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Senate

The Senate met at 11 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:

''If we pray, we will believe;

''If we believe, we will love;

''If we love, we will serve.''

These words of the late Mother Teresa of Calcutta call us to prayer.

Almighty God who cares profoundly for the lost, the lonely, the sick, and the suffering, we express our gratitude for one who has allowed her heart to be broken by what breaks Your heart. We thank You for the life of Your loyal servant, Mother Teresa.

Lord, You have told us that what we do for the least, we do for You. We thank You for the way You came to her in the poor and suffering and they were cared for as if ministering to You.

Like Jesus, she did not seek to be served but to serve. She has shown us the value of every person You love. The spirit of love pulsated through her. She was a riverbed for the flow of Your grace for the castoffs of society. Her own prayer expresses our desires:

''Make us worthy, Lord to serve our fellow men throughout the world who live and die in poverty and hunger. Give them, through our hands, this day their daily bread; and by our understanding love, give peace and joy.''

As we have seen what You can do through a person totally committed to You, and unreservedly dedicated to love as You love, we are moved to rededicate our own lives to sacrificial service and receive supernatural power to give ourselves to those who hurt and need hope, who suffer and long for strength. One life to live; t'will soon be past; only what's done for You will last. In the name of our Lord and Saviour. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader, Senator LOTT of Mississippi, is recognized

Mr. LOTT. Thank you, Mr. President.

SCHEDULE

Mr. LOTT. Mr. President, today, the Senate will resume debate on the motion to proceed to S. 830, the Food and Drug Administration reform bill. Under the previous order, there are 4 hours of debate remaining on the motion to proceed equally divided between Senator JEFFORDS and Senator KENNEDY. I believe Senator JEFFORDS is on the floor ready to use his share of the time.

Following the expiration or yielding back of time, the Senate will resume consideration of S. 1061, which is the Labor-Health and Human Services appropriations bill. Also under the order that was agreed to, a vote on an amendment relating to S. 1061 is expected around 5 p.m. today. In addition, Members are reminded that under the consent, all amendments remaining in order to the Labor-HHS appropriations bill must be offered by the close of business today.

Any further votes ordered on amendments to the bill, S. 1061, or other votes, will be stacked to occur on Tuesday at a time to be determined. And we will consult with the Democratic leader about what those amendments will be or other votes and what time they will actually occur.

In addition, under the previous order, the Senate will begin consideration of the FDA reform bill following the disposition of S. 1061, but not before 4 p.m. on Tuesday, although it is my hope that certainly by 5 o'clock on Tuesday we will be working on the substance of the FDA bill.

Members can expect then that the Senate will complete the Labor-HHS bill, the FDA reform bill, and we will begin then with the Interior appropriations bill this week. Whether we will be able to finish that, how late we will have to go on Wednesday night or Thursday night or whether or not we will have votes on Friday will depend on what kind of progress we make during the day Tuesday, Wednesday, and Thursday.

The next rollcall vote then will be at 5 o'clock today on an amendment related to the Labor-HHS appropriations bill or other vote that we may get worked out.

TRIBUTE TO MOTHER TERESA

Mr. LOTT. Mr. President, like the Chaplain, and on behalf of the Senate, I would like to pay tribute today to Mother Teresa. I know that I am speaking for every Member of the Senate in expressing our sorrow in the loss of Mother Teresa, this wonderful lady.

At the same time, we realize that if ever there was a life well lived, it was hers. Her passing helps us understand the psalm's comfort for those who mourn, that ''precious in the eyes of the Lord is the death of His faithful ones.''

Only 3 months ago, Mother Teresa came here to the Capitol. She joined us as we gave to her the Congressional Gold Medal in support of her work for the poorest of the world's poor. Even then, everyone present understood that it would only be a matter of time before her work, never finished, would rest in other hands.

But what an honor it was for us to meet her. The leaders were there, and the Members of the House and the Senate. That was a special occasion. We all felt touched by this elderly lady, who at once was so frail and at the same time so tough and so unconcerned about anything except the suffering of others.

This was a lady who, on an earlier visit to Washington, when she was being escorted to a White House car

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

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waiting to take her to the airport, inquired about how her companions would get to the airport. When she was told they would go in a different vehicle, she declared everyone must stay together and take the bus.

To put it mildly, fame, and accolades were not important to her. What was important to her—what shaped her life from the Balkan village where she was born to the places of power where she was honored—was a devotion to the most vulnerable members of the human family, especially children, both before and after their birth.

When she first visited the Capitol back in 1981, one of our colleagues, then Senator James Buckley of New York, remarked, ''There is no telling what may be started by someone like her, who plays with fire by striking sparks off the flinty heart.''

Today, 16 years later, it is magnificently clear what she did start, literally around the world. Out of her poverty, she enriched mankind. Out of her loneliness, she showed us the heights of the human spirit. From the perspective of this century's end, we have a better understanding of what true greatness really is.

The monsters of our era—Mao, Stalin, Hitler, and the rest—they and their ideologies are in the trash heap of history. But what Mother Teresa launched, with bare hands and with an open heart, is going to last far longer than anyone can imagine.

Sad as our loss of her may be, we should not forget that her passing would not be viewed by her as a tragedy, but as a triumph. She had that assurance from the person to whom she gave her life, who surely has said to her, ''I was hungry, and you gave me to eat. I was thirsty, and you gave me to drink.''

So as we celebrate her life, let us now celebrate her joy.

Mr. President, I yield the floor.

FOOD AND DRUG ADMINISTRATION MODERNIZATION AND ACCOUNTABILITY ACT OF 1997—MOTION TO PROCEED

The PRESIDING OFFICER (Mr. DEWINE). The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 830) to amend the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act to improve the regulation of food, drugs, devices, and biological products, and for other purposes.

The Senate resumed the consideration of the motion to proceed.

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. JEFFORDS. First, I want to thank the majority leader for, I think very aptly and appropriately and eloquently, expressing our thoughts about Mother Teresa. All of us were moved by her life, and all feel similarly as to his feelings about what she did for all the people of the world.

Mr. President, today, we move forward again on the motion to proceed with respect to the reform of the FDA bill, S. 830.

Under the Federal Food, Drug, and Cosmetic Act, Food and Drug Administration commonly known as FDA, has two important functions: First, the review and approval of important new products that can improve the public health, such as lifesaving drugs, biological products, and medical devices; and second, the prevention of harm to the public from marketed products that are unsafe or ineffective. Since 1938, the Federal Food, Drug, and Cosmetic Act has been amended numerous times to expand the FDA's mission to ensure that only safe or ineffective products are marketed.

But the act has been changed only once, by the Prescription Drug User Fee Act of 1992, commonly called PDUFA, to strengthen the FDA's ability to review and approve expeditiously important new products that can improve the public health.

Food and Drug Administration Modernization and Accountability Act of 1997, S. 830, is designed to ensure the timely availability of safe and effective new products that will benefit the public and to ensure that our Nation continues to lead the world in new product innovation and development.

The legislation accomplishes three major objectives: It builds upon recent administrative reforms that both streamline FDA's procedures and strengthen the agency's ability to accomplish its mandate in an era of limited Federal resources; it requires a greater degree of accountability from the agency in how it pursues its mandate; and third, it provides for the reauthorization of PDUFA.

The FDA acknowledges that its mandate requires it to regulate over one-third of our Nation's products. Within its purview the FDA regulates nearly all of the food and all of the cosmetics, medical devices, and drugs made available to our citizens.

This legislation identifies areas where improvements can be made that will strengthen the agency's ability to approve safe and effective products more expeditiously. It builds upon the numerous investigations by Congress, the FDA, the General Accounting Office, and other organizations that have identified problems with the current FDA product approval system and have recommended reasonable reforms to streamline and strengthen that system. The major provisions of S. 830 accomplishes, among others, the following purposes. The legislation:

First, establishes a clearly defined, balanced mission for the FDA;

Second, it improves patient access to needed therapies and provides expedited humanitarian access to medical devices;

Third, creates new incentives for determining better pharmaceuticals for children;

Fourth, gives patients access to new therapies more quickly through a new fast-track drug approval process;

Fifth, increases access to information by health professionals and patients;

Next, increases agency access to expertise and resources;

Also, improves the certainty and clarity of rules;

And further, improves agency accountability and provides for better resources allocation by setting priorities;

It also, simplifies the approval process for indirect food contact substances and provides a more reasonable standard for some health claims; and,

The legislation reauthorizes the PDUFA Program thus ensuring additional resource availability for the agency to conform with its necessary missions.

Mr. President, let us explore these objectives in greater detail. First, the legislation establishes a clearly defined, balanced mission for the FDA. Congress has never established a mission statement for the FDA. This bill does.

The FDA in March 1993 adopted a formal statement declaring that the agency ''is a team of dedicated professionals working to protect and promote the health of the American people.'' Although this statement defines the agency's mission in terms of ensuring that the products it regulates comply with the law, there is no reference to the importance of approving new products that benefit the public.

The legislation amends the Food Drug and Cosmetic Act by adding an agency mission statement focused on: First, protecting the public health by ensuring that the products it regulates meet the appropriate FDA regulatory standards; second, promptly and efficiently reviewing clinical research and taking appropriate action on the marketing of regulated products in a manner which does not unduly impede innovation or product availability; and, third, participating with other countries to reduce regulatory burdens, harmonize regulatory requirements, and achieve appropriate reciprocal arrangements with other countries.

The legislation improves patient access to needed therapies and provides expedited humanitarian access to medical devices. The FDA has no cross-cutting program that ensures access by patients with serious or life-threatening diseases to drugs or devices in clinical trials—even when that unapproved therapy may be the only way to save the patient's life.

The legislation would create new law whereby manufacturers may provide, under strictly controlled circumstances and in response to a patient's request, an investigational product for those patients needing treatment for a serious or life-threatening disease. The legislation also improves the existing program for the humanitarian use of medical devices for patient populations of fewer than 4,000.

The legislation creates new incentives for determining better pharmaceuticals for children. Children have for years been wrongly considered small adults when estimating the effect of prescription drugs on their overall health. Currently there is no systematic means for testing the safety and efficacy of drugs on the pediatric population.

The legislation gives the Secretary authority to request pediatric clinical trials for new drug applications and provides 6 extra months of market exclusivity to drugs when the manufacturer voluntarily meet certain conditions under the program. The Secretary must determine in writing that information relating to the use of a drug in the pediatric population is needed. In addition, the FDA may establish time frames for completing such pediatric studies before additional exclusivity is granted.

The legislation gives patients access to new therapies more quickly through a new fast-track drug approval process. I think this is important.

For several years the FDA has allowed the expedited review and approval of drugs but such review has been largely confined to treatments for HIV/AIDS or cancer. This provision facilitates development and expedites approval of new drugs for the treatment of any serious or life-threatening diseases.

The legislation increases access to information by health professionals and patients. For years, sophisticated users of health related economic information, like health maintenance organizations, have had constrained from access to important information that could help them reduce health care costs.

The legislation would apply the Federal Trade Commission's ''competent and reliable scientific evidence'' standard for FDA review of health care economic statements distributed by manufacturers to sophisticated purchasers. In the past, only a few patient groups have had access to information about ongoing clinical trials for lifesaving therapies. The legislation expands patient access to information by requiring the creation of data bases on ongoing research related to the treatment, detection, and prevention of serious of life-threatening diseases.

The legislation increases agency access to expertise and resources. Current law contains no provisions to assure that the FDA can access expertise housed at the National Institutes of Health [NIH] and other science-based Federal agencies to enhance the scientific and technical expertise available to FDA's product reviewers. The legislation requires FDA to develop programs and policies to foster such collaboration. The legislation also authorizes the agency to contract with outside experts to review all or parts of applications when it will add to the timeliness or quality of a product review, and provides for the use of accredited outside organizations for the review of medical devices.

The legislation improves the certainty and clarity of rules. The legislation makes a series of changes related to the classification, review and approval of FDA regulated products designed to ensure that sponsors of new products face consistent and equitable regulatory requirements. In addition, the legislation gives FDA 2 years to evaluate the success of its recently issued ''Good Guidance Practices'' guidance after which FDA is required to implement this policy as a regulation, making any modifications necessary to reflect experience during the 2-year trial period. The legislation provides medical device manufacturers with the ability to make recommendations to the FDA respecting initial product classifications.

It facilitates the reclassification and/or approval of device applications by allowing FDA to consider historical data in making its determinations, and the legislation more clearly states the relationship of labeling claims to approval and clearance of medical devices. It increases the certainty of review time frames by providing a definition of a day with respect to the agency's review timeclock and by requiring the agency to approve or disapprove a device application within 180 days.

The legislation also prohibits FDA from withholding the initial classification of a device because of a failure to comply with any provision of the unrelated to making a determination of substantial equivalence, and it clarifies that FDA has discretion in determining the number of clinical trials required for the approval of a drug or device. FDA would retain total discretion to require a sufficient number of trials to show safety and efficacy. The provision introduces the concept that two trials are not always necessary, establishes the primacy of quality data over quantity of data, and requires the FDA to consider the number and type of trials on a product-by-product basis.

The legislation improves agency accountability and provides for better resource allocation by setting priorities. Except as required under PDUFA, the FD&C Act provides no form of public accountability by the FDA for its performance of its statutory obligations.

The legislation requires FDA to develop a plan designed to: First, minimize deaths and injuries suffered by persons who may use products regulated by the FDA; second, maximize the clarity and availability of information about the product review process; third, implement all inspection and post-market monitoring provisions of the act by 1999; fourth, ensure access to the scientific and technical expertise necessary to properly review products; fifth, establish a schedule to bring the FDA into compliance by 1999 with the product review times in the act for products submitted after the date of enactment of this section; and sixth, eliminate the backlog of products awaiting final action by the year 2000.

The legislation also requires FDA to submit an annual report to assist Congress in assessing the agency's performance in accomplishing the objectives laid out in the agency plan.

The legislation streamlines several FDA functions with respect to certain review and inspection processes thus allowing the agency to focus its limited resources on areas of greatest need. The legislation establishes reasonable data requirements for new product approval applications, petitions, or other submissions. The legislation provides FDA with the discretion to approve drugs and biologics on the basis of products manufactured in pilot and small-scale facilities.

FDA is also directed to establish policies to facilitate the approval of supplemental applications for new uses for an approved product. Further, the legislation establishes procedures and policies to foster a collaborative review process between the agency and the sponsors of medical device applications. Finally, the legislation streamlines the review of minor modifications to medical devices.

The legislation simplifies the approval process for indirect food contact substances and provides a more reasonable standard for some health claims. Current law requires the agency to preapprove food contact substances, most of which pose little if any risk to human health.

The legislation replaces the preapproval process for these substances, primarily packaging materials, with a simple notification requirement. The legislation also provides for health claims for foods, with premarket notification, when the claims are based on authoritative recommendations by an authoritative scientific body of the U.S. Government such as the National Institutes of Health, the Centers for Disease Control and Prevention, or the National Academy of Sciences—very reliable agencies.

The legislation reauthorizes the PDUFA Program thus ensuring additional resource availability for the agency. PDUFA is reauthorized for 5 years. Performance goals beyond those set for the 1992 act will be identified in side letters between the FDA and the Senate Committee on Labor and Human Resources. The bill assumes that FDA will receive for fiscal year 1998 the 1997 level of appropriated funds for the agency.

This is important to keep in mind. For fiscal year 1999 through 2002, the bill assumes an annual inflation adjustment. I mention this because there in the present proposal by the administration is a request to cut back on the use of PDUFA.

Mr. President, I think after all of us have had time in this body to go through this legislation, Members will understand why there is so little dispute over almost all of the bill. We will be talking again today, as we did last Friday, about two areas in the bill for

which there has not been agreement, but the disagreements are not very complicated to understand.

First of all, we had a vote of 89–5 on Friday to allow us to end the filibuster under the circumstances we faced. That approval indicates what I am saying now, that for almost all of this bill there is no dispute between us and the minority or Senator KENNEDY or the Office of the President or the Secretary of HHS.

What we do have are two problems in which there is dispute. This makes up 6 pages out of a 152-page bill. Keep in mind, because we will have some vigorous arguments in those two areas, everyone agrees with the rest of the bill—almost. There will always be somebody, but there is hardly any disagreement on the matters I discussed in my statement.

The two remaining matters refer, first of all, to cosmetics. There is an increasing need, at least felt by especially some States and also by the FDA and others, that there has to be more work done in approving cosmetics or ensuring that cosmetics that are injurious to health do not get on the market. At present, most of that has been left sort of ambiguous whether the FDA should do it or not.

On the other hand, because of the realization that uniformity would be helpful, it would be useful if we could have uniformity throughout the States on cosmetics so that the people all over the country do not have to worry about going from place to place. And thus the bill does establish the FDA predominance in the field with respect to the use of cosmetics.

Now, this is met with some difficulties because some States, California in particular, had voted and had passed laws on cosmetics. Let me go through the present authority.

The FDA now has substantial authority to ensure the safety of cosmetic products. It can ban or restrict ingredients for safety reasons, mandate warning labels, inspect manufacturing facilities, issues regulatory letters, seize illegal products, enjoin unlawful activities, and prosecute violators of the adulteration and misbranding provisions of the Federal Food, Drug, and Cosmetic Act.

In addition, cosmetic products are subject to one of the most comprehensive set of Federal labeling requirements for consumer products. A cosmetic label must include the name and address of the manufacturer, packager, or distributor; a statement of product identity; net quantity of contents; a list of all ingredients in the products; adequate directions for use; and mandated warnings for specific products.

In addition to this substantial Federal regulatory authority, the cosmetic industry supports a variety of programs to ensure the safety of cosmetic ingredients. Most important is the Cosmetic Ingredient Review, a 20-year program that has reviewed the safety of almost 620 cosmetic ingredients.

The safety evaluations are conducted by an independent expert panel of seven leading academic scientists and physicians. The panel also includes three liaison representatives from the FDA, the Consumer Federation of America, and private industry.

Along with this regulatory authority, the agency has sufficient resources to police the safety of cosmetics. This year, Congress appears ready to approve nearly a billion dollars for the agency. Yet of that amount, the FDA will likely spend no more than about $6½ million on cosmetics safety and labeling. Why? Why would the agency devote less than 1 percent of its budget? Because of the outstanding safety record of cosmetic products. Numerous FDA Commissioners—including David Kessler, have stated that cosmetics are among the safest products under the FDA's jurisdiction.

Let me turn now to the language of the national uniformity provision for cosmetics included in the latest version of S. 830. First, let me emphasize that this provision in no way affects State enforcement powers, such as seizure, embargo, or judicial proceedings, that the States can now use to guard against adulterated, misbranded, or otherwise unsafe products. Let me repeat this point: The national uniformity provision would not block any State from exercising its police powers against unsafe cosmetic products.

Second, the national uniformity provision provides only limited preemption of State safety standards. Preemption would apply only when the FDA has an applicable safety standard affecting cosmetic already in place. If the FDA has not acted in a safety area, the States would still be free to impose their own particular safety regulations affecting cosmetic products. For example, individual States could ban particular ingredients or could set specified concentrations levels for ingredients used in cosmetic products when the FDA has not acted.

Preemption does apply to State labeling and packaging for cosmetic products that are in addition to or not identical with Federal standards.

This is designed to ensure a single, nationwide system for regulating the labeling for cosmetic products. This will promote efficient product distribution in interstate commerce, assure the ready availability of products in all States, and hold down costs for consumers.

Third, under this provision States and localities are clearly permitted to petition to impose a State-specific requirement if they have a situation where an important public interest is at stake, and the requirement would not violate a Federal law or unduly burden interstate commerce.

Fourth, the existing right of States, or entity or person is preserved to petition the FDA to make an certain regulation on over-the-counter drugs or cosmetics a national requirement.

And finally, the regulation of the practices of pharmacy and medicine, areas traditionally and appropriately the responsibility of the States is not modified or preempted by this provision.

This is a sensible compromise that guards against the possibility of 50 different labels in 50 different States but at the same time preserves the ability of States to protect the public against any problems that may arise over the safety of cosmetic products.

Mr. President, we will go forward with another lengthy dissertation on this aspect of this. I hope people will keep in mind that there is broad, broad agreement among all of us—Senator KENNEDY and those who support it—that this bill has come a long way. It has gone a great distance toward bringing together what we can pass and be very proud of. There are just two areas where there is disagreement, which we will hear about, I am sure, now. But I hope that everybody will keep in mind that this is in the area of 6 pages of a 152-page bill.

Mr. President, I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER (Mr. GREGG). The Senator from Massachusetts is recognized.

Mr. KENNEDY. First of all, I want to just comment about the devotion and duty of our friend and colleague from Vermont. I am sure there may be those who are watching the proceedings this morning who may not know, as many of us know, the Senator and his daughter were rear-ended last Friday morning. Nonetheless, he came in here during the course of the consideration of this legislation, and now he is here doing his duty in spite of the inconvenience and discomfort he is feeling. So I think all of us have great respect for Senator JEFFORDS. His devotion to duty is again reflected in his presence here this morning and his commitment in moving ahead this legislative process.

Mr. President, I also want to, as I did at the opening of the discussion and debate, congratulate Senator JEFFORDS on his efforts in the consideration of this legislation. We considered this legislation—FDA reform—in the last Congress. We reported legislation out of the committee. It did not move toward a successful resolution. There were a number of features there that were extremely troublesome in terms of the protection of the public. There were areas of strong difference. Although the process did move forward, it was not successful.

Senator JEFFORDS has built upon a strong record and made every effort to try to work through an important public policy area, reform of the Food and Drug Administration, in ways that recognize its primary responsibility, which is to protect the public. As we go forward with this debate, FDA reform should serve the public interest and also take into consideration the innovation of the pharmaceutical industry and the medical device industry in bringing new products onto the market

in ways that can improve the health care of the American people. That is always a balance.

Men and women of good judgment can differ. There are two important provisions in this legislation, which eventually will be subject to further debate and discussion, dealing with what we call sections 404 and 406, labeling and manufacturing. I will come back to those measures a little later in the course of the debate. We heard references to those items by our friends and colleagues, Senator REED and Senator DURBIN, on Friday last. We will have a chance to outline at least some of the concerns about those measures, and, ultimately, the Senate and the conference will have an opportunity to deal with those.

I personally feel that they pose important public health issues that need to be addressed. But I agree with what Senator JEFFORDS has outlined, which is the broad sweep of this legislation, and the areas of broad agreement that have been an impressive legislative achievement. Senator JEFFORDS should receive commendation for that because all of us who were part of that process feel that there are many features in here that should move forward.

Some of us are hopeful that we can address the medical device legislation and also address what I consider to be one of the important amendments that was passed in the consideration of the legislation in one of the last markups—passed with a strong vote, after some discussion, but nonetheless, poses what I consider to be an important and unnecessary health hazard to the American people. That is, the provisions which are known as the cosmetic preemption provisions, which were added to this legislation, not included in the original mark of the chair, not included in the original mark of Senator Kassebaum a year ago, but added at the behest of the industry. As a matter of fact, the language itself was drafted by the industry. It was advanced in the committee considerations and now is part of the legislation.

As I mentioned last week, I am absolutely convinced that if this had been introduced as a separate bill, it would be far back in the recesses of the Labor and Human Resources Committee, in terms of its consideration. But nonetheless, action was taken by the committee and that action has resulted in the inclusion of the cosmetic preemption provision. If this legislation is passed, it will effectively say to the 50 States that you virtually have no rights or opportunities for protecting your consumers from unsafe or dangerous cosmetics.

Now, I listened with interest to what the Senator outlined in regards to the powers of the FDA, in terms of protecting the public. But the fact is, as we know, the food and drug law has 126 pages that relate to drugs or prescription drugs and medical devices, it has 55 pages dealing with labeling and nutrition labeling, it has 8 pages dealing with definitions in the food and drug law, and it has a page and a half on cosmetics.

There are only two members of the Food and Drug Administration who oversee cosmetic packaging, labeling and warning. We have seen where the various studies that have been done by governmental agencies, like the General Accounting Office, have stated that what is necessary to give assurance and protection to the American people regarding cosmetics is more significant regulatory authorities for FDA to make sure that the ingredients that are going into cosmetics are going to be safe. We do that with the pharmaceutical industry; we do it with the medical device industry. We do not do that with cosmetics.

The American people go into their drugstore and get a prescription drug or an over-the-counter drug. They know that, in effect, there is a warranty from the FDA that bears the gold standard for safety in the world, that those products are going to be safe. They get a medical device and they know it is going to be safe. But the fact of the matter is, Mr. President, we are not so sure when it comes to cosmetics. For example, when we consider the safety of our cosmetics, we know that, the Consumer Product Safety Commission, more than 10 years ago—and the utilization of cosmetics has grown exponentially since that time—reports 47,000 emergency room visits as a result of the use of cosmetics and cosmetic products in one single year. Does that sound very safe to all of you? What is the record? Where is the testimony to say how safe it was? You do not have it. You do not have it because we have not had any hearings. It would have been a good hearing if we had two or three former heads of FDA that appeared before the committee and said this is what the safety issues are, these are what the health issues are, these are why either we agree or we differ on the issues of preemption. But we didn't have them in the Senate. And you have not had them in the House. You didn't have them in this Congress. You didn't have them in the last Congress. You have not had them in the Congress before. You have not had them for 20 years. The only documents you have are from the GAO. And they don't talk about how safe everything is. They have a series of recommendations, which I have read into the RECORD, that say what we ought to be doing in order to guarantee safety and security.

That is what the GAO said. That isn't the Senator from Massachusetts. That isn't the four other Senators that said let's stop, look, and listen. But we are going to go ahead pell-mell with this particular provision. We have looked at the results of the GAO study. They have not been refuted, and we have not had any hearings providing evidence that can refute the GAO.

Mr. President, is this something that just now a single Senator, or three, or four, or five Senators should be concerned about?

It is interesting that the administration has targeted this provision, as well as the two to three other provisions that I mentioned earlier, as matters that have to be addressed.

The National Governors' Association: This is what they say about this provision.

> When the Senate Labor and Human Resources Committee considered reauthorization of the Food and Drug Administration, the committee adopted an amendment proposed by Senator GREGG that preempts State regulations, disclosure requirements, labeling, and warning requirements as they apply to nonprescription drugs and cosmetics. The National Conference of State Legislatures and the National Governors' Association, vigorously oppose this provision and hope that it will not be part of the bill when it is reported by the Senate.

All the Governors are saying virtually the same thing. Let us, in the 50 States, be able to take actions with regard to cosmetics, allow us to protect our people. That is what all the Governors are saying. But oh, no. ''Washington knows best.'' Remember those old statements that we used to hear all across the country by many of our colleagues. Let's not have a one-solution-fits all. Let's not have that. Let's not have ''Government knows best.'' Well, here you have Government knows best. They don't know best. They can't handle and protect their people in California, or Ohio, or Massachusetts. Absolutely not, even though there have been strong efforts in each of these States to try and move ahead and to protect their people. But we are saying not after we pass this law.

Mr. President, as I said last Friday here on the floor of the U.S. Senate, we are making tough decisions on matters over which reasonable people can differ. And these are in many instances heartrending decisions. I mentioned last Friday, the decisions that we had in our Human Resources Committee where you have a limited amount of money. You have to make a decision for Meals on Wheels; whether you are going to provide all of the money to the congregate sites to feed elderly people—and you can feed more elderly people if you put it in the congregate sites—or are you going to take a third of that money and feed people that are shut-ins? The money will not go as far. You are not going to reach as many people if you take those scarce resources and reach the shut-ins. What should be the public policy question? Should we give the money to feed more people, or should we allocate some to the shut-ins, or should we just leave this up to the local community?

These are important public policy issues that affect the lives of real people. But not on this cosmetic issue. What are the public policy considerations on the other side? Money. Greed. Cosmetic industry. Greed. What are the public health considerations of preemption? How are they advanced? How are they preserved? How are the American people further protected by a preemption? They are not. We have not heard that

argument made on the floor of the U.S. Senate. We have not heard it, because it is not there.

This legislation is proposed because of what has been happening in the area of California, and some of the other States which have been looking at the kinds of concerns being raised by so many consumers day in and day out—I will mention those in just a few moments—that are really wondering whether some of these products are safe. And there is good reason to ask whether they are safe because as we have seen from the GAO, many of these products are potential carcinogens. What is a carcinogen? It is a cancer-causing agent. We wouldn't permit these products to go into processed food because the Delaney clause would protect the American people from carcinogens in processed food. But can you add them to cosmetics? You can add them to cosmetics. They are added to cosmetics today.

That is another reason, Mr. President, why the Environmental Defense Fund says no to this provision; why the Natural Resources Defense Council says no to this provision; why the Patients Coalition Consumers Union says no to do this provision; why the Consumer Federation of America says no; why AIDS Action says no; why the American Public Health Association, the association to protect the American public health, says no to this provision. All of these organizations say no to this provision. Why? Because it doesn't protect and advance the interests of the public health in the States. It advances the bottom line of the cosmetic industry, but it does not advance the interests of the public health.

Mr. President, I will mention what the National Women's Health Network says in a letter that I will include.

I ask unanimous consent that this letter be printed at an appropriate place in the RECORD.

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

NATIONAL WOMEN'S HEALTH NETWORK,
September 8, 1997.

Hon. EDWARD M. KENNEDY,
U.S. Senate,
Washington, DC.

DEAR SENATOR KENNEDY: On behalf of the 13,000 individual and 300 organizational members of the National Women's Health Network, I am writing to express our opposition to damaging provisions in S. 830, the FDA Modernization and Accountability Act of 1997 which would preempt state regulation of cosmetics. I commend you for speaking out about this potential threat to women's health.

The spectrum of the cosmetic industry is broad and not simply limited to lipstick, mascara, or eyeshadow. Hair gels and dyes, soap, toothpaste, baby powder, and lotions also fall under the umbrella of this $20 billion dollar industry. Most women use one or more of these products everyday, and assume that they are safe for themselves and their families.

Sadly, this is not the case. There is virtually no federal oversight of cosmetic products which, according to a 1987 Consumer Product Safety Commission study, led to an estimated 47,000 emergency room visits in one year. Additionally, the General Accounting Office reported that a number of cosmetic products marketed in the United States ''may pose a serious hazard to the public.''

Because the FDA has virtually no authority to regulate this very profitable industry; in fact the FDA has less than 30 employees overseeing the safety of cosmetics, states have initiated their own efforts to protect their residents. These state consumer protection laws have alerted women to products containing carcinogens or the presence of ingredients which may cause allergic reactions.

The Network believes that S. 830 puts the financial bottomline of the cosmetics industry ahead of the health of millions of women by banning states from regulating the industry's products. The bill would even bar states from establishing public communication campaigns which would inform women of a cosmetic's safety and effectiveness. This would mean no warning labels, no data on carcinogens, no ''keep out of reach of children'' notices.

It is absolutely crucial that provisions in S. 830 preempting states' rights to regulate cosmetics be removed from the bill. Women and their families deserve to have complete information about the safety and effectiveness of these products and states who are willing to step forward to safeguard the health of their residents must be allowed to do so. The National Women's Health Network stands ready to work with you to educate members of the Senate and the American public about this very serious women's health issue.

Sincerely,

CYNTHIA A. PEARSON,
Executive Director.

Mr. KENNEDY. They say:

The spectrum of the cosmetic industry is broad and not simply limited to lipstick, mascara, or eye shadow. Hair gels and dyes, soap, toothpaste, baby powder, and lotions also fall under the umbrella of this $20 billion industry. Most women use one or more of these products every day, and assume that they are safe for themselves and their families.

Sadly, this is not the case. There is virtually no federal oversight of cosmetic products which, according to a 1987 Consumer Product Safety Commission study, led to an estimated 47,000 emergency room visits in one year.

Just to depart for a minute, if you have 47,000 people going to the emergency room, how many other thousands are going back to see their doctors? How many other thousands have gone to their dermatologists? How many other thousands have gone to their own doctors, and not to the emergency room and willing to pay the other $150, $175, or $200 to just visit the emergency room? How many others knew that? There were 47,000 emergency room visits in one year.

Additionally the General Accounting Office reported that a number of cosmetic products marketed in the United States ''may pose a serious hazard to the public.''

That is the GAO— ''* * * may pose a serious hazard to the public.''

It would seem to me this morning that we ought to be debating how we are going to advance public health, and how we are going to protect those individuals whose health may be in danger. Are we debating that? No. To the contrary. We are going to say as a result of this legislation that the health of the consumers of cosmetics are going to be at greater risk. That is the only conclusion, and that the bottom lines of the cosmetic industry are going to be higher.

I continue:

The Women's Health Network ''* * * believes that S. 830 puts the financial bottom line of the cosmetic industry ahead of the health of millions of women by banning states from regulating the industry's products.''

There it is. There is the heart of the argument right there by the National Women's Health Network, one of the effective organizations that looks out after the public health of American women. Does it get it right here?

The Network believes that S. 830 puts the financial bottom line of the cosmetic industry ahead of the health of millions of women by banning states from regulating the industry's products.

That is it. That is what we got tagged onto this bill that is dealing with pharmaceuticals and prescription drugs, dealing with medical devices, dealing with the extension of PDUFA, which is a source of revenue to ensure that the FDA can be tops in the world in terms of approving new products. We support those various provisions. But now we have added onto this train this cosmetic preemption that the principal organizations that are dealing with public health say to the U.S. Senate: ''Stop. Say no. Do not move ahead with that.''

It continues, Mr. President:

It is absolutely crucial that provisions in S. 830 preempting states' rights to regulate cosmetics be removed from the bill. Women and their families deserve to have complete information about the safety and effectiveness of these products and states who are willing to step forward to safeguard the health of their residents must be allowed to do so.

Mr. President, let me just continue on with the groups just so that we understand the breadth of the opposition. It isn't just a few Senators. As I mentioned, the principal public health associations, those that are primarily concerned about women's health, the ones that use these products to the greatest extent—the administration, the State legislators. The State legislators were joined by the Association of State and Territory Health Officials. They emphasized State laws provide consumers with important protections in areas where the FDA has insufficient resources to act and represent a legitimate exercise of State authority.

As I mentioned before, Mr. President, if we were debating the regulatory authority of the FDA to protect the public health, that is a legitimate debate. But that is not where we are. We are not out here debating what would be appropriate power for the FDA to have to ensure protections for the American consumer on cosmetics.

If there are those that can say with a straight face with the $6 million budget that they are allocating through FDA

and two people that are overseeing the areas of packaging and labeling, which is the only thing that the States can do in terms of trying to get at these health considerations—if we were out here to say, ''Look, they have too much power, they have been abusing that power, and they are inefficient with that power,'' that would be one thing. But we are not out here debating that. We are just saying we know, as the cosmetic industry does, that the agency does not have the wherewithal in order to protect the consumer, that the historical protections for the consumer on health and safety have been the States and local communities, and what we are out here now saying is that we are going to take all of their power away. That is the issue. It isn't that we have a strong FDA. We don't have it. It is not represented. It was never discussed in the course of our markup. We had no hearing that would be able to represent it.

Let me just take a few minutes to indicate how we have gotten to where we are with regard to the FDA power on drugs, pharmaceuticals, and on cosmetics.

As I mentioned, the FDA has less than two people to regulate the labeling, packaging, and warning for a $20 billion a year industry. The FDA has less than 30 people to work on cosmetics, and FDA's authorities are grossly inadequate. The FDA regulation of cosmetics is a dinosaur, an anachronism from the time when drugs didn't have to be effective, when food additives didn't have to be safe, and when medical devices didn't have to be safe or effective. Just go back with me in terms of the times so we understand where we are.

I chaired the hearings that we had in the 1970's about medical devices. Twenty-three women died from perforated uteruses as a result of the Dalkon shield. And that was the beginning of the changes in our medical device legislation—in the mid-1970's. Because of the danger with the sophistication of medical devices, we were going to have to make sure they were going to be safe and efficacious. And we did.

Mr. President, in 1938, the last and only time the Congress acted specifically to regulate cosmetics—1938 is the last time—FDA was given authority to regulate products that were misbranded or adulterated. FDA had the burden. FDA had to find the problem. FDA had to do the studies. FDA has to bring a court action.

The entire burden is on the agency. In the last 60 years, we have progressed in other areas of public health and safety. In 1954, we passed the Miller pesticides amendment. In 1958, we passed the Food Additives Amendment requiring manufacturers of food additives to demonstrate safety before putting potentially harmful chemicals in the food supply. Now manufacturers have to demonstrate that their products are safe in order to go in the food supply.

Do you have to do that with regard to cosmetics? No, you do not have to do that with regard to cosmetics. Two years later, we passed the color additives amendment to establish a premarket approval system for additives used in food, drugs and cosmetics. The drug amendments of 1962 fundamentally restructured the way FDA required premarket approval of safety and effectiveness for every new drug. Prior to that it was not there, not necessary. They have to prove safety and effectiveness.

In 1976, we enacted the medical device amendments following long years of study and debate. So now we have the agency requiring that each of the products in terms of the prescription drugs and with regard to medical devices have to be proven safe and efficacious. Do they have to do that with regard to cosmetics? No. No, they do not have to do that today.

Among the most recent changes in FDA's authority were the infant formula amendments of 1980 and the 1990 Nutrition Labeling and Education Act, and the 1990 Safe Medical Device Act. Under these laws Congress held manufacturers responsible for safe and effective products. We asked the manufacturers to provide data to FDA to demonstrate safety before they could sell the products.

We went ahead again with regard to prescriptions and again with regard to medical devices. Do we do it with cosmetics? No. Despite all this progress and advance in public health and safety, cosmetic regulation has lagged far behind. FDA's authority and regulation of cosmetics is still stuck in the framework of the 1938 law that Congress found it necessary to update in every other product area. This is not to say that Congress has not revisited the area of cosmetic regulation. In fact, every time that Congress has revisited cosmetic regulation it has resulted in a call for additional protection and additional safety measures—every single time. But here we are on this FDA reauthorization bill, to reauthorize the FDA and bring it up into the modern period in terms of medical devices and pharmacy. Here we are with a change, significant change in terms of the relationship of the protection of the American people from cosmetics.

And here we are without the hearings, using the exact language of the cosmetic industry which is going to mean health threats to the American consumer—at what benefit? Well, as I mentioned, the bottom line of the cosmetic industry. So we have each and every time, with regard to pharmaceuticals and medical devices, we see what we have done and we have seen each time that Congress has gotten into it or the GAO studies have gotten into it, they say it is an area which cries out of the need for greater protection of the public.

In 1948, George Larrick, who became the Food and Drug Administrator, said:

> Real scientific appraisal of cosmetic ingredients should be made before an ingredient is marketed.

Did we do that? No. In the 1952 hearings, James Delaney in the House found that partial regulation of cosmetics resulted in insufficiently tested cosmetics that are a source of discomfort and disability. Further, the House report found that cosmetics should be subjected essentially to the same safety requirement as applied to new drugs. Yet today that is far from the case.

In 1978, the U.S. GAO report strongly recommended the FDA be given adequate authority to increase safety of cosmetics. Among its findings: Although there is increasing evidence that some cosmetic products and ingredients may carry a significant risk of injury to consumers, the FDA does not have an effective program for regulating cosmetics. Some coal tar hair dyes may pose a significant risk of cancer because they contain colors known to cause or are suspected of causing cancer in humans or animals. However, the exemptions granted to coal tar hair dyes in 1938 prevented FDA from effectively regulating hair dyes. The industry was sufficiently powerful at that time to write an exemption in the law. And there is increasing evidence that people with darker hair who use these darker colors have higher incidence of troubles in terms of not only their scalps but also their general health conditions and there are increasing studies concerning the exposure these individuals may have had to carcinogens and cancer.

Serious burns have been reported from the use of flammable cosmetics. Among those likely to ignite at the time of application are perfumes and colognes which usually contain a high concentration of alcohol and nail polish removers which contain flammable ingredients such as acetone and ethyl acetate.

In 1975 FDA sponsored a 3-month survey of 35,000 users of cosmetics. Participants kept a diary and reported adverse reactions. These reports were reviewed by a team of physicians to determine if the injuries were cosmetically related. One of every 60 participants suffered an injury confirmed by a physician as cosmetically related. One in every 450 participants suffered a severe or moderate injury.

These are studies that were done back in 1975 by the FDA. Do you think we have updated those studies? No. Do you think we have had hearings about that? No. And yet each and every time there is a serious evaluation we are finding these incidents involving health hazards. We have seen the varying degrees of the hazards in the examples and in the pictures that are here behind us. And we could go through picture after picture of the damage done by various kinds of products.

The GAO report concludes that cosmetics are being marketed in the United States which may pose a serious hazard to the public.

That is not the Senator from Massachusetts. That is the GAO, not Democrat, not Republican. In drawing on the best scientific information, this is what they conclude.

Cosmetics are being marketed in the United States which may pose a serious hazard to health. Some contain toxic ingredients which may cause cancer, birth defects or other chronic toxic effects and contain contaminants known to cause cancer in animals because exposure to these ingredients can occur through skin absorption and inhalation as well as oral ingestion. It is important that the hazards posed by them be carefully assessed.

I tell you, Mr. President, if this provision passes, those hazards are not going to be assessed by the States because of the way the language is written in the legislation. I am talking about what will be preempted on page 119, line 8:

Shall be deemed to include—

This is the preemption—

any requirement relating to public information or any other form of public communication relating to the safety or effectiveness of a drug or cosmetic.

There it is. Here you have the last studies being done, nonpartisan. Individuals are reviewing the most recent, up-to-date scientific studies. Cosmetics which are being marketed in the United States which may pose a serious hazard to the public.

Why are we asked to take a chance on it, Mr. President? Why are we being asked to take this action? One reason and one reason only—the bottom line for the cosmetic industry. There is no public health argument that can be made on the other side—absolutely none—just the greed of the cosmetic industry.

Every American ought to understand that. Here you have the GAO saying cosmetics are being marketed which may cause a serious hazard to your health. You have the several States: Texas, California, Ohio, my own State of Massachusetts, and a number of other States that are attempting to deal with some of these potential and real hazards to us and they are going to be preempted. Sure, we exempted California from this provision, but there are other health protections in California that are going be precluded.

I have my differences with the attorney general, Dan Lundgren out there in California, but you read through his letter about this action and about the efforts California is making trying to protect its public and how it is completely contrary to the interests of California. Here is the Attorney General of California:

Regulation of health and safety matters has historically been a matter of local concern, and the Federal Government has been reluctant to infringe on state sovereignty in these traditional areas.

And he says:

As noted above, S. 830 would, in the absence of specific FDA exemption, appear to prevent the State of California from enforcing their Sherman Food Drug and Cosmetic Law which is there to protect the people of California. And it goes on to make the case in opposition to this particular provision.

So now we have the GAO report and we have what this statute does.

The 1988 hearings held in the House of Representatives raised the same issues about the FDA's lack of authority and resources in this important area. Nothing has been done. Let me review one more time what FDA cannot do under its current authority.

It cannot require cosmetics manufacturers to submit safety data on their products—cannot require that. It can require it with regard to pharmaceuticals. It cannot require cosmetic manufacturers to register their plants or establishments or require cosmetic manufacturers to register their products or require premarket approval of any cosmetic or cosmetic ingredient even when such approval is necessary to protect the public health; cannot require manufacturers to submit consumer complaints about adverse reactions to cosmetics; cannot require manufacturers to perform specific testing necessary to support the safety of a cosmetic or an ingredient.

So, Mr. President, this is what we have under current law. I would like to mention just some of the dangers associated with this limited authority. We have talked in generalities. We talk about jurisdiction. We talk about preemption. We talk about inspection. But here are examples of dangerous cosmetics. These injuries took place this year, and there are dozens and dozens of them in graphic detail. I want to read a few of them for you.

Do any of you use Alberto Hot Oil Treatment for your hair? There was a complaint just last month of eye dermatitis from this product. Do you know what that means? It means blisters, chemical burns, rash, redness, swelling, and inflammation. All that from a simple hair treatment.

Everybody in America uses toothpaste every single day. In August, a consumer used a type of Colgate toothpaste with baking soda and peroxide. What happened? Mouth pain and dermatitis. That's a fancy way of describing itching, burning, and swelling of the lips, tongue and gums.

In case you are thinking of switching brands, think again. Somebody else used Crest Tartar Control toothpaste in January and developed the same symptoms of burning, itching, and swelling in the mouth—not what you would expect from brushing your teeth in the morning.

Here is another example. In August somebody used Gillette Cool Wave clear stick deodorant. Instead of being clean and presentable, they ended up with armpit dermatitis and bleeding. Can you imagine bleeding from using deodorant.

How about a product called Revlon Outrageous Shampoo and Conditioner? It is outrageous all right. The user developed scalp sores, swelling, and inflammation from the shampoo.

Have you ever used Bath salts? You may not want to after you hear this. In March, someone developed ''nervous system and urogenital tract reactions'' from Essential Elements Bath Salts. Can you imagine expecting a nice relaxing hot bath and end up with dizziness and headaches.

These examples go on and on.

Prestigious manufacturers L'Oreal, Avon, Clairol, Neutrogena, familiar names like Procter and Gamble, Revlon, Maybelline, Mr. President, this list provides a dismaying parade of horrors from products we rely on every single day.

Here are just a few examples of the injury complaints received by the FDA. Dermatitis includes rash and redness, swelling, blisters, sores, weeping and lumps, inflammation, chemical burns, and irritation. Pain ranges from itching and stinging to soreness and tingling. Tissue damage, other than thermal burn, can include dryness and peeling, splitting, cracking, hair and nail breaking, hair and nail loss, ulcerations, hair matting, and scars. Nervous system reactions range from dizziness, and headache to irritability, nervousness, and numbness.

How many people using these products have symptoms like dizziness, headache, irritability, nervousness, or numbness, and wonder where in the world this is all this coming from? It may very well be coming from their cosmetics, from their shampoos and toothpastes and other types of cosmetics.

If these examples aren't striking enough, there are respiratory system reactions, like upset stomach, nausea, loss of appetite, vomiting, and diarrhea. Or urogenital tract reactions: painful urination, discharge, stopping of urination, and on and on it goes.

