2nd such fiscal year;

''(III) 16 percent of the penalty base, in the case of the 3rd such fiscal year; or

''(IV) 30 percent of the penalty base, in the case of the 4th or any subsequent such fiscal year.

''(ii) The term 'penalty base' means, with respect to a failure of a State to comply with section 454(24) during a fiscal year, the amount otherwise payable to the State under paragraph (1)(A) of this subsection for the preceding fiscal year.

''(C)(i) The Secretary shall waive a penalty under this paragraph for any failure of a State to comply with section 454(24)(A) during a fiscal year if—

''(I) at any time during the fiscal year, the State has submitted to the Secretary a request that the Secretary certify the State as having met the requirements of such section;

''(II) the Secretary subsequently provides the certification (regardless of whether the certification is provided in that fiscal year) as a result of a timely review conducted pursuant to the request; and

''(III) the State has not failed such a review.

''(ii) With respect to only the 1st or 2nd fiscal years in which a reduction is imposed under this paragraph for the failure of a State to comply with section 454(24)(A), if the State achieves compliance with section 454(24)(A) during the 2nd fiscal year, in the case of a reduction imposed for 1 fiscal year, or during the 3rd fiscal year, in the case of a reduction imposed for 2 consecutive fiscal years, the Secretary shall increase the amount otherwise payable to the State under paragraph (1)(A) of this subsection for such 2nd or 3rd fiscal year, as the case may be, by an amount equal to 20 percent of the reduction imposed for the immediately preceding fiscal year.

''(iii) The Secretary shall reduce the amount of any reduction that, in the absence of this clause, would be required to be made under this paragraph by reason of the failure of a State to achieve compliance with section 454(24)(B) during the fiscal year, by an amount equal to 20 percent of the amount of the otherwise required reduction, for each State performance measure described in section 458A(b)(4) with respect to which the applicable percentage under section 458A(b)(6) for the fiscal year is 100 percent, if the Secretary has made the determination described in section 458A(b)(5)(B) with respect to the State for the fiscal year.

''(D) The preceding provisions of this paragraph (except for subparagraph (C)(i)) shall apply, separately and independently, to a failure to comply with section 454(24)(B) in the same manner in which the preceding provisions apply to a failure to comply with section 454(24)(A).''.

(b) INAPPLICABILITY OF PENALTY UNDER TANF PROGRAM.—Section 409(a)(8)(A)(i)(III) of such Act (42 U.S.C. 609(a)(8)(A)(i)(III)) is amended by inserting ''(other than section 454(24))'' before the semicolon.

SEC. 102. AUTHORITY TO WAIVE SINGLE STATEWIDE AUTOMATED DATA PROCESSING AND INFORMATION RETRIEVAL SYSTEM REQUIREMENT.

(a) IN GENERAL.—Section 452(d)(3) of the Social Security Act (42 U.S.C. 652(d)(3)) is amended to read as follows:

''(3) The Secretary may waive any requirement of paragraph (1) or any condition specified under section 454(16), and shall waive the single statewide system requirement under sections 454(16) and 454A, with respect to a State if—

''(A) the State demonstrates to the satisfaction of the Secretary that the State has or can develop an alternative system or systems that enable the State—

''(i) for purposes of section 409(a)(8), to achieve the paternity establishment percentages (as defined in section 452(g)(2)) and other performance measures that may be established by the Secretary;

''(ii) to submit data under section 454(15)(B) that is complete and reliable;

''(iii) to substantially comply with the requirements of this part; and

''(iv) in the case of a request to waive the single statewide system requirement, to—

''(I) meet all functional requirements of sections 454(16) and 454A;

''(II) ensure that calculation of distributions meets the requirements of section 457 and accounts for distributions to children in different families or in different States or sub-State jurisdictions, and for distributions to other States;

''(III) ensure that there is only 1 point of contact in the State which provides seamless case processing for all interstate case processing and coordinated, automated intrastate case management;

''(IV) ensure that standardized data elements, forms, and definitions are used throughout the State;

''(V) complete the alternative system in no more time than it would take to complete a single statewide system that meets such requirement; and

''(VI) process child support cases as quickly, efficiently, and effectively as such cases

would be processed through a single statewide system that meets such requirement;

''(B)(i) the waiver meets the criteria of paragraphs (1), (2), and (3) of section 1115(c); or

''(ii) the State provides assurances to the Secretary that steps will be taken to otherwise improve the State's child support enforcement program; and

''(C) in the case of a request to waive the single statewide system requirement, the State has submitted to the Secretary separate estimates of the total cost of a single statewide system that meets such requirement, and of any such alternative system or systems, which shall include estimates of the cost of developing and completing the system and of operating and maintaining the system for 5 years, and the Secretary has agreed with the estimates.''.

(b) PAYMENTS TO STATES.—Section 455(a)(1) of such Act (42 U.S.C. 655(a)(1)) is amended—

(1) by striking ''and'' at the end of subparagraph (B);

(2) by striking the semicolon at the end of subparagraph (C) and inserting '', and''; and

(3) by inserting after subparagraph (C) the following:

''(D) equal to 66 percent of the sums expended by the State during the quarter for an alternative statewide system for which a waiver has been granted under section 452(d)(3), but only to the extent that the total of the sums so expended by the State on or after the date of the enactment of this subparagraph does not exceed the least total cost estimate submitted by the State pursuant to section 452(d)(3)(C) in the request for the waiver;''.

TITLE II—CHILD SUPPORT INCENTIVE SYSTEM

SEC. 201. INCENTIVE PAYMENTS TO STATES.

(a) IN GENERAL.—Part D of title IV of the Social Security Act (42 U.S.C. 651–669) is amended by inserting after section 458 the following:

''SEC. 458A. INCENTIVE PAYMENTS TO STATES.

''(a) IN GENERAL.—In addition to any other payment under this part, the Secretary shall, subject to subsection (f), make an incentive payment to each State for each fiscal year in an amount determined under subsection (b).

''(b) AMOUNT OF INCENTIVE PAYMENT.—

''(1) IN GENERAL.—The incentive payment for a State for a fiscal year is equal to the incentive payment pool for the fiscal year, multiplied by the State incentive payment share for the fiscal year.

''(2) INCENTIVE PAYMENT POOL.—

''(A) IN GENERAL.—In paragraph (1), the term 'incentive payment pool' means—

''(i) $422,000,000 for fiscal year 2000;

''(ii) $429,000,000 for fiscal year 2001;

''(iii) $450,000,000 for fiscal year 2002;

''(iv) $461,000,000 for fiscal year 2003;

''(v) $454,000,000 for fiscal year 2004;

''(vi) $446,000,000 for fiscal year 2005;

''(vii) $458,000,000 for fiscal year 2006;

''(viii) $471,000,000 for fiscal year 2007;

''(ix) $483,000,000 for fiscal year 2008; and

''(x) for any succeeding fiscal year, the amount of the incentive payment pool for the fiscal year that precedes such succeeding fiscal year, multiplied by the percentage (if any) by which the CPI for such preceding fiscal year exceeds the CPI for the 2nd preceding fiscal year.

''(B) CPI.—For purposes of subparagraph (A), the CPI for a fiscal year is the average of the Consumer Price Index for the 12-month period ending on September 30 of the fiscal year. As used in the preceding sentence, the term 'Consumer Price Index' means the last Consumer Price Index for all-urban consumers published by the Department of Labor.

''(3) STATE INCENTIVE PAYMENT SHARE.—In paragraph (1), the term 'State incentive payment share' means, with respect to a fiscal year—

''(A) the incentive base amount for the State for the fiscal year; divided by

''(B) the sum of the incentive base amounts for all of the States for the fiscal year.

''(4) INCENTIVE BASE AMOUNT.—In paragraph (3), the term 'incentive base amount' means, with respect to a State and a fiscal year, the sum of the applicable percentages (determined in accordance with paragraph (6)) multiplied by the corresponding maximum incentive base amounts for the State for the fiscal year, with respect to each of the following measures of State performance for the fiscal year:

''(A) The paternity establishment performance level.

''(B) The support order performance level.

''(C) The current payment performance level.

''(D) The arrearage payment performance level.

''(E) The cost-effectiveness performance level.

''(5) MAXIMUM INCENTIVE BASE AMOUNT.—

''(A) IN GENERAL.—For purposes of paragraph (4), the maximum incentive base amount for a State for a fiscal year is—

''(i) with respect to the performance measures described in subparagraphs (A), (B), and (C) of paragraph (4), the State collections base for the fiscal year; and

''(ii) with respect to the performance measures described in subparagraphs (D) and (E) of paragraph (4), 75 percent of the State collections base for the fiscal year.

''(B) DATA REQUIRED TO BE COMPLETE AND RELIABLE.—Notwithstanding subparagraph (A), the maximum incentive base amount for a State for a fiscal year with respect to a performance measure described in paragraph (4) is zero, unless the Secretary determines, on the basis of an audit performed under section 452(a)(4)(C)(i), that the data which the State submitted pursuant to section 454(15)(B) for the fiscal year and which is used to determine the performance level involved is complete and reliable.

''(C) STATE COLLECTIONS BASE.—For purposes of subparagraph (A), the State collections base for a fiscal year is equal to the sum of—

''(i) 2 times the sum of—

''(I) the total amount of support collected during the fiscal year under the State plan approved under this part in cases in which the support obligation involved is required to be assigned to the State pursuant to part A or E of this title or title XIX; and

''(II) the total amount of support collected during the fiscal year under the State plan approved under this part in cases in which the support obligation involved was so assigned but, at the time of collection, is not required to be so assigned; and

''(ii) the total amount of support collected during the fiscal year under the State plan approved under this part in all other cases.

''(6) DETERMINATION OF APPLICABLE PERCENTAGES BASED ON PERFORMANCE LEVELS.—

''(A) PATERNITY ESTABLISHMENT.—

''(i) DETERMINATION OF PATERNITY ESTABLISHMENT PERFORMANCE LEVEL.—The paternity establishment performance level for a State for a fiscal year is, at the option of the State, the IV–D paternity establishment percentage determined under section 452(g)(2)(A) or the statewide paternity establishment percentage determined under section 452(g)(2)(B).

''(ii) DETERMINATION OF APPLICABLE PERCENTAGE.—The applicable percentage with respect to a State's paternity establishment performance level is as follows:

''If the paternity establishment performance level is: At least:	But less than:	The applicable percentage is:
80%		100
79%	80%	98
78%	79%	96
77%	78%	94
76%	77%	92
75%	76%	90
74%	75%	88
73%	74%	86
72%	73%	84
71%	72%	82
70%	71%	80
69%	70%	79
68%	69%	78
67%	68%	77
66%	67%	76
65%	66%	75
64%	65%	74
63%	64%	73
62%	63%	72
61%	62%	71
60%	61%	70
59%	60%	69
58%	59%	68
57%	58%	67
56%	57%	66
55%	56%	65
54%	55%	64
53%	54%	63
52%	53%	62
51%	52%	61
50%	51%	60
0%	50%	0.

Notwithstanding the preceding sentence, if the paternity establishment performance level of a State for a fiscal year is less than 50 percent but exceeds by at least 10 percentage points the paternity establishment performance level of the State for the immediately preceding fiscal year, then the applicable percentage with respect to the State's paternity establishment performance level is 50 percent.

''(B) ESTABLISHMENT OF CHILD SUPPORT ORDERS.—

''(i) DETERMINATION OF SUPPORT ORDER PERFORMANCE LEVEL.—The support order performance level for a State for a fiscal year is the percentage of the total number of cases under the State plan approved under this part in which there is a support order during the fiscal year.

''(ii) DETERMINATION OF APPLICABLE PERCENTAGE.—The applicable percentage with respect to a State's support order performance level is as follows:

''If the support order performance level is: At least:	But less than:	The applicable percentage is:
80%		100
79%	80%	98
78%	79%	96
77%	78%	94
76%	77%	92
75%	76%	90
74%	75%	88
73%	74%	86
72%	73%	84
71%	72%	82
70%	71%	80
69%	70%	79
68%	69%	78
67%	68%	77
66%	67%	76
65%	66%	75
64%	65%	74
63%	64%	73
62%	63%	72
61%	62%	71
60%	61%	70

"If the support order performance level is:		The applicable percentage is:
At least:	But less than:	
59%	60%	69
58%	59%	68
57%	58%	67
56%	57%	66
55%	56%	65
54%	55%	64
53%	54%	63
52%	53%	62
51%	52%	61
50%	51%	60
0%	50%	0.

Notwithstanding the preceding sentence, if the support order performance level of a State for a fiscal year is less than 50 percent but exceeds by at least 5 percentage points the support order performance level of the State for the immediately preceding fiscal year, then the applicable percentage with respect to the State's support order performance level is 50 percent.

''(C) COLLECTIONS ON CURRENT CHILD SUPPORT DUE.—

''(i) DETERMINATION OF CURRENT PAYMENT PERFORMANCE LEVEL.—The current payment performance level for a State for a fiscal year is equal to the total amount of current support collected during the fiscal year under the State plan approved under this part divided by the total amount of current support owed during the fiscal year in all cases under the State plan, expressed as a percentage.

''(ii) DETERMINATION OF APPLICABLE PERCENTAGE.—The applicable percentage with respect to a State's current payment performance level is as follows:

"If the current payment performance level is:		The applicable percentage is:
At least:	But less than:	
80%		100
79%	80%	98
78%	79%	96
77%	78%	94
76%	77%	92
75%	76%	90
74%	75%	88
73%	74%	86
72%	73%	84
71%	72%	82
70%	71%	80
69%	70%	79
68%	69%	78
67%	68%	77
66%	67%	76
65%	66%	75
64%	65%	74
63%	64%	73
62%	63%	72
61%	62%	71
60%	61%	70
59%	60%	69
58%	59%	68
57%	58%	67
56%	57%	66
55%	56%	65
54%	55%	64
53%	54%	63
52%	53%	62
51%	52%	61
50%	51%	60
49%	50%	59
48%	49%	58
47%	48%	57
46%	47%	56
45%	46%	55
44%	45%	54
43%	44%	53
42%	43%	52
41%	42%	51

"If the current payment performance level is:		The applicable percentage is:
At least:	But less than:	
40%	41%	50
0%	40%	0.

Notwithstanding the preceding sentence, if the current payment performance level of a State for a fiscal year is less than 40 percent but exceeds by at least 5 percentage points the current payment performance level of the State for the immediately preceding fiscal year, then the applicable percentage with respect to the State's current payment performance level is 50 percent.

''(D) COLLECTIONS ON CHILD SUPPORT ARREARAGES.—

''(i) DETERMINATION OF ARREARAGE PAYMENT PERFORMANCE LEVEL.—The arrearage payment performance level for a State for a fiscal year is equal to the total number of cases under the State plan approved under this part in which payments of past-due child support were received during the fiscal year and part or all of the payments were distributed to the family to whom the past-due child support was owed (or, if all past-due child support owed to the family was, at the time of receipt, subject to an assignment to the State, part or all of the payments were retained by the State) divided by the total number of cases under the State plan in which there is past-due child support, expressed as a percentage.

''(ii) DETERMINATION OF APPLICABLE PERCENTAGE.—The applicable percentage with respect to a State's arrearage payment performance level is as follows:

"If the arrearage payment performance level is:		The applicable percentage is:
At least:	But less than:	
80%		100
79%	80%	98
78%	79%	96
77%	78%	94
76%	77%	92
75%	76%	90
74%	75%	88
73%	74%	86
72%	73%	84
71%	72%	82
70%	71%	80
69%	70%	79
68%	69%	78
67%	68%	77
66%	67%	76
65%	66%	75
64%	65%	74
63%	64%	73
62%	63%	72
61%	62%	71
60%	61%	70
59%	60%	69
58%	59%	68
57%	58%	67
56%	57%	66
55%	56%	65
54%	55%	64
53%	54%	63
52%	53%	62
51%	52%	61
50%	51%	60
49%	50%	59
48%	49%	58
47%	48%	57
46%	47%	56
45%	46%	55
44%	45%	54
43%	44%	53
42%	43%	52
41%	42%	51
40%	41%	50

"If the arrearage payment performance level is:		The applicable percentage is:
At least:	But less than:	
0%	40%	0.

Notwithstanding the preceding sentence, if the arrearage payment performance level of a State for a fiscal year is less than 40 percent but exceeds by at least 5 percentage points the arrearage payment performance level of the State for the immediately preceding fiscal year, then the applicable percentage with respect to the State's arrearage payment performance level is 50 percent.

''(E) COST-EFFECTIVENESS.—

''(i) DETERMINATION OF COST-EFFECTIVENESS PERFORMANCE LEVEL.—The cost-effectiveness performance level for a State for a fiscal year is equal to the total amount collected during the fiscal year under the State plan approved under this part divided by the total amount expended during the fiscal year under the State plan, expressed as a ratio.

''(ii) DETERMINATION OF APPLICABLE PERCENTAGE.—The applicable percentage with respect to a State's cost-effectiveness performance level is as follows:

"If the cost-effectiveness performance level is:		The applicable percentage is:
At least:	But less than:	
5.00		100
4.50	4.99	90
4.00	4.50	80
3.50	4.00	70
3.00	3.50	60
2.50	3.00	50
2.00	2.50	40
0.00	2.00	0.

''(c) TREATMENT OF INTERSTATE COLLECTIONS.—In computing incentive payments under this section, support which is collected by a State at the request of another State shall be treated as having been collected in full by both States, and any amounts expended by a State in carrying out a special project assisted under section 455(e) shall be excluded.

''(d) ADMINISTRATIVE PROVISIONS.—The amounts of the incentive payments to be made to the States under this section for a fiscal year shall be estimated by the Secretary at or before the beginning of the fiscal year on the basis of the best information available. The Secretary shall make the payments for the fiscal year, on a quarterly basis (with each quarterly payment being made no later than the beginning of the quarter involved), in the amounts so estimated, reduced or increased to the extent of any overpayments or underpayments which the Secretary determines were made under this section to the States involved for prior periods and with respect to which adjustment has not already been made under this subsection. Upon the making of any estimate by the Secretary under the preceding sentence, any appropriations available for payments under this section are deemed obligated.

''(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary governing the calculation of incentive payments under this section, including directions for excluding from the calculations certain closed cases and cases over which the States do not have jurisdiction.

''(f) REINVESTMENT.—A State to which a payment is made under this section shall expend the full amount of the payment to supplement, and not supplant, other funds used by the State—

''(1) to carry out the State plan approved under this part; or

''(2) for any activity (including cost-effective contracts with local agencies) approved by the Secretary, whether or not the expenditures for the activity are eligible for reimbursement under this part, which may contribute to improving the effectiveness or efficiency of the State program operated under this part.''.

(b) TRANSITION RULE.—Notwithstanding any other provision of law—

(1) for fiscal year 2000, the Secretary shall reduce by ⅓ the amount otherwise payable to a State under section 458 of the Social Security Act, and shall reduce by ⅔ the amount otherwise payable to a State under section 458A of such Act; and

(2) for fiscal year 2001, the Secretary shall reduce by ⅔ the amount otherwise payable to a State under section 458 of the Social Security Act, and shall reduce by ⅓ the amount otherwise payable to a State under section 458A of such Act.

(c) REGULATIONS.—Within 9 months after the date of the enactment of this section, the Secretary of Health and Human Services shall prescribe regulations governing the implementation of section 458A of the Social Security Act when such section takes effect and the implementation of subsection (b) of this section.

(d) STUDIES.—

(1) GENERAL REVIEW OF NEW INCENTIVE PAYMENT SYSTEM.—

(A) IN GENERAL.—The Secretary of Health and Human Services shall conduct a study of the implementation of the incentive payment system established by section 458A of the Social Security Act, in order to identify the problems and successes of the system.

(B) REPORTS TO THE CONGRESS.—

(i) REPORT ON VARIATIONS IN STATE PERFORMANCE ATTRIBUTABLE TO DEMOGRAPHIC VARIABLES.—Not later than October 1, 2000, the Secretary shall submit to the Congress a report that identifies any demographic or economic variables that account for differences in the performance levels achieved by the States with respect to the performance measures used in the system, and contains the recommendations of the Secretary for such adjustments to the system as may be necessary to ensure that the relative performance of States is measured from a baseline that takes account of any such variables.

(ii) INTERIM REPORT.—Not later than March 1, 2001, the Secretary shall submit to the Congress an interim report that contains the findings of the study required by subparagraph (A).

(iii) FINAL REPORT.—Not later than October 1, 2003, the Secretary shall submit to the Congress a final report that contains the final findings of the study required by subparagraph (A). The report shall include any recommendations for changes in the system that the Secretary determines would improve the operation of the child support enforcement program.

(2) DEVELOPMENT OF MEDICAL SUPPORT INCENTIVE.—

(A) IN GENERAL.—The Secretary of Health and Human Services, in consultation with State directors of programs operated under part D of title IV of the Social Security Act and representatives of children potentially eligible for medical support, shall develop a performance measure based on the effectiveness of States in establishing and enforcing medical support obligations, and shall make recommendations for the incorporation of the measure, in a revenue neutral manner, into the incentive payment system established by section 458A of the Social Security Act.

(B) REPORT.—Not later than October 1, 1999, the Secretary shall submit to the Congress a report that describes the performance measure and contains the recommendations required by subparagraph (A).

(e) TECHNICAL AMENDMENTS.—

(1) IN GENERAL.—Section 341 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (42 U.S.C. 658 note) is amended—

(A) by striking subsection (a) and redesignating subsections (b), (c), and (d) as subsections (a), (b), and (c), respectively; and

(B) in subsection (c) (as so redesignated)—

(i) by striking paragraph (1) and inserting the following:

''(1) CONFORMING AMENDMENTS TO PRESENT SYSTEM.—The amendments made by subsection (a) of this section shall become effective with respect to a State as of the date the amendments made by section 103(a) (without regard to section 116(a)(2)) first apply to the State.''; and

(ii) in paragraph (2), by striking ''(c)'' and inserting ''(b)''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall take effect as if included in the enactment of section 341 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

(f) ELIMINATION OF PREDECESSOR INCENTIVE PAYMENT SYSTEM.—

(1) REPEAL.—Section 458 of the Social Security Act (42 U.S.C. 658) is repealed.

(2) CONFORMING AMENDMENTS.—

(A) Section 458A of the Social Security Act, as added by section 201(a) of this Act, is redesignated as section 458.

(B) Section 455(a)(4)(C)(iii) of such Act (42 U.S.C. 655(a)(4)(C)(iii)), as added by section 101(a) of this Act, is amended—

(i) by striking ''458A(b)(4)'' and inserting ''458(b)(4)'';

(ii) by striking ''458A(b)(6)'' and inserting ''458(b)(6)''; and

(iii) by striking ''458A(b)(5)(B)'' and inserting ''458(b)(5)(B)''.

(C) Subsection (d)(1) of this section is amended by striking ''458A'' and inserting ''458''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on October 1, 2001.

(g) GENERAL EFFECTIVE DATE.—Except as otherwise provided in this section, the amendments made by this section shall take effect on October 1, 1999.

TITLE III—ADOPTION PROVISIONS

SEC. 301. MORE FLEXIBLE PENALTY PROCEDURE TO BE APPLIED FOR FAILING TO PERMIT INTERJURISDICTIONAL ADOPTION.

(a) CONVERSION OF FUNDING BAN INTO STATE PLAN REQUIREMENT.—Section 471(a) of the Social Security Act (42 U.S.C. 671(a)) is amended—

(1) by striking ''and'' at the end of paragraph (21);

(2) by striking the period at the end of paragraph (22) and inserting ''; and''; and

(3) by adding at the end the following:

''(23) provides that the State shall not—

''(A) deny or delay the placement of a child for adoption when an approved family is available outside of the jurisdiction with responsibility for handling the case of the child; or

''(B) fail to grant an opportunity for a fair hearing, as described in paragraph (12), to an individual whose allegation of a violation of subparagraph (A) of this paragraph is denied by the State or not acted upon by the State with reasonable promptness.''.

(b) PENALTY FOR NONCOMPLIANCE.—Section 474(d) of such Act (42 U.S.C. 674(d)) is amended in each of paragraphs (1) and (2) by striking ''section 471(a)(18)'' and inserting ''paragraph (18) or (23) of section 471(a)''.

(c) CONFORMING AMENDMENT.—Section 474 of such Act (42 U.S.C. 674) is amended by striking subsection (e).