Mr. President, I asked for the complaints that we have gotten in just the last few months. Here in my hand is the list of them from the FDA. It is interesting to note that, a number of years ago, we tried to get authority for an FDA hotline so people could call up with their cosmetic injuries. It was struck out in the Appropriations Committee at the behest and intervention of the cosmetic industry. We tried to get a hotline so that at least we would be able to get more information and the FDA would be able to act on that information about specific products.

What is the lesson we can draw from this? The industry does not want more information about cosmetic injuries. They don't want others to have that information. So they eliminated funding of the cosmetic hotline. We have successful and important hotlines in many other areas. They have been a strong success. I have been a strong supporter of them, because they assist people in obtaining information and, most important, help in a timely way. But they also allow the Government to register various complaints and gauge the seriousness of public health problems.

We tried to get the hotline. We had it authorized, it went on to the Appropriations Committee a few years ago,

but it was knocked out by intensive lobbying. So I am truly amazed that the FDA has the kinds of reports I will describe, and the sheer number of cases that they do. The truth is, most people who suffer injuries or adverse reactions from cosmetics simply don't know who to tell, other than their doctors. They in turn don't have anyone to tell or don't know who to tell. Certainly, the companies are under no obligation to tell the FDA—nor do they.

I will return a little later to the efforts that were made to try to get the manufacturers to voluntarily assist the FDA in reporting complaints. At the end of the day, only about 3 percent of the manufacturers cooperated in that effort. When hearings were held in 1988, there appeared to be a consensus to do more to protect the public. The industry itself said, give us an opportunity to voluntarily provide the FDA the complaints that we receive. Well, it ended up being about 3 percent of the companies that actually participated. I will get to this in just a few moments.

Let's begin with the injury complaints. In August, Alberto Culver & Co.'s hot oil treatment for color-treated and permed hair: Eye dermatitis, including rash, redness, swelling, blisters, sores, weeping, lumps, inflammation, sunburn, chemical burn, and irritation. Clairol Helene Curtis, the brand was Nice N Easy Natural Lite Ash Brown No. 114 and Degree antiperspirant; upper trunk and shoulder pain, including burning and stinging. Clairol's Nice N Easy Medium Brown No. 118: Hair tissue damage other than thermal burns. Procter & Gamble's Covergirl Makeup Master, facial and nose injury including dermatitis; Revlon's Professional Nail Enamel Remover: Finger injury, including cuticle, irritation, dermatitis. Neutrogena's Clear Pore Facial Treatment, facial injury; Dixie Health, Dermal KK is the brand: Face, including nose bleeding.

In July, Maybelline's Great Lash Mascara: Face pain and dermatitis in the nose. Realistic's, which is Roux Labs, Revlon Super Fabulayer Hair Relaxer Conditioner: Scalp dermatitis; Shark Products' Africa Pride Relaxer is the brand: Hair tissue damage. Procter & Gamble's Pantene Shampoo: Upper trunk dermatitis, neck tissue damage. Vidal Sassoon Shampoo: Upper trunk dermatitis. Clairol Hydrience Permanent Hair Color: Permanent discoloration of the hair. I can't imagine a product that could unintentionally make hair permanently discolored, but that is what has been reported.

The list goes on. It lists the names of just about every major kind of cosmetic maker in the book. Andrea International's eyelash adhesive: Eye pain. You have perfume from Stern & Co., the product is Oscar: Respiratory system reactions. And the list goes on. I have page after page of these kinds of complaints.

It seems to me if the States want to bring these matters up and it was the desire of the States to try to protect their consumers, they should have the opportunity to do so. Just as California has done and just as other States which are presently studying these issues will do. These States could go and talk to the manufacturers and the manufacturers can make changes, which they have on product after product sold in California. Proposition 65 is the basis for this California system, which works by inducing product improvements without having to remove products from the market or even putting labels on them. That is the way it has worked in California. Safer products. And time in and time out, the manufacturer comes out and advertises that they have upgraded their product. It is a better product now than it ever has been—an interesting and desirable outcome.

But in this bill we say no. We just say no. We tell consumers, you cannot have the remedy of the State and you cannot have the remedy at the Federal Government. The result will be more individuals like the 59-year-old California woman who was almost killed by an allergic reaction to hair dye. Or the woman who lost her hair and was horribly scarred when her hair caught fire from a flammable hair treatment gel. The 6-year-old daughter of an Oakland, CA, woman who used a hair product on her child who suffered second-degree burns. Two women who used eyelash dye, one of whom died and the other who went blind. A 16-month-old toddler died of cyanide poisoning after swallowing artificial nail remover, and a 2-year-old child from Utah was poisoned by the same cosmetic. If there is a State that wants to do something about children, like putting a warning label on these items in order to protect children, it will never happen under this bill. We know that children get into all kinds of products in the household and there is the chance of them ingesting some of these items. Obviously, some may be considerably more dangerous than others, and consumers will want to have labeling that says if the child ingests this, take the following steps or contact the following people. But under this bill, if the State wants to do that, they are virtually prohibited from doing so. They are denied the opportunity to protect their children in their own States.

What if a review is made of the scientific information in these States on these products if ingested by children, asking do they present serious threats of poisoning among children that may be life-threatening? Should warnings be placed on the labels? The result under this bill will be: No, you are out. You can't do that. I just find it difficult to understand why can't the States do this? Why can't they if they want to in Massachusetts or any other State? The reason will be because the Congress of the United States, at the request of the cosmetic industry, says you can't do it. Congress and the industry say you can't do it. That is what we are dealing with, Mr. President. It is just why I think this makes absolutely no sense.

We reviewed earlier this morning some of the groups that were opposed to this provision: The Governors and State legislatures, virtually all of the public health and consumer groups like the National Women's Health Network, the wide range of agencies and officials with primary responsibility over the public health. They are virtually unanimous in their opposition. I will happily wait to hear from public health groups in support of the provision. We will have time during the course of the debate for other Members who are able to get that kind of information and place it in the RECORD. In the face of such unanimous opposition, they will be few and far between.

Here is a letter from the United Food and Commercial Workers, Beth Shulman, the international vice president.

> We are appalled that the Senate is considering preempting state cosmetic safety regulation in the almost complete absence of any Federal protection.
>
> Unlike all other products governed by the Food and Drug Administration, such as food and drugs, the FDA has essentially no authority to assure the safety of cosmetic products prior to entry into the marketplace. The FDA has no legal authority to require manufacturers to conduct safety testing, submit lists of ingredients to the agency, company data, or consumer complaints. Most consumers would be shocked to learn that there is no Federal government regulation or testing to assure the safety of cosmetics before they appear on store shelves or are used by hair care professionals. It is scandalous that the Senate is now considering stripping states of their legal authority, so that the safety of cosmetic products used by millions of consumers will now be completely unregulated.
>
> The United Food and Commercial Workers Union, which represents barbers and cosmetologists among its 1.4 million members, has a long history of campaigning for stronger Federal regulation of cosmetic products. Over the past twenty years we have testified repeatedly about the hazards of cosmetic products and the need to protect not only the 750,000 professional cosmetologists, but the millions of consumers that use these products daily.

They point out they take strong exception to those protections. Now, why should they be concerned? They gave some excellent testimony several years ago to the Congress. Let me give an example. After 2 years as a wig stylist, a cosmetologist from San Francisco began to experience memory loss, nausea, and dizziness. She had troubles with vision and balance. She stated, ''I can't remember things I did just a short while ago. I have to write everything down.'' Her condition was blamed on the ingredients in hair spray and other products she was using in her work. She appeared as one of the witnesses where Congress was working to regulate the largely unregulated industry.

Another example: Christy Smith enrolled in a beauty college in 1984. Christy began to have trouble breathing, a problem that worsened over the

years. She dropped out of beauty school after 10 months. She was found to have irreversible occupational asthma. Again, her condition was attributed to cosmetics present at her school.

A 1997 study in the Journal of Environmental Medicine found evidence to support the claim that female hairdressers are at a higher risk of asthma as a result of occupational exposure to chemicals found in various hair products. This prompted a related study by the Palmer Group, which found an increased prevalence of respiratory symptoms and diseases among female hairdressers. These diseases included asthma, bronchitis, emphysema, and other chronic lung diseases.

Female hairdressers face daily exposure to many harmful chemicals that are used in a wide array of hair care products on the job. I will give a few examples. These chemicals include persulfates, which are used in hair bleaches and can cause allergic skin and respiratory symptoms. Several indications of occupational asthma among hairdressers have been reported. Polyacrylates mixed with chemicals and hydrocarbons in hair styling agents can cause irritation of airways and adversely affect other respiratory functions.

Ammoniac and sulfur compounds released in hair dying and permanent waving can cause irritation of the airways.

The relative risk of asthma and chronic bronchitis among hairdressers was measured almost twice that of a reference group between 1980 and 1995. This study found that the youngest cohort of female hairdressers experienced the greatest occurrence of asthma, 42 percent; and chronic bronchitis, 44. These women ranged in age from 35 to 44.

Mr. President, this is what is happening in the beauty parlors among beauticians across the country. Why? Because they are inhaling these products. They suffer from the higher concentrations of these toxins, but the women of this country who use these products at home are also inhaling them and endangering their health.

I am not here to say precisely what the extent of this problem is, but we know now that it is happening as a result of studies that the compounds that are being used are more toxic and there are more of them being used every year. The health hazards have to be greater. At a time when the health hazards have to be greater, why are we taking away the rights of the States to render judgments to protect their citizens? This is especially true in an area of traditional State authority.

What if the States want to take some kind of action? We are prohibiting them from doing so. We are denying them that chance to do so. It makes absolutely no sense—no sense at all. It does make dollars and cents because the industry is going to benefit from it, but it doesn't make any sense in terms of the public health. That is why virtually every public health agency committed to protecting women and women's health wants this provision out. It undermines their ability at the State level to give additional protections to consumers, and for no other reason than the financial interest of the cosmetic industry.

Mr. President, I will mention here how the United States compares with the rest of the world. That doesn't happen to be the most important argument made this morning, but we heard on the floor of the Senate last Friday about how we have fallen behind other countries in terms of the FDA's work. In reality, the United States has been compared with the rest of the world, and impartial sources such as the General Accounting Office have found that the United States has the fastest and most vigorous product approvals. American consumers expect the best and that is what they get from the FDA.

But when it comes to cosmetics, the U.S. motto should be: ''Expect the best, but settle for less.''

Looking around the world, it is remarkable how inadequately the United States stacks up against other countries. The European Union requires documented proof of good manufacturing practices and similar proof that extensive testing be carried out on all its products. What do they know that we don't know? What are their scientists and research scientists finding? Are we taking the time of the Senate to go through their various studies that point out the health hazards in their communities? They have done it, and they are providing additional protection.

Let us examine another major economic power: Japan regulates cosmetics likes drugs, requiring the companies to do safety tests before marketing. Why? What is it they understand about cosmetic safety? Is it possible they have reviewed and found the same things that we have talked about this morning? The same things that the GAO has found out about the dangers posed by cosmetic products?

Japan requires testing before marketing. That is exactly what the Congress said in 1952 we should be doing in the United States. Forty-five years later, we are still waiting for safety testing. The Japanese are not.

Let's look at North America. Mexico adopted a regulation mandating expiration dates on all cosmetics. To the north in Canada, manufacturers submit data to show the product is safe under normal use conditions.

The Scandinavian countries: Sweden and Denmark are initiating product registration for cosmetics, something the FDA can't require.

Malaysia already requires mandatory registration of cosmetics. That is something the cosmetics industry would fight tooth and nail.

The bottom line is that the American consumers have less protection than consumers in any other country that I have mentioned. The United States is a First World country with a Third World cosmetics safety system. That is the way it is today, and this legislation is going to make it worse. Much worse. That, Mr. President, is wholly unacceptable.

I want to mention more specifically the products of which I think people should have some awareness. These are five common cosmetics products with potentially devastating health effects:

Alpha-hydroxy acid, used in face cream, causes skin cancer.

Feminine hygiene products cause infertility in young women;

Talc used in baby powder that may cause cancer; and

Mascara that can cause blindness.

Alpha-hydroxy acid is one of the hottest selling cosmetics on the market with sales of roughly $1 billion a year. This product is sold to erase fine lines and tighten the skin, but has devastating health effects that are unknown to most consumers. The agency has received 100 reports of adverse effects with alpha-hydroxy acid products ranging from mild irritation and stinging to blistering and burns. More importantly, these products make users more sensitive to ultraviolet radiation from sunlight which causes skin cancer.

To find out if a cosmetic contains an alpha-hydroxy acid, the consumer has to look for one of the following ingredients: glycolic acid, lactic acid, malic acid, citric acid, L-alpha-hydroxy acid, mixed fruit acid, triple fruit acid, sugar cane extract. All of these are alpha-hydroxy acids, although you'd hardly know from their names.

The cosmetics industry sponsored a study linking alpha-hydroxy acids to increased ultraviolet sensitively and, most likely, skin cancer. An industry panel concluded that alpha-hydroxy acid cosmetics are safe at concentrations less than equal to 10 percent at a pH of greater than or equal to 3.5 percent when directions for use include daily use of Sun protection.

Equal to less than 10 percent. This is what the cosmetic industry says will be safe if used along with these other items.

Wouldn't it be useful for someone else or someone impartial to get a chance to look at the basic science and research that the industry has used to make a judgment? Wouldn't that be worthwhile? Wouldn't it be valuable if the FDA had a chance to have that data submitted to them? They could have their researchers look at it and see whether they come to the same conclusion as to the safety.

But, no, there is a recognition by the industry itself that if there is something wrong, they want to do their own study and make their own recommendations. We, the public, don't know. We don't know whether they are accurate. We don't even know whether there is going to be any kind of enforcement, or by whom. By the industry? How? All we have is the industry's

record and their willingness to comply voluntarily with the FDA. We have less than 3 percent of them willing to submit adverse kinds of reactions to the FDA. So we have no way of knowing about the true safety of cosmetics. What we do know is that the industry itself understands that there are health hazards with this specific product and want to control what's on the warning label.

Don't we want researchers out in the great centers of research in this country to say, ''Look, we'd like to try to find out if and how we can protect people.'' Maybe States with broad exposure to the Sun, such as the South and Southwest, should have particular interest in trying to do this. They might want to do some studies to find out.

Would they be able to try to make some kind of a judgment under this bill? Mr. President, the answer is no. We are preempting those States. Let us look at alpha-hydroxy acids again. Here we have one of the most highly advertised products on the market today. We have the industry's own recognition of their health hazards. Again, are we doing something on the floor of the Senate to protect the consumer from those hazards? Absolutely not. We are undermining what protection there is out there among the States.

Consumers should be aware that alpha-hydroxy acid concentrations and pH are generally not noted on these products, not unless FDA's two employees find the time and resources to initiate rulemaking to establish such a regulation. FDA is reviewing the industry report, as well as other data, about these products and may initiate rulemaking sometime in the future, but do not expect the States to protect their citizens from alpha-hydroxy because under the law, States could not warn their citizens about alpha-hydroxy acid creams.

Feminine hygiene products are other harmful, largely unregulated products, with roughly $100 million a year in sales. Many women who buy these products will be surprised to find the overwhelming majority of these feminine hygiene products are regulated only as cosmetics. These products have been known to cause upper reproductive tract infection, pelvic inflammatory disease, ectopic pregnancies, infertility in women. This reduction in fertility is even greater in young women.

Researchers at the Center for Health Statistics in Seattle, WA, have published studies regarding the risk of pelvic inflammatory disease from the use of feminine hygiene products. These researchers have found that the risk of ectopic pregnancy doubles in women who use feminine hygiene products. Researchers at Brigham and Women's Hospital, Harvard Medical School also published data regarding the adverse health effects of feminine hygiene products. We had better hope that those two people at FDA working on cosmetics labeling and warnings have time to work on adequate labeling for feminine hygiene products.

The National Women's Health Network has testified before an FDA advisory committee that more has to be done to protect the reproductive health of women, which is clearly affected by these cosmetics. Just look at the science. But the industry doesn't want the States to have the authority to warn consumers. So, for the women of the State of Washington, we should say goodbye to the research studies conducted in Seattle and what they found out—because we are preempting what those States can do with them.

Even in my own State, research conducted at Brigham and Women's Hospital found that the risk of ectopic pregnancy doubles in women who use feminine hygiene products.

It is worthwhile to inquire if there are other researchers who come to contrary conclusions. These are studies being done. What State is going to go out and perform studies, and which research centers, when they know they are preempted from doing anything about it? That is why the Women's Health Network is opposed to this provision. And for what reason are we risking women's health? Why are we risking lives? It is because of the cosmetic industry. It is going to be cheaper for them, allegedly, when they don't have to deal with warnings and disclosure of health risks. It's too much trouble for them. Talc is something widely used in baby powder and other body powders.

In 1992, the National Toxicology Program published a study of the effects of talc inhalation in animals and an epidemiology study on exposure to talc and ovarian cancer risk. The researchers reported an elevated risk of ovarian cancer associated with talc use. Workers at Columbia University have reported the detection of talc particles in the ovaries of patients undergoing surgery.

The Cancer Prevention Coalition has submitted a citizen's petition to FDA addressing their concern about the possible health risks posed by talc and requested the agency establish regulations to require carcinogen warning labels on cosmetics containing talc as an ingredient. FDA is reviewing the information and may respond sometime in the future. Those two workers are going to be hard pressed with this one, too. If the State wanted to warn its consumers about the potential carcinogen, they would be prohibited under S. 830.

A technique that has been used to extract ovarian tumor material found talc particles in approximately 75 percent of ovarian tumors examined. Subsequent evaluations have appeared to support the contention of an association between talc and ovarian carcinoma.

The most recent study reported by the American Cancer Society has validated the claim that talc exposure increases the risk of ovarian cancer. Since the use of talcum powder is not an unusual practice for women, further studies need to be conducted to further understand the effects on a woman's female reproductive system. We had hoped that perhaps some of these research centers, some of these States would be interested in this. They might have done some work and might have been able to provide some health and safety recommendations in this area.

But now we are saying that if the State of Washington, that was interested in alpha-hydroxy, or if we are going to find out from Columbia University the work they have done with regard to the finding of talc particles in the ovaries of patients undergoing surgery, if they wanted to do something in warning people in the State of New York, those would effectively be off the table. Why are we not debating how we are going to provide greater protection for women?

We have seen important research done up in Seattle, WA. Why are we not out here debating what we are going to do about it? How can we provide protections? What about these kinds of recommendations in terms of the talc? How dangerous is that to our children? Why are we not out here debating that rather than saying, look, even though we have seen this kind of study, we are not going to permit the States to get into this—into this at all—because the cosmetic industry does not want it.

On mascara, the FDA had numerous reports of corneal ulceration associated with mascara products, some of which caused partial blindness of the infected eye. In addition, many other reports of conjunctivitis caused by contaminated mascara were received.

In a 1969 FDA survey of hand and body lotions and creams, about 20 percent of the products sampled contained microbial contamination. Researchers at the Medical College of Georgia demonstrated that 10 percent of eye cosmetics were contaminated when sold. Bacteria were isolated from about 50 percent of all used eye cosmetics. Popular brands of mascara were marketed without preservative systems and are particularly vulnerable to contamination.

Mascara cosmetics can become easily contaminated during customary use because human skin is not sterile, and contact between the skin and a cosmetic leads to microbial contamination of the products. FDA published a notice asking the industry to provide information covering microbial testing methods and standards of performance suitable to assure that cosmetics do not become contaminated with microorganisms during manufacture as well as use. However, FDA's request for information resulted in no substantive response from the industry. The industry just said no. What can FDA do about it? Since FDA has no authority to request the safety data from the manufacturers or look at industry records, FDA's inquiries likely stops

there. Can the States perhaps do something down the line? Perhaps they could have at some point, but not under this proposal.

Expiration dates would help remind consumers to get rid of cosmetics before the bacterial contamination becomes dangerous. Under this legislation, States could not act to require expiration dating on cosmetics.

So, Mr. President, the cosmetic provision of the bill is utterly irresponsible. It is a flagrant example of a special-interest lobby using its back room muscle to attain unfair advantage over the public interest.

You bring that bill out separately, Mr. President, and let us have an opportunity to debate that on the floor of the U.S. Senate. The votes are not there to carry that individually. And they should not be there. But now we have seen that the cosmetics industry has added this on to legislation that was initially devised for the extension of PDUFA, to ensure adequate funding for FDA's drug review program so that the United States can be first in the world in terms of approving new products in the pharmaceutical industry.

It is time for the Senate to stand up for the health of the American people, reject this unjustified, unwise, unacceptable provision that is nothing more than a tribute to the greed and recklessness of the cosmetic industry. The political power of the cosmetic industry is not a license to ride roughshod over the rights of the States and the health of the Nation's men, women, and children who use their products every day.

The American people deserve safe cosmetics. They have a right to full and fair information about the actual and potential danger of their products. The last thing Congress should do in a bill called the FDA reform is to give the cosmetic industry a blank check, poisoning the American people with its products.

Mr. President, we allow States to decide whether their bottles will be recycled or buried or whether their barbers are going to be licensed, whether their pets will be registered, how close to a crosswalk you can park your car, what hours the stores can be open. But this bill prohibits the States from protecting the consumers from cosmetics that can give you cancer, catch on fire, or cause birth defects.

As I mentioned, the language broadly preempts any public information or public communication. That is an ironclad guarantee that the consumers will know less about their cosmetics. States will not be able to require warnings to parents or children about the dangers of a particular product. American consumers are going to know less about their products. The cosmetic industry introduces 1,000 new ingredients every single year into our cosmetics, everything from lipsticks, hair creams, soap, deodorant, and hair dyes.

Do you think we will know how safe they are if this language becomes law? Who will be looking out after the public interest under this language? I suppose it is left to the two employees at FDA—an agency with limited authority and resources—who are charged with regulating $20 billion worth of cosmetic labeling and packaging. This language that we are considering was drafted by the cosmetic industry itself so make no mistake who it is intended to benefit.

Many challenges to State action have been rejected by the Federal appellant courts because the courts interpret preemption narrowly. This is because the courts cannot imagine that Congress would want to preempt the States from protecting their citizens. So what does the cosmetic industry do? They carefully drafted this language to give them their broad preemption. They have admitted that they drafted this law specifically to force the Federal judges to interpret preemption very broadly.

Mr. President, this provision should not become law.

Mr. President, beyond this issue, I will mention two other important items that I hope we will have a chance to debate in the form of amendments when we move to the bill itself. Others have spoken to them, and I will work with them or introduce legislation on these particular provisions.

The overall legislation includes a number of provisions that will significantly improve and streamline the regulation of prescription drugs, biologic products, and medical devices. I am pleased that, through a long process of negotiation both prior to and subsequent to the markup of the legislation, many provisions that seriously threaten public health and safety were dropped or compromised.

But despite our best efforts, this legislation includes several Trojan horses that I think undermine important positive proposals in this bill. I would like to discuss the changes in the regulation of devices that put consumers at unacceptable and unnecessary risk. They should be removed from the bill before it goes forward. The administration has made it clear that these provisions put the whole bill at risk.

A great deal of negotiation has taken place on the medical device provisions of this bill. I compliment Senator JEFFORDS and Senator COATS and other colleagues in the committee for resolving most of the divisive provisions in a way that is consistent with the protection of the public health. I see in the chair Senator GREGG. We worked with Senator GREGG on the health claims issues in a constructive manner.

But there are at least two medical device provisions in the bill which still raise substantial concerns that could be corrected very simply with negligible effect on the basic purpose and intent of the bill. Yet these corrections have not been made. My colleagues deserve a clear description of the hazards they pose. A brief explanation of how the FDA regulates and clears the medical devices for marketing may be first in order.

Under the current law, manufacturers of new class I and class II devices can get their products onto the market by showing that they are substantially equivalent to devices already on the market. For example, the manufacturer of a new laser can get that laser onto the market if they can show the FDA that the laser is substantially equivalent to a laser that is already on the market.

Similarly, the manufacturer of a new biopsy needle can get that biopsy needle onto the market by showing that it is substantially equivalent to a biopsy needle already on the market. And the manufacturer of new patient examination gloves can get those gloves onto the market by showing that they are substantially equivalent to patient gloves already on the market.

Mr. President, these manufacturers are obliged to demonstrate substantial equivalence to the FDA by showing that the new product has the same intended use as the old product and that the new product has the same technological characteristics as the old product. If the new product has different technological characteristics, these characteristics must not raise new types of safety and effectiveness questions in order for the product to still be substantially equivalent to the older product.

The logic of this process for bringing medical devices onto the market is quite simple: If a product is very much like an existing product, it can get to market quickly. If it raises new safety or effectiveness questions, those questions should be answered before the product can be marketed.

This process for getting new medical devices on the market, commonly known as 510(k), is considered by most to be the easier route to the market. Devices that are not substantially equivalent to a class I or class II device already on the market must go through a full premarket review. Thus, device manufacturers have an incentive to get new products on the market through the 510(k) process. In effect, well over 90 percent of all new devices get on the market through the submission of a 510(k) application.

This legislation seriously compromises the FDA's ability to protect the public health through its regulation of medical devices that are marketed through the 510(k) process. Of the dozens of provisions that we have negotiated and discussed which affect medical devices in this bill, these two still raise fundamental public health problems. Although few in number, these provisions raise substantial risks to public health which simply cannot be ignored.

The first problem raised by the bill relating to medical devices is a prohibition on the FDA from considering how a new device will be used if the manufacturer has not included that use in its proposed labeling.

You may think this approach makes sense. Why should the agency consider the use of a device if the manufacturer has not specified the use on the label? I'll tell you why—because that proposed label may be false or misleading. How would the FDA know that? Because the design of the new device may make it perfectly clear that the new device is intended for a different use.

Let me provide my colleagues with a few examples. Let's talk about the biopsy needle I mentioned before used on breast lesions. Most biopsy needles for breast lesions currently on the market take a tissue sample the size of a tip of a lead pencil. Assume the manufacturer of a new biopsy needle comes to the FDA with a 510(k) submission. But the new biopsy needle takes a tissue sample 50 times as big, the size of a 1-inch stack of checkers.

The manufacturer of this new needle has proposed labeling that says that the needle will be used like the old, marketed needles to biopsy breast lesions. But FDA knows the chunk of tissue being ''biopsied'' will exceed the size of the lesion. This makes it clear to FDA—and any impartial observer—that the needle in most cases will be used to remove the lesion.

Under these circumstances the FDA should be able to ask the manufacturer to provide information on this use. Is it safe to remove lesions? Does it really work? The bill, however, categorically bars FDA from asking these essential questions. This means the FDA would be unable to make a complete review of the device and the public would be deprived of existing assurances that devices are truly safe and effective.

The proponents of this provision have argued that the FDA could simply say that the change in device design or technology—such as the change and size of the biopsy needle—renders the new product not equivalent to the old product. But that is not always true. The manufacturer could argue that there are no new questions of safety or effectiveness for the purpose claimed on the label. In the case of the biopsy needle there are times when a large sample is needed—a sample larger than a pencil tip.

So long as the larger needle is safe and effective for removing a sample, FDA could be barred from obtaining data about the new use of removing lesions and to the extent the needle is used for the new use, women could be put at risk for effective or unsafe treatment of breast cancer.

Another example is surgical lasers that have been used for decades to remove tissue. Several years ago, a manufacturer added a side-firing mechanism to their laser to improve its use in prostate patients. While the manufacturer did not include this specific use in its proposed labeling, it was transparently clear that the new side-firing design was intended solely for this purpose of treating prostate patients.

As a result, FDA required the manufacturer to submit data demonstrating the laser's safety and effectiveness in treating prostate patients. This is precisely how the device review process should work. Manufacturers must prove their devices live up to their claims, while patients and doctors receive all of the information needed to make the best possible treatment choices.

Under this bill, FDA would be prohibited from getting adequate safety data on the laser's use on prostate patients, even though that would be the product's primary use. This defies common sense, yet this is the result of one troubling and indefensible provision. Other examples in the way this provision could allow unsafe and ineffective devices onto the market abound. A stent designed to open the bile duct for gallstones could be modified in a way clearly designed for treatment of blockages in the carotid artery. Without adequate testing, it could put patients at risk for stroke or death. But under this bill, the FDA would be prohibited from looking behind the label to the actual intended use of the device. A laser for use in excising warts could have its power raised so it was also possible for use in smoothing facial wrinkles, but without FDA's ability to assure adequate testing, the use of the laser for this purpose could lead to irreversible scarring.

Most companies, of course, will not try to bypass the process in this pay. But some bad actors will. This legislation should not force the FDA to fight these bad actors with one hand tied behind it. This provision is like asking a policemen to accept a known armed robber's assurance that the only reason he is wearing a mask and carrying a gun is that he is going to a costume party.

The second way this bill undercuts the FDA's ability to protect the public's health and adequately regulate medical devices is the way it forces the FDA to clear a new device for marketing even if the agency knows that the manufacturer cannot manufacture a safe device.

Let me repeat that. It sounds, frankly, preposterous but it is true. One of the bill's provisions actually requires the FDA to allow a new device on to the market even if the manufacturer is producing defective devices. Surprisingly, the proponents of this provision freely admit that this is true.

Under the current law, let's assume that a maker of a new examination glove submits a 510(k) to the Food and Drug Administration and claims that the new gloves are substantially equivalent to gloves already on the market. If the FDA knows for a fact from its inspectors that the company uses a manufacturing process that often results in the gloves having holes, FDA would simply not clear the gloves for marketing. FDA would find that these gloves are not substantially equivalent to gloves on the market because gloves on the market don't have holes. That is common sense, and fortunately that is also the law.

In contrast, this bill would force FDA to clear the gloves for marketing. These defective gloves would be sold to hospitals, clinics, and HMO's where they would be used routinely by doctors, nurses, paramedics, and other health professionals every single day. Every single glove would expose these professionals needlessly to AIDS and hepatitis.

Here is the response of the provision's supporters. They argue that once these defective gloves are in the market and being used by health professionals, FDA can simply institute an enforcement action to remove them from the market. But when hundreds or thousands of defective devices have been distributed, and when dozens or hundreds of facilities may be using these devices, an enforcement action entails more than blowing a whistle or picking up the phone to place a simple call.

In reality, FDA must coordinate with the U.S. Attorney's Office, U.S. Marshal's Office, and persuade the court of jurisdiction to issue appropriate papers. As any attorney or law enforcement professional can tell you, that takes precious time. In the case of a defective device which is exposing people to unnecessary risk, time is absolutely critical. The sooner a defective glove is pulled from the market the sooner the public is protected.

All this makes no sense when the FDA can prevent this from arising. If this provision becomes law, the debater's point distinguishing between different forms of FDA authority will be paid for in the health and safety of American consumers, placed at needless risk of death and injury. In fact, even the regulated industry is willing to compromise on this provision because they recognize it is so unreasonable and should be removed from this bill.

In the end, there is simply no justification for these troubling medical device provisions. Our overriding priority in regulating medical devices should be distinguishing between reforms which preserve the public health and protections and those which endanger the public health.

Mr. President, we have had arguments on the other side of that provision which say, well, on the labeling provision are we going to have to require the manufacturer to dream up every possible use and be able to answer the charges that some nameless person at FDA can possibly imagine that a particular medical device would be used for?

We say, no, that is not what we are looking for. We are looking for what would generally be defined as the predominant or dominant use of the device as a criteria. That ought to be the key. We know many devices are used in different kinds of ways. We are looking here at the predominant or dominant use for the device. That is what we are concerned with.

You might have a pacemaker which can speed up the activities of the heart

and some treatment might require that you slow down the beat of the heart. You might have one pacemaker that has already been approved, and someone else wanted to get on stream and say that they have a pacemaker that speeds up the heart but also may slow it down. So they come in and say, ''We want this approved because it will speed up the heart but it also has the possibility of slowing it down,'' in order to circumvent the safety requirements.

It seems to me we ought to be able to work that out. We are looking, as I said, as a criterium of the predominant and dominant device use as the key. We are not looking for these other, incidental uses. It seems to me we ought to be able to work that through. For the reasons I outlined in discussing the good manufacturing practices provision, it seems to me we also ought to be able to find some common ground in that area, as well, but we are not there yet.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BROWNBACK). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GREGG. 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. GREGG. Mr. President, I ask unanimous consent to consume as much time as I may require under the pending debate.

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

Mr. GREGG. Mr. President, today, we are debating, in part, the FDA Modernization Act, which is a very important piece of legislation because it goes to the issue of the health and safety of the Nation. I congratulate the Senator from Vermont for having the foresight, ability, and acumen to bring this bill to the floor after a considerable amount of negotiations and debate and discussion and activity within the committee. In fact, we have been working on this ever since I have been on the committee. I believe that would be almost 5 years now.

The need to modernize the FDA is obvious. I think it is obvious to anybody who represents any group of people, as we hear constantly from folks in our States about problems that they have had with getting drugs, getting devices in a prompt way and in a manner that will help them live better lives. I, for example, had an instance where Helen Zarnowski came to my office fairly regularly over the years as she sought to get approval, or wanted to be able to use various Alzheimer's drugs, drugs being developed that were experimental, in order to help her husband, who, unfortunately, had Alzheimer's. She would come and talk about how terrible this disease is—and it is a horrible disease—and how much she would like to be able to try this drug she had heard about, or that drug which she knew was having positive effects. She had heard about some in Europe that had positive effects, which had been approved there. Yet, unfortunately, the process of approval in the FDA involved considerable delay, delay really well beyond what one would consider to be common sense. Regrettably, her husband died in 1995. Some of the drugs that might have been able to be helpful were not approved by then.

Of course, we all, I suspect, have friends or people we know who have contracted the AIDS disease and have had problems with AIDS. They are historic. The FDA has started to address that more aggressively in the last few years. In the latter part of the 1980's, that was not the case. Approval was delayed for an extended period of time in a variety of other areas, especially the device area, where people's lives could be improved dramatically by getting a medical device that would assist in their rehabilitation. Or the testimony which was so heart rending and stark, given within our own committee by our own committee member, Senator FRIST, a nationally prominent heart surgeon prior to becoming a U.S. Senator. He made it so clear that if he had simply had a device that was available in Europe, he could have possibly saved some of his patients. But he could not get it because the FDA would not approve it in a manner that was timely enough to have it available for those patients.

So this is a very personal issue. It is brought up in the context of the bureaucracy and the question of this huge institution called the FDA, but when you get right down to it, like most Government, this is a very, very personal issue of people being impacted by their need to obtain care, by their belief that certain types of care that are available maybe in other countries would help them, and their inability to get it in a timely manner in the United States. The FDA has had some real problems. There has been, without question, an attitude that ran well into the early part of this decade that caused FDA to be ponderously bureaucratic in the manner in which it dealt with drug approvals and especially device approvals. That has changed. It has changed for the better. It hasn't gone as far as it needs to go, no. But that is what this bill is about—to give the FDA the capacity to go even further down the road toward being a positive force for the approval of drugs that may help people live longer, live better lives, and for the approval of devices that would help people live better lives. So especially for those individuals who are going to be impacted, this is a very significant piece of legislation.

In addition, of course, it has the PDUFA language in it, which is critical because PDUFA is the manner in which we fund the expedited approval process for all intents and purposes. And we need to have that fee system reauthorized so that we can keep on board the 600 or so people who are employed through the PDUFA fee process to help us expedite approvals. So that is one approval. In addition, it deals with the question of a variety of questions such as health plans and what can be said. And we approve that language in the bill. The issue of uniformity and how we deal with that—we have improved that language in the bill for a variety of areas. But, most importantly, it is a piece of legislation which will—to use a nice term— ''modernize'' the FDA and help us move more promptly to the approval of drugs and devices which will cause for better caring for Americans.

There has been a lot of discussion on this floor about the question of national uniformity in the area of over-the-counter drugs, and national uniformity in the area of cosmetics. Certainly the Senator from Massachusetts has expanded considerably on this topic. I must say that at an entry point I do find it ironic that this bill would be filibustered because when this bill is filibustered it slows down the approval process for people who have problems, for people who confront diseases and who need new drugs and new devices. And the filibuster by very definition when it was initiated on this floor in opposition to this bill means people are going to have further delays—delays beyond just the bureaucratic delays, which are bad enough —delays which are created by the politics of the process. That is just not right. If the Senator from Massachusetts has a serious concern, which he, obviously, does about one or two items in this bill, he shouldn't be filibustering this bill. He should be offering amendments to the bill letting us vote them up or down and decide whether or not his position has the support of the body, or the bill as it was reported has the support of the body. Clearly a filibuster is totally inappropriate and tremendously ironic in the context of an issue which we are trying to expedite the approval of. And we run into a filibuster. It is bad enough, as I said, to have a bureaucratic slowdown of the approval process. But to have a political slowdown of the approval process is really, I think, unconscionable.

Independent of that point, let's go to some of the specifics here of the concerns. The issue of uniformity is an issue which has been addressed and discussed at dramatic depths and lengths over the last decade, at least—probably prior to that. That is the only time I recall over the last decade. There have been commissions of very thoughtful people who are extraordinarily expert on the issue of how we deal with the approval process and management of the drug and device delivery system in this country, and who have looked at this. In fact, there was a study, a group, a commission put together headed up by Carl Edwards, who was at one time head of the FDA, and the conclusion of that commission, which was

put together at the request of the Congress as early as 1991, was that Congress should enact legislation that preempts additional and conflicting State requirements for all products—not a few, all products—subject to the FDA jurisdiction. States should be permitted to seek a preemption in areas where the FDA has acted based on convincing local needs. States should in addition be allowed to petition for the adoption of national standards.

That is exactly what is proposed in this bill relative to the two items that the Senator from Massachusetts appears to have problems with—over-the-counter drugs and cosmetics. It should, also, according to this language, have been proposed for food. We should have done uniformity for food if you follow the presentation of this commission proposal. And maybe there will be an amendment coming as we move forward on FDA reform which addresses the issue because I know there is a lot of support on both sides of the aisle for the issue of uniformity on food regulation as well as drugs—over-the-counter drugs and cosmetics.

But the point here is that an independent, thoughtful, congressionally supported commission headed up by the former head of FDA concluded that this type of uniformity is exactly what we need in order to effectively administer and protect—administer the issue of food and drugs and protect the public. In their 1-year review of their report—1 year later. That was a unanimous agreement, I should have mentioned, reached by the commission, and 14 of the 17 people on this commission said, ''We reaffirm our original recommendation that Congress should enact legislation preempting conflicting or additional requirements for products subject to FDA regulation with provisions for the States to be able to demonstrate a genuine need for distinctive requirements to seek an exemption. Failing action by Congress, FDA should adopt regulations to accomplish the same rules for national uniformity.''

They went a step further. They said even, ''If the Congress doesn't go the uniformity route, the FDA ought to do it unilaterally with regulation.''

I don't agree with that. I think it is the prerogative of the Congress to decide this type of issue. But the fact is they felt so strongly about this as a group of commissioners who had expertise in this area that they asked for that type of an extraordinary action. That would have meant uniformity for drugs, food, over-the-counter drugs, and uniformity for cosmetics.

Then Commissioner Edwards reaffirmed this point in a letter that he sent to Chairman JEFFORDS by saying ''national uniformity should play a greater role in FDA-State relations. If not, the agency's ability to protect''—this is the issue; how do you protect?—''to protect consumers will be further eroded and unnecessary concerns will be imposed on the national Congress.''

Former Commissioner Arthur Paul Hayes wrote in July 1997, ''I write in strong support of the national uniformity provisions in S. 830 for the nonprescriptive drugs and cosmetics, I have long believed that a single national system for regulations for these FDA-regulated products is essential and now overdue.''

So you have a commission which was the brainchild of the Congress to determine what FDA should do and how they should manage the issue of drugs, cosmetics, over-the-counter drugs, and food; a commission saying: Use uniformity. Why did they say that? They said it because they believe that to have 51 FDA's running around the countryside—50 States plus the Federal FDA—would create chaos. It would confuse the consumer and create a situation where a consumer in one State was to be given one piece of advice and the consumer in the next State was being given another piece of advice, and as a result, rather than having an encouragement of a comprehensive, thoughtful approach to health protection, you would have confusion and anarchy in the public's mind as to what was correct in the area of health care and protection.

It is a pretty logical position. I have to say as someone who comes from the States' rights viewpoint, and who has spent most of my life defending States' rights, that it runs against my grain to want one Federal agency to run the country on one issue but, when you think about it, to do it any other way would be to undermine the health, and certainly the veracity and the confidence of the public on the issue of health care provided.

This is especially true in the area of FDA because even though the FDA has been excessively bureaucratic, nobody would argue that they haven't been extremely professional. They are an agency which has and maintains the view that they are the world's premier reviewer and protector of public health. And I think they have credibility in taking that position.

That is why I think as a States' rights advocate I am willing—or one of the reasons I am willing—to say yes in this area. The role of the FDA is unique, and to undermine the role of the FDA—that is what you would be doing—to undermine the role of the FDA by allowing the 50 States to basically pursue arbitrary independent views in areas where the FDA has the authority to regulate would be a big mistake. It would run counter to the basic goals of having a strong system of health protection in this country.

So we are talking here about how you protect the public health. And what we have is a commission set up with the support of the Congress which concluded—we have experts; they weren't Members of Congress on this—concluding that the way to protect the public health is to have uniformity.

So let's give that a fair amount of credibility. Let's not just discard that. I think that is a fairly persuasive point in favor of the language in this bill which tracks the proposal of the commission, the Edwards Commission, for all intents and purposes, and which was brought forward out of committee with a vote of something like 14 to 4—overwhelming support because the people on the committee who have taken a long time looking at this sort of thing understand that the commission made sense when it came to these conclusions.

Before I get into the specific responses to some of the points made here, there is another general theme that comes out which is that if you take the argument coming in opposition to the uniformity standards in this bill you are essentially taking an argument that says the FDA can't do its job; the FDA isn't competent; that the States are more competent than the FDA. The corollary to that is you are saying the FDA doesn't care; the FDA isn't really interested in health and safety; that there are areas of health and safety under its regulatory responsibility, under its portfolio, that it has no responsibility, and that it is going to walk away from it. Those are heavy charges to make against the FDA.

But that is essentially the subtlety of the position in opposition to uniformity: It is that the FDA isn't capable of administering its portfolio and it doesn't care about safety. I personally disagree with that. If anything, the FDA consistently errs in favor of safety, which is probably the right way to do it. We are asking in this bill that they streamline their efforts, that they expedite their procedures, but we are not asking that they do it at the expense of safety. And to imply that they aren't going to fulfill their obligations—which is not an implication but basically a statement made here on numerous occasions—citing that only two people are doing this, three people are doing that, to imply that they are not going to fulfill their obligations is I think incorrect. I think the track record shows that the FDA does fulfill its obligations in many ways, and it maybe is a little slow in doing it sometimes. But it sure does get into the issue of safety. And to presume that it would not is I think inappropriate or inaccurate. ''Inappropriate'' is not correct. Obviously, you can presume anything you want. So that is another point.

First, we have the commissions' support for this proposal.

Second, we have the logic of the committees' support for this proposal.

Third, we have the fact that the FDA is perfectly capable of pursuing this proposal and should be pursuing this approach because a single uniform approach is what makes sense for the health and safety of the American citizenry.

There were a number of specific points made in representations relative specifically to cosmetics. But you have

to remember that cosmetics isn't any different here than over-the-counter drugs for all intents and purposes. Thus, I am surprised with the intensity of opposition of the colleagues; that we don't have the same intensity of opposition to over-the-counter drugs. It seems to be inconsistent to me. And it may just be that the photographs are better for cosmetics than over-the-counter drugs. I doubt that. You can probably find some pretty heinous photographs that relate to over-the-counter drugs. But the fact is that, I think, that is inconsistent.

In specific, the statement was made that the States will no longer be able to regulate, or to paraphrase it, the States will no longer be able to regulate the packaging and labeling of cosmetics. That isn't really accurate. Nothing preempts State enforcement powers. States may seize, embargo, or pursue judicial proceedings whenever necessary to enforce the law; Federal law; the FDA law.

(Ms. COLLINS assumed the chair.)

Mr. GREGG. States are also free to publicize any information or warning they deem necessary. They simply cannot force the manufacturers to post warnings unless they can get the FDA to agree that that warning is legitimate.

What is wrong with that? Nothing. FDA is certainly going to want a warning on a bottle if it is proven to cause cancer. It is absurd to think they will let the bottle or whatever it is out on the market. If there is some threat that is created by something, the FDA is going to step forward.

States will have two specific options under this legislation. The States may use the existing authority provided under 21 CFR 10.30 to petition the FDA to make any requirement a national requirement. So they can ask that their proposals, their ideas, be moved up to the national level. Under this provision, States may seek an exemption. If you have a law or requirement that is different from the FDA's, the States can come to the FDA and say we think there should be a national protection.

For example, the Senator from Massachusetts was talking about the studies in the State of Alaska and what the State of Massachusetts was doing in the area of caring for women. If they feel strongly about that, they can go to the FDA and ask that those types of disclosures which they think are appropriate in the State of Washington and the State of Massachusetts be national. Why shouldn't they?

The other side of that argument is that, well, women in Washington and women in Massachusetts should get a different warning label than women in New York State or women in Oregon. Why? If it is that serious, why would you want the people in Washington to know something different than the people in Oregon? Obviously, you would not. The logic is that the FDA should make the determination as to whether or not it is serious enough to require national disclosure or to make a determination whether it isn't so that you don't arbitrarily scare the people in one State versus another State. It really makes no sense to have a hodgepodge of disclosures on these over-the-counter drugs and cosmetics, requiring that over-the-counter drugs and cosmetics are not drugs in the traditional sense that they are defined by the statute. Drugs are clearly something that the FDA is going to be involved in.

So it is just an inconsistency here to this argument that the FDA should not be making the decisions but that the States should be making decisions because you end up with inconsistency from State to State by definition. So I don't think that argument really applies.

Now, there was another representation that I believe 47,000 injuries resulted last year from cosmetics use. This calculation was not analyzed in its representation, the specifics of it. I think it should be.

The Consumer Product Safety Commission's National Electronic Emergency Injury Surveillance System came up with this figure in a 1988 House hearing. I believe that is what is being referred to here. Their calculation included things such as slipping on soap in the shower, suicide attempts, injuries from broken bottles, plus in the context of total usage 47,000 injuries, some of which clearly weren't involved in the character of a cosmetics, represents .00044 percent, which I believe is less than five ten-thousandths—five ten-thousandths—of the number of products sold in the country; 10.5 billion products sold in the country and 47,000 potentially caused injuries, some of which involved slipping on soap or broken bottles or possibly ingesting things intentionally to cause harm, and that represented .00044 percent or less than five ten-thousandths of the products sold.

You have to put that in a little bit of context here because, as studied by the same group, injuries caused by couches and sofas were 70,000. Almost twice as many injuries were caused by couches and sofas as were caused by cosmetics. And 117,000 were caused by drinking glasses. Are we going to have that be State regulated—drinking glasses? And 253,000 were caused by pillows, mattresses, and beds. What is that, almost six times the number caused by cosmetics studied by the same group. So when that number is thrown out here, I think it has to be put in context, and I think that puts it in the context of ''less than persuasive'' would be the adequate term to put to that statement.

Now, also, the point was made that cosmetics pose an inherent threat to a person's health and safety. I think we just saw from the numbers it is not very inherent if it is less than five ten-thousandths of a percent that are impacted.

But cosmetics by definition are inherently the safest products FDA regulates. Cosmetics, as defined by the Federal Food, Drug and Cosmetics Act, section 201(I), means:

> Articles intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance, and (2) articles intended for use as a component of any such articles; except that such term shall not include soap.

We are not talking about products that affect the structure of any function of the body. Such products are viewed as drugs. So if it affects structure, if it affects function of the body, it is a drug; it is not a cosmetic.

In fact, former Commissioner Kessler stated in a hearing in the House, again in 1991:

> People can take comfort from the fact that the cosmetics industry is as safe as they come.

So cosmetics are not inherently dangerous, which would be what you would think if you listened to the debate here for the last couple of days.

There are problems with cosmetics. Nobody is going to deny that. And that is what we have the FDA for. When there is a problem, that is what the FDA is there for.

Now, there was another statement, I believe, made that 884 cosmetic ingredients have been found to be toxic. That is a pretty strong statement. Of course, we all know that things that are toxic are things that we deal with every day. Salt is toxic if you take too much of it. In fact, that list included chemicals such as water, salt, and vinegar. This was a list derived from a list published by the National Institute of Occupational Safety and Health Registry of Toxic Effects of Chemical Substances, which list, as I mentioned, included such things as water, salt, and vinegar.

So toxicity depends on the manner in which it is used and the manner of application as versus by definition that the substance is toxic. ''Many substances that are common in everyday life are obviously toxic.''

Mr. President, 884 ingredients were evaluated by the Cosmetic Ingredient Review Expert Panel to determine if they were toxic. This was not mentioned, I don't think, during the debate. They found no significant health effects with the cosmetic use of any of them. So, again, I don't think that argument is persuasive.

Then there is the GAO report on which a considerable amount of discussion has been spent. I believe the Senator from Massachusetts was referring to the 1978 GAO report that listed 125 ingredients which were then available for use in cosmetic products that were suspected of causing cancer, 25 that were suspected of causing birth defects, and 20 that were suspected of adversely affecting the nervous system.

The GAO report goes on to state that:

> Neither we nor NIOSH—

Which is the other Federal agency that would have responsibility here; I just quoted their numbers—

has reviewed the adequacy of the tests performed or the applicability of the tests performed or the applicability of the results to exposure to the ingredients through the use of cosmetics.

They haven't reviewed that. In fact, much of the limited scientific work done before this list was first compiled by NIOSH was done at extremely high exposure levels, rather than against a relative baseline.

Anytime the FDA would like the Cosmetics Review Panel, in its capacity as an independent expert panel meeting the same criteria as any FDA review board, to review the data, to review the safety data on anything that can be used as a cosmetic ingredient, they may request that it be done. But the FDA has never asked them to do that. The CIR has never denied such a request. The FDA may have asked, but the CIR has never denied the request. The fact is that if something causes cancer and if it were being used in some sort of cosmetic and as a result cancer was being generated, you would have FDA action.

What do we think the FDA is, a potted plant? They are not going to sit around if there were any cancer-causing substances that were being generated by any cosmetic that were a threat. The idea that a State is going to step up and do a better job of evaluating whether or not there is a carcinogenic effect to anything is, I think, a bit of an affront to the FDA. The fact is the FDA takes cancer pretty darned serious. And they aren't about to walk away from anything or not get involved in anything that has a cancer issue, a serious cancer issue. So bandying around numbers like that may create headlines, but I don't think it is persuasive if you look at the substance of this.

Now, there has been some representation that FDA doesn't have a whole lot of regulatory authority here. It has a lot of regulatory authority, as was shown again by the Edwards Commission. FDA is the regulatory agency, and that's why there should be uniformity.

Just let me read a few of these.

Section 301 prohibits the introduction into, or receipt of, any cosmetic that is adulterated or misbranded in interstate commerce.

Section 303 lists the penalties for violating section 301, starting at imprisonment for up to 1 year and a $1,000 fine.

Section 601 defines ''adulterated''—if it contains a poisonous or deleterious substance; contains a filthy or decomposed substance—we are not even talking about things that are going to cause you cancer here; we are talking about a filthy or decomposed substance—if it was prepared, packaged or stored under unsanitary conditions; its container is made of an adulterated substance; or if it contains a color additive not approved by the FDA.

We heard a lot about color additives earlier.

Section 706 requires FDA to approve color additives as safe before they can be used in cosmetics.

Again, we heard a lot about color additives, but the FDA has authority here.

Section 602 defines ''misbranded'' as: False or misleading labeling; if the package is not labeled with the name and place of business of the manufacturer, packer, or distributor, and with accurate quantity; if any word required by Federal law or regulation to appear on the label is not prominently displayed in a readable and understandable manner; if the container is misbranded; if the color additives don't conform with requirements; or if the packaging or labeling violates the Poison Prevention Packaging Act.

Section 201(n) states that misbranding must also calculate the extent to which the required facts are not revealed.

The FDA has broad authority—broad authority—here. And they will use that authority.

The FDA can ban or restrict ingredients for safety reasons, mandate warning labels, inspect manufacturing facilities, issue warning letters, obtain court orders to seize illegal products, obtain court orders to enjoin activities, prosecute any violators, publicize public health issues, and work with manufacturers to implement nationwide recalls.

There are 41 pages—41 pages—in the FDA, in the Federal Food, Drug and Cosmetic Act applying to cosmetics—41 pages. There are 32 pages of FDA regulations of cosmetics in the Code of Federal Regulations. The fact is that the FDA knows this issue and has the capacity to deal with this issue. The idea that the States are going to do a better job—well, I suppose that if they are they can come to the FDA, under the law as proposed in this bill and say, ''We have done a better job. Change the Federal rule.'' And the FDA will do that, because that is what the law gives them the authority to do. Or if they think it is a unique situation, then the States can come and say we want special treatment for this, and the FDA will give them that authority.

But the point here is that you should not have—and my colleague uses the term women or children a great deal. I think it is just about anybody who would be impacted. But you should not have women in Washington State getting a different instruction from women in the State of Oregon, because it is going to confuse people. Who is going to know who is getting the better instruction, the people in New York versus the people in Massachusetts? Let's have it done consistently, across the country. That is why the commission decided in favor of uniformity. Uniformity on over-the-counter drugs, uniformity for cosmetics, uniformity for food. We don't have food in this bill. Maybe we will. Maybe there will be an amendment.

There is some representation—I couldn't get it clear but I think there was a representation relative to California's status. Let's define California's status. This law is prospective. It doesn't affect the California situation at all. Prop 65 remains effective in California. So that bit of red herring should be put to bed.

There has been this representation there are only two people over at the FDA doing this or that. The FDA regulates cosmetics. It has the financial capability—and we will give it the financial capability if it feels it doesn't have it—to have the personnel to do the job right. And I believe that, as part of its portfolio, the leadership of the FDA will do the job right. To say they will not or imply they will not, which is the representation, I think, as I said earlier—the subtle undercurrent of these representations in opposition to this language that the FDA cannot do its job is, I think, incorrect. I think the FDA has shown its capacity. So, resources, here, is not really an issue at all. Resources may be an issue for us as the Congress. But I can assure you that, as a member of the Appropriations Committee—sitting not on the FDA subcommittee but on the overall committee—I would have no problem funding whatever is needed in this area. I suspect none of my colleagues would either. In fact, this bill is about that, with the PDUFA language. It is about funding the FDA in a more effective way. In fact, I put an adjustment in this bill so we would not end up cutting FDA, as a result of the PDUFA funding from base funding, which is critical.

There was also, I believe, a representation that this prevents the States from providing public information. No, it does not. Under this provision, the States remain free to publicize any information or warning they deem necessary. They simply cannot force manufacturers to post the warning unless the FDA says they agree with it. As I said earlier, what's wrong with that? If a State decides that something needs to be put on a warning label, they can come to the FDA, say, ''This is important.'' The FDA will evaluate it and tell them, ''Yes, it works,'' or, ''No, it doesn't work.'' If you do it another way, you get into this confusing, anarchic situation I spoke about earlier. This is a transient society. People coming from different States are going to see different statements, different warnings. They are not going to know what to think, and that undermines health because it undermines confidence. It's better to have a single agency making that decision because, when you are dealing with health, you have to have confidence.

There are a couple of specific claims—lead in hair dye was one, I believe. In 1980 the FDA approved the use of lead acetate as a color additive, ''safe for use in cosmetics that color the hair.'' That approval was based on extensive testing that showed there was no toxicological risk of lead absorption through the skin from lead acetate in hair dye. Hair dye is one of the most stringently tested products on

the market today. The FDA has the authority to impose any warning it chooses to promote the continued safety use of hair dye. The fact is, the FDA is engaged in the issue and has made the decisions which it deems appropriate for safety. We should have a consistency across this country, based on what they have decided.

Mercury in lipstick and nail polish was also cited as an example. Mercury, through the Code of Federal Regulations, has been affirmatively banned for use in all cosmetic products except eye area preservatives, so I am not sure why this idea was thrown out. Maybe it was a red herring.

''Alpha-hydroxy in face creams causes cancer.'' That was, I believe, the representation. Certainly it has been discussed at considerable length as a concern. In 1995, the Office of Cosmetics and Colors' Director stated that appropriate actions can be taken in product characterization or through proper label warning statements in regards to reactions to alpha-hydroxy. So the FDA stepped up to this issue. He noted that the adverse reactions reported—often allergy-type symptoms—could be due to the pH factor in the product and not the actual concentration. He did not raise any concerns about it causing cancer.

If the FDA is concerned that this type of product is causing cancer, it already is investigating such products generally and why would it leave this product on the market? Obviously, it would not. Alpha-hydroxy has been used literally for 3,000 years, in hundreds of different ways. Just this past June the Cosmetic Ingredient Review of this independent group I mentioned before, unanimously confirmed after public debate that alpha-hydroxy is safe for use in a variety of products. However, if there is evidence now, or that comes to light later to the contrary, I am certain that the decision would be reversed and these products would be prohibited nationally. And they should be prohibited nationally if they are that much of a problem. Why should they be prohibited in just one State? Obviously, they should not be. Why would you protect one State over another State? If the legitimacy of the science is such that it is determined that the product is a problem, then obviously the FDA is going to sign on to that debate at that point, and you are going to have a national ban or national warning.

But to have the people in the State of Washington told one thing and the people in the State of Oregon told another thing and the people in the State of Nevada told another thing—six States in New England that sit right on top of each other such that you can't go shopping without going to one of the other States. At least that is what we hope. We hope that everybody from Massachusetts goes to New Hampshire to go shopping. The fact is, What are you going to do? Are you going to tell them they are going to get a different labeling than they get in Massachusetts? Foolish, worse than foolish, because it undermines confidence in the health care delivery system and the safety and efficacy of it, which has always been the core, always been the core, really, of one of the great strengths of our health care system in this country, which is that we have public confidence in its safety, primarily as a result of the work of the FDA.

If you have a lot of different States moving into this area you have confusion, and confusion leads to lack of confidence and that is why, again—it was not my idea. It was not the committee's idea to go to uniformity. It was a commission, set up by the Congress, with professionals, who said uniformity makes sense. It not only makes sense, it's essential—essential. So the alpha-hydroxy, I think is, again, a matter of hyperbole, maybe, in this debate. Certainly the photographs have been aggressively used. But is it substantively an issue? No. Because the FDA is already involved in that debate, has made initial decisions on that debate, and if it were determined that there were further decisions that had to be made on that product, it would make them.

A side point—I believe there was a statement there is no cosmetic hotline. There is a cosmetic hotline. It's at the FDA. In fact I'll give it to people, 1–800–270–8869. Call it up if you have a question.

As I mentioned, Prop 65 has been addressed.

So, overall this goes, not only to uniformity of cosmetics, that's just one, the uniformity of over-the-counter drugs, uniformity of management of our health care system in the area of drug protection and quality of the drug delivery system in our country is something that has been concluded to be essential. This bill tries to accomplish that and pursues that course.

I am not sure what energizes the opposition with such enthusiasm, except the leader of the opposition is an enthusiastic individual. But I do not feel the facts or the substance support any of the—or even a marginal amount of the presentation made from the other side. The facts and the substance support the position of the committee; the position of the committee, which it passed out 14 to 4, which is that uniformity protects the public. It protects the public health, maintains confidence in the public system, and allows us as a nation to deliver better health care.

I yield the floor to the Senator from Vermont.

Mr. JEFFORDS. Madam President, I commend the Senator. His expertise in this area has helped us greatly and I am sure will lead us to a final conclusion here.

I would also like to point out as another member of a small State, how we would suffer if we had to rely upon others, since we have no resources to do any of this investigation ourself. We would be placed in a position without uniformity to have to rely on some big State or something to tell us what we should or should not do. We really have no ability in ourselves to protect our citizens, that we would like to. I wonder if you would agree with that as well?

Mr. GREGG. I agree 100 percent with what the Senator from Vermont is saying, being from New Hampshire, an equally small State, and knowing it would be confusing to our consumers who cross the borders all the time to purchase products, if they were not able to rely on a nationally regarded, highly expert agency to evaluate their health care products instead of a hodgepodge from the States.

The PRESIDING OFFICER (Mr. ROBERTS). Who yields time?

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

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

The Senator from Vermont is recognized.

Mr. JEFFORDS. Mr. President, I only anticipate speaking for a few minutes. I know Senator COATS will follow me.

This legislation to modernize the Food and Drug Administration and reauthorize the Prescription Drug User Fee Act will, upon enactment, streamline the FDA's regulatory procedures. This modernizing will help the agency review medical devices and drugs more expeditiously and will let the American public have access sooner to newer, safer, and more effective therapeutic products.

I am disappointed that some of my Democratic colleagues are still attempting to block this bill.

I am especially chagrined given the months of bipartisan negotiating that have led to this bill. Each major provision—every drug issue and all but one medical device provision of this measure, represents long-sought agreements with the minority and with the FDA itself. We have made significant concessions on the uniformity provision objected to by the Senator from Massachusetts to ensure that a State may act on cosmetic safety issues in the absence of FDA action. I do not understand this continued objection and delay. In particular, I am disappointed that after countless hours and many concessions to his point of view, the ranking minority member is opposing progress in passage. And I must add that I wish to applaud his willingness—and his tenacity—in working through several difficult issues to reach a consensus on 99 percent of this legislation. In addition Secretary Shalala and the FDA itself, has worked diligently, to reach reasonable, sensible agreements.

This is a good, bipartisan measure that represents moderate, yet real reforms. There is no reason for further delay.

On June 11, prior to the committee markup of S. 830, I received a letter from Secretary Shalala outlining the Department's key concerns. In her letter the Secretary stated:

> I am concerned that the inclusion of non consensus issues in the committee's bill will result in a protracted and contentious debate.

Before and since our committee markup, we have worked hard to achieve a consensus bill. And the measure before us today accomplishes that goal. Bipartisan staff have worked diligently with the agency to address each of the significant nonconsensus provisions raised by the Secretary.

The American people will hardly believe that anyone would suggest that disagreement over 6 pages out of a total of 152 is grounds for holding up consideration of this important bill. A little over a month ago, we all joined together to further the economic health of the country by voting for an historic budget bill, despite our many misgivings, on each of our part, on far more than 6 pages of that legislation. We must do no less here to promote the physical health of our citizens by moving forward to approve S. 830.

In her letter, Secretary Shalala felt the legislation would lower the review standard for marketing approval. Key changes have been made to the substitute to address these concerns. With respect to the number of clinical investigations required for approval, changes were made to assure that there is not a presumption of less than two well controlled and adequate investigations—while guarding against the rote requirement of two studies. The measure clarifies that substantial evidence may, when the Secretary determines that such data and evidence are sufficient to establish effectiveness, consist of data from one adequate and well-controlled clinical investigation and confirmatory evidence, totally under the control of the FDA.

Concerns were raised also about allowing distribution of experimental therapies without adequate safeguards to assure patient safety or completion of research on efficacy. Changes to accommodate those concerns were made. We tightened the definition of who may provide unapproved therapies and gave the FDA more control over the expanded access process.

Other changes will ensure that use of products outside of clinical trials will not interfere with adequate enrollment of patients in those trials and also give the FDA authority to terminate expanded access if patient safeguard protections are not met. The provision allowing manufacturers to charge for products covered under the expedited access provision was deleted also.

In mid-June, the Secretary argued that S. 830 would allow health claims for foods and economic claims for drugs and biologic products without adequate scientific proof.

In response, Senator GREGG agreed to changes that would allow the FDA 120 days to review a health claim and provide the agency with the authority to prevent the claim from being used in the market place by issuing an interim final regulation. In addition, the provision allowing pharmaceutical manufacturers to distribute economic information was modified to clarify that the information must be based on competent and reliable scientific evidence and limited the scope to claims directly related to an indication for which the drug was approved. That problem is taken care of.

This bill was further changed to accommodate the Secretary's opposition to the provision that would allow third party review for devices.

Products now excluded from third party review include class III products, products that are implantable for more than 1 year, those that are life-sustaining or life-supporting, and products that are of substantial importance in the prevention of impairment to human health. In addition, a provision advocated by Senator HARKIN has been incorporated that clarifies the statutory right of the FDA to review records related to compensation agreements between accredited reviewers and device sponsors. I would add that FDA's existing stringent regulations which protect against conflicts of interest in today's third-party review program would apply to the expanded program created by this bill.

Finally, the Secretary was concerned about provisions that she felt would burden the Agency with extensive new regulatory requirements that would detract resources from critical agency functions without commensurate enhancement of the public health. This legislation now gives FDA new powers to make enforcement activity more efficient, adds important new patient benefits and protections, and makes the review process more efficient.

First, we give FDA new powers and clarify existing authority, including mandatory foreign facility registration, seizure authority for certain imported goods, and a presumption of interstate commerce for FDA regulated products.

Second, to assist patients with finding out about promising new clinical trials, we establish a clinical trials database registry accessed by an 800 number. Patients will also benefit from a new requirement that companies report annually on their compliance with agreements to conduct post-approval studies on drugs.

Third, FDA's burden will be eased by provisions to make the review process more collaborative. Collaborative review will improve the quality of applications for new products and reduce the length of time and effort required to review products. We also expressly allow FDA to access expertise at other science based agencies and contract with experts to help with product reviews.

Lastly, by expanding the third-party review pilot program for medical devices, we build on an important tool for the agency to use in managing an increasing workload in an era of declining Federal resources.

In closing, I would echo another part of Secretary Shalala's June 11 letter:

> I want to commend you and members of the Committee on both sides of the aisle on the progress we have made together to develop a package of sensible, consensus reform provisions that are ready for consideration with reauthorization of the Prescription Drug User Fee Act . . .
>
> . . . a protracted and contentious debate . . . would not serve our mutual goal of timely reauthorization of PDUFA and passage of constructive, consensus bipartisan FDA reform.

From the beginning of this process, all of the stakeholders have been committed to producing a consensus measure—and we have accomplished that goal. There is overwhelming agreement on this bill. For those who still oppose a few pages of this bill I can only say that we will continue to bend over backward to accommodate their concerns and to bring about an even closer consensus. Dozens and dozens of changes have been made. The Secretary of Health and Human Services knows that we will continue to work with her—this is not the end of the line. But at some point, the Senate must move on, and we have reached that point, Mr. President.

Mr. COATS addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. JEFFORDS. Mr. President, I yield the Senator such time as he may consume.

The PRESIDING OFFICER. The Senator from Indiana is recognized.

Mr. COATS. Mr. President, I know this debate today doesn't have the fireworks that the debate on Friday had about FDA reform. I know we are today detailing some of the specifics of the reform legislation that is before us, but I think it is important for us to lay out this record as to why it is important to go forward with FDA reform and what the FDA reform bill that is before this Congress actually proposes.

On Friday, I laid out the why of the need for reform, but I didn't lay out the what it is that we are actually doing to bring about this reform and what is included in this bill. I think it is important for our colleagues and Members to focus on the constructive things that we have done through our exhaustive process in the Labor and Human Resources Committee to conduct an FDA reform bill that can truly bring greater efficiency to this agency.

On Friday, I indicated how much many of us resent the charge that we are somehow gutting the FDA. FDA is an important agency. It is an agency that does protect the health and safety of Americans, and we want to do all that we can to give that agency the kind of resources and the necessary support that it needs to continue that effort. Yet, clearly, I think the case

that was laid out Friday indicates the need for substantial reform of the agency on how it does its business, how it is going to proceed in the future.

Senator KENNEDY from Massachusetts has stated the agency has improved so much in the last few years—and others have said the same thing, including a former commissioner—that it doesn't need congressional reform. I think the facts indicate otherwise. As I outlined on Friday, the agency can't come close to meeting its statutory deadlines for approval of either drugs or devices. There have been egregious examples of delays that have affected people's safety and health, and we want to do everything we can to minimize those delays and to make the agency a more constructive force in terms of dealing with these questions.

The President's latest budget is outlined in this publication I have entitled ''Department of Health and Human Services Food and Drug Administration, Justification of Estimates for Appropriations Committee.'' This is a backup document, material facts in terms of the President's budget decision, as to how much we should fund FDA for the next fiscal year.

Having outlined all of these problems that exist at FDA in approving drugs, in approving devices and expediting the process and even beginning to attempt to meet their statutory requirements, it is astounding that the President's budget for next year does not only not strengthen the agency, it diminishes its effectiveness.

The proposal here plans to cut the agency's total appropriated budget by 8 percent and cut the device center budget—that is the center that reviews and approves medical devices—by 27 percent. This is at a time when, if we need to do anything, we need to increase the funding for the agency or at least find ways to help the agency with outside sources to try to do its job more effectively and more efficiently.

So that alone—I guess this was designed to meet some budget numbers, but it certainly doesn't square with the assertions that the agency is well on the way to solving its problems and, given a little more time and few more resources, those problems will be solved. It also flies in the face, I think, of the facts that have been presented on this floor in terms of the agency's inability to meet its statutory requirements for review and approval of devices.

In just a couple of areas, with respect to the 510(k) submissions, the agency itself predicts that it will complete 6 percent fewer applications in fiscal year 1998 over fiscal year 1997 because it has fewer resources. It also predicts that it will review them 20 percent slower than it did in fiscal year 1996. In fiscal year 1996, it took them an average of 110 agency days for review; in fiscal year 1997, 120 days; for fiscal year 1998 it is predicted to be 130 days and will only complete 40 percent of the submissions in the statutory 90-day period compared with 60 percent last year.

So it makes no sense whatsoever to assert that the agency is well on the way to reforming itself and this legislation isn't needed when the agency's own predictions, own plan for what it is able to do with the resources it has for next year, indicates that it is going in the other direction, not toward reform, not toward more efficiency, not toward meeting their statutory requirements, but in the opposite direction.

With respect to PMA applications, the agency has said, while it expects to receive slightly more PMA applications than in recent years, it will complete 27 percent fewer applications. In fiscal year 1997, they completed 75. But for fiscal year 1998, they predict they will only complete 55, and that they will review those applications 15 percent slower than last year, 250 days of review as opposed to 220 days, that they will complete only 35 percent within the first 180 days—that is the statutory limitation—as compared with 53 percent last year, and they will have a 17 percent increase in the backlog.

If there has ever been justification for reform of FDA, it is in looking at their own estimates of what they will be able to do next year as compared to previous years. And so they are certainly not reforming themselves, certainly not going in the right direction. They are going in exactly the opposite direction.

What we are trying to do here with this legislation that Senator JEFFORDS is leading the effort on—I might add with a lot of bipartisan support, both Republicans and Democrats, as indicated by the cloture vote last week with I think only five votes in support of Senator KENNEDY's support of a filibuster. People want to move forward here. We know that hanging in the balance are decisions that can affect people's health and safety and their very lives. We want to do this in a more efficient and effective manner. So I think there is certainly justification for going forward with this reform bill.

I just point out, for the benefit of my colleagues, that even after extensive debate and markup in the committee, which produced a vote of 14 in favor and only 4 against on the legislation that we are discussing today, there has been considerable negotiation. I have in my hand here a list of 33 separately negotiated compromises to try to accommodate the Senator from Massachusetts, four pages of single-spaced negotiations on 33 separate items to try to address the concern of the Senator from Massachusetts and a couple of other Senators on the committee who thought that perhaps we should have addressed these in committee.

In good faith, we sat down with them and attempted to address their concerns. I know that Senator HARKIN had a particular concern during the markup, and we were very close to getting an agreement on that. And I take responsibility for not accepting it at the time. In retrospect, I think Senator HARKIN was correct. I think what he was suggesting in terms of how we classify medical devices and what devices will be eligible for outside third-party review was correct. And so we notified him of that. We worked with his staff, and we made the change.

So the bill before us incorporates the change that he thought we should have made in committee. In retrospect, I wish I had made that change in committee. I think it probably would have changed the Senator's vote. And I think it would have been wise for us. We would have then had a 15 to 3 vote or maybe even a 16 to 2 vote if that was the case. In review of that action, that was one of the compromises or one of the negotiations that were made.

But to say that, you know, we are standing here on the floor unwilling to look at reasonable requests for some of the concerns and objections of the Senator from Massachusetts, or from others, I think this undermines that assertion. Mr. President, 33 changes have been made to address the concerns raised by the Senator from Massachusetts and from others.

Mr. President, I sincerely hope that we do not have to engage in another filibuster effort as we move to the bill itself and open the bill up for amendment and consideration. With that vote on Friday, only five votes in favor of proceeding with discussion of the bill, I think it would be a disservice to the American people, a disservice to the FDA, and to this body for us to engage in additional lengthy filibusters of this where we have to go to another cloture vote.

So I hope that as soon as we finish the Labor-Health and Human Services appropriations bill, we can move with a definitive timetable which will allow amendments to be offered, hopefully debated with some kind of limitation on the time so we can move and then vote on, and then move forward with this. It makes no sense to continue to delay it.

Mr. President, let me just talk a little bit about what the bill includes—we talked about why we need it—about what the bill includes.

Back in 1990, I authored legislation which would allow some expedited provisions within FDA for review of what is called humanitarian devices. These are devices that affect only a small class of people and really are not in the manufacturer's financial interest to proceed with these devices because there is not a broad enough market for them. But yet there are individuals that can benefit from these devices, and it makes no sense to have the same convoluted, time-consuming process, and particularly some of the specifics of what the FDA requires for approval of these devices, if the sum total of all of that discourages the manufacturer from going ahead because there is such a limited class for whom these devices

are applicable. Then the only losers in this are the people for whom the devices could have improved their quality of life or perhaps have been of great benefit to their health.

And so in 1990 we enacted some humanitarian device provisions. But since that time, as a result of I think what can only be described as bureaucratic delay and inefficiency, since that time only one company has been able to take advantage of this provision. The bill that we have before us expedites certain agency procedures. It allows a waiver of prior hospital review committee approval if the patient would suffer harm or death while waiting for supervised approval. So if a patient is in a position where waiting for approval could result in their death, it allows for the provision for a waiver of the agency procedures.

In addition, the agency is ordered under this legislation to review the application in 75 days, and that is one of those compromises. We originally had 60 days. The agency thought they needed a little more time. We agreed to allow them to have 75 days. And the agency was no longer allowed to arbitrarily force the manufacturer to seek reapproval of the product. In the past legislation the approval was only good for a limited period of time and then they had to go through the whole procedure again to get reapproval. We are saying once the agency approves it, absent evidence to the contrary, that approval sticks.

In addition, the humanitarian device provision is made permanent whereas before it had a sunset. Now, perhaps one of the most important parts of this legislation is the increased access to expertise, outside expertise, to allow the agency to accomplish its reviews and approval process in a much more expeditious timeframe.

We, in the bill, require the FDA to enter into contracts with nongovernmental experts—non-FDA scientists and reviewers—to assist in product approvals. We are still talking about medical devices here to assist in product approvals if the agency determines that doing so would improve the timeliness or the quality of the review.

It is important to understand that the agency is going to retain final approval authority over the review, but for the first time we are requiring them to utilize outside experts, outside resources to help them with that review. They are saying, ''We're overwhelmed. We have all these applications. We don't have enough employees to review it. And that's why we have the delay.'' We are saying, ''There are organizations, institutions, agencies outside of the FDA that can help provide these reviews. We are asking you to look to these to provide some assistance. But you, the FDA, have approval authority.'' In other words, it does not automatically go to an outside reviewing group, but it can go to a group that the FDA approves of.

I do not see what the problem is with that. I mean, final authority rests within the FDA. But if there is an organization outside the FDA that the FDA can contract with or that the manufacturer can contract with, to expedite it, as long as FDA retains approval authority, then why not utilize this? It is going to expedite the process.

The agency currently has a pilot program in place with which it is testing out this concept. We want to expand that pilot program. We would like to require that 60 percent of the nonexempt 510(k) submissions be included in the pilot. We also have language in here which limits the agency's ability to write all the guidance documents for these organizations. Sometimes the writing of the guidance documents takes months, if not years, and in a sense is unnecessary because the agency can allow the outside organization to go forward without that as long as it retains authority.

We are concerned about a manufacturer contracting with an outside agency just to seek approval. And if the manufacturer were allowed the contract with that outside agency, and they just said, ''OK, we reviewed it. Here is the approval. You have to take it,'' there would be legitimate grounds for objection to that. But we have built in total oversight authority and control into the FDA so that they really are not giving up jurisdiction here, they are just utilizing that outside source to help them do their work. It is not like somebody subcontracting work out if they do not have the capacity to do it within their factory or within their business.

But because public safety and public health is at risk here, we want to make sure that FDA retains sufficient authority to oversee all of this. FDA is given the authority in the bill to establish conflict of interest protections because we do not want to get into a situation where there is a conflict of interest between the manufacturer and the review authority. FDA decides what those protections are. FDA accredits the pool of qualified organizations. In other words, a manufacturer cannot go to any organization unless FDA has preapproved that organization, that outside agency for review. They have to get FDA's stamp of approval, good seal of approval, before they are even eligible to do the work to assist FDA.

FDA selects from a pool of two or more accredited parties from whom the product sponsor may select. In other words, FDA says these agencies are certified to do this work; the company selects one or two or a pool of accredited parties, and FDA then makes that selection. FDA has authority to revoke the accreditation if it feels that it is not proceeding according to the way they want it to go. It has the ability to investigate any kind of conflict of interest and it has final approval authority.

Now, this is important, this final approval authority. At one point, I threw up my hands and said the FDA has so much authority why are we going outside? Are we not just defeating the purpose? But in order to get the legislation addressed, we built in all these protections, additional protections, and of course the best protection of all for FDA is that it has final approval authority.

If it does not like what comes back from the outside agency despite all these other steps where it accredits and so forth it can say we do not approve because we do not think the agency did such and such. So it has preapproval authority. It has process approval authority. It has final approval authority. That is plenty of protection.

All of what you hear about how risky it is to American health and so forth, some agency which is not part of the Federal Government is involved in approving a particular product, that is not the case, because we have built into the legislation approval authority for FDA all up and down the line.

Title III improves the collaboration and communication between FDA and the various drug and device companies. There is a list of items that I will not take time to detail.

Title IV clarifies a lot of the rules currently in place and improves the certainty of the process. We address the whole question of policy statements. In recent years, FDA has increasingly developed informal policy statements without involving the public and has failed to make the policies available to the public. In response to a petition from citizens in my State, a group of Indiana manufacturers, the agency published guidance that radically changed these practices. The bill requires the FDA to make this ''Good Guidance Practices'' document permanent by promulgating it as a final regulation in 2 years.

In the area of labeling claims for medical devices, in the past the agency has looked beyond a manufacturers' legitimate labeling claims and requires that the company making the product provide extensive data on a variety of claims for which the company never intended the product to address. The product was designed for a specific purpose. The FDA said we want you to conduct all kinds of trials and provide extensive data for what other things it might be used for, not for what the company is marketing it for, not for what the company has designed it for, but what it might be used for. That has clearly delayed the ability to review products and to get them approved.

The bill clarifies the relationship of labeling claims to approval and clearance of products, and it further limits FDA's review of device submissions to the intended use of the device set forth in labeling.

We tried to build in certainty of review timeframes. I will not go through the details of that, but that is extensive and brings some certainty to the process.

We have placed some limitations on initial classification determinations.

Recently the agency denied due process of law to manufacturers by withholding a substantial equivalence determination even when the product was in fact substantially equivalent whenever the manufacturer was determined to have even a technical defect in the GMP inspection. The bill prohibits the FDA from withholding the initial classification of a device based on failure to comply with unrelated provisions of the act, including good manufacturing practices. The agency is directed to use its ample existing enforcement authority to ensure that products that have the GMP violations at the time of classification do not reach the market.

Title V, improving the accountability. It sets an agency plan for statutory compliance in an annual report so we have a better handle on what is going on within the FDA.

Title VI, better allocation of resources by setting priorities. We exempt certain classes of devices from premarket notification requirements. This really expands on the administration's reinventing Government initiative that exempts class I and class II medical devices that pose little risk by exempting all class I devices, the least risk devices, except those that are important in preventing impairment of human health or presents potential unreasonable risk of illness or injury.

We had extensive discussion on this. This is an area where Senator HARKIN raised what I believe are legitimate concerns and we have tried to address those concerns in this legislation.

We have evaluation of automatic class III designations. Current law requires that all new devices not substantially equivalent to a device already on the market must be automatically classified in a highest-risk category. This does not make sense. If a very simple device that would otherwise be a class I or class II device is not substantially equivalent to a device already on the market, it has to be automatically classified as the riskiest of all devices and therefore falls into class III for the review process, and the approval process, which takes an extraordinary amount of time and requires an extraordinary amount of data, clinical trials and so forth. That is not necessary. So we have changed that so that it does not automatically fall into class III.

It says ''if it is not substantially equivalent,'' what we have done here is allow the agency to make a determination as to which category it would fall in rather than automatically go to class III. So the agencies could look at it and say we think this is class I or class II and is subject to those review procedures rather than automatically moving into class III. It is a sensible change in the current status of how this is handled.

We made changes regarding health care economic information, health claims for food products, and pediatric studies of drugs.

Title VII, we have extended, and of course this is the engine that drives the train here, and another reason why it is so necessary to move forward with this legislation. We have reauthorized the Prescription Drug User Fee Act for 5 years. That is the so-called PDUFA legislation which the prescription drug companies have agreed to support. It is a tax on those companies for the specific purpose of providing extra funds for FDA to hire personnel to expedite the reviews of drugs which are submitted for review and approval to the FDA.

It has worked out very, very well in response to an overwhelmed FDA who could not begin to meet their statutory requirements for review of drugs. A proposal was made that we would enact a tax against the companies submitting the product and the proceeds of that tax will be used to hire personnel and establish procedures whereby we could expedite the approval drugs. It was needed. It was supported. It has worked. We need to reauthorize it because it expires October 1 this year. That is why it is so important to move forward with this legislation.

There are other things in the bill, Mr. President, but in the interests of time I will not detail them unless the President wants me to go through them point by point, but I do not think we have the time still allotted. I know the majority leader is anxious to move back to the Labor-Health and Human Services appropriations bill.

Again, I thank the Senator from Vermont for his leadership on this issue. It has been a cooperative effort that has reached across the aisle and involved Members from both parties in a very substantial number. Hopefully, we can move forward now in getting to the bill itself and the amendments and move this very needed legislation forward. I will be involved in this. I know there are a number of discussions coming up with some of these amendments.

I appreciate the leadership and support of the Senator from Vermont, who is not testing but actually utilizing a medical device to address an unfortunate accident he had just last week.

I yield the floor.

Mr. JEFFORDS. I commend the Senator from Indiana who has been extremely helpful on this whole bill in helping us bring it to conclusion. He made many offers, very reasonable, and I hope we can find the magic one to bring us to fruition very quickly.

I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. JEFFORDS. 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. JEFFORDS. I have the authority to yield back the balance of the time for the minority, as well as the majority on this side.

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

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

The PRESIDING OFFICER (Ms. COLLINS). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1998

The PRESIDING OFFICER. The clerk will report the bill.

A bill (S. 1061) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1998, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Gregg amendment No. 1070, to prohibit the use of funds for national testing in reading and mathematics, with certain exceptions.

Coats-Gregg amendment No. 1071 (to amendment No. 1070), to prohibit the development, planning, implementation, or administration of any national testing program in reading or mathematics unless the program is specifically authorized by Federal statute.

Specter amendment No. 1069, to express the sense of the Senate that the Attorney General has abused her discretion by failing to appoint an independent counsel on campaign finance matters and that the Attorney General should proceed to appoint such an independent counsel immediately.

Nickles-Jeffords amendment No. 1081, to limit the use of taxpayer funds for any future International Brotherhood of Teamsters leadership election.

Craig amendment No. 1083 (to amendment No. 1081), in the nature of a substitute.

The PRESIDING OFFICER. The Senator from Minnesota.

AMENDMENT NO. 1087

(Purpose: To increase funding for the Head Start Act)

Mr. WELLSTONE. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Minnesota [Mr. WELLSTONE] proposes an amendment numbered 1087.

Mr. WELLSTONE. Madam 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 61, after line 25, insert the following:

SEC. . If the amount appropriated to carry out the B–2 bomber program for fiscal year 1998 is more than $579,800,000, then notwithstanding any other provision of law—

(1) the total amount appropriated under this Act to carry out the Head Start Act shall be $4,636,000,000, and such amount shall

not be subject to the nondefense discretionary cap provided in section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985; and

(2) the amount appropriated for purposes of the B–2 bomber program for fiscal year 1998 is hereby reduced by $331,000,000.

Mr. WELLSTONE. Madam President, I ask unanimous consent that the amendment be temporarily laid aside.

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

AMENDMENT NO. 1088

(Purpose: To increase funding for Federal Pell grants)

Mr. WELLSTONE. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Minnesota [Mr. WELLSTONE] proposes an amendment numbered 1088.

Mr. WELLSTONE. Madam 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 61, after line 25, insert the following:

SEC. . If the amount appropriated to carry out the B–2 bomber program for fiscal year 1998 is more than $579,800,000, then notwithstanding any other provision of law—

(1) the total amount appropriated under this Act to carry out subpart 1 of part A of title IV of the Higher Education Act of 1965 shall be $7,241,334,000, and such amount shall not be subject to the nondefense discretionary cap provided in section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985; and

(2) the amount appropriated for purposes of the B–2 bomber program for fiscal year 1998 is hereby reduced by $331,000,000.

Mr. WELLSTONE. Madam President, I ask unanimous consent that the amendment be temporarily laid aside.

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

AMENDMENT NO. 1089

(Purpose: To increase funding for the Education Infrastructure Act of 1994)

Mr. WELLSTONE. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Minnesota [Mr. WELLSTONE] proposes an amendment numbered 1089.

Mr. WELLSTONE. Madam 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 61, after line 25, insert the following:

SEC. . If the amount appropriated to carry out the B–2 bomber program for fiscal year 1998 is more than $579,800,000, then notwithstanding any other provision of law—

(1) the total amount appropriated under this Act to carry out the Education Infrastructure Act of 1994 shall be $371,000,000, and such amount shall not be subject to the nondefense discretionary cap provided in section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985; and

(2) the amount appropriated for purposes of the B–2 bomber program for fiscal year 1998 is hereby reduced by $331,000,000.

Mr. WELLSTONE. Madam President, I ask unanimous consent that the amendment be temporarily laid aside.

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

Mr. WELLSTONE. Madam President, this is not an amendment, and I know the managers are not here. It is not really a debate I am trying to generate here. I thought I would take a little bit of time, while I have the floor, to thank the managers of the bill for their work. Really, I think they have done a very, very impressive job, especially when you consider what they have been able to put into this bill.

These amendments that I have introduced have more to do with what is not in the bill, and we will be debating that later. I want to also thank the managers of the bill for including an important item in this appropriations measure. This bill, on the Senate side, it is my understanding, includes the full amount requested by the President for the budget of the Department of Labor's Mine Safety and Health Administration.

As the ranking member of the Labor Committee's Subcommittee on Employment and Training, I am very interested in this whole area of occupational health and safety. But, today, what I want to do is talk about one aspect of this policy, and that is the sampling of coal mine dust and its relation to black lung disease. Madam President, this is of particular interest to me because of a recent trip that I took to eastern Kentucky. I met with a number of coal miners, and I do think that their story deserves to be told. It is a story that I intend to follow, hopefully, as we in the Congress take further steps to make sure that the Federal Government lives up to its responsibility regarding miners' health and safety.

Mining has been really one of the most dangerous professions, and the Federal Government has done much to correct or address some of its hazards. But what I want to focus on is the Mine Safety and Health Administration and a request for new staff and money—which we have on the Senate side, it is my understanding—to increase the Federal Government's sampling for respirable coal mine dust. The request is modest, but it is significant; it calls for 24 new full-time employees and $1.7 million.

Madam President, though it is a small amount of money, I think it is very important that we keep this in conference. Last year, there was an advisory committee appointed by the Secretary of Labor, which recommended that a key step that the Federal Government could take toward eliminating black lung disease would be to increase the responsibilities of the Mine Safety and Health Administration for coal mine dust compliance sampling. Simply speaking, that is a measurement of coal mine dust levels to determine whether or not they are a threat to the miners' health.

Madam President, the problem is that the majority of the dust sampling is done by the mineowners themselves—that is to say the coal companies. When I was in east Kentucky last week, what I heard over and over again were really miners describing conditions that I think many Senators would feel like they were in a time warp and they were really living 50 years ago. We are talking about too many miners who work in crawl spaces about this high for 12 or 14 hours a day and can't see 6 inches in front of them because of the dust level. So the problem is, when you depend upon the companies to actually do the measurements of the dust levels, there is a pretty obvious conflict of interest. As a Senator, I am not naive to these conditions. Most of my work has been in communities around the country, starting in Minnesota, with hard-pressed people.

I met a woman—to expand this discussion—whose husband had begged the company over and over again to please give him some relief from his particular work situation. He was afraid he was going to be electrocuted. Basically, the position of the company was: Look, if you don't like the job, leave. When there aren't a lot of $20-an-hour jobs, people don't have much of a choice. She spoke. She was 27 years of age. Her husband was electrocuted. He lost his life.

I met other miners suffering from black lung. I met one woman, and she is the only woman who is a deep mine miner. I said, ''Aren't you afraid * * *''—the common complaint is that most of the mines are nonunion, and if people complain, they lose their jobs. I said, ''Aren't you afraid * * *''—since there were TV cameras in Hazard, KY—I said, ''Aren't you afraid that you are going to lose your job?''

She said, ''I don't think I will because I am the only woman miner. I don't think they will let me go. I feel like I am speaking for a lot of other miners that aren't here.''

I said to her and to the other 12 or 14 miners sitting around talking, ''Look, I have to ask you this question. Can you tell me very honestly and truthfully, if all of your friends and coworkers could be here, without fear of losing their jobs, would they be saying the same thing, or are you exaggerating in any kind of way?''

All of them, starting with this woman miner said, ''They would say the same thing to you, except that people are afraid they may lose their jobs.''

I will tell you, it was a very, very powerful meeting. So this is a small step here to make sure there is some additional money for at least some

compliance of the dust sampling. But it is terribly important.

Let me read from the testimony of Earl Shackleford, Jr., from Wallins Creek in Harlan County, KY. He was 36 years old last year. This was presented last year to the Secretary of Labor's advisory committee on the elimination of black lung disease. He had been working as a miner 17 years, though he is only 36. His testimony indicates that he, his father, his grandfather, and other friends and relatives all suffer from black lung disease. Someone from my wife Sheila's family from Cumberland in Harlan County, KY, also suffered from black lung disease. I will read four sentences from the conclusion of Mr. Shackleford's testimony:

There is nothing more terrible to me than watching a fellow coal miner smother to death, one slow gasp at a time. There is nothing anybody can do for a dying miner but pray for him. But we can do something for the miners who labor in the mines today. We can make sure that the coal dust they breathe is accurately monitored by a Government that cares about their health and safety.

Madam President, this bill takes a step toward better Federal monitoring of coal mine dust sampling. I hope we can keep this additional funding in the conference committee. At the same time, I point out that I agree with the recommendation of the Secretary's advisory committee on the elimination of black lung disease, which is that the Federal Government should take more responsibility in this area—perhaps full responsibility—of dust sampling.

I am going to be working with other colleagues. Eventually, I want to come to the floor and push very hard on this. The story of these Kentucky coal miners cannot be ignored. I had a chance to talk to Senator FORD, who has cared about these issues and about what the miners are facing. The testimony of Earl Shackleford, Jr., and others, cannot be ignored.

I would like to thank the managers again of this bill for putting money in here for at least some compliance work. I hope we can keep that in conference committee.