(d) RETROACTIVITY.—The amendments made by this section shall take effect as if included in the enactment of section 202 of the Adoption and Safe Families Act of 1997 (Public Law 105–89; 111 Stat. 2125).

TITLE IV—MISCELLANEOUS

SEC. 401. ELIMINATION OF BARRIERS TO THE EFFECTIVE ESTABLISHMENT AND ENFORCEMENT OF MEDICAL CHILD SUPPORT.

(a) PROMULGATION OF NATIONAL STANDARDIZED MEDICAL SUPPORT NOTICE.—Section 452(a) of the Social Security Act (42 U.S.C. 652(a)) is amended—

(1) in paragraph (10), by striking ''and'' at the end;

(2) in paragraph (11), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(12)(A) develop jointly with the Secretary of Labor—

''(i) a National Standardized Medical Support Notice that satisfies the requirements of section 609(a)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1169(a)(3)) and the requirements of this part and shall be used by States to enforce medical support orders; and

''(ii) appropriate procedures for the transmission of such Notice to employers by State agencies administering the program established under this part;

''(B) not later than 90 days after the date of enactment of this paragraph, establish with the Secretary of Labor, a medical support working group, not to exceed 20 individuals, that shall—

''(i) identify the impediments to the effective enforcement of medical support by State agencies administering the program established under this part; and

''(ii) be composed of representatives of—

''(I) the Department of Labor;

''(II) the Department of Health and Human Services;

''(III) State directors of programs under this part;

''(IV) State directors of the medicaid program under title XIX;

''(V) employers, including owners of small businesses;

''(VI) plan administrators and plan sponsors of group health plans (as defined in section 607(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1167(1));

''(VII) children potentially eligible for medical support, such as child advocacy organizations; and

''(VIII) State public welfare programs;

''(C) require the working group established in accordance with subparagraph (B) to, not later than 18 months after the date of enactment of this paragraph, submit to the Secretary and Congress a report containing recommendations for appropriate measures to address the impediments to the effective enforcement of medical support by State agencies administering the program established under this part identified by the working group, including—

''(i) appropriate measures that establish the priority of withholding of child support obligations, medical support obligations, arrearages in such obligations, and, in the case of a medical support obligation, the employee's portion of any health care coverage premium, by the State agency administering the program established under this part in light of the restrictions on garnishment provided under title III of the Consumer Credit Protection Act (15 U.S.C. 1671–1677);

''(ii) appropriate procedures for coordinating the provision, enforcement, and transition of health care coverage under the State programs established under this part, title XIX, and title XXI;

''(iii) appropriate measures to improve the enforcement of alternate types of medical

support that are aside from health coverage offered through the noncustodial parent's health plan and unrelated to the noncustodial parent's employer, including measures that establish a noncustodial parent's responsibility to share the cost of a copayment, deductible, or a payment for services not covered under a child's existing health coverage; and

''(iv) appropriate measures for eliminating any other impediments to the effective enforcement of medical support orders that the working group deems necessary; and

''(D) issue, under the authority of the Secretary—

''(i) not later than 180 days after the date of enactment of this paragraph, a proposed regulation that specifies that the National Standardized Medical Support Notice shall be used by State agencies administering the program under this part to enforce medical support orders, and that includes such procedures for transmission of the Notice to employers that the Secretary determines are appropriate; and

''(ii) not later than 1 year after the date of enactment of this paragraph, a final regulation that specifies that the National Standardized Medical Support Notice shall be used by State agencies administering the program under this part to enforce medical support orders and the procedures for the transmission of that Notice to employers.''.

(b) REQUIRED USE OF NOTICE BY STATES.—

(1) STATE PROCEDURES.—Section 466(a)(19) of the Social Security Act (42 U.S.C. 466(a)(19)) is amended to read as follows:

''(19) HEALTH CARE COVERAGE.—Procedures under which—

''(A) all child support orders enforced pursuant to this part include a provision for the health care coverage of the child that, not later than October 1, 2000, is enforced, where appropriate, through the use of the National Standardized Medical Support Notice promulgated pursuant to section 452(a)(12);

''(B) in any case in which a noncustodial parent is required to provide such health care coverage and the employer of such noncustodial parent is known to the State agency, the State agency shall use the National Standardized Medical Support Notice to transfer notice of the provision for the health care coverage of the child to the employer in conjunction, where appropriate, with an income withholding notice within 2 days of the date that information regarding a newly hired employee is entered in the State Directory of New Hires pursuant to section 453A(e), and to any subsequent employer if the parent changes employment or obtains additional employment and the subsequent employer of such noncustodial parent is known to the State agency;

''(C) not later than 7 business days after the date the National Standardized Medical Support Notice is issued, the Notice shall operate to enroll the child in the noncustodial parent's employer's health plan, and to authorize the collection of any employee contributions required for such enrollment, unless the noncustodial parent contests enforcement of the health care coverage provision of the child support order pursuant to the Notice to the State agency based on mistake of fact; and

''(D) the employer shall, within 21 days after the date the Notice is issued, notify the State agency administering the program under this part whether such health care coverage is available and, if so, whether the child has been enrolled in such coverage and the effective date of the enrollment, and provide to the custodial parent any necessary documentation to provide the child with coverage.''.

(2) CONFORMING AMENDMENTS.—Section 452(f) of the Social Security Act (42 U.S.C. 652(f)) is amended in the first sentence—

(A) by striking ''petition for the inclusion of'' and inserting ''include''; and

(B) by inserting ''and enforce medical support'' before ''whenever''.

(c) NATIONAL STANDARDIZED MEDICAL SUPPORT NOTICE DEEMED A QUALIFIED MEDICAL CHILD SUPPORT ORDER.—

(1) AMENDMENT TO ERISA.—Section 609(a)(5) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1169(a)(5)) is amended by adding at the end the following:

''(C) NATIONAL STANDARDIZED MEDICAL SUPPORT NOTICE DEEMED TO BE A QUALIFIED MEDICAL CHILD SUPPORT ORDER.—If a group health plan administrator receives a completed National Standardized Medical Support Notice promulgated pursuant to section 452(a)(12) of the Social Security Act (42 U.S.C. 652(a)(13)), and the notice meets the requirements of paragraphs (3) and (4), the notice shall, not later than 7 business days after the date the National Standardized Medical Support Notice is issued, be deemed to be a qualified medical child support order and the plan administrator shall comply with the notice.''.

(2) RULE OF CONSTRUCTION.—The amendment made by paragraph (1) shall not be construed as requiring an employer to provide or expand any health benefits coverage provided by the employer that the employer is not, as of the date of enactment of this section, required to provide, or to modify or change the eligibility rules applicable to a group health plan (as defined in section 607(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1167(1))).

(d) REPORT AND RECOMMENDATIONS REGARDING THE ENFORCEMENT OF QUALIFIED MEDICAL SUPPORT ORDERS UNDER ERISA.—Not later than 1 year after the date of enactment of this Act, the Secretary of Labor, in consultation with the Secretary of Health and Human Services, shall submit to the Committee on Labor and Human Resources and the Committee on Finance of the Senate, and the Committee on Education and the Workforce and the Committee on Ways and Means of the House of Representatives, a report containing recommendations for appropriate legislation to improve the effectiveness of, and enforcement of, qualified medical child support orders under the provisions of section 609 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1169).

SEC. 402. SAFEGUARD OF NEW EMPLOYEE INFORMATION.

(a) PENALTY FOR UNAUTHORIZED ACCESS, DISCLOSURE, OR USE OF INFORMATION.—Section 453(l) of the Social Security Act (42 U.S.C. 653(l)) is amended—

(1) by striking ''Information'' and inserting the following:

''(1) IN GENERAL.—Information''; and

(2) by adding at the end the following:

''(2) PENALTY FOR MISUSE OF INFORMATION IN THE NATIONAL DIRECTORY OF NEW HIRES.—The Secretary shall require the imposition of an administrative penalty (up to and including dismissal from employment), and a fine of $1,000, for each act of unauthorized access to, disclosure of, or use of, information in the National Directory of New Hires established under subsection (i) by any officer or employee of the United States who knowingly and willfully violates this paragraph.''.

(b) LIMITS ON RETENTION OF DATA IN THE NATIONAL DIRECTORY OF NEW HIRES.—Section 453(i)(2) of the Social Security Act (42 U.S.C. 653(i)(2)) is amended to read as follows:

''(2) DATA ENTRY AND DELETION REQUIREMENTS.—Information shall be—

''(A) entered into the data base maintained by the National Directory of New Hires within 2 business days of receipt pursuant to section 453A(g)(2);

''(B) in the case of an individual for whom an information comparison under subsection (j) does not reveal a match, deleted from such data base 12 months after the date of entry; and

''(C) in the case of an individual for whom an information comparison under subsection (j) does reveal a match, deleted from such data base 24 months after the date of entry.''.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on January 1, 1999.

SEC. 403. CONFORMING AMENDMENTS REGARDING THE COLLECTION AND USE OF SOCIAL SECURITY NUMBERS FOR PURPOSES OF CHILD SUPPORT ENFORCEMENT.

(a) CONFORMING AMENDMENTS.—Section 205(c)(2)(C) of the Social Security Act (42 U.S.C. 405(c)(2)(C)) is amended—

(1) in clause (i), by striking ''may require'' and inserting ''shall require'';

(2) in clause (ii)—

(A) by inserting after the 1st sentence the following: ''In the administration of any law involving the issuance of a marriage certificate or license, each State shall require each individual named in the certificate or license to furnish to the State (or political subdivision thereof), or any State agency having administrative responsibility for the law involved, the social security number of the individual.''; and

(B) by inserting ''or marriage certificate'' after ''Such numbers shall not be recorded on the birth certificate'';

(3) in clause (vi), by striking ''may'' and inserting ''shall''; and

(4) by adding at the end the following:

''(x) An agency of a State (or a political subdivision thereof) charged with the administration of any law concerning the issuance or renewal of a professional license, driver's license, occupational license, or recreational license shall require each applicant for issuance or renewal of the license to provide the applicant's social security number to the agency for the purpose of administering such laws, and for the purpose of responding to requests for information from an agency operating pursuant to part D of title IV. If a State allows the use of a number other than the social security number to be used on the face of the document while the social security number is kept on file at the agency, the State shall so advise any applicants.

''(xi) All divorce decrees, support orders, and paternity determinations issued, and all paternity acknowledgments made, in each State shall include the social security number of each individual subject to the decree, order, determination, or acknowledgment in the records relating to the matter, for the purpose of responding to requests for information from an agency operating pursuant to part D of title IV.''.

(b) RETROACTIVITY.—The amendments made by subsection (a) shall take effect as if included in the enactment of section 317 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat.2220).

SEC. 404. ELIMINATION OF DEFINITION REGARDING HIGH-VOLUME AUTOMATED ADMINISTRATIVE ENFORCEMENT OF CHILD SUPPORT.

(a) TECHNICAL AMENDMENT.—Section 466(a)(14) of the Social Security Act (42 U.S.C. 666(a)(14)) is amended to read as follows:

''(14) HIGH-VOLUME, AUTOMATED ADMINISTRATIVE ENFORCEMENT IN INTERSTATE CASES.—Procedures under which—

''(A) the State shall use high-volume automated administrative enforcement, to the same extent as used for intrastate cases, in response to a request made by another State

to enforce support orders, and shall promptly report the results of such enforcement procedure to the requesting State;

''(B) the State may, by electronic or other means, transmit to another State a request for assistance in enforcing support orders through high-volume, automated administrative enforcement, which request—

''(i) shall include such information as will enable the State to which the request is transmitted to compare the information about the cases to the information in the data bases of the State; and

''(ii) shall constitute a certification by the requesting State—

''(I) of the amount of support under an order the payment of which is in arrears; and

''(II) that the requesting State has complied with all procedural due process requirements applicable to each case;

''(C) if the State provides assistance to another State pursuant to this paragraph with respect to a case, neither State shall consider the case to be transferred to the caseload of such other State; and

''(D) the State shall maintain records of—

''(i) the number of such requests for assistance received by the State;

''(ii) the number of cases for which the State collected support in response to such a request; and

''(iii) the amount of such collected support.''.

(b) RETROACTIVITY.—The amendment made by subsection (a) shall take effect as if included in the enactment of section 5550 of the Balanced Budget Act of 1997 (Public Law 105–33; 111 Stat. 633).

SEC. 405. GENERAL ACCOUNTING OFFICE REPORTS.

(a) REPORT ON FEASIBILITY OF INSTANT CHECK SYSTEM.—Not later than December 31, 1998, the Comptroller General of the United States shall report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives on the feasibility and cost of creating and maintaining a nationwide instant child support order check system under which an employer would be able to determine whether a newly hired employee is required to provide support under a child support order.

(b) REPORT ON IMPLEMENTATION AND USE OF CHILD SUPPORT DATABASES.—Not later than December 31, 1998, the Comptroller General of the United States shall report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives on the implementation of the Federal Parent Locater Service (including the Federal Case Registry of Child Support Orders and the National Directory of New Hires) established under section 453 of the Social Security Act (42 U.S.C. 653) and the State Directory of New Hires established under section 453A of such Act (42 U.S.C. 653a). The report shall include a detailed discussion of the purposes for which, and the manner in which, the information maintained in such databases has been used, and an examination as to whether such databases are subject to adequate safeguards to protect the privacy of the individuals with respect to whom information is reported and maintained.

SEC. 406. TECHNICAL CORRECTIONS.

(a) Section 413(g)(1) of the Social Security Act (42 U.S.C. 613(g)(1)) is amended by striking ''Economic and Educational Opportunities'' and inserting ''Education and the Workforce''.

(b) Section 422(b)(2) of the Social Security Act (42 U.S.C. 622(b)(2)) is amended by striking ''under under'' and inserting ''under''.

(c) Section 432(a)(8) of the Social Security Act (42 U.S.C. 632(a)(8)) is amended by adding ''; and'' at the end.

(d) Section 453(a)(2) of the Social Security Act (42 U.S.C. 653(a)(2)) is amended—

(1) by striking ''parentage,'' and inserting ''parentage or'';

(2) by striking ''or making or enforcing child custody or visitation orders,''; and

(3) in subparagraph (A), by decreasing the indentation of clause (iv) by 2 ems.

(e)(1) Section 5557(b) of the Balanced Budget Act of 1997 (42 U.S.C. 608 note) is amended by adding at the end the following: ''The amendment made by section 5536(1)(A) shall not take effect with respect to a State until October 1, 2000, or such earlier date as the State may select.''.

(2) The amendment made by paragraph (1) shall take effect as if included in the enactment of section 5557 of the Balanced Budget Act of 1997 (Public Law 105–33; 111 Stat. 637).

(f) Section 473A(c)(2)(B) of the Social Security Act (42 U.S.C. 673b(c)(2)(B)) is amended—

(1) by striking ''November 30, 1997'' and inserting ''April 30, 1998''; and

(2) by striking ''March 1, 1998'' and inserting ''July 1, 1998''.

(g) Section 474(a) of the Social Security Act (42 U.S.C. 674(a)) is amended by striking ''(subject to the limitations imposed by subsection (b))''.

(h) Section 232 of the Social Security Act Amendments of 1994 (42 U.S.C. 1314a) is amended—

(1) in subsection (b)(3)(D), by striking ''Energy and''; and

(2) in subsection (d)(4), by striking ''(b)(3)(C)'' and inserting ''(b)(3)''.

Amend the title so as to read: ''An Act to provide for an alternative penalty procedure for States that fail to meet Federal child support data processing requirements, to reform Federal incentive payments for effective child support performance, to provide for a more flexible penalty procedure for States that violate interjurisdictional adoption requirements, and for other purposes.''.

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

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 Thursday, April 23, 1998 at 2:30 p.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to receive testimony on S. 1253, the Public Land Management Improvement Act of 1997.

Those who wish to submit written statements should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC, 20510. For further information, please call Amie Brown or Mark Rey at (202) 224–6170.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

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, April 28, 1998 at 2:30 p.m. in room SD–366 of the Dirksen Senate Office Building in Washington, D.C.

The purpose of this hearing is to receive testimony on S. 326, the Abandon Hardrock Mines Reclamation Act of 1997; S. 327, the Hardrock Mining Royalty Act of 1997; and S. 1102, Mining Law Reform Act of 1997.

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 Amie Brown or Mike Menge at (202) 224–6170.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

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 Thursday, April 30, 1998 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 to receive testimony on S. 1253, the Public Land Management Improvement Act of 1997.

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 Amie Brown or Mark Rey at (202) 224–6170.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

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, May 5, 1998 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 to receive testimony on S. 1253, the Public Land Management Improvement Act of 1997.

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 Amie Brown or Mark Rey at (202) 224–6170.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

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 Wednesday, May 6, 1998 at 2:30 p.m. in room

SD–366 of the Dirksen Senate Office Building in Washington, D.C.

The purpose of this hearing is to receive testimony on S. 94, the Southern Nevada Public Land Management Act of 1997, and H.R. 449, the Southern Nevada Public Lands Management Act of 1997.

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 Amie Brown or Mike Menge at (202) 224–6170.

SUBCOMMITTEE ON ENERGY RESEARCH, DEVELOPMENT, PRODUCTION, AND REGULATION

Mr. NICKLES. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Subcommittee on Energy Research, Development, Production, and Regulation of the Committee on Energy and Natural Resources.

The hearing will take place Thursday, May 21, 1998 at 2:00 p.m. in room SD–366 of the Dirksen Senate Office Building in Washington, D.C.

The purpose of this hearing is to receive testimony on S. 1141, the Biodiesel Energy Development Act of 1997; and S. 1418, the Methane Hydrate Research and Development Act of 1997.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send their testimony to the Subcommittee on Energy Research, Development, Production, and Regulation of the Committee on Energy and Natural Resources, United States Senate, 364 Dirksen Senate Office Building, Washington, DC 20510–6150.

For further information, please contact Shawn Taylor at (202) 224–1219 or Howard Useem of the Committee staff at (202) 224–6567.

AUTHORITY FOR COMMITTEE TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be allowed to meet during the session of the Senate on Thursday, April 2, 1998 at 9:00 a.m. in SR–328A. The purpose of this meeting will be to examine recently proposed animal waste legislation.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Thursday, April 2, 1998, to conduct a hearing on the implications of the recent Supreme Court decision concerning credit union membership.

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

COMMITTEE ON THE JUDICIARY

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Committee on the Judiciary, be authorized to hold an executive business meeting during the session of the Senate on Thursday, April 2, 1998, at 10:00 a.m., in room 226 of the Senate Dirksen Office Building.

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

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a hearing on Metered Dose Inhalers during the session of the Senate on Thursday, April 2, 1998, at 10:00 a.m.

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

SUBCOMMITTEE ON ADMINISTRATIVE OVERSIGHT AND THE COURTS

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Subcommittee on Administrative Oversight and the Courts of the Committee on the Judiciary, be authorized to hold an executive business meeting during the session of the Senate on Thursday, April 2, 1998, at 2:00 p.m., in room 226 of the Senate Dirksen Office Building.

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

ADDITIONAL STATEMENTS

TUBERCULOSIS

• Mr. SARBANES. Mr. President, as some of my colleagues may know, each year tuberculosis claims nearly 3 million lives—more than all other infectious diseases combined—making it the number one infectious cause of death worldwide. Unlike many other infectious diseases, tuberculosis is an airborne disease transmitted like the common cold. Nearly one-third of the world's population is already infected, and cases of multi-drug resistant strains, which are far more difficult and expensive to treat, are on the rise. Overall, tuberculosis is responsible for 25% of all preventable deaths.

The Los Angeles Times recently published an article about USAID's work to expand and strengthen programs to control tuberculosis, along with other global threats to public health. I think this is a very important initiative and would urge them to continue their efforts. The renewed focus on tuberculosis is due in part to the activities of Princeton Project 55, established by Princeton University's Class of 1955, which has pressed for aggressive United States leadership in the prevention and treatment of this terrible disease. I commend them on their involvement and would ask that the full text of the article be printed in the RECORD.

The article follows:

[From the Los Angeles Times, March 6, 1998]

U.S. LAUNCHES GLOBAL EFFORT TO CONTROL DISEASE

(By Marlene Cimons)

WASHINGTON—The U.S. Agency for International Development announced Thursday a new initiative aimed at controlling the global emergence of lethal infectious diseases, saying it will develop programs in targeted countries to fight the escalating health threats posed by bacterial resistance, tuberculosis and malaria.

The agency also said it will work with other health agencies worldwide to better monitor and respond to new outbreaks of diseases before they get out of hand.

''This is as important for American citizens'' as it is for citizens abroad because ''we are dealing with these problems at their origin, rather than waiting for them to get here,'' said Dr. Nils Daulaire, a senior health advisor to USAID.

Congress, recognizing the potential danger from infectious diseases overseas, awarded the agency an additional $50 million for fiscal 1998 specifically for control of infectious diseases—the first time in four years that, ''instead of cutting our budget, Congress has added to it,'' Daulaire said.

In response, the agency is pursuing a 10-year effort that it hopes will reduce by at least 10% the deaths caused by infectious diseases, excluding those caused by acquired immune deficiency syndrome, by 2007.

The $50 million is in addition to the agency's public health budget of $850 million, which is spent on maternal and child health, family planning and the control of AIDS and the human immunodeficiency virus that causes it.

USAID has estimated that more than 17 million people worldwide will die from infectious diseases in 1998. This health problem has gotten worse in recent years due to numerous factors, including rapid population growth, overcrowding, poor sanitation, poverty, loss of trained health personnel and decreasing resources available to public health services in the poorest of countries, according to USAID.

The new strategy will focus on:

Developing programs that will discourage the indiscriminate use of antibiotics, which only strengthens the ability of resistant strains of bacteria to survive.

Developing a global tuberculosis control plan, which will include establishing up to five major sites to serve as models for TB surveillance and control and enhancing programs to identify TB strains that are resistant to multiple drugs before the strains become widespread.

Developing programs in Africa—where the most troublesome malaria problems exist—to prevent and control spread of the disease. Rather than control the mosquitoes that transmit the parasite, efforts will focus on preventing infection and quickly treating those who become infected, an approach health officials say will help reduce further transmission.•

TRIBUTE TO GOODRICH MEMORIAL LIBRARY

• Mr. JEFFORDS. Mr. President, I rise today to pay tribute to the Goodrich Memorial Library in Newport, Vermont as it recalls 100 years of community service. On May 2, 1998 the Goodrich Memorial Library will kick off a year-long celebration with a wide array of activities for people young and old.

Converse and Alvira Goodrich donated their entire estate so that Newport Village could construct and maintain a new town library. Architect

George Story's vision became reality when the doors were opened and a ceremony held to dedicate the new library on September 1, 1898. An extremely ornate Victorian building, the Goodrich Memorial Library houses a wealth of information for those interested in Vermont history. In one of its rooms, the library maintains an archive of local newspapers dating back to the 1800s and early 1900s.

The Goodrich Memorial Library not only serves as a resource for information, but also as a critical bond in the community. It brings people together for cultural events and as a shared experience it provides a link between generations. It is a reminder of the town's long and proud history, one that I hope will continue for years to come.

Once again, I would like to congratulate the Goodrich Memorial Library on its centennial anniversary and wish them the best of luck in the next century of service.●

A TRIBUTE TO BISHOP JAMES

● Mr. HOLLINGS. Mr. President, President Clinton's visit to Africa is a historic visit, the first time a sitting American President has visited that continent. For a distinguished South Carolinian who is accompanying the President, the trip also marks the return to a land with which he is very familiar.

Bishop Fred James, a retired Bishop of the AME Church, is one of South Carolina's most respected men of the cloth. For four years in the 1970s, he served in Capetown, South Africa, as the presiding bishop of the AME Church for five countries: South Africa, Lesotho, Botswana, Namibia, Swaziland, and Mozambique. During Bishop James's tenure, the Church conducted not only traditional religious activities, but also unorthodox outreach programs to improve the lives of its congregants. Among other things, it built schools, operated a publishing house, and ran a cattle ranch. None of these was strictly religious in nature, but all helped to relieve the oppressive atmosphere of these countries and restore a sense of community among the AME Church's congregants.