I want to say to colleagues that one of the best things about getting a chance to travel sometimes outside of your State—not necessarily to another country, but in other communities—and for me, focusing on poverty in the country has been a tremendous education and very important. I met a lot of people who should be famous, a lot of strong people who, under incredibly difficult conditions, can still manage to survive and not only survive but flourish. But of all the meetings I have been to and of all the things I have seen—and I have seen a lot of children and a lot of pain, and I have seen a lot of housing that nobody should ever have to live in, and I have seen schools that are just as dilapidated as the schools that we talk about, where you can walk in the hallway and you can smell the stench of urine, and you can go into the bathrooms where the toilets don't even work, I have seen all that and more than I want to see. But this meeting with these coal miners in eastern Kentucky was jolting.

I asked one of the journalists that was there, off the record, to tell me whether or not she thought they were exaggerating. She said, ''Absolutely not.'' My guess is that in some of the investigative work that I hope will be done by journalists, we are going to see more reports of these conditions. We are talking about conditions that these coal miners are working under that we thought existed 50 years ago—people not able to see 6 inches in front of them because of the dust levels, which not only means people are gone to go suffer from and die from black lung, it also means, it is my understanding, that when you have that high concentration of dust levels, you have the ingredients for all kinds of possibilities of explosions within the mine. And then somebody will talk about a mine accident as if it were impersonal and random and never should have happened.

We have a huge problem here because the coal mine operators, the companies, are actually the ones doing the measurement of the dust levels. I don't see how we can really get an independent and accurate measurement of the dust levels and how that affects these miners, unless we do much better by way of expanding the responsibility or at least the resources for the Department of Labor's Mine Safety and Health Administration. I am sure other people in the Senate would say the same thing. But it is very difficult to meet with people and have a couple of people talk about loved ones who were killed in the mines. I still cannot remember. She is 27 years old. Her husband was 28 years old when he was electrocuted. I have met a lot of the older miners who were suffering with black lung. For reasons I don't actually understand the actual motive for being turned down when they applied for disability, which is something I want to know more about.

But at the very least, I think we have to make sure that somehow the clock has not been turned back 50 years. People ought not to have to work under conditions which are uncivilized. People have every right in our country to be able to focus on how they earn a decent living and how they have a job that pays a decent wage under civilized working conditions. The miners in eastern Kentucky, or some of the miners and the miners that I met with, should not be in a situation where if they should speak up about this, they lose their jobs. The choice for them is whether you do and, if you work, you work under these uncivilized conditions and it is going to take years off your life, possibly kill you, or you don't work and you lose your job.

I know that some of these issues are just like off the radar screen here in the Senate. But I think really this should be part of our focus.

Madam President, I yield the floor. 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.

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

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

AMENDMENTS NOS. 1087, 1088, AND 1089 WITHDRAWN

Mr. WELLSTONE. Madam President, I withdraw my amendments.

The PRESIDING OFFICER. The amendments are withdrawn.

Mr. WELLSTONE. I thank the Chair.

The PRESIDING OFFICER. In my capacity as a Senator from the State of Maine, I suggest the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MACK. Madam 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. 1090

(Purpose: To increase the appropriations for the Mary McLeod Bethune Memorial Fine Arts Center)

Mr. MACK. Madam President, I have an amendment on behalf of myself and my colleague from Florida, Senator GRAHAM, that I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Florida [Mr. MACK], for himself and Mr. GRAHAM, proposes an amendment numbered 1090.

Mr. MACK. Madam 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 57, line 24, strike ''$929,752,000, of which'' and insert ''$934,972,000, of which $6,620,000 shall be expended to carry out Public Law 102–423 and of which''.

On page 85, line 19, strike ''$30,500,000'' and insert ''$35,720,000''.

Mr. MACK. Madam President, this amendment would provide an additional $5.2 million to fund the construction phase of the Mary McLeod Bethune Memorial Fine Arts Center and Hospitality Management Training Facility. It would bring the fiscal year 1998 appropriation for this center to $6.6 million, which is the same as the House committee recommendation. This center was authorized in 1992 as a freestanding bill and became Public Law 102–423. It would be offset by decreasing the salaries and expense accounts.

Madam President, I ask unanimous consent that this amendment be temporarily laid aside.

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

Mr. MACK. Madam President, I yield the floor. 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.

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

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

Mr. MCCAIN. Madam President, I ask unanimous consent the pending business before the Senate be laid aside for purposes of proposing an amendment.

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

AMENDMENT NO. 1091

(Purpose: To eliminate medicare incentive payments under plans for voluntary reduction in the number of residents)

Mr. MCCAIN. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN], for himself and Mr. GRAMM, proposes an amendment numbered 1091.

Mr. MCCAIN. Madam 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 49, after line 26, add the following:

SEC. . (a) Section 4626 of the Balanced Budget Act of 1997 (Public Law 105–33) is repealed.

(b) For any fiscal year (beginning with fiscal year 1998), the Secretary of Health and Human Services may not enter into an agreement with any institution to provide incentive payments to the institution for the reduction of medical residents in the approved medical education training programs (as defined in section 1886(h)(5)(A) of the Social Security Act (42 U.S.C. 1395ww(h)(5)(A)), of that institution.

(c) The repeal made by subsection (a) shall take effect as if included in the enactment of the Balanced Budget Act of 1997 (Public Law 105–33).

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. MCCAIN. Madam President, I would like it known I also have one other amendment that I want to have considered by the Senate on this legislation. I will wait before proposing that amendment, but make it clear I do have another one.

Madam President, I also intend to ask for the yeas and nays on this amendment. I understand there is still some uncertainty as to when a vote will be held on this particular amendment.

Madam President, I rise, with my colleague, Senator PHIL GRAMM, to offer an amendment that would eliminate the financing incentives created in the Balanced Budget Act for teaching hospitals to reduce their medical residency programs. This new program will make teaching hospitals eligible for hundreds of millions of taxpayers' dollars for not training medical students. Let me repeat that, Madam President. Under the Balanced Budget Act, which we voted on before we went into the August recess, a program was created that would make teaching hospitals eligible for hundreds of millions of taxpayers' dollars for not training medical students—not for training medical students, but for not training medical students. In short, the Federal Government will pay hospitals for doing nothing.

Unbeknownst to most of my colleagues when we considered and voted for the Balanced Budget Act, that legislation created yet another wasteful, unnecessary, and inappropriate Federal subsidy program. This newly created subsidy is no different from the wasteful agricultural subsidy programs which pay farmers millions of dollars not to grow certain crops or to reduce their production of a certain crop. This is wasteful and a blatant misuse of taxpayers' funds.

Proponents of the new incentive program argue that there is an overabundance of medical doctors, particularly specialists, in this country. They believe that providing financial incentives to hospitals to reduce the number of medical students is a solution to the supposed glut of physicians in our country. Madam President, it springs to my mind that there is an argument that is being made by a lot of us today who are not members of the legal profession that the same problem exists in that the country has too many lawyers. I wonder if in the next Balanced Budget Act agreement, we are going to pay hundreds of millions of dollars to law schools, because we have an overabundance, not to teach lawyers. I might say, Madam President, as a personal preference I might lean toward that program more than the one that we have just enacted in the Balanced Budget Act.

Let me also just point out here, the Berlin wall fell. Socialism, that is communism, is a failure. It is only in Communist countries where they pay people not to do things. This might have been a great idea in North Korea, Cuba, or perhaps some other countries in the world, but certainly not in the United States of America should we be paying hundreds of millions of dollars so that we will not train anybody, much less not train doctors. As I will point out later on in my remarks, Madam President, there are 46 million Americans who do not have access to medical care. Yet we are going to spend hundreds of millions of dollars in order that teaching hospitals will not teach—will not teach.

It is not the role of the Federal Government to determine if we have an appropriate amount of physicians or any other professionals in this country. This subsidy is a misguided attempt by the Federal Government to restrict the career choices available to individual Americans. This program places the Federal Government in control of a specific labor segment in our country and allows the Government to directly restrict the freedom of choice of our citizens who may want to become physicians.

I have children. Most of the Members of this body have children. If one of my children decides he or she wants to be a physician, should that child be restricted from doing so if otherwise eligible to train as a physician? In a democracy, the Government does not determine the makeup of the labor force or regulate the supply of workers in a specific field. That was done in the former Soviet Union. Demand, not the Government, in a market-driven economy, drives the number of practicing physicians. As the need for doctors increases or decreases, medical schools and teaching hospitals must determine how many applicants to accept and if there is a need for expanding or reduction.

Government rationing of medical training and ultimately rationing of health care smacks of socialism not democracy.

Second, Federal subsidies don't work. They cost money and usually don't achieve their stated goals. Every time we have ignored market-based solutions to our Nation's health care problems and called for Government intervention, we have had paradoxical results. In the 1960's, the Government predicted an undersupply of doctors and created incentives for individuals to pursue a medical career. The result was a perceived glut of medical doctors by the late 1970's.

Third, this new subsidy program totally ignores the needs of 46 million Americans residing in rural communities and inner-city neighborhoods who are faced with a shortage of physicians and health care professionals. While proponents of this initiative argue that our country is producing more physicians than we need, many communities have no resident physicians and have only limited access to trained medical care.

I am seriously concerned about the disproportionate number of physicians who elect to practice only in urban settings, leaving rural and inner-city neighborhoods underserved and without access to critical medical services.

A better use of taxpayer dollars might be to strengthen existing programs already in place to increase access to health care providers and services in underserved areas. This includes the National Health Service Corps, Area Health Education Centers, Interdisciplinary Training for Health Care in Rural Areas, Community Health Centers, Migrant Health Centers, and the Health Professions Workforce Development Program. Those are all good programs. I have seen the community health centers in my own State serve people who otherwise would not receive health care. I repeat, 46 million Americans are underserved or not served at all in light of their medical needs.

Finally, this subsidy will be financed using the Medicare part A trust fund. As we all know, without significant reform to the Medicare system, this trust fund is expected to become insolvent. Using scarce Medicare resources to finance another Government subsidy program is unwise in the near term and unnecessary in the long term if market forces are permitted to determine the need for doctors in this country.

There is also going to be an argument raised that this would somehow upset the delicate agreement that was made in the Balanced Budget Agreement Act; that somehow this was an ironclad commitment that we would agree to every single aspect of the balanced budget agreement. I want to state right here, what a lot of us did was hold our nose and vote for it. A lot of people didn't vote for it, but a lot of us held our nose because we didn't like a lot of things associated with it. And to say that we should subsidize a program that is pure socialism in the name of preserving the balanced budget agreement, I think, borders on insanity. But yet, strangely enough, Madam President, you will see Senators come to this floor and say that if we vote not to subsidize through hundreds of millions of dollars teaching hospitals not to teach, then somehow it will upset the balanced budget agreement. I find that argument absurd, and we will hear it.

I understand that there was a request by others to speak against this amendment. I also am not clear as to whether the votes will be held this afternoon or later.

I ask unanimous consent to set aside the pending McCain amendment so that I may present another amendment.

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

AMENDMENT NO. 1092

(Purpose: To ensure that payments to certain persons captured and interned by North Vietnam are not considered income or resources in determining eligibility for, or the amount of benefits under, a program or State plan under title XVI or XIX of the Social Security Act)

Mr. MCCAIN. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN], for himself, Mr. KERRY, and Mr. REID, proposes an amendment numbered 1092.

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

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

The amendment is as follows:

On page 49, after line 26, add the following:

SEC. . (a) Notwithstanding any other provision of law, the payments described in subsection (b) shall not be considered income or resources in determining eligibility for, or the amount of benefits under, a program or State plan under title XVI or XIX of the Social Security Act.

(b) The payments described in this subsection are payments made by the Secretary of Defense pursuant to section 657 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2584).

Mr. MCCAIN. Mr. President, this amendment is basically to correct a technical problem that exists. It is to pay the Vietnamese commandos that we authorized by legislation last year. They are a group of Vietnamese soldiers who were recruited and trained by the United States to promote our cause during the Vietnam war. Unfortunately, they were captured soon after their deployment and imprisoned for 20 years for fighting on our side.

Last year, we passed legislation authorizing payment to the commandos for their sacrifice, $2,000 a year for the 20 years they were detained, for a total of $40,000 each. However, this payment, if interpreted as 1 year's income will disqualify the commandos from Medicaid and other benefits they currently receive, because it ostensibly raises their income beyond the cutoff point for benefits.

This is a payment accrued to the commandos over the 20-year period during which they were detained. As such, it represents not 1 year's income but an annual payment of $2,000 over 20 years and should not, therefore, disqualify them from Medicaid and SSI.

Mr. President, we have now placed the commandos in the awkward position of being forced into accepting the funds we rightly owe them or maintaining their eligibility for needed benefits. This amendment, by myself and Senator KERRY, simply states the $40,000 payment to each commando will not disqualify him from the various welfare benefits he currently receives. This measure has no cost and merely ensures the commandos don't lose the benefits they already receive.

We are in debt to these men for their wartime sacrifices, and we cannot compensate them with one hand while we take away their benefits with the other.

I urge my colleagues to join in supporting this measure to make sure the commandos are not unjustly penalized for accepting the accumulated payment our country rightly owes them. I hope this will be a routine amendment. I yield the floor.

Mr. KERRY. Mr. President, last year Congress enacted legislation that I sponsored with Senator MCCAIN to provide payment to some 450 Vietnamese commandos who were captured by North Vietnamese forces while performing covert operations for the United States behind enemy lines and subsequently incarcerated in North Vietnamese prisons for 20 years or more. Under this legislation, each of the commandos would receive a lump sum payment of $40,000—payment their families did not receive during their years of incarceration because the Pentagon wrote them off the employment rolls by declaring them dead.

Presently about 200 of the commandos reside in the United States. Most are either U.S. citizens or resident aliens applying for citizenship. Many of them receive Medicaid and related benefits. The problem is that receipt of the long overdue lump sum payment will disqualify them from Medicaid and other benefits they currently receive because it raises their income above the cutoff point for benefits.

Let me give you an example. Last year, I met with a group of commandos including Ly Pho, who lives in my home State of Massachusetts. Ly and his colleagues wanted to express their thanks for our efforts to provide them compensation. Shortly after the meeting, which was widely reported in the press in Massachusetts, Ly was notified by his social service case worker that his Medicaid assistance would be terminated once he received the compensation.

Inadvertently, we have placed the commandos in an untenable position which forces them to choose between the funds we rightly owe them for their services and loyalty to our cause during the war and the benefits they now receive. The amendment Senator MCCAIN and I are offering today is designed to eliminate this Hobson's choice by making it clear that the payment each commando receives will not disqualify him from receiving these benefits.

I believe that this amendment is necessary and fair. These men made great sacrifices for the United States. They were incarcerated for years and many of them were tortured during their incarceration. We are in their debt. We cannot give them compensation with one hand and take away the life sustaining health benefits that they need with another.

This is an important amendment with no additional financial burden to the U.S. Government. I urge my colleagues to support it.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I ask unanimous consent that I not lose the floor in the process of yielding to my friend from Idaho. Prior to doing that, I ask unanimous consent that I be listed as a cosponsor on the last amendment offered by my friend from Arizona, and I will also say that the statement he just made regarding the doctor issue is something we need to talk about and discuss. I think it is a very important amendment and needs to be discussed in some detail rather than just let go through as it is now on the legislation before us.

Mr. MCCAIN. If the Senator will yield, it has been made clear that there will be a significant amount of debate on this amendment.

Mr. REID. I say to my friend, I am not opposed to it. It is just an issue we should talk about.

The PRESIDING OFFICER. On the request of becoming a cosponsor, without objection, it is so ordered.

Without objection, the request of the Senator from Nevada regarding yielding to the Senator from Idaho is agreed to. The Senator from Idaho.

Mr. CRAIG. Mr. President, I thank my colleague from Nevada for yielding. May I inquire of the Chair, has the last McCain amendment been set aside?

The PRESIDING OFFICER. It has not.

Mr. CRAIG. I ask unanimous consent that that amendment be set aside.

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

AMENDMENT NO. 1093

(Purpose: To amend the Fair Labor Standards Act of 1938 to adjust the maximum hour exemption for agricultural employees)

Mr. CRAIG. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Idaho [Mr. CRAIG], for himself and Mr. BINGAMAN, proposes an amendment numbered 1093.

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

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

The amendment is as follows:

At the appropriate place in the bill, insert the following:

SEC. . Section 13(b)(12) of the Fair Labor Standards Act of 1938 (29 U.S.C. 213(b)(12)) is amended by inserting after ''water'' the following: '', at least 90 percent of which is ultimately delivered''.

Mr. CRAIG. Mr. President, I offer this amendment on behalf of myself and Senator BINGAMAN. I am offering an amendment to S. 1061 that would make a very narrow change in the Fair Labor Standards Act. This is a small amendment, but it is critically important to irrigators in Idaho and across the West.

My amendment would solve a problem with the interpretation of a provision of the Fair Labor Standards Act clarifying that the maximum hour exemption for agricultural employees apply to water delivery organizations that supply 90 percent or more of their water for agricultural purposes.

My colleague, Congressman MIKE CRAPO, has introduced a like measure in the House. This is an issue we struggled with for some time, Mr. President. What we are simply saying is that nonprofit co-ops that deliver water are exempt. We have always done it. We have done it for other provisions under the fair labor standards. But if that irrigation ditch happens to cross a pasture and cattle drink out of it and there is some other measure or use other than irrigation that falls under fair labor standards, we are saying OK, but a narrow window. Ninety percent has to be for that purpose, the other 10 percent might accidentally be used for those purposes and might not fall under the qualifications. The intent of the amendment, I think, clarifies, and certainly irrigators across the West working with other organizations had hoped we could resolve this issue. It has been some time in the making.

Representative MIKE CRAPO of Idaho and I previously have introduced a similar provision as a bill—S. 259 in the Senate and H.R. 526 in the other body. Our amendment would restore the flexibility that was always intended by Congress.

Nonprofit organizations, such as independent water districts or nonprofit corporations, which deliver water for agricultural purposes, are exempt from the maximum-hour requirements of the FLSA. The Department of Labor has interpreted this to mean that no amount of this water, however minimal, can be used for other purposes. Therefore, if even a small portion of the water delivered winds up being used for road watering, lawn and garden irrigation, livestock consumption, or construction, for example, delivery organizations are assessed severe penalties.

Such uses may be closely related, but technically not interpreted as being, ''agricultural purposes.''

The exemption for overtime pay requirements was placed in the FLSA to protect the economies of rural areas. Irrigation has never been, and cannot be, a 40-hour-per-week undertaking. During the summer, water must be managed and delivered continually. Later in the year following the harvest, the work load is light, consisting mainly of maintenance duties.

This adjustment would be better for employers, workers, and farmers. It would reflect more accurately the realities of agricultural water delivery.

Winter compensation and time off traditionally have been the method of compensating for longer summer hours. Without this exemption, irrigators are forced to lay off their employees in the winter. Therefore, this amendment would benefit employees, who would continue to earn a year-round income. It also would keep costs level, which would benefit suppliers and consumers.

I urge my colleagues to support this modest amendment.

Mr. President, I ask unanimous consent that my amendment be set aside, and I yield the floor to the Senator from Nevada.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

AMENDMENT NO. 1094

(Purpose: To provide for the conduct of a study concerning the health and safety effects of perchlorate on human beings)

Mr. REID. Mr. President, I send an amendment to the desk on my behalf and Senator BOXER.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for himself and Mrs. BOXER, proposes an amendment numbered 1094.

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

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

The amendment is as follows:

On page 49, after line 26, add the following:

SEC. . (a) STUDY.—From amounts appropriated under this title, the National Institutes of Health shall conduct a study on the health effects of perchlorate on humans with particular emphasis on the health risks to vulnerable subpopulations including pregnant women, children, and the elderly.

(b) REPORT.—Not later than 9 months after the date of enactment of this Act, and annually thereafter, the National Institutes of Health shall prepare and submit to the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives, a report concerning the results of the study conducted under subsection (a), including whether further health effects research is necessary.

Mr. REID. Mr. President, the amendment that I have offered on my behalf and that of the Senator from California deals with a serious problem. The city of Henderson, NV, where I went to high school, has been in existence since the Second World War. Henderson, NV, was developed as a result of the war effort during World War II. It is Nevada's only industrial city.

At one time, that was the whole city. Everything in that town supplied a job related to what we called the basic magnesium complex, BMI. So for more than 50 years, Henderson has been supplying products for our war effort—the Second World War, Korea, Vietnam, the cold war.

During the cold war, the biggest use of products out of the complex, at least one part of the complex, was providing the fuel to send spaceships into the air, a product called ammonium perchlorate.

We, it is said, take our water for granted, especially the water we drink. Those of us in the western part of the United States are very concerned about water, as we should be, because we have so little of it. Just in the last 30 days, there are people in California and Nevada who are concerned about the safety of the water. We have been told that the water in Lake Mead is safe, and I am hopeful and confident that it is. But as people in this body know, water is an enormous issue for those of us from the West. The scarcity of water and its availability requires us to be extremely careful in how we apportion and use this most basic natural resource.

In the Las Vegas area, for example, Mr. President, the annual rainfall is less than 4 inches a year. We get very, very little water in the Las Vegas area. Henderson is a suburb of Las Vegas. Because of this, we do everything we can to make sure that the water is protected. This is no easy task. The problem that we address in this amendment deals with something called ammonium perchlorate. It is an interstate problem. It involves not only the State of Nevada, but also the States of California and Arizona. Why? Because we share water out of the Colorado River and the lakes that are up and down the Colorado River.

Over the August recess, it was reported that perchlorate was turning up in certain samples they were doing of the water at Lake Mead, southern Nevada's primary drinking water source. Perchlorate is also being detected, at really low levels, in Los Angeles, in the water they think they get from the Colorado River. It has been detected in California in over 70 drinking water wells throughout that State.

As I mentioned, Mr. President, perchlorate is a common ingredient in the manufacture of rocket fuel—especially rocket fuel—munitions, and fireworks. Forms of perchlorate are ammonium perchlorate, which we manufacture in southern Nevada, potassium perchlorate, sodium perchlorate, and perchloric acid. Currently, the only treatment for that is reverse osmosis and ion exchange.

Mr. President, perchlorate is not a compound that is regulated under the Safe Drinking Water Act. Why? Because all the tests in previous years showed that there was no reason to be concerned. There are some scientists who say that it could be dangerous to pregnant women and to children. We do not know. That is what this amendment is all about.

We want to make sure that in the State of California and the States of Nevada and Arizona the water is safe. The only State that has set a limit as to how much perchlorate is allowed to be in the water is California. They set a limit. We want to make sure we comply with that limit, as does everyone in Arizona and California.

In the 70 wells that they have tested in California where they found perchlorate, about 18 of those wells exceeded the level that they had set. But the question is, what does that really mean? That is the purpose of this amendment. We have asked the National Institutes of Health to run some studies during the next 9 months and report back to us to determine whether or not perchlorate in drinking water is unsafe for children and pregnant women. Perchlorate is not listed as a RCRA or Superfund hazardous substance.

We are in relatively new ground at this time, Mr. President. As I indicated, the primary health concern related to perchlorate is it can interfere with the thyroid gland's ability to use iodine to produce certain hormones. In a hormone-deficient condition, normal metabolism, growth and development can be affected. We don't know that perchlorate does that, but we need to find out.

In very high doses, perchlorate has been used as a medicine to treat a thyroid disease called Graves' disease in which excessive amounts of a thyroid hormone are produced. However, in thousands of parts per billion, it can disrupt growth and bodily functions because of its effect on the thyroid gland, some people think. As I have indicated, those people who are particularly vulnerable to unsafe consumption would include pregnant women, children, and sometimes the elderly.

The problem, however, is there is no hard science on the health and safety risks that perchlorate may pose to human beings. We need to better understand the potential health consequences of this compound on human beings.

The amendment that I have offered on my behalf and that of the Senator from California I believe should be accepted by this body. All of us can appreciate the necessity of ensuring that the water that we consume is safe. We have been assured by the head of the Southern Nevada Water Authority, Pat Mulroy, that the water is safe. I am confident and very, very hopeful that it is. But we need to make sure that that is the case.

I support this research and am pushing for its inclusion in this legislation. I also believe that because it has been detected in wells in the West, we need to understand why it is there. In particular, we need to understand the potential health risks. Nevada has a large population with elderly, children, pregnant women, as does certainly California and Arizona.

So we want this body to accept this. We think it is sound legislation. We have been in contact with the National Institutes of Health. They can do this. I ask my colleagues to support this legislation.

Mr. REED addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Thank you, Mr. President.

Prior to offering an amendment, I ask unanimous consent to yield the floor to my colleague, the Senator from Louisiana, and have the opportunity to reclaim the floor and present my amendment, if I may.

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

Ms. LANDRIEU. I thank my colleague for yielding, and ask unanimous consent to lay aside the pending amendment.

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

AMENDMENT NO. 1095

(Purpose: To increase the amounts made available to promote adoption opportunities in order to eliminate barriers and to help find permanent homes for children)

Ms. LANDRIEU. Mr. President, I send to the desk an amendment to the Labor, Health and Human Services appropriations bill for myself and Senator MCCAIN. I have here a copy of the amendment.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana [Ms. LANDRIEU], for herself and Mr. MCCAIN, proposes an amendment numbered 1095.

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

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendment is as follows:

On page 44, line 2, strike ''$5,606,094,000'' and insert ''5,611,094,000''.

On page 85, line 19, strike ''$70,500,000'' and insert ''75,500,000''.

Ms. LANDRIEU. Mr. President, I rise today to offer an amendment to the Labor, Health and Human Services appropriations bill. As the Members of the Senate are aware, nearly one-half million children in this country languish in foster care instead of permanent placement. We have had little success in coping with the problem. While the numbers of children in foster care multiply, children trickle into adoptive homes. Last year only a little over 20,000 children were formally adopted.

Mr. President, these numbers are unacceptable. Recent advances in science and psychology have indicated that early childhood is the critical stage for human development. The nurturing and attention that infants need can only be provided by a loving family. Studies have indicated that the holding, touching, and play that good parents take for granted, actually affects a child's brain size and activity. Sadly, the children most in need of this kind of human warmth, our abused and neglected children, are ill-served by our Nation's adoption placement system.

Equally distressing is the fact that these same problems in the adoption system are reflected in our budget priorities. In the Labor, Health and Human Services appropriations bill we propose to spend over $4.3 billion on support to foster care. At the same time, we are devoting only $13 million to encourage innovation in state adoption systems. This is a little more than one-third of 1 percent of all the money we are devoting to foster care.

Our spending priorities are another stark example of our spending billions of dollars in a way that perpetuates a problem instead of resolving it. We need to reprioritize how we address the thousands of children in foster care. This amendment takes a modest step in the right direction. By reallocating $5 million from the administrative costs of the bill to help fund State initiatives in adoption, we can begin the process of addressing the source of the problem rather than its symptoms.

Presently, the Children's Bureau has 40 grants to States that were either approved but unfunded, or underfunded due to shortfalls. Among the States with unfunded grant applications are Arizona, Arkansas, California, Colorado, Florida, Illinois, Kentucky, Massachusetts, Michigan, Minnesota, Mississippi, New York, North Carolina, Ohio, Oklahoma, Rhode Island, South Carolina, Tennessee, Texas, Washington, and the District of Columbia. These grants would affect States large and small and in every region of the country.

It is my hope that the programs that we fund by providing State grant support may one day provide a national

model. Only through innovations like those funded by these grants can we hope to resolve the foster care crisis. I hope you will join me in supporting this amendment.

I thank my colleague again for the time.

Mr. President, I ask unanimous consent that my amendment be temporarily set aside for its determination at the appropriate time for a vote.

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

AMENDMENT NO. 1094

Mr. REID. Mr. President, I know my friend from Rhode Island has the floor. I ask that he yield to me for purposes of requesting the yeas and nays on my amendment.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there an objection for there being an order at this time to the ordering of the yeas and nays?

Without objection, it is so ordered.

Is there a sufficient second? There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Thank you, Mr. President.

I ask unanimous consent to lay aside the pending amendment.

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

AMENDMENT NO. 1096

(Purpose: To provide funding for grants to States for State student incentives under subpart 4 of part A of title IV of the Higher Education Act of 1965)

Mr. REED. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. REED], for himself, Ms. COLLINS, Mr. LEVIN, Mr. CONRAD, Mr. KENNEDY, Mr. WYDEN, Mr. KOHL, Mr. DODD, Mr. CHAFEE, Mr. LAUTENBERG, Mr. REID, Mr. FEINGOLD, Mr. DORGAN, Mr. TORRICELLI, Mr. KERREY, Mr. JOHNSON, Mr. WELLSTONE, Mr. BINGAMAN, Mrs. MURRAY, Mr. SMITH of Oregon, Mr. HARKIN and Ms. LANDRIEU, proposes an amendment numbered 1096.

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

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendment is as follows:

On page 56, line 19, strike ''and 3'' and insert '', 3 and 4''.

On page 56, line 22, before the period insert '', provided that, $35,000,000 shall be available for State Student Incentive grants derived from unobligated balances''.

Mr. REED. Mr. President, I rise this afternoon to offer an amendment with my Republican colleague from Maine on the Labor and Human Resources Committee, Senator SUSAN COLLINS, and we are joined by a host of other colleagues—Senator KENNEDY, Senator CHAFEE, Senator SMITH of Oregon, Senator HARKIN, Senator DODD, Senator CONRAD, Senator LEVIN, Senator KOHL, Senator WYDEN, Senator LAUTENBERG, Senator MURRAY, Senator WELLSTONE, Senator BINGAMAN, Senator REID of Nevada, Senator FEINGOLD, Senator DORGAN, Senator TORRICELLI, Senator KERREY, Senator JOHNSON, and Senator LANDRIEU. I believe this indicates the widespread depth of concern and support for maintenance of the State Student Incentive Grant Program, or SSIG, as it is known.

This is a remarkable program, which requires State governments to match Federal resources on a dollar-for-dollar basis and provides direct higher education grant assistance to needy students. I had originally intended to offer, along with my colleague Senator COLLINS, an amendment which would have restored SSIG funding to last year's level of $50 million, but out of deference to the subcommittee chairman and also because of a lack of sufficient offset, the amendment today adds back $35 million for SSIG with an offset of unobligated balances from prior years.

In accepting this change, it is our intent to work with Chairman SPECTER and Senator HARKIN, as they have agreed, to ensure that funding for SSIG, at no less than $35 million and hopefully even more, is secured during conference deliberations with the other body.

Mr. President, I want to tell all of my colleagues why this amendment and saving student aid funding is so vitally important.

SSIG is critical to higher education, critical to the dreams of more than 700,000 students across the Nation and 13,000 students just in my home State of Rhode Island alone.

We are all familiar with another higher education grant, the Pell grant, and, as I think many in this Chamber, as well as students, parents, and those involved in higher education know, the purchasing power of the Pell grant has fallen drastically in comparison to inflation and the skyrocketing cost of college education. Students have searched for other sources of need-based higher education grants and have come to rely upon SSIG, the State Student Incentive Grant.

With a relatively modest amount of Federal funding, this essential program encourages States to provide need-based financial aid to students in the form of grants and community service work study awards.

SSIG grants are targeted to the neediest undergraduate and graduate students. The average family income for SSIG recipients in 1991–92 was approximately $12,000, which is below the Federal poverty level for a family of four. The average SSIG-supported grant was about $1,200 in 1995–96. This program reaches those families who are most desperately in need of support to send their children to college.

Moreover, this program is extremely efficient. Every SSIG dollar goes to the students. These funds are not used in any way to cover administrative costs.

With an SSIG expenditure at the Federal level of $63 million in fiscal year 1996, the program leveraged more than $784 million in State matching funds and served more than 700,000 students across America. In Rhode Island, an SSIG Federal expenditure of roughly $334,000 leveraged over $8 million in Rhode Island expenditures, serving more than 13,000 students.

The history of this program is simple. Before its enactment 25 years ago, only 26 States provided need-based assistance to students. Now, all 50 States provide such assistance.

While SSIG has been successful in increasing State aid, it is not true that it has outlived its usefulness. The statutory purpose of SSIG is not simply to start up State programs. Instead, its purpose is to encourage and assist States in making need-based grant and community service work-study awards to students.

Indeed, if SSIG is eliminated, nine States, including Alabama, Arizona, Georgia, and Mississippi, could lose their entire grant program. In these States, SSIG funds represent 25 percent or more of their entire student grant program. It is unlikely they would sustain these programs without this Federal assistance and encouragement. In addition, if SSIG were eliminated, 43 States have already said they would reduce the number and amount of need-based grants, according to the National Association of State Student Grant and Aid Programs. Thirteen States could face a 40-percent drop in funding for need-based grants, according to PIRG's Higher Education Project.

Even with Federal funding, my home State of Rhode Island failed to maintain funding for the State grant program in 1993 and lost Federal SSIG funding. So Rhode Island, a State known for its commitment to education, also faces serious harm to its need-based program.

How could SSIG have outlived its usefulness if States have already or are threatening to shut down student grant programs and cut student aid?

Even the Appropriations Committee has noted that there is wisdom in maintaining funding for this program. In this Congress, the Senate will work on the reauthorization of the Higher Education Act, which covers most higher education grants and loan programs including Pell grants and SSIG. During this reauthorization process, the Senate Labor and Human Resources Committee, on which I serve, along with Senator COLLINS, will comprehensively review all higher education aid programs. Prior to the Labor Committee's work, I believe it would be inappropriate and unfair for Congress to eliminate a successful program like SSIG. It is a program that

deserves support, but also deserves review, which it will receive in the reauthorization of the Higher Education Act.

It is also interesting to note that at a time when the majority party in this Congress is calling for more Federal money to be returned to the States, eliminating SSIG would end a successful program that gives States substantial flexibility and resources to help them help their citizens on to a better life.

In addition, it is important to note in the recent budget, we have gone a long way in providing tax incentives to send young people to college, tax credits and deductions from taxes, but the people that are served by SSIG are those that cannot readily use the tax system to help their children go to college. In this way, SSIG is vitally important because it is a grant program directly to those low-income Americans that need a chance to share in the same opportunity that we have, in our wisdom, provided through the tax system to upper-income and middle-income Americans.

Now, let me emphasize that SSIG is more important than ever as college costs continue to grow faster than income and grant aid, and as the grant-loan imbalance widens. In 1975, 80 percent of student aid came in the form of grants and 20 percent in the form of loans. Now, the opposite is true.

Let me also add that low-income students are finding it particularly hard to afford higher education. Less than 50 percent of high school graduates with family incomes under $22,000 go on to college, while more than 80 percent of their higher income counterparts go on to pursue education beyond high school. Frankly, if we do not reverse this trend, if we do not let every segment of our society go on to higher education, we will continue to develop a bifurcation of our society and our economy as young people with a chance to go on to college gain skills that make them employable and, indeed, enhances their incomes and ability to seize all the opportunity in our society, while others are left out. We cannot let that happen.

SSIG continues to make a difference for needy students in many States. However, I again remind my colleagues that nine States would likely end their grant programs without Federal encouragement and funding. Moreover, 43 States have said they would cut grants if SSIG were eliminated.

Mr. President, we should be helping all our citizens achieve the American dream by ensuring access to higher education, especially for hard-working families whose wages have not kept up with inflation.

Our amendment seeks to provide $35 million for SSIG. It is not a lot of money in a bill that contains more than $269 billion in funding, but it will make a huge difference to the students who rely upon it.

This amendment, I understand, is agreeable to the chairman and the ranking member and they have committed to work with Senator COLLINS and myself to fight for this funding in conference.

I have a letter from the American Council of Education in support of the amendment, and I ask unanimous consent that it be printed in the RECORD.

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

AMERICAN COUNCIL ON EDUCATION,
OFFICE OF THE PRESIDENT,
August 29, 1997.

DEAR SENATOR: The associations listed below, representing the nation's 3,700 colleges and universities, strongly urge you to support the amendment that will be offered by Senators Jack Reed (D–RI) and Susan M. Collins (R–ME) during floor consideration of the Fiscal Year 1998 Labor, Health and Human Services, and Education appropriations bill. This amendment will restore funding for the State Student Incentive Grant (SSIG) program, which serves as an effective inducement for states to maintain need-based student financial assistance programs.

In eliminating funding for the SSIG program, the Senate Appropriations Committee expressed the view that the need exists for an ongoing source of federal support that encourages and leverages state contributions, along with its hope that the imminent reauthorization will succeed in modifying and strengthening SSIG. We believe this will be accomplished, and we have submitted recommendations designed to achieve this goal.

However, we believe that the current program is both misunderstood and undervalued in terms of its unique role in the array of existing student aid programs. Within the last six years, for example, SSIG's maintenance of effort requirement has prevented cuts or forced the restoration of funding of state grants in Massachusetts, Arizona, Rhode Island, Connecticut, and Oregon. Further, terminating the program will have punitive consequences for the 680,000 students whose average award of over $1,200 offers them an essential alternative to borrowing. SSIG cuts also will be felt by graduate students, since SSIG is the only Title IV grant program for which they are eligible.

Terminating SSIG also will further strain the already frayed relationship that exists between the state and federal governments, families, students, and institutions. While students and their families have borrowed increasingly greater amounts; while institutions have increased institutional student aid from $1 billion in 1979 to more than $10 billion in 1995; and while the federal government has arrested and begun to reverse the decade-long decline in the value of Pell Grants, states have cut spending on higher education to pay for increased expenses in Medicaid and corrections programs. Between 1985 and 1997, the share of state budgets dedicated to higher education fell from 14 percent to 12 percent. Indeed, one analyst has now concluded that if state support for higher education continues to decline at the rate we have seen in the last two decades, it could begin to hit zero in some states early in the next century.

We believe that the SSIG program still plays an essential role in leveraging a state/federal partnership in the provision of need-based student aid. We oppose SSIG's elimination, and we urge your support of the Reed/Collins amendment to restore its funding.

Sincerely,

STANLEY O. IKENBERRY,
President.

On behalf of the following associations: American Association of Community Colleges, American Association of State Colleges and Universities, American Council on Education, Association of American Universities, National Association of Independent Colleges and Universities, National Association of State Universities and Land-Grant Colleges.

Mr. REED. I urge my colleagues to support this amendment. We cannot afford to pass up this opportunity to aid students who in turn will build a stronger and more prosperous America.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I am pleased to join my friend and colleague from Rhode Island, Senator REED, in offering an amendment to restore $35 million in funding for the State Student Incentive Grant Program.

First, I want to thank and recognize the able leadership of the Senator from Rhode Island in this area. I also want to say I very much appreciate the work of the managers of this bill, Senators SPECTER and Senator HARKIN, in working with Senator REED and myself to find an offset that will allow us to achieve funding for this very important program.

The SSIG program has successfully leveraged a relatively small Federal contribution and investment in student aid to build a State-Federal partnership supporting grants to the neediest college students. Last year, a Federal appropriation of $63 million resulted in a match of $784 million in State expenditures for need-based scholarship grants. In the State of Maine alone, 12,000 students received assistance under this important program. Nationally, grants averaging $1,200 were awarded to about 700,000 students. The recipients, Mr. President, come from families with average incomes of $12,000 a year. As the Senator from Rhode Island has pointed out, that is below the Federal poverty level for a family of four.

Mr. President, it would be a serious mistake to terminate this program. Every single Federal dollar that it provides goes to students with financial need. The States bear the administrative costs, so every single Federal dollar goes for the grants for these needy students. This program helps to close the widening gap between what students receive in grant assistance and what they are forced to borrow to pay for the ever-increasing costs of a college education.

Because of high tuition costs and increased borrowing, students are graduating from college with higher and higher debt burdens. This Congress has recognized the problem that this mountain of debt poses for new graduates. It has attempted to ease that burden by making the interests on student loans tax deductible, but then if we turn around and eliminate the Federal contribution to the SSIG program we will, in fact, be counteracting part of this benefit to the most deserving students by increasing their loan burden.

Now, Mr. President, opponents to continuing the SSIG program argue

the purpose for the program no longer exists since each of the 50 States have established a grant program. However, this overlooks the importance of SSIG as the Federal-State partnership and the important role this program plays in maintaining the State commitment to these grants. According to the National Association of State Student Grant and Aid Programs, 43 States—43 States—would reduce their need-based grants if the SSIG program were eliminated. Some would clearly terminate their grant programs altogether without the SSIG contribution. Clearly, in spite of the impressive efforts ahead by many States to help their neediest students, this program continues to be a critical catalyst for State action.

As college costs continue to grow faster than income and grant aid, and as the grant-loan imbalance widens for students of modest means, the need for SSIG is more important than ever before. This Congress has just acknowledged the value of grants by voting for a modest increase in the maximum amount of Pell grants. It would be inconsistent and incredibly poor timing if at the time we are recognizing the need for an increase in the grants under the Pell program, we turn around and reduce assistance under the SSIG program.

Mr. President, I recently received a letter from Stephanie D'Amico of Biddeford, ME, who speaks far more eloquently about the importance of this program than I can. I ask unanimous consent her entire letter be printed in the RECORD.

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

Hon. SENATOR COLLINS,
U.S. Senate,
Washington, DC.

DEAR SENATOR COLLINS, I am writing to ask for your support of State Student Incentive Grants (SSIG). College is one of the best investments we can make in America's future. It is critical to a strong democracy and a healthy economy. To me personally, it represents opportunity for the future.

Unfortunately, a college education is becoming harder and harder to afford. The costs of college are rising, but financial aid remains inadequate. The average full time student must devote 24 hours each week to work rather than studies. And this is just to make ends meet.

SSIG is one of the best federal programs helping to provide access to education. The federal money put into SSIG is matched by each state. So for every federal SSIG dollar, two dollars are spent on students that need it. Seventy percent of the students who receive SSIG funds come from families with incomes of less than $20,000. Without this program, it is likely that 18 states will lose their entire grant program, putting a college education at risk for many students.

Students and families need help with the costs of college. With students now graduating with decades of debt, loans are not the answer. Studies show that students with grants are more likely to stay in school. SSIG is a good, working program that should be fully funded.

Thank you for making education funding a priority. I look forward to hearing from you. Please let me know what you are doing to support increased funding for education.

Sincerely,

STEPHANIE D'AMICO.

Ms. COLLINS. I quote just briefly from Stephanie D'Amico's letter.

She wrote:

College is one of the best investments we can make in America's future. It is critical to a strong democracy and a healthy economy. To me personally it represents opportunity for the future. Unfortunately, a college education is becoming harder and harder to afford. . . . SSIG is one of the best Federal programs helping to provide access to education. . . . Students and their families need help with the costs of college. With students now graduating with decades of debt, loans are not the answer. . . . SSIG is a good, working program that helps students stay in school.

Mr. President, if America is truly to remain the land of opportunity, we must ensure that our citizens like Stephanie D'Amico do not face insurmountable obstacles to higher education. This program will help Stephanie D'Amico and many like her to achieve the American dream. I urge support of the Reed-Collins amendment.

I yield the floor.

Mr. JEFFORDS. Mr. President, I rise in support of the amendment offered by my colleague from Rhode Island, Senator REED, which restores $35 million to the State Student Incentive Grant [SSIG] Program.

SSIG is an effective Federal/State partnership program which leverages State dollars for need-based student aid.

Ensuring that students have need-based grant aid available to them is very important—especially when one considers the extraordinary debt that many college students have taken on to pay for school. In 1995–96 SSIG benefited 688,000 students through the country and the median family income of those students was $12,000. In Vermont, 4,260 students received assistance through SSIG.

It is my hope that the Senate will vote in support of this important program. As chairman of the Labor and Human Resources Committee, I look forward to a thoughtful review and strengthening of SSIG as part of the reauthorization of the Higher Education Act.

So again, I thank my colleague from Rhode Island for offering this amendment and thank my colleague from Pennsylvania, Senator SPECTER, for his support.

Mr. WYDEN. Mr. President, as a cosponsor of the Reed amendment, I want to explain why the Senate should restore $35 million to the State Student Incentive Grant [SSIG] program.

First, SSIG funds go directly to the students, not to Federal bureaucrats or administrators. One hundred percent of these funds go to the students.

Second, SSIG grants go to those who need them most: the median family income for SSIG recipients is $12,000—well below the Federal poverty level for a family of four.

Third, because every Federal dollar directly leverages State education dollars, each additional Federal dollar may make the difference whether another student gets the chance to go to college. In many States SSIG grants truly make or break a student's chance to go to college.

Fourth, at a time when costs are limiting access to higher education, we must do everything we can to give every student the opportunity to go to college. I was an early supporter of tax credits to help middle-class families pay the cost of higher education, and this program is just as crucial for the most needy students.

This program is especially important for Oregon. In the 1995–97 period, the SSIG Program made the difference for 49,400 students in Oregon, with an average grant of $1,060. SSIG helped account for 5-percent of the funding for the Oregon Need Grant program. And there are more than 16,700 students who did not receive the grant because of underfunding.

The Oregon Need Grant program helps provide basic access for Oregon's most needy student population. If we cut off SSIG for the 1997–98 academic year, some 620 students could be forced to drop out of college. In pure dollar amounts, the grant may not seem like much to people in Washington, DC who are used to dealing in billions of dollars. But it will enable thousands of students in Oregon to make the decision to go to college.

It is the students, of course, who say it the best. One student who works at the U of O admissions office on work study said ''My father has been unemployed for about 4 years even though he has 20 years of naval experience and a college degree. My mother works for the local school system, but her income can't even provide for our family, let alone my college education. Without the need grant that I receive, I wouldn't be able to attend a 4 year university and work towards my degree in psychiatry and business.'' Another student at the University of Oregon said: ''The state need grant has literally been godsend. I come from a single parent household and my mother was laid off from a [major] corporation a few years ago and has only been able to get jobs as a waitress since. If it were not for the state need grant, I would not be able to attend the University of Oregon. I have lived in Eugene all of my life and I've always wanted to attend the U of O. I am majoring in journalism and hope to graduate this year. The grant made it possible for my mother to send me to school and still put food on the table for a family of four.''

Mr. President, I urge my colleagues to vote for this amendment, and ask unanimous consent that my full statement be printed in the RECORD.

Mr. KENNEDY. Mr. President, I support the education amendment offered by Senator REED to appropriate $35 million to maintain the State Supplemental Incentive Grant Program.

The SSIG Program is effective in encouraging States to allocate funds for need-based student aid programs. Elimination of SSIG will cause a significant loss of funds for many needy students and will discourage States from providing this important type of student aid.

Continued funding for SSIG is supported by the American Council on Education, the United States Student Association, US PIRG, the National Association of Graduate-Professional Students, the National Association of State Student Grant and Aid Programs, and the Education Trust.

SSIG is a Federal-State partnership in student aid. States must match the Federal funds on a dollar-for-dollar basis. Eliminating the Federal share will inevitably result in many States dropping their programs entirely.

SSIG constitutes a significant percentage of need-based aid in several States. It is also an incentive for State legislatures to provide their own need-based student aid. In 13 States, Federal SSIG is 20 percent or more of the total need-based aid in the State. In Hawaii and Mississippi, the elimination of SSIG funds would cut the State need-based aid in half.

In Rhode Island, the State legislature provided need-based aid in order to obtain the Federal SSIG funds. The Connecticut Legislature increased need-based aid in order to meet the SSIG requirements. Louisiana will end all need-based aid if Federal funds for SSIG are not appropriated.

One of the fundamental goals of the Higher Education Act is to provide greater access to higher education for all qualified students, regardless of income. Expanding this access is still a major challenge. In the upcoming reauthorization of the Higher Education Act, we will be considering all aspects of the roles of the Federal Government, the State governments, colleges, students, and their families in meeting the costs of higher education.

SSIG is a program that works. It's a sensible Federal-State partnership, and it may well be a model for other steps to leverage the use of Federal funds. I urge my colleagues to support the Reed amendment to appropriate adequate funds for SSIG, so that needy students across the country will not lose this critical aspect of college aid.

Mr. REED. 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.

Mr. REED. I understand this vote is scheduled for 5 o'clock.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. Mr. President, I ask unanimous consent at 5 p.m. today the Senate proceed to a vote on or in relation to Senator REED's amendment numbered 1096.

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

Mr. REED. Will the Senator yield?

Mr. COVERDELL. I yield.

Mr. REED. Would the Senator also include in this request a modification that precludes any second-degree amendments on my amendment?

Mr. COVERDELL. That is my understanding, that both sides would agree, and I ask unanimous consent the Senator's request be honored.

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

Mr. REED. I yield the floor.

AMENDMENT NO. 1097

(Purpose: To enhance food safety for children through preventive research and medical treatment)

Mr. COVERDELL. Mr. President, I ask unanimous consent the pending amendment be set aside in order to offer an amendment.

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

Mr. COVERDELL. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. COVERDELL] proposes an amendment numbered 1097.

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

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

The amendment is as follows:

On page 49, after line 26, add the following:

SEC. . (a) TRANSFER.—Using $5,000,000 of the amounts appropriated under this title, the Secretary of Health and Human Services shall carry out activities under subsection (b) to address urgent health threats posed by E. coli:0157H7.

(b) USE OF FUNDS.—From amounts transferred under subsection (a) the Secretary of Health and Human Services shall—

(1) provide $1,000,000 for the development of improved medical treatments for patients infected with E. coli:0157H-related disease (HUS);

(2) provide $1,000,000 to fund ongoing research to detect or prevent colonization of E. coli:0157H7 in live cattle;

(3) provide, through the existing partnership between the Federal Government, industry, and consumer groups, $1,000,000 for the National Consumer Education Campaign on Food Safety as part of the activities to address safe food handling practices;

(4) provide $1,000,000 for a study to determine the feasibility of the use of electronic pasteurization on red meats to eliminate pathogens and to carry out activities to educate the public on the safety of that process; and

(5) provide $1,000,000 for a contract to be entered into with the National Academy of Sciences to assess the effectiveness of testing to ensure zero tolerance of E. coli:0157H7 in raw ground beef products.

AMENDMENT NO. 1098 TO AMENDMENT NO. 1097

(Purpose: To enhance food safety for children through preventive research and medical treatment)

Mr. COVERDELL. Mr. President, I send a second-degree amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. COVERDELL] proposes an amendment No. 1098 to amendment numbered 1097.

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

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

The amendment is as follows:

Strike all after the first word and add the following:

(a) TRANSFER.—Using $5,000,000 of the amounts appropriated under this title, the Secretary of Health and Human Services shall carry out activities under subsection (b) to address urgent health threats posed by E. coli:0157H7.

(b) USE OF FUNDS.—From amounts transferred under subsection (a) the Secretary of Health and Human Services shall—

(1) provide $1,000,000 for the development of improved medical treatments for patients infected with E. coli:0157H7-related disease (HUS);

(2) provide $550,000 to fund ongoing research to detect or prevent colonization of E. coli:0157H7 in live cattle:

(3) provide, through the existing partnership between the Federal Government, industry, and consumer groups, $1,000,000 for the National Consumer Education Campaign on Food Safety as part of the activities to address safe food handling practices;

(4) provide $1,000,000 for a study to determine the feasibility of the use of electronic pasteurization on red meats to eliminate pathogens and to carry out activities to educate the public on the safety of that process; and

(5) provide $1,000,000 for a contract to be entered into with the National Academy of Sciences to assess the effectiveness of testing to ensure zero tolerance of E. coli:0157H7 in raw ground beef products.

Mr. COVERDELL. Mr. President, I am only going to speak to this amendment briefly. Let me just say that, at the appropriate time, it will be discovered that this is a rather broadly based amendment to deal with food safety.

The amendment includes provisions for funding for research in the development of improved medical treatment for patients infected with E. coli and related diseases.

The amendment provides funding to help detect and prevent colonization of E. coli in live cattle. Research would focus on determining the pathogen relationship between cattle and E. coli.

The amendment will provide funding for the administration's food and safety initiative and, more directly, for the important consumer education component.

Mr. President, the amendment provides provisions to implement a much-needed study on the feasibility of a irradiating raw meat to eliminate E. coli and to develop a consumer education program on the process of safety.

Mr. President, the amendment will require the Department of Health and Human Services to contract with the National Academy of Sciences to determine the effectiveness of USDA's zero-tolerance standard for E. coli.

I am pleased today to be introducing an important amendment in my capacity as Agriculture Subcommittee

chairman with jurisdiction over inspections. I am proposing what I think is a commonsense, effective approach to confronting the deadly pathogen E. coli:0157H7. As we are all aware in Congress, our Nation is facing a difficult battle with this bacteria as we work to assure the safety of our domestic food source. Scientists are confronting traditional difficulties in fighting E. coli on the farm and controlling the toxins it releases once in the body. Looking closely at this issue over the past two weeks, it has become increasingly clear to me that some of the best answers to E. coli and other food safety problems can be found in advanced research, education, and study. The committee report on the Labor-HHS appropriations bill repeatedly calls for greater emphasis on food safety and development of priorities in this field. Consequently, firewalls must be built to prevent, to the greatest extent possible, the growth, transmission, and human health destruction that can be caused by this rare but virulent bacteria. The following amendment takes recommendations, which were issued in the ''Final Report of the Blue Ribbon Task Force on Solving the E. coli 0157:H7 Problem'' in 1994. This task force was comprised of the experts from the government, industry, academia, and consumer and producer groups. These recommendations are all backed by good science and will help strengthen existing standards and build new safeguards against human exposure to and illness from E. coli 0157:H7. The following is a summary of my amendment:

AMENDMENT SUMMARY

First, this provision provides funding for research on the development of improved medical treatment for patients infected with E. coli 0157:H7 related disease [HUS]. The most vulnerable members of society susceptible to the chronic effects of E. coli 0157:H7 infection are—children and the elderly. Funding should focus on helping these individuals to recover fully.

Second, this provision provides funding to help detect and prevent colonization of E. coli 0157:H7 in live cattle. Research should focus on determining the host/pathogen relationship between cattle and the E. coli microbe, and explore which factors contribute to its incidence in cattle.

Third, this provision provides funding for the Administration's Food Safety Initiative, more directly for the important consumer education component. This national consumer education campaign on food safety represents a partnership between government, industry, and consumer groups. This is an important link in the food safety chain and critical initiative endorsed last year by former U.S. Surgeon General C. Everett Koop, along with the U.S. Department of Agriculture, the Department of Health and Human Services, and the U.S. Department of Education.

Fourth, this provision implements a much-needed study on the feasibility of irradiating raw red meat to eliminate the E. coli 0157:H7 pathogen and to develop a consumer education program on the process' safety. Currently available for poultry products, irradiation is a proven method of confronting this disease, and its feasibility on red meat needs to be explored.

Fifth, requires the Department of Health and Human Services to contract with the National Academy of Sciences to determine the effectiveness of the USDA's zero tolerance standard for E. coli 0157:H7 in raw ground beef products and the effectiveness of its current microbiological testing program. An updated report on this testing will be helpful to the Congress, USDA, consumers, and the industry in their search for tools to effectively identify and eradicate E. coli 0157:H7 in raw ground beef products.

I would request that this amendment be carefully examined by my colleagues and by the administration. Upon their review, I hope that the amendment will be agreed to in order to continue solidifying our Nation's food as the safest in the world.

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.

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

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

Mrs. BOXER. Mr. President, can you tell me the order of the day?

The PRESIDING OFFICER. A vote will occur at 5 p.m. with respect to amendment No. 1096. It is an amendment offered by Mr. REED of Rhode Island.

AMENDMENT NO. 1094

Mrs. BOXER. Thank you very much, Mr. President. Would it be appropriate for the Senator to speak in favor of the Harry Reid amendment at this time by unanimous consent?

The PRESIDING OFFICER. The Senator may proceed.

Mrs. BOXER. Mr. President, a new contaminant called perchlorate, with potentially serious health risks, has recently been detected in drinking water in California and Nevada. It is expected to also be found in drinking water in other States.

Perchlorate is a chemical component of solid rocket fuel, munitions, and fireworks. The potential source of the drinking water contamination is solid fuel and munitions factories that produce and use large amounts of ammonium perchlorate.

According to preliminary research, perchlorate causes the thyroid gland to malfunction by interfering with the gland's ability to use iodine and produce hormones. A malfunctioning thyroid affects the metabolism and therefore interferes with growth and development of humans.

New safe drinking water technology to measure perchlorate became available in May 1997. Since then, groundwater wells in the most likely areas in the country have begun to be tested.

Perchlorate has so far been detected in 69 drinking water wells in California—out of the 232 tested so far—as well as in the Colorado River and Lake Mead which is the source of water for over 10 million people in California, Nevada, and Arizona.

It is expected to be present in drinking water wells in other States. EPA has stated that the contamination is a very serious issue.

There is no Federal standard for perchlorate in drinking water. California is the only State that has a temporary safety standard for consuming water that contains perchlorate—18 parts per billion—but this temporary standard is based on very preliminary health effects data.

There is no research data on the possible carcinogenic effects of perchlorate.

Twenty-four wells in California have been closed because perchlorate levels exceed the California standard—with some wells registering a perchlorate level of 280 parts per billion—including wells at the San Gabriel Superfund site.

Mr. President, this amendment requires the National Institutes of Health [NIH] to ''from amounts appropriated under this title'' conduct a study on the health effects of perchlorate with particular emphasis on the health risks to vulnerable subpopulations including children, pregnant women, and the elderly.

It also requires that the NIH report back to the committee within 9 months—and annually thereafter—on the results of the study—including a recommendation on whether further health effects research is necessary.

This is an important first step.

First we need to understand more about what the potential health effects of perchlorate are. Then we will take whatever measures are appropriate to ensure that our drinking water remains safe for all, especially for our most vulnerable people—children and our elderly.

OTHER INITIATIVES

First, the fiscal year 1998 EPA appropriations bill includes a $2 million earmark for treatment technology research at the Crafton-Redlands plume in California (that is, research on how to filter out or extract perchlorate. Perchlorate is a salt-based soluble so contamination moves as quickly as the water moves.

Second, Senator BOXER is working to include the following report language in the EPA appropriations bill:

The Committee directs the Environmental Protection Agency to work with the Department of Defense, the National Institute of Environmental Health Sciences, and other relevant federal and state agencies to assess the state of the science on (1) the health effects of perchlorate on humans and the environment, and (2) the extent of perchlorate contamination of our nation's drinking water supplies; and to make recommendations on how this emerging problem might

be addressed. The EPA will submit a report on the interagency findings to the Committee within six months.

I don't think we have a more serious charge of protecting the health and safety of the American people.

I thank you very much.

I yield the floor.

VOTE ON AMENDMENT NO. 1096

The PRESIDING OFFICER. Mr. President, 5 o'clock having arrived, the question is on Amendment 1096 offered by Mr. REED of Rhode Island. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. NICKLES. I announce that the Senator from Utah [Mr. BENNETT], the Senator from North Carolina [Mr. FAIRCLOTH], the Senator from Oklahoma [Mr. INHOFE], the Senator from Delaware [Mr. ROTH], the Senator from Alabama [Mr. SESSIONS], and the Senator from Oregon [Mr. SMITH], are necessarily absent.

I further announce that, if present and voting, the Senator from Alabama [Mr. SESSIONS] would vote ''yea.''

Mr. FORD. I announce that the Senator from Delaware [Mr. BIDEN], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Massachusetts [Mr. KERRY], the Senator from Connecticut [Mr. LIEBERMAN], and the Senator from Vermont [Mr. LEAHY] are necessarily absent.

I further announce that, if present and voting, the Senator from South Carolina [Mr. HOLLINGS] would vote ''aye.''

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

The result was announced—yeas 84, nays 4, as follows:

[Rollcall Vote No. 221 Leg.]

YEAS—84

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

NAYS—4

Ashcroft	Helms
Domenici	Nickles

NOT VOTING—12

Bennett	Inhofe	Lieberman
Biden	Kennedy	Roth
Faircloth	Kerry	Sessions
Hollings	Leahy	Smith (OR)

The amendment (No. 1096) was agreed to.

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

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

The motion to lay on the table was agreed to.

EXPLANATION OF ABSENCE

Mr. LOTT. Mr. President, I would like to note for the RECORD that Senator BENNETT is on official business in Moscow, Russia until September 10. Senator BENNETT is meeting with members of President Yeltsin's administration and Members of the Duma on the matters relating to religious freedom in Russia.

Mr. SPECTER. Mr. President, I ask unanimous consent that the pending amendments be set aside and that it be in order to send a series of amendments to the desk, that they be considered en bloc, and that accompanying statements be printed at the appropriate point in the RECORD.

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

AMENDMENTS NOS. 1099 THROUGH 1111, EN BLOC

Mr. SPECTER. Mr. President, these amendments have been cleared on both sides:

First, on behalf of Senator CHAFEE, an amendment to add $250 million for both the Fiscal Payment Review Commission and Prospective Payment Assessment Commission offset by a reduction in the Railroad Retirement Board's dual benefit account.

Second, on behalf of Senator COVERDELL, regarding directives to the Secretary of Education concerning child safety and school crime.

Third, on behalf of Senator DASCHLE, regarding the authorization of a comprehensive program for the prevention of fetal alcohol syndrome.

Fourth, on behalf of Senator FAIRCLOTH, to require the Secretary of Education to certify the percentage of Federal funds appropriated to the department that are provided for students and teachers.

Fifth, on behalf of Senator FEINGOLD, to require the Secretary of Education to conduct a study on student populations.

Sixth, on behalf of Senator HOLLINGS, to increase the setaside within the funds provided in the bill for the National Occupational Information and Coordinating Committee, from $8 to $10 million.

Seventh, on behalf of Senator INHOFE, regarding a supplemental security income demonstration project.

Eighth, on behalf of myself, increasing funding in the bill for continuing disability reviews under the SSI program.

Ninth, on behalf of Senators WARNER and KENNEDY, providing $1.1 million to the Department of Education to begin preparations for this Nation to celebrate the year 2000. These funds are offset by a reduction in the Perkins Loan Cancellation Account.

Tenth, on behalf of Senator HARKIN, to provide the Health Care Finance Administration with authority to use fees they collect from providers, physicians and suppliers for provider-requested audits to offset the cost of such audits.

Mr. President, on behalf of Senator NICKLES, I submit an amendment for consideration relating to Social Security Administration regarding employer contributions.

On behalf of myself, I send an amendment to the desk on the administrative funds for the Department of Labor, the welfare-to-work program.

And another amendment, requested by Senator ROTH, for $900,000 for the Commission on Medicare.

The PRESIDING OFFICER. The clerk will report the amendments.

The bill clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER], for himself and others, proposes amendments numbered 1099 through 1111 en bloc.

Mr. SPECTER. Mr. President, I ask unanimous consent that reporting be waived. I have stated the specific amendments and the purpose for those amendments.

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

The amendments are as follows:

AMENDMENT NO. 1099

(Purpose: To provide additional funding for the Prospective Payment Assessment Commission and the Physician Payment Review Commission)

On page 67, line 4, strike ''$3,258,000'' and insert in lieu thereof: ''$3,508,000''.

On page 67, line 10, strike ''$3,257,000'' and insert in lieu thereof: ''$3,507,000''.

On page 67, line 18, strike ''$206,000,000'' and insert in lieu thereof: ''$205,500,000''.

On page 67, line 24, strike ''$206,000,000'' and insert in lieu thereof: ''$205,500,000''.

AMENDMENT NO. 1100

(Purpose: To provide training and technical assistance regarding incidents of elementary and secondary school violence, and to provide for pilot student safety toll-free hotlines for elementary and secondary school students)

On page 61, after line 25, insert the following:

SEC. . Of the funds made available under this title, the Secretary of Education shall establish a program to provide training and technical assistance to State educational agencies and local educational agencies (as defined in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801) in developing, establishing, and implementing procedures and programs designed to protect victims of and witnesses to incidents of elementary school and secondary school violence, including procedures and programs designed to protect witnesses testifying in school disciplinary proceedings.

SEC. . Of the funds made available under this title, $450,000 shall be awarded by the Secretary of Education for grants for the establishment, operation, and evaluation of pilot student safety toll-free hotlines to provide elementary school and secondary school students with confidential assistance regarding school crime, violence, drug dealing, and

threats to the personal safety of the students.

Mr. COVERDELL. Mr. President, there is a grave condition in our elementary and secondary schools across the land. Today, 40 percent of our children do not feel safe in school. It's hard to believe, Mr. President, that:

At least 2.7 million violent crimes take place annually either at or near school.

Every hour, on school campuses, more than 2,000 students and about 40 teachers are physically attacked.

One in every nine students said they cut classes or stayed away from school last year to avoid being beaten or shot.

One in every eight students carries a weapon to school for protection, with 100,000 children taking a gun to school each day.

Last year, a 12-year-old student at a Los Angeles middle school was raped on campus, during school hours, by another student. The victim was forced to attend alone a school disciplinary hearing for the accused which the offender attended with his parents and his lawyer. The State education code afforded protection for the accused but not for the victims or witnesses.

Recently, four teenage boys gang raped a 14-year-old girl at a public high school in Queens. The girl reluctantly reported the crime the next day to a school counselor. When she didn't provide enough detail the assistant principal merely referred her back to the counselor. Almost 1 month later the crime was finally reported to law enforcement and the four were arrested.

A 15-year-old boy killed himself in a GA classroom after being assaulted and bullied almost daily at school because he was overweight.

Mr. President, we cannot allow our children to continue to be terrorized at school. We cannot ignore these kids who are victimized or who witness their friends being abused. The amendment I am offering today begins to address this problem for those children already facing violence. It will: Require the Secretary of Education to establish a program to provide training and technical assistance to State and local education agencies in developing and implementing procedures to protect victims/witnesses of school crime, including protections associated with school disciplinary hearing, and require the Secretary of Education to utilize $500,000 of the funds appropriated under this bill to award grants for pilot school safety hotlines to provide K–12 students with confidential assistance regarding violence, crime, drugs, and threats to personal safety.

Mr. President, on behalf of the 52 million children who attend our schools this year, I urge adoption of this amendment.

AMENDMENT NO. 1101

(Purpose: To provide a comprehensive program for the prevention of Fetal Alcohol Syndrome)

At the appropriate place, insert the following:

SEC. ___. COMPREHENSIVE FETAL ALCOHOL SYNDROME PREVENTION.

(a) FINDINGS.—This section may be cited as the ''Comprehensive Fetal Alcohol Syndrome Prevention Act''.

(b) FINDINGS.—Congress finds that—

(1) Fetal Alcohol Syndrome is the leading known cause of mental retardation, and it is 100 percent preventable;

(2) each year, up to 12,000 infants are born in the United States with Fetal Alcohol Syndrome, suffering irreversible physical and mental damage;

(3) thousands more infants are born each year with Fetal Alcohol Effects, which are lesser, though still serious, alcohol-related birth defects;

(4) children of women who use alcohol while pregnant have a significantly higher infant mortality rate (13.3 per 1000) than children of those women who do not use alcohol (8.6 per 1000);

(5) Fetal Alcohol Syndrome and Fetal Alcohol Effects are national problems which can impact any child, family, or community, but their threat to American Indians and Alaska Natives is especially alarming;

(6) in some American Indian communities, where alcohol dependency rates reach 50 percent and above, the chances of a newborn suffering Fetal Alcohol Syndrome or Fetal Alcohol Effects are up to 30 times greater than national averages;

(7) in addition to the immeasurable toll on children and their families, Fetal Alcohol Syndrome and Fetal Alcohol Effects pose extraordinary financial costs to the Nation, including the costs of health care, education, foster care, job training, and general support services for affected individuals;

(8) the total cost to the economy of Fetal Alcohol Syndrome was approximately $2,700,000,000 in 1995, and over a lifetime, health care costs for one Fetal Alcohol Syndrome child are estimated to be at least $1,400,000;

(9) researchers have determined that the possibility of giving birth to a baby with Fetal Alcohol Syndrome or Fetal Alcohol Effects increases in proportion to the amount and frequency of alcohol consumed by a pregnant woman, and that stopping alcohol consumption at any point in the pregnancy reduces the emotional, physical, and mental consequences of alcohol exposure to the baby; and

(10) though approximately 1 out of every 5 pregnant women drink alcohol during their pregnancy, we know of no safe dose of alcohol during pregnancy, or of any safe time to drink during pregnancy, thus, it is in the best interest of the Nation for the Federal Government to take an active role in encouraging all women to abstain from alcohol consumption during pregnancy.

(c) PURPOSE.—It is the purpose of this section to establish, within the Department of Health and Human Services, a comprehensive program to help prevent Fetal Alcohol Syndrome and Fetal Alcohol Effects nationwide. Such program shall—

(1) coordinate, support, and conduct basic and applied epidemiologic research concerning Fetal Alcohol Syndrome and Fetal Alcohol Effects;

(2) coordinate, support, and conduct national, State, and community-based public awareness, prevention, and education programs on Fetal Alcohol Syndrome and Fetal Alcohol Effects; and

(3) foster coordination among all Federal agencies that conduct or support Fetal Alcohol Syndrome and Fetal Alcohol Effects research, programs, and surveillance and otherwise meet the general needs of populations actually or potentially impacted by Fetal Alcohol Syndrome and Fetal Alcohol Effects.

(d) ESTABLISHMENT OF PROGRAM.—Title III of the Public Health Service Act (42 U.S.C. 241 et seq.) is amended by adding at the end the following:

''PART O—FETAL ALCOHOL SYNDROME PREVENTION PROGRAM

''SEC. 399G. ESTABLISHMENT OF FETAL ALCOHOL SYNDROME PREVENTION PROGRAM.

''(a) FETAL ALCOHOL SYNDROME PREVENTION PROGRAM.—The Secretary shall establish a comprehensive Fetal Alcohol Syndrome and Fetal Alcohol Effects prevention program that shall include—

''(1) an education and public awareness program to—

''(A) support, conduct, and evaluate the effectiveness of—

''(i) training programs concerning the prevention, diagnosis, and treatment of Fetal Alcohol Syndrome and Fetal Alcohol Effects;

''(ii) prevention and education programs, including school health education and school-based clinic programs for school-age children, concerning Fetal Alcohol Syndrome and Fetal Alcohol Effects; and

''(iii) public and community awareness programs concerning Fetal Alcohol Syndrome and Fetal Alcohol Effects;

''(B) provide technical and consultative assistance to States, Indian tribal governments, local governments, scientific and academic institutions, and nonprofit organizations concerning the programs referred to in subparagraph (A); and

''(C) award grants to, and enter into cooperative agreements and contracts with, States, Indian tribal governments, local governments, scientific and academic institutions, and nonprofit organizations for the purpose of—

''(i) evaluating the effectiveness, with particular emphasis on the cultural competency and age-appropriateness, of programs referred to in subparagraph (A);

''(ii) providing training in the prevention, diagnosis, and treatment of Fetal Alcohol Syndrome and Fetal Alcohol Effects;

''(iii) educating school-age children, including pregnant and high-risk youth, concerning Fetal Alcohol Syndrome and Fetal Alcohol Effects, with priority given to programs that are part of a sequential, comprehensive school health education program; and

''(iv) increasing public and community awareness concerning Fetal Alcohol Syndrome and Fetal Alcohol Effects through culturally competent projects, programs, and campaigns, and improving the understanding of the general public and targeted groups concerning the most effective intervention methods to prevent fetal exposure to alcohol;

''(2) an applied epidemiologic research and prevention program to—

''(A) support and conduct research on the causes, mechanisms, diagnostic methods, treatment, and prevention of Fetal Alcohol Syndrome and Fetal Alcohol Effects;

''(B) provide technical and consultative assistance and training to States, Tribal governments, local governments, scientific and academic institutions, and nonprofit organizations engaged in the conduct of—

''(i) Fetal Alcohol Syndrome prevention and early intervention programs; and

''(ii) research relating to the causes, mechanisms, diagnosis methods, treatment, and prevention of Fetal Alcohol Syndrome and Fetal Alcohol Effects; and

''(C) award grants to, and enter into cooperative agreements and contracts with, States, Indian tribal governments, local governments, scientific and academic institutions, and nonprofit organizations for the purpose of—

''(i) conducting innovative demonstration and evaluation projects designed to determine effective strategies, including community-based prevention programs and multicultural education campaigns, for preventing and intervening in fetal exposure to alcohol;

''(ii) improving and coordinating the surveillance and ongoing assessment methods implemented by such entities and the Federal Government with respect to Fetal Alcohol Syndrome and Fetal Alcohol Effects;

''(iii) developing and evaluating effective age-appropriate and culturally competent prevention programs for children, adolescents, and adults identified as being at-risk of becoming chemically dependent on alcohol and associated with or developing Fetal Alcohol Syndrome and Fetal Alcohol Effects; and

''(iv) facilitating coordination and collaboration among Federal, State, local government, Indian tribal, and community-based Fetal Alcohol Syndrome prevention programs;

''(3) a basic research program to support and conduct basic research on services and effective prevention treatments and interventions for pregnant alcohol-dependent women and individuals with Fetal Alcohol Syndrome and Fetal Alcohol Effects;

''(4) a procedure for disseminating the Fetal Alcohol Syndrome and Fetal Alcohol Effects diagnostic criteria developed pursuant to section 705 of the ADAMHA Reorganization Act (42 U.S.C. 485n note) to health care providers, educators, social workers, child welfare workers, and other individuals; and

''(5) the establishment, in accordance with subsection (b), of an inter-agency task force on Fetal Alcohol Syndrome and Fetal Alcohol Effects to foster coordination among all Federal agencies that conduct or support Fetal Alcohol Syndrome and Fetal Alcohol Effects research, programs, and surveillance, and otherwise meet the general needs of populations actually or potentially impacted by Fetal Alcohol Syndrome and Fetal Alcohol Effects.

''(b) INTER-AGENCY TASK FORCE.—

''(1) MEMBERSHIP.—The Task Force established pursuant to paragraph (5) of subsection (a) shall—

''(A) be chaired by the Secretary or a designee of the Secretary; and

''(B) include representatives from all relevant agencies within the Department of Health and Human Services, including the Centers for Disease Control and Prevention, the National Institutes of Health, the Health Resources and Services Administration, the Substance Abuse and Mental Health Services Administration, and any other relevant agencies of the Department of Health and Human Services.

''(2) FUNCTIONS.—The Task Force shall—

''(A) coordinate all relevant programs and research concerning Fetal Alcohol Syndrome and Fetal Alcohol Effects, including programs that—

''(i) target individuals, families, and populations identified as being at risk of acquiring Fetal Alcohol Syndrome and Fetal Alcohol Effects; and

''(ii) provide health, education, treatment, and social services to infants, children, and adults with Fetal Alcohol Syndrome and Fetal Alcohol Effects;

''(B) coordinate its efforts with existing Department of Health and Human Services task forces on substance abuse prevention and maternal and child health; and

''(C) report on a biennial basis to the Secretary and relevant committees of Congress on the current and planned activities of the participating agencies, including a proposal for a Federal Interagency Task Force to include representatives from all relevant agencies and offices within the Department of Health and Human Services, the Department of Agriculture, the Department of Education, the Department of Defense, the Department of the Interior, the Department of Justice, the Department of Veterans Affairs, the Bureau of Alcohol, Tobacco and Firearms, the Federal Trade Commission, and any other relevant Federal agency.

''(c) SCIENTIFIC RESEARCH AND TRAINING.—The Director of the National Institute on Alcohol Abuse and Alcoholism, with the cooperation of members of the interagency task force established under subsection (b), shall establish a collaborative program to provide for the conduct and support of research, training, and dissemination of information to researchers, clinicians, health professionals and the public, with respect to the cause, prevention, diagnosis, and treatment of Fetal Alcohol Syndrome and the related condition know as Fetal Alcohol Effects.

''SEC. 399H. ELIGIBILITY.

''To be eligible to receive a grant, or enter into a cooperative agreement or contract under this part, an entity shall—

''(1) be a State, Indian tribal government, local government, scientific or academic institution, or nonprofit organization; and

''(2) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may prescribe, including a description of the activities that the entity intends to carry out using amounts received under this part.

''SEC. 399I. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this part, such sums as are necessary for each of the fiscal years 1998 through 2002.''.

AMENDMENT NO. 1102

(Purpose: To require that the Secretary of Education certify the use of funds appropriated to the Department of Education for students and teachers)

On page 61, after line 25, add the following:

SEC. . The Secretary of Education shall annually provide to the Committee on Labor and Human Resources and the Committee on Appropriations of the Senate and the Committee on Education and the Workforce and the Committee on Appropriations of the House of Representatives a certification that not less than 95 percent of the amount appropriated for a fiscal year for the activities of the Department of Education is being used directly for teachers and students. If the Secretary determines that less than 95 percent of such amount appropriated for a fiscal year is being used directly for teachers and students, the Secretary shall certify the percentage of such amount that is being directly used for teachers and students.

Mr. FAIRCLOTH. Mr. President, my amendment will directly help students and teachers in this country. It is an amendment that simply requires accountability of our spending at the Department of Education. This amendment will require the Secretary of Education to certify that 95 percent of the amount we appropriate in this bill goes directly to students and teachers. If the Secretary cannot certify that 95 percent of our spending directly benefits students and teachers, then the Secretary must certify what percentage is being spent.

Mr. President, the Department of Education will spend $31 billion in 1998. The Department is receiving an increase of nearly $3 billion in funding for 1998. No one is a stronger supporter of education than I am, but education has, and hopefully will be, a local issue. So I would hope that the role of a Federal Department of Education is to provide additional funds for students and teachers, not bureaucrats.

I think we need to fire bureaucrats, and feed teachers!

The Department will spend $400 million on management alone. My concern is the Department is rife with wasteful programs. For example, there is $4 million for the John F. Kennedy Center for Performing Arts. There is money for education of prisoners in Hawaii and money to study waste disposal in Hawaii. There is $15 million for education of juveniles in prison. More than $64 million will be spent on just research. These are just a few examples.

Most people think the Department is spending money on teachers and students alone. But we know this is not true. This amendment will for the first time require the Department of Education to tell the American people just how much is being spent by the Federal Government on teachers and students, not bureaucrats and wasteful programs.

Mr. CRAIG. Mr. President, I rise in support of the amendment spoken of by my colleague, Senator FAIRCLOTH. The Faircloth-Craig amendment would require that the Secretary of Education certify each year the percentage of Federal moneys used directly for teachers and students.

The point of the amendment is not the 95 percent figure—it is to draw attention to the vast amount of Federal waste inherent in the Department of Education. Much of what we spend on education each year is lost by Federal managers and bureaucrats.

Increased spending has done little to advance classroom instruction. Federal spending on education has increased 41 percent since 1989. Yet, per-pupil spending at the school level has increased only 34 percent. The rest has been siphoned off to support the enormous Federal bureaucracy.

This year's appropriations bill includes a significant increase in education—we don't know yet how much of it will ever see the inside of a classroom.

Mr. President, teachers in Idaho, and around the country, want to know where their money has gone. I believe we must, in a time of fiscal restraint, examine where each Federal dollar is spent and cut waste wherever it is found.

The Faircloth-Craig amendment is a sound first step in the right direction.

AMENDMENT NO. 1103

(Purpose: To require the Secretary of Education to conduct a study regarding the costs of the anticipated increase in enrollments of secondary school students during the period 1998 through 2008, and the creation of smaller class sizes for students enrolled in grades 1 through 3)

On page 61, after line 25, insert the following:

SEC. . (a) The Secretary of Education shall conduct a study that examines—

(1) the economic, educational, and societal costs of—

(A) the increase in enrollments of secondary school students during the period 1998 through 2008;

(B) the creation of smaller class sizes for students enrolled in grades 1 through 3; and

(C) the increase in enrollments described in subparagraph (A) in relation to the creation of smaller class sizes described in subparagraph (B); and

(2) the costs to States and local school districts for taking no action with respect to such increase in enrollments and smaller class sizes.

(b) The Secretary of Education shall report to Congress within 9 months of the date of enactment of this Act regarding the results of the study conducted under subsection (a). Such report shall include recommendations regarding what local school districts, States and the Federal Government can do to address the issue of the increase in enrollments of secondary school students and the need for smaller class sizes in grades 1 through 3.

Mr. FEINGOLD. Mr. President, I want to thank the distinguished managers of this bill for including language in the managers' amendment at my request. The amendment I intended to offer, which has been included in the managers' amendment, directs the Department of Education to conduct a study of the economic costs of addressing our Nation's burgeoning elementary and secondary student enrollment, projected to grow by over 2 million young people in the next decade, and the expected impact that this growth will have on student achievement. It directs the Department to estimate the costs to local school districts, States, and the Federal Government of the upcoming surge in enrollment, and to outline policy options for addressing this issue and make recommendations to resolve it. In estimating the costs and impact on students of increasing enrollment and making policy recommendations to address this problem, the study will also consider the costs and benefits of reducing class sizes in the earliest grades.

Mr. President, parents are increasingly interested in enrolling their young children in schools that place an emphasis on small class size and individualized attention from teachers. Cities and States across the country are developing programs to help schools meet this goal. California's statewide initiative to reduce all classes in grades K–3 to no more than 20 students is the most ambitious, but by no means the only example.

In my own State of Wisconsin, the Student Achievement Guarantee in Education, or SAGE, Program was developed several years ago to study the benefits of small class size in schools with high poverty rates. With student-teacher ratios of 15:1, the program is extremely popular with students, parents, teachers, and school administrators. Although is has only been implemented in a relatively small number of Wisconsin communities thus far, the reason for the program's widespread appeal is obvious—with fewer students in the classroom, teachers have more time and energy to devote to meeting children's particular needs and helping to spark their interest in learning in creative ways. This may seem like common sense, and it is—but now, we have science to back up what parents and teachers have known for years.

Research indicates that children who are placed in small classes—classes of 15 to 20 students—in the earliest years of elementary school achieve better academically than their peers in larger classes. These benefits are retained in later years of school, even if students are not kept in small classes for later grades. The leading scientific studies of the impact of small class size, Tennessee's STAR study and its follow-up, the Lasting Benefits Study, found that small class sizes in grades K–3 produce substantial improvements in learning which are sustained in later years, even if students are placed in larger classes for later grades.

Unfortunately, at the very time that States and localities are starting to apply the lessons learned in the Tennessee studies, many of our Nation's schools are on the brink of an explosion in student enrollment. According to a report released last month by Education Secretary Richard Riley, entitled ''A Back to School Special Report on the Baby Boom Echo: Here Come the Teenagers,'' there will be more elementary and secondary students in America this school year than there ever have been before. These increases will occur primarily among secondary school students; public high school enrollment is projected to increase by 13% in the next 10 years, while elementary school enrollment will increase only slightly. Total public and private school enrollment in the 1997–98 school year will rise to a record level of 52.2 million students, and it won't stop there. By the year 2007, total enrollment is expected to peak at 54.3 million students.

Mr. President, this is a problem that isn't going away. Unlike our past experience with the baby boom, when there was a sharp rise in student enrollment which eventually declined, the U.S. Bureau of the Census projects that the number of births will remain stable or even increase slightly in the next few decades. States and local school districts are going to have to develop strategies for accommodating and educating very large numbers of students. This is likely to be costly, and will require creative solutions and the balancing of priorities.

To some degree, this is a regional problem. Wisconsin, for example, along with many States in the Midwest, will actually experience small decreases in student population in the next decade. However, this will certainly not be the case in every community in my State, or in any of the States which are projected to experience decreases in student enrollment. Across the Nation, school districts are going to need to adapt to their larger student bodies, at the same time that many of them, rightly, will be investing in the creation of smaller classes for their early elementary students.

Mr. President, smaller class sizes are the wave of the future. Parents want them, students benefit from them, and schools are recognizing the need. I thank my colleagues, the Senators from Pennsylvania and Iowa, once again for accepting my amendment, which will lay out options for schools to consider as they plan for a future with smaller classes and larger enrollment.

AMENDMENT NO. 1104

(Purpose: To increase funding for the National Occupational Information Coordinating Committee, offset by reducing other national activities)

On page 3, line 3 strike ''$8,000,000'' and insert in lieu thereof: ''$10,000,000''.

AMENDMENT NO. 1105

(Purpose: To provide a disability return to work demonstration initiative)

On page 70, line 1, strike ''$16,160,300,000'' and insert in lieu thereof: ''$16,162,525,000''.

On page 70, before the period on line 4, insert the following: '':*Provided further,* That not less than $2,225,000 shall be available for conducting a disability return to work demonstration initiative, which focuses on providing persons who have lost limbs with an integrated program of prosthetic and rehabilitative care and job placement assistance''.

Mr. INHOFE. Mr. President, my amendment would provide $2,225,000 to establish a demonstration project to assist persons with disabilities due to the loss of a limb to return to work.

According to a 1996 GAO report on SSA disability programs, ''[r]eturn-to-work strategies and practices may hold the potential for improving federal disability programs by helping people with disabilities return to productive activity in the workplace and at the same time reduce program costs.''

The GAO report goes on to note that the three most important strategies to mainstream individuals back into the work force are: intervene as soon as possible; identify and provide necessary return-to-work assistance; and structure benefits to encourage people to return to work.

Using these GAO suggestions as a guide, I have attempted to address the medical, rehabilitative, and job training needs of individuals who have lost their limbs.

Experience has shown that for people who have lost limbs, access to appropriate medical rehabilitation can mean the difference between prolonged dependence and a successful return to the work place. Due to advancement in modern rehabilitation medicine, persons who experience limb loss can now routinely expect to attain high levels of independence and functionality.

Over the last several years, I have worked with Limbs for Life Foundation which provides financial help to amputees nationwide. As a result of my association with them, I have observed

that a significant percentage of people who lose limbs do not return to the work force and subsequently become dependent on Social Security's Supplemental Security Income [SSI] and Disability Insurance [DI] programs. A leading cause for this dependence has been the inability to gain access to appropriate rehabilitation care.

According to the Social Security Administration, less than half of 1 percent of Social Security beneficiaries return to work. Yet, they also estimate that as many as 3 out of 10 persons on disability may be good candidates for return to work but the system does not encourage it.

I believe this partial due to the Social Security Administration's process for determining disability which does not generally assess the individuals functional capacity to work, but rather presumes that certain medical conditions are in themselves sufficient to preclude work. However, the link between medical condition and work incapacity is weak. While there are certainly some medical impairments which prevent individuals from working, others factors such as vocational, psychological, economic, environmental, and motivational are often more important determinants of work capacity.

My proposed demonstration program will result in a better rate of return to work because it will provide people with the tools needed to successfully overcome many of the impediments which have traditionally held them back from main streaming into the work place.

Specifically, by providing appropriate prosthetic and rehabilitation services, followed by an intensive regimen of occupational therapy the demonstration program will prepare amputees to meet the physical demands of the work place. Practical assistance such as job training and job placement are also critical for successful main streaming and would be a part of the program.

Not only will we be helping people who want to work, but will more effectively spend our limited disability money. The Social Security Administration's estimates that lifetime cash benefits are reduced by $60,000 when an individual receiving Disability Insurance returns to work; $30,000 when an individual receiving Supplemental Security Income returns to work.

The Limbs for Life Foundation has estimated that they could provide services for 775 individuals with the proposed $2,225,000 demonstration program. Under their proposal, this money would be combined with the Foundation's own funds and services and result in a net savings of $9 million.

Mr. President, I believe this is a sound investment and I urge my colleagues to support my amendment.

AMENDMENT NO. 1106

(Purpose: Provide for additional Security Administration continuing disability reviews as authorized by cap adjustment legislation)

On page 71, line 23, strike ''$245,000,000'' and insert in lieu thereof: $290,000,000.

On page 71, line 25, after ''Public Law 104–121'' insert: '', section 10203 of Public Law 105–33,''.

AMENDMENT NO. 1107

(Purpose: Millennium 2000 Project)

On page 60, line 7, strike ''$338,964,000'' and insert in lieu thereof ''$340,064,000: *Provided*, That $1,000,000 shall be used for the Millennium 2000 project''.

On page 56, line 21, strike ''$8,557,741,000'' and insert in lieu thereof ''$8,556,641,000''.

Mr. WARNER. Mr. President, I rise to thank the managers of this legislation for including language offered by myself and Senator KENNEDY that will provide the Department of Education with $1.1 million to begin planning efforts for the Nation's celebration of the millennium. These funds were requested by the Department of Education and will be offset within the Department.

The Clinton administration recently established the White House Millennium Program to coordinate the Nation's efforts to celebrate the millennium. Having served as Administrator of the American Revolution Bicentennial Administration, I know the importance of advance planning and preparation for national events. While not comparable in historic significance to our bicentennial, the millennium is, nevertheless, an event many Americans will wish to recognize and to participate in. To the extent there is national governmental participation, it should be to focus on dignity and quality. These funds will be critical to that effort.

It is my hope that the White House Millennium Program will work closely with an organization I have been affiliated with for a number of years—the Millennium Society. This respected international organization has been in existence since 1979 and is devoted to organizing a global celebration of the millennium. Most importantly, the Millennium Society has focused much of its efforts on establishing and administering the Millennium Society Scholarship Program.

I would like to particularly recognize Cate Magennis Wyatt, a founder of the Millennium Society, who was instrumental in building the organization. Her dedication and hard work have focused international attention on this issue in a positive manner.

Over the past several years, along with much support from Senators DODD and STEVENS and others, I have worked closely with the firm of Alcalde & Fay and, in recent months, Tommy Boggs, a volunteer counselor. All of us have worked with one goal in mind—ensure that the millennium is celebrated in a proper and dignified manner. Providing adequate planning funds will help us achieve that goal.

AMENDMENT NO. 1108

(Purpose: Provide authority to use fees collected for provider requested audits to cover the cost of such audits)

On page 39, line 17, after the word ''expended'' insert: '', and together with administrative fees collected relative to Medicare overpayment recovery activities, which shall remain available until expended''.

AMENDMENT NO. 1109

(Purpose: To require that estimates of certain employer contributions be included in an individual's social security account statement)

On page 49, after line 26, add the following: SEC. . Subparagraphs (B) and (C) of section 1143(a)(2) of the Social Security Act (42 U.S.C. 1230b–13(a)(2)(B), (C)) are each amended by striking ''employee'' and inserting ''employer, employee,''.

AMENDMENT NO. 1110

(Purpose: Reduce unemployment insurance service administrative expenses to offset costs of administering a welfare-to-work jobs initiative)

On page 9, line 11, strike ''$3,292,476,000'' and insert in lieu thereof: ''$3,286,276,000''.

On page 10, line 18, strike ''$216,333,000'' and insert in lieu thereof: ''$210,133,000''.

On page 12, line 11, strike ''$84,308,000'' and insert in lieu thereof: ''$90,508,000''.

AMENDMENT NO. 1111

(Purpose: Provide start-up funding for the National Bi-partisan Commission on the Future of Medicare)

On page 39, line 21, after the word ''appropriation'' insert: '': *Provided further*, That $900,000 shall be for carrying out section 4021 of Public Law 105–33''.

On page 39, line 22, strike ''$55,000,000'' and insert in lieu thereof: ''$54,100,000''.

Mr. SPECTER. Mr. President, these amendments are offered but not to be accepted.

I have set forth the purpose of the amendments in my introductory statement.

Mr. HARKIN. Mr. President, following the lead of our distinguished chairman, my colleague from Pennsylvania, we have a number of amendments. Some of them have been cleared on both sides.

AMENDMENT NO. 1112

(Purpose: To increase funds for education infrastructure)

Mr. HARKIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Iowa [Mr. HARKIN] proposes an amendment numbered 1112.

Mr. HARKIN. 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 56, line 22, before the period, insert the following: '': *Provided further*, That $60,000,000 shall be for education infrastructure authorized under Title XII of the Elementary and Secondary Education Act to be derived from unobligated balances''.

Mr. HARKIN. This amendment has been cleared on both sides.

Mr. SPECTER. Mr. President, I accept the representation of my colleague.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 1112) was agreed to.

AMENDMENT NO. 1113

(Purpose: To expand efforts to combat Medicare waste, fraud, and abuse)

Mr. HARKIN. Mr. President I have another amendment to send to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Iowa [Mr. HARKIN] proposes an amendment numbered 1113.