After returning from Africa, Bishop James continued to lead outreach programs and fight for civil rights at home. Before settling in South Carolina, he was active in the NAACP and lived in Arkansas and Oklahoma. He also lived in Baltimore, where his responsibilties as Bishop overseeing thousands of congregants and many churches were even greater than those he shouldered in Africa. As the people of South Carolina know so well, Bishop James has been a force for good in every community in which he has lived.

Mr. President, I can think of no better ambassador of our nation's good will toward Africa than Bishop Fred James. He has spent the better part of his life serving God and his fellow men, without expecting recognition or reward. With his selection by President Clinton to be an informal, good will ambassador to Africa, he has at last received some of both. Let us all hope the United States can achieve the same, strong relationship with Africa as that of Bishop James.●

50TH ANNIVERSARY OF THE TOMB GUARDS AT ARLINGTON NATIONAL CEMETERY

● Mr. HAGER. Mr. President, I want to take a moment to recognize a very special group of Americans, the Arlington National Cemetery Tomb Guards of the Third United States Infantry. The Tomb Guards this year mark their 50th anniversary—half a century of dedicated service to the American heroes who rest at Arlington.

The dedicated and devoted men and women of the Tomb Guards stand watch over the Tomb of the Unknown Soldier 24 hours a day, seven days a week, regardless of weather. Arlington's sacred ground holds many of America's heroes, but the unknown soldiers deserve special honor. They made the ultimate sacrifice to preserve America's freedom, and they died in anonymity—soldiers, as inscribed on their headstones, ''Known but to God.''

Since 1948, soldiers from the ''Old Guard,'' the Third United States Infantry, have kept watch at this most special place in Arlington National Cemetery. Only soldiers of the highest character and standards, with the greatest integrity and professional skill, are selected to serve with the Tomb Guards. These men and women are the best of the best. The competition is keen.

As young people across America search for role models, they need look no further than this group of dedicated professionals who honor the sacrifice of all who have fallen for freedom. I salute the Tomb Guards on their fifty years of dedicated service to America's heroes and wish them well as they continue their devotion to duty. America is grateful for their service.●

PRESIDENT CLINTON AND THE AFRICAN RENAISSANCE

● Mr. FEINGOLD. Mr. President, I rise today to commend the historic visit that is just ending today.

I speak of the visit of President Clinton to Africa which began on March 22. As the Ranking Member of the Africa Subcommittee of the Senate Foreign Relations Committee, I know Africa's vital importance to the United States, and I applaud the President's effort to highlight Africa with this timely trip.

President Clinton is the first sitting U.S. president since President Jimmy Carter to take such an extensive voyage in Africa, and he will the be the first sitting U.S. president ever to visit each of the individual countries on his itinerary.

We can not underestimate the significance of this.

Mr. President, millions of Americans trace their roots to Africa. Thousands of Americans have served in Africa in non-governmental organizations, church groups, or the Peace Corps, including many graduates of the University of Wisconsin-Madison. Our African heritage is prominent and pervasive in the art, music, and literature of American culture. More and more American tourists are journeying to see the natural wonders of the Serengeti, the Ghanaian Cape Coast or Victoria Falls.

Although these ties bind every American to Africa, many of them in a very passionate and personal way, I am concerned that there is so little knowledge about Africa in this country, and so little interest. That is why the President's trip is so important.

Many of the 48 distinct nations of Africa are now experiencing what some have called an ''African Renaissance.'' By whatever name, there can be no doubt that Africa is a continent much changed since the years immediately following the independence period.

In some nations on that great continent, we see conflicts, coups and corruption. In others, we see the triumph of democracy and of the creative human spirit. In the past few years, too many of Africa's peoples have faced atrocities that rank among the worst of this century. At the same time, healthy changes have swept across much of the continent, and there is more reason for optimism about Africa's future than at any time in recent memory.

First, there has been substantial political progress. In 1989, only five African nations could be described as ''democratic.'' Today, there are at least twenty. Where there used to be one-party states or military regimes, we now have governments that have developed new constitutions, held multiparty elections, and taken great strides toward reforming key institutions. Parliaments in countries like Ghana and Namibia are beginning to exercise a meaningful check on executive power. Local and national elections are being conducted freely and fairly in many countries. Journalists are more boldly exercising new press freedoms.

The institutions that nourish true democracy are beginning to take root in the African soil.

Second, many of the long-standing, violent conflicts that have ravaged the land and the peoples of Africa are coming to a close. Uganda, which suffered terribly throughout the 1980s, is now one of the most stable countries on the continent. The protracted war in the Horn of Africa ended with the peaceful secession of Eritrea, an important new actor on the African stage. The seeds of lasting peace have been planted in Liberia and Angola. And the promise of peace dangles before the peoples of Northern Mali and the Western Sahara.

Third, many African nations have surged forward in human and social development. The scourge of AIDS continues to take its toll, but infant mortality rates have dropped significantly. Population growth has slowed to a more manageable rate. The drag of illiteracy still slows economic development, but more African children go to school now than at any other time since independence.

African women, too, are playing a more active role in the future of their continent. In Botswana, an organization called ''Stand Up Women'' is working to expand the influence of women on national laws and policy. In South Africa, Ghana and elsewhere, female entrepreneurs are starting and managing their own businesses. Throughout Africa, more and more women are becoming involved in political life. Many have been elected to fledgling parliaments.

Finally, Africa's economies are growing at impressive rates, with an estimated 4.5 percent GDP increase in 1997, according to the World Bank. In Senegal and Uganda, growth has topped 5 percent.

Hope abides in Africa. And hope abides among those of us who see that a thriving Africa is good for America.

Still, many African nations are plagued by authoritarian regimes that deny their citizens basic human rights. The economic and political potential of some nations are being squandered by ruling military juntas. In these few hold-out regimes, corruption, economic mismanagement and violent suppression of dissent are the norm. This is certainly true in Nigeria, a nation of great natural and human potential, which cannot be realized under the current regime.

In Sudan, a decades-old war has killed hundreds of thousands of innocent civilians. Sudanese children are often forced into conscription, and many of them know the barrel of a gun better than the inside of a classroom.

Other obstacles to development abound. Some of the poorest, most desolate places on earth are located in Africa. Life expectancy and adult literacy are the world's lowest, while population growth and the incidence of HIV/AIDS are the highest. Basic services that we as Americans take for granted—from clean drinking water and health care, to school books and paved roads—remain out of reach for millions of Africans.

The combination of welcome progress and daunting problems in Africa present enormous challenges for U.S. policy. Some observers look at Africa and say, ''This is a basket case!,'' and see few redeeming features. These cynical voices—the so-called ''Afro-pessimists''—believe America should disengage from the world and particularly from Africa; that the poverty and despair of others is not our problem, that the potential of Africa presents no opportunity.

But as the history of this century has shown time and again, the problems of the world community, do, in fact, become ours.

As the world becomes smaller and more inter-dependent, new dangers—terrorism, international crime, narcotics, and infectious disease, all of which are increasingly prevalent in Africa—will not stop at the border. Sudanese involvement is alleged in the World Trade Center bombing. In Wisconsin, hundreds of my constituents have received fraudulent scam letters from Nigeria. For a few days in 1995, we all worried about the threat of the Ebola virus which had recently appeared in the former Zaire.

Mr. President, we cannot ignore these threats.

Though mindful of the grim realities of Africa, the United States must encourage the positive developments that are already taking place there. We must embrace and encourage those changes, and not just because we are a generous people. Africa is a growing U.S. trading partner. U.S. exports to Sub-Saharan Africa increased 14 percent during 1996; that's twice as fast as the growth rate of total U.S. exports worldwide. Few people realize that the United States currently exports more to sub-Saharan Africa than to all of the former Soviet republics combined. More and more forward-thinking American companies have their eye on the vibrant potential markets in Africa.

By going to Africa, President Clinton recognizes Africa's importance to the U.S. and demonstrates his steadfast commitment to America's crucial role in supporting Africa's burgeoning democracies, aiding economic growth, maintaining recent peace agreements, and preventing future conflicts.

The President's trip is both symbol and substantive statement. There have been moving moments with genocide survivors in Rwanda and with South African President Nelson Mandela, with school children in Uganda and with Peace Corps volunteers in Ghana.

Each of the countries on President Clinton's itinerary represents some facet of Africa's accomplishments. Each is an important U.S. partner.

The President has also announced several new policy initiatives, including an important education program and a welcome push for the Senate to ratify the U.N. Convention to Combat Desertification, a treaty currently pending before this body. President Clinton has expressed his commitment to maintaining existing programs, including the Africa Crisis Response Initiative, a U.S.-led effort to help African militaries gain the capacity to participate in peacekeeping operations. I have supported this initiative here on the Senate floor.

As part of his itinerary, the President scheduled three highly significant roundtable meetings. The first, a meeting with young South African leaders outside Johannesburg, served to highlight the promise of the new generation in Africa—young people who were born well after the independence period, and who are anxious to seize new opportunities.

The second, a meeting with African environmentalists, helped give focus to some of the environmental challenges on the continent.

The third, a meeting with human rights and democracy activists at his last stop in Senegal, served to highlight America's commitment to human rights and democracy in Africa and the need to sustain that commitment.

Above all, this trip presented a perfect opportunity for the United States to make clear its stated policy of support for human rights and good governance in Africa. Before he departed, I wrote to the President and asked him to consider a few ways in which he might demonstrate his commitment to these principles.

Recognizing the unique challenges posed by the recent history of the troubled Great Lakes region, I asked that the President make clear the United States' unwavering support for democracy in the region. For example, I urged him to articulate clear criteria for the Democratic Republic of the Congo to gain U.S. assistance, including lifting existing bans on opposition political activity and ceasing harassment of lawful components of civil society. I also urged extreme caution in any attempt by the administration to seek security assistance for the Rwandan military, which has been responsible for widespread killing of civilians. Without strong statements by the administration against these practices, the U.S. risks sending the wrong signal about our priorities and our values.

I also told the President of my hope that this trip would help strengthen the President's resolve with respect to our Nigeria policy, particularly in light of the continuing deterioration of the human rights situation in Nigeria. I have long been concerned about the perceived lack of a policy in Nigeria. That is why I urged the President to take the strongest position possible in support of democracy in that country. I told him I appreciated the remarks delivered recently by Assistant Secretary Susan Rice before the Senate Subcommittee on Africa that made clear that the United States would not accept the election of a military candidate in Nigeria's upcoming elections. This was a very important statement, and one that I had hoped would mark the beginning of a more coherent, resolute Nigeria policy for the United States.

That hope was all but extinguished when I heard the President remark last Friday that Nigeria's current military ruler, General Sani Abacha, would be considered acceptable by the United States if he chose to run in the country's upcoming election as a civilian. Other administration officials later tried to clarify the President's remarks by noting that the U.S. objective is to support a viable transition to civilian rule. They also noted, correctly, that the so-called ''transition'' process currently underway in Nigeria appears

structured expressly to keep Gen. Abacha in power. In effect, they acknowledged the contradiction between our Nigeria policy and the political realities there.

Virtually none of the institutions that would allow for a free and fair election—an independent electoral commission, an open registration process, or open procedures for the participation of independent political parties, for example—have been put into place. Repression continues unabated: political prisoners remain in prison, the press remains heavily constrained, and the fruits of Nigeria's abundant natural resources remain in the hands of Abacha's supporters.

Unfortunately, I fear the President's remarks may have done real damage already, by indicating to Gen. Abacha and his cronies that if Abacha were to take off his military uniform, throw on civilian clothes, and win an election, it would be OK with the United States. I fear the United States has explicitly agreed to accept a wolf in sheep's clothing!

Well, lest anyone get the wrong idea, let me say that I believe, and I hope most of my colleagues believe, an electoral victory for Abacha would hardly represent a transition to democracy. It would be totally unacceptable. I hope that President Clinton will clarify the policy of the United States with respect to Nigeria soon. It is high time the policy review that began nearly two years ago is completed, so we do not have this alarming confusion.

Nigeria must know that anything less than a transparent transition to civilian rule will be met with severe policy consequences.

Finally, I emphasized to the President that the United States should make support for Africa's organizations of civil society a higher priority. These groups do courageous work to promote human rights standards and to monitor their governments' compliance. Accordingly, U.S. officials must speak out publicly when these courageous people are abused by their governments. I have urged the President to take the opportunity to highlight the vital work being performed by a broad range of civil society organizations, including those facing government repression.

Mr. President, I was concerned last December when some news reports following Secretary of State Madeleine Albright's trip to Africa included statements by U.S. officials that it would be unfair to hold certain African governments to ''Western'' standards of personal and political freedom. Not only does this contradict stated U.S. policy, it is a condescending, unnecessary and dangerous concession to make to African governments that flout human rights.

A clear message on democracy and human rights is especially important as the U.S. works with African nations to strengthen their economies. Economic growth is crucial to any nation's success, but the U.S. must ensure that as it helps to foster economic development, it also fosters political and personal freedoms. Not only does the U.S. have a moral obligation to promote human rights, Africa's post-colonial history shows us that African nations with long-term democratic rule are also the nations with the best long-term economic performances. Freedom fosters prosperity.

The respect a government shows for human rights can tell us whether that regime will respect its neighbors, its trading partners, and the world community at large. A government that does not respect the rights of its people cannot be trusted to honor a trade agreement or a treaty, much less the rule of law in general. This is as true for Nigeria as it is for China.

The common thread running through our Africa policy must be the U.S. commitment to democracy and human rights. Without this commitment, true peace cannot take root and economic growth will ultimately falter. Now more than ever we must make clear our commitment to democracy and human rights, both to governments working toward these goals, and, more importantly, to those repressive regimes that are not.

Mr. President, I welcome the energy the Clinton administration has devoted to Africa and to U.S. policy there. I look forward to working with the President in the future to capitalize on the momentum that will certainly be created by this most historic trip.●

TRAGEDY IN CENTRE COUNTY

● Mr. SANTORUM. Mr. President, I rise today to pay my respects to several young people who recently lost their lives in a cabin fire.

Two weeks ago, 11 friends from Northumberland and Lancaster Counties planned a weekend retreat at the Wehry family cabin. The site of many memorable family gatherings, the newly remodeled cabin seemed to be the perfect setting to eat, play cards, and enjoy rural Centre County's outdoor recreation. On Sunday morning, March 22, the friends' fun-filled weekend came to a devastating end. The ''mansion in the mountains'' caught fire at 5:20 a.m. All of the 11 friends died in their sleep from smoke inhalation.

Each of these young people was special in his or her own right. A quiet girl, Toni Wehry wanted to be a teacher. Amanda Wehry was bright, outgoing, and popular. Tyrone Wehry, who was working for the House Republican caucus in Harrisburg, planned to pursue a career in politics. Warwick High School's former basketball star, Erik Gray was learning to be an electrician. Nicholas Berkey was lovingly described as a dependable young man who was saving money to buy a house. The versatile James Giliberti enjoyed martial arts, music, and finance; he had planned to invest in an IRA this year. Kip Snyder is remembered as a prankster who pitched for the Line Mountain High School baseball team. Chad Hain, who enjoyed hands-on technical work, had a promising career in carpentry. Quiet and sensitive, Jason Herrold was studying business administration at Susquehanna University. The Wiest brothers, Toby and David, owned a paint ball supply store. By all accounts, the vivacious Toby and the pensive David were best friends.

Friends and neighbors have rallied to console the victims' families. Well wishers tied blue and gold ribbons—Line Mountain High School's colors—to telephone poles, lampposts, and front doors. These poignant memorials hang beside Easter decorations. Students at Line Mountain High signed banners in the auditorium to bid their friends farewell. Signs expressing words of comfort and encouragement hang in the windows of local businesses. One reads, ''Now they're in God's cabin.''

Mr. President, words cannot describe a parent's grief upon the death of a child. I ask my colleagues to join me in extending the Senate's condolences to the victims' families. Our prayers and heartfelt sympathies go out to them.●

TRIBUTE TO DAVID MURRAY

● Mr. JEFFORDS. Mr. President, I rise today to pay tribute to David Murray, a well known and certainly well regarded patient advocate at the Veterans' Administration (VA) in White River Junction who is leaving the great state of Vermont to relocate to the state of Washington. Although I question why anyone would willingly opt to move from the most beautiful state in the union, I must concede that Washington state is probably a close second in terms of beauty and quality of life.

I certainly wish Dave well as he embarks on this exciting venture, though life at the Veterans' Administration hospital will never be quite the same without him. Each day he goes beyond the call of duty in his never-wavering advocacy for veterans. He provides veterans and their families with their crucial link to understanding and moving through the system. Dave is probably the most sought after person at the VA and I would venture a guess that he receives more ''pages'' in one hour than most VA doctors receive in an entire day.

Service is a word that Dave knows well. He served honorably in the Marine Corps during the Vietnam War, continued his federal service for the next 20 plus years culminating in his current job as Patient Advocate at the VA hospital in White River Junction. He is a member of the Disabled American Veterans, the Veterans of Foreign Wars and the American Legion and involved himself in his community as a boy scout leader. It is my understanding that Dave, when he's not working or wearing one of his many service

hats, actually enjoys camping, canoeing and gardening.

Mr. President, I would like to publicly recognize Dave's outstanding contribution to his fellow veterans and wish him and his wife Diane the very best in their change of venue. I would ask them to remember that if they ever decide to come home to Vermont, we will leave the light on.●

GEORGE GUEDEL'S SERVICE AT THE NAVY'S ACOUSTIC RESEARCH DETACHMENT AT BAYVIEW, IDAHO

● Mr. KEMPTHORNE. Mr. President, I rise to say thank you to a patriot and a technical expert, George Guedel, who is retiring on May 1, 1998. George was born in Milwaukee, Wisconsin and was raised in the Seattle, WA area.

George attended the U.S. Naval Academy for two years until the responsibilities of marriage led him to leave the academy. George completed his bachelor's degree in physics at the University of Washington. In 1965, George began working for the Navy in the underwater acoustics field, and, except for a short stint as a government contractor, continued working in that field for the Navy in positions of increasing responsibility until his retirement.

George's assignments include: Head of the Carr Inlet Acoustic Range; Head of the Acoustic Analysis Branch at the Naval Undersea Warfare Station in Keyport, WA; Head of the Santa Cruz Island Acoustic Range Facility; and Head of the Submarine Noise Measurement & Analysis Branch of the Naval Surface Warfare Center in Bremerton, WA. Throughout his career, Mr. Guedel has been highly regarded for his expertise in underwater acoustics and machinery vibration, as well as for his skill in managing complex acoustic testing.

George's final and longest assignment was as Director of the Naval Surface Warfare Center's Acoustic Research Detachment (ARD) in Bayview, ID for over ten years. In this important position, George oversaw a major expansion in facilities and staff in support of critical testing for the *Seawolf* and New Attack Submarine programs.

His work at the ARD also included frequent presentations to top government officials and extensive involvement with the Idaho community. He has been recognized with an Employee-of-the-Year Award, several Special Act Awards and Special Achievement Awards, and numerous letters of recognition from high-ranking Navy officers. George Guedel is the author or coauthor of numerous technical reports on ship and submarine noise characteristics.

George and his wife Ruth have 5 adult children, one two-year-old granddaughter, and a golden retriever. George has been an accomplished sailor since childhood, regularly competing in regattas. He is also an avid scuba diver and outdoorsman. After retirement, George plans to volunteer his skills to an organization devoted to preservation of the environment. George also hopes to spend more time on his hobbies and to win the sailing Nationals.

George Guedel has been a stalwart contributor to our Navy's stealth service and he has given outstanding assistance to me in my effort to showcase the impressive work performed at the Navy's premier submarine acoustic testing center in Bayview, Idaho. I want to wish George and Ruth good luck, fair winds and following seas in their next endeavors.●

50TH ANNIVERSARY OF THE CRAZY HORSE MEMORIAL

● Mr. JOHNSON. Mr. President, I express my strong support for the sense of the Senate resolution commemorating the efforts of the Ziolkowski family over the past fifty years in their endeavor to honor the great Oglala Sioux leader Tasunke Witko, or Crazy Horse, through creation of the Crazy Horse Memorial. The Crazy Horse Memorial is a nonprofit cultural, educational, and humanitarian project dedicated to Native Americans throughout North America. The 50th anniversary of the first blast at the memorial site will occur on June 3, 1998, in my home state of South Dakota.

Crazy Horse was one of this nation's greatest Native American warriors and spiritual leaders, who fought to defend the rights and lives of his people and all Native Americans throughout his short life. He is widely remembered for leading a force of Cheyenne and Oglala Sioux warriors to victory over George Armstrong Custer in the Battle of Little Big Horn. Crazy Horse was born on Rapid Creek in 1840, and was killed when he was only 37 years of age. During his life he was a great leader of his people. Native Americans agree he did not have an equal as a warrior or a chief. He gave submissive allegiance to no man, white or Indian, and claimed his inalienable rights as an Indian to wander at will over the hunting grounds of his people. He wanted only peace and a way of living for his people.

In 1940, several Sioux Indian chiefs invited the late sculptor Korczak Ziolkowski to create a memorial to their great leader, Crazy Horse, by carving a tribute to him in the Black Hills on what is popularly known as ''Thunderhead Mountain.'' The Memorial was dedicated on June 3, 1948 with the first blast on the Thunderhead Mountain at which time Mr. Ziolkowski vowed that creation of the Memorial would be a nonprofit educational and cultural project, financed solely through private means, and wholly without government funding. Korczak Ziolkowski dedicated his life to creation of the Crazy Horse Memorial, up until his death on October 20, 1982.

Once complete, the Crazy Horse Memorial will be the largest sculpture in the world standing 563 feet high and 641 feet long. I am pleased that the Senate will recognize June 3, 1998, as the 50th anniversary of the first blast on Thunderhead Mountain, the first step towards completion of the Crazy Horse Memorial. I would like to congratulate the fifty years of efforts of Korczak Ziolkowski, his wife Ruth Ziolkowski, and their children in creating the Crazy Horse Memorial and notethat the creation of the Memorial from its inception on June 3, 1948 to the present day was accomplished through private donations and completely without federal funding.

One of many great and patriotic Indian heroes, Crazy Horse's tenacity of purpose, his modest life, his unfailing courage, and his tragic death set him apart and above the others. Completion of the Crazy Horse Memorial will serve as a lasting tribute to the great Oglala Sioux warrior and spiritual leader, Crazy Horse, and to all Native Americans.●

TRIBUTE TO RICK FRIES

● Mrs. FEINSTEIN. Mr. President, next week, the students, parents and faculty from Orange Grove Junior High in Hacienda Heights, California, will be visiting our nation's Capitol. This will be the twentieth consecutive year that students from Orange Grove have visited Washington, D.C. This also marks the twentieth consecutive visit by Orange Grove's tour leader and history teacher, Rick Fries.

It was in the Spring of 1979 when Rick Fries first led a group of more than 25 students and adults to the East Coast, visiting Jamestown, Yorktown, Williamsburg, Charlottesville and finally Washington, D.C. For each succeeding year thereafter, he would bring another group of Orange Grove students, sometimes to new historic places, but always to Washington. His students have seen where Revolution was born in Boston, where Independence was declared in Philadelphia, where the Union was preserved in Gettysburg, and where our laws are made right here in Washington.

From the very first tour in 1979, Mr. Fries' goal was simple: to make American History come to life for his students. The name of his tour says it all: Living History. It's fair to say he has succeeded. This year, Mr. Fries will be leading a group of 63 students and 20 adults to Washington. His tour is so popular among Orange Grove students, it is sold out well before the beginning of the school year.

The tour has remained popular after all these years because the enthusiasm Mr. Fries shows for history and for his students has never wavered. Those who have traveled with and learned from Mr. Fries all agree: He makes the history of our country an enjoyable experience for both students and parents because he enjoys it as well.

It's no secret to all who are associated with Orange Grove Junior High that Mr. Fries consistently has been one of the school's most popular teachers—popular with both students and parents. He is well-liked simply because he truly cares about his students. And he's considered a wonderful teacher of history because he truly cares about his country.

Mr. Fries is one of those remarkable teachers who has made a lasting impact on the lives of young people. In fact, one of his students who traveled with Mr. Fries on his first tour to Washington back in 1979 is now a Legislative Director for my friend and colleague from Ohio, Senator Mike DEWINE. This former student has said that his own interest in government, and his own love of history, was due largely to Rick Fries. I am sure there are quite a few more current and former students who were inspired by Mr. Fries, and not just in history and government. Mr. Fries also dedicates his time with young people as a football and basketball coach, and follows the example of the legendary UCLA Coach John Wooden, who developed in his athletes not just physical strength, but also strength of character.