Mr. HARKIN. 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 39, at the end of line 25 before the period, insert the following: '': *Provided further,* That no less than $50,000,000 appropriated under this heading in fiscal year 1997 shall be obligated in fiscal year 1997 to increase Medicare provider audits and implement the Department's corrective action plan to the Chief Financial Officer's audit of the Health Care Financing Administration's oversight of Medicare''.

Mr. HARKIN. Mr. President, for many years, I have worked to identify and eliminate fraud, waste, and abuse in the Medicare Program. Senator SPECTER and I have held hearing after hearing and released report after report through our subcommittee. And along the way, we have had some successes. We've stopped a number of scams and ripoffs and we've forced Medicare to reduce excessive prices for a number of devices. These actions have saved Medicare and taxpayers over $1 billion. However, the problem continues to grow. Much more needs to be done.

Several years ago, the General Accounting Office testified before our Appropriations Subcommittee that, based on their analysis, Medicare was losing up to 10 percent of its expenditures, or $16 billion to fraud, waste, and abuse. However, on July 17, HHS Inspector General June Gibbs Brown released a major new report that indicated that the problem was even worse. It was the first national audit of a statistically significant sample of Medicare claims for payment errors. This chief financial officer [CFO] audit found that up to 14 percent of Medicare payments in 1996 were made inappropriately. That's up to $24 billion in 1 year alone.

And this was not a flimsy study. It was detailed and in-depth; 5,300 claims of all types—physician and hospital services, home health care, lab tests—were thoroughly audited. Patient medical records were reviewed and providers and beneficiaries were interviewed. Fully one third of all the claims were found to contain mispayments—all or a portion of the claims should not have been paid.

Some 46 percent of the mispayments were for claims that had either inadequate or no documentation to justify their need; 36 percent of the payment errors involved services that upon review were found not medically necessary. For example, Medicare was charged for x rays on both knees for one patient, when the patient only had problems with one knee. And 8 percent of the payment errors were due to improper billing codes used by health care providers. For example, a physician billed for one office procedure when upon review of the medical records it was found another less expensive procedure was actually performed.

This report is a devastating indictment of the administration of Medicare. And if it goes unaddressed, Medicare will lose as much money over the next 5 years to fraud, waste, and abuse as was cut by the balanced budget act we just passed. That is simply unacceptable.

Making sure that doesn't happen should be at the top of the priority list for the Department of Health and Human Services and this administration. I am afraid, however, that this may not be the case.

The Department has drafted a corrective action plan that, if fully implemented, would take some important steps to addressing the problems identified in the CFO audit. My understanding is that it calls for a 10-percent increase in medical reviews, a 20-percent increase in prepayment review of hospital claims, a 20-percent increase in post-payment review of physician claims, and increases in provider education, expanded audits of home health agencies and nursing, and other improvements.

These are important improvements, but they are woefully inadequate. We need to at least double the number of audits Medicare is conducting. Right now, only about 3 percent of claims are reviewed and only 3 of every 1,000 providers receive a comprehensive audit in any year. That needs to change. And this amendment would help Medicare meet this need.

I send an amendment to the desk for myself and Senator GRAHAM of Florida, who has been tireless in the fight against Medicare fraud, and ask for its immediate consideration.

This amendment would direct the Department of Health and Human Services to obligate no less than an addition $50 million this fiscal year to increase Medicare audits and to comply with its correction action plan developed in response to the CFO audit.

Mr. President, there is about $53 million in the Medicare contractor account for fiscal year 1997 that will likely go unspent. This is due to problems the Department has encountered in the administration of its Medicare transaction system [MTS] initiative. Rather than seeing this money lapse or be rushed inefficiently into a last minute contract, our amendment would assure that this money is well spent to address a pressing problem. It would be easy for the Department to implement because it would simply obligate it to existing contractors to expand the number of audits and reviews that they undertake—it will simply, in effect, increase a current work order.

Mr. President, it would be unconscionable for the Department to let these funds lapse when they know how inadequate their current efforts and resources are to combat Medicare fraud, waste, and abuse. This is not time for bureaucratic business as usual. We need to take bold action to begin to turn the tide against these losses. Our amendment is a simple, commonsense step that would have a significant impact.

If properly implemented, it would more than double the percentage of problem providers receiving comprehensive audits. This would save Medicare and taxpayers many times over its costs.

I understand the amendment has been cleared on both sides. I urge its adoption.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 1113) was agreed to.

AMENDMENT NO. 1114

(Purpose: To amend the Immigration and Nationality Act to authorize appropriations for refugee and entrant assistance for fiscal years 1998 and 1999)

Mr. HARKIN. Mr. President, I offer an amendment on behalf of Senator GRAHAM, who is proposing this on behalf of Senators KENNEDY and ABRAHAM. I also lend my support to the measure. I understand it also has been accepted by both sides. This has to do with immigration.

Mr. SPECTER. That amendment has been cleared on both sides.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN] for Mr. GRAHAM, for himself, Mr. KENNEDY and Mr. ABRAHAM, proposes amendment numbered 1114.

Mr. HARKIN. 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 49, after line 26, insert the following:

SEC. . That Section 414(a) of the Immigration and Nationality Act (8 U.S.C. 1524(a)) is amended by striking ''fiscal year 1995, fiscal year 1996, and fiscal year 1997'' and inserting ''each of fiscal years 1998, and 1999''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect October 1, 1997.

Mr. HARKIN. The United States has for years been a leader in refugee protection. Since 1975, over 2 million refugees have resettled in the United States. The Refugee Act is the core of U.S. refugee policy. This act sets out the criteria for persons to be designated as refugees. In addition, the

Refugee Act allows the Department of Health and Human Services to run several important programs to assist refugees in adjusting to their new life in the United States. These programs include the Refugee Assistance Program, which provides assistance to refugees to help them become self-sufficient in the shortest time possible, social services programs which provide funding to States to support English language classes and employment training for refugees. Refugees receiving cash and medical assistance under this program are required to be enrolled in employment services and accept employment offers.

Furthermore, the Refugee Act allows HHS to provide overseas medical screening of refugees before they enter the United States. Also, it provides targeted assistance to States and counties with high refugee populations. For instance, in 1996, Polk County IA received $160,500 in targeted assistance. HHS also provides a matching grant to voluntary agencies which take responsibility for resetting refugees and ensuring they become self-sufficient. In Iowa, the Refugee Act allowed HHS to provide a targeted assistance award of almost $50,000 to the State and Lutheran Social Services for a program which helps former political prisoners achieve economic independence.

Mr. GRAHAM. Mr. President, I am very pleased today to be working with Senators KENNEDY, ABRAHAM, and HARKIN in their efforts to reauthorize the Refugee Act of 1980.

Through the Office of the U.S. Coordinator for Refugee Affairs, we are better able to develop a comprehensive national strategy to help our State and local governments assimilate the individuals that have fled persecution, injustice, and war.

The Federal Government has welcomed these individuals to our shores. Our local governments welcome them to their communities—and through the programs of the Office of Refugee Resettlement, we make sure that they acquire the skills needed to adjust to our society and become self-sufficient, productive members of society, as soon as possible.

More than 17,000 refugees and entrants arrived in Florida in fiscal year 1996. In fiscal year 1995, this number was higher than 36,000. Between 1992 and 1996, more than 70,000 refugees and entrants settled in Dade County. Without the programs of the Office of Refugee Resettlement, this influx would be a tremendous financial burden on State and local governments.

The arrival of refugees and entrants is a Federal decision; these costs should not be shifted to State and local taxpayers.

By reauthorizing the Refugee Act of 1980, we can continue to offer protection from those fleeing persecution—and make sure that we are addressing the needs of these vulnerable members of our society in a humane, just, comprehensive, and cost-effective manner.

Senator KENNEDY is to be commended on his leadership on this issue. I am proud to work with him and our Senate colleagues to ensure the passage of this measure.

Mr. KENNEDY. Mr. President, Senator GRAHAM has introduced, on behalf of Senator ABRAHAM and me, a 2-year extension of the Refugee Act. That act is the core of U.S. refugee policy. It sets the criteria under which persons can be designated as refugees and provides funds for refugee resettlement. Last year, the United States admitted more than 75,000 refugees under the Refugee Act's criteria.

In addition to determining who qualifies as a refugee, the Refugee Act allows the Department of Health and Human Services, through the Office of Refugee Resettlement [ORR], to provide services to refugees resettled in the United States. For example, ORR provides job training and employment assistance to new refugees to help them become economically self-sufficient. ORR helps States provide English language classes, preventive health services, and cash assistance to new refugees to help them get on their feet in the United States. Refugees often arrive here terrified and with few possessions. Most have fled persecution in their home countries and left virtually all their possessions behind. These programs make a refugee's assimilation into the United States a little easier.

In addition to providing assistance directly to refugees, the Refugee Act makes funds available to the Public Health Service to provide overseas medical screening for U.S.-bound refugees for the protection of public health against contagious diseases. ORR also provides targeted assistance to States and counties with large refugee populations and has matching grant programs for voluntary agencies to assist States in refugee resettlement. For example, the Boston Tech Center in Massachusetts received $250,000 in discretionary targeted assistance to give refugees short-term skills training and teach basic English and math. The International Rescue Committee in Boston received funds under the Refugee Act to provide a youth program for newly arrived Somali children.

The Refugee Act is the heart of our refugee law and policy. If it is not reauthorized, the United States will send a signal worldwide that refugees are no longer welcome here. We cannot let that happen. The act deserves to be extended and I urge the Senate to approve this amendment.

The PRESIDING OFFICER. Without objection the amendment is agreed to.

The amendment (No. 1114) was agreed to.

AMENDMENTS NOS. 1087, 1088, 1089

Mr. HARKIN. Now, Mr. President, I have three amendments on behalf of Mr. WELLSTONE which I am resubmitting for him.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN], for Mr. WELLSTONE, proposes amendments numbered 1087, 1088, 1089.

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

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

Mr. HARKIN. Mr. President, I further ask, in accordance with the procedures set forth by the chairman, they be set aside.

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

AMENDMENT NO. 1115

(Purpose: To authorize the National Assessment Governing Board to develop policy for voluntary national tests in reading and mathematics)

Mr. HARKIN. Mr. President, I have an amendment for myself and Mr. BINGAMAN and Mr. KENNEDY regarding school testing. This has not been agreed to either.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN], for himself, Mr. BINGAMAN, and Mr. KENNEDY, proposes amendment 1115.

Mr. HARKIN. 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. . (a) Notwithstanding any other provision of law, the National Assessment Governing Board established under section 412 of the National Education Statistics Act of 1994 (20 U.S.C. 9011), using funds appropriated under section 413(c) of that Act (20 U.S.C. 9012(c)), shall formulate policy guidelines for voluntary national tests of reading or mathematics for which the Secretary of Education uses funds appropriated to the Department of Education.

(b) In carrying out subsection (a), the National Assessment Governing Board shall—

(1) develop test objectives and specifications; test methodology; guidelines for test administration, including guidelines for inclusion of, and accommodations for, students with disabilities and students with limited English proficiency; guidelines for reporting test results, including the use of performance levels; and guidelines for test use;

(2) have final authority over the appropriateness of cognitive items; and

(3) ensure that all items selected for use on the test are free from racial, cultural, or gender bias.

Mr. BINGAMAN. Mr. President, I would like to express my strong support for the amendment being offered by Senator HARKIN.

As I have said on the floor a number of times today and in the past, we must not delay the time when every parent and teacher really knows how each child is doing academically.

For that reason, I am proud to cosponsor the amendment, which transfers oversight over the new tests to the independent and bipartisan National Assessment Governing Board.

This is an approach that I, having long worked with this Board through

my participation on the National Education Goals Panel, believe will ensure that the new tests are fair, and independent of political influence.

Mr. HARKIN. Again, in accordance with the procedure, I ask the amendment be temporarily set aside.

The PRESIDING OFFICER. Without objection, the amendment will be set aside.

AMENDMENT NO. 1116

(Purpose: To express the sense of the Senate regarding Federal Pell Grants and a child literacy initiative)

Mr. HARKIN. Mr. President, I have another amendment I send to the desk on behalf of Senator DASCHLE and Senator KENNEDY.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN], for Mr. DASCHLE, for himself and Mr. KENNEDY, proposes an amendment numbered 1116.

Mr. HARKIN. 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 61, after line 25, insert the following:

SEC. . (a) The Senate finds that—

(1) Federal Pell Grants are a crucial source of college aid for low- and middle-income students;

(2) in addition to the increase in the maximum Federal Pell Grant from $2,700 to $3,000, which will increase aid to more than 3,600,000 low- and middle-income students, our Nation should provide an additional $700,000,000 to help more than 250,000 independent and dependent students obtain crucial aid in order to help the students obtain the education, training, or retraining the students need to obtain good jobs;

(3) our Nation needs to help children learn to read well in fiscal year 1998, as 40 percent of the Nation's young children cannot read at the basic level; and

(4) the Bipartisan Budget Agreement includes a total funding level for fiscal year 1998 of $7,600,000,000 for Federal Pell Grants, and of $260,000,000 for a child literacy initiative.

(b) It is the sense of the Senate that the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1998, should—

(1) provide $700,000,000 to fund the change in the needs analysis for Federal Pell Grants for independent and for dependent students;

(2) add $260,000,000 in fiscal year 1998 for a child literacy initiative; and

(3) pay for the increase in the Federal Pell Grant funding and the child literacy initiative from funds that are available for fiscal year 1998 and not yet appropriated.

Mr. HARKIN. Again, I also ask it be temporarily set aside.

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

AMENDMENT NO. 1094

(Purpose: To provide for the conduct of a study concerning the health and safety effects of perchlorate on human beings)

Mr. HARKIN. Mr. President, I request we call up the Reid amendment, No. 1094.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN], for Mr. REID, for himself and Mrs. BOXER, proposes an amendment numbered 1094.

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

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

Mr. HARKIN. Mr. President, I ask to vitiate the yeas and nays.

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

AMENDMENT NO. 1094, AS MODIFIED

(Purpose: To provide for the conduct of a study concerning the health and safety effects of perchlorate on human beings)

Mr. HARKIN. Mr. President, I send a modification to the amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN], for Mr. REID, for himself and Mrs. BOXER, proposes an amendment numbered 1094, as modified.

Mr. HARKIN. 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 49, after line 26, add the following:

SEC. . (a) STUDY.—From amounts appropriated under this title, the Secretary should conduct a study on the health effects of perchlorate on humans with particular emphasis on the health risks to vulnerable subpopulations including pregnant women, children, and the elderly.

(b) REPORT.—Not later than 9 months after the date of enactment of this Act, and annually thereafter, the National Institutes of Health should prepare and submit to the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives, a report concerning the results of the study conducted under subsection (a), including whether further health effects research is necessary.

Mr. HARKIN. Mr. President, I understand that amendment has been agreed to.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 1094) as modified, was agreed to.

Mr. HARKIN. Yes, as modified it was agreed to. That was the modification I sent to the desk.

The PRESIDING OFFICER. The Senator is correct and that is the Chair's understanding.

Mr. HARKIN. I yield the floor.

The PRESIDING OFFICER. The Senator from Kentucky.

AMENDMENT NO. 1078

(Purpose: To repeal the tobacco industry settlement credit contained in the Balanced Budget Act of 1997 as amended)

Mr. FORD. Mr. President, I think it is in order that I ask for the regular order on amendment No. 1078.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Illinois [Mr. DURBIN], for himself and Ms. COLLINS, proposes an amendment numbered 1078.

Mr. FORD. 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. . REPEAL OF TOBACCO INDUSTRY SETTLEMENT CREDIT.—Subsection (k) of section 9302 of the Balanced Budget Act of 1997, as added by section 1604(f)(3) of the Taxpayer Relief Act of 1997, is repealed.

AMENDMENT NO. 1117 TO AMENDMENT NO. 1078

Mr. FORD. Mr. President, I send an amendment in the second degree.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. FORD] for himself, Mr. FAIRCLOTH, Mr. MCCONNELL, Mr. HELMS, Mr. ROBB, and Mr. HOLLINGS, proposes an amendment numbered 1117 to amendment No. 1078.

Mr. FORD. 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 matter proposed to be inserted, add the following new section:

"SEC. . SENSE OF THE SENATE ON COMPENSATION FOR TOBACCO GROWERS AS PART OF LEGISLATION ON THE NATIONAL TOBACCO SETTLEMENT.

''(a) FINDINGS.—

''(1) On June 20, 1997, representatives of tobacco manufacturers, public health organizations, and Attorneys General from a majority of the States announced that an agreement had been reached on a national tobacco settlement;

''(2) The national tobacco settlement was intended to provide a comprehensive framework for dealing with several issues relevant to the tobacco industry, including youth smoking prevention, legal liabilities, and the sales and marketing practices of the industry;

''(3) Implementation of the national tobacco settlement requires the enactment of federal legislation by the Congress and the President;

''(4) There are more than 125,000 farms in the United States which derive a substantial portion of their income from the cultivation and sale of tobacco;

''(5) Representatives of tobacco growers were completely excluded from the negotiations on the national tobacco settlement, and were poorly informed, or not informed at all, of any details of the settlement negotiations by any participants in those negotiations;

''(6) The national tobacco settlement includes compensation for several adversely affected groups, including NASCAR, rodeo, and other event sponsors, but includes absolutely no compensation whatsoever or other provisions relating to the impact of the settlement on tobacco growers;

''(7) No other group has their livelihoods affected by the national tobacco settlement as adversely as tobacco growers;

''(8) The local economies of tobacco growing communities will be adversely affected by implementation of the national tobacco settlement;

''(9) The national tobacco settlement contemplates $368.5 billion in payments from tobacco manufacturers over the next 25 years, and not all of this amount has been specifically earmarked by the agreement; and

''(10) The federal tobacco program was designed to operate at no net cost to the federal taxpayer, the national tobacco settlement does not contemplate any changes to the operation of this program, and even many critics of the national tobacco settlement, including representatives from the public health community, have expressed support for the continued operation of a federal tobacco program which operates at no net cost to taxpayers.

''(b) SENSE OF THE SENATE.—It is the Sense of the Senate that—

''(1) Tobacco growers should be fairly compensated as part of any federal legislation for the adverse impact which will follow from the enactment of the national tobacco settlement;

''(2) Tobacco growing communities should be provided sufficient resources to adequately adjust to the impact on their local economies which will result from the enactment of the national tobacco settlement;

''(3) Any compensation provided to tobacco growers and tobacco growing communities as part of federal legislation to implement the national tobacco settlement should be included within the $368.5 billion in payments which are to be provided over the next 25 years; and

''(4) No provisions should be included in any federal legislation to implement the national tobacco settlement which would restrict or adversely affect the continued administration of a viable federal tobacco program which operates at no net cost to the taxpayer.''

Mr. FORD. It will be perfectly all right to have this set aside, Mr. President. What I wish to do is have a sense of the Senate in the second degree to the amendment of the Senator from Illinois [Mr. DURBIN], as it relates to the tobacco tax. What my amendment does is outlines the parameters on which, I hope, if any agreement is reached as it relates to attorneys general and the Congress and the tobacco manufacturers, that my farmers will be taken care of. This is basically a sense of the Senate that they do that.

I ask unanimous consent now the amendment be set aside.

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

The Senator from Washington.

AMENDMENTS NOS. 1118 AND 1119

Mrs. MURRAY. Mr. President, I ask unanimous consent to set aside the pending amendment and I send two amendments to the desk.

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

Mrs. MURRAY. Mr. President, I ask unanimous consent to send two amendments to the desk, one on behalf of myself and Senator WELLSTONE regarding family violence option under the temporary assistance to needy families program and another regarding funding for the National Institute for Literacy.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Washington [Mrs. MURRAY] proposes amendments numbered 1118 and 1119.

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

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

The amendments are as follows:

AMENDMENT NO. 1118

(Purpose: To clarify the family violence option under the temporary assistance to needy families program)

On page 49, after line 26, add the following:

SEC. . PROTECTING VICTIMS OF FAMILY VIOLENCE.

(a) FINDINGS.—Congress finds that—

(1) the intent of Congress in amending part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) in section 103(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat 2112) was to allow States to take into account the effects of the epidemic of domestic violence in establishing their welfare programs, by giving States the flexibility to grant individual, temporary waivers for good cause to victims of domestic violence who meet the criteria set forth in section 402(a)(7)(B) of the Social Security Act (42 U.S.C. 602(a)(7)(B));

(2) the allowance of waivers under such sections was not intended to be limited by other, separate, and independent provisions of part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.);

(3) under section 402(a)(7)(A)(iii) of such Act (42 U.S.C. 602(a)(7)(A)(iii)), requirements under the temporary assistance for needy families program under part A of title IV of such Act may, for good cause, be waived for so long as necessary; and

(4) good cause waivers granted pursuant to section 402(a)(7)(A)(iii) of such Act (42 U.S.C. 602(a)(7)(A)(iii)) are intended to be temporary and directed only at particular program requirements when needed on an individual case-by-case basis, and are intended to facilitate the ability of victims of domestic violence to move forward and meet program requirements when safe and feasible without interference by domestic violence.

(b) CLARIFICATION OF WAIVER PROVISIONS.—

(1) IN GENERAL.—Section 402(a)(7) of the Social Security Act (42 U.S.C. 602(a)(7)) is amended by adding at the end the following:

''(C) NO NUMERICAL LIMITS.—In implementing this paragraph, a State shall not be subject to any numerical limitation in the granting of good cause waivers under subparagraph (A)(iii).

''(D) WAIVERED INDIVIDUALS NOT INCLUDED FOR PURPOSES OF CERTAIN OTHER PROVISIONS OF THIS PART.—Any individual to whom a good cause waiver of compliance with this Act has been granted in accordance with subparagraph (A)(iii) shall not be included for purposes of determining a State's compliance with the participation rate requirements set forth in section 407, for purposes of applying the limitation described in section 408(a)(7)(C)(ii), or for purposes of determining whether to impose a penalty under paragraph (3), (5), or (9) of section 409(a).''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) takes effect as if it had been included in the enactment of section 103(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2112).

(c) FEDERAL PARENT LOCATOR SERVICE.—

(1) IN GENERAL.—Section 453 of the Social Security Act (42 U.S.C. 653), as amended by section 5534 of the Balanced Budget Act of 1997 (Public law 105–33; 111 Stat. 627), is amended—

(A) in subsection (b)(2)—

(i) in the matter preceding subparagraph (A), by inserting ''or that the health, safety, or liberty or a parent or child would by unreasonably put at risk by the disclosure of such information,'' before ''provided that'';

(ii) in subparagraph (A), by inserting '', that the health, safety, or liberty or a parent or child would by unreasonably put at risk by the disclosure of such information,'' before ''and that information;'' and

(iii) in subparagraph (B)(i), by striking ''be harmful to the parent or the child'' and inserting ''place the health, safety, or liberty of a parent or child unreasonably at risk''; and

(B) in subsection (c)(2), by inserting '', or to serve as the initiating court in an action to seek and order,'' before ''against a noncustodial''.

(2) STATE PLAN.—Section 545(26) of the Social Security Act (42 U.S.C. 654), as amended by section 5552 of the Balanced Budget Act of 1997 (Public Law 105–33; 111 Stat. 635), is amended—

(A) in subparagraph (C), by striking ''result in physical or emotional harm to the party or the child'' and inserting ''place the health, safety, or liberty of a parent or child unreasonable at risk'';

(B) in subparagraph (D), by striking ''of domestic violence or child abuse against a party or the child and that the disclosure of such information could be harmful to the party or the child'' and inserting ''that the health, safety, or liberty of a parent or child would be unreasonably put at risk by the disclosure of such information''; and

(C) in subparagraph (E), by striking ''of domestic violence'' and all that follows through the semicolon and inserting ''that the health, safety, or liberty of a parent or child would be unreasonably put at risk by the disclosure of such information pursuant to section 453(b)(2), the court shall determine whether disclosure to any other person or persons of information received from the Secretary could place the health, safety, or liberty of a parent or child unreasonably at risk (if the court determines that disclosure to any other person could be harmful, the court and its agents shall not make any such disclosure);''.

(3) EFFECTIVE DATE.—The amendments made by this section shall take effect 1 day after the effective date described in section 5557(a) of the Balanced Budget Act of 1997 (Public Law 105–33).

AMENDMENT NO. 1119

(Purpose: To provide funding for the National Institute for Literacy)

On page 55, line 26, strike ''$1,486,698,000'' and insert ''$1,487,698,000''.

On page 56, line 3, strike ''$4,491,000'' and insert ''$5,491,000''.

On page 56, line 1, strike ''$1,483,598,000'' and insert ''$1,484,598,000''.

On page 56, line 5, after Sec. 384(c) insert the following: ''which shall be derived from unobligated . . .''

Mrs. MURRAY. I ask unanimous consent that these amendments be set aside for consideration at a later point.

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

The Senator from Kentucky.

Mr. FORD. Mr. President, I ask unanimous consent, on the sense-of-the-Senate amendment that I just sent to the desk, that the cosponsors be Senator HOLLINGS, Senator ROBB, Senator HELMS, Senator MCCONNELL and Senator FAIRCLOTH.

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

AMENDMENT NO. 1120

(Purpose: To award a grant to a State educational agency to help pay the expenses associated with exchanging State school trust lands within the boundaries of a national monument for Federal lands outside the boundaries of the monument)

Mr. HARKIN. Mr. President, I have an amendment I send to the desk on behalf of Senator BENNETT.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN], for Mr. BENNETT, proposes an amendment numbered 1120.

Mr. HARKIN. 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 53, line 16, after ''Act'' insert '': *Provided further,* That—

''(1) of the amount appropriated under this heading and notwithstanding any other provision of law, the Secretary of Education may award $1,000,000 to a State educational agency (as defined in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801)) to pay for appraisals, resource studies, and other expenses associated with the exchange of State school trust lands within the boundaries of a national monument for Federal lands outside the boundaries of the monument; and

''(2) the State educational agency is eligible to receive a grant under paragraph (1) only if the agency serves a State that—

''(A) has a national monument declared within the State under the authority of the Act entitled ''An Act for the preservation of American antiquities'', approved June 8, 1906 (16 U.S.C. 431 et seq.) (commonly known as the Antiquities Act of 1906) that incorporates more than 100,000 acres of State school trust lands within the boundaries of the national monument; and

''(B) ranks in the lowest 25 percent of all States when comparing the average per pupil expenditure (as defined in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801)) in the State to the average per pupil expenditure for each State in the United States.''.

Mr. HARKIN. Mr. President, I ask the amendment be temporarily set aside.

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

The Senator from North Carolina.

Mr. HELMS. Mr. President, I ask unanimous consent that, as in morning business, I be allowed no more than 7 minutes.

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

REGARDING ELECTIONS FOR THE LEGISLATURE OF THE HONG KONG SPECIAL ADMINISTRATIVE REGION

Mr. HELMS. Mr. President, I send a resolution to the desk and I ask it be read in its entirety.

The PRESIDING OFFICER. The clerk will state the concurrent resolution.

The legislative clerk read as follows:

S. CON. RES. 51

Whereas the 1984 Sino-British Joint Declaration on Hong Kong guarantees Hong Kong a high degree autonomy in all matters except defense and foreign affairs, and an elected legislature;

Whereas the United States policy regarding Hong Kong, as stated in the United States-Hong Kong Policy Act of 1992 (Public Law 102–383), is based on the autonomy and self-governance of Hong Kong by the Hong Kong people;

Whereas a democratically elected legislature enabling the Hong Kong people to elect representatives of their choice is essential to the autonomy and self-governance of Hong Kong;

Whereas the provisional legislature of Hong Kong was selected through an undemocratic process controlled by the People's Republic of China;

Whereas this provisional legislature has adopted rules for the creation of the first legislature of the Hong Kong Special Administrative Region which rules are designed to disadvantage and reduce the number of prodemocracy politicians in the legislature; and

Whereas the autonomy of Hong Kong cannot exist without a legislature that is elected freely and fairly according to rules approved by the Hong Kong people or their democratically elected representatives; Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress urges Hong Kong Chief Executive C.H. Tung and the government of the Hong Kong Special Administrative Region to schedule and conduct elections for the first legislature of the Hong Kong Special Administrative Region according to rules approved by the Hong Kong people through an election-law convention, referendum, or both.

The PRESIDING OFFICER. The resolution will be appropriately referred.

The Senator from North Carolina.

Mr. HELMS. Mr. President, as I offered this resolution just now regarding Hong Kong, it occurred to me that it is a coincidence that Hong Kong's Chief Executive, the Honorable C.H. Tung, is visiting in the United States this week.

I confess the hope that he will get the message everywhere he goes on Capitol Hill, and everywhere else in Washington, that the provisional legislature's attacks on civil liberties, which Mr. Tung has defended, along with a new plan for an undemocratic legislature for Hong Kong, are totally unacceptable.

Incidentally, Mr. President, I am grateful to the several cosponsors who are joining in the offering of this resolution: Mr. LIEBERMAN, Mr. KERRY of Massachusetts, Mr. THOMAS, and Mr. MACK of Florida.

Last July 1, when Hong Kong was returned to China, in accordance with the terms of the 1984 Sino-British Joint Declaration, the joint declaration made absolutely clear that Hong Kong was to be autonomous and have an elected legislature, among many other things.

But, Mr. President, in the past few weeks, new rules for Hong Kong elections have been prepared that clearly violate the joint declaration and threaten to cause irreparable damage to Hong Kong's autonomy. New rules being prepared by the provisional legislature—a body that itself is a violation of the joint declaration because it is unelected, and this provisional legislature, it will be remembered, is the body chosen last December in a process tightly controlled by Beijing. Though the people of Hong Kong had no say whatsoever, yet, it is this very provisional legislature that is writing the rules for Hong Kong's elections.

Mr. President, this provisional legislature is now planning to adopt election rules for a new body comprising 40 totally undemocratic seats. Thirty of these seats will be ''functional constituency'' seats, as they have been described. The functional constituencies allow small numbers of trade, professional and other groups to choose a representative. In many cases, these functional constituencies are tiny—about 1,000 members.

Britain introduced this system during its colonial rule, and it was a mistake. Britain's last governor, Chris Patten, attempted to improve upon the system by adding new, larger constituencies. Reportedly, even these broader functional constituencies will be slashed, drastically reduced in terms of the number of voters. The functional constituencies belong, as the Wall Street Journal stated, ''on the ash heap of history.'' Ten more seats will be chosen by an election committee comprised of pro-Beijing groups.

Finally, the real motives of the provisional legislature can be discerned in their treatment of the 20 democratically elected seats. These seats will be chosen according to a proportional representation scheme expressly designed to reduce the number of prodemocracy candidates in the legislature.

Mr. President, this is by no means inadvertent. It is deliberate. It is a deliberate attempt to reduce the influence of the most popular and ardently prodemocracy candidates and parties.

The resolution just offered urges C. H. Tung and the Government of Hong Kong to schedule and conduct elections for the first legislature of the Hong Kong Special Administrative Region according to the rules approved by the Hong Kong people through an election law convention, referendum, or both.

If the United States is to have a relationship with an autonomous Hong Kong, Hong Kong must have the democratically elected legislature it was promised—it was promised, Mr. President—in the joint declaration. The provisional legislature, which the United States has rejected as illegitimate and unjustified, is simply not intended to produce a legitimate electoral law.

Mr. President, I yield the floor, and I yield back such time as I may have.

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1998

The Senate continued with the consideration of the bill.

Mr. HARKIN. Mr. President, I want Senators to know that under the unanimous-consent agreement entered into last week, all amendments to this pending bill, Labor, Health and Human Services appropriations bill, have to be in by the close of business today, and business is about to be closed. So if Senators have amendments, I suggest they get them in in a hurry or forever

be precluded from offering them this year to this bill.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

AMENDMENT NO. 1058

(Purpose: To exclude distilled spirits from certain hazardous materials regulation)

Mr. FORD. Mr. President, I call up amendment No. 1058.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. FORD] proposes an amendment numbered 1058.

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

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

The amendment is as follows:

At the appropriate place, insert the following:

SEC. . No funds made available under this Act may be used to enforce section 304(a) of the Clean Air Act Amendments of 1990 (29 U.S.C. 655 note; Public Law 101–549) with respect to distilled spirits (as defined in section 5002(a) of the Internal Revenue Code of 1986 or section 117(a) of the Federal Alcohol Administration Act (27 U.S.C. 211(a))).''.

Mr. FORD. Mr. President, I say to my colleagues, last week when I filed this amendment regarding the application of the process of safety management to distilleries, I started working with the Labor Department and particularly the OSHA division of the Department of Labor.

When PSM regulations were developed as part of the 1990 Clean Air Act amendments, however, I don't believe these regulations were meant to apply to the distilled spirits industry. Clearly, OSHA disagrees with my position, but after discussing the issue with OSHA and Labor Department officials, I have decided to withdraw my amendment.

I want to clearly thank Secretary of Labor Herman for her leadership—and she exercised it very well—in finding a way to resolve this issue. So, under the compromise we have reached today, the Secretary has agreed to make a review of the PSM's as it relates to distilleries, a key part of OSHA's revision of the PSM contract. During the review, OSHA has agreed not to cite the industry under this standard.

I also want to commend the distilled spirits industry, whose exemplary record on safety helped make this compromise possible. It is my hope that OSHA and the industry will put this temporary suspension to good use by working together to determine the extent to which PSM should apply to this industry.

So, Mr. President, I ask unanimous consent that my amendment be withdrawn.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

The amendment (No. 1058) was withdrawn.

Mr. FORD. I thank the Chair and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. FORD. 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. 1121

(Purpose: To exempt States that were overpaid mandatory funds for fiscal year 1997 under the general entitlement formula for child care funding from any payment adjustment)

Mr. FORD. Mr. President, on behalf of Senator KERREY of Nebraska, for himself, Mr. HAGEL, Mr. BINGAMAN, Mr. JEFFORDS, Mr. LAUTENBERG, Mr. FORD, and Ms. MOSELEY-BRAUN, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. FORD] for Mr. KERREY, for himself, Mr. HAGEL, Mr. BINGAMAN, Mr. JEFFORDS, Mr. LAUTENBERG, Mr. FORD and Ms. MOSELEY-BRAUN, proposes an amendment numbered 1121.

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

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

The amendment is as follows:

On page 40, line 24, strike the period and insert: *Provided further,* That, notwithstanding section 418(a) of the Social Security Act, for fiscal year 1997 only, the amount of payment under section 418(a)(1) to which each State is entitled shall equal the amount specified as mandatory funds with respect to such State for such fiscal year in the table transmitted by the Administration for Children and Families to State Child Care and Development Block Grant Lead Agencies on August 27, 1996, and the amount of State expenditures in fiscal year 1994 or 1995 (whichever is greater) that equals the non-Federal share for the programs described in section 418(a)(1)(A) shall be deemed to equal the amount specified as maintenance of effort with respect to such State for fiscal year 1997 in such table.''.

Mr. FORD. Mr. President, I ask unanimous consent that the amendment be set aside.

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

Mr. FORD. 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. Parliamentary inquiry, Mr. President.

If I desire to introduce an amendment on behalf of Senator GORTON as the prime sponsor, and myself as one of the cosponsors, is that in order at this point? It is an amendment on the Labor-Health and Human Services appropriations bill.

The PRESIDING OFFICER. That is in order.

Mr. DOMENICI. I do not need unanimous consent? Is that what the Chair said?

The PRESIDING OFFICER. That is correct.

AMENDMENT NO. 1122

(Purpose: To provide certain education funding directly to local educational agencies)

Mr. DOMENICI. Mr. President, I have an amendment with reference to the appropriations bill on the Departments of Labor-Health and Human Services, and Education. I want to make sure that everybody understands this is Senator GORTON's amendment. I am offering it on his behalf. I would just like to make a couple statements before I send the amendment to the desk to become part of the itinerary of the Senate.

First, this amendment takes most of the education funds for kindergarten through 12th grade and creates a block grant to the local schools based on the number of school-aged children and the relative wealth of the States.

My purpose in doing this is to make sure that every child in the United States will graduate from high school with basic skills in reading and writing, mathematics, and the kind of skills that everybody knows we should have by the time we complete 12th grade.

I am firmly of the opinion that we have to try something new and different. Our schools need to do things differently. We keep adding to the inventory of programs, and we keep adding money to various programs.

I join Senator GORTON in this amendment because I believe when the numbers are all figured out, the schools will find out that they will receive a very significant increase in money. This is not just an efficiency move, but it is to see if we can't give the States an opportunity to do things differently. Essentially, this is a way to help our schools, instead of having a one-shoe-fits-all approach.

We need to attempt to give the schools an opportunity to improve the quality of education by using this money to move decisionmakers closer to the schools. Schools need to come up with a master plan for improving the basic skills that we require if we are going to be graduating children from our high schools who can make it in this economic environment.

This amendment provides a mechanism of giving slightly more money to the poorer States which, in turn, would mean slightly less money to the more wealthy States. However, everybody would get more money because you would be eliminating all of the categorical bureaucracies that exist which are enormously expensive, both at the national level and to the school districts who have to administer them. Local school districts across America, and our superintendents and our principals would say, Let's see if we couldn't do better

The amendment would not affect Title VIII of the Elementary and Secondary Education Act; Individuals with

Disabilities Education Act funds; Adult Education Act funds; Museum and Library Services Act funds; Departmental management expenses; Educational Research Development, Dissemination, and Improvement Act funds; or funds to carry out the National Education Statistics Act; to carry out section 10501—funds for civic education—or 2102—Eisenhower Professional Grants—and Park K—National Writing project—of the Elementary and Secondary Education Act;

By eliminating the Federal strings attached to the money, the Federal Government would be recognizing that one size does not fit all.

The amendment would allow State and local governments to design programs that best meet the needs of the local schools.

The reason for this amendment is simple.

Our schools need to do things differently.

Too many kids are merely getting social promotions to keep them in a class with their age group regardless of whether they have learned their lessons. It is a sad state when many of our graduates can't read the diplomas they receive at graduation.

Too many schools don't teach the basics any more.

In ''Teaching the New Basic Skills'' by economists Frank Levy of MIT and Richard Murnane of Harvard, the authors argue that employers hire college graduates because they have little confidence that high school graduates have mastered ninth grade level math; that is, the ability to manipulate fractions and decimals and to interpret line and bar graphs.

They contend one of the reasons we are paying so much more for college graduates than we ever did before is because we are doing such a poor job at the high school level.

The central educational task today is to do better teaching high school students. That can't be done from Washington. To keep up, calls for local decision making, not cumbersome programs developed in Washington.

Robert W. Galvin and Edward W. Bales of Motorola have written, ''The major issue . . . is that the education system is undergoing incremental change in an environment of exponential change.''

Americans spend a lot on education. Last year $550 billion a year in total private and public money was spent on education. This is more than what was spent on defense and second only to health care in tapping American's pocketbook. Yet as defense firms have restructured, and health care providers have turned themselves upside down moving to HMO's, education experts start another school year excusing failure and demanding more money.

Effective reform involves parents, teachers, and local businesses.

In New Mexico we need to train kids to work at Intel and other high tech firms. In Detroit, the schools need to prepare kids to work in auto plants. In recent studies it was found that only half of the kids had the basic reading and math skills to get a job in an auto plant.

This amendment will give the control back to the local schools so that they can use their Federal education funds to meet the local job market and better educate our kids. Local school districts are proving it can be done and this amendment will help others following in those successful footsteps.

I hope my colleagues will support Senator GORTON's amendment.

I want everybody to understand that Senator GORTON did not include every single kindergarten through twelth grade programs in this new approach to give our schools an opportunity to do things differently. The amendment will not affect title VII of the Elementary and Secondary Education Act; Individuals with Disabilities Education Act funds; the Adult Education Act funds; the Museum and Library Services Act funds; departmental management expenses; Educational Research Development, Dissemination, and Improvement Act funds; funds to carry out the National Education Statistics Act, to carry out section 10501; funds for civic education; 2102 Eisenhower professional grants; or the Park K, the national writing project, of the Elementary and Secondary Education Act.

I send the amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for Mr. GORTON, for himself and Mr. DOMENICI, proposes an amendment numbered 1122.

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

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

The amendment is as follows:

On page 85, after line 23, insert the following:

SEC. . (a) Notwithstanding any other provision of law, the Secretary of Education shall award the total amount of funds described in subsection (b) directly to local educational agencies in accordance with subsection (d) to enable the local educational agencies to support programs or activities for kindergarten through grade 12 students that the local educational agencies deem appropriate.

(b) The total amount of funds referred to in subsection (a) are all funds that are appropriated for the Department of Education, the Department of Labor, and the Department of Health and Human Services under this Act to support programs or activities for kindergarten through grade 12 students, other than—

(1) amounts appropriated under this Act—

(A) to carry out title VIII of the Elementary and Secondary Education Act of 1965;

(B) to carry out the Individuals with Disabilities Education Act;

(C) to carry out the Adult Education Act;

(D) to carry out the Museum and Library Services Act;

(E) for departmental management expenses of the Department of Education; or

(F) to carry out the Educational Research, Development, Dissemination, and Improvement Act;

(G) to carry out the National Education Statistics Act of 1994;

(H) to carry out section 10601 of the Elementary and Secondary Education Act of 1965;

(I) to carry out section 2102 of the Elementary and Secondary Education Act of 1965; or

(J) to carry out part K of the Elementary and Secondary Education Act of 1965; or

(2) 50 percent of the amount appropriated under title III under the headings ''Rehabilitation Services and Disability Research'' and ''Vocational and Adult Education''.

(c) Each local educational agency shall conduct a census to determine the number of kindergarten through grade 12 students served by the local educational agency not later than 21 days after the beginning of the school year. Each local educational agency shall submit the number to the Secretary.

(d) The Secretary shall determine the amount awarded to each local educational agency under this section as follows:

(1) First, the Secretary, using the information provided under subsection (c), shall determine a per child amount by dividing the total amount of funds described in subsection (b), by the total number of kindergarten through grade 12 students in all States.

(e) Second, the Secretary, using the information provided under subsection (c), shall determine the baseline amount for each local educational agency by multiplying the per child amount determined under paragraph (1) by the number of kindergarten through grade 12 students that are served by the local educational agency.

(3) Lastly, the Secretary shall compute the amount awarded to each local educational agency as follows:

(A) Multiply the baseline amount determined under paragraph (2) by a factor of 1.1 for local educational agencies serving States that are in the least wealthy quintile of all States as determined by the Secretary on the basis of the per capita income of individuals in the States.

(B) Multiply the baseline amount by a factor of 1.05 for local educational agencies serving States that are in the second least wealthy such quintile.

(C) Multiply the baseline amount by a factor of 1.00 for local educational agencies serving States that are in the third least wealthy such quintile.

(D) Multiply the baseline amount by a factor of .95 for local educational agencies serving States that are in the fourth least wealthy such quintile.

(E) Multiply the baseline amount by a factor of .90 for local educational agencies serving States that are in the wealthiest such quintile.

(e) If the total amount of funds made available to carry out this section is insufficient to pay in full all amounts awarded under subsection (d), then the Secretary shall ratably reduce each such amount.

(f) If the Secretary determines that a local educational agency has knowingly submitted false information under subsection (c) for the purpose of gaining additional funds under this section, then the local educational agency shall be fined an amount equal to twice the difference between the amount the local educational agency received under subsection (d), and the correct amount the local educational agency would have received if the agency had submitted accurate information under subsection (c).

(g) In this section—

(1) the term ''local educational agency'' has the meaning given the term in section 14101 of the Elementary and Secondary Education Act of 1965;

(2) the term ''Secretary'' means the Secretary of Education; and

(3) the term ''State'' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

Mr. GORTON. Mr. President, I want to thank profusely my friend from New Mexico, Senator DOMENICI, for his remarks and for introducing this amendment on my behalf. I was able to get here just in time to second his remarks.

I believe this amendment is going to give us an opportunity to debate an issue of great importance to the people of the United States with respect to the education of their children.

More and more, our local school boards, our teachers, and our local schools are being suffocated by a tide of papers, forms, and programs, each of which have a good purpose, at least in theory, but the net result of which is to make it difficult to set priorities in each of the many varied school districts in the United States as to what will best serve the students of those districts.

I am firmly of the belief, and I know my friend from New Mexico shares this belief with me, that elected school board members in cities and towns through the State of New Mexico, through the State of Washington, through the State of Colorado and all across the country, are dedicated to providing the best possible education for those schoolchildren that they possibly can and that they are better able to make decisions about what is best for their students than our bureaucrats in the Department of Education in Washington, DC, or than are Members of Congress.

It is almost unspeakably arrogant of us here in this body that we set detailed requirements for very specific education programs all across the United States with the great variety of people, attitudes, and challenges that we have.

So this amendment is designed to consolidate, for this year at least, the great bulk of all of the dozens or more programs fitting in the narrow categories going to school districts of the United States; to set up a reasonably fair formula which benefits the poorer States slightly more than it does the wealthy States, but with the exception of the Individuals With Disabilities Education Act, Impact Aid, and a number of other very high profile programs; that each school district should be allowed to take the money that we appropriate in this bill for the education of our children from kindergarten through 12th grade, and each school district should set its own priorities for the spending of that money on that education, trusting they can do a better job than we can or than the bureaucrats can.

Not the least of the benefits of an amendment of this sort, Mr. President, is the fact that we will not have to take 10 percent, 20 percent, or 30 percent off the top for administering the program, for filling out the forms, for all of the activities which chew up money but are not reflected in education at all.

Mr. President, I present this as a significant amendment to this bill. I hope for a significant debate on this issue here in this body. We all, when we are at home, laud local control of our schools, with elected school board members and hands-on education, but all too much of the time we take exactly the opposite view in the programs we actually create and vote for here.

This amendment will be discussed at considerably greater length tomorrow by a wide variety of people. I cannot possibly express my delight at having my friend from New Mexico as a cosponsor of this amendment. I suspect, Mr. President, there will be a number of other cosponsors as we go through the debate on the amendment tomorrow.