It is fitting that the Orange Grove students will be visiting Capitol Hill on April 13—the birthday of the author of the Declaration of Independence and our third president, Thomas Jefferson. I understand Mr. Fries is a great admirer of President Jefferson, and it shows when he and his students visit Monticello—President Jefferson's home—and the Jefferson Memorial. I also understand that of all the tributes given to President Jefferson, Mr. Fries is particularly fond of the one given by President John F. Kennedy, when the following at a White House dinner honoring Nobel Prize winners: I think this is the most extraordinary collection of talent, of human knowledge, that has ever been gathered together at the White House, with the possible exception of when Thomas Jefferson dined alone.''

Mr. President, I am sure I speak for the community of Hacienda Heights when I express my admiration and thanks to Rick Fries. 1He is truly an inspiration to his students and his fellow teachers for his tireless devotion to young people and to his profession. I wish Mr. Fries, and the students, parents and faculty from Orange Grove an enjoyable and memorable twentieth visit to our nation's capitol.●

TRIBUTE TO HOWARD COFFIN

● Mr. JEFFORDS. Mr. President, Vermont has a long-standing reputation of having the most valiant regiments to be dispatched to the Union Army during the Civil War. Vermonters not only fought bravely for the preservation of the Union and for an end to slavery, they made vital contributions to many important battles. The Union Army was at a great advantage when they were lucky enough to have Vermonters fighting by their side. Mr. President, I rise today to pay tribute to Howard Coffin, a Vermonter who has lead the fight for the preservation of this country's hallowed grounds. I am pleased and honored that Howard Coffin will receive the Vermont Civil War Council's ''Full Duty'' award for his dedication and accomplishments in preserving and understanding of our nation's most cherished and sacred lands.

Preserving our nation's battlefields is very important to me and a subject very close to Howard's heart. Several years ago I had the privilege to travel with Howard, who is well known as the most prominent Civil War tour guide in Vermont, from battlefield to battlefield. We relived Jackson's battles of the 1862 campaign and retraced the Union campaign of 1864. From that day on I have shared Howard's passion and interest in this country's sacred past. Fortunately for me and this country, Howard took the lead as a member of my staff to find out all we could about the battlefields and what was needed to safeguard this nation's Civil War heritage. It quickly became apparent that the Civil War battlefields were in need of protection. Howard was instrumental in drafting and helping pass important legislation which led to eventual passage of the Shenandoah Valley Battlefields Commission and the Civil War Sites Advisory Commission.

A leader in the effort to preserve Civil War battlefields, Howard has served on the boards of the Association for the Preservation of Civil War Sites and Protect Historic America and served as member of the Civil War Sites Advisory Commission. He has published several books on the Civil War, including ''Full Duty'' and his most recent, ''Nine Months to Gettysburg,'' which tells the story of the Second Vermont Brigade. He also organized the first ever fundraiser for battlefield preservation in Vermont generating over $10,000 for the protection of the battlefield of the 3rd Winchester where Vermonters fought and died so valiantly.

Mr. President, the American Civil War is thought by many historians to be the fundamental event shaping the character of the United States. However, battlefield sites that are vital to understanding and appreciating our nation's history are in grave danger. This country is lucky to have Howard Coffin on its side, because he will not rest until every field, hill, dam, valley, and woods in this country that has been saturated with the blood of soldiers who fought so bravely are protected and recognized. I am grateful for the foresight and dedication of Howard Coffin and congratulate him on his acceptance of the ''Full Duty'' award.●

BELLA S. ABZUG

● Mr. MOYNIHAN. Mr. President, I was greatly saddened to learn of the death of Bella S. Abzug. While we began our association as political rivals, past quickly became past, and I came to respect and admire her as a friend and colleague.

She served three terms in the United States Congress with extraordinary distinction, establishing an unparalleled record of commitment to women's issues that would distinguish her career. With a rare combination of intellect, energy, and wit, Bella properly won a place on the national stage. And she did not stop there—in short order Bella Abzug became an international figure. As President of the Women's Environment and Development Organization, she added her voice to a wide range of international debates with a style that was all her own. Bella's stature was such that in 1995 she was selected to lead a delegation of United States nongovernmental organizations to the United Nations' Fourth World Conference on Women held in Beijing, China. She made us proud.

To know Bella Abzug was to know a woman of indefatigable passion for the fray. Regardless of the issue, whenever New Yorkers needed an outspoken advocate, Bella could be counted on to lead the charge. She will be missed.

I ask that her obituary from the New York Times of April 1, 1998 be printed in the RECORD.

The obituary follows:

[From the New York Times, Wed., Apr. 1, 1998]

BELLA ABZUG, 77, CONGRESSWOMAN AND A FOUNDING FEMINIST, IS DEAD

(By Laura Mansnerus)

Bella S. Abzug, New Yorker, feminist, antiwar activist, politician and lawyer, died yesterday at Columbia-Presbyterian Medical Center in Manhattan. She was 77.

She died of complications following heart surgery, said Harold Holzer, who was her spokesman when she served in Congress. She had been hospitalized for weeks, and had been in poor health for several years, he said.

Ms. Abzug represented the West Side of Manhattan for three Congressional terms in the 1970's. She brought with her a belligerent, exuberant politics that made her a national character. Often called just Bella, she was recognizable everywhere by her big hats and a voice that Norman Mailer said ''could boil the fat off a taxicab driver's neck.''

She opposed the Vietnam War, championed what was then called women's liberation and was one of the first to call for the impeachment of President Richard M. Nixon. Long after it ceased to be fashionable, she called her politics radical. During her last campaign, for Congress in 1986, she told The New York Times, ''I am not a centrist.''

Bella Abzug was a founding feminist, and an enduring one. In the movement's giddy, sloganeering early days, Ms. Abzug was, like Betty Friedan and Gloria Steinem, an icon, the hat bobbing before the cameras at marches and rallies.

After leaving the House in January 1977, she worked for women's rights for two more decades. She founded an international women's group that worked on environmental issues. And she was a leader of a conference of nongovernment organizations that paralleled the United Nations' fourth World Conference on Women in Beijing in 1995.

Even then, she continued to rankle. Former President George Bush, on a private visit to China that coincided with the Beijing conference, said to a meeting of food

production executives: ''I feel somewhat sorry for the Chinese, having Bella Abzug running around. Bella Abzug is one who has always represented the extremes of the women's movement.''

When told of Mr. Bush's remark, Ms. Abzug, 75, and in a wheelchair, retorted: ''He was addressing a fertilizer group? That's appropriate.''

Her forceful personality and direct manner made her a lightning rod for criticism from those who opposed the idea of holding a women's conference. After Bob Dole, then the Senate majority leader, said he could not imagine why anyone ''would want to attend a conference co-chaired by Bella Abzug,'' she responded that she was not running the meeting but simply participating with more than 30,000 other women over how best to achieve equal rights.

But much of what Ms. Abzug agitated for—abortion rights, day care, laws against employment discrimination—was by that time mainstream political fare.

In Congress, ''she was first on almost everything, on everything that ever mattered,'' said Esther Newberg, Ms. Abzug's first administrative assistant and one of many staff members who quit but remained devoted. ''She was first to call for Richard Nixon's impeachment, first to call for an end to the war.''

Ms. Abzug made enemies easily—''Sometimes the hat and the mouth took over,'' Ms. Newberg said—but Ms. Abzug saw that as a consequence of a refusal to compromise, as well as a matter of sport. Of her time in the House, Ms. Abzug wrote in a journal that was published in 1972 as ''Bella.'' ''I spend all day figuring out how to beat the machine and knock the crap out of the political power structure.''

She worked relentlessly at organizing and coalition-building. A founder of Women Strike for Peace and the National Women's Political Caucus, she spent a lifetime prodding for change, with a lawyer's enthusiasm for political channels, through organizations from the P.T.A. to the United Nations.

She made friends easily, too. ''She's fierce and intense and funny,'' said her longtime friend Gloria Steinem. ''She takes everyone seriously. When she argues with you fiercely, it's because she takes you seriously. And she's willing to change her mind. That's so rare.''

HER FIRST SPEECH IN A SUBWAY STATION

Bella Savitzky Abzug was born on July 24, 1920 in the Bronx, the second daughter of Jewish immigrants from Russia. Her father, Emanuel Savitzky, whom Ms. Abzug later described as ''this humanist butcher,'' ran (and named) the Live and Let Live Meat Market on Ninth Avenue in Manhattan.

She said she knew from the age of 11 that she wanted to be a lawyer, and not longer afterward gave her first public speech, in a subway station, while collection for a Zionist youth organization. She went from Hunter College, where she was student body president, to Columbia University Law School, where she was an editor of The Law Review, to a practice representing union workers.

Ms. Abzug traced the wearing of her trademark wide-brimmed hats to those days. She once recalled: ''When I was a young lawyer, I would go to people's offices and they would always say: 'Sit here. We'll wait for the lawyer.' Working women wore hats. It was the only way they would take you seriously.

''After a while, I started liking them. When I got to Congress, they made a big thing of it. So I was watching. Did they want me to wear it or not? They didn't want me to wear it, so I did.''

All the while, she was a leftist and an agitator. Years later, in a moment of exasperation with her Congressional aids, she wrote: ''I just don't understand young people today, quite frankly. Our struggle was political, ideological and economic, and we felt we couldn't make something of ourselves unless we bettered society. We saw the two together.''

In the 1950's, Ms. Abzug's law practice turned to other cases identified with the left. One client was Willie McGee, a black Mississippian convicted of raping a white woman and sentenced to death. Ms. Abzug, who was pregnant at the time, argued the case in Mississippi while white supremacist groups threatened her. Though the Supreme Court stayed the execution twice, Mr. McGee was eventually executed.

She also represented people accused of Communist activities by Senator Joseph McCarthy's Congressional committee and its counterpart in Albany.

In the 1960's, Ms. Abzug became an antiwar activist. A founder of Women Strike for Peace, she was its chief lobbyist, opposing nuclear testing and, later, the Vietnam War. She organized insurgent Democrats into other groups, too, becoming a leader of the movement against President Lydon B. Johnson and prominent in the 1968 Presidential campaign of Senator Eugene McCarthy.

During those years, Ms. Abzug started navigating New York City politics. She and her husband, Martin Abzug, moved from Mount Vernon, the Westchester suburb where they had raised their two daughters, to a town house at 37 Bank Street in Greenwich Village. In 1970, Ms. Abzug ran for Congress.

The 19th Congressional District, which snaked from lower Manhattan to the West 80's, had four registered Democrats to every Republican and had been represented in Congress for seven terms by Leonard Farbstein, a solid but rather somnolent liberal. Ms. Abzug won the Democratic primary with 54 percent of the vote.

CAMPAIGN BECAME A WOMEN'S CRUSADE

At this point, Bella Abzug became national news, a flash of local color in a political year. She seemed to be everywhere, clapping backs and jabbing biceps. Her campaign headquarters next to the Lion's Head, a writers' and journalists' bar in Greenwich Village, was also a daycare center for her legions of female volunteers. The women's crusade she led brought considerable, if sometimes derisive, attention.

Though she eventually took 55 percent of the vote, she had genuine Republican opposition, unusual in an era when New Yorks' main political action consisted of various Democratic factions knifing one another. The Republican-Liberal candidate way Barry Farber, a well-known radio talk show host. Mr. Farber drew many Democrats who resented Mr. Farbstein's humiliation or were simply put off by Ms. Abzug's style.

To her chagrin, Mr. Farber accused Ms. Abzug, who advocated direct negotiations between Israelis and Arabs, of flagging in her support of Israel. For years after that, she made a point of stating her Jewish credentials, dating to childhood: her family was religious and she went regularly to synagogue (though she was bother that women were relegated to the back rows of the balcony), studied Hebrew and was enrolled for a time at the Jewish Theological Seminary.

SETTING HER SIGHTS ON THE PENTAGON

When Ms. Abzug went to Washington, she set her sights on a appointment to the House Armed Services Committee. She wanted a resolution calling for an immediate withdrawal from Vietnam and she vowed to take on the military-industrial complex. She wanted an end to the draft. She wanted national health insurance, legislation to finance day-care centers and housing, and more money for New York City, all to be paid for with billions siphoned from the Pentagon's budget.

She got little of this, but during the next six years ''she was indefatigable,' Ms. Newberg recalled.

''She yelled a lot,'' Ms. Newberg said, ''only because she couldn't get everything done.'' And if she couldn't, she added, ti was partly because ''her agenda was too pure for her moment in time.''

Ms. Abzug became expert at parliamentary rules, worked them skillfully and was famously well prepared for every vote, hearing and committee spat. The ''sunshine law'' requiring governing bodies to meet publicly came out of a subcommittee she headed. She coaxed funds for New York from the Public Works Committee. She was a sponsor of the women's equal rights amendment.

''She was one of the most exciting, enlightened legislators that ever served in the Congress,'' said Representative Charles B. Rangel of Manhattan, with whom Ms. Abzug sometimes collaborated and sometimes sparred.

From her first day on Capitol Hill, to the day she dismayed her colleagues by introducing her Vietnam resolution, Ms. Abzug derided the Congressional club, the seniority system, the log-rolling and back-scratch. She did not spare fellow Democrats; when she spoke of liberals, it was usually dismissively. She badgered the House leadership over committee appointments and votes.

She badgered the President, too. Invited to a reception at Richard Nixon's White House, she accepted (while writing in her journal, ''Who wants to listen to his pious idiocies?''), then told Nixon in the receiving line that her constituents demanded a withdrawal from Vietnam.

For all of her railing against Democrats who went along to get along, Speaker Thomas P. O'Neill named her one of his dozen assistant whips, and by most accounts she worked well with some of the crustiest fixtures in the House.

Still, in 1972 Ralph Nader estimated that Ms. Abzug's sponsorship of a measure often cost it 20 to 30 votes. Her reputation as an irritant came from all quarters. Jimmy Breslin wrote of a campaign worker who went to the Lion's Head one night, holding his side and vowing never to work for Ms. Abzug again. ''She punched me,'' he said, in a quarrel over scheduling. The next day, Mr. Breslin wrote, Ms. Abzug called the aid. ''Michael, I called to apologize,'' she said. ''How's your kidney?''

Mr. Breslin also recounted the Congresswoman's introduction to Sol Linowitz, the former chairman of the Xerox Corporation and a Democratic Party luminary: ''Are you the man that used to be the head of the Xerox?'' Ms. Abzug asked. ''That's right,'' Mr. Linowitz replied. ''I'm glad to meet a big shot,'' Ms. Abzug said. ''I'm in hock $35,000 on my campaign.''

Ms. Abzug acknowledged loneliness in her years in Congress. ''Outside of Martin and the kids, I don't feel very related to most people at this point,'' she wrote in 1971. ''I feel detached in social situations. I'm always thinking about other things, about Congress, about the issues, about the political coalition I'm trying to organize. It never leaves me. I even have trouble relating to some of my closest friends, though God knows I still love them, even if they don't know it.''

Always, she returned to Manhattan to spend weekends with her husband.

She had married Martin Abzug in 1944. The two New Yorkers met on a bus in Miami, on the way to a Yehudi Menuhin concern. Mr. Abzug, a stockbroker and an author of two published novels, had next to no interest in

politics. In an interview in 1970, he murmured, while his wife was out of the room, ''The political bug is a curious bug.'' But he was also, she said, her best friend and supporter, and ''one of the few unneurotic people left in society.''

CORROSIVE AMBITION HAMPERS A CAREER

Ms. Abzug's own ambition was too corrosive for many people, even—or, perhaps, especially—for her fellow New York Democrats. When the State Legislature sliced up her district in 1972, they urged her to challenge one of the two conservative incumbent Democrats in adjoining districts, Representative John J. Rooney or Representative John M. Murphy. Instead, she opposed a liberal Democrat, William Fitts Ryan, in the 20th District, encompassing the Upper West Side and the Riverdale section of the Bronx.

The primary was bitter and, eventually, politically expensive to Ms. Abzug. Bill Ryan was one of the earliest heroes of the city's insurgent Democrats, an early opponent of the Vietnam War and a genuinely well-liked man who, as many of his constituents knew, was waging a gallant fight against cancer.

Mr. Ryan defeated Ms. Abzug in the Democratic primary but died before the general election. The Democratic County Committee appointed Ms. Abzug as the candidate to replace him, but she was challenged by Mr. Ryan's widow, Priscilla, who ran on the Liberal line. Ms. Abzug won in November, but she had made dedicated enemies who believed she was an overly aggressive politician who would not hesitate to attack anyone who got in her way. Ten years later, she was denied a seat in the state's delegation to the national party's biannual conference because New York leaders considered her disruptive.

In 1976, she gave up her House seat to run for the Senate. She lost in the primary, to Daniel Patrick Moynihan, by a margin of only 1 percent. Two more campaigns quickly followed. (In a 1978 interview, she said: ''I'm a politician. I run for office, That's my profession.'') She lost to Edward I. Koch in a crowded mayoral primary in 1977. The next year, running for the House again, she lost, again by 1 percent, to a little-known Republican, S. William Green.

She was appointed co-chairwoman of President Jimmy Carter's National Advisory Committee on Women, and then after disagreeing with him over economic policy, was dismissed. The majority of the committee members resigned in protest. Ms. Abzug, unapologetic, said with a shrug, ''I've got to find myself another big, nonpaying job.''

Her next and last campaign was in 1986, this time for a House seat in Westchester County. She won the primary in a burst of the old, ebullient campaigning style, but lost in November to Joseph J. DioGuardi, the Republican incumbent.

It was during that campaign that Martin Abzug died. Her friends said Ms. Abzug never recovered. Nine years later, she said in an interview, ''I haven't been entirely the same since.''

There was one more bid for office for her old house seat on the Upper West Side, when she announced her candidacy to replace Representative Ted Weiss on his death just before the 1992 election. But she was quickly eliminated from the field at the party convention.

During the next decade, Ms. Abzug suffered from ill health, including breast cancer, but continued to practice law and work for women's groups. She wrote a book, ''Gender Gap,'' with her old friend Mim Kelber. She started a lobbying group called Women U.S.A. and founded the Women's Environment and Development Organization, a nonprofit group that works with international agencies.

In addition to her daughters, Eve and Liz, Ms. Abzug is survived by her sister, Helene Alexander of Great Neck, N.Y.

''I've been described as a tough and noisy woman, a prizefighter, a man hater, you name it.'' Ms. Abzug said of herself in ''Bella.'' ''they call me Battling Bella, Mother Courage and a Jewish mother with more complaints than Portnoy.''

''There are those who say I'm impatient, impetuous, uppity, rude, profane, brash and overbearing. Whether I'm any of these things or all of them, you can decide for yourself. But whatever I am—and this ought to be made very clear at the outset—I am a very serious woman.''●

RETIREMENT OF NORTHAMPTON CITY TREASURER, MS. SHIRLEY LAROSE

● Mr. COVERDELL. Mr. President, I rise today, to pay tribute to Ms. Shirley LaRose, a dedicated public servant who has devoted more than forty-three years of her life to the residents of Northampton, Massachusetts. The city treasurer's office, which has been brightened by her infectious smile and delightful manner, will soon bid farewell to this outstanding woman. She is trading in her balance sheets to enjoy the splendors of a well-deserved retirement.

It is my understanding that Ms. LaRose began her career in the office of the Northampton city treasurer in 1954 as a clerk. In the years to follow, she was promoted from junior to senior clerk, and then became assistant treasurer. She became treasurer of Northampton in 1972 and has run unopposed for the position in every single election since the primary in 1973. Not only is this stellar record a reflection of her competent handling of the city's financial needs, but also of the respect she earned from the people of Northampton.

During her years of overseeing the receipt and distribution of city funds as well as the salaries, life insurance, and retirement policies of its employees, I have been told that Ms. LaRose touched the lives of countless people. She served her community with deep integrity, and her contributions to its prosperity are remarkable. I stand today to thank Shirley for her years of service to Northampton and to wish her well in her retirement. Her loyalty and accomplishments will not soon be forgotten by the grateful citizens of Northampton.●

NOMINATION OF JAMES HORMEL

● Mr. KERRY. Mr. President, I wish to speak today regarding the nomination of James Hormel of California to be the U.S. Ambassador to Luxembourg.

Last fall, after President Clinton nominated Jim Hormel to serve as our nation's next Ambassador to Luxembourg, the Foreign Relations Committee, on November 4, reported the nomination favorably by a vote of 16 to 2 and sent the nomination to the full Senate for consideration. During the course of this business meeting, no member of the Committee spoke in opposition to the nomination.

The problem is that the Senate has not been able to consider this nomination because some of our colleagues have put ''holds'' on it. Before adjourning last year, the Senate confirmed some 50 nominees, whose nominations had been approved by the Foreign Relations Committee. The only nomination that languished was that of Jim Hormel and the reason for this is very obvious. Some of my colleagues oppose this nomination because Jim Hormel is openly gay. That means, in their view, that he is not fit to represent his country overseas in Luxembourg.

It doesn't matter that government officials in Luxembourg have been eager to support this nominee. It doesn't matter, apparently, that in his correspondence with our colleague Senator SMITH from Oregon, Jim Hormel went on the record—in unprecedented fashion—in saying that he would not use his position as Ambassador to push any personal agenda, that his partner would not travel with him to Luxembourg, and his public positions would be those of the United States government only. All that matters, I suspect, for some members of this Senate, is that Jim Hormel is gay, that the most private and intimate elements of his lifestyle disqualify him from public service.

Mr. President, the issue is not and should not be Mr. Hormel's sexual orientation. The only relevant question here is whether he is qualified to undertake the position for which he has been nominated. The answer to that is ''yes''.

He has impressive academic credentials, having received his undergraduate degree from Swarthmore College and his J.D. from the University of Chicago. He has served as Assistant Dean and Dean of students at the University of Chicago. He currently sits on the board of managers of Swarthmore.

Jim Hormel is a loving father and grandfather, a businessman who ran a successful company for years, and a philanthropist who has supported, in his words but most importantly in his deeds, some of the most important causes facing this country. Outside the beltway, there's a chorus of very public support for this nominee. Those who care about autism, breast cancer research, AIDS research, religious diversity and human rights—they've all rallied together behind this nominee. The Episcopalian Archdiocese of California has called Jim Hormel ''an exemplary representative of the United States of America.'' Leaders from the business world, from the universities, and from diplomatic circles, including, I might add, former Secretary of State George Schultz, have stated publicly that James Hormel's public character and intellect make him an exceptionally strong nominee.

This is not the first time that Jim Hormel has been asked to serve his

country. In 1995 he was a member of the U.S. delegation to the 51st U.N. Human Rights Commission in Geneva. Last year he was nominated to serve an alternative representative of the U.S. delegation to the 51st U.N. General Assembly—a position subject to confirmation by the Senate. I want to remind my colleagues that no objection was raised to his nomination for this position, and the Senate confirmed him unanimously on May 23, 1997. In the final analysis, we've all got to make our private decisions about what we find acceptable, about which personal values we embrace. However, this Senator does not believe that private considerations should be used to deny an individual the right to hold a job for which he is qualified or to deny the full Senate its right to exercise its constitutional responsibility to act on a nomination. Those Senators standing in the way of this nomination should remove their ''holds'' and let the Senate work its will.●

PRAYER WARRIORS

● Mr. BROWNBACK. Mr. President, I was moved to find that more than 800 members of the D.C. community gathered together yesterday to pray for the District's public schools. The Rhema Christian Center Church invited people of all faiths to join them and pray for 25 school improvements which ranged from increased parental involvement to better safety.

They call themselves prayer warriors. They were each assigned to one of the District's 146 schools for the ''Jesus Goes to School Day of Prayer.'' As the children of D.C. walked into school—outside the prayer warriors prayed.

Many of these children walk through dangerous neighborhoods—where drug deals and violence are common—on their way to school every day. These children begin their school day with negative images. Yesterday, however, was different. Yesterday, the children of D.C. began their school day with a strong, positive message of prayer and support from their community.

The prayer warriors said ''We have tried everything else as a nation to save public education. Now, let's try prayer.'' Mr. President, we should recognize and affirm the example these prayer warriors have set in the nation's Capitol.●

SHEBOYGAN SELECTED TO LAUNCH CAMPAIGN AGAINST YOUTH INACTIVITY

● Mr. KOHL. Mr. President, I rise today to honor the City of Sheboygan, Wisconsin for being selected by the National Sporting Goods Association to launch the Wannabe Cool, Gottabe Active Campaign. The campaign, which targets students in grades 3–8, is designed to inspire confidence in one's abilities and to spur a lifetime dedication to physical and mental wellness. We must recognize the importance of programs like this which give children options that empower them to lead healthy lives.

Mr. President, this is especially important when we consider that we are witnessing a decrease in activity among our nation's youth. Today, only 22 percent of our children are physically active for the recommended 30 minutes each day. Physical education classes are on the decline with three out of four students in America not attending daily physical education classes and one out of four not attending any physical education classes in their schools—this represents a drop of almost 20 percent in just four years. These are frightening statistics and we need to reverse this trend.

The Wannabe Cool, Gottabe Active Campaign is a good start. There are several things I like about the program. First, the campaign targets the right age group, because we know that a commitment to physical activity is formed between the ages of eight and twelve. I am also impressed that the campaign involves a cooperative effort: parents, students, teachers, and community leaders all working together. Finally, the Wanna be Cool, Gotta be Active Campaign is designed to encourage all youth, not just those who are athletically inclined to participate and develop long-term enjoyment of physical activity. This is a serious issue which demands our attention.

Mr. President, I would like to once again extend my congratulations to the wonderful city of Sheboygan, Wisconsin for being selected to kick off the campaign. I'm sure that everyone involved will benefit from this very worthwhile venture.●

SATELLITE REFORM

● Mr. BURNS. Mr. President, during the final days of the first session of the 105th Congress, I announced that I would engage in an effort to eliminate outdated regulations and foster competition in the global satellite market. Since that time, I have held several meetings with representatives from the industry. In addition, my staff has conducted a series of open briefings with the various parties currently competing in the market, as well as representatives from the White House, the State Department and the International Bureau of the Federal Communications Commission. These meetings have recently concluded, and I now plan to move forward legislatively on this critical issue.

The international satellite market is poised for phenomenal growth as it looks to the 21st century. A mere 10 years ago there was only one service in place: Intelsat. Today a breathtaking array of services are either already in existence or planned to be launched in the near future. With this rapid transformation, it becomes clear that one day people everywhere from Bozeman, Montana, to Beijing, China, will send and receive telephone, video and data transmissions via satellite. The future of satellite communications is a future where opportunities are no longer limited by geography.

Unfortunately, while the industry hopes to reach a new orbit, U.S. policy in this area is still being left on the launching pad. Not since Ronald Reagan deregulated the satellite market in 1984 have we taken steps to bring our policy more in line with the competitive pressures of today. As a result, many consumers both here and abroad have not been able to benefit from the increase in services or the lowering of prices that have resulted from President Reagan's vision.

This is why I am going to use the upcoming recess to begin putting together a bill that will move U.S. satellite policy from the Stone Age to the Space Age. I intend to incorporate the views of all interested parties and I urge my colleagues to come to me with their ideas. I expect to have a bill completed and ready for introduction when we return later this month. I will hold a hearing in the Communications Subcommittee on the bill shortly after the Senate returns from the Easter recess. While I had originally planned to hold the hearing on April 22, I am moving the hearing date to April 29 to ensure that members have adequate time to give their insights and suggestions on this most important issue.

As I indicated when I first took on this issue, there will be several principles that will help guide me along the way. Competition, deregulation, privatization and competitive neutrality are all principles that have helped drive past industries toward success. While the global satellite industry is somewhat different because we are dealing with sovereign nations around the world, there is no reason that the United States cannot take a strong position and lead by example. It was our leadership under the 1962 Satellite Act that gave this industry its beginning and it can be our leadership today that brings the industry firmly into the 21st century. In fact, Mr. President, we recently witnessed such U.S. leadership. Last week, the Intelsat assembly of parties approved the creation of a spin-off company. This effort was achieved through the hard work of the U.S. delegation and the 141 member nations of Intelsat. I believe this is a positive first step on the path to bringing boundless opportunities to folks all over the globe.

I hope that all of my colleagues will join me in crafting legislation with the ultimate goal of encouraging competition in this industry. The rapid changes in technology and consumer behavior dictate that we act expeditiously. Market forces simply will not wait. I intend to work closely with my colleagues on the Commerce Committee to make sure that consumer interests are protected as we move forward on this vital issue.●

REMEMBERING THE 1997 WATERTOWN FLOOD

● Mr. JOHNSON. Mr. President, I want to take this opportunity today to recognize the one year anniversary of one of the worst natural disasters to hit Watertown, South Dakota, and the amazing fact that, only one year later, Watertown continues to grow and prosper.

Referred to by South Dakotans simply as ''the flood,'' the events surrounding April 5 and 6, 1997, had the potential to cripple one of the state's fastest growing cities. Instead, battling rising waters and a late season snowstorm, the residents of Watertown, South Dakota, overcame adversity and forged a true community, defined by selfless acts of caring, cooperation, and good will.

Few South Dakotans will forget the winter and spring preceding the April floods. Snowdrifts as high as buildings, roads with only one lane cleared, homes without heat for days, hundreds of thousands of dead livestock, and schools closed for a week at a time were commonplace. As if surviving the severe winter cold was not challenge enough, residents of Watertown could hardly imagine the extent of damage Mother Nature had yet to inflict with a 500-year flood.

Watertown residents could sense the impending flood. The first snow of the season fell in October, and six consecutive months of record-breaking snowfall covered ground that was already saturated from years of unusually wet winters. As the first warm days of spring slowly melted layers of the snowpack, Watertown residents began planning for flooding. Sandbags and earthen berms ringed Lake Kampeska and the Big Sioux River. However, despite careful planning, on April 5, an unexpected blizzard hit the state, devastating the area. Everything froze, creating further concerns about what was going to happen once the water began flowing again.

The unusual weather mix caused water levels to surge in a few hours. RECORD levels on the Big Sioux River and Lake Kampeska forced over 5,000 residents of Watertown, or one-fourth the city's population, to evacuate their homes. Over one-third of the city was without sewer and water for three weeks. The headline of the Watertown Public Opinion on April 6 read ''Watertown in Peril,'' and I will never forget the image of homeowners and neighbors, shrouded in a late-season snow storm, sandbagging against the rising waters of the Big Sioux River and Lake Kampeska.

A number of individuals and organizations in Watertown are responsible for the amazing fact that, despite causing millions of dollars of damage to property, the 1997 flood failed to claim any lives. The work of Mayor Brenda Barger and other community leaders held Watertown together with their strength and direction. The city's ad-hoc crisis center brought together local and county officials, volunteer agencies including the Red Cross, Salvation Army, Lutheran Social Services, and others, to brainstorm and compile ''resource lists'' of expected needs including equipment, people, and funds.

Local volunteers, students, prisoners, and National Guard personnel were recruited to first fight the rising waters with sandbags and then help clean-up as the waters receded. In the following days, over 750 port-a-potties were deployed on the lawns of those families who could return to their homes. Water trucks were brought in to provide people with a fresh water supply, and repairs to the damaged water treatment plant were completed ahead of schedule.

While those of us from South Dakota will never forget the destruction wrought by ''the flood,'' I was heartened to witness first-hand and hear accounts of individuals coming together in Watertown to protect homes, farms, and lives from rising flood waters.

Mr. President, April 6 marks the one year anniversary of this terrible natural disaster in Watertown. However, residents of Watertown should look back on April 6, 1997, and be proud of the way they and their neighbors came together and worked side by side to see their community survive. It is this community spirit and pride that will continue to make Watertown ''South Dakota's Rising Star.''●

TRIBUTE TO THE VERMONT STATE HOUSING AUTHORITY FOR 20 YEARS OF SERVICE

● Mr. JEFFORDS. Mr. President, I rise today to congratulate the Vermont State Housing Authority on its 20th Anniversary of providing Vermonters with access to affordable housing.

On March 23, 1968, the Vermont State Housing Authority (VSHA), the nation's first statewide housing authority, was established to ensure that Vermonters have access to affordable housing. Over many years of initiative, dedication, and innovation, the VSHA has aggressively and compassionately pursued opportunities to make housing more accessible and affordable for Vermont's neediest families. I celebrate and extend my congratulations to VSHA.

As a Senator, my highest priorities focus on the essentials for each citizen—economic security, quality education, health care, and meaningful work. We all know that a home is a critical foundation for a successful journey through life. Every year VSHA helps Vermonters build this foundation by providing housing services that reach more than 5,300 families. From mobile home park residents to senior citizens, VSHA serves a wide range of clients.

Over the years, VSHA has emphasized neighborhood reinvestment initiatives that provide essential supports needed to shape healthy, safe communities so its residents can thrive. The professionalism, reliability, and accomplishments of the staff at VSHA are unsurpassed. Aware of the needs and hopes of Vermonters, the VSHA staff work tirelessly to preserve and create hopeful environments for Vermonters.

Mr. President, I commend the Vermont State Housing Authority for its outstanding contribution and dedication to improving the quality of life for Vermonters. I am both proud and honored to represent such an accomplished group of individuals here in Washington as they are a national model for how to provide affordable, quality housing opportunities for those in need.

I express my sincerest thanks for VSHA's 20 years of commitment to Vermont and her people. Their continued leadership and drive will continue to ensure that every Vermonter has a place to call home.●

VIETNAM VETERANS OF AMERICA CHAPTER 1: TWENTY YEARS OF SERVICE TO THE NATION

● Mr. LEAHY. Mr. President, I rise today to commend the Vietnam Veterans of America for 20 years of service to veterans and their communities. In particular, I want to recognize the first chapter of the VVA, which was founded in Rutland, Vermont.

If we remember back to the late 1970s, our nation was dealing with the aftermath of a war in which more than 58,000 Americans lost their lives and 2.8 million veterans had served. Many of those veterans were struggling with physical, emotional, and social problems directly related to their service in Vietnam.

Those problems were worsened by the attitude of many Americans who could not separate their opposition to the war from their treatment of our soldiers who had fought it. It was in that spirit that a group of Vietnam veterans from Vermont approached a resourceful young veteran named Bobby Muller. I am proud to say that Bobby Muller has become a close friend of mine and in fact was in Vermont with me just last week. The Vermonters, led by Donny Beaudette and Jake Jacobsen, founded the first chapter of what is now the Vietnam Veterans of America. I remember it well. They were soon joined by other Vermonters like Clark Howland, Mike Dodge, John Bergeron, and others. Together, Chapter One made it their mission to be there for Vermont Vietnam veterans and indeed all veterans.

In the twenty years since then, Chapter One has accomplished that mission, and in the process they have improved the whole Rutland community. They have not only offered assistance to fellow veterans, they have saved the lives of countless troubled veterans who had no where else to turn. Chapter One is responsible for the Dodge Development Center, a veterans center and shelter for homeless veterans which I have

been proud to support. Members participate in the annual Rutland Loyalty Day Parade, Memorial Day and Veterans Day and annual POW/MIA Day ceremonies. Chapter One has also initiated an ''Honor the Vet Program'' with area businesses. Under this program, local businesses agree to provide a discount to any veteran with a veteran organization membership card.

In short, Mr. President, VVA Chapter One honors Vermont, just as its veterans honored us with their service in Vietnam. There are now four chapters carrying on the VVA tradition in Vermont. Besides Chapter One in Rutland, there is now chapter Chapter 601 in Bennington, Chapter 723 in Chester and Chapter 753 in St. Albans.

I thank them for all they have done and I wish them the best on this landmark occasion.●

ASSESSMENT OF CUBAN THREAT TO UNITED STATES NATIONAL SECURITY

● Mr. GRAHAM. Mr. President, the 1998 Defense Authorization Bill contains a provision, which I introduced as an amendment, that requires the Secretary of Defense to conduct an assessment of the Cuban threat to United States national security. The bill requires the Secretary to report to Congress on this assessment by March 31, 1998. The report has been delayed, and it now appears that the report will be released after Congress begins the Easter recess.

While the final report has not been released and no member of Congress has yet been briefed on its content, a draft report was leaked to the press and several articles have appeared over the past few days. I am concerned that this information was leaked to the press before the report was provided to Congress.

Members of Congress are now in the position of having to respond to these press reports without the benefit of knowing the actual contents of the report. Since Congress will not be in session for over two weeks and our ability to respond to the report will be limited, I would like to take this opportunity to provide some context for the report and for the reason that I requested it.

Cuba, under Fidel Castro's dictatorial regime, has a well documented history of threatening the national security of the United States. From the Cuban Missile Crisis, to the Mariel Boatlift, to the Brothers to the Rescue shootdown, the pattern of provocation and threat to the well being of Americans is clear. Unfortunately what is also clear is a pattern of unpreparedness on the part of the United States to respond to Cuban provocations. In fact, NBC News reported that President Clinton was constrained in responding to the Brothers to the Rescue shootdown because of a fear of Cuban counterattacks.

It was my intention that this report would force the Defense Department to assess Cuban capabilities to threaten the United States and, since Castro has a long record of using his capability against the United States, prepare contingency plans to respond to any threat from Cuba. We should not be caught off guard, unable to respond again.

Press reports that the Department of Defense assessment finds no national security threat from Cuba are very troubling. Just two years ago, Cuban Air Force MiGs shot down two unarmed civilian aircraft over international waters, killing three United States citizens. Although U.S. forces monitored the entire event, no U.S. forces were able to respond. Our advanced fighter aircraft never got off the ground.

Equally as troubling as this type of conventional threat are the non-traditional threats posed by Cuba. Biological and chemical weapons, intelligence collection activities, immigration crises, drug trafficking, and dangerous nuclear and information warfare programs all pose national security threats to the United States.

At the same time, U.S. capability to deal with these threats continues to erode. A series of base closure decisions have reduced capability in the areas that provide the most direct capacity to respond to Cuban provocations. With the realignment of Homestead Air Force Base and Key West Naval Air Station, we are in a worse posture than in 1996 when the shootdown occurred.

Mr. President, let me mention a few of the known Cuban capabilities that cannot be overlooked. First, a significant conventional military capability exists that can harm United States interests, as demonstrated by the 1996 shootdown. In addition, Jane's Defense Weekly reported last summer that Castro is training elite special force units in Vietnam which are prepared to attack U.S. military targets during a final confrontation. NBC News reported in 1995 that Cuba has operated a special military training school since the mid-1980's named the Baragua School in Los Palacios, Pinar del Rio, in a region known as El Cacho. It reportedly trains some 2,500 men and specializes in commando attacks and infiltration of other countries.

Castro's capability to produce weapons of mass destruction is even more worrisome, particularly his ability to produce biological weapons. There is no question that the capability exists. Cuba has a developed pharmaceutical industry and a network of biological ''institutes'' which could be used for more than simply scientific research. Many of Cuba's engineers and scientists have been trained in former-communist countries such as East Germany and Russia and have ample training to cultivate biological weapons. Biological weapons are the easiest to conceal and acquire because of the dual-use nature of the technology.

Another major threat to U.S. national security is the intelligence collection facilities in Cuba that can intercept all electronic transmissions, emanating from the east coast of the United States. The 28 acre Russian intelligence facility at Lourdes has two electronic satellite dishes aimed at the United States which can intercept phone calls, faxes, and computer data from the entire Eastern seaboard. Russia and Cuba renegotiated a $200 million annual lease for the site in 1995. According to U.S. intelligence analysts, one dish listens in on general U.S. communications, the other is used for targeted eavesdropping. The facility employs 800 Russian technicians and linguists. An example of the danger this facility poses to U.S. national security is the fact that during the Gulf War, the station's specialists intercepted the details of the U.S. military battle plans and were prepared to disclose these plans to Iraq and other U.S. enemies.

The Russians have spent nearly $3 billion on Lourdes and sources say that the Russians are upgrading its reach. In addition, the operation at Lourdes is extremely sophisticated. According to U.S. intelligence sources, the Russians program the computers at Lourdes to listen for specific phone numbers. When they detect those lines are in use, the computers automatically record the conversations or transmissions. For priority targets, an alarm signals a Russian linguist who will actually listen in.

The Castro regime has also used mass migration as a policy tool. There have been two major refugee crises which have posed a security threat to the U.S. In 1980, 125,000 Cubans came to the U.S. in the ''Mariel Boatlift.'' In 1994, another 32,000 Cubans left Cuba by boat and were picked up at sea by the U.S. Coast Guard. In the Mariel crisis, the Cuban government encouraged criminals and mental patients to leave, causing additional security problems for the United States.

The problem of dealing with a large influx of refugees, whether criminal or not, gives Castro a weapon he can use to threaten the United States. Mass immigration represents a form of leverage Castro can use to extract concessions from the U.S. on a number of issues.

Cuba also has a dormant nuclear capability that can threaten the United States. Sergei Shoigu, Minister of Emergency Situations in Russia, has recently confirmed that Russia and Cuba will forge ahead to finish constructing the Juragua nuclear plant on Cuba's south coast. The Juragua facility is known to be unsafe in both construction and design. A nuclear accident at Juragua would send a radioactive cloud over the lower tier of the U.S. to Texas or up to the East Coast to Washington, D.C. within the first four days, depending on the season and prevailing winds. According to a National Oceanographic and Atmosphere Administration study, an estimated 50–80 million Americans from Florida to

Texas could be exposed to dangerous levels of radioactivity.

The U.S. State Department lists Cuba as a state sponsor of terrorism. Cuba also regularly conducts political, social, and economic interactions with countries listed on the State Department's List of Terrorist Nations, including Libya, Iran, and Iraq, giving it access to these countries' illegal supplies of weapons and biotech products. These activities, all just 90 miles off our shores, must be considered as a threat to U.S. national security.

Mr. President, it is clear that Cuba has the capability to threaten U.S. national security. Castro's track record of provocations and attacks should be a warning that he will use whatever capabilities he has. We must take these threats seriously and ensure that we can adequately respond to any Cuban provocation. The Constitution requires us to provide for the common defense of the American people, and we must never shrink from that responsibility. The threats posed by Castro's Cuba are obvious. What must be made clear is an adequate plan to deter and defend against such threats.●

TRIBUTE TO BOB BARKER

Mrs. FEINSTEIN. Mr. President, I rise today to pay tribute to a man who has brought joy and laughter to countless Americans during his nearly fifty years in entertainment, Bob Barker. Next week, Mr. Barker, who is the host and executive producer of the legendary game show CBS' ''The Price is Right,'' celebrates airing the 5,000th episode of his series. I ask my colleagues to join me in recognizing his achievements.

In his 26th season, ''The Price is Right'' is the longest running game show in American history and continues to be America's highest rated daytime game show. Beyond the fact that most Americans have watched the show at some point in their lives, more than 42,000 people have been contestants on the program, while an approximate 1.3 million have participated in the studio audience. Both the show's spontaneity and Mr. Barker's effortless rapport with contestants have given ''The Price is Right'' its unique popularity. Bob has repeatedly said over the years, ''The Price is Right'' is not just a television show, it is an event. Today I commend Mr. Barker not only for reaching this impressive milestone with the show, but also for his longstanding ability to entertain the American people.

Mr. Barker was born in Darrington, Washington, and spent most of his youth on the Rosebud Indian Reservation in South Dakota where his mother was a school teacher. His family eventually moved to Springfield, Missouri, where he attended high school and Drury college on a basketball scholarship. When World War II intervened, he became a Navy fighter pilot, but the war ended before he was assigned to a seagoing squadron.

Following his discharge, Mr. Barker returned to Drury College and took a job at a local radio station to help finance his studies. It was there that he discovered that what he did best was to host audience participation shows. After graduating summa cum laude with a degree in economics, he went to work for a radio station in Palm Beach, Florida. A year later he moved to Los Angeles, and within a week, he was the host of his own radio program, ''The Bob Barker Show.''

Bob Barker's career was forever transformed in 1956 when he debuted as the host of the television show, ''Truth or Consequences.'' It was his 3,524 consecutive performances on ''Truth or Consequences'' over its eighteen-year run that won him the title of ''Most Durable Performer'' in the Guiness Book of World Records. During his forty-one years on network television, he has taped more shows than any other individual for a network series. Between ''Truth and Consequences,'' ''The Price is Right,'' and his 21 years as host of both the Miss USA and Miss Universe pageants, he has hosted more than 8,500 shows in the course of his career. According to CBS, he has made more appearances on television in general than anyone else in the entire history of the medium. Bob has won 12 Emmy Awards, ten of which were for his performances as a game show host and represent the largest number of Emmys given to a single television performer.

Bob is an outspoken and eloquent supporter of animal rights, and has consistently used his celebrity to help to control the animal population, thereby reducing the number of needless animal deaths. Each day he closes ''The Price is Right'' with a reminder to spay and neuter your pets. He has established the DJ&T Foundation to provide funding for free spay and neuter clinics across the nation. In recognition of his efforts, he received the International Society for Animal Rights' highest honor, the Henry Salt Award, in 1995.

Therefore, as Mr. Barker commemorates the 5,000th episode of ''The Price is Right,'' I thank him for his special lighthearted touch. As he told the Los Angeles Times in 1996, ''We don't solve the world's problems. But hopefully we help a lot of people to forget their problems for an hour * * * We're there to entertain, laugh, and have fun.'' On behalf of the people of the state of California, I congratulate you, Bob, and thank you for entertaining us and making us laugh.

REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENT NO. 105–40

Ms. COLLINS. As in executive session, I ask unanimous consent that the injunction of secrecy be removed from the following treaty transmitted to the Senate on April 2, 1998, by the President of the United States:

Treaty with Israel on Mutual Legal Assistance in Criminal Matters, Treaty Document No. 105–40.

I further ask unanimous consent that the treaty be considered as having been read for the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

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

The message of the President is as follows:

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Treaty between the Government of the United States of America and the Government of the State of Israel on Mutual Legal Assistance in Criminal Matters, signed at Tel Aviv on January 26, 1998, and a related exchange of notes signed the same date. I transmit also, for the information of the Senate, the Report of the Department of State with respect to the Treaty.

The Treaty is one of a series of modern mutual legal assistance treaties being negotiated by the United States for the purpose of countering criminal activities more effectively. The Treaty should be an effective tool to assist in the prosecution of a wide variety of modern criminals, including those involved in terrorism, other violent crimes, drug trafficking, money laundering, and other white collar crime. The Treaty is self-executing.

The Treaty provides for a broad range of cooperation in criminal matters. Mutual assistance available under the Treaty includes: taking the testimony or statements of persons; providing documents, records, and articles of evidence; serving documents; locating or identifying persons or items; transferring persons in custody for testimony or for other assistance; executing requests for searches and seizures; assisting in proceedings related to seizure, immobilization and forfeiture of assets, restitution, and collection of fines; executing procedures involving experts; and providing any other form of assistance appropriate under the laws of the Requested State.

I recommend that the Senate give early and favorable consideration to the Treaty and give its advice and consent to ratification.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *April 2, 1998*.

AUTHORIZING FUNDS FOR FEDERAL-AID HIGHWAYS, HIGHWAY SAFETY PROGRAMS, AND TRANSIT PROGRAMS

Ms. COLLINS. Mr. President, I understand that the Senate has received from the House H.R. 2400 regarding the highway legislation. Pursuant to the consent agreement of March 12, 1998, I now ask unanimous consent that the

Chair be authorized to appoint the following conferees, which I send to the desk.

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

Under the order of March 12, 1998, all after the enacting clause of H.R. 2400 is stricken, and the text of S. 1173, as amended, is inserted in lieu thereof. The bill is read a third time and passed, the Senate insists on its amendment, and requests a conference with the House.

The Presiding Officer (Mr. HUTCHINSON) appointed from the Committee on Environment and Public Works, Mr. CHAFEE, Mr. WARNER, Mr. SMITH of New Hampshire, Mr. KEMPTHORNE, Mr. INHOFE, Mr. THOMAS, Mr. BOND, Mr. HUTCHINSON, Mr. ALLARD, Mr. SESSIONS, Mr. BAUCUS, Mr. MOYNIHAN, Mr. LAUTENBERG, Mr. REID, Mr. GRAHAM, Mr. LIEBERMAN, Mrs. BOXER and Mr. WYDEN; from the Committee of Finance, Mr. ROTH, Mr. GRASSLEY, Mr. HATCH, Mr. BREAUX, and Mr. CONRAD; from the Committee on Banking, Housing and Urban Affairs, Mr. D'AMATO, Mr. GRAMM, Mr. SHELBY, Mr. SARBANES, and Mr. DODD; from the Committee on Commerce, Science and Transportation, Mr. MCCAIN, Mr. STEVENS and Mr. HOLLINGS; from the Committee on the Budget, Mr. DOMENICI, Mr. NICKLES, and Mrs. MURRAY conferees on the part of the Senate.

The PRESIDING OFFICER. S. 1173 is indefinitely postponed.

AUTHORIZING APPOINTMENTS DURING ADJOURNMENT

Ms. COLLINS. Mr. President, I ask unanimous consent that not withstanding the adjournment of the Senate, the President of the Senate, the President of the Senate pro tempore, and the majority and minority leaders be authorized to make appointments to commissions, committees, boards, conferences, or interparliamentary conferences authorized by law, by concurrent action of the two Houses, or by order of the Senate.

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

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Ms. COLLINS. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on the Executive Calendar: Nos. 526, 535, 536, 537, 555, 556, 557, 563, 564, and 565.

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

I ask unanimous consent that the nominations be confirmed en bloc, that the motion to reconsider be laid upon the table, and any statements relating to these nominations appear at this point in the RECORD, and that the President be immediately notified of the Senate's action, and that the Senate then return to legislative session.

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

The nominations considered and confirmed en block are as follows:

EXECUTIVE OFFICE OF THE PRESIDENT

Thomas J. Umberg, of California, to be Deputy Director of Supply Reduction, Office of National Drug Control Policy.

DEPARTMENT OF LABOR

Richard M. McGahey, of New York, to be an Assistant Secretary of Labor.

DEPARTMENT OF COMMERCE

Robert J. Shapiro, of the District of Columbia, to be Under Secretary of Commerce for Economic Affairs.

DEPARTMENT OF TRANSPORTATION

John Charles Horsley, of Washington, to be Associate Deputy Secretary of Transportation.

THE JUDICIARY

Kermit Lipez, of Maine, to be United States Circuit Judge for the First Circuit.

Robert T. Dawson, of Arkansas, to be United States District Judge for the Western District of Arkansas.

Johnnie B. Rawlinson, of Nevada, to be United States Judge for the District of Nevada.

OFFICE OF SPECIAL COUNSEL

Elaine D. Kaplan, of the District of Columbia, to be Special Counsel, Office of Special Counsel, for the term of five years.

THE JUDICIARY

Melvin R. Wright, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of fifteen years.

Ruth Y. Goldway, of California, to be a Commissioner of the Postal Rate Commission for a term expiring November 22, 2002.

NOMINATION OF JUDGE KERMIT V. LIPEZ TO THE FIRST CIRCUIT COURT OF APPEALS

Ms. COLLINS. I rise in support of No. 555 on the Executive Calendar, the nomination of Kermit Lipez, of Maine, to the first circuit.

Mr. President, it is an honor and a pleasure to rise to speak in support of the nomination of Justice Kermit Lipez to serve on the First Circuit Court of Appeals.

Having spent the past 12 years as a member of the Maine judiciary, Justice Lipez is a highly respected jurist. With experience at both the trial and appellate court levels, it is fair to say that he has been tested for the position for which he has now been nominated and that he has passed that test with flying colors.

Justice Lipez is universally praised in Maine for his judicial temperament, his sense of fairness, and his intellectual capabilities. His demeanor is consistently that of a gentleman, treating witnesses, jurors, attorneys, and spectators with great respect, and ensuring that others follow his example. He makes the courtroom a far less intimidating place for the average person.

Justice Lipez's reputation for impartiality is reflected in the high regard in which he is held by all segments of the bar. Indeed, people who agree on little else agree on his sense of fairness. He was appointed to the Maine Superior Court by a Democratic Governor, he was appointed to the Maine Supreme Court by a Republican Governor, and he was recently praised by an Independent Governor. If public trust in our court system hinges on the belief that the courtroom is a place where everyone can expect equal treatment, no one in Maine has done more to promote that perception than Justice Lipez.

The nominee is also a man who combines great intellectual acumen with considerable common sense. He has that rare ability to deal with the most cerebral of issues while keeping his feet planted firmly on the ground. Despite the talent he possesses and the respect he commands, he is a person of humility, an essential trait for someone empowered to sit in judgment of others.

Mr. President, Kermit Lipez's dedication to his profession is beyond question. As a judge's son, he came to the bench with considerable knowledge of the judicial function. Yet, shortly after his appointment to the State Superior Court, he took the unusual step of obtaining a master's degree in judicial process from the University of Virginia School of Law.

Justice Lipez understands not only the powers of a judge but also the limits on those powers. To use his own words, courts exist to resolve ''particularized disputes. They do not decide the wisdom of laws. . . . [They] squander their resources and their authority when they try to manage problems or impose solutions beyond their competence and their proper role.''

Mr. President, Justice Lipez has excelled in everything he has undertaken—whether as a legislative aide to former Senator Muskie, a private practitioner, a trial judge, or a Justice on Maine's Supreme Judicial Court—and I am confident that he will excel as a member of the First Circuit Court of Appeals.

Senator SNOWE has been a very strong advocate for Justice Kermit Lipez. It was, in fact, Senator SNOWE's husband who appointed Justice Lipez to the court in Maine. I am delighted to be here tonight to speak on behalf of this nomination.

IN SUPPORT OF JUSTICE KERMIT LIPEZ

Ms. SNOWE. Mr. President, I rise today to express my strong support of Justice Kermit Lipez's nomination to become a judge on the First Circuit of the U.S. Court of Appeals.

Justice Lipez has many qualifications to recommend him and I want to take a few minutes to touch on them. But before I begin, I want to take this opportunity to thank the Chairman of the Judiciary Committee, Senator HATCH, for all that he has done in getting the Committee to promptly consider Justice Lipez's nomination and bringing us to this vote today. Throughout this process, Senator HATCH has been consistently thoughtful and cooperative, and I want him to know how much I appreciate his invaluable contributions and assistance.

The Senate's action today will be the culmination of an exemplary career on

the state bench—a career that has earned Justice Lipez universal respect in Maine's legal community, regardless of political affiliation. This is a man who was appointed to the state bench by a Democratic Governor, was promoted to the Maine Supreme Court by a Republican Governor—my husband, John McKernan, Jr.—and whose nomination to the First Circuit was enthusiastically supported by Maine's current Independent Governor.

Likewise, it was no coincidence that Maine's entire Congressional Delegation—representing both parties—stood proudly with Justice Lipez and testified on his behalf at his nomination hearing. All of this points to one irrefutable fact: by all accounts and by any measure, Kermit Lipez is an exceptional judge. And he will make us proud.

At Justice Lipez's hearing before the Judiciary Committee, my friend from Delaware, Senator BIDEN, noted the high regard in which the First Circuit is held. He wanted to impress upon Justice Lipez that, if confirmed, he would join a very impressive and effective court. I trust and share my friend from Delaware's assessment of the First Circuit—and I want to assure him and all of my colleagues that in this regard, Justice Lipez and the First Circuit are an ideal match.

That is not a statement I make lightly. The facts reveal a judge that for thirteen years on the state bench has been a judge personally and professionally dedicated to excellence.

But you don't have to take my word for it. Since the President nominated Justice Lipez for this post, I have been privileged to read numerous letters in support of his nomination.

Justice Lipez's has been called a ''. . . truly outstanding nomination,'' by a senior member of the First Circuit, Judge Frank Coffin. He has been characterized as ''. . . at the top of Maine's jurists'' by the Dean of the University of Maine's Law School, Donald Zillman. And his present colleagues on Maine's Supreme Court have commented that he works as hard on their cases as he does on his own, and for that, they will miss him.

It's not just Justice Lipez's colleagues or his congressional delegation who support him, but just about anybody who has taken the time to review his record. An editorial that ran in Maine's largest newspaper, the Portland Press Herald, put it this way: ''. . . (he) has proven to be a fair and thoughtful judge during his 12 years on the state Superior and Supreme Courts. . . . Lipez's resume and record . . . transcend politics.''

Maine's second largest newspaper, the Bangor Daily News, echoed this sentiment, commenting that Justice Lipez was ''remarkably talented'' and that ''. . . the state should feel nothing but honor that Kermit Lipez will represent Maine on the second-highest court in the nation.'' Mr. President, I couldn't agree more.

I believe we should expect any federal judge to demonstrate a personal dedication to his or her work, a thorough understanding of the law, and a balanced approach to jurisprudence. Justice Lipez has demonstrated all of these attributes with admirable regularity.

What makes me so proud to support his nomination, however, is the fact that he will bring so much more than just the prerequisites to the federal bench.

For with Justice Lipez also comes a deep respect for the law—and a judge's role in its administration. With him comes an outstanding legal mind that is not only able, but willing to make the right decision even when it's not the easy or expeditious one. And with the nomination of Justice Lipez, the federal bench will welcome a man of the utmost personal integrity—a man well represented by his work ethic, his tremendous talent, and his irreproachable personal character.

Mr. President, I am proud that Justice Lipez will represent Maine on the First Circuit. He has precisely the kind of experience and disposition that we should expect from all our nominees. He is well-tested, remarkably talented, and perfectly suited for the demanding work of the federal bench. The President and the Judiciary Committee have acted wisely in forwarding Justice Lipez's nomination, and it is time for the Senate to do likewise by confirming him. I hope all of my colleagues will join me in supporting this outstanding nominee.

STATEMENT ON THE NOMINATION OF JOHNNIE B. RAWLINSON

Mr. REID. Mr. President, Johnnie B. Rawlinson was born in Concord, North Carolina on December 16, 1952. The fourth of seven children, Johnnie grew up in Kannapolis, North Carolina where she attended public school and was a member of the first integrated class at A.L. Brown High School in Kannapolis. Upon graduation, Johnnie received a full scholarship to attend North Carolina A&T University in Greensboro, North Carolina. She majored in psychology and graduated Summa Cum Laude with a Bachelor's of Science degree in 1974.

Johnnie met Dwight Rawlinson, her husband of 21 years, while they were both juniors at A&T. They married in 1976 and moved to California where Dwight, an officer in the Air Force, had been transferred. Johnnie enrolled at the University of the Pacific's McGeorge School of Law where she had been granted a full academic scholarship. In November of 1977, at the beginning of her second year of law school, Dwight was transferred to Nellis Air Force Base. Pregnant with their first child, Johnnie stayed in California to finish up her schooling. In 1978, Dwight joined her for spring break and together they celebrated the birth of their daughter Monica. Since Nevada has no law school, Dwight and Johnnie decided that Johnnie and Monica would return to California for her third and final year of law school. Monica attended classes with her mother and they both returned to Nellis for long weekends and summers. In 1979, Johnnie B. Rawlinson graduated in the top ten percent of her law school class, the first attorney in her family.

Johnnie was admitted to the California Bar in 1979 and the Nevada Bar in 1980. While she was waiting to find out her Bar results, she worked as a law clerk for John O'Reilly, former Chair of the Nevada Gaming Commission. In June of 1980, she went to work as a staff attorney for Nevada Legal Services, where she worked on landlord-tenant disputes and unemployment compensation. After four months of work for Legal Services, in October of 1980, she was hired as Deputy District Attorney by Nevada Governor Bob Miller, who was then serving as Clark County DA.

For the past 17 years, Rawlinson has moved steadily up the ladder at the District Attorney's office. She served for nine years as a Deputy District Attorney, developing expertise in the areas of Arbitration, Collection Law, Hospital Law, Local Government Purchasing, Employment Law, Labor Law, Civil Litigation and Workers Compensation. In September 1989, she was promoted to Chief Deputy District Attorney and in January of 1995, Clark County DA Stewart Bell promoted her to Assistant District Attorney. In her current position, she supervises the Civil, Family Support, and Administration Divisions of the office. She presents evidence at Coroner's Inquests and is the Chair of the Professional Hiring Committee.

In the mid 1980s, Governor Richard Bryan appointed Rawlinson to the Welfare Board where she served until 1991. In 1991, she made it to the final round of the interview process for an open position as U.S. Magistrate in Nevada District Court. When another Magistrate position opened up in Northern Nevada, she was named to the Magistrate Judge Selection Committee.

A past member of the State of Nevada Board of Governors and a past board member of the Clark County Bar Association, the Southern Nevada Association of Women Attorneys, and the Las Vegas Chapter of the National Bar Association, Rawlinson plays an active role in Nevada legal affairs. She currently serves on the State Bar of Nevada Board of Bar Examiners and is Chair of the Lawyer Referral Services Committee. She has also served as a lawyer representative to the Ninth Circuit Judicial Conference and currently serves as a member of Judge Phillip Pro's Civil Justice Reform Act Advisory Group. A frequent lecturer to the Lorman Business Institute, Rawlinson has also served as an Adjunct Professor of Hospital Law at the College of St. Francis and as an adjunct Professor of Employment Law at the Community College of Southern Nevada.

Today, Johnnie and Dwight Rawlinson are the proud parents of

three children: Monica, a graduate of Western High, received her own full academic scholarship to South Carolina State University where she is in her sophomore year studying pre-med; Traci is entering the ninth grade at Western High and David is a second grader at Howard Wasdenn Elementary School.

Residents of Clark County for close to twenty years, the Rawlinsons enjoy spending time with their family and friends from church. An active member of the Church of Christ in North Las Vegas, Johnnie served as Secretary of the Church for 10 years and taught Sunday school as well.

In late August 1997, I sent Rawlinson's name to the President as my nominee for Federal District Court Judge for the District of Nevada. On January 27, 1998, President Clinton formally nominated her for a seat on the federal bench. She was unanimously reported out of the Senate Judiciary Committee on March 26, 1998. Tonight she was confirmed by the Senate. Johnnie B. Rawlinson will be the first African American and the first woman to serve as a Nevada Federal District Court Judge.

JUDICIAL CONFIRMATIONS

Mr. LEAHY. Mr. President, I thank the Majority Leader for calling up the nominations of Justice Kermit Lipez to the First Circuit Court of Appeals, Mrs. Johnnie Rawlinson to the District Court for the District of Nevada and Mr. Robert T. Dawson to the District Court for the Western District of Arkansas.

Before adjourning for a two-week recess, it is important for the Senate to clear its calendar of nominations to the maximum extent possible. Certainly the confirmation of these outstanding nominee, which the President sent to us back in October and November last year and earlier this year, are a step in the right direction. I have been urging the Majority Leader to move judicial nominations through the Senate and I thank him for doing so with respect to these nominees.

As the Senate prepares to recess, eight judicial nominations still remain on the calendar awaiting Senate action. With these three additional confirmations, the Senate will still have confirmed less than 20 judges for the year. This, at a time when we have already witnessed 100 vacancies so far this year and we see another 10 on the horizon. So, while I thank the Senate for its actions today, I must note that we have not closed the vacancies gap or ended the crisis of which the Chief Justice of the United States Supreme Court warned in his most recent year end report.

Most troubling to me are the continuing vacancies on the Second Circuit. I deeply regret the Senate's unwillingness to date to vote upon the nomination of Judge Sonia Sotomayor to the Second Circuit or to provide hearings for Judge Rosemary Pooler, Robert Sack and Chester Straub. I will redouble my efforts to end the emergency that currently exists in the Second Circuit due to the five vacancies on that 13-member court.

I look forward to prompt action on all of the 36 judicial nominees still pending before the Senate. In addition, I urge the President to make good use of the next several days and to continue to send to the Senate qualified nominees for each of the judicial vacancies.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

CHILD SUPPORT PERFORMANCE AND INCENTIVE ACT OF 1998

Ms. COLLINS. I ask unanimous consent that the Finance Committee be discharged from further consideration of H.R. 3130, and, further, that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3130) to provide for an alternative penalty procedure for States that fail to meet Federal child support data processing requirements, to reform Federal incentive payments for effective child support performance, to provide for a more flexible penalty procedure for States that violate interjurisdicational adoption requirements, to amend the Immigration and Nationality Act to make certain aliens determined to be delinquent in the payment of child support inadmissible and ineligible for naturalization, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 2286

Ms. COLLINS. Senator Roth has a substitute amendment at desk and I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maine [Ms. COLLINS], for Mr. ROTH, proposes an amendment numbered 2286.

Ms. COLLINS. I ask unanimous consent that the reading of the amendment be dispensed with.

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

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

Ms. COLLINS. I ask unanimous consent that the amendment be agreed to.

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

The amendment (No. 2286) was agreed to.

Mr. ROTH. Mr. President, on behalf of the Finance Committee, I am joining with Senator MOYNIHAN and others today to bring H.R. 3130, the Child Support Performance and Incentive Act of 1998, before the Senate. This important bill passed the House of Representatives earlier this month by a vote of 414 to 1.

When a bill passes the House by that wide of a margin, it is either noncontroversial, of limited national significance, or an extremely important piece of legislation with broad and deep support. H.R. 3130 clearly falls within this last category.

The work on this legislation began shortly after the ''Personal Responsibility and Work Opportunity Reconciliation Act of 1996'' was signed into law. The 1996 welfare reform act required the Secretary of Health and Human Services to recommend to Congress a new, budget-neutral performance-based incentive system for the child support enforcement program. H.R. 3130 incorporates those recommendations which were developed in consultation with 26 representatives of state and local child support enforcement systems. The new incentive program is the centerpiece of this bill.

Under current law, the Federal Government returns more than $400 million per year in child support collections to the states as incentive payments. But this incentive structure has been criticized for years as weak and inadequate. All States, regardless of actual performance, receive some incentive payments. But for more than a decade, performance has not been tied to the national goals of the program.

H.R. 3130 breaks with the past and creates five categories in which state performance will be evaluated and rewarded.

The States will be measured according to their performance in paternity establishment, establishment of court orders, collections of current child support payments, collections on past due payments, and cost effectiveness.

The legislation also requires the Secretary of Health and Human Services to make a future recommendation on adding another performance measure on medical support orders. Let me particularly thank Senator ROCKEFELLER for his work in designing a strategy to overcome the inherent barriers to medical support orders.

The new incentive structure is an important development not only for the child support enforcement system but also as a model for improving accountability and performance in government.

The second important feature of this bill is to provide for an alternative penalty procedure for those states that have failed to meet federal child support data processing requirements. Less than half of the States have been certified as in compliance. Without this change, states face not only the loss of their entire child support grant, but all of their funds in the Temporary Assistance for Needy Families program as well.

Such a result would obviously be crippling to a state and would ultimately hurt the very families these programs are intended to help.

Under the new alternative penalty procedures, those states which will not come into compliance this year will face a penalty of four percent of their child support funds.

This penalty would double each year in the following two years and would reach 30 percent in the fourth year a state failed to come into compliance. These penalties are tough but fair.

Under the Finance amendment, states will not face a penalty in the year in which they come into compliance. And states which come into compliance with the first two years after penalties have been imposed can have the penalty from the prior year reduced.

H.R. 3130 also provides additional flexibility to the states in how they design their automated systems.

In looking back over the history of automation, we find there were a number of mistakes made at both the federal and state levels which contributed to the delay in getting these systems operational. The child support enforcement system is a prime example of what can happen when regulations fail to keep pace with real world practices.

H.R. 3130 recognizes the advances in technologies and allows states to take advantage of these improvements. It properly refocuses federal policy on function and results rather than on rigid rules.

All of these changes will work together to get the states in compliance as quickly as possible. This will mean the child support enforcement system will work better for the families who depend on child support.

H.R. 3130 also makes a correction in how penalties are applied under the new ''Adoption and Safe Families Act of 1997'' which became law last November. It is vitally important that the states be held accountable for assisting the children in foster care.

A child should not be denied the opportunity to be adopted into a loving and caring family simply because the prospective parents live in the next county.

When the Department of Health and Human Services issues regulations on how the new penalties are enforced, it should, of course, provide the states with the opportunity to present evidence of how it complies with the new law. The review of this new requirement must be a fair and complete assessment of whether the law is being met.

Mr. President, this is indeed an important, bipartisan bill which will prove itself to pay dividends for America's families. I urge its adoption.

I ask unanimous consent a summary be printed in the RECORD.

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

SUMMARY OF H.R. 3130, ''THE CHILD SUPPORT PERFORMANCE AND INCENTIVE ACT OF 1998'' WITH SENATE MODIFICATIONS, MARCH 1998

TITLE I: ALTERNATIVE PENALTY PROCEDURE

Eligibility for alternative penalty. A state which is not in compliance with federal data processing requirements may enter into a corrective compliance plan with the Secretary of Health and Human Services. The plan must describe how, by when, and at what cost the state will achieve compliance. For failing to achieve compliance, a state would be penalized 4 percent of its federal administrative grant under the Title IV-D program beginning in FY 1998. The penalty will increase to 8 percent for the second year of noncompliance; 16 percent for the third year; and 30 percent for the fourth year and each subsequent year. A state is subject to a single reduction in a fiscal year.

Penalty waiver. A state is not penalized in the fiscal year in which it achieves compliance. A state will not be subject to a higher penalty as a result of a delay by HHS to conduct a review.

Penalty forgiveness. In the first two year period in which a penalty is applied, HHS shall reduce the penalty from the immediately preceding year when compliance is achieved. For example, the 4 percent penalty for FY 1998 will be reduced by 20 percent if compliance is achieved in FY 1999. The 8 percent penalty for 1999 will be reduced by 20 percent if compliance is achieved in FY 2000. There is no forgiveness for the previous year after the second year.

Penalty reduction for good performance. In the case of the 1996 welfare reform requirements, a state which fails to comply in a fiscal year could have its penalty for that year reduced by 20 percent for each performance measure under the new incentive system provided in Title II for which it achieves its maximum score.

Expansion of waiver provision. The authority of the Secretary to waive certain data processing requirements and to provide federal funding for a wider range of state data systems activities would be expanded to include waiving the single statewide system requirement under certain conditions and providing federal funds to develop and enhance local systems which are linked to state systems. To qualify, a state would have to demonstrate that it can develop an alternative system that: can help the state meet the paternity establishment requirement and other performance measures; can submit required data to HHS that is complete and reliable; substantially complies with all requirements of the child support enforcement program; achieves all the functional capacity for automatic data processing outlined in the statute; meets the requirements for distributing collections to families and governments, including cases in which support is owed to more than one family or more than one government; has only one point of contact for both interstate cases (which provides seamless case processing) and intrastate case management; is based on standardized data elements, forms, and definitions that are used throughout the state; can be operational in no more time than it would take to achieve an operational single statewide system; and can process child support cases as quickly, efficiently, and effectively as would be possible with a single statewide system.

Federal payments under waiver. In addition to the various waiver requirements described above, and to the requirements in current law, the state would have to submit to the Secretary separate estimates of the costs to develop and implement a single statewide system and the alternative system being proposed by the state plus the costs of operating and maintaining these systems for five years from the date of implementation. The Secretary would have to agree with the estimates. If a state elects to operate such an alternative system, the state would be paid the 66 percent federal administration reimbursement only on expenditures that did not exceed the estimated cost of the single statewide system.

TITLE II. CHILD SUPPORT INCENTIVE SYSTEM

Amount of incentive payments. The incentive payment for a state for a given year would be calculated by multiplying the incentive payment pool for the year by the state's share for the year. The incentive payment pool would be:

FY 2000: $422 million
FY 2001: $429 million
FY 2002: $450 million
FY 2003: $461 million
FY 2004: $454 million
FY 2005: $446 million
FY 2006: $458 million
FY 2007: $471 million
FY 2008: $483 million

After 2008, the incentive payment pool would increase each year by the inflation rate.

Performance measures. The incentive payments would be based on five performance measures: paternity establishment, establishment of support orders, collections on current payments, collections on past due payments (arrearages), and cost effectiveness.

Treatment of interstate collections. In computing incentive payments, supported collected by the state at the request of another state would be treated as having been collected by both states.

Regulations. The Secretary would be required to prescribe regulations necessary to implement the incentive payment program within nine months of the date of enactment.

Reinvestment. States would be required to spend child support incentive payments to carry out their child support enforcement program or to conduct activities approved by the Secretary which may contribute to improving the effectiveness or efficiency of the state child support enforcement program. In so doing, states would have to supplement and not supplant other funds used by the state to conduct its child support enforcement program.

Transition rule. The new incentive program would be phased in over two years beginning in FY 2000. In FY 2000, ⅓ of each state's incentive payment would be based on the new incentive system and ⅔ on the old system. In FY 2001, ⅔ of the payment will be based on the new system; and in 2002, the incentive payment will be based entirely on the new system.

General effective date. Except for the elimination of the current incentive program, the amendments would take effect on October 1, 1999.

TITLE III: ADOPTION PROVISIONS

More flexible penalty procedure to be applied for failing to permit interjurisdictional adoption. Under the ''Adoption and Safe Families Act of 1997, a state is at risk of losing its entire IV–E grant for violating the new requirements on interjurisdictional adoptions. This provision allows the states to enter into a corrective compliance plan and reduces the penalty to 2 percent for the first violation, 3 percent for the second violation, and 5 percent for the third and subsequent violations.

TITLE IV: MISCELLANEOUS PROVISIONS

Elimination of barriers to the effective establishment and enforcement of medical child support. This provision is intended to eliminate the existing barriers to effective enforcement of medical support in three ways.

First, it requires the Secretaries of HHS and Labor to design and implement a Standardized Medical Support Notice. State child support agencies will be required to use this standardized form to communicate the issuance of a medical support order, and employers will be required to accept the form as a ''Qualified Medical Support Order'' under ERISA. Second, the Secretaries will jointly establish a medical support working group to identify and make recommendations for the removal of other barriers to effective medical support. Third, the Secretary of Labor is required to submit a report containing recommendations for any additional ERISA changes necessary to improve medical support enforcement.

Safeguard of new employee information. This provision imposes a fine of $1,000 for each act of unauthorized access to, disclosure of, or use of information in the National Directory of New Hires. It also requires that data entered into the National Director of New Hires be deleted 24 months after date of entry for individuals who have a child support order. For an individual who does not have a child support order, the data must be deleted after 12 months.

General Accounting Office study on program improvements. The General Accounting Office (GAO) is required to report to Congress on the feasibility of implementing an instant check system for employers to use in identifying individuals with child support orders. The report is also to include a review of the use of the Federal Parent Locater Service, including the Federal Case Registry of Child Support Orders and the National Directory of New Hires, and the adequacy of privacy protections.

Technical and conforming amendments. There are several technical and conforming amendments made. The two most noteworthy amendments deal with data collection in the calculation of the adopting incentive payments and collection of Social Security numbers and are described below.

(1) The new provision would give the states an additional five months to report data needed to calculate adoption incentive payments and the Secretary an additional four months to approve the data.

(2) The 1996 welfare reform law requires states to collect Social Security numbers on applications for state licenses for purposes of matching in child support cases by January 1, 1998. The ''Illegal Immigration Reform and Immigration Responsibility Act of 1996'' required states to collect Social Security numbers on applications for state licenses for purposes of checking the identity of immigrants by October 1, 2000. This amendment would conform the differing requirements by changing the date for child support cases to October 1, 2000, or such earlier date as the state selects.

Title V of the House bill regarding immigration provisions is not included in the substitute.

COMPARISON OF SENATE AND HOUSE PENALTIES

Example of a state with $100 million IV–D grant:

1. Penalties faced if compliance is achieved in 1998: (Year 1) (Assumes did not submit December 31, 1997 letter to HHS).

House

FY 1998: $1 million ($4 million reduced by 75%)
Total: $1 million

Senate

FY 1998: $0
Total: $0

2. Penalties faced if compliance is achieved in 1999: (Year 2).

House

FY 1998: $4 million
FY 1999: $2 million ($8 million reduced by 75%)
Total: $6 million

Senate

FY 1998: $3.2 million ($4 million reduced by 20%)
FY 1999: $0
Total: $3.2 million

3. Penalties faced if compliance is achieved in FY 2000: (Year 3).

House

FY 1998: $4 million
FY 1999: $8 million
FY 2000: $4 million ($16 million reduced by 75%)
Total: $16 million

Senate

FY 1998: $4 million
FY 1999: $6.4 million ($8 million reduced by 20%)
FY 2000: $0
Total: $10.4 million

4. Penalties faced if compliance is achieved in 2001: (Year 4).

House

FY 1998: $4 million
FY 1999: $8 million
FY 2000: $16 million
FY 2001: $5 million ($20 million reduced by 75%)
Total: $33 million

Senate

FY 1998: $4 million
FY 1999: $8 million
FY 2000: $16 million
FY 2001: $0
Total: $26 million

5. Penalties faced if compliance is achieved in 2002: (Year 5).

House

FY 1998: $4 million
FY 1999: $8 million
FY 2000: $16 million
FY 2001: $20 million
FY 2002: $5 million ($20 million reduced by 75%)
Total: $53 million

Senate

FY 1998: $4 million
FY 1999: $8 million
FY 2000: $16 million
FY 2001: $30 million
FY 2002: $0
Total: $58 million

ADOPTION AND SAFE FAMILIES ACT

Mr. COATS. Mr. President, I note that the ''Child Support Performance and Incentive Act of 1998'' contains a provision which amends the ''Adoption and Safe Families Act of 1997.'' This provision deals with how the provision on elimination of geographic barriers to adoption is enforced. It is my understanding that this amendment does not affect the other provisions in the new law on reasonable efforts or the termination of parental rights.

It is my understanding that the purpose of the new law was to clarify federal policy regarding the protection of children in foster care. The adoption law makes clear that the health and safety of children must always be of paramount concern in any decision affecting the removal of children from their homes or the reunification of children with their families.

To receive foster care and adoption assistance funds, States are generally required to make reasonable efforts to maintain children in their own homes or to reunify children and families when possible. However, it is my understanding that under the new law, the federal government does not require States to make such efforts in cases where a court finds that a parent has killed or assaulted a child or subjected the child to extreme forms of abuse or neglect. At the same time, the new law does not prevent a State from making efforts to preserve or reunify a family in such cases, as long as the child's health and safety are the paramount considerations. Is my understanding correct?

Mr. ROTH. Yes, that is correct. In addition, the adoption law establishes a new requirement that States must initiate termination of parental rights proceedings in specific cases that are outlined in the law. However, the law only requires States to initiate such proceedings and does not mandate the outcome. Moreover, the law provides that States are not required to initiate termination of parental rights in certain cases, including when there is a compelling reason to conclude that such proceedings would not be in the child's best interest. Thus, the State retains the discretion to make case-by-case determinations regarding whether to seek termination of parental rights.

Ms. COLLINS. I ask unanimous consent that the bill be deemed read a third time and passed, that the title amendment be agreed to, and the motion to reconsider be laid upon the table, and any statements relating to the bill appear at this point in the RECORD.

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

The bill (H.R. 3130) was deemed read the third time and passed.

The title was amended so as to read:

An Act to provide for an alternative penalty procedure for States that fail to meet Federal child support data processing requirements, to reform Federal incentive payments for effective child support performance, to provide for a more flexible penalty procedure for States that violate interjurisdictional adoption requirements, and for other purposes.

A SPECIAL COMMITTEE TO ADDRESS THE YEAR 2000 TECHNOLOGY PROBLEM

Ms. COLLINS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate resolution 208, submitted earlier today by Senator LOTT.

The PRESIDING OFFICER. Without objection. The clerk will report the resolution.

The assistant legislative clerk read as follows:

A resolution (S. Res. 208) to establish a special committee of the Senate to address the year 2000 technology problem.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Ms. COLLINS. Mr. President, I ask unanimous consent that the resolution be agreed to, the motion to reconsider be laid upon the table, and that any statements related to the resolution appear at this point in the RECORD.

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

The resolution (S. Res. 208) was agreed to, as follows:

S. RES. 208

Resolved,

SECTION 1. ESTABLISHMENT OF THE SPECIAL COMMITTEE.

(a) ESTABLISHMENT.—There is established a special committee of the Senate to be known as the Special Committee on the Year 2000 Technology Problem (hereafter in this resolution referred to as the ''special committee'').

(b) PURPOSE.—The purpose of the special committee is—

(1) to study the impact of the year 2000 technology problem on the Executive and Judicial Branches of the Federal Government, State governments, and private sector operations in the United States and abroad;

(2) to make such findings of fact as are warranted and appropriate; and

(3) to make such recommendations, including recommendations for new legislation and amendments to existing laws and any administrative or other actions, as the special committee may determine to be necessary or desirable.

No proposed legislation shall be referred to the special committee, and the committee shall not have power to report by bill, or otherwise have legislative jurisdiction.

(c) TREATMENT AS STANDING COMMITTEE.—For purposes of paragraphs 1, 2, 7(a)(1)–(2), and 10(a) of rule XXVI and rule XXVII of the Standing Rules of the Senate, and section 202 (i) and (j) of the Legislative Reorganization Act of 1946, the special committee shall be treated as a standing committee of the Senate.

SEC. 2. MEMBERSHIP AND ORGANIZATION OF THE SPECIAL COMMITTEE.

(a) MEMBERSHIP.—

(1) IN GENERAL.—The special committee shall consist of 7 members of the Senate—

(A) 4 of whom shall be appointed by the President pro tempore of the Senate from the majority party of the Senate upon the recommendation of the Majority Leader of the Senate; and

(B) 3 of whom shall be appointed by the President pro tempore of the Senate from the minority party of the Senate upon the recommendation of the Minority Leader of the Senate.

The Chairman and Ranking Minority Member of the Appropriations Committee shall be appointed ex-offico members.

(2) VACANCIES.—Vacancies in the membership of the special committee shall not affect the authority of the remaining members to execute the functions of the special committee and shall be filled in the same manner as original appointments to it are made.

(3) SERVICE.—For the purpose of paragraph 4 of rule XXV of the Standing Rules of the Senate, service of a Senator as a member, chairman, or vice chairman of the special committee shall not be taken into account.

(b) CHAIRMAN.—The chairman of the special committee shall be selected by the Majority Leader of the Senate and the vice chairman of the special committee shall be selected by the Minority Leader of the Senate. The vice chairman shall discharge such responsibilities as the special committee or the chairman may assign.

SEC. 3. AUTHORITY OF SPECIAL COMMITTEE.

(a) IN GENERAL.—For the purposes of this resolution, the special committee is authorized, in its discretion—

(1) to make expenditures from the contingent fund of the Senate;

(2) to employ personnel;

(3) to hold hearings;

(4) to sit and act at any time or place during the sessions, recesses, and adjourned periods of the Senate;

(5) to require, by subpoena or otherwise, the attendance of witnesses and the production of correspondence, books, papers, and documents;

(6) to take depositions and other testimony;

(7) to procure the services of individual consultations or organizations thereof, in accordance with the provisions of section 202(i) of the Legislative Reorganization Act of 1946; and

(8) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a nonreimbursable basis the services of personnel of any such department or agency.

(b) OATHS FOR WITNESSES.—The chairman of the special committee or any member thereof may administer oaths to witnesses.

(c) SUBPOENAS.—Subpoenas authorized by the special committee may be issued over the signature of the chairman after consultation with the vice chairman, or any member of the special committee designated by the chairman after consultation with the vice chairman, and may be served by any person designated by the chairman or the member signing the subpoena.

(d) OTHER COMMITTEE STAFF.—The special committee may use, with the prior consent of the chairman of any other Senate committee or the chairman of any subcommittee of any committee of the Senate and on a nonreimbuseable basis, the facilities or services of any members of the staff of such other Senate committee whenever the special committee or its chairman, following consultation with the vice chairman, considers that such action is necessary or appropriate to enable the special committee to make the investigation and study provided for in this resolution.

(e) USE OF OFFICE SPACE.—The staff of the special committee may be located in the personal office of a Member of the special committee.

SEC. 4. REPORT AND TERMINATION.

The special committee shall report its findings, together with such recommendations as it deems advisable, to the Senate at the earliest practicable date.

SEC. 5. FUNDING.

(a) IN GENERAL.—From the date this resolution is agreed to through February 29, 2000, the expenses of the special committee incurred under this resolution shall not exceed $575,000 for the period beginning on the date of adoption of this resolution through February 28, 1999, and $575,000 for the period of March 1, 1999 through February 29, 2000, of which amount not to exceed $200,000 shall be available for each period for the procurement of the services of individual consultants, or organizations thereof, as authorized by section 202(i) of the Legislative Reorganization Act of 1946.

(b) PAYMENT OF BENEFITS.—The retirement and health benefits of employees of the special committee shall be paid out of the contingent fund of the Senate.

ORDERS FOR FRIDAY, APRIL 3, 1998

Ms. COLLINS. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 10 a.m. on Friday, April 3, and immediately following the prayer, the routine requests through the morning hour be granted, and that the Senate begin a period for the transaction of morning business until the hour of 12 noon, with Senators permitted to speak therein for up to 10 minutes each, with the following exceptions: Senator DEWINE for 1 hour, and Senator DASCHLE for 1 hour.

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

PROGRAM

Ms. COLLINS. Mr. President, tomorrow the Senate will be in a period for morning business from 10 a.m. until 12 noon. It is hoped that at 12 noon the Senate will be able to proceed to the consideration of Senate bill 414, the international shipping bill.

In addition, the Senate may consider any executive or legislative business cleared for Senate action. As previously announced, there will be no rollcall votes during tomorrow's session.

When the Senate reconvenes following the Easter holidays, the Senate will resume consideration of the Coverdell A+ Education Act. Also, as announced, the next rollcall votes will occur on that legislation on Tuesday, April 21, at a time to be announced by the majority leader.

Mr. FORD. Will the acting leader yield?

Ms. COLLINS. I am happy to yield.

Mr. FORD. We are attempting to get an answer on a question I have. I don't want to hold the Senate here any longer, but there is a possibility. Could we have a quorum call, if the Senator would like to leave, with a motion that when I get my answer we will go out, or something like that? I will be more than pleased to do that.

Ms. COLLINS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Ms. COLLINS. Mr. 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 10:54 p.m., adjourned until Friday, April 3, 1998, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate April 2, 1998:

THE JUDICIARY

RALPH E. TYSON, OF LOUISIANA, TO BE UNITED STATES DISTRICT JUDGE FOR THE MIDDLE DISTRICT OF LOUISIANA, VICE MARCEL LIVAUDAIS, JR., RETIRED.

DEPARTMENT OF DEFENSE

BERNARD DANIEL ROSTKER, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF DEFENSE, VICE FREDERICK F.Y. PANG, RESIGNED.

DEPARTMENT OF STATE

FRANK E. LOY, OF THE DISTRICT OF COLUMBIA, TO BE AN UNDER SECRETARY OF STATE, VICE TIMOTHY E. WIRTH, RESIGNED.

ERIC S. EDELMAN, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF FINLAND.

NANCY HALLIDAY ELY-RAPHEL, OF THE DISTRICT OF COLUMBIA, A CAREER MEMBER OF THE SENIOR EXECUTIVE SERVICE, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF SLOVENIA.

RICHARD NELSON SWETT, OF NEW HAMPSHIRE, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO DENMARK.

EDWARD L. ROMERO, OF NEW MEXICO, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO SPAIN.

NATIONAL SCIENCE FOUNDATION

RITA R. COLWELL, OF MARYLAND, TO BE DIRECTOR OF THE NATIONAL SCIENCE FOUNDATION FOR A TERM OF SIX YEARS, VICE NEAL F. LANE.

EXECUTIVE OFFICE OF THE PRESIDENT

ROSINA M. BIERBAUM, OF VIRGINIA, TO BE AN ASSOCIATE DIRECTOR OF THE OFFICE OF SCIENCE AND TECHNOLOGY POLICY, VICE JERRY M. MELILLO, RESIGNED.

CORPORATION FOR PUBLIC BROADCASTING

DIANE D. BLAIR, OF ARKANSAS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR PUBLIC BROADCASTING FOR A TERM EXPIRING JANUARY 31, 2004. (REAPPOINTMENT)

IN THE ARMY

THE FOLLOWING-NAMED OFFICERS FOR REGULAR APPOINTMENT IN THE GRADES INDICATED IN THE UNITED STATES ARMY. THE OFFICERS ARE NOMINATED FOR A REGULAR APPOINTMENT IN THE NURSE CORPS, MEDICAL SERVICE CORPS, MEDICAL CORPS, DENTAL CORPS, MEDICAL SPECIALIST CORPS, AND JUDGE ADVOCATE GENERAL CORPS UNDER TITLE 10, U.S.C., SECTIONS 531 AND 3064:

To be colonel

RUBY T. BADDOUR, 0000
WILLIAM R. BALLOU, 0000
WELDON A. DUNLAP, 0000
ROBERT H. GATES, 0000
BRUCE H. JONES, 0000
ROBERT D. JORDAN, 0000
PHILIP C. LEWIS, 0000
ALAN D. MEASE, 0000
PARMINDER SODHI, 0000
JOHNIE TILLMAN, 0000
MARINA VERNALIS, 0000
IDELLE WEISMAN, 0000

To be lieutenant colonel

NORMAN BUSSELL, 0000
BARCLAY BUTLER, 0000
DEAN E. CALCAGNI, 0000
WILLIAM HAMBERLIN, 0000
MARSHALL R. COX, 0000
DAVID P. DOOLEY, 0000
ARN H. ELIASSON, 0000
DAVID GILLINGHAM, 0000
SANDRA L. GOINS, 0000
THOMAS HARDAWAY, 0000
CHARLES W. HOGE, 0000
STEPHEN R. JONES, 0000
JANE L. LINDNER, 0000
PAUL B. LITTLE, 0000
ALFRED MONTALVO, 0000
CHARLES OLIVER, 0000
JOHN J. PEACHER, 0000
SWARNALATHA PRASANNA, 0000
JOHN A. RICHMOND, 0000
STEVEN ROBERTS, 0000
KATHLEEN M. SHEEHAN, 0000
VAN E. WAHLGREN, 0000
JAMES D. WELLS, 0000

To be major

DARRYL R. AINBINDER, 0000
MARIA T. BRYANT, 0000
CATHY J. CHESS, 0000
LYNN F. DAHL, 0000
JOEL T. FISHBAIN, 0000
RICHARD HILBURN, 0000
REBECCA MC COLLAM, 5559
SHANNON O'GRADY, 0000
FREDERICK PALMQUIST, 0000
DANIEL SCHAFFER, 0000
KALDON WALTJEN, 0000

To be captain

CLETUS A. ARCIERO, 0000
DANIELLE N. BIRD, 0000
JEANETTE R. BURGESS, 0000
JEFFREY S. CAIN, 0000
BABETTE T. CARLSON, 0000
DARREL K. CARLTON, 0000
MARIO CAYCEDO, 0000
JOHN J. COMBS, 0000
DIANA L. COOK, 0000
JAMES V. CRAWFORD, 0000
JONATHAN B. CROCKER, 0000
STEVEN J. CURRIER, 0000
MICHAEL R. DAVIS, 0000
JAMES A. DICKERSON, 0000
BRENDAN M. DONAHOE, 0000
HERBERT C. EIDT, 0000
CHRISTINE H. FEDOR, 0000
MELISSA J. FIRESTONE, 0000
ERIC R. FRIZZELL, 0000
SCOTT R. GRIFFITH, 0000
ERIC L. HAWKINS, 0000
DUANE R. HENNION, 0000
MAUREEN M. HIGGINS, 0000
BRADLEY J. HUESTIS, 0000
JEREMIAH J. JOHNSON, 0000
KEVIN M. KING, 0000
NICHOLAS S. KING, 0000
CHRISTOPHER KLEM, 0000
CHRISTOPHER J. KOCHAN, 0000
STEVEN J. LALLISS, 0000
CHRISTINE E. LANG, 0000
CHARLOTTE LANGENDERFER, 0000
PETROS G. LEINONEN, 0000
CHRISTOPHER J. LETTIERI, 0000
JAMES D. MANCUSO, 0000
BRYANT G. MARCHANT, 0000
EUGENE J. MARTIN, 0000
CHRISTOPHER J. MATHEWS, 0000
CRAIG H. MC HOOD, 2116
ROBERT MEADOWS, 0000
MARSHALL MENDENHALL, 0000
MICHAEL J. MINES, 0000
HONGHUNG D. NGUYEN, 0000
MARK S. OCHOA, 0000
MICHAEL S. OSHIKI, 0000
SCOTT M. PETERSEN, 0000
MARK D. PORTER, 0000
KEITH E. PULS, 0000
TYLER L. RANDOLPH, 0000
KYLE N. REMICK, 0000
ERIK J. RUPARD, 0000
AUTUMN H. SCHUMANN, 0000
GREGG S. SHARP, 0000
RENEE M. SIEGMANN, 0000
RODNEY J. SPARKS, 0000
STEPHANIE L. STEPHENS, 0000
SEAN A. STRACENSKY, 0000
TIMOTHY M. STRAIGHT, 0000
CHRISTINE M. TARAN, 0000
SHAWN F. TAYLOR, 0000
CHRISTOPHER TEBROCK, 0000
JON C. THOMPSON, 0000
DAVID D. VELLONEY, 0000
WENDI M. WAITS, 0000
BRENDAN M. WEISS, 0000
KIMBERLY WHITTINGTON,
RICHARD H. WILKINS, 0000
NOEL L. WOODWARD, 0000

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT TO THE (GRADE OR GRADES) INDICATED IN THE UNITED STATES AIR FORCE AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AND ASTERISK (*)) UNDER TITLE 10, U.S.C., SECTIONS 624 AND 531:

To be colonel

DONALD S. ABEL, 0000
JAMIE L. ADAMS, 0000
ROBERT R. ADAMS, 0000
RONALD C. ADAMS, 0000
MICHAEL H. ADDY, 0000
EDWARD T. ALEXANDER, JR., 0000
GERALD F. ALEXANDER, JR., 0000
FRANCIS J. ALFTER, 0000
GERALD D. ALLEN, 0000
JAMES D. ALLSHOUSE, 0000
RICHARD J. ALQUIST, 0000
GREGORY A. ALSTON, 0000
THOMAS K. ANDERSEN, 0000
JACK L. ANDERSON, 0000
HAMMOND N. ANSTINE III, 0000
RICHARD E. E. ANTAYA, 0000
ROBERT L. ARBETTER, 0000
JON W. ARMSTRONG, 0000
JOSEPH WALTER ARVAI, 0000
SHERYL G. ATKINS, 0000
VERNE W. AVERY, 0000
STEVEN C. AYTES, 0000
ANTHONY E. BAIR, 0000
TIMOTHY D. BAIR, 0000
WESLEY A. BALLENGER, JR., 0000
ROBERT W. BARRIER, 0000
CHARLES I. BAULAND, 0000
MARTHA M. BEATTY, 0000
MARCUS J. BEAUREGARD, 0000
DOUGLAS V. BELL, 0000
SUZANNA L. BELL, 0000
KENNETH J. BELONGIA, 0000
MICHAEL J. BELZIL, 0000
ROBERT H. BENNETT, 0000
CHARLES L. BENSON, JR., 0000
JOHN M. BETTS, 0000
BRUCE A. BINGLE, 0000
ROBERT L. BIVINS, 0000
STEVEN K. BLACK, 0000
DWIGHT L. BORGSTRAND, 0000
GEORGE J. BOROWSKY, 0000
JOHN T. BOWEN, 0000
THOMAS A. BOWERMEISTER, 0000
THOMAS G. BOWIE, JR., 0000
JON R. BOYD, 0000
MICHAEL J. BRESLIN, 0000
JEFFREY L. BREUNIG, 0000
WARREN J. BROOKHART, 0000
STEVEN W. BROWN, 0000
ROBERT A. BRULEY, JR., 0000
BARRY C. BRYAN, 0000
JOHN R. BRYANT, 0000
MARK D. BUDGEON, 0000
RONNIE J. BULLOCK, 0000
THOMAS J. BURGIE, 0000
DONALD T. BURNET, 0000
MICHAEL W. BUTLER, 0000
RORY B. CAHOON, 0000
LESTER R. CALAHAN, 0000
STEVEN E. CAMERON, 0000
STEPHEN J. CANZANO, 0000
PETER N. CAREY, 0000
ALLARD R. CARNEY, 0000
JOSEPH A. CARRETTO, JR., 0000
JAMES E. CARTER, 0000
JAMES W. CARTER, JR., 0000
DAVID R. CHAFFEE, 0000
RONALD D. CHILCOTE, 0000
JOHN S. CHILSTROM, 0000
JEFFREY E. CHOSTNER, 0000
JOHN H. CHRIST, 0000
MARK C. CHRISTIAN, 0000
CRAIG D. CHRISTMAN, 0000
DOLPHUS T. CLARK, JR., 0000
JOHN T. CLATANOFF, 0000
MAUREEN M. CLAY, 0000
THOMAS W. COCHRAN, 0000
RONNIE L. COKE, 0000
MICHAEL W. COLE, 0000
EILEEN M. COLLINS, 0000
TIMOTHY J. COLLINS, 0000
WALLACE A. COLLINS III, 0000
JAMES L. CONRAD, 0000
WILLIAM C. CONRAD, 0000
DAVID E. COOK, 0000
DOUGLAS P. COOK, 0000
MARVIN E. COOK, 0000
WILLIAM L. COOL, 0000
EDWARD T. COPE, 0000
ROBERT M. CORRIE, 0000
MICHAEL J. COSTIGAN, 0000
CARL L. COX, 0000
WESLEY R. COX, 0000
DANIEL L. CRAMER, 0000
DANIEL A. CVELBAR, 0000
RONALD H. DABROWSKI, 0000
GUY K. DAHLBECK, 0000
KAREN DANEU, 0000
JAMES T. DANIELSON, 0000
ANTHONY P. DATTILO, 0000
RICHARD DAVILA, JR., 0000
JAMES W. DAVIS, 0000
ANDREW L. DETRICK, 0000
SAMEUL R. DICK, 0000
JAMES F. DIEHL, 0000
WAYNE E. DILLINGHAM, 0000
ROBERT D. DILLMAN, 0000
DAVID K. DINGLEY, 0000
THOMAS J. DININO, 0000
EDWARD T. DIXON, 0000
JAMES R. DIXON, 0000
CHARLES M. DODD III, 0000
MARK S. DONNELLY, 0000
THOMAS DOUGHERTY, 0000
BRADLEY J. DUCHEIN, 0000
CHARLES G. DUKE III, 0000
HARRY V. DUTCHYSHYN, JR., 0000
GEORGE N. EARNHART III, 0000
LOUISE A. ECKHARDT, 0000
MICHAEL V. ELY, 0000
KENNETH R. EMERY II, 0000
DWIGHT E. ENGLE, 0000
DONALD R. ERBSCHLOE, 0000
RAYMOND S. ERESMAN, 0000
LARRY E. ERIKSEN, 0000
CARL D. EVANS, 0000
JON E. EVANS, 0000
DAVID S. FADOK, 0000
PHILIP J. FAIN, 0000
MICHAEL J. FALVEY, 0000
JUDITH A. FEDDER, 0000
RYAN F. FERRELL, JR., 0000
EARL I. FICKEN, JR., 0000
LESLIE D. FIELDER, 0000
MICHAEL L. FINNERN, 0000
ROBERT R. FISHER, 0000
WILLIAM N. FLANNIGAN, 0000
GREGORY W. FORAKER, 0000
WILLIAM A. FORMWALT, 0000
MAURICE H. FORSYTH, 0000
RUSSELL J. FRASZ, 0000
CHARLES J. FRENIERE, 0000
MICHAEL FRICANO, 0000
STEPHEN L. FRICK, 0000
EDWARD A. GALLAGHER, 0000
WILLIAM G. GARDNER, 0000
CAROLYN A. GAVARES, 0000
MICHAEL P. GEGG, 0000
MICHAEL B. GIBSON, 0000
DANIEL L. GLADMAN, 0000
GARY S. GRABULIS, 0000
JOHN S. GRAHAM, 0000
MARK W. GRAPER, 0000
ARMAND P. GRASSI, JR., 0000
CHARLES R. GREENWOOD, 0000
MARK L. GREENWOOD, 0000
FREDERICK R. GRIESE, 0000
GUY T. GRILLS, 0000

WILSON GUILBEAUX, JR., 0000
ARSENIO T. GUMAHAD II, 0000
JAMES E. HALE, 0000
JAY A. HALL, 0000
JAMES D. HALSELL, JR., 0000
RICHARD A. HANLEY, 0000
BLAIR E. HANSEN, 0000
JAMES C. HARPER, 0000
LYNN M. HARRIS, 0000
SAMUEL L. HARRIS, 0000
RAYMOND C. HART, 0000
KENNETH P. HASENBEIN, 0000
GEORGETTE T. HASSLER, 0000
MICHAEL E. HATCH, 0000
JACKIE M. HATFIELD, 0000
DARYL W. HAUSMANN, 0000
RONALD L. HAYGOOD, 0000
JAMES E. HAZUKA II, 0000
RAYMOND J. HEBERT, 0000
SIDNEY R. HEETLAND, 0000
HERFRIED S. HELLWEGE, 0000
CASEY L. HENKEL, 0000
BENJAMIN G. HENSLEY, 0000
GRANT F. HERRING, 0000
ROBERT A. HERRIS, 0000
WILLIAM A. HEWITT, 0000
ROBERT J. HINGER, 0000
JOHN M. HOBBLE II, 0000
PETER F. HOENE, 0000
LEON M. HOFFSETTE, 0000
STEPHEN L. HOOG, 0000
ROBERT V. HOTT, 0000
ALPHONSO A. HOWELL III, 0000
MICHAEL B. HOYES, 0000
ROBERT W. HUDSON, 0000
WILLIAM M. HUDSON, 0000
BRUCE E. HURD, 0000
THOMAS R. HUSBAND, JR., 0000
GERALD R. HUST, 0000
MICHAEL T. IRWIN, 0000
JACK A. JACKSON, JR., 0000
JEFFRY A. JACKSON, 0000
ROBERT E. JACKSON, 0000
FREDERICK L. JAKLITSCH, 0000
ALAN M. JANISZEWSKI, 0000
THOMAS M. JEFFCOAT, 0000
CRAIG R. JENSEN, 0000
KENNETH W. JEWETT, 0000
ANTHONY R. JOHNSON, 0000
DAVID S. JOHNSON, 0000
KATHY L. JOHNSON, 0000
KEVIN D. JOHNSON, 0000
MARK D. JOHNSON, 0000
MICHELLE D. JOHNSON, 0000
STUART C. JOHNSON, 0000
DARRELL D. JONES, 0000
TERRY W. JONES, 0000
JOHN J. KARNS, 0000
PAUL C. KELLER, JR., 0000
MICHAEL K. KELLY, 0000
THOMAS S. KELSO, 0000
THOMAS K. KEMP, 0000
JOHN J. KENNEDY, JR., 0000
BRIAN R. KERINS, 0000
LAWRENCE E. KEY, 0000
RAYMOND L. KILLGORE, 0000
ROY M. KING, 0000
TEDDY J. KING, 0000
MIKEL L. KLACKLE, 0000
KURT J. KLINGENBERGER, 0000
DONALD P. KNIGHT, 0000
ALLEN E. KOHN, JR., 0000
DANIEL K. KOSLOV, 0000
JAMES M. KOWALSKI, 0000
MARY D. KRINGER, 0000
BARBARA A. KUCHARCZYK, 0000
JOHN A. KURTZ, 0000
GARY A. KYLE, 0000
KENT K. KYSAR, 0000
DUANE A. LAMB, 0000
TIMOTHY J. LAMPE, 0000
THEODORE T. LAPLANTE, 0000
PATRICK J. LARKIN, 0000
DIANN LATHAM, 0000
HARRY E. LEBOEUF, JR., 0000
GEORGE H. LEDBETTER, 0000
JOHN L. LEECH, 0000
ROBERT G. LEONIK, 0000
NORMAN K. LEONPACHER, 0000
JOHN T. LEWIS, 0000
TRAVIS E. LEWIS, 0000
JAY H. LINDELL, 0000
CURTIS D. LINGE, 0000
GREGORY L. LOCKHART, 0000
DANIEL M. LOMBARDI, 0000
GARY L. LORENZEN, 0000
WILLIAM C. LOUISELL, 0000
ROBERT S. LUNDIE, 0000
GLENN A. MACKEY, 0000
DAVID W. MAC NEIL, 0000
EDWARD J. MADDEN, 0000
MICHAEL T. MADIGAN, 0000
RICHARD A. MAGNAN, 0000
MICHAEL A. MANNING, 0000
RUFUS T. MANNING, 0000
ROBERT A. MANSFIELD, JR., 0000
JOSEPH M. MARCHINO II, 0000
JAMES M. MARG, 0000
DOUGLAS M. MARSHALL III, 0000
GILLY A. MARSHALL, 0000
ROSANNE M. MARTIN, 0000
ROY M. MATTSON, 0000
HENRY W. MAUER, 0000
STEVEN F. MAURMANN, 0000
ROBERT C. MC ADAMS, 0000
JOSEPH T. MC ANDREW, 0000
JAMES M. MC BRIDE, 0000
THOMAS W. MC CARTHY, 0000
JOHN C. MC CLELLAND III, 0000
MICHAEL D. MC DONALD, 0000
DONALD J. MC GILLEN, 0000
JAMES F. MC GINLEY, 0000
ROBERT S. MC HALE, 0000
SCOTT J. MC MULLEN, 0000
LARRY E. MC NEW, 0000
SYDNEY G. MC PHERSON, JR., 0000
WADE E. MC ROBERTS, 0000
CHARLES G. MERLO, 0000
SCOTT F. MERROW, 0000
MARK J. MEYERS, 0000
JOSEPH B. MICHELS, 0000
PETER D. MIGALEDDI, JR., 0000
DAVID R. MILLER, 0000
GREGORY D. MILLER, 0000
GREGORY J. MILLER, 0000
ALLAN L. MINK II, 0000
JEANETTE H. MINNICH, 0000
PETER L. MISUINAS, 0000
JAMES R. MITCHELL, 0000
PHILLIP J. MIXON, 0000
LEE J. MONROE, 0000
KEITH G. MONTEITH, 0000
BERNARD V. MOORE II, 0000
CAROL C. MOREHOUSE, 0000
ROY A. MORGAN, 0000
JAMES E. MOSCHGAT, 0000
THOMAS V. MUCKENTHALER, 0000
JAMES H. MUELLER, 0000
STEPHEN P. MUELLER, 0000
CAREY G. MUMFORD III, 0000
EDWARD F. MURPHY, 0000
BYRON S. NASH, 0000
BRUCE M. NELSON, 0000
DOUGLAS A. NELSON, 0000
STEPHEN P. NELSON, 0000
JAMES A. NEUMEISTER, 0000
TERRY L. NEW, 0000
ROBERT M. NEWNAM, 0000
JOHN C. NEWSOM, 0000
GEORGE J. NIXON, 0000
ROBERT W. NORMAN, JR., 0000
MICHAEL D. NORRIE, 0000
PATRICK D. NUTZ, 0000
RANDY T. ODLE, 0000
TIMOTHY O'HAGAN, 0000
JEFFREY C. O'LEARY, 0000
MARK S. OVERHOLTZER, 0000
DOUGLAS W. OWENS, 0000
PHIL W. PARKER, JR., 0000
RICHARD P. PARKER, 0000
ROBERT E. PARKER, 0000
JAMES L. PASQUINO, 0000
DONNA L. PASTOR, 0000
CHRISTOPHER J. PATTERSON, 0000
JAMES C. PEARSON, 0000
MARK D. PERODEAU, 0000
MARYETTA D. PESOLA, 0000
BURNETT W. PETERS III, 0000
JAMES R. PHILLIPS, JR, 0000
RAY R. PHILLIPS, 0000
SCOTT R. PHILLIPS, 0000
CHARLES W. PINNEY, 0000
PAUL E. PIROG, 0000
EDWARD J. POKORA, 0000
EUGENE H. POWELL, JR, 0000
ROBERT D. PREISSINGER, 0000
GARY D. PROCTOR, 0000
JAMES PUHEK, 0000
QUINCY D. PURVIS, 0000
DAVID W. RABERN, 0000
DAVID D. RATHGEBER, 0000
CHARLES R. RATHKE, 0000
DAVID A. RAZO, 0000
DENNIS A. REA, 0000
JOSEPH FRANCIS REICH, 0000
JAMES E. REIMAN, 0000
JOSEPH REYNES, JR., 0000
STEVEN E. ROBINSON, 0000
ALLEN D. ROBY, 0000
MARK E. ROGERS, 0000
GREGORY A. ROMAN, 0000
CURTIS L. ROSS, 0000
LLOYD J. ROWE II, 0000
MARK M. RUMOHR, 0000
JIMMY W. RUTH, 0000
EDWARD J. RYDER, 0000
DENNIS F. SAGER, 0000
JOHN T. SALLEY, JR., 0000
GREGG SANDERS, 0000
JAMES A. SANDS, 0000
JAMES A. SCHIFFER, 0000
MICHAEL N. SCHMITT, 0000
GREG R. SCHNEIDER, 0000
SUSAN K. SCHNEIDER, 0000
JOSEPH C. SCHOTT, 0000
DAVID J. SCOTT, 0000
WAYNE R. SCOTT, 0000
KIP L. SELF, 0000
MICHAEL P. SETNOR, 0000
CAROL S. SIKES, 0000
STETSON M. SILER, 0000
KENNETH R. SINGEL, 0000
MITCHELL P. SLATE, 0000
HERBERT R. SMITH, 0000
KENNETH S. SMITH, JR., 0000
RANDY A. SMITH, 0000
MICHAEL A. SNODGRASS, 0000
DUANE E. SNOW, 0000
JEFFREY J. SOGARD, 0000
LLOYD M. SOMERS, 0000
ROBERT E. SPATH, 0000
KATHLEEN M. SPENCER, 0000
JOSEPH E. SPIVEY, 0000
ROBERT P. STEEL, 0000
JOHN W. STEFERO, 0000
JAY S. STEINMETZ, 0000
MARK L. STEPHENS, 0000
ALFRED J. STEWART, 0000
KIMBLE D. STOHRY, 0000
DONALD H. STOKES, JR., 0000
JONATHAN S. STOLSON, 0000
ALVIN B. STRAIT, 0000
FRANK J. STRASBURGER, 0000
LARRY D. STRAWSER, 0000
SCOTT E. STREIFERT, 0000
RANDIE A. STROM, 0000
WILLIAM SULLIVAN, 0000
CLARENCE G. SUMMERLIN, JR., 0000
DAVID A. SWEAT, 0000
JOHN A. TAPPAN, 0000
STEPHEN M. TATE, 0000
RICHARD J. TEDESCO, 0000
DAVID J. TEMPLE, 0000
JANET ANTHEA THERIANOS, 0000
MICHAEL G. THERRIEN, 0000
EVERETT H. THOMAS, 0000
JEFFREY A. THOMAS, 0000
WILLIAM S. THOMAS, 0000
LEE M. THOMPSON, 0000
MARCUM L. THOMPSON, 0000
PAULA G. THORNHILL, 0000
WILLIAM H. TONEY, JR., 0000
CHRIS L. TOPE, 0000
KAREN M. TORRES, 0000
MATHEW S. TOTH, 0000
ROBERT R. TOVADO, 0000
EBEN H. TREVINO, JR., 0000
GLENN A. TRIMMER, 0000
JOHNNIE L. TRIVETTE, 0000
PETER M. TRUMP, 0000
LONZER K. TYNES, 0000
MERRI B. UCKERT, 0000
MICHAEL A. UNDERWOOD, 0000
DAVID P. URBANSKI, 0000
VICTOR J. VACCARO, 0000
TIMOTHY W. VANSPLUNDER, 0000
RAYMOND E. VARNEY, 0000
DONALD J. VAZQUEZ, 0000
ROBERT T. VEALE, 0000
JAMES M. VENUS, 0000
GLENN VERA, 0000
JOHN C. VIGNETTI, 0000
RICHARD W. VONBERCKEFELDT, 0000
JOHN F. WAGNER III, 0000
JOSEPH R. WAGNER, 0000
EDWARD A. WALBY, 0000
DAVID E. WALKER, 0000
MORRIS E. WALKER, 0000
SYLVIA D. WALKER, 0000
JEFFREY W. WALLS, 0000
CARL E. WALZ, 0000
CHRISTOPHER G. WARNER, 0000
STEVEN E. WAYNE, 0000
RICHARD B. WEATHERS, 0000
JAMES A. WEDERTZ, 0000
STEVEN M. WELCH, 0000
LAWRENCE L. WELLS, 0000
WILLIAM D. WESSELMAN, 0000
JAMES J. WESTLAKE, 0000
LYNN B. WHEELESS, 0000
GLENN T. WHITAKER, 0000
JEFFREY W. WHITE, 0000
MICHAEL C. WHITTINGTON, 0000
ALLEN E. WICKMAN, 0000
MILES C. WILEY III, 0000
JOHN L. WILKINSON, 0000
JOSEPH M. WILLGING, 0000
CHARLES WILLIAMS, 0000
L. C. WILLIAMS, 0000
TERRY L. WILLIAMS, 0000
CHARLES P. WILSON II, 0000
JOE A. WILSON, 0000
SANDRA F. WILSON, 0000
TIMOTHY D. WILSON, 0000
GREGORY C. WINN, 0000
JOSEPH R. WOOD, 0000
ROBERT L. WORLEY, JR., 0000
JAMES W. WRIGHT, 0000
RONNIE D. WRIGHT, 0000
WILLIAM H. WRIGHT, JR., 0000
SCOTT E. WUESTHOFF, 0000
EARL C. WYATT, 0000
ROBERT YATES, 0000
DAVID W. YAUCH, 0000
JOHN T. YOUNG, 0000
CHERYL L. ZADLO, 0000
STEVEN J. ZAMPARELLI, 0000
VANCE P. ZIDER, 0000

To be lieutenant colonel

KEITH R. ALICH, 0000
DOUGLAS S. ANDERSON, 0000
PAUL M. BARZLER, 0000
BARBARA G. BRAND, 0000
RANDALL J. BUNN, 0000
MARSHALL L. CAGGIANO, 0000
LEONARD M. COHEN, 0000
WILLIAM T. CUMBIE, 0000
JOGINDER S. DHILLON, 0000
CHRIS L. FARRIS, 0000
JAMES L. FLANARY, 0000
ORMOND R. FODREA, 0000
JEFFREY S. GARDNER, 0000
ALBERT N. GUARINO, 0000
GORDON R. HAMMOCK, 0000
JAMES T. HEDGEPETH, 0000
DONALD P. HOLTZ, 0000
STEPHEN R. IRWIN, 0000
NORMAN JACOBSON, JR., 0000
ALBERT W. KLEIN, JR., 0000

FELIX A. LOSCO, 0000
MICHAEL W. MEADOWS, 0000
WILLIAM W. PISCHNOTTE, 0000
MATTHEW J. POLGAR, 0000
ROBERT M. REIST, 0000
MICHAEL A. RODGERS, 0000
RONALD A. RODGERS, 0000
DALE L. SONNENBERG, 0000
NORMAN K. THOMPSON, 0000
DENISE A. UNDERWOOD, 0000
RONALD J. WILLIAMS, 0000
CHARLES W. WILLIAMSON III, 0000
SCOTT R. WILLIAMSON, 0000

To be major

*MARK T. ALLISON, 0000
*ARLEN E. BEE, 0000
*JOSEPH PAUL BIALKE, 0000
*JAMES G. BITZES, 0000
*WILLIAM B. BOYCE, 0000
*WILLIAM D. BUNCH, 0000
*THOMAS J. BURHENN, 0000
*JAMES R. BYRNE, 0000
*WENDY S. CARROLL, 0000
*FERDINANDO P. CAVESE, 0000
DAVID P. SEE CHARITAT, 0000
*MORROW KRISTI J. CLARK, 0000
JOSEPH E. COLE, 0000
*DEBORAH L. COLLINS, 0000
JAMES H. DAPPER, 0000
*PERRITANO MELINDA L. DAVIS, 0000
*ERIC L. DILLOW, 0000
*THOMAS F. DOYON, 0000
*ROBERT J. DRONE, 0000
*JAMES M. DURANT III, 0000
*THOMAS L. FARMER, 0000
*MARK C. GARNEY, 0000
*MELISSA L. HAGEN, 0000
*MARY E. HARTMAN, 0000
*TIMOTHY A. HICKS, 0000
*ROBERT A. JONES, 0000
*STEPHEN P. KELLY, 0000
*CHERYL D. LEWIS, 0000
*LESLIE D. LONG, 0000
*JOHN F. MC CARTHY, 0000
*ROOKER A. MEARS, 0000
*JAMES W. MEINDERS, 0000
*BRYNN P. MORGAN, 0000
*BLAKE C. NIELSEN, 0000
*LYNN G. NORTON, 0000
*TERRY A. O'BRIEN, 0000
*MICHAEL J. O'CONNOR, 0000
*FERAH OZBEK, 0000
*CHRISTOPHER M. PETRAS, 0000
*RUSSELL K. PIPPIN, 0000
*PETER J. RICHARDS, 0000
*LINDA L. RICHARDSON, 0000
JENNIFER R. RIDER, 0000
*FLOYD S. RISLEY, 0000
*ERIC J. ROTH, 0000
MATTHEW J. RUANE, 0000
*KENNETH R. SHARRETT, 0000
*JENNIFER J. SNIDER, 0000
*MARY M. SPANGLER, 0000
*SARAJANE STENTON, 0000
*DOUGLAS M. STEVENSON, 0000
*JOHN P. TAITT, 0000
*EDWARD H. THOMPSON, 0000
CHARLES H. TRIPP, JR., 0000
*CHRISTOPHER C. VANNATTA, 0000
*HAROLD M. VAUGHT, 0000
*JEFFREY A. VIRES, 0000
*ROBERT D. WALKER, JR., 0000
*VICKI K. WEEKES, 0000
KAREN S. WHITE, 0000
*PHILIP T. WOLD, 0000
*FREDERICK M. WOLFE, 0000

THE JUDICIARY

Jeanne E. Scott, of Illinois, to be United States District Judge for the Central District of Illinois, vice Richard H. Mills, retired.

NATIONAL LABOR RELATIONS BOARD

John C. Truesdale, of Maryland, to be General Counsel of the National Labor Relations Board for a term of four years, vice Frederick L. Feinstein, resigned.

CONFIRMATIONS

Executive nominations confirmed by the Senate April 2, 1998:

THE JUDICIARY

G. PATRICK MURPHY, OF ILLINOIS, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF ILLINOIS.

MICHAEL P. MC CUSKEY, OF ILLINOIS, TO BE UNITED STATES DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF ILLINOIS.

DEPARTMENT OF LABOR

RICHARD M. MC GAHEY, OF NEW YORK, TO BE AN ASSISTANT SECRETARY OF LABOR.

DEPARTMENT OF COMMERCE

ROBERT J. SHAPIRO, OF THE DISTRICT OF COLUMBIA, TO BE UNDER SECRETARY OF COMMERCE FOR ECONOMIC AFFAIRS.

DEPARTMENT OF TRANSPORTATION

JOHN CHARLES HORSLEY, OF WASHINGTON, TO BE ASSOCIATE DEPUTY SECRETARY OF TRANSPORTATION.

OFFICE OF SPECIAL COUNSEL

ELAINE D. KAPLAN, OF THE DISTRICT OF COLUMBIA, TO BE SPECIAL COUNSEL, OFFICE OF SPECIAL COUNSEL, FOR THE TERM OF FIVE YEARS.

THE JUDICIARY

MELVIN R. WRIGHT, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSOCIATE JUDGE OF THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA FOR THE TERM OF FIFTEEN YEARS.

POSTAL RATE COMMISSION

RUTH Y. GOLDWAY, OF CALIFORNIA, TO BE A COMMISSIONER OF THE POSTAL RATE COMMISSION FOR A TERM EXPIRING NOVEMBER 22, 2002.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

EXECUTIVE OFFICE OF THE PRESIDENT

THOMAS J. UMBERG, OF CALIFORNIA, TO BE DEPUTY DIRECTOR FOR SUPPLY REDUCTION, OFFICE OF NATIONAL DRUG CONTROL POLICY.

THE JUDICIARY

KERMIT LIPEZ, OF MAINE, TO BE UNITED STATES CIRCUIT JUDGE FOR THE FIRST CIRCUIT.

ROBERT T. DAWSON, OF ARKANSAS, TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF ARKANSAS.

JOHNNIE B. RAWLINSON, OF NEVADA, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF NEVADA.