Mr. DOMENICI. Will the Senator yield?

Mr. GORTON. I am delighted to yield.

Mr. DOMENICI. I reviewed this in an effort to make a statement of introduction today because you asked me to because you did not think you could be here. I am very pleased you are. I think we ought to talk about this exciting proposal from the standpoint of reality. The reality, to me, is that our schools need to do things differently, and we are not doing things any differently here with our programs except from time to time adding a little money here and there. For the most part, we are stuck.

If there is a growing mediocrity—and I assume that is putting it mildly—we are probably part of it. We should not be talking just about saving money or about giving schools more money without strings, but about educating children better. I almost would call our approach giving the schools an opportunity to get the basics done again.

I was part of the budget negotiations, and I am not changing that here because I realize a certain amount of money has to go to education, and I believe this bill honors that. That was one of the categories where the President received his preference. This amendment's approach to current education monies gives the schools the flexibility to try to do things differently. We are saying, let's look at our education situation because we are kind of stuck, and we want to get out of that rut.

Is that how you see our bill?

Mr. GORTON. Well, my friend, the Senator from New Mexico, whose views are so thoughtful and so carefully enunciated on a wide variety of subjects, is, I am afraid, more eloquent on my own amendment than I am myself.

Yes, I say to my friend from New Mexico, that is exactly what this is about.

Earlier this year, during the course of the debate over the budget, there was a request by the President that we increase the amount of money going to our common schools. That received wide support from both Republicans and Democrats in this body and in the House of Representatives.

The Senator from New Mexico is entirely correct, there is nothing in this bill except more money. There is nothing in this bill about a different approach. There is nothing in this bill about getting more in the way of a 21st century education for our children. It is just more of the same stuff we have already been doing.

I think I can say this amendment may, to a certain extent, be analogous to the welfare reform bill that we passed more than a year ago. What we decided then, I say to my friend from New Mexico, was that maybe we did not know everything there was to know about welfare here in Washington, DC. Maybe there was not just one welfare system, to be run out of Washington, DC, that was going to work. In fact, it worked so poorly that almost every condition it was designed to alleviate it made worse.

What we did a year ago with welfare was to say we are not all that smart. Governors and legislators of 50 States, you try it. We will give you broad discretion in welfare programs. We suspect some of you will do really well, but regrettably some of you will do not so well, but we will learn more about what can get people back to work and out of a welfare mentality.

Now, I think this amendment is a little bit like that, I say to my friend. What we are doing here is something we do not like doing very much in the Senate, admitting that somebody else may know a little bit more than we do about a subject. Here we are saying we think perhaps that wisdom lies right down in individual school districts with teachers in the classroom, with principals in the schools, with school board members who, almost without exception, are public-spirited citizens who have run for election for a job that does not pay, but that they know something maybe that we do not know, and if we give them more freedom to use these billions of dollars we come up with, we will get better education for our kids.

That is, of course, the whole goal of the exercise.

Mr. DOMENICI. Senator, I want to make this last point and see if you concur. This is different from other efforts to encapsulate our Federal programs into some kind of block grant, and for the most part that was always to cut education. There is no effort to cut education here.

The major increases that are in this bill that are in response to the budget agreement are all used in this fund—not a penny less—and it may be much bigger when it reaches the districts. That money will increase the level so nobody should think that Senators

GORTON and DOMENICI are for reducing the expenditure.

If we save administrative money, we want to spend it on the kids, and it ought to be a rather substantial amount of money.

Mr. GORTON. The Senator from New Mexico is, of course, entirely correct. The total amount of the appropriation in this bill for education is not reduced by a single dollar.

On the other hand, the total amount of money that gets to the classroom will be considerably greater because so much less will get lost in the gears of administration at two, three, or four different levels between here and the classroom.

We hope that we will be able to get much more for the same amount of money fundamentally because we will actually be spending more on direct educational expenditures.

Mr. DOMENICI. I thank the Senator.

AMENDMENT NO. 1076

Mr. GORTON. Mr. President, while I have the floor I ask unanimous consent to set the pending amendment aside and call up amendment No. 1076.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Washington [Mr. GORTON] proposes an amendment numbered 1076.

AMENDMENT NO. 1076, AS MODIFIED

Mr. GORTON. Mr. President, I ask unanimous consent to modify amendment No. 1076, which I have sent to the desk.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment (No. 1076), as modified, is as follows:

On page 49, after line 26, add the following:

SEC. . (a)(1) Section 1905 of the Social Security Act (42 U.S.C. 1396d) is amended—

(A) in subsection (b), in the sentence added by section 4911(a)(1) of the Balanced Budget Act, by striking ''or subsection (u)(3)'' and inserting '', subsection (u)(3), or subsection (u)(4) for the State for a fiscal year, and that do not exceed the amount of the State's allotment under section 2104 (not taking into account reductions under section 2104(d)(2)) for the fiscal year reduced by the amount of any payments made under section 2105 to the State from such allotment for such fiscal year,''; and

(B) in subsection (u), as added by section 4911(a)(2) of the Balanced Budget Act of 1997—

(A) by striking paragraph (2) and inserting the following:

''(2)(A) For purposes of subsection (b), the expenditures described in this paragraph are expenditures for medical assistance for optional targeted low-income children described in subparagraph (B).

''(B) For purposes of this paragraph, the term 'optional targeted low-income child' means a targeted low-income child as defined in section 2110(b)(1) (determined without regard to subparagraph (C)) who would not qualify for medical assistance under the State plan under this title based on such plan (including under a waiver authorized by the Secretary or under section 1902(4)(2)) as in effect on April 15, 1997 (but taking into account the expansion of age of eligibility effected through the operation of section 1902(l)(2)(D)).''; and

(B) by adding at the end the following new paragraph:

''(4)(A) For purposes of subsection (b), the expenditures described in this subparagraph are expenditures for medical assistance for certain waivered low-income children described in subparagraph (B), but only to the extent such expenditures for a State for a fiscal year exceed the level of such expenditures for such children under this title for fiscal year 1997.

''(B) For purposes of this paragraph, the term 'certain waivered low-income children' means, in the case of any State that has under a waiver authorized by the Secretary or under section 1902(r)(2), established a medicaid applicable income level (as defined in section 2110(b)(1)(4)) for children under 19 years of age residing in the State that is at or above 200 percent of the poverty line, a child whose family income exceeds the minimum income level required to be established for the age of such child under section 1902(l)(2) in order for the child to be eligible for medical assistance under this title, but does not exceed 200 percent of the poverty line.''.

(2) Section 1902(a)(10)(A)(ii)(XIV) of the Social Security Act, as added by section 4911(b)(3) of the Balanced Budget Act of 1997, is amended by striking ''1905(u)(2)(C)'' and inserting ''1905(u)(2)(B)''.

(b) The amendments made by subsection (a) shall take effect as if included in the enactment of section 4911 of the Balanced Budget Act of 1997.

Mr. GORTON. Mr. President, just a few weeks ago, Congress and the President agreed to provide $48 billion over the next 10 years as an incentive to States to provide health care coverage to uninsured, low-income children. To receive this money, States must expand eligibility levels to children living in families with incomes up to 200 percent of the Federal poverty level.

Three years ago, Washington State decided to do what Congress and the President have now required other States to do. In 1994, my State expanded children's health care coverage to children through age 18 who live in families up to 200 percent of the Federal poverty level.

Under the budget agreement, Washington State, like every other State will receive an allotment, a portion of the money the Federal Government makes available for children's health care each year. The budget agreement provides an ''enhanced Federal match'' to States to encourage them to raise eligibility levels. That incentive is available to States which cover kids at the current mandatory levels of 100 percent to 133 percent of poverty depending on the age group, if they expand up to the new 200-percent-of-poverty threshold. However, for the few States which already meet this requirement, these States must expand their eligibility levels an additional 50 percentage points before being able to tap into the money available under the Children's Health Initiative.

Unfortunately, the budget provisions essentially penalize Washington because of the State's progressive policies on children's health care. First, Washington and a few States which have done these broad expansions, will essentially pay more than every other State to cover this population of kids. Second, the budget agreement actually provides more incentive to cover kids in families with higher discretionary income than it does for children living in poorer families. In Washington 100,000 kids under 200 percent of poverty are still uninsured in spite of the success of enrolling kids over the last 3 years, while somewhere between 10,000 and 30,000 kids between 200 and 250 percent of poverty are uninsured. Clearly the need is at lower income levels, I expect this holds true for most other States. Yet my State receives more Federal money to cover kids in this higher income bracket. Finally, the budget agreement provides no incentive to the State legislature to further expand coverage to kids. After all, Washington already did what Congress is now asking other States to do and instead of being recognized for doing a good job of covering kids, my State is penalized. If I were a State legislator I would argue that we should simply wait for the Feds to mandate further coverage for children, then we would receive the same contribution from the Federal Government as other States.

For example, Washington currently receives a 50-percent Federal match for kids covered under Medicaid. Another State which also gets a 50-percent Federal match but has not already expanded eligibility levels for kids, will receive an enhanced match as an incentive to cover this new population. In a nonexpansion State for a child living in a family with an income of 150 percent the State would receive an increased Federal match level. However, under the budget agreement in a State like Washington, for that same child the State would only be reimbursed at the current rate. Even if the child is currently uninsured. Proportionately more money will come out of Washington State revenues to cover kids below 200 percent of the poverty than in other States which have not expanded coverage to kids at this level. Thus taxpayers in my State will pay more to cover the same population of kids than taxpayers in other States that did not choose to expand eligibility to kids before Congress did it for them.

The spirit of the legislation is to provide health insurance coverage for uninsured, low-income children first. In Washington we have 100,000 kids that are uninsured below the 200 percent FPL threshold and only 10,000 to 30,000 between 200 percent and 250 percent FPL. For States with high eligibility thresholds, the Child Health Initiative provides more incentive—a higher Federal match rate—to cover kids at higher income levels than it does for kids living in families with lower incomes. With an enhanced match for new kids below 200 percent of FPL brought into the State health program, the State can target a bigger pool of low-income, uninsured kids, more expediently producing the results intended by the legislation.

My amendment stays within the spirit of the Child Health Initiative, it focuses Federal money on providing health care coverage to new, uninsured children at low income levels first. It does not take money from any other State, but merely allows Washington to draw on its own allotment. Staff discussions with CBO and CRS confirm that the amendment does not change the amount other States will receive. CRS is in the process of developing an official memo to that effect. A progressive think tank, the Center on Budget and Policy Priorities also states that the amendment would not alter State allocations. The amendment allows States which have already expanded eligibility levels to 200 percent to receive an ''enhanced Federal match'' if it provides health care coverage to uninsured kids between the current mandatory levels and the new level of 200 percent set in the budget agreement. Additionally, my State would be required to maintain its current effort. Washington must spend the same amount on children's health care that it does in fiscal year 1997, in subsequent years before it can receive any money provided for under the Child Health Initiative.

The proposal does not take money from other States nor does it provide additional Federal subsidies for children the State is now covering, it simply allows Washington and the other few expansion States to continue to do the good work they have already started.

SPECIAL EDUCATION FUNDING

Mr. GREGG. Mr. President, I would like to take this opportunity to thank Senator SPECTER for his leadership and support in my recent efforts to provide full funding for the Individuals With Disabilities Education Act [IDEA].

For the past 2 years, one of my top priorities has been to ensure that the Federal Government lives up to its promise to provide 40 percent of the funding for the costs of complying with Federal special education mandates. The current level of 8 percent or 9 percent is unacceptable. In addition, I believe that it is important to secure increased funding for IDEA to ease the burden on local schools and communities. For these reasons, I am grateful to Senator SPECTER for helping us move closer to full funding to help these communities.

As a result of our combined efforts, in the fiscal year 1998 Labor-HHS appropriations bill, State grants for part B of IDEA are allocated $3.94 billion, which is a $834 million or 27 percent increase over last year's funding level. As chairman of another appropriations subcommittee, I know how difficult, if not virtually impossible, it is to provide such a significant increase to a large account. Thus, I truly appreciate Senator SPECTER's efforts and leadership on this issue. I'm sure that the Nation's special education students and the local communities that educate them are equally as grateful to Senator SPECTER for his support.

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

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

MORNING BUSINESS

Mr. LOTT. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business for Senators permitted to speak for up to 5 minutes each.

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

TRIBUTE TO CAPT. ROBERT C. KLOSTERMAN, U.S. NAVY, COMMANDING OFFICER, U.S.S. ''JOHN C. STENNIS''

Mr. LOTT. Mr. President, I take this opportunity to recognize and say farewell to an outstanding naval officer, Capt. Robert C. Klosterman, who served with distinction for 41 months as commanding officer of the U.S.S. *John C. Stennis* nuclear-powered aircraft carrier, named for the great Senator from Mississippi. It is a privilege for me to recognize his many outstanding achievements and commend him for the superb service he has provided the Navy and our great Nation.

A native of Cincinnati, OH, Captain Klosterman graduated from the U.S. Naval Academy in 1969 and was designated a Naval Aviator in 1970 at NAS Kingsville, TX. He flew over 440 combat missions in Vietnam, piloting UH–1B gunships with Helicopter Attack (Light) Squadron 3. Following his service in Vietnam, Captain Klosterman returned as a flight instructor with VT–9 at Meridian, MS, where he served as Director of Flight Training and Operations Officer through 1973.

Captain Klosterman's service at sea includes junior officer and department head tours in VA–86 (U.S.S. *Nimitz*) and two instructor pilot tours in VA–174. He joined Attack Squadron 46 (VA–46) as executive officer in June 1984 and took command in January 1986. During his tour, VA–46 participated in combat operations against Libya from U.S.S. *America*, and was awarded the 1986 COMNAVAIRLAN Battle ''E.'' Captain Klosterman completed naval nuclear power training in 1988 and was executive officer of U.S.S. *Dwight D. Eisenhower* (CVN 69) from June 1989 to April 1991. He is a veteran of Operations Desert Shield/Desert Storm, as well as Operations Restore Hope and Southern Watch.

During his naval career, Captain Klosterman has accumulated over 5,800 flight hours and made over 1,000 carrier arrested landings. His decorations include the Legion of Merit, 3 Meritorious Service Medals, 15 Air Medals, the Vietnamese Cross of Gallantry, and the Combat Action Ribbon. He was also the recipient of the 1986 COMLATWING ONE Pat Anderson Award for weapons delivery excellence.

As commanding officer of the U.S.S. *John C. Stennis*, he delivered to the Nation and the U.S. Navy the most modern and technologically advanced nuclear-powered aircraft carrier in the world. He did this while realizing over $75 million in savings to the taxpayers, for which we owe him a debt of gratitude.

Mr. President, Robert C. Klosterman, his wife Rebecca, and son Todd have no doubt made many sacrifices during his 28-year naval career. They have made significant contributions to the outstanding naval forces upon which our country relies so heavily. Captain Klosterman is a great credit to both the Navy and the country he so proudly serves. As this decorated combat veteran now departs the Navy, I call upon my colleagues from both sides of the aisle to wish him fair winds and following seas. He is a sailor's sailor.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business Friday, September 5, 1997, the federal debt stood at $5,414,427,865,442.08. (Five trillion, four hundred fourteen billion, four hundred twenty-seven million, eight hundred sixty-five thousand, four hundred forty-two dollars and eight cents)

One year ago, September 5, 1996, the federal debt stood at $5,225,564,000,000 (Five trillion, two hundred twenty-five billion, five hundred sixty-four million)

Twenty-five years ago, September 5, 1972, the federal debt stood at $435,268,000,000 (Four hundred thirty-five billion, two hundred sixty-eight million) which reflects a debt increase of nearly $5 trillion—$4,979,159,865,442.08 (Four trillion, nine hundred seventy-nine billion, one hundred fifty-nine million, eight hundred sixty-five thousand, four hundred forty-two dollars and eight cents) during the past 25 years.

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 Presiding Officer laid before the Senate messages from the President of the United States submitting 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 3:21 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the bill (H.R. 1866) to continue favorable treatment for need-based educational aid under the antitrust laws.

The message also announced that the House has agreed to the following concurrent resolution:

H. Con. Res. 146. Concurrent resolution expressing the sense of the Congress regarding the terrorist bombing in Jerusalem on September 4, 1997.

MEASURE REFERRED

The following concurrent resolution was read and referred as indicated:

H. Con. Res. 146. Concurrent resolution expressing the sense of the Congress regarding the terrorist bombing in Jerusalem on September 4, 1997; to the Committee on Foreign Relations.

REPORTS OF COMMITTEE

The following report of committee was submitted:

By Mr. STEVENS, from the Committee on Appropriations:

Special Report entitled ''Further Revised Allocation to Subcommittees of Budget Totals from the Concurrent Resolution for Fiscal Year 1998'' (Rept. No. 105–74).

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. MCCAIN:

S. 1152. A bill to establish a National Environmental Technology Achievement Award, and for other purposes; to the Committee on Environment and Public Works.

By Mr. BAUCUS (for himself, Mr. ALLARD, Mr. BURNS, Mr. CONRAD, Mr. COVERDELL, Mr. CRAIG, Mr. D'AMATO, Mr. FORD, Mr. GRAHAM, Mr. GRASSLEY, Mr. HELMS, Mr. JOHNSON, Mr. KERREY, Ms. LANDRIEU, Mr. LEAHY, Mr. ROTH, and Mr. HARKIN):

S. 1153. A bill to promote food safety through continuation of the Food Animal Residue Avoidance Database program operated by the Secretary of Agriculture; to the Committee on Agriculture, Nutrition, and Forestry.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. HELMS (for himself, Mr. LIEBERMAN, Mr. KERRY, Mr. THOMAS, and Mr. MACK):

S. Con. Res. 51. A concurrent resolution expressing the sense of Congress regarding elections for the legislature of the Hong Kong Special Administrative Region; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MCCAIN:

S. 1152. A bill to establish a National Environmental Technology Achievement Award, and for other purposes; to the Committee on Environment and Public Works.

THE NATIONAL ENVIRONMENTAL TECHNOLOGY ACHIEVEMENT AWARD ACT

Mr. MCCAIN. Mr. President, today I'm introducing legislation to establish a National Environmental Technology Achievement Award.

The annual award would be presented jointly by the EPA and the Department of Commerce to recognize our Nation's premier environmental technology advancement. Specifically, the award would recognize the major technological improvements in the prevention and cleanup of threats to the Nation's air, land, and water resources. The yearly prize would include a financial award to be raised from the private sector.

In order to achieve our Nation's environmental protection goals in the face of a growing population and expanding economy, we must develop more efficient and effective technologies to reduce and cleanup pollution, including advanced smokestack emission controls, improved water treatment systems, and manufacturing processes which reduce waste, just to name a few.

While the financial rewards for developing such technology are presumably large, a national award would provide additional incentive to innovators and would highlight the importance of such advancements to our Nation.

The bill would create a 14-member volunteer board to set the award criteria; design the award; establish a monetary prize; raise funds; develop a consideration and selection process; and select the annual recipient.

The board would be comprised of the Administrator of EPA, Secretary of Commerce, National Science Advisor, Director of the National Science Foundation, Secretary of the Interior, or their designees. In addition, the panel would include three representatives from academia; three representatives of industry; and three representatives from environmental and conservation organizations. One in each category would be chosen by the President, one by the Speaker of the House and one by the majority leader of the Senate.

The bill is supported by the Environmental Defense Fund, the National Parks, and Conservation Association; the World Wildlife Fund and other environmental groups. I urge my colleagues to support this simple, but I believe appropriate and helpful, initiative.

By Mr. BAUCUS (for himself, Mr. ALLARD, Mr. BURNS, Mr. CONRAD, Mr. COVERDELL, Mr. CRAIG, Mr. D'AMATO, Mr. FORD, Mr. GRAHAM, Mr. GRASSLEY, Mr. HELMS, Mr. JOHNSON, Mr. KERREY, Ms. LANDRIEU, Mr. LEAHY, Mr. ROTH, and Mr. HARKIN):

S. 1153. A bill to promote food safety through continuation of the Food Animal Residue Avoidance Database program operated by the Secretary of Agriculture; to the Committee on Agriculture, Nutrition, and Forestry.

FOOD SAFETY LEGISLATION

Mr. BAUCUS. Mr. President, I rise today to introduce important legislation providing for the permanent authorization of the Food Animal Residue Avoidance Databank [FARAD] program. I am joined by 15 of my colleagues and I hope the Senate will pass this legislation very soon.

Mr. President, food safety has long been of tantamount importance to the veterinary profession and to the American consumer. Customers rightly expect that the food they purchase is of the highest quality. More importantly, consumers must know that the food they consume is safe. And our veterinarians work to help consumers in this endeavor. This legislation is designed to help Americans maintain their safe, wholesome food supply.

In 1982, the U.S. Department of Agriculture Extension Service undertook an educational effort to prevent chemical residues in food animal products. That same year, the USDA Food Safety and Inspection Service [FSIS] sponsored a Residue Avoidance Program as a repository of residue avoidance information and educational materials.

FARAD was founded as a cooperative, multi-State effort by Drs. Stephen Sundlof of the University of Florida, Jim Riviere of North Carolina State University, Aurther Craigmiller of the University of California, Davis, and William Buck of the University of Illinois. Each investigator brought a unique expertise to the collaboration. Since that origin, FARAD has evolved into an expert-mediated residue avoidance decision support system which is crucial to food safety across the Nation.

FARAD provides an invaluable service to the animal health profession, helping veterinarians provide appropriate, science-based therapy—improving animal health while preventing food safety risks to consumers from residues. FARAD's computer-based decision support system is designed to provide livestock producers, pharmacists, and extension specialists with immediate access to practical information on drugs, pesticides, and environmental contaminants which hold the greatest potential for residue formation in livestock food products.

Since its inception, FARAD has published three handbooks and two practical software products, while maintaining a telephone hotline and an internet access site—all devoted to providing the information necessary to protect the livestock food system from contamination.

Through the USDA Extension Service, FARAD has received approximately $200,000 per year since its inception. These funds have been awarded on the basis of competitive grants, relying

on matching funds from the participating universities. However, for the universities providing this valuable service the price has been too high. It is time to provide adequate Federal funding to accomplish this vital work.

FARAD provides a vital service across the country. Congress must now express its support for this tool which can help maintain the well-founded confidence of the American consumers in their food supply.

Mr. President, I encourage my colleagues to join me in supporting this valuable legislation and I urge its adoption.

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. 1153

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FOOD ANIMAL RESIDUE AVOIDANCE DATABASE PROGRAM.

(a) CONTINUATION OF PROGRAM.—The Secretary of Agriculture shall continue operation of the Food Animal Residue Avoidance Database program (referred to in this section as the ''FARAD program'') through contracts with appropriate colleges or universities.

(b) ACTIVITIES.—In carrying out the FARAD program, the Secretary of Agriculture shall—

(1) provide livestock producers, extension specialists, scientists, and veterinarians with information to prevent drug, pesticide, and environmental contaminant residues in food animal products;

(2) maintain up-to-date information concerning—

(A) withdrawal times on FDA-approved food animal drugs and appropriate withdrawal intervals for drugs used in food animals in the United States, as established under section 512(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(a));

(B) official tolerances for drugs and pesticides in tissues, eggs, and milk;

(C) descriptions and sensitivities of rapid screening tests for detecting residues in tissues, eggs, and milk; and

(D) data on the distribution and fate of chemicals in food animals;

(3) publish periodically a compilation of food animal drugs approved by the Food and Drug Administration;

(4) make information on food animal drugs available to the public through handbooks and other literature, computer software, a telephone hotline, and the Internet;

(5) furnish producer quality-assurance programs with up-to-date data on approved drugs;

(6) maintain a comprehensive and up-to-date, residue avoidance database;

(7) provide professional advice for determining the withdrawal times necessary for food safety in the use of drugs in food animals; and

(8) engage in other activities designed to promote food safety.

(c) CONTRACTS.—

(1) IN GENERAL.—The Secretary of Agriculture shall offer to enter into contracts with appropriate colleges and universities to operate the FARAD program.

(2) TERM.—The term of a contract under subsection (a) shall be 3 years, with options to extend the term of the contract triennially.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $1,000,000 for each fiscal year.

ADDITIONAL COSPONSORS

S. 100

At the request of Mr. KERRY, the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of S. 100, a bill to amend title 49, United States Code, to provide protection for airline employees who provide certain air safety information, and for other purposes.

S. 852

At the request of Mr. LOTT, the names of the Senator from Kentucky [Mr. MCCONNELL] and the Senator from Louisiana [Mr. BREAUX] were added as cosponsors of S. 852, a bill to establish nationally uniform requirements regarding the titling and registration of salvage, nonrepairable, and rebuilt vehicles.

S. 989

At the request of Mr. DORGAN, the name of the Senator from Georgia [Mr. COVERDELL] was added as a cosponsor of S. 989, a bill entitled the ''Safer Schools Act of 1997.''

S. 1084

At the request of Mr. INHOFE, the names of the Senator from South Carolina [Mr. HOLLINGS] and the Senator from Texas [Mrs. HUTCHISON] were added as cosponsors of S. 1084, a bill to establish a research and monitoring program for the national ambient air quality standards for ozone and particulate matter and to reinstate the original standards under the Clean Air Act, and for other purposes.

S. 1105

At the request of Mr. COCHRAN, the name of the Senator from Texas [Mr. GRAMM] was added as a cosponsor of S. 1105, a bill to amend the Internal Revenue Code of 1986 to provide a sound budgetary mechanism for financing health and death benefits of retired coal miners while ensuring the long-term fiscal health and solvency of such benefits, and for other purposes.

SENATE CONCURRENT RESOLUTION 12

At the request of Mr. TORRICELLI, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of Senate Concurrent Resolution 12, a concurrent resolution expressing the sense of the Congress with respect to the collection on data on ancestry in the decennial census.

SENATE CONCURRENT RESOLUTION 50

At the request of Mr. HUTCHINSON, the names of the Senator from Louisiana [Mr. BREAUX], the Senator from New Hampshire [Mr. SMITH], the Senator from New York [Mr. D'AMATO], the Senator from Ohio [Mr. DEWINE], the Senator from Oklahoma [Mr. INHOFE], the Senator from Idaho [Mr. KEMPTHORNE], the Senator from Florida [Mr. GRAHAM], the Senator from Hawaii [Mr. INOUYE], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Colorado [Mr. CAMPBELL], and the Senator from Kentucky [Mr. FORD] were added as cosponsors of Senate Concurrent Resolution 50, a concurrent resolution condemning in the strongest possible terms the bombing in Jerusalem on September 4, 1997.

SENATE RESOLUTION 111

At the request of Mr. THURMOND, the names of the Senator from Virginia [Mr. WARNER], the Senator from Georgia [Mr. CLELAND], and the Senator from Mississippi [Mr. LOTT] were added as cosponsors of Senate Resolution 111, a resolution designating the week beginning September 14, 1997, as ''National Historically Black Colleges and Universities Week,'' and for other purposes.

SENATE CONCURRENT RESOLUTION 51—RELATIVE TO THE HONG KONG SPECIAL ADMINISTRATIVE REGION

Mr. HELMS (for himself, Mr. LIEBERMAN, Mr. KERRY, Mr. THOMAS, and Mr. MACK) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 51

Whereas the 1984 Sino-British Joint Declaration on Hong Kong guarantees Hong Kong a high degree autonomy in all matters except defense and foreign affairs, and an elected legislature;

Whereas the United States policy regarding Hong Kong, as stated in the United States-Hong Kong Policy Act of 1992 (Public Law 102–383), is based on the autonomy and self-governance of Hong Kong by the Hong Kong people;

Whereas a democratically elected legislature enabling the Hong Kong people to elect representatives of their choice is essential to the autonomy and self-governance of Hong Kong;

Whereas the provisional legislature of Hong Kong was selected through an undemocratic process controlled by the People's Republic of China;

Whereas this provisional legislature has adopted rules for the creation of the first legislature of the Hong Kong Special Administrative Region which rules are designed to disadvantage and reduce the number of prodemocracy politicians in the legislature; and

Whereas the autonomy of Hong Kong cannot exist without a legislature that is elected freely and fairly according to rules approved by the Hong Kong people or their democratically elected representatives: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress urges Hong Kong Chief Executive C.H. Tung and the government of the Hong Kong Special Administrative Region to schedule and conduct elections for the first legislature of the Hong Kong Special Administrative Region according to rules approved by the Hong Kong people through an election-law convention, referendum, or both.

AMENDMENTS SUBMITTED

THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1998

WELLSTONE AMENDMENTS NOS. 1087–1089

Mr. WELLSTONE proposed three amendments to the bill (S. 1061) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1998, and for other purposes; as follows:

AMENDMENT NO. 1087

On page 61, after line 25, insert the following:

SEC. . If the amount appropriated to carry out the B–2 bomber program for fiscal year 1998 is more than $579,800,000, then notwithstanding any other provision of law—

(1) the total amount appropriated under this Act to carry out the Head Start Act shall be $4,636,000,000, and such amount shall not be subject to the nondefense discretionary cap provided in section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985; and

(2) the amount appropriated for purposes of the B–2 bomber program for fiscal year 1998 is hereby reduced by $331,000,000.

AMENDMENT NO. 1088

On page 61, after lien 25, insert the following:

SEC. . If the amount appropriated to carry out the B–2 bomber program for fiscal year 1998 is more than $579,800,000, then notwithstanding any other provision of law—

(1) the total amount appropriated under this Act to carry out subpart 1 of part A of title IV of the Higher Education Act of 1965 shall be $7,241,334,000, and such amount shall not be subject to the nondefense discretionary cap provided in section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985; and

(2) the amount appropriated for purposes of the B–2 bomber program for fiscal year 1998 is hereby reduced by $331,000,000.

AMENDMENT NO. 1089

On page 61, after line 25, insert the following:

SEC. . If the amount appropriated to carry out the B–2 bomber program for fiscal year 1998 is more than $579,800,000, then notwithstanding any other provision of law—

(1) the total amount appropriated under this Act to carry out the Education Infrastructure Act of 1994 shall be $371,000,000, and such amount shall not be subject to the nondefense discretionary cap provided in section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985; and

(2) the amount appropriated for purposes of the B–2 bomber program for fiscal year 1998 is hereby reduced by $331,000,000.

MACK (AND GRAHAM) AMENDMENT NO. 1090

Mr. MACK (for himself and Mr. GRAHAM) proposed an amendment to the bill, S. 1061, supra; as follows:

On page 57, line 24, strike ''$929,752,000, of which'' and insert ''$934,972,000, of which $6,620,000 shall be expended to carry out Public Law 102–423 and of which''.

On page 85, line 19, strike ''$30,500,000'' and insert ''$35,720,000''.

MCCAIN (AND GRAMM) AMENDMENT NO. 1091

Mr. MCCAIN (for himself and Mr. GRAMM) proposed an amendment to the bill, S. 1061, supra; as follows:

On page 49, after line 26, add the following:

SEC. . (a) Section 4626 of the Balanced Budget Act of 1997 (Public Law 105–33) is repealed.

(b) For any fiscal year (beginning with fiscal year 1998), the Secretary of Health and Human Services may not enter into an agreement with any institution to provide incentive payments to the institution for the reduction of medical residents in the approved medical education training programs (as defined in section 1886(h)(5)(A) of the Social Security Act (42 U.S.C. 1395ww(h)(5)(A)) of that institution.

(c) The repeal made by subsection (a) shall take effect as if included in the enactment of the Balanced Budget Act of 1997 (Public Law 105–33).

MCCAIN (AND OTHERS) AMENDMENT NO. 1092

Mr. MCCAIN (for himself, Mr. KERRY, and Mr. REID) proposed an amendment to the bill, S. 1061, supra; as follows:

On page 49, after line 26, add the following:

SEC. . (a) Notwithstanding any other provision of law, the payments described in subsection (b) shall not be considered income or resources in determining eligibility for, or the amount of benefits under, a program or State plan under title XVI or XIX of the Social Security Act.

(b) The payments described in this subsection are payments made by the Secretary of Defense pursuant to section 657 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2584).

CRAIG (AND OTHERS) AMENDMENT NO. 1093

Mr. CRAIG (for himself, Mr. BINGAMAN, and Mr. DOMENICI) proposed an amendment to the bill, S. 1061, supra; as follows:

At the appropriate place in the bill, insert the following:

SEC. . Section 13(b)(12) of the Fair Labor Standards Act of 1938 (39 U.S.C. 213(b)(12)) is amended by inserting after ''water'' the following: '', at least 90 percent of which is ultimately delivered''.

REID (AND BOXER) AMENDMENT NO. 1094

Mr. REID (for himself and Mrs. BOXER) proposed an amendment to the bill, S. 1061, supra; as follows:

On page 49, after line 26, add the following:

SEC. . (a) STUDY.—From amounts appropriated under this title, the National Institutes of Health shall conduct a study on the health effects of perchlorate on humans with particular emphasis on the health risks to vulnerable subpopulations including pregnant women, children, and the elderly.

(b) REPORT.—Not later than 9 months after the date of enactment of this Act, and annually thereafter, the National Institutes of Health shall prepare and submit to the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives, a report concerning the results of the study conducted under subsection (a), including whether further health effects research is necessary.

LANDRIEU (AND MCCAIN) AMENDMENT NO. 1095

Ms. LANDRIEU (for herself and Mr. MCCAIN) proposed an amendment to the bill, S. 1061, supra; as follows:

On page 44, line 2, strike ''$5,606,094,000'' and insert ''$5,611,094,000''.

On page 85, line 19, strike ''$70,500,000'' and insert ''$75,500,000''.

REED (AND OTHERS) AMENDMENT NO. 1096

Ms. COLLINS, Mr. LEVIN, Mr. CONRAD, Mr. KENNEDY, Mr. WYDEN, Mr. KOHL, Mr. DODD, Mr. CHAFEE, Mr. LAUTENBERG, Mr. REID, Mr. FEINGOLD, Mr. DORGAN, Mr. TORRICELLI, Mr. KERREY, Mr. JOHNSON, Mr. WELLSTONE, Mr. BINGAMAN, Mrs. MURRAY, Mr. SMITH of Oregon, Mr. HARKIN, and Ms. LANDRIEU proposed an amendment to the bill, S. 1061, supra; as follows:

On page 56, line 19, strike ''and 3'' and insert '', 3 and 4''.

On page 56, line 22, before the period insert '', provided that, $35,000,000 shall be available for State Student Incentive grants derived from unobligated balances''.

COVERDELL AMENDMENT NO. 1097

Mr. COVERDELL proposed an amendment to the bill, S. 1061, supra; as follows:

On page 49, after line 26, add the following:

SEC. . (a) TRANSFER.—Using $5,000,000 of the amounts appropriated under this title, the Secretary of Health and Human Services shall carry out activities under subsection (b) to address urgent health threats posed by E. coli:0157H7.

(b) USE OF FUNDS.—From amounts transferred under subsection (a) the Secretary of Health and Human Services shall—

(1) provide $1,000,000 for the development of improved medical treatments for patients infected with E. coli:0157H7-related disease (HUS);

(2) provide $1,000,000 to fund ongoing research to detect or prevent colonization of E. coli:0157H7 in live cattle;

(3) provide, through the existing partnership between the Federal Government, industry, and consumer groups, $1,000,000 for the National Consumer Education Campaign on Food Safety as part of the activities to address safe food handling practices;

(4) provide $1,000,000 for a study to determine the feasibility of the use of electronic pasteurization on red meats to eliminate pathogens and to carry out activities to educate the public on the safety of that process; and

(5) provide $1,000,000 for a contract to be entered into with the National Academy of Sciences to assess the effectiveness of testing to ensure zero tolerance of E. coli:0157H7 in raw ground beef products.

COVERDELL AMENDMENT NO. 1098

Mr. COVERDELL proposed an amendment to the amendment No. 1097 proposed by him to the bill, S. 1061, supra; as follows:

Strike all after the first word and add the following:

(a) TRANSFER.—Using $5,000,000 of the amounts appropriated under this title, the

Secretary of Health and Human Services shall carry out activities under subsection (b) to address urgent health threats posed by E. coli:0157H7.

(b) USE OF FUNDS.—From amounts transferred under subsection (a) the Secretary of Health and Human Services shall—

(1) provide $1,000,000 for the development of improved medical treatments for patients infected with E. coli:0157H7-related disease (HUS);

(2) provide $550,000 to fund ongoing research to detect or prevent colonization of E. coli:0157H7 in live cattle;

(3) provide, through the existing partnership between the Federal Government, industry, and consumer groups, $1,000,000 for the National Consumer Education Campaign on Food Safety as part of the activities to address safe food handling practices;

(4) provide $1,000,000 for a study to determine the feasibility of the use of electronic pasteurization on red meats to eliminate pathogens and to carry out activities to educate the public on the safety of that process; and

(5) provide $1,000,000 for a contract to be entered into with the National Academy of Sciences to assess the effectiveness of testing to ensure zero tolerance of E. coli:0157H7 in raw ground beef products.

CHAFEE AMENDMENT NO. 1099

Mr. SPECTER (for Mr. CHAFEE) proposed an amendment to the bill, S. 1061, supra; as follows:

On page 67, line 4, strike ''$3,258,000'' and insert in lieu thereof: $3,508,000

On page 67, line 10, strike ''$3,257,000'' and insert in lieu thereof: $3,507,000

On page 67, line 18, strike ''$206,000,000'' and insert in lieu thereof: $205,500,000

On page 67, line 24, strike ''$206,000,000'' and insert in lieu thereof: $205,500,000

COVERDELL AMENDMENT NO. 1100

Mr. SPECTER (for Mr. COVERDELL) proposed an amendment to the bill, S. 1061, supra; as follows:

On page 61, after line 25, insert the following:

SEC. . Of the funds made available under this title, the Secretary of Education shall establish a program to provide training and technical assistance to State educational agencies and local educational agencies (as defined in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801) in developing, establishing, and implementing procedures and programs designed to protect victims of and witnesses to incidents of elementary school and secondary school violence, including procedures and programs designed to protect witnesses testifying in school disciplinary proceedings.

SEC. . Of the funds made available under this title, $450,000 shall be awarded by the Secretary of Education for grants for the establishment, operation, and evaluation of pilot student safety toll-free hotlines to provide elementary school and secondary school students with confidential assistance regarding school crime, violence, drug dealing, and threats to the personal safety of the students.

DASCHLE AMENDMENT NO. 1101

Mr. SPECTER (for Mr. DASCHLE) proposed an amendment to the bill, S. 1061, supra; as follows:

At the appropriate place, insert the following:

SEC. ___. COMPREHENSIVE FETAL ALCOHOL SYNDROME PREVENTION.

(a) FINDINGS.—This section may be cited as the ''Comprehensive Fetal Alcohol Syndrome Prevention Act''.

(b) FINDINGS.—Congress finds that—

(1) Fetal Alcohol Syndrome is the leading known cause of mental retardation, and it is 100 percent preventable;

(2) each year, up to 12,000 infants are born in the United States with Fetal Alcohol Syndrome, suffering irreversible physical and mental damage;

(3) thousands more infants are born each year with Fetal Alcohol Effects, which are lesser, though still serious, alcohol-related birth defects;

(4) children of women who use alcohol while pregnant have a significantly higher infant mortality rate (13.3 per 1000) than children of those women who do not use alcohol (8.6 per 1000);

(5) Fetal Alcohol Syndrome and Fetal Alcohol Effects are national problems which can impact any child, family, or community, but their threat to American Indians and Alaska Natives is especially alarming;

(6) in some American Indian communities, where alcohol dependency rates reach 50 percent and above, the chances of a newborn suffering Fetal Alcohol Syndrome or Fetal Alcohol Effects are up to 30 times greater than national averages;

(7) in addition to the immeasurable toll on children and their families, Fetal Alcohol Syndrome and Fetal Alcohol Effects pose extraordinary financial costs to the Nation, including the costs of health care, education, foster care, job training, and general support services for affected individuals;

(8) the total cost to the economy of Fetal Alcohol Syndrome was approximately $2,700,000,000 in 1995, and over a lifetime, health care costs for one Fetal Alcohol Syndrome child are estimated to be at least $1,400,000;

(9) researchers have determined that the possibility of giving birth to a baby with Fetal Alcohol Syndrome or Fetal Alcohol Effects increases in proportion to the amount and frequency of alcohol consumed by a pregnant woman, and that stopping alcohol consumption at any point in the pregnancy reduces the emotional, physical, and mental consequences of alcohol exposure to the baby; and

(10) though approximately 1 out of every 5 pregnant women drink alcohol during their pregnancy, we know of no safe dose of alcohol during pregnancy, or of any safe time to drink during pregnancy, thus, it is in the best interest of the Nation for the Federal Government to take an active role in encouraging all women to abstain from alcohol consumption during pregnancy.

(c) PURPOSE.—It is the purpose of this section to establish, within the Department of Health and Human Services, a comprehensive program to help prevent Fetal Alcohol Syndrome and Fetal Alcohol Effects nationwide. Such program shall—

(1) coordinate, support, and conduct basic and applied epidemiologic research concerning Fetal Alcohol Syndrome and Fetal Alcohol Effects;

(2) coordinate, support, and conduct national, State, and community-based public awareness, prevention, and education programs on Fetal Alcohol Syndrome and Fetal Alcohol Effects; and

(3) foster coordination among all Federal agencies that conduct or support Fetal Alcohol Syndrome and Fetal Alcohol Effects research, programs, and surveillance and otherwise meet the general needs of populations actually or potentially impacted by Fetal Alcohol Syndrome and Fetal Alcohol Effects.

(d) ESTABLISHMENT OF PROGRAM.—Title III of the Public Health Service Act (42 U.S.C. 241 et seq.) is amended by adding at the end the following:

''PART O—FETAL ALCOHOL SYNDROME PREVENTION PROGRAM

''SEC. 399G. ESTABLISHMENT OF FETAL ALCOHOL SYNDROME PREVENTION PROGRAM.

''(a) FETAL ALCOHOL SYNDROME PREVENTION PROGRAM.—The Secretary shall establish a comprehensive Fetal Alcohol Syndrome and Fetal Alcohol Effects prevention program that shall include—

''(1) an education and public awareness program to—

''(A) support, conduct, and evaluate the effectiveness of—

''(i) training programs concerning the prevention, diagnosis, and treatment of Fetal Alcohol Syndrome and Fetal Alcohol Effects;

''(ii) prevention and education programs, including school health education and school-based clinic programs for school-age children, concerning Fetal Alcohol Syndrome and Fetal Alcohol Effects; and

''(iii) public and community awareness programs concerning Fetal Alcohol Syndrome and Fetal Alcohol Effects;

''(B) provide technical and consultative assistance to States, Indian tribal governments, local governments, scientific and academic institutions, and nonprofit organizations concerning the programs referred to in subparagraph (A); and

''(C) award grants to, and enter into cooperative agreements and contracts with, States, Indian tribal governments, local governments, scientific and academic institutions, and nonprofit organizations for the purpose of—

''(i) evaluating the effectiveness, with particular emphasis on the cultural competency and age-appropriateness, of programs referred to in subparagraph (A);

''(ii) providing training in the prevention, diagnosis, and treatment of Fetal Alcohol Syndrome and Fetal Alcohol Effects;

''(iii) educating school-age children, including pregnant and high-risk youth, concerning Fetal Alcohol Syndrome and Fetal Alcohol Effects, with priority given to programs that are part of a sequential, comprehensive school health education program; and

''(iv) increasing public and community awareness concerning Fetal Alcohol Syndrome and Fetal Alcohol Effects through culturally competent projects, programs, and campaigns, and improving the understanding of the general public and targeted groups concerning the most effective intervention methods to prevent fetal exposure to alcohol;

''(2) an applied epidemiologic research and prevention program to—

''(A) support and conduct research on the causes, mechanisms, diagnostic methods, treatment, and prevention of Fetal Alcohol Syndrome and Fetal Alcohol Effects;

''(B) provide technical and consultative assistance and training to States, Tribal governments, local governments, scientific and academic institutions, and nonprofit organizations engaged in the conduct of—

''(i) Fetal Alcohol Syndrome prevention and early intervention programs; and

''(ii) research relating to the causes, mechanisms, diagnosis methods, treatment, and prevention of Fetal Alcohol Syndrome and Fetal Alcohol Effects; and

''(C) award grants to, and enter into cooperative agreements and contracts with, States, Indian tribal governments, local governments, scientific and academic institutions, and nonprofit organizations for the purpose of—

''(i) conducting innovative demonstration and evaluation projects designed to determine effective strategies, including community-based prevention programs and multicultural education campaigns, for preventing and intervening in fetal exposure to alcohol;

''(ii) improving and coordinating the surveillance and ongoing assessment methods implemented by such entities and the Federal Government with respect to Fetal Alcohol Syndrome and Fetal Alcohol Effects;

''(iii) developing and evaluating effective age-appropriate and culturally competent prevention programs for children, adolescents, and adults identified as being at-risk of becoming chemically dependent on alcohol and associated with or developing Fetal Alcohol Syndrome and Fetal Alcohol Effects; and

''(iv) facilitating coordination and collaboration among Federal, State, local government, Indian tribal, and community-based Fetal Alcohol Syndrome prevention programs;

''(3) a basic research program to support and conduct basic research on services and effective prevention treatments and interventions for pregnant alcohol-dependent women and individuals with Fetal Alcohol Syndrome and Fetal Alcohol Effects;

''(4) a procedure for disseminating the Fetal Alcohol Syndrome and Fetal Alcohol Effects diagnostic criteria developed pursuant to section 705 of the ADAMHA Reorganization Act (42 U.S.C. 485n note) to health care providers, educators, social workers, child welfare workers, and other individuals; and

''(5) the establishment, in accordance with subsection (b), of an inter-agency task force on Fetal Alcohol Syndrome and Fetal Alcohol Effects to foster coordination among all Federal agencies that conduct or support Fetal Alcohol Syndrome and Fetal Alcohol Effects research, programs, and surveillance, and otherwise meet the general needs of populations actually or potentially impacted by Fetal Alcohol Syndrome and Fetal Alcohol Effects.

''(b) INTER-AGENCY TASK FORCE.—

''(1) MEMBERSHIP.—The Task Force established pursuant to paragraph (5) of subsection (a) shall—

''(A) be chaired by the Secretary or a designee of the Secretary; and

''(B) include representatives from all relevant agencies within the Department of Health and Human Services, including the Centers for Disease Control and Prevention, the National Institutes of Health, the Health Resources and Services Administration, the Substance Abuse and Mental Health Services Administration, and any other relevant agencies of the Department of Health and Human Services.

''(2) FUNCTIONS.—The Task Force shall—

''(A) coordinate all relevant programs and research concerning Fetal Alcohol Syndrome and Fetal Alcohol Effects, including programs that—

''(i) target individuals, families, and populations identified as being at risk of acquiring Fetal Alcohol Syndrome and Fetal Alcohol Effects; and

''(ii) provide health, education, treatment, and social services to infants, children, and adults with Fetal Alcohol Syndrome and Fetal Alcohol Effects;

''(B) coordinate its efforts with existing Department of Health and Human Services task forces on substance abuse prevention and maternal and child health; and

''(C) report on a biennial basis to the Secretary and relevant committees of Congress on the current and planned activities of the participating agencies, including a proposal for a Federal Interagency Task Force to include representatives from all relevant agencies and offices within the Department of Health and Human Services, the Department of Agriculture, the Department of Education, the Department of Defense, the Department of the Interior, the Department of Justice, the Department of Veterans Affairs, the Bureau of Alcohol, Tobacco and Firearms, the Federal Trade Commission, and any other relevant Federal agency.

''(c) SCIENTIFIC RESEARCH AND TRAINING.—The Director of the National Institute on Alcohol Abuse and Alcoholism, with the cooperation of members of the interagency task force established under subsection (b), shall establish a collaborative program to provide for the conduct and support of research, training, and dissemination of information to researchers, clinicians, health professionals and the public, with respect to the cause, prevention, diagnosis, and treatment of Fetal Alcohol Syndrome and the related condition know as Fetal Alcohol Effects.

''SEC. 399H. ELIGIBILITY.

''To be eligible to receive a grant, or enter into a cooperative agreement or contract under this part, an entity shall—

''(1) be a State, Indian tribal government, local government, scientific or academic institution, or nonprofit organization; and

''(2) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may prescribe, including a description of the activities that the entity intends to carry out using amounts received under this part.

''SEC. 399I. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this part, such sums as are necessary for each of the fiscal years 1998 through 2002.''.

FAIRCLOTH (AND CRAIG) AMENDMENT NO. 1102

Mr. SPECTER (for Mr. FAIRCLOTH, for himself and Mr. CRAIG) proposed an amendment to the bill, S. 1061, supra; as follows:

On page 61, after line 25, add the following:

SEC. . The Secretary of Education shall annually provide to the Committee on Labor and Human Resources and the Committee on Appropriations of the Senate and the Committee on Education and the Workforce and the Committee on Appropriations of the House of Representatives a certification that not less than 95 percent of the amount appropriated for a fiscal year for the activities of the Department of Education is being used directly for teachers and students. If the Secretary determines that less than 95 percent of such amount appropriated for a fiscal year is being used directly for teachers and students, the Secretary shall certify the percentage of such amount that is being directly used for teachers and students.

FEINGOLD AMENDMENT NO. 1103

Mr. SPECTER (for Mr. FEINGOLD) proposed an amendment to the bill, S. 1061, supra; as follows:

On page 61, after line 25, insert the following:

SEC. . (a) The Secretary of Education shall conduct a study that examines—

(1) the economic, educational, and societal costs of—

(A) the increase in enrollments of secondary school students during the period 1998 through 2008;

(B) the creation of smaller class sizes for students enrolled in grades 1 through 3; and

(C) the increase in enrollments described in subparagraph (A) in relation to the creation of smaller class sizes described in subparagraph (B); and

(2) the costs to States and local school districts for taking no action with respect to such increase in enrollments and smaller class sizes.

(b) The Secretary of Education shall report to Congress within 9 months of the date of enactment of this Act regarding the results of the study conducted under subsection (a). Such report shall include recommendations regarding what local school districts, States and the Federal Government can do to address the issue of the increase in enrollments of secondary school students and the need for smaller class sizes in grades 1 through 3.

HOLLINGS AMENDMENT NO. 1104

Mr. SPECTER (for Mr. HOLLINGS) proposed an amendment to the bill, S. 1061, supra; as follows:

On page 3, line 3 strike ''$8,000,000'' and insert in lieu thereof: ''$10,000,000.''

INHOFE AMENDMENT NO. 1105

Mr. SPECTER (for Mr. INHOFE) proposed an amendment to the bill, S. 1061, supra; as follows:

On page 70, line 1, strike ''$16,160,300,000'' and insert in lieu thereof: ''$16,162,525,000''.

On page 70, before the period on line 4, insert the following: '': *Provided further,* That not less than $2,225,000 shall be available for conducting a disability return to work demonstration initiative, which focuses on providing persons who have lost limbs with an integrated program of prosthetic and rehabilitative care and job placement assistance''.

SPECTER AMENDMENT NO. 1106

Mr. SPECTER proposed an amendment to the bill, S. 1061, supra; as follows:

On page 71, line 23, strike ''$245,000,000'' and insert in lieu thereof: ''$290,000,000''.

On page 71, line 25, after ''Public Law 104–121'' insert: '', section 10203 of Public Law 105–33,''.

WARNER (AND KENNEDY) AMENDMENT NO. 1107

Mr. SPECTER (for Mr. WARNER, for himself and Mr. KENNEDY) proposed an amendment to the bill, S. 1061, supra; as follows:

On page 60, line 7, strike ''$338,964,000'' and insert in lieu thereof ''$340,064,000: *Provided,* That $1,100,000 shall be used for the Millennium 2000 project''.

On page 56, line 21, strike ''$8,557,741,000'' and insert in lieu thereof ''$8,556,641,000''.

HARKIN AMENDMENT NO. 1108

Mr. SPECTER (for Mr. HARKIN) proposed an amendment to the bill, S. 1061, supra; as follows:

On page 39, line 17, after the word ''expended'' insert: '', and together with administrative fees collected relative to Medicare overpayment recovery activities, which shall remain available until expended''.

NICKLES (AND OTHERS) AMENDMENT NO. 1109

Mr. SPECTER (for Mr. NICKLES, for himself, Mr. HAGEL, and Mr. GRAMS) proposed an amendment to the bill, S. 1061, supra; as follows:

On page 49, after line 26, add the following:

SEC. . Subparagraphs (B) and (C) of section 1143(a)(2) of the Social Security Act (42 U.S.C. 1320b–13(a)(2) (B), (C)) are each amended by striking ''employee'' and inserting ''employer, employee,''.

SPECTER AMENDMENT NO. 1110

Mr. SPECTER proposed an amendment to the bill, S. 1061, supra; as follows:

On page 9, line 11, strike ''$3,292,476,000'' and insert in lieu thereof: ''$3,286,276,000''.

On page 10, line 18, strike ''$216,333,000'' and insert in lieu thereof: ''$210,133,000''.

On page 12, line 11, strike ''$84,308,000'' and insert in lieu thereof: ''$90,508,000''.

ROTH (AND MOYNIHAN) AMENDMENT NO. 1111

Mr. SPECTER (for Mr. ROTH, for himself and Mr. MOYNIHAN) proposed an amendment to the bill, S. 1061, supra; as follows:

On page 39, line 21, after the word ''appropriation'' insert: '': *Provided further,* That $900,000 shall be for carrying out section 4021 of Public Law 105–33''.

On page 39, line 22, strike ''$55,000,000'' and insert in lieu thereof: ''$54,100,000''.

HARKIN AMENDMENT NO. 1112

Mr. HARKIN proposed an amendment to the bill, S. 1061, supra; as follows:

On page 56, line 22, before the period, insert the following: '': *Provided further,* That $60,000,000 shall be for education infrastructure authorized under Title XII of the Elementary and Secondary Education Act to be derived from unobligated balances''.

HARKIN (AND GRAHAM) AMENDMENT NO. 1113

Mr. HARKIN (for himself and Mr. GRAHAM) proposed an amendment to the bill, S. 1061, supra; as follows:

On page 39, at the end of line 25 before the period insert the following: '': *Provided further,* that no less than $50,000,000 appropriated under this heading in fiscal year 1997 shall be obligated in fiscal year 1997 to increase Medicare provider audits and implement the Department's corrective action plan to the Chief Financial Officer's audit of the Health Care Financing Administration's oversight of Medicare''.

GRAHAM (AND OTHERS) AMENDMENT NO. 1114

Mr. HARKIN (for Mr. GRAHAM, for himself, Mr. KENNEDY, and Mr. ABRAHAM) proposed an amendment to the bill, S. 1061, supra; as follows:

On page 49, after line 26, insert the following:

SEC. . (a) That section 414(a) of the Immigration and Nationality Act (8 U.S.C. 1524(a)) is amended by striking ''fiscal year 1995, fiscal year 1996, and fiscal year 1997'' and inserting ''each of fiscal years 1998, and 1999''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect October 1, 1997.

BINGAMAN (AND OTHERS) AMENDMENT NO. 1115

Mr. HARKIN (for Mr. BINGAMAN, for himself, Mr. HARKIN, and Mr. KENNEDY) proposed an amendment to the bill, S. 1061, supra; as follows:

At the appropriate place, insert the following:

SEC. . (a) Notwithstanding any other provision of law, the National Assessment Governing Board established under section 412 of the National Education Statistics Act of 1994 (20 U.S.C. 9011), using funds appropriated under section 413(c) of that Act (20 U.S.C. 9012(c)), shall formulate policy guidelines for voluntary national tests of reading or mathematics for which the Secretary of Education uses funds appropriated to the Department of Education.

(b) In carrying out subsection (a), the National Assessment Governing Board shall—

(1) develop test objectives and specifications; test methodology; guidelines for test administration, including guidelines for inclusion of, and accommodations for, students with disabilities and students with limited English proficiency; guidelines for reporting test results, including the use of performance levels; and guidelines for test use;

(2) have final authority over the appropriateness of cognitive items; and

(3) ensure that all items selected for use on the tests are free from racial, cultural, or gender bias.

DASCHLE (AND KENNEDY) AMENDMENT NO. 1116

Mr. HARKIN (for Mr. DASCHLE, for himself and Mr. KENNEDY) proposed an amendment to the bill, S. 1061, supra; as follows:

On page 61, after line 25, insert the following:

SEC. . (a) The Senate finds that—

(1) Federal Pell Grants are a crucial source of college aid for low- and middle-income students;

(2) in addition to the increase in the maximum Federal Pell Grant from $2,700 to $3,000, which will increase aid to more than 3,600,000 low- and middle-income students, our Nation should provide an additional $700,000,000 to help more than 250,000 independent and dependent students obtain crucial aid in order to help the students obtain the education, training, or retraining the students need to obtain good jobs;

(3) our Nation needs to help children learn to read well in fiscal year 1998, as 40 percent of the Nation's young children cannot read at the basic level; and

(4) the Bipartisan Budget Agreement includes a total funding level for fiscal year 1998 of $7,600,000,000 for Federal Pell Grants, and of $260,000,000 for a child literacy initiative.

(b) It is the sense of the Senate that the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1998, should—

(1) provide $700,000,000 to fund the change in the needs analysis for Federal Pell Grants for independent and for dependent students;

(2) add $260,000,000 in fiscal year 1998 for a child literacy initiative; and

(3) pay for the increase in the Federal Pell Grant funding and the child literacy initiative from funds that are available for fiscal year 1998 and not yet appropriated .

FORD (AND OTHERS) AMENDMENT NO. 1117

Mr. FORD (for himself, Mr. FAIRCLOTH, Mr. MCCONNELL, Mr. HELMS, Mr. ROBB, and Mr. HOLLINGS) proposed an amendment to amendment No. 1078 proposed by Mr. DURBIN to the bill S. 1061, supra; as follows:

At the end of the matter proposed to be inserted, add the following new section:

''SEC. . SENSE OF THE SENATE ON COMPENSATION FOR TOBACCO GROWERS AS PART OF LEGISLATION ON THE NATIONAL TOBACCO SETTLEMENT.

''(a) FINDINGS.—

''(1) On June 20, 1997, representatives of tobacco manufacturers, public health organizations, and Attorneys General from a majority of the States announced that an agreement had been reached on a national tobacco settlement;

''(2) The national tobacco settlement was intended to provide a comprehensive framework for dealing with several issues relevant to the tobacco industry, including youth smoking prevention, legal liabilities, and the sales and marketing practices of the industry;

''(3) Implementation of the national tobacco settlement requires the enactment of federal legislation by the Congress and the President;

''(4) There are more than 125,000 farms in the United States which derive a substantial portion of their income from the cultivation and sale of tobacco;

''(5) Representatives of tobacco growers were completely excluded from the negotiations on the national tobacco settlement, and were poorly informed, or not informed at all, of any details of the settlement negotiations by any participants in those negotiations;

''(6) The national tobacco settlement includes compensation for several adversely affected groups, including NASCAR, rodeo, and other event sponsors, but includes absolutely no compensation whatsoever or other provisions relating to the impact of the settlement on tobacco growers;

''(7) No other group has their livelihoods affected by the national tobacco settlement as adversely as tobacco growers;

''(8) The local economies of tobacco growing communities will be adversely affected by implementation of the national tobacco settlement;

''(9) The national tobacco settlement contemplates $368.5 billion in payments from tobacco manufacturers over the next 25 years, and not all of this amount has been specifically earmarked by the agreement; and

''(10) The federal tobacco program was designed to operate at no net cost to the federal taxpayer, the national tobacco settlement does not contemplate any changes to the operation of this program, and even many critics of the national tobacco settlement, including representatives from the public health community, have expressed support for the continued operation of a federal tobacco program which operates at no net cost to taxpayers.''

''(b) SENSE OF THE SENATE.—It is the Sense of the Senate that—

''(1) Tobacco growers should be fairly compensated as part of any federal legislation for the adverse impact which will follow from the enactment of the national tobacco settlement;

''(2) Tobacco growing communities should be provided sufficient resources to adequately adjust to the impact on their local economies which will result from the enactment of the national tobacco settlement;

''(3) Any compensation provided to tobacco growers and tobacco growing communities as part of federal legislation to implement the national tobacco settlement should be included within the $368.5 billion in payments which are to be provided over the next 25 years; and

(4) No provisions should be included in any federal legislation to implement the national tobacco settlement which would restrict or adversely affect the continued administration of a viable federal tobacco program

which operates at no net cost to the taxpayer.''

MURRAY (AND WELLSTONE) AMENDMENT NO. 1118

Mrs. MURRAY (for herself and Mr. WELLSTONE) proposed an amendment to the bill, S. 1061, supra; as follows:

On page 49, after line 26, add the following:

SEC. . PROTECTING VICTIMS OF FAMILY VIOLENCE.

(a) FINDINGS.—Congress finds that—

(1) the intent of Congress in amending part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) in section 103(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat 2112) was to allow States to take into account the effects of the epidemic of domestic violence in establishing their welfare programs, by giving States the flexibility to grant individual, temporary waivers for good cause to victims of domestic violence who meet the criteria set forth in section 402(a)(7)(B) of the Social Security Act (42 U.S.C. 602(a)(7)(B));

(2) the allowance of waivers under such sections was not intended to be limited by other, separate, and independent provisions of part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.);

(3) under section 402(a)(7)(A)(iii) of such Act (42 U.S.C. 602(a)(7)(A)(iii)), requirements under the temporary assistance for needy families program under part A of title IV of such Act may, for good cause, be waived for so long as necessary; and

(4) good cause waivers granted pursuant to section 402(a)(7)(A)(iii) of such Act (42 U.S.C. 602(a)(7)(A)(iii)) are intended to be temporary and directed only at particular program requirements when needed on an individual case-by-case basis, and are intended to facilitate the ability of victims of domestic violence to move forward and meet program requirements when safe and feasible without interference by domestic violence.

(b) CLARIFICATION OF WAIVER PROVISIONS.—

(1) IN GENERAL.—Section 402(a)(7) of the Social Security Act (41 U.S.C. 602(a)(7)) is amended by adding at the end the following:

''(C) NO NUMERICAL LIMITS.—In implementing this paragraph, a State shall not be subject to any numerical limitation in the granting of good cause waivers under subparagraph (A)(iii).

''(D) WAIVERED INDIVIDUALS NOT INCLUDED FOR PURPOSES OF CERTAIN OTHER PROVISIONS OF THIS PART.—Any individual to whom a good cause waiver of compliance with this Act has been granted in accordance with subparagraph (A)(iii) shall not be included for purposes of determining a State's compliance with the participation rate requirements set forth in section 407, for purposes of applying the limitation described in section 408(a)(7)(C)(ii), or for purposes of determining whether to impose a penalty under paragraph (3), (5), or (9) of section 409(a).''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) takes effect as if it has been included in the enactment of section 103(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2112).

(c) FEDERAL PARENT LOCATOR SERVICE.—

(1) IN GENERAL.—Section 453 of the Social Security Act (42 U.S.C. 653), as amended by section 5534 of the Balanced Budget Act of 1997 (Public Law 105–33; 111 Stat. 627), is amended—

(A) in subsection (b)(2)—

(i) in the matter preceding subparagraph (A), by inserting ''or that the health, safety, or liberty or a parent or child would be unreasonably put at risk by the disclosure of such information,'' before ''provided that'';

(ii) in subparagraph (A), by inserting '', that the health, safety, or liberty or a parent or child would be unreasonably put at risk by the disclosure of such information,'' before ''and that information''; and

(iii) in subparagraph (B)(i), by striking ''be harmful to the parent or the child'' and inserting ''place the health, safety, or liberty of a parent or child unreasonably at risk''; and.

(B) in subsection (c)(2), by inserting '', or to serve as the initiating court in an action to seek and order,'' before ''against a noncustodial''.

(2) STATE PLAN.—Section 454(26) of the Social Security Act (42 U.S.C. 654), as amended by section 5552 of the Balanced Budget Act of 1997 (Public Law 105–33; 111 Stat. 635), is amended—

(A) in subparagraph (C), by striking ''result in physical or emotional harm to the party or the child'' and inserting ''place the health, safety, or liberty of a parent or child unreasonably at risk'';

(B) in subparagraph (D), by striking ''of domestic violence or child abuse against a party or the child and that the disclosure of such information could be harmful to the party or the child'' and inserting ''that the health, safety, or liberty of a parent or child would be unreasonably put at risk by the disclosure of such information''; and

(C) in subparagraph (E), by striking ''of domestic violence'' and all that follows through the semicolon and inserting ''that the health, safety, or liberty of a parent or child would be unreasonably put at risk by the disclosure of such information pursuant to section 453(b)(2), the court shall determine whether disclosure to any other person or persons of information received from the Secretary could place the health, safety, or liberty or a parent or child unreasonably at risk (if the court determines that disclosure to any other person could be harmful, the court and its agents shall not make any such disclosure);''.

(3) EFFECTIVE DATE.—The amendments made by this section shall take effect 1 day after the effective date described in section 5557(a) of the Balanced Budget Act of 1997 (Public Law 105–33).

MURRAY AMENDMENT NO. 1119

Mrs. MURRAY proposed an amendment to the bill, S. 1061, supra; as follows:

On page 55, line 26, strike ''$1,486,698,000'' and insert ''$1,487,698,000''.

On page 56, line 1, strike ''$1,483,598,000'' and insert ''$1,484,598,000''.

On page 56, line 3, strike ''$4,491,000'' and insert ''$5,491,000''.

On page 56, line 5, after Sec. 384(c) insert the following: ''which shall be derived from unobligated . . .''.

BENNETT AMENDMENT NO. 1120

Mr. HARKIN (for Mr. BENNETT) proposed an amendment to the bill, S. 1061, supra; as follows:

On page 53, line 16, after ''Act'' insert '': *Provided further,* That—

''(1) of the amount appropriated under this heading and notwithstanding any other provision of law, the Secretary of Education may award $1,000,000 to a State educational agency (as defined in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801)) to pay for appraisals, resource studies, and other expenses associated with the exchange of State school trust lands within the boundaries of a national monument for Federal lands outside the boundaries of the monument; and

''(2) the State educational agency is eligible to receive a grant under paragraph (1) only if the agency serves a State that—

''(A) has a national monument declared within the State under the authority of the Act entitled ''An Act for the preservation of American antiquities'', approved June 8, 1906 (16 U.S.C. 431 et seq.) (commonly known as the Antiquities Act of 1906) that incorporates more than 100,000 acres of State school trust lands within the boundaries of the national monument; and

''(B) ranks in the lowest 25 percent of all States when comparing the average per pupil expenditure (as defined in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801)) in the State to the average per pupil expenditure for each State in the United States.''.

KERREY (AND OTHERS) AMENDMENT NO. 1121

Mr. FORD (for Mr. KERREY, for himself, Mr. HAGEL, Mr. BINGAMAN, Mr. JEFFORDS, Mr. LAUTENBERG, and Ms. MOSELEY-BRAUN) proposed an amendment to the bill, S. 1061, supra; as follows:

On page 40, line 24, strike the period and insert '': *Provided further,* That, notwithstanding section 418(a) of the Social Security Act, for fiscal year 1997 only, the amount of payment under section 418(a)(1) to which each State is entitled shall equal the amount specified as mandatory funds with respect to such State for such fiscal year in the table transmitted by the Administration for Children and Families to State Child Care and Development Block Grant Lead Agencies on August 27, 1996, and the amount of State expenditures in fiscal year 1994 or 1995 (whichever is greater) that equals the non-Federal share for the programs described in section 418(a)(1)(A) shall be deemed to equal the amount specified as maintenance of effort with respect to such State for fiscal year 1997 in such table.''.

GORTON (AND DOMENICI) AMENDMENT NO. 1122

Mr. DOMENICI (for Mr. GORTON, for himself and Mr. DOMENICI) proposed an amendment to the bill, S. 1061, supra; as follows:

On page 85, after line 23, insert the following:

SEC. . (a) Notwithstanding any other provision of law, the Secretary of Education shall award the total amount of funds described in subsection (b) directly to local educational agencies in accordance with subsection (d) to enable the local educational agencies to support programs or activities for kindergarten through grade 12 students that the local educational agencies deem appropriate.

(b) The total amount of funds referred to in subsection (a) are all funds that are appropriated for the Department of Education, the Department of Labor, and the Department of Health and Human Services under this Act to support programs or activities for kindergarten through grade 12 students, other than—

(1) amounts appropriated under this Act—

(A) to carry out title VIII of the Elementary and Secondary Education Act of 1965;

(B) to carry out the Individuals with Disabilities Education Act;

(C) to carry out the Adult Education Act;

(D) to carry out the Museum and Library Services Act;

(E) for departmental management expenses of the Department of Education; or

(F) to carry out the Educational Research, Development, Dissemination, and Improvement Act;

(G) to carry out the National Education Statistics Act of 1994;

(H) to carry out section 10601 of the Elementary and Secondary Education Act of 1965;

(I) to carry out section 2102 of the Elementary and Secondary Education Act of 1965; or

(J) to carry out part K of the Elementary and Secondary Education Act of 1965; or

(2) 50 percent of the amount appropriated under title III under the headings ''Rehabilitation Services and Disability Research'' and ''Vocational and Adult Education''.

(c) Each local educational agency shall conduct a census to determine the number of kindergarten through grade 12 students served by the local educational agency not later than 21 days after the beginning of the school year. Each local educational agency shall submit the number to the Secretary.

(d) The Secretary shall determine the amount awarded to each local educational agency under this section as follows:

(1) First, the Secretary, using the information provided under subsection (c), shall determine a per child amount by dividing the total amount of funds described in subsection (b), by the total number of kindergarten through grade 12 students in all States.

(2) Second, the Secretary, using the information provided under subsection (c), shall determine the baseline amount for each local educational agency by multiplying the per child amount determined under paragraph (1) by the number of kindergarten through grade 12 students that are served by the local educational agency.

(3) Lastly, the Secretary shall compute the amount awarded to each local educational agency as follows:

(A) Multiply the baseline amount determined under paragraph (2) by a factor of 1.1 for local educational agencies serving States that are in the least wealthy quintile of all States as determined by the Secretary on the basis of the per capita income of individuals in the States.

(B) Multiply the baseline amount by a factor of 1.05 for local educational agencies serving States that are in the second least wealthy such quintile.

(C) Multiply the baseline amount by a factor of 1.00 for local educational agencies serving States that are in the third least wealthy such quintile.

(D) Multiply the baseline amount by a factor of .95 for local educational agencies serving States that are in the fourth least wealthy such quintile.

(E) Multiply the baseline amount by a factor of .90 for local educational agencies serving States that are in the wealthiest such quintile.

(e) If the total amount of funds made available to carry out this section is insufficient to pay in full all amounts awarded under subsection (d), then the Secretary shall ratably reduce each such amount.

(f) If the Secretary determines that a local educational agency has knowingly submitted false information under subsection (c) for the purpose of gaining additional funds under this section, then the local educational agency shall be fined an amount equal to twice the difference between the amount the local educational agency received under subsection (d), and the correct amount the local educational agency would have received if the agency had submitted accurate information under subsection (c).

(g) In this section—

(1) the term ''local educational agency'' has the meaning given the term in section 14101 of the Elementary and Secondary Education Act of 1965;

(2) the term ''Secretary'' means the Secretary of Education; and

(3) the term ''State'' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

NOTICE OF POSTPONEMENT OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the public the postponement of a hearing scheduled before the full Committee on Energy and Natural Resources.

The hearing was to take place Tuesday, September 16, 1997, at 10 a.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC. The purpose of the hearing was oversight of Federal outdoor recreation policy. The hearing will be rescheduled for a later date.

For further information, please call Kelly Johnson at (202) 224–3329.

ADDITIONAL STATEMENTS

INCOME AVERAGING FOR FARMERS

● Mr. FAIRCLOTH. Mr. President, I heard some good words about a provision of the tax bill from the folks back home during August recess, and I want to pass on their comments.

The subject was income averaging for farmers. The tax bill restored this important financial management tool. I commend Senator SHELBY and Senator BURNS for their fine leadership on this bill.

The American farmer is the most efficient food producer in the world. The average farmer grows food and fiber for close to 130 people. The people of the United States thus enjoy the most plentiful and affordable food supply in the world.

However, the American farmer faces numerous obstacles, from unpredictable weather to natural disasters, from outbreaks of insects and disease to excessive Government regulations.

As a farmer for more than 50 years, I know that there is one constant in farming, and that is unpredictability.

For many years, the American farmer was permitted to average his income over a 2-year period, and this brought some predictability to their Federal income taxes. It meant that farmers were allowed to moderate the tax effects of the natural boom and bust cycle that is so familiar to many farmers.

The 1986 Tax Reform Act, however, abolished income averaging for farmers. The tax bill reduced the number of tax brackets and cut the top rate to 28 percent. Of course, just 7 years later, the number of brackets jumped and the top rate soared to 39.6 percent.

Further, the American farmer faced another major change, the 1996 farm bill. The new farm bill abolished the traditional price deficiency payments—the price supports that guaranteed a certain farm income—and it set the farm programs on a market-oriented path.

The increased exposure of the farmer to the risks of the markets and the risks of the elements, coupled with tax rates that approach 40 percent, underscore the need to restore income averaging.

It is difficult for the small farmer to create a farm business plan that can anticipate the surges and dives in income that are part of farm life. It is tough to plan for tax management due to the uncertainties of farm operations.

The farmer struggles to pay his bills, much less save, in a bad year, and he faces high tax rates in his good years. As a result, compared to people who earn stable incomes, farmers pay taxes at a higher cumulative rate.

Mr. President, the farmer is the backbone of this Nation, and he keeps us fed. He is essential to our Nation and to the health of rural communities.

The current Tax Code and regulatory requirements are burdens that plague North Carolina farmers and all American farmers and ranchers.

The Tax Code needs to reflect their contributions to our health and our balance of trade. This provision will be a real help for farmers and farm communities across this Nation. It will save American farmers more than $150 million, and, more important, it will save some farms and the families who work them from financial ruin in the rough years inherent in agriculture.

That's good for farmers and good for America.●

HONORING RICHARD B. MCCALL

● Mr. DODD. Mr. President, I rise today to recognize a remarkable public servant from my home State of Connecticut—Richard B. McCall, who this past month left the Connecticut Department of Motor Vehicles after 31 years of working as the head of its Handicapped Driver Training Program.

The Connecticut DMV's Handicapped Driver Training Program is the only one in the country where a licensed state agency provides free driver training for the handicapped. It began in 1945, in order to meet the needs of disabled World War II veterans, and for more than five decades this program has helped handicapped residents of Connecticut to function as independent and productive members of society. No individual is more closely linked to this program and its long-term success than Dick McCall.

Since taking charge of the program in 1966, Mr. McCall has personally helped to train more than 3,500 Connecticut residents with disabilities who now hold driver's licenses. He made

sure that anyone who wanted to drive would receive an evaluation and have a fair chance to get a license.

Performing his duties required great diligence, patience, and compassion. Mr. McCall would sometimes make as many as 50 trips to a trainee's house, while preparing him or her for a test. In addition, he made himself available to help his students at all times including nights and weekends.

Dick McCall's attitude toward his job has been described as a one-man crusade to give people with disabilities an opportunity for equality and personal freedom. Mr. McCall recognized that the ability to drive brings with it the dignity of having a job or just being able to drive to the supermarket, library, or church. Dick McCall felt that, short of curing their disability, the greatest gift that he could give to these people was mobility and independence, and he worked tirelessly to help as many people as was humanly possible.

While Dick McCall is ending his career with the DMV, he is by no means retiring from public service. He has taken a job with the Easter Seals, where he will continue working with people with disabilities.

Too often, the work of people like Dick McCall goes unnoticed by society at large. However, the thousands of people whose lives have been touched by Dick McCall recognize the sacrifices that he has made in his life, and his work has earned him the nickname ''Saint Richard.'' I would like to personally commend him for his ongoing career of public service. He is truly an inspiration to all those people who have been fortunate enough to know him, and I wish him only the best in his future endeavors.●

McCAIN-FEINGOLD CAMPAIGN FINANCE REFORM LEGISLATION

● Mr. DORGAN. Mr. President, I rise today to announce my support for the McCain-Feingold campaign finance reform legislation currently being considered by the Congress.

I am cosponsoring the McCain-Feingold bill because I believe this Congress must address the issue of campaign finance reform. The American public and the people in my State of North Dakota are demanding that we clean up the system and that we clean it up now. Day after day, they read another story in the newspaper about the ever-increasing, and often unregulated, money flowing into campaigns, all the while seeing a Congress that appears unable or unwilling to tackle the problem. The time has come for us to do the job we were sent here to do and enact meaningful, comprehensive reform.

Mr. President, the current system of electing Members of Congress is badly in need of reform. Elections are too long, too negative, and too expensive. Voter participation continues to drop to new lows, and far too often, the bulk of the debate the American public sees takes place in 30-second attack ads. And the costs of running for office are exploding. The average Senate race in 1996 cost $3.6 million. Twenty years ago, the average Senate race cost just $609,100. The cost of a race for the House of Representatives has increased sixfold over the last 20 years, from $99 million in 1976 to $626 million in 1996.

Spending on Federal election campaigns increased to an estimated $2.7 billion in the most recent election cycle, a threefold increase over campaign spending just 20 years ago, even after adjusting for inflation.

Even worse, the money is increasingly coming through channels designed to skirt the Federal Election Campaign Act. The use of soft money, which I call legalized cheating, has skyrocketed in the last 4 years. In the 1995–96 cycle, the two major parties spent $263 million in soft money, compared with $81 million in the 1993–94 cycle. That's an increase of 224 percent.

Now, these contributions often come in very large amounts, and are clearly intended to have an impact on Federal elections even as they are designed to snake around the laws that are supposed to regulate Federal elections. So we have large chunks of money entering the system in ways that are largely unlimited, unregulated, and undisclosed. No wonder the American people think the system is broken.

Just as our campaign law has been stretched to the breaking point in order to push more money into the system, the protections in current law have recently been handed a severe blow by the Supreme Court. As a result of a decision handed down last year, independent expenditures that aren't really independent can be spent and have a dramatic impact on elections without any notion of what the source of the money was.

These, and many other areas of campaign spending cry out for reform and this Congress must address it now.

McCain-Feingold is a strong step in the right direction, and I am pleased to serve as a cosponsor of the legislation, consistent with the changes the sponsors announced on May 22. It includes voluntary expenditure limits, with a variety of carrots and sticks to encourage candidates to comply. It tightens the definition of independent expenditure in ways that will help make sure the expenditures truly are independent. It will prohibit the national political parties from raising and spending soft money to influence Federal elections. And it makes a strong first step toward controlling soft money spent by outside groups on so-called issue advocacy.

This last point is important, Mr. President, so I want to take a moment to elaborate. As currently defined under FEC regulations, only communications which use such words as ''vote for,'' ''elect,'' ''support,'' ''defeat,'' ''reject,'' or ''Smith for Congress'' are considered express advocacy which must be paid for with money raised in compliance with Federal election law, that is, hard money.

This overly narrow definition of what constitutes express advocacy has created a giant loophole for attack ads. Simply by avoiding the magic words I mentioned above, corporations, unions, and other special interest groups can pay for brutal attack ads. Anyone who has seen some of these ads can tell they're intended to influence the outcome of Federal elections. And because they can be paid for with soft money, groups can raise money for them without limits, buy them in the millions of dollars, and never have to disclose what they're doing to the FEC.

This is a critical part of the soft money puzzle, Mr. President, and McCain-Feingold takes strong steps to remedy it. Far from limiting discussion of the issues as some of its critics would suggest, this provision simply says that if an ad is meant to influence a Federal election, it should be paid for with money raised under the purview of Federal election law. It's simple common sense, and it's a badly needed, and long overdue, reform.

Now, I admit, there are several provisions in the McCain-Feingold bill that I would write differently and that I hope we might change along the way. I'd like to add a provision that provides that the lowest television rate for political advertising will apply only to commercials which are at least 1-minute in length and in which the candidate appears 75 percent of the time. The 30-second political attack ad does little, if anything, to inform the public about the issues and advance the debate. And by appearing in the commercials, candidates will be more accountable for the ads and will likely be more responsible about their content. When selecting their leaders, the American people deserve better than a ''hit and run'' debate.

I would also like to add provisions with greater inducements for candidates to participate in the voluntary spending limit system, and with greater penalties if they choose not to, in order to virtually require people to adopt the limits for their campaigns. I would like to encourage more participation in the process by ordinary citizens by restoring an annual 100 percent tax credit for the first $100 of contributions to congressional campaigns. And I would like to see some changes in the provisions dealing with political action committees as well.

But having said that, I think this is a worthy campaign finance reform proposal and I am going to fight hard for it. I want to get it passed, and get it signed by the President. The American people demand and deserve no less from us.●

RECENT BOMBINGS IN JERUSALEM

● Mr. MOYNIHAN. Mr. President, the news from Israel is painful to all who cherish the prophetic vision of peace in the Holy Land. On Sunday, September

26, 1993, less than 2 weeks after the signing of the Oslo accords, I addressed a public forum in New York City with Israeli Foreign Minister Shimon Peres and declared, inter alia:

And now, the Palestinian leaders have said, we will—at long last—beat our swords into plowshares. We will yield up Kalishnikovs and Katyushas to concentrate on the arts of accounting, civil administration, health care and construction. Now if any nation on Earth has a right to say ''no'' it was Israel. But Israel said ''yes,'' declaring, in the moving words of Prime Minister Rabin: ''Enough!'' We are willing to take this chance. To see your words converted to deeds. The Knesset has voted after a vigorous and thoughtful debate. The bedrock of the United States-Israeli friendship is our deep respect for Israeli democracy. The democracy has spoken and will have our support as it always has.

The question of what response the Congress takes toward aid to the Palestinian Authority should reflect first and foremost the results of careful consultation with the Government of Israel. The Israeli Government has taken appropriate and firm measures in response to this latest atrocity. We must support them and let Chairman Arafat know that even the perception of his supporting terror is unacceptable to the American people, much less the thinly veiled utilization of terror as diplomacy by other means.

May I also commend to the Members of the Senate a thoughtful resolution from the leadership of the Union of Orthodox Jewish Congregations which addresses the issues raised by the bombing in Jerusalem. I ask that the resolution be printed in the RECORD.

The resolution follows:

ORTHODOX UNION RESOLUTION ON THE JERUSALEM BOMBING OF SEPTEMBER 4, 1997

The Union of Orthodox Congregations of America, representing nearly 1,000 Orthodox Jewish synagogues nationwide, expresses its outrage at the deadly terrorist attack perpetrated this morning by suicide bombers in Jerusalem. Again, acts of terrorism and murder against innocent civilians in Jerusalem streets have been committed including the wounding of American youth studying in Israel. This latest atrocity once again makes a mockery of the Palestinian Authority's solemn commitments to fight the terrorist organizations, their infrastructure and prevent violence and incitement to terror, the condition upon which the late Prime Minister Yitzchak Rabin and Israeli Knesset agreed to the Oslo process. Arafat's embrace of Hamas, the release from prison of Hamas terrorists, and the incendiary statements made by Arafat and other Palestinian officials have given the terrorist organizations a virtual green light for terror operations in Israel. Ironically, the Palestinian Authority dares to use this failure to combat terrorism as a means of pressuring Israel into making concessions, a tactic which completely negates the peace negotiations. The hope for success of any peace negotiations in the continuing atmosphere of terrorism, death and ongoing calls for Jihad, is dramatically and sadly diminished. The recent New York Times photo of Mr. Arafat embracing Hamas leaders is not an isolated instance but illustrative of an apparent agreement between Hamas and the PA to countenance terrorism provided it did not emanate from areas controlled by the PA. In essence, the Hamas is acting as an adjunct of the PLO, clearly demonstrating that Mr. Arafat views terror as an instrument of diplomacy.

The Orthodox Union has long been on record calling for suspension of any United States and European aid to the Palestinian Authority unless they comply with the agreements they signed. Those who sanction mass murder do not deserve the support of civilized nations. The Orthodox Union urges Congress to continue suspending U.S. aid to the Palestinian Authority in light of the PA's continuing refusal to disarm or outlaw terrorist groups, its refusal to extradite terrorists to Israel and Arafat's continued speeches praising the murderers of Jews as ''heroes and martyrs''. Chairman Arafat has to learn once and for all that terror and violence are the antithesis of peace. Words are not enough. The American administration must take concrete measures in order to ensure that Mr. Arafat shuts down the terrorist mechanism that operate to threaten Israel.

Israel's first responsibility is to the safety and security of its people. Israel cannot move forward in the peace process unless the threat of terror and violence that is part and parcel of the Palestinian policy is permanently eradicated.

The Orthodox Union grieves with the families of the murdered victims of this horrendous, senseless attack. May they be comforted amongst the mourners of Zion and Jerusalem.●

IN RECOGNITION OF HENRY FORD COMMUNITY COLLEGE FOR 60 YEARS OF SERVICE TO THE COMMUNITY

● Mr. LEVIN. Mr. President, I rise today to call my colleagues' attention to the 60th anniversary of an important educational institution in Michigan. On October 10, 1997, Henry Ford Community College will dedicate a new Learning Resource Center and kick off a year of special events to celebrate its six decades of providing educational opportunities to the people of Michigan.

Henry Ford Community College, which is located in Ford Motor Co.'s hometown of Dearborn, first opened its doors in 1938 as Fordson Junior College with 200 students. Today, approximately 20,000 students attend classes at HFCC's 75-acre main campus and its auxiliary learning center in Dearborn Heights. Many transfer to 4-year institutions after completing 1 or 2 years at HFCC. Others are enrolled in two-year associate degree programs in arts, science, or business. Still others are enrolled in non-credit or continuing education courses, seeking to upgrade their job skills to remain competitive in the marketplace.

I know that the administrators and instructors at Henry Ford Community College are proud of their reputation for turning out graduates who are well prepared to enter the work force. In fact, HFCC believes that this is so central to its mission that it offers up to 16 hours of free additional workplace training to any graduate whose entry-level technical job skills are deemed to be lacking by an employer. HFCC's Office of Corporate Training works with area businesses and manufacturers to design training programs for their employees, which are held either at HFCC or on the job site. HFCC also offers skilled trade and special job training programs designed to help laid off workers return to the work force more quickly.

While preparing students for additional education and the workplace are the central goals of Henry Ford Community College, it is also deeply involved in the cultural life of the community. HFCC's cultural activities program provides lectures, performances, and films for the general public. They also sponsor the Enrichment for Young People program, which gives young students the opportunity to take classes in art, theater, and music. Senior citizens are welcomed at the annual Senior Citizens Day on campus, and they may take classes free of charge year round. Concerts, plays, art exhibits, and other performances are offered throughout the year, and are open to the public.

For 60 years, Henry Ford Community College has been an integral part of the educational and cultural fabric of metropolitan Detroit. This vibrant institution has helped tens of thousands of people to realize their dreams, whether to upgrade professional skills, attain a degree, or simply learn something new about an interesting subject. Mr. President, I encourage my Senate colleagues to join me in extending congratulations to the men and women of Henry Ford Community College on the occasion of its 60th anniversary.●

CELEBRATING DURHAM MANUFACTURING'S 75TH BIRTHDAY

● Mr. DODD. Mr. President. I rise today to commemorate the 75th birthday of one of the oldest and most respected companies in my home State—the Durham Manufacturing Co. of Durham, CT. Few companies ever enjoy such long-term success, but Durham Manufacturing has been able to thrive for so many years because it is committed not only to manufacturing excellence, but also to its workers and to its surrounding community.

The Durham Manufacturing Co. was founded after a fire destroyed the factory for Merriman Manufacturing Co., which had been Durham's largest employer for decades. The residents of Durham were determined to keep their community together, and in 1922, the Durham Manufacturing Co. began operations out of a wooden barn. Durham Manufacturing specialized in the manufacture of tin-coated iron cash boxes and cash boxes with a handle and combination lock which were used to store insurance policies.

During World War II, Durham Manufacturing adapted its production to meet the needs created by the war and became the leading supplier of first aid boxes to the Armed Forces. After the war, Durham saw many of its Government contracts expire, and unfortunately, in 1947, the wooden factory was destroyed by fire.

While many companies would have folded up their tents under such adversity, there was never any doubt that the Durham Manufacturing Co. would continue. After the fire, the company took on a new direction as its focus shifted from custom contract work to developing proprietary product lines, which have evolved into their current product lines of first aid boxes, storage cabinets and bins, and office products. Today, their products are used throughout North America and Europe, and this company, which began operating out of a wooden barn, now has its own site on the World Wide Web. Clearly, the future of Durham Manufacturing appears even more promising than its past.

It is only appropriate that Durham Manufacturing's current factory is located on Main Street, because theirs is an All-American success story. But while there is a Main Street in most every town in the country, companies like Durham Manufacturing have become all too rare—a business where generations of family members have worked to build not only a profitable company, but a prosperous community, as well. Companies like Durham Manufacturing represent the backbone of small cities all around this country, and it is important that we recognize and celebrate their longevity.

Again, I would like to congratulate the Durham Manufacturing Co. on the occasion of their 75th birthday, and I wish many more years of continued prosperity.●

ORDERS FOR TUESDAY, SEPTEMBER 9, 1997

Mr. LOTT. Mr. President, I ask unanimous consent that when the Senate complete its business today it stand in adjournment until the hour of the 9:30 a.m. on Tuesday, September 9. I further ask that on Tuesday, immediately following the prayer, the routine requests through the morning hour be granted and the Senate immediately resume consideration of S. 1061, the Labor-HHS appropriations bill.

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

Mr. LOTT. I also ask consent that from 12:30 p.m. to 2:15 p.m. the Senate stand in recess in order for the weekly policy meetings to occur.

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

PROGRAM

Mr. LOTT. Tomorrow the Senate will immediately resume consideration then of S. 1061, the Labor-HHS appropriations bill. As Members are aware, under the order, all amendments had to be offered today in order to be considered as part of this legislation. Therefore, the Senate will continue debating amendments in order throughout Tuesday's session of the Senate. It is hoped that all debate and votes on amendments to S. 1061 can be completed on Tuesday. The next rollcall votes will occur beginning at 2:15 p.m. on Tuesday. In addition, the Senate will recess, as I got permission just a moment ago, between 12:30 p.m. and 2:15 p.m. for the weekly luncheons to meet. As indicated earlier, it is hoped that the Senate can complete this work on the Labor-HHS appropriations bill. We will then go to the FDA reform legislation, and our intent is to complete that work this week also. Once we have completed the appropriations bill that we have approval for here, plus the FDA, then we would go to the Interior appropriations bill.

Members can anticipate votes throughout the day each day of this week, including Friday as it now stands. And, also, depending on what happens with regard to committee meetings, we may have to go into the night. I hope that is not necessary. I think it is better for us to do our work in the daylight, and I will do everything to try to make sure that happens.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. LOTT. Mr. President, if there is no further business to come before the Senate, I ask that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:48 p.m., adjourned until Tuesday, September 9, 1997, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate September 8, 1997:

THE JUDICIARY

LYNN S. ADELMAN, OF WISCONSIN, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF WISCONSIN, VICE THOMAS J. CURRAN, RETIRED.

JEREMY D. FOGEL, OF CALIFORNIA, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF CALIFORNIA, VICE ROBERT P. AGUILAR, RETIRED.

DEPARTMENT OF STATE

THOMAS M. FOGLIETTA, OF PENNSYLVANIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO ITALY.

ALPHONSE F. LA PORTA, OF NEW YORK, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO MONGOLIA.

ALEXANDER R. VERSHBOW, OF THE DISTRICT OF COLUMBIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR TO BE U.S. PERMANENT REPRESENTATIVE ON THE COUNCIL OF THE NORTH ATLANTIC TREATY ORGANIZATION, WITH THE RANK AND STATUS OF AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY.