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Senate

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

PRAYER

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

Gracious Lord, You know what is ahead today for us. Crucial issues await our attention. Pending decisions demand our concentration. And we know that the choices we make will affect millions in our beloved Nation.

It is with that in mind that we say with the psalmist, ''Show me Your ways, O Lord; teach me Your paths. Lead me in Your truth and teach me, for You are the God of my salvation; on You I wait all the day.''—Psalm 25:4–5.

May we prepare for the decisive decisions of this day by opening our minds to the inflow of Your spirit. We confess that we need Your divine wisdom to shine the light of discernment in the dimness of our limited understanding.

We praise You, Lord, that we can face the rest of this day with the inner peace of knowing that You will answer this prayer for guidance and give us strength and courage. In the name of our Lord and Saviour. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader is recognized.

SCHEDULE

Mr. HAGEL. Mr. President, for the information of all Senators, following morning business the Senate will hopefully resume consideration of H.R. 1122, the partial-birth abortion ban bill. It is still hoped that an agreement will be reached shortly to conduct a vote on final passage of H.R. 1122 early this afternoon. In addition, I remind all Senators, from 12:30 to 2:15, the Senate will recess for weekly policy luncheons. This afternoon it is hoped we will begin consideration of the budget resolution. Therefore, Senators can expect rollcall votes throughout the day in this session of the Senate.

As previously announced, Members who intend to offer amendments to that resolution should be prepared to offer those amendments during today's session. Also it is hoped that the two leaders will be able to reach an agreement on yielding back much of the statutory time limitation for the budget resolution, leaving 15 hours of debate on the resolution in order.

As always, all Members will be notified accordingly as any votes are ordered with respect to any of this legislation. I thank all Members for their attention.

UNANIMOUS-CONSENT AGREEMENT—H.R. 1122

Mr. HAGEL. Mr. President, I ask unanimous consent that no further amendments be in order to H.R. 1122 other than a technical amendment to be offered by Senator SANTORUM regarding physicians' conduct, and there be 10 minutes debate on the amendment, and following the use or yielding back of that time on the amendment, the amendment be considered agreed to, and the motion to reconsider be laid upon the table, and following the adoption of the amendment the bill be read for the third time.

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

Mr. HAGEL. I now ask unanimous consent at 10 a.m. on Tuesday, May 20, the Senate resume consideration of H.R. 1122, and there be 3 hours and 10 minutes of debate to be equally divided between Senators SANTORUM and BOXER or their designees, and that the vote occur on passage of H.R. 1122 at 2:15 on Tuesday, and that paragraph 4 of rule 12 be waived.

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

Mr. KERREY. Mr. President, I ask unanimous consent the time controlled on H.R. 1122 on the Democratic side be changed to reflect that Senator DASCHLE or his designee controls the time.

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

PRIVILEGE OF THE FLOOR

Mr. HAGEL. Mr. President, I ask unanimous consent that Lou Ann Linehan and Deb Fiddelke be permitted privilege of the floor for the duration of the debate.

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

COMMEMORATING THE 15TH ANNIVERSARY OF THE CONSTRUCTION AND DEDICATION OF THE VIETNAM VETERANS MEMORIAL

Mr. HAGEL. Mr. President, I ask unanimous consent the Senate now proceed to the consideration of Senate Resolution 87, submitted by myself, along with my colleague Senator BOB KERREY of Nebraska and others.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 87) commemorating the 15th anniversary of the construction and dedication of the Vietnam Veterans Memorial.

The Senate proceeded to consider the resolution.

Mr. HAGEL. Mr. President, I rise today to submit a resolution commemorating the 15th anniversary of the construction and dedication of the Vietnam Veterans Memorial, also known as ''The Wall.'' I am pleased to be joined in this effort by my distinguished colleague from Nebraska, my senior Senator, BOB KERREY, who, incidentally, is the only Member of this body who was a recipient of the Medal of Honor for his service in Vietnam. I

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

also am joined by the other Vietnam combat veterans who serve in this body. In all, 75 Senators have joined in cosponsoring this resolution.

The creation of this memorial marked the beginning of a healing process for the Nation and for veterans divided by the war. I was proud to have spoken at the 1982 groundbreaking for the Vietnam Veterans Memorial, as did two of my colleagues, Senator ROBB, who then was Governor of Virginia, and Senator JOHN WARNER.

I keep in my Senate office, Mr. President, a shovel I used during the groundbreaking ceremony 15 years ago to remind me of that day. While the debate over our involvement in Vietnam and the conduct of the war will continue for years to come, the wall has united Americans in honoring those who served. It honors warriors, not the war. The Vietnam wall stands as a stirring reminder that memorials are built not to honor or glorify war. There is no glory in a war, only suffering. Memorials are built to honor the commitment and the sacrifice that men and women give to their country because they are willing to risk their lives in defense of freedom.

As we commemorate the 15th anniversary of the groundbreaking for the Vietnam Veterans Memorial, it is important that we remember those brave men and brave women who fought and died for liberties we take for granted, and it is important we remember their families who also sacrificed for this Nation.

Recently I was joined in a ceremony to mark the wall's 15th anniversary by my friends and colleagues, Senators BOB KERREY of Nebraska, JOHN MCCAIN of Arizona, MAX CLELAND of Georgia, JOHN KERRY of Massachusetts, and CHUCK ROBB of Virginia. We come from different States and different parties, but despite our differences, we six U.S. Senators have a common background. We are all Vietnam combat veterans. We attended the ceremony on behalf of every man and woman who served in Vietnam, every man and woman who gave their life in Vietnam, every Vietnam veteran who is still missing in that far away land, and every family in this country who sacrificed to keep this Nation strong.

We marked the anniversary of this groundbreaking in order to remind us all that the liberties we cherish do not come without great sacrifice. One needs only to run a hand over the rough names inscribed in the smooth glossy surface of the wall to realize that freedom is not free. As we laid a wreath in honor of the 58,202 men and women whose lives are memorialized by the names, each of us realized we could easily have been present only in the memories of those who survived. We, too, could have been listed on the wall.

We also remembered and honored the more than 2,000 Americans still missing in action from this war. Mr. President, this morning I noted that our new Ambassador to Vietnam, Ambassador Pete Petersen, a Nebraska native, held as a POW in Vietnam for more than 6 years, received the remains of two of our MIA's yesterday in Vietnam.

Each year, more than 3 million people visit the Vietnam Memorial, making it the most visited monument in Washington. Many visitors are so moved they leave flowers, letters, pictures, and other mementoes to their fallen comrades, parents, relatives, friends, children, and loved ones.

Next weekend, Memorial Day weekend, the traveling Vietnam memorial will come to Omaha, NE. It is a half-scale replica of the wall that stands here in Washington. It has visited cities and States across America so Americans who may never visit the Nation's Capital can experience the healing power of the Vietnam wall.

The resolution before the Senate today is an important statement by the Senate to mark the 15th year of the wall and all that wall has meant to so many. I am proud to be a sponsor and am grateful for my colleagues' support.

Mr. President, I yield time to my distinguished colleague, friend, and fellow Vietnam veteran, Senator BOB KERREY.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. KERREY. Mr. President, I yield such time as desired to the distinguished Senator from Virginia.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. ROBB. Mr. President, I will take a minute to commend my two colleagues from Nebraska for introducing this particular resolution today. I was pleased to join with them a few weeks ago over at the Vietnam Memorial.

It was my privilege 15 years ago to participate in both the groundbreaking and the dedication. I have had many visits to that memorial since. I think it is very clear that it has served a purpose even beyond the expectations of those who created it and those who were initially involved in the dedication ceremonies. It has a healing effect for all of those who visit, regardless of what their personal feelings may have been about the conflict itself. They recognize that we come together to honor those warriors who gave the last full measure to their country, and the notes that are left behind are the kind of communication that I would defy anyone to read without feeling some of the emotion that is involved in it.

I commend both Senator HAGEL and Senator KERREY for this particular resolution this morning, and I commend it to all of our colleagues as an appropriate remembrance of those friends and those who wore our uniform in terms of service to our country in the conflict in Vietnam.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. Mr. President, along with my colleague, my good friend, Senator CHUCK HAGEL from my home State of Nebraska, we are offering the Vietnam Veterans Memorial resolution to remember this memorial, but also to remind Americans that the possibility for healing exists in this memorial. There are constant reminders that open the wounds of this war once again.

As Senator HAGEL mentioned, in today's paper we read that our first Ambassador to Vietnam since we left in 1975, Pete Petersen, is coming back to the United States of America and bringing with him the remains of men who were killed in that war, once again, opening up, for a variety of reasons, a wound that makes it difficult for people to go on with their lives.

Mr. President, this wall does a remarkable thing. It does enable an individual to begin to heal from this particular war, or for other wars, as well. On this Memorial Day we ask the Senate and we ask the American people to take a moment to reflect and remember those who served in Vietnam during this Nation's longest conflict.

I served in Vietnam with five of my Senator colleagues, Senator CHUCK ROBB, who was here a few moments ago, Senator JOHN KERRY, Senator JOHN MCCAIN, Senator MAX CLELAND, and Senator CHUCK HAGEL, and although we may argue legislation from different sides of the aisle, we share a bond beyond politics and beyond party, as do veterans of all conflicts, and are firm in the belief that we are all Americans first and foremost.

As we gather with friends and with family in observance of Memorial Day, I urge all Americans to take time to reflect upon the day's true meaning. Whether we attend a public observance, mark a grave, or simply bow our heads in quiet reflection, we should remember to honor those who, by serving, put their faith and trust in the ideals for which our Nation stands.

Mr. President, my colleague from Nebraska and I offer this resolution and feel it especially fitting because this August the Vietnam Veterans Memorial will be 15 years old, almost as old as the conflict was long. On May 24, 1997, more than 22 years after the last known United States casualty, the Vietnam Moving Memorial will pay a visit to Omaha, NE. For thousands of Vietnam veterans and their families, this memorial serves as a place of reconciliation and remembrance. It invites people to come and remember the bravery and valor of their fallen friends, family, and colleagues, while serving as well, Mr. President, as a permanent tribute to those who gave their lives.

Through this resolution, and in observation of this 15th anniversary, I hope the Senate will encourage all Americans to remember to honor the memory of the brave men and women who fought and died in service to our Nation during the Vietnam war, and indeed all conflicts.

Mr. President, at the dedication of the Bunker Hill Memorial on June 17,

1825, Daniel Webster closed his speech with these words:

Let our object be our country, our whole country and nothing but our country. And by the blessing of God may that country itself become a vast and splendid monument, not of oppression and terror, but of wisdom, peace, and of liberty, upon which the world may gaze with admiration, forever.

We honor those who have come before us not just with the memory of their efforts, but by building upon the freedom and prosperity we enjoy because of their sacrifice. The men and women we pay tribute to during this and every Memorial Day deserve nothing less.

Mr. President, as I have said, one doesn't have to look very far for reminders of the divisive nature of this war, and one doesn't have to look very far for inspiration that enables us to overcome the worst of these memories.

Indeed, I had the pleasure of sitting with the Presiding Officer and listening to his presentation to a roomful of young heroes who had been recognized for their service, and recognized in particular for their service at the community level—young men and women who saw something in their community they didn't like, saw something in their community that they thought was wrong, and decided on their own to correct that wrong.

I heard the Senator from Arkansas say that he heard a long time ago a young girl talking about what it meant to be famous; what it meant to acquire fame. She wanted in her lifetime to be a famous person. Then she came to Washington, DC, and while at the Tomb of the Unknown Soldier realized that fame by no means is the only object of our lives, nor should be the only object of our lives; that one can be a hero without recognition; that one can serve God and other human beings as a consequence of just believing that something needs to be done without regard to whether or not it would be recognized in headlines, or radio commentary, or television broadcasts.

It is the most eloquent demonstration of why we as human beings are special; that we have inside of us a soul, a spirit that recognizes that at some point the greatest thing we can do is to say that somebody is more important than we are, that something is out there more important than just taking care of ourselves.

I believe strongly, Mr. President, that we are not free until in love, and recognize that until in love we are willing to give ourselves. And I hope that this remembrance of the Vietnam Memorial will not just inspire people to say that we have got to get over the Vietnam war itself but I hope it will allow Americans as individual men and women to see that now in this moment heroes are needed more than ever before.

This Nation was terribly divided in the Vietnam war, with families turning against families, sons against fathers, and neighbors against neighbors.

On this floor on August 7, 1964, the Senate, by a vote of 88 to 2, and the House unanimously, enacted what was called the Gulf of Tonkin resolution that resulted in a substantial buildup of forces, of increased drafting, of increased calls going out to young men saying, ''It is time for you to serve the cause of freedom.'' That cause deteriorated and divided this Nation in a terrible fashion, and caused Americans to say not only do we question the cause of freedom but cause us as well to say that we no longer believe our Government; we no longer trust that this is a Government of, by, and for the people. ''We feel as if we have been lied to. And the trust is broken, it has been snapped, it is permanent, and we are not going to put it back together.''

This wall, this remembrance, enables us to see that trust can be put back together, if we are willing to forgive; if we are willing to say that we forgive those with whom we disagreed; that we recognize our common bond. And on this Memorial Day not only do we pay tribute to those who have sacrificed for us, but we rededicate ourselves to the task of sacrificing for others.

Mr. President, it is a pleasure and an honor for me to share cosponsorship with my friend and colleague from Nebraska, Senator HAGEL, and all the other Members of the Senate who have joined in this resolution. I appreciate their support.

I call upon Americans not just to see this as another resolution but to see this as a Memorial Day, as an opportunity for us to rededicate ourselves to the cause of freedom.

Mr. HAGEL addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. HAGEL. Mr. President, I thank my colleague and friend from Nebraska for those inspirational words, and I think words that are focused exactly on the heart of who we are as a people, who we have always been, and hopefully who we will always be.

Mr. MCCAIN. Mr. President, I am grateful to be an original cosponsor with my distinguished colleagues and fellow Vietnam veterans in the Senate. It is appropriate that we commemorate the 15th anniversary of the dedication of the Vietnam Veterans Memorial in Washington, DC.

My fellow Vietnam veterans who are cosponsoring this resolution and I wear glasses and have more gray hair than we did when we served in Vietnam, we come from different walks of life, served in different branches of the military, and were of different ranks. However, we share the experiences of combat that only those who went to Vietnam will ever understand.

We also share—and this is harder to explain—the survivors' humility. That's a provocative statement, I know, and the nonveteran may easily mistake its meaning. I am not talking about shame. I know of no shame in surviving combat. But every combat veteran remembers those comrades whose sacrifice was eternal. Their loss taught us everything about tragedy and everything about duty.

I am grateful, as we all are, to have come home alive. I prayed daily for deliverance from war. No one of my acquaintance ever chose death over homecoming. But I witnessed some men choose death over dishonor. The memory of them, of what they bore for country and honor, helped me to see the virtue in my own humility.

It is a surpassing irony that war, for all its unspeakable horrors, provides the combatant with every conceivable human experience. Experiences that usually take a lifetime to know are all felt—and felt intensely—in one brief moment of life. Anyone who loses a loved one knows what great loss feels like. Anyone who gives life to a child knows what great joy feels like. The veteran knows what great joy and great loss feel like when they occur in the same moment, in the same experience.

For my part, I would simply affirm that the sacrifices borne by veterans deserve to be memorialized in something more lasting than marble or in the fleeting effect of a politician's speech. The veterans' valor and the devotion to duty have earned our country's abiding concern for their well-being. I am committed to honoring that debt.

I hope this small symbol of remembrance today will encourage all Americans to remember the sacrifices of our veterans.

Mr. KEMPTHORNE. Mr. President, I rise today in support of the Vietnam Veterans Memorial resolution, sponsored by my colleagues, Senator HAGEL and Senator KERREY of Nebraska. I would like to commend and congratulate them for bringing this issue before the Senate today, so that this body may take a moment to remember those who sacrificed their lives in Vietnam for our country.

Mr. President, it is not enough for us to use mere words to express our deep gratitude to the men and women who fought in Vietnam, selflessly giving their lives to protect the interests of the United States. It is not enough for us to provide for the education and well-being of the sons and daughters who have lost a parent in a country they may never see, for a people they may never know, and in a war they may never understand.

Nothing can ever be enough, because nothing can ever bring them back.

But here in the Nation's Capital, the Vietnam Veterans Memorial—a 250-foot wall of polished black granite—will help us to never forget the sacrifice of over 58,000 Americans; 58,209 Americans to be exact.

Seventeen more names have recently been added to the Vietnam Veterans Memorial. Within the past 6 months, the Central Identification Laboratory in Hawaii has positively identified the remains of ten more American servicemen found in Vietnam by Department

of Defense on-site search teams. And seven other American servicemen who have since died from the complications of injuries suffered during the Vietnam war. It is my hope, Mr. President—no, it is my prayer—that this will be the last time such additions are made to this memorial.

How do you thank each of these brave Americans? How do you let them know that as a nation, we are indebted to them for their bravery, their valor, and their courage in fighting a war that was never officially recognized by the country which asked them to put their lives on the line? How do you tell them that they are truly American heroes?

You do this by keeping their memories alive and by never forgetting them.

The Vietnam Veterans Memorial Wall helps to keep those memorials alive, and it helps the human emotional process which includes mourning, healing, and remembrance. This visual reminder keeps their memory alive in our hearts where they will never be forgotten. And I would like to add that I know this from first-hand experience.

Mr. President, last year I took part in a trade mission to Vietnam with several of my colleagues here in the Senate. Before leaving, one of the most important things I did to prepare myself for travel to Vietnam, was to walk alone along the Vietnam Veterans' Memorial, to clear my mind of all thoughts, except for those involving the overwhelming number of American names etched upon the wall. In that moment, I knew that one of the most important reasons for my visit to Vietnam was to be a voice for those brave men and women whom I will never be able to thank.

On November 11, 1996, Veteran's Day, I was in Hanoi urging top Vietnamese officials to keep the resolution of the POW/MIA issue a top priority, and to cooperate in every way with the United States. As I met with Vietnam Party General Secretary Do Muoi, I told him about my walk along the wall, and presented him with a copy of ''The Wall,'' a pictorial of veterans and their families who come to pay tribute at the Vietnam Veteran's Memorial. Inside the cover of that book, I inscribed: ''We have shared a tragic past together. Now let us work to share a bright future together.'' Our discussion then centered on building our relationships as nations on the basis of mutual compassion. General Secretary Do Muoi was very animated in his response and said, ''We deserve compassion, it is consistent with our history so full of blood and tears. Compassion is the key to our relationship.''

Mr. President, compassion is truly the key to honoring those who paid the ultimate sacrifice for our country. I would hope that we, as a nation, never lose that compassion for our veterans, and never, ever allow their memories to be taken from our hearts.

The wall is indeed a beautiful and somber monument which will ever remind us of those painful sacrifices made by these brave men and women.

Mr. HAGEL. Mr. President, I have two final comments to make regarding this resolution commemorating the 15th anniversary of the Vietnam Veterans Memorial.

First, the recognition of the vision, the heart, the soul, and the leadership behind it, a remarkable man, Jan Scruggs. It was Jan Scruggs who many, many years ago came home one night after a movie, sat down with his wife, and said, ''We are going to do something to recognize those who served in the Vietnam.'' It was a great dream, an impossible dream.

One of the collaborators with Jan Scruggs was one of our colleagues, Senator JOHN WARNER. Without Senator JOHN WARNER's leadership, and without his force, and without Jan Scruggs' vision and leadership and love, this Wall would never have been built. It is very appropriate to recognize Jan Scruggs and Senator JOHN WARNER because those two great Americans led this effort and have given us a magnificent monument and memorial.

Mr. President, I ask unanimous consent that the resolution, Senate Resolution 87, be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

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

The resolution (S. Res. 87) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 87

Whereas 1997 marks the 15th anniversary of the construction and dedication of the Vietnam Veterans Memorial in Washington, D.C.;

Whereas this memorial contains the names of more than 58,000 men and women who lost their lives from 1957 to 1975 in the Vietnam combat area or are still missing in action;

Whereas every year millions of Americans come to this monument to pay their respects for those who served in the Armed Forces;

Whereas the Vietnam Veterans Memorial has been a source of comfort and healing for Vietnam veterans and the families of the men and women who died while serving their country; and

Whereas this memorial has come to represent the legacy of healing that has occurred and demonstrates the application all Americans have for those who made the ultimate sacrifice: Now, therefore, be it

Resolved, That the Senate—

(1) expresses its support and gratitude for all of the men and women who honorably served in the United States Armed Forces in defense of freedom and democracy during the Vietnam War;

(2) extends its sympathies to all Americans who suffered the loss of friends and family in Vietnam;

(3) encourages all Americans to remember the sacrifices of our veterans; and

(4) commemorates the 15th anniversary of the construction and dedication of the Vietnam Veterans Memorial.

Mr. HAGEL. Mr. President, I yield the floor. Thank you, Mr. President,

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

PARTIAL-BIRTH ABORTION BAN ACT OF 1997

The PRESIDING OFFICER. The clerk will report H.R. 1122.

The assistant legislative clerk read as follows:

A bill (H.R. 1122) to amend title 18, United States Code, to ban partial-birth abortions.

The Senate resumed consideration of the bill.

AMENDMENT NO. 290

(Purpose: To provide a procedure for determining whether a physician's conduct was necessary to save the life of the mother)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania (Mr. SANTORUM) proposes an amendment numbered 290.

Mr. SANTORUM. 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 2, line 16, strike the semicolon and all that follows through ''purpose'' on line 17.

On page 3, between lines 8 and 9, insert the following:

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

On page 3, between lines 21 and 22, insert the following:

''(d)(1) A defendant accused of an offense under this section may seek a hearing before the State Medical Board on whether the physician's conduct was necessary to save the life of the mother whose life was endangered by a physical disorder, illness or injury.

''(2) The findings on that issue are admissible on that issue at the trial of the defendant. Upon a motion of the defendant, the court shall delay the beginning of the trial for not more than 30 days to permit such a hearing to take place.''

On page 3, line 22, strike ''(d)'' and insert ''(e)''.

Mr. SANTORUM. Mr. President, this is an amendment that I took the floor yesterday to talk about. It is an amendment that I worked out, along with Senator FRIST and Representative CANADY in the House, and with the American Medical Association to tighten up some of the language to address some of the concerns that the physician community had about the definition of what is partial-birth abortion.

I believe it is a good amendment, whether it would have gotten the AMA endorsement or not. I think it is a good amendment because I think it is language that is much tighter, and puts in the requisite mens rea, or thought processes that the physician must have been going through at the time of doing the procedure. I think that is important for a criminal statute.

I think it would be a sad state if, in fact, we passed this legislation and overrode the President's veto, or if the President would see otherwise and decide to sign the bill, that, in fact, this bill would be thrown out for vagueness of criminality, the criminal statute itself would be considered too vague, and it would be OK on the abortion ground but not OK on the criminal statute ground. But I think what we have done is tighten up the language and have taken care of the concerns mentioned here, both on the House and Senate floors, about the vagueness of the statute.

I don't think anyone will now look at this as a vague statute. It is a very precise statute. It is a complete criminal statute now.

I am very happy that we were able to work it out, and in working with the AMA I believe we have improved the bill and improved its chances when we reach the stage of the courts which I am very hopeful that we will do because that means that we will have passed the bill and it would have been signed into law, and the President's veto would have been overridden.

Of the other two provisions in the bill, one clarifies the life of the mother exception and takes out some surplus language which we agreed to which didn't add anything, and we agreed that it was, in fact, surplus language.

The third element of the amendment deals with the issue of a medical review panel; if a medical review panel was asked by the AMA for the reason of an intermediary step between the indictment of the physician under the statute and a trial. This would be an opportunity for State medical boards to put together a panel of physicians to look at what happened in the case, to do a peer review determination of the procedures that was done by the physician being charged, and to come up with findings. Those findings would then be admissible in court.

I think that is an appropriate step. It gives the professionals in the field who license, in fact, the physician, an opportunity to make a review of what happened in the context of that as well as add medical expertise to be considered at trial. I think that is only helpful. The fact of the matter is that we are all aware that, if someone is charged under this statute, they are going to have their medical experts testify as to one set of circumstances and the prosecution will have their medical experts.

So, with having some neutral party, if you will, come up with a more objective standard of review I think helps and provides a professional review of what took place in a case.

So I think we are making a step forward.

I am not aware of any objections to this amendment. Whether you are for, or against this amendment, it is a technical amendment in most respects. It is one that hopefully will be supported by everyone.

I yield the floor at this point to determine whether anyone wants to speak against the amendment.

I understand now there is no one to speak against the amendment. So I ask unanimous consent the amendment be agreed to.

The PRESIDING OFFICER. Pursuant to the unanimous-consent agreement, the pending amendment is considered agreed to. The motion to reconsider is laid on the table.

The amendment (No. 290) was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

Mr. SANTORUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, I now understand that we are commencing the final 3 hours of debate, that the time is going to be equally divided between the Members who are for the bill and Members who are against. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. SANTORUM. I thank the Chair. I yield myself such time as I may consume.

Let me first start out by indicating how important I believe the endorsement of the AMA is here as we approach final passage of this legislation. We have heard over and over and over again that the principal reason this procedure needs to be made legal is to protect the health of the mother. We have in the case of the AMA an organization that is on record as being for abortion rights. This is not the Christian Coalition. This is not the Catholic Conference of Bishops. This is an organization of physicians that is on record as being for a woman's right to choose, if you will, that has come out and said this procedure is not good medicine, this procedure is not necessary to protect the life or health of a mother. So for all of the arguments that we have heard that there is a split of opinion out there as to whether this is an appropriate procedure, I have put forward letter after letter after letter from obstetricians, from perinatologists, experts in maternal fetal medicine who have said that this procedure is never medically indicated, that in fact this procedure is more dangerous to the mother. I will discuss those things today.

Now I believe the charade is over. We have the preeminent medical authority, organization in the country saying that this procedure should be outlawed; there is no medical reason to keep this procedure legal.

That is a very powerful statement which debunks all of the arguments people might want to hide behind in saying that, yes, they agree this procedure is brutal; yes, they agree this is barbaric and should never be used, but we want to leave open the possibility that in the case of, and then they go on with the health concerns.

What we know for a fact is that 90 percent of partial-birth abortions are not done for any health-related reasons. Let me clarify that. Ron Fitzsimmons, who heads up an abortion provider organization of some 200 abortion clinics, said that 90 percent of partial-birth abortions occur in the fifth and sixth months of pregnancy on healthy mothers with healthy babies. They are for birth control purposes. This is fifth- and sixth-month abortions for birth control purposes where you take a baby out, deliver it all but the head and then take a pair of scissors and stab the baby in the base of the skull, suction its brains out and kill it for birth control purposes, not for health reasons.

Those are what we know as the facts, that information provided to us by people who oppose the bill. These are not facts people who oppose abortion are putting forward. These are people who are adamantly pro-choice who run the clinics where some of these abortions take place, providing us with the information contrary to what you have heard, statements in the Chamber that these are done for the health of the mother, that 90 percent of them are done for birth control purposes, late in pregnancy. The other percentage is done later in pregnancy, and they argue, most of the reasons you hear, because of a fetal abnormality. All of the cases that you hear described with the pictures of the family are the baby was going to die anyway or the baby had a severe defect and that we should allow abortions in those situations, this kind of brutal abortion in those situations because the baby is not perfect or may not live long.

That takes us off into another area that I think has very, very severe consequences for this country, when we start to say that we should be able to kill children because they are not perfect or that abortions should be legal up until the time of delivery; that we should be able to do this brutal procedure because the little baby may not live long or may have medical complications.

I found it absolutely ironic that the day the partial-birth abortion ban came to the floor of the Senate, minutes before we passed the Individuals With Disabilities Education Act. What is that? That is an act to guarantee civil rights, the right for disabled children to be educated so they can maximize their human potential. The very

same day 30-some Senators who voted for that legislation and advocated giving rights to the disabled, those same 30-some Senators who are against the partial-birth abortion ban said we are willing to give you rights if you survive the womb, but we are not going to give you any rights as a disabled child up until the time you are born. You are eligible to be killed just because of your disability. You are different than any other child. If you are a child that is normal, then they do not believe you have a right to be killed. In fact, that is what these amendments are that we heard about. Well, if the baby is healthy and the mother is healthy, we need a health exception. If the baby is fine and the mom is fine, then we do not believe the baby should be killed. If the baby is abnormal, we can kill it.

These are the same people who believe in special civil rights for the disabled. I do not know how you legitimately can stand and argue those two points. I do not know how you draw the line there with any sense of consistency of care for the disabled. I support IDEA. I support civil rights for the disabled because I know that there are challenges out there, but there is no greater challenge to the disabled in this country today than the challenge of getting born in the first place. And I will discuss, as I have before, Donna Joy Watts and her family and how they had to overcome incredible odds and adversity beyond what you would imagine in this country just to have this little girl born and be treated because she was seen as disabled, not viable, not important to our society.

I want to talk in specific about the health issue because I think it is important, it is the remaining barrier that many Members hide behind in not supporting the partial-birth abortion bill because it does not have a ''health exception.'' Let me explain, No. 1, we have the American Medical Association on record now supporting this bill, saying there need not be a health exception to this bill, this bill takes care of all the problems that we as physicians see and that there is no health reason to do this procedure.

Let me share with you a statement from Dr. Camilla C. Hersh, who is a member of the American College of Obstetrics and Gynecology. She says, and I quote from her statement:

I think it is obvious that for the baby this is a horrible way to die, brutally and painfully killed by having one's head stabbed open and one's brains suctioned out.

But for the woman, this is a mortally dangerous and life threatening act.

Partial-birth abortion is a partially blind procedure, done by feel, thereby risking direct scissor injury to the mother's uterus and laceration of the cervix or lower uterine segment. Either the scissors or the bony shards or spickules of the baby's perforated and disrupted skull bones can roughly rip into the large blood vessels which supply the lower part of the lush pregnant uterus, resulting in immediate and massive bleeding and the threat of shock, immediate hysterectomy, blood transfusion and even death to the mother.

Portions of the baby's sharp bony skull pieces can remain embedded in the mother's cervix, setting up a complicated infection as the bony fragments decompose.

Think of the emotional agony for the woman, both immediately and for years afterward, who endures this process over a period of several days.

None of this nauseating risk is ever necessary for any reason. Obstetrician-gynecologists like myself across the U.S. regularly treat women whose unborn children suffer the same conditions as those cited by the proponents of the procedure.

Never—

I underline the word—

is the partial-birth abortion procedure necessary:

Not for polyhydramnios (an excess of amniotic fluid collecting around the baby), . . .

Not for anencephaly (an abnormality characterized by the absence of the top portion of the baby's brain and skull),

Not for hydrocephaly (excessive cerebrospinal fluid in the head).

In the case of Donna Joy Watts, I would parenthetically say she had hydrocephaly. Her parents were counseled to have an abortion. They chose not to. They had the baby delivered and she is now 5½ years old.

Sometimes, as in the case of hydrocephaly, it is first necessary to drain some of the fluid from the baby's head with a special long needle, to allow safe vaginal delivery. In some cases, when vaginal delivery is not possible, a doctor performs a Cesarean section. But in no case is it necessary or medically advisable to partially deliver an infant through the vagina and then to cruelly kill the infant.

The legislation proposed clearly distinguishes the procedure being banned from recognized standard obstetric techniques. I must point out, even for those who support abortion for elective or medical reasons at any point in pregnancy, current recognized abortion techniques would be unaffected by the proposed ban.

Any proponent of such a dangerous procedure is at the least seriously misinformed about medical reality or at worst so consumed by narrow minded ''abortion-at-any-cost'' activism to be criminally negligent.

This procedure is blatant and cruel infanticide and must be against the law.

Again, this is a statement by Camilla C. Hersh, an obstetrician-gynecologist practicing here in northern Virginia.

And other statements by other medical doctors in cases that were mentioned here on this floor as reasons that partial-birth abortion must continue to be legal. And I have this as a note. Senator FEINSTEIN brought up the case of preeclampsia, and I have a letter here from Dr. Steve Calvin, MD, who is a specialist in maternal fetal medicine.

What does that mean? A specialist in high-risk pregnancies. These are people who deal with the very difficult cases that come up in pregnancy where the mother's life and health and the baby's life and health are in jeopardy during pregnancy.

Dr. Calvin responds to Senator FEINSTEIN's claim that preeclampsia is a reason to do a partial-birth abortion.

Preeclampsia (with any number of its complications, including renal failure), cardiomyopathy, breast cancer, and lymphoma are all potential maternal medical disorders that may complicate pregnancy. In some situations the pregnancy must be ended to save the life of the mother.

The proposed ban on this destructive procedure already includes an exemption for the so far theoretical instance when it may be necessary to save a pregnant woman's life. The opponents of the ban realize that they cannot prevail on the merits of their arguments and are therefore resorting to blowing a virtual blizzard of medical terms during the debate. They hope to overwhelm the media and the public so that the fundamental points are missed. I will not try to answer them point by point on each medical condition. The importance of protecting nearly born fetal life is crucial.

Especially in light of Lori Watts' and Donna Joy Watts' story.

The fact of the matter is that it is never medically necessary, under any of these conditions, according to Dr. Calvin and dozens of others who are specialists in maternal fetal medicine. As Dr. Calvin said in another letter, none of these procedures are done by groups that specialize in high-risk pregnancies. They are not done in universities. They are not done in hospitals that specialize in these kinds of problems. They are done in abortion clinics. They are not done by experts in maternal fetal medicine, perinatologists; they are done by abortionists at abortion clinics who are not experts in high-risk pregnancies.

In fact, this procedure was developed not by an obstetrician/gynecologist, not by someone who is an expert in maternal fetal medicine who is concerned about the life and health of the mother; this was developed by a family practitioner who does abortions at an abortion clinic for the convenience of the abortionist.

So all of these claims about health are just simply a smokescreen. There is no health reason to do this procedure. In fact, as Dr. Hersh says, and hundreds of other physicians have said, obstetricians and gynecologists, including—he is not an obstetrician; that is, C. Everett Koop, the former Surgeon General of the United States, is not an obstetrician. But what is he? A pediatric surgeon who has done surgery on all these little babies who have had these disabilities and saw high-risk pregnancies firsthand, dealt with the consequences of these pregnancies, so he knows the issue well. He said, as well as hundreds of other doctors, that it is never medically necessary. I would like to read the entire quote signed by, I believe, at least a dozen experts in maternal fetal medicine, a group of almost 500 physicians, including Dr. Koop, and obstetricians who oppose partial-birth abortion:

While it may become necessary, in the second or third trimester, to end a pregnancy in order to protect the mother's life or health, abortion is never required—i.e., it is never medically necessary, in order to preserve a women's life, health or future fertility, to deliberately kill an unborn child in the second and third trimester, and certainly not by mostly delivering the child before putting him or her to death. What is required in the circumstances specified by—

Senator DASCHLE, Senator BOXER, Senator FEINSTEIN and others—

is separation of the child from the mother, not the death of the child.

Let me just put it simply, for purposes of this particular debate, while a mother may present herself in a condition that may require separation of the child from the mother, it is not necessary to kill the child in that process, to use partial-birth abortion. I don't know why any doctor who is practicing good, solid medicine would deliberately reach in and pull the baby out in the breech position to deliver the child while the mother's life is in danger, while you go through a 3-day process of dilating the cervix over 2 days, risking infection because the cervix is now dilated and the womb is exposed to infection, risking infection, No. 1; No. 2, risking an incompetent cervix, which means the inability to carry future children.

Unfortunately, one of the reasons cited by President Clinton as needing this procedure to save her health and future fertility was a woman who has had five miscarriages since that procedure was done to her. To make the argument this is necessary for that is just not true. But a woman presents herself with a health problem, and for 2 days, to say, ''Here are some pills, we're going to dilate your cervix, go home, present yourself back after 2 days,'' where you risk increased infection and increased complications, ''come back to the abortion clinic''—not a hospital, because these are not done at hospitals—''come back to the abortion clinic to have this procedure done.'' And then what happens? The baby is pulled out feet first, delivered all but the head.

Why would you, even if you decided to go through that procedure for the health of the mother, why would you, as Dr. Hersh suggests, why would you take a blunt instrument in a blind procedure and stab the baby blindly in the base of the skull, causing all of the damage that could occur, as Dr. Hersh has set forth? Why would you do that? Why wouldn't you just deliver the head and give the baby a chance to live? It may not live. But at least give it the dignity of being born and accepted into our human community without this brutality, this unwarranted, unnecessary, unhealthful, dangerous, brutal stabbing and killing of a baby who is this far away, 3 inches away, from its first breath. Yes, its first breath. Even at 20 weeks, babies live. It is considered a live birth even at 20 weeks. Babies will not be able to survive long because they don't have sufficient lung development, but that baby will be alive when it is born unless you kill it.

Why kill the baby when it is more dangerous to the mother to do that, when it presents more complications to do it? Why does that option have to be necessary that is more dangerous to her health? Why would we want to keep a procedure legal that threatens a woman's health, that is an absolutely rogue procedure, not done by specialists, not done in hospitals, developed by a nonobstetrician? Why do we want to keep this legal? What possible reason do we want to say that we need to endanger a woman's health to allow this procedure to be legal? The only reason I can think of is what Dr. Hersh said, and I will quote from her again because I think she said it very, very well:

Any proponent of such a dangerous procedure is at the least seriously misinformed about medical reality or at worst—

And I daresay that we may be looking, certainly in the case of the abortion rights advocates, we are looking at our ''at worst'' here—

at worst, so consumed by narrow minded ''abortion-at-any-cost'' activism, to be criminally negligent.

There is no health reason to do this. Anybody who stands up on the floor in the face of now the AMA, hundreds of obstetricians and gynecologists, specialists in maternal fetal medicine, who stand up in the face of overwhelming evidence that this procedure is necessary, given the characteristics of the procedure, a rogue procedure, not done in hospitals, not done by specialists, done by family practitioners or people who have no speciality at all in delivering children, just doing abortions, you are defending not the health of the mother when you argue that, you are not defending the life of the mother, you are defending, as Dr. Hersh says, abortion at any cost, any time, anywhere for any reason; that the child, no matter how late, no matter how healthy, is not to be considered.

That is not where America is. I know where the majority of the Senate is. We will find out today whether it is where 67 Senators are, because that is the magic number, 67. We need 67 votes to override the President's veto.

I want to have additional items printed in the RECORD. I know this has been printed in the RECORD before, but I want to put it in.

This is a letter from C. Everett Koop to BILL FRIST, May 13, 1997—BILL FRIST, the only doctor in the U.S. Senate, who has spoken eloquently, and will again today, on this issue.

DEAR BILL: It is never necessary to destroy a viable fetus in order to preserve the health of the mother. Although I can't think of an example, if it were deemed beneficial for the mother to be without the fetus, it would be delivered by induction—

Vaginal delivery—

or C-section. Abortion is truly more traumatic than either and exposes the mother to future problems with an incompetent cervix, miscarriage and infertility.

Let me get away from the specifics of the partial-birth issue and give you another reason why this is not healthy, and I want to share with you some statistics from the Alan Guttmacher Institute. What is that organization? This is an organization that signed letters last year with NARAL and Planned Parenthood and a whole lot of other groups—NOW, National Organization for Women—in opposition to partial-birth abortion legislation for allowing this procedure to be legal. They are an abortion advocacy group. I guess they are considered a think tank or some short of data collection folks, but they are advocates for abortion. Here is what they say, again, to the extent I can—I am using the other side's information, taking what those who oppose the bill say as fact, and even with their information, you can't defend this procedure. This is what the Guttmacher Institute says:

The risk of death associated with abortion increases with the length of pregnancy, from 1 death in every 600,000 abortions at 8 or fewer weeks to 1 per 17,000 at 16–20 weeks, and 1 per 6,000 at 21 weeks or more.

When, I might add, partial-birth abortions occur. They occur after 20 weeks, sometimes at 20 weeks.

So you are 10 times more likely, according to their numbers, to die as a result of an abortion than in the first 8 weeks of pregnancy.

You say, ''Well, OK, that's interesting, a 1-in-6,000 chance of a mother dying as the result of an abortion. But what are the chances of her dying as a result of delivering the baby by inducing or cesarean section, which would be a 'normal' delivery?'' We happen to have those numbers:

It should be noted that at 21 weeks and after, abortion is twice as risky for the woman as childbirth: The risk of maternal death is 1 in 6,000—

As you saw before—

for abortion and 1 in 13,000 for childbirth.

So let me lay it out again. Set the arguments aside for partial-birth abortion as to why that is more dangerous, and it is. Abortion, period, is more dangerous to a mother. Abortion, period, is more dangerous to a mother than delivery by inducement or by cesarean section. Now why would you get up here on the floor and say we need to keep the more dangerous option generally available, compound that with a procedure that is even more dangerous than other abortion techniques, that we need to keep that legal also? If you are truly concerned about the life and the health of the mother, you don't come to the Senate floor and argue for dangerous procedures to continue to be used that threaten health, future fertility, life and, at the same time, kill a baby that would otherwise be born alive. There is no argument here.

You will hear and see pictures of people: ''Oh, well, they needed this.'' As Dr. Hersh said and said eloquently, these people were misinformed. Look, not every doctor is a great doctor. Not every doctor knows everything, but you don't see those doctors on the record here. Where are the doctors who did all the procedures in all these cases, where have they testified that that was the only thing they could have done. They couldn't stand the light of day here. They couldn't stand the cross-examination here. They would never, never come up here and try to defend that position.

It is a sad fact that in thousands of instances every year, women are counseled, encouraged, told they have no choice but to have an abortion and do so only to find out later that some doctor either misinformed them or, frankly, was so afraid of malpractice that the doctor took the easy way out. That should never be a reason. Using bad medicine should never be a reason to keep the procedure legal. The fact that there are some doctors out there who practice bad medicine should not be a reason to keep this procedure legal.

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

The PRESIDING OFFICER (Mr. GRAMS). The Senator from Pennsylvania has 60 minutes remaining.

Mr. SANTORUM. Mr. President, I do not want to use up all my time. I do not see anyone from the other side. I ask unanimous consent that when I ask to go into a quorum call the time be deducted from the other side's time.

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

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

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

Mr. SANTORUM. Mr. President, I now yield 10 minutes to the Senator from Tennessee.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. FRIST. Mr. President, I rise briefly to make several comments and to review a little bit some of the myth that has surrounded the debate on our attempts to ban a brutal procedure, a procedure called the partial-birth abortion.

It has been fascinating to watch where we started really about 2 years ago in the evolution of learning about this procedure, recognizing that it is performed, recognizing that it is as close to infanticide as one can possibly get in our civilization today, and to track the misinformation, the organized misinformation campaigns that have been carried out, instigated by a number of parties that have made it all the way to the Presidency of the United States of America—a misinformation campaign that I think and I hope was the reason he vetoed this ban that is so supportive in a bipartisan way by Congress, and that is clearly supported by the American people.

I give the President the benefit of the doubt because I had the opportunity—I will refer back to it shortly, some of the statements he made in his press conference and the people he brought forward. But since that time—I guess that is what I am excited about—people have come forward and said, even the people who are providing this information, it was a misinformation campaign. People said they lied through their teeth in giving that information to the American people.

But, in spite of all that, the truth has finally bubbled to the surface. It has bubbled to the surface on the floor of the U.S. Senate and in the House of Representatives, but also throughout the media. Discussions have taken place in hospitals. Discussions have taken place among the organized medical groups. We all recognize that whether it is ACOG, the group of obstetricians and gynecologists, or the American Medical Association, which represents all physicians, that none of these organizations really speak for everybody. But when you put it altogether—and it has been put together, mixed up, dissected and looked at—gradually it is beginning to crystallize in a very clear way. And I think it is worth talking about a little bit on the floor of the U.S. Senate once again.

On a momentous occasion yesterday, after 2 years of looking at the issue, the American Medical Association essentially said that restricting this procedure is something that should be done by the American people and by the U.S. Congress. Again, this is after a lot of debate, a lot of discussion, and a lot of examination of the facts within the medical community, with the American people, by ethicists and by religious communities. There is a mass movement to ban this brutal procedure which offends the sensibilities of every American, everybody in our civilization today. This procedure, when described, offends their sensibilities.

I mentioned the American Medical Association. Again, the American Medical Association, the largest physician group in the country, issued a letter yesterday that said really—let me refer to the letter. This is the letter in its entirety. It was written to Senator SANTORUM, who, obviously, has done a wonderful job, an outstanding job, in helping America understand what the significance of this ban is.

I will go through the letter. The key sentence is the last sentence. It basically says, ''Thank you, for the opportunity''—remember, this is from John Seward, from the American Medical Association, representing their conclusions.

It says: ''Thank you for the opportunity to work with you towards restricting a procedure we all agree is not good medicine.''

I guess a sentence like that does lead me to question how the President of the United States could continually, every day, hide behind a threat of a veto talking about the health of women, because for health of women we have to look at the American Medical Association, which represents obstetricians, gynecologists, family practitioners, internists, cancer specialists, heart disease—all of these groups of people focus on their No. 1 goal, which is to promote the health of this Nation, the health of individuals.

Then to have the President stand up and hide behind this veiled threat of a veto having to do with health is a juxtaposition which I don't understand. I hope the President, after we deliver this bill to him, will recognize what health of individuals really is. I am talking about health, not just of the infant, who, in fact, is being sacrificed in this procedure, but also the health of the mother. It requires support of this ban.

The letter says:

DEAR SENATOR SANTORUM: The American Medical Association is writing to support H.R. 1122, ''The Partial-Birth Abortion Ban Act of 1997,'' as amended * * * the AMA has supported such legislation * * *

They go on in the first paragraph to say:

Although our general policy is to oppose legislation criminalizing medical practice or procedure, the AMA has supported such legislation where the procedure was narrowly defined and not medically indicated.

Narrowly defined, which this ban is.

There was an attempt last week to take this very narrow ban, carefully proscribed—protections for the mother, protections clearly for the child, protections for the medical profession. An attempt was made last week to push that aside with a much broader issue that needs to be continually debated. But now we are back on the narrow definition.

The AMA says it is not medically indicated, not medically indicated, not just for the baby but for the mother. It is not medically indicated, according to the American Medical Association, the largest organization representing more physicians than anyone in the United States of America.

The second paragraph outlines the three principles that, after much discussion and much debate within the AMA, were agreed to:

First, the bill would allow a legitimate exception where the life of the mother was endangered, thereby preserving the physician's judgment to take any medically necessary steps to save the life of the mother.

For the life of the mother, any steps can be taken, spelled out very clearly in the bill:

Second, the bill would clearly define the prohibited procedure so that it is clear on the face of the legislation what act is to be banned.

The attempt was made last week to ban all abortions, and that needs to be debated. But this bans a very specific procedure—a procedure, I might add, that is performed quite frequently around the country but tends to be performed in abortion clinics, many times outside of peer review of other physicians, very rarely in the hospital where you have nurses around to ask questions, and when you have other physicians around or hospital administrators asking, ''What is the ethics of a procedure that so brutally sacrifices an infant upon three-fourths completion of delivery?''

No, these are performed with relatively high frequency, when you are

talking about hundreds or thousands of infants that are, in fact, murdered. But they are being performed outside the peer review and, I would say, the ethics of the medical profession.

In the letter from the American Medical Association endorsing the bill, supporting the ban, it said:

> Finally, the bill would give any accused physician the right to have his or her conduct reviewed by the State Medical Board before a criminal trial commenced. In this manner, the bill would provide a formal role for valuable medical peer determination in any enforcement proceeding.

I think this is important to say because as a physician I have to admit before coming to the Senate the idea that this body or the Congress would pass a law to tell me what I could or could not do in terms of what I thought was in the best interest of my patient bothered me, not this particular ban but just the idea of having somebody in Washington, DC, inside the beltway telling me how to practice medicine and then making something a criminal procedure.

It is easier as a physician to say, no, I don't want any part of anything like that, and I think that is what we were hearing from some of the medical community, a fear that they would be thrown in jail for doing what they think is right for the patient, and they didn't want this to be set as a precedent. I think this letter and the bill shows that, no, that is not what is being done. Basically, we are banning a very specific procedure that is on the fringe, and you are going to have the opportunity for peer review to know what is accepted medical practice even in the event you are accused in this manner.

Then the letter goes on.

Mr. President, I ask unanimous consent that I have another 5 minutes.

Mr. SANTORUM. I yield the Senator another 5 minutes.

The PRESIDING OFFICER. The Senator is recognized for another 5 minutes.

Mr. FRIST. Then the final sentence, again which really summarizes it, and that is why I started with it: ''Thank you for the opportunity of working with you toward restricting a procedure we all agree is not good medicine.''

I am proud that as Americans we have not lost our ability to discern what is right from what is wrong, and despite the vim of the well-worn rhetoric that we have heard broadly in the media and on the floor in the past, we now have listened to our hearts and we know that nothing can justify a procedure such as this one that is a mere 3 inches—a mere 3 inches—from criminal infanticide.

Several myths. Myth No. 1. Partial-birth abortion is necessary to preserve the health of the mother. It has been used again and again. The President of the United States continued to use it yesterday; I am sure he will say something about it today until this bill is delivered to him.

December 13, 1996. President Clinton described a hypothetical situation where without a partial-birth abortion a woman could not—and I use quotations here—''preserve the ability to have further children.'' He said that he would not, using his words again, ''tell her that I am signing a law which will prevent her from having another child. I am not going to do it,'' said the President.

That is heart wrenching. When you see just that clip, we tend to empathsize with what the President is saying. But the bottom line is partial-birth abortion is never ever necessary to preserve the health of a woman. The College of Obstetrics and Gynecology has issued a statement that said they ''could identify no circumstance under which this procedure would be the only option to save the life or preserve the health of the mother.'' There are always—always—other procedures that will preserve the health of the mother.

The AMA task force convened on this issue also concluded, ''There does not appear to be any identified situation in which intact D&X is the only appropriate procedure to induce abortion.''

Thus, even if there are health reasons—and health is defined very, very broadly—even if there are health reasons, there are other safer procedures for the mother.

Myth No. 2. It goes like this. The D&X procedure, partial-birth abortion, is a rare and difficult medical procedure. It is usually performed only in extreme cases to save the life of the woman or in cases of severe fetal abnormalities.

Well, again, it is just not true. If we look to what Ronald Fitzsimmons said, executive director of the National Coalition of Abortion Providers, Mr. Fitzsimmons, I think, has shown amazing integrity in coming forward when he said that he admits he—I am using his words—lied through his teeth when he said partial-birth abortion was rarely used or only on women whose lives were in danger.

In a recent American Medical News article he explained that he could not justify lying to the American people any longer saying—and remember, he was an advocate; he opposed the ban initially. He said, ''They are primarily done on healthy women and healthy fetuses, and it makes you feel like a dirty little abortionist with a dirty little secret.''

It is no longer a secret. It is no longer a secret. We have talked about it in the Chamber. The media understands it. The American people understand it. It is time to ban this procedure.

Dr. James McMahon, another partial-birth abortion practitioner, testified before Congress that 80 percent of the partial-birth abortions he performed were for purely elective reasons—purely elective reasons. The examples he gave: nine babies because they had a little cleft lip, which can be easily repaired today. Many others, at least 39, he said, were aborted because of the psychological and emotional health of the mother, despite the advanced gestational age and health of the child.

So we can see that if you use a health exception, you have a huge door through which you can drive a truck and continue to perform this procedure. If you throw in a so-called health exception, as good as it sounds, it really goes back to what Doe versus Bolton in 1973, the Supreme Court case defined as health. They defined health to include ''all factors—physical, emotional, psychological, familial, and the woman's age—relative to the well-being of the patient.''

That is the big door through which, if you are an abortionist, if you do not follow the ethics of the American Medical Association or the medical profession today, you can continue to do this brutal, inhumane procedure by saying, oh, it is for the health of the mother. The mother is a bit down in the dumps because she feels like this baby must be sacrificed, and therefore I can certify and say that is the health of the mother.

Again, in Doe versus Bolton, the law of the land, the Supreme Court case in 1973 included ''all factors—physical, emotional, psychological, familial, and the woman's age—relative to the well-being of the patient.'' People in the abortion industry understand that there are many late-term abortions for social reasons as well as health reasons. It is recognized; people know it.

A 1993 National Abortion Federation internal memorandum said, ''There are many reasons why women have later abortions,'' and they include, ''Lack of money or health insurance, social psychological crisis, lack of knowledge about human reproduction.''

So when you see legislation in the Chamber allowing this procedure or even putting in amendments or supposing it should be allowed for health of the mother, just recognize, if that is the case, that anybody—anybody—can continue doing this procedure at the same rate as they do today by providing this huge loophole, which again sounds like it is not a loophole but in practice is a huge loophole. One last myth.

Mr. President, can I ask for another 5 minutes?

Mr. SANTORUM. Five additional minutes.

The PRESIDING OFFICER. The Senator is asking for another 5. The Senator is recognized for another 5 minutes.

Mr. FRIST. One last myth goes like this. This procedure could possibly be the best procedure in a woman's situation for her health. In other words, now people realize and they didn't really a month ago or 6 months ago, and the President may not realize it today, there are a range of procedures when, for example, it is life of the mother. But there are some people who would say this is the best procedure.

Let me just say that as a physician, as one who has taken an oath to take

care of that individual who comes into the office, who comes into the room, to preserve the life and the health of every patient, I find this very discomforting. I have talked to obstetricians. We have had the quotations in the Chamber. We have consulted many. They have basically told us that this is not the best procedure, that there are other alternative procedures if there is the indication, for example, of life of the mother. Many practitioners had never heard of it. The people in Tennessee, the high-risk obstetricians whom I have talked to across the State of Tennessee, they have not performed this procedure and many have not heard of this procedure.

Remember, this procedure was fashioned, described—in fact, the only article in the literature that we can really find describing it so it can be presented among other people is from Dr. Haskell, who is not an obstetrician. He is not a board certified obstetrician but, rather, a family-practice medical doctor. These procedures are being performed but not endorsed, not the procedure. Nothing from the obstetrics and gynecologic association has come out and said we support this procedure.

Now, when people say, well, it could be the best or it could not be the best, that is that noncommittal approach that some physicians have taken. And why? Because there is this great fear that big brother Government, the Federal Government is going to come down and jump into that doctor-patient relationship and tell us what we can or cannot do. That is the fear physicians have. Remember, this bill takes one brutal, unaccepted procedure in the medical profession and bans it.

Let me just recap and then I will close, Mr. President. We have a brutal, basically repulsive procedure that is specifically designed to kill a living infant outside the birth canal except for the head, specifically designed to kill a living infant outside of the birth canal with only the head remaining inside. The leading providers of women's obstetrical and gynecological services condemn it. They recommend that it not be used. They refuse to endorse it. They highlight its risks for the mother and say that there are other safe and equally effective alternatives available.

I guess I can understand some of the reasons why those practitioners, or a few of them, urge us not to ban it. They say it would be violating the sanctity of the physician-patient relationship. Mr. President, as a physician, as one who has taken the same oath to preserve the health and the life of others, and I also say as a father, I submit that any provider who performs this partial-birth abortion procedure has already violated that sanctity, that sanctity of the physician-patient relationship. The AMA, in essence, has said that when they say they appreciate the opportunity to work with us toward restricting a procedure which all agree is not good medicine. Partial-birth abortions cannot and should not be categorized with other medical procedures. They should not be allowed in a civilized country.

With the reintroduction of the partial-birth abortion ban legislation in the Senate, we have the opportunity right now to right a wrong. Now, once again, the American people are calling upon us to listen not to our political advisers, not to listen to the various interest groups that come forward but to listen to our conscience. It is going to take moral courage to stop propaganda which is going to continue to come forward. It is going to take moral courage to make sure that good information makes it all the way to the President of the United States when he has to decide whether or not to veto this piece of good legislation. But we all, including the President, have at our disposal today the information with which to do the right thing.

So for the sake of women, and I think women especially, for the sake of their children, and really for the sake of our society, our society as a future civilization, we must put a stop once and for all to partial-birth abortion. I support the ban and urge all of my colleagues today, when we vote in several hours, to support the ban, and I urge the President not to veto this very good piece of legislation.

Mr. SANTORUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, I commend the Senator from Tennessee for his terrific statement, as always. He has been on the floor for the past several days debating this issue from a position of authority, I might add, as the only physician in the Senate. But I also thank him for his tremendous work in working with me and Representative CANADY and the AMA to come up with the language changes that were necessary to secure this very important endorsement of the medical community. He was right on the frontlines working to make sure that happened, and he made a great contribution to the debate on this whole issue, whether or not we get enough votes in the Senate today, of consciousness of the American public, and I thank him for that.

Mr. President, I do not have a speaker here at this point, so I ask unanimous consent again that when I suggest the absence of a quorum, the time be deducted from the Democratic side.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. FAIRCLOTH. Mr. President, I urge my colleagues to vote in favor of the Partial-Birth Abortion Ban Act. As the recent debate on this issue illustrates, this is not simply an issue of a woman's ''right to choose'' whether or not to have a child. It is also an issue of protecting the life of an unborn child. However much we may disagree about whether life begins at conception, when it comes to late term abortions, we are clearly talking about a baby. And therefore, it is entirely reasonable to place restrictions on such abortions, especially when the procedure in question is as barbaric—and as unnecessary—as this one.

Last September 26, when the Senate was debating whether or not to override President Clinton's veto of this measure, the Wall Street Journal made the same point in this way:

> Up till now the abortion debate, if you'll pardon the metaphor, has managed to ignore the 800-pound gorilla in the room. For the first time, people are also talking about the fetus, not about women alone. A fetus may or may not be human, but on the other hand, it's not nothing. At 20 weeks of gestation, when the partial-birth abortion debate begins, a fetus is about nine inches long and is clearly becoming human.

Opponents of the effort to ban this procedure based their argument largely on claims about the relative safety and medical necessity of this procedure which we now know to be false. We all know by now about the admission by Ron Fitzsimmons, executive director of the National Coalition of Abortion Providers, that he lied through [his] teeth about the frequency of and justification for this procedure. And even the doctor who invented the procedure has admitted that 80 percent of these procedures he has performed were purely elective. In other words, they were not performed to preserve either the life or the health of the mother.

Mr. President, the majority of Americans agree that abortion on demand—at any time during pregnancy, for any reason—is wrong. Even a majority of people who describe themselves as prochoice believe it is reasonable to restrict abortion under some circumstances. It is time we decided where to draw that line. This is certainly a good place to draw it.

Mr. LEVIN. Mr. President, H.R. 1122 would seek to ban a particular medical procedure, the intact D&X procedure. I believe we cross a dangerous threshold when we seek to legislate which particular medical procedures may be used, and which may not be used, by physicians. Dedicated doctors and nurses, through official statements of their associations, urge us not to adopt H.R. 1122, and not to politicize this issue.

The American College of Obstetricians and Gynecologists, an organization representing 38,000 physicians whose lives are dedicated to bringing babies into the world and keeping them and their mothers safe, issued a policy statement on January 12, 1997, relative to the bill before us which states that:

> An intact D&X may be the best or most appropriate procedure in a particular circumstance to save the life or preserve the health of a woman, and only the doctor, in

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

Their position was reiterated yesterday. I ask unanimous consent that their letter dated May 19, 1997, be printed in the RECORD.

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

(See exhibit 1.)

Mr. LEVIN. The president of the American Medical Women's Association, Inc., in a March 10, 1997, letter, wrote the following on behalf of more than 10,000 women physicians and medical students nationwide,

I would like to register our strong opposition to . . . [S. 6], which seek(s) to outlaw intact D&E. . . .We do not believe that the federal government should dictate the decisions of physicians and feel that passage of this legislation would in effect prescribe the medical procedures to be used by physicians rather than allow physicians to use their medical judgment in determining the most appropriate treatment for their patients. The passage of this legislation would set a dangerous precedent—undermining the ability of physicians to make medical decisions. It is medical professionals, not the President or Congress, who should determine appropriate medical options.

Their position was reiterated today. I ask unanimous consent that their letter dated May 20, 1997, be printed in the RECORD.

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

(See exhibit 2.)

Mr. LEVIN. The Executive Director of the American Nurses Association, wrote to me in November, 1995, and stated:

It is the view of the American Nurses Association that this proposal would involve an inappropriate intrusion of the federal government into a therapeutic decision that should be left in the hands of a pregnant woman and her health care provider. ANA has long supported freedom of choice and equitable access of all women to basic health services, including services related to reproductive health. This legislation would impose a significant barrier to those principles.

It is inappropriate for Congress to mandate a course of action for a woman who is already faced with an intensely personal and difficult decision. This procedure can mean the difference between life and death for a woman.

The American Nurses Association is the only full-service professional organization representing the nation's 2.2 million Registered Nurses through its 53 constituent associations. ANA advances the nursing profession by fostering high standards of nursing practice, promoting the economic and general welfare of nurses in the workplace, projecting a positive and realistic view of nursing, and by lobbying the Congress and regulatory agencies on health care issues affecting nurses and the public.

Their position was reiterated today. I ask unanimous consent that their letter dated May 20, 1997, be printed in the RECORD.

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

(See exhibit 3.)

Mr. LEVIN. I have other concerns with this bill as well. For example, while banning one abortion procedure, this bill leaves legal other abortion procedures which can be used, procedures which are just as destructive to the fetus but which could be less safe for the mother.

The Supreme Court has held that States may not ban pre-viability abortions but may ban post-viability abortions except when necessary to protect a woman's life or health. The bill under consideration would ban certain pre-viability abortions, and it does not allow for an exception required by the Supreme Court to preserve a woman's health relative to post-viability abortions.

Mr. President, in summary, the bill before us ignores the strong advice of the specialists and nurses acting officially through their associations. The bill before us violates Supreme Court opinions. The bill would risk the health of a mother while not preventing one abortion. We are usurping in this bill medical judgments relative to individual women, in perhaps the most dire and tragic circumstances they will ever face. This is not the way legislators should create crimes.

EXHIBIT 1

THE AMERICAN COLLEGE OF OBSTETRICIANS AND GYNECOLOGISTS,
Washington, DC, May 19, 1997.

Hon. TRENT LOTT,
Senate Majority Leader
Washington, DC

DEAR SENATOR LOTT: In light of the slight modifications being proposed to HR 1122, the ''Partial-Birth Abortion Ban Act of 1997,'' we wanted to take this opportunity to reiterate our opposition to this legislation. Our statement on this issue is attached.

Sincerely,

RALPH W. HALE, *MD,*
Executive Director.

EXHIBIT 2

AMERICAN MEDICAL WOMEN'S ASSOCIATION, INC.,
Alexandria, VA, May 20, 1997.

Hon. RICK SANTORUM,
U.S. Senate,
Washington, DC.

DEAR SENATOR SANTORUM: On behalf of the American Medical Women's Association (AMWA), I would like to reiterate our opposition to H.R. 1122, the so-called ''Partial-Birth Abortion Ban Act of 1997,'' as amended. AMWA does not endorse legislation which interferes with medical decisionmaking, particularly when it fails to consider the health of the woman patient.

Our opposition to this legislation is based on the following issues. First, we are gravely concerned that this legislation does not protect a women's physical and mental health, including future fertility, or consider other pertinent issues such as fetal abnormalities. Second, this legislation would further erode physician-patient autonomy forcing physicians to always avoid legislatively prohibited procedures in medical decisionmaking, including in emergency situations when physicians and patients must base their decisions on the best available information available to them. Third, medical care decisions must be left to the judgment of a woman and her physician without fear of civil action or criminal prosecution. We do not support the levying of civil and criminal penalties for care provided in the best interest of the women patient.

AMWA remains committed to ensuring that physicians retain authority to make medical and surgical care decisions that are in the best interest of their patients given the information available to them.

Sincerely,

DEBRA R. JUDELSON, *MD,*
President.

EXHIBIT 3

AMERICAN NURSES ASSOCIATION,
Washington, DC, May 20, 1997.

Hon. BARBARA BOXER,
U.S. Senate,
Washington, DC.

DEAR SENATOR BOXER: I am writing to reiterate the opposition of the American Nurses Association to H.R. 1122, the ''Partial-Birth Abortion Ban Act of 1997'', which is being considered by the Senate this week. This legislation would impose Federal criminal penalties and provide for civil actions against health care providers who perform certain late-term abortions.

* * * * *

Sincerely,

GERI MARULLO, *MSN, RN,*
Executive Director.

Ms. MIKULSKI. Mr. President, I rise in opposition to the Santorum bill. I oppose this bill for three reasons. First of all, it will not stop a single abortion from occurring. Second, it is unconstitutional. Finally, it does not provide any protection for a woman whose health is grievously threatened by the pregnancy.

I want to ban all post-viability abortions, not a particular procedure. I believe the only time an abortion should be allowed after the point of viability is when the woman's life is threatened or her health is at serious risk of substantial impairment.

I supported the Daschle alternative. The Daschle alternative would have meant fewer abortions. It banned all abortions once a fetus had achieved viability. In other words, once a fetus could survive outside the womb—with or without life support—a woman could not obtain an abortion.

It provided only two exceptions: first, when the woman's life was threatened by continuing the pregnancy, and second, when she was at risk of grievous injury to her health. If the Daschle alternative had been adopted there would be fewer abortions.

The bill before us bans one procedure. It does not ban one single abortion. It bans a method of abortion. It enables a doctor to choose any other abortion procedure—even ones that might cause a greater health risk to the woman. So no abortions would be stopped by this bill.

I want to support a bill that is constitutionally acceptable. The bill before us fails the test of constitutionality. The Supreme Court has always insisted that prior to the point of viability, the woman's right to abortion is constitutionally protected. This bill infringes on that right by banning a procedure even before viability.

The Supreme Court has also held that in any legislation restricting abortion, the woman's life and health must be protected. A physician must place the woman's health as the paramount concern. There can be no trade off of the woman's life and health for that of the fetus.

By refusing to include any exception for instances where the woman's health is at risk, H.R. 1122 is constitutionally unacceptable. The Daschle alternative, on the other hand, was respectful of the requirements of the Constitution. It focused only on abortion procedures after the point of viability. And it ensured that a woman's health could be protected.

I want to support legislation that provides for the health of the woman. I know that health of the woman is viewed by some as merely a loophole. But even those who hold that view must acknowledge that there are medical crises that arise during pregnancy that could cause profound harm to a woman's health.

Conditions like severe hypertension or peripartal cardiomyopathy are caused by the pregnancy itself. These can lead to organ failure or put a woman at risk of cardiac failure. Other conditions, like leukemia or breast cancer, cannot receive the aggressive treatment they require so long as the pregnancy continues.

I don't believe that anyone would argue that these are minor health problems. Yet the Santorum bill does not allow any health exception for women facing these major health threats.

The Daschle alternative, on the other hand, did provide a carefully crafted exception for the woman's health. It said that a physician could abort a viable fetus when the pregnancy would ''threaten the mother's life or risk grievous injury to her physical health.'' Grievous injury was narrowly defined to include only the most debilitating problems caused by the pregnancy itself and cases where the pregnancy caused an inability to treat a life-threatening condition. It required that such conditions be medically diagnosable, and ruled out any condition for which termination of the pregnancy was not medically indicated.

This was not loophole shopping. This was a serious, careful, intellectually rigorous effort to deal with the realities of women's health and women's lives.

I was proud to support the Daschle alternative. I was disappointed that it did not receive broader support. It would have prevented abortions. It was respectful of the Constitution. It safeguarded women's health.

I am disappointed that the American Medical Association has chosen to endorse this bill. I am particularly troubled that their decision seems to be based not on what is best for women's health but on what is best for doctors. The changes they sought in the bill were designed only to protect a physician from legal endangerment.

The American College of Obstetricians and Gynecologists, on the other hand, endorsed the Daschle alternative. They represent 38,000 physicians who are experts in women's health and issues related to pregnancy. They endorsed the Daschle alternative because it would have provided a meaningful ban while assuring women's health is protected.

Let me say that I do not for one moment question the sincerity of those who have called and written me in support of H.R. 1122. They want to stop abortions, and I respect the depth of their convictions.

But let me also say that if this bill is enacted, it will be a hollow victory. I believe the Supreme Court will reject this bill as unconstitutional. In the end, even if it were somehow to pass constitutional muster, it will not stop a single abortion. It will merely divert physicians to other abortion procedures.

So this bill will not save lives. It will not save the lives and health of women. And it will not save the lives of fetuses. It is a hollow victory indeed.

I will oppose this measure.

Mr. JEFFORDS. Mr. President, today we will vote on the legislation offered by the Senator from Pennsylvania [Mr. SANTORUM] to ban the dilation and extraction, or D&X, procedure used by doctors. I will be voting against this ban for the third time in as many years.

My reasons for opposing this legislation are many. Most have been discussed on the floor since the debate began last week. First, and most importantly I believe that this bill undermines the Supreme Court's decision in Roe versus Wade to leave these critical matters in the hands of a woman, her family, and their doctor. The pending legislation is an effort to chip away at these reproductive rights established in that 1973 decision and upheld by court cases since 1973. I understand many people disagree with my position. This issue has been contentious since I came to Congress in 1975.

Second, with the Roe decision, the Supreme Court wisely gave States the responsibility to restrict third-trimester abortions, so long as the life or health of the mother were not jeopardized. As of 1997, all but nine States have done so. To me, the rights of States to regulate abortions, when the life or health of the mother are not in danger, is an adequate safeguard. In the event the States pass unconstitutional regulations on this point, the appropriate remedy is with the courts. I realize that this policy leads to differences in law from State to State, but just as families differ, so too do States. As I said during debate on this topic in 1995:

> When the Roe versus Wade decision acknowledged a state interest in fetuses after viability, the Court wisely left restrictions on post-viability abortions up to states. There are expert professional licensing boards, accreditation councils and medical associations that guide doctors' decisionmaking in the complicated and difficult matters of life and death.

Nothing has changed since then. My reasons for voting against Senator DASCHLE's substitute amendment last week included this very principle: That Congress should not restrict those reproductive health decisions made by a woman and her doctor.

Third, the legislation before us would prevent doctors from using the D&X procedure where it is necessary to save the life of the mother. This clearly goes against the holding of the Supreme Court in Roe, as it required the health of the mother be safeguarded when States regulate late-term abortions. I will not vote for a bill that is neither constitutional, nor takes into account those situations where carrying a fetus to term would cause serious health risk for the mother. This is simply unacceptable. My vote in favor of the Feinstein substitute amendment underscored my commitment to safeguarding a doctor's options to protect the health of the mother in cases where a late-term procedure is necessary.

Finally, I believe that women who choose to undergo a D&X procedure do so for grave reasons. If there are women who abort to fit into their prom dress, I trust the States to regulate these incidents—if they do, in fact, occur. We have established a delicate legal framework in which to address late-term abortions and we should not shift the decisionmaking to the Federal Government.

Mr. SMITH of New Hampshire. Mr. President, I rise in strong support of H.R. 1122, the Partial-Birth Abortion Ban Act of 1997.

Mr. President, it has been nearly 2 years since I first introduced the Partial-Birth Abortion Ban Act in the Senate. At that time, only my distinguished colleague, Senator GRAMM of Texas, joined me as an original cosponsor. We have come a long, long way since that time. We are not there yet, but we have made tremendous progress.

When the Partial-Birth Abortion Ban Act first passed the Senate on December 7, 1995, it did so with the support of 54 Senators. When the Senate voted on whether to override President Clinton's veto of the Partial-Birth Abortion Ban Act on September 26, 1996, 57 Senators voted in favor of the bill.

Today, we believe that we have at least 62 Senators who are prepared to vote for this legislation. We remain several votes short of the 67 votes that we will need to override President Clinton's promised veto of this bill, but we are getting closer. I am hopeful that in the wake of yesterday's dramatic announcement that the American Medical Association has endorsed the Partial-Birth Abortion Ban Act of 1997, we will get there.

Mr. President, one of the principal reasons why we are making so much progress in the Senate toward our goal of outlawing partial-birth abortion is

that more and more Senators are realizing that the opposition to this bill in the last Congress was built on a foundation of lies. When I use the word ''lies,'' Mr. President, I am using the very word that one of the Nation's leading abortion industry lobbyists—Ron Fitzsimmons—used when he publicly admitted earlier this year that he ''lied through [his] teeth'' when he helped orchestrate the campaign against the partial-birth abortion ban legislation in the last Congress.

In an interview published in the New York Times on February 27, 1997, and in an article published in the American Medical News on March 3, 1997, Mr. Fitzsimmons made the surprisingly candid admission that he had ''lied'' when he claimed that partial-birth abortions are rare. In those same interviews, Mr. Fitzsimmons also conceded that he ''lied'' when he claimed that partial-birth abortions are performed only on women whose lives are endangered or whose unborn children are severely disabled. ''It made me physically ill,'' Mr. Fitzsimmons told his interviewer. ''I told my wife the next day, 'I can't do this again.'''

In seeking to justify his veto of the Partial-Birth Abortion Ban Act last year, the New York Times points out, ''President Clinton echoed the argument of Mr. Fitzsimmons.'' In other words, in justifying his veto, Mr. Clinton relied on the same statements of ''fact'' that have now been conceded by a key leader of the abortion industry to be ''lies.''

The truth, Mr. Fitzsimmons told the New York Times, is that ''[i]n the vast majority of cases, the [partial-birth abortion] procedure is performed on a healthy mother with a healthy fetus that is 20 or more weeks along.'' And, as Mr. Fitzsimmons told the American Medical News, ''[t]he abortion-rights folks know it, the anti-abortion folks know it, and so, probably, does everybody else.'' Except, Mr. Fitzsimmons might have added, for President Clinton, who still promises to veto this bill even though the reasons he gave to justify his previous veto have turned out to be ''lies.''

Mr. President, following Mr. Fitzsimmons's startling revelations, on March 4, 1997, the Washington Post ran an unusually blunt editorial entitled ''Lies and Late-Term Abortions.'' After recounting Mr. Fitzsimmons' lies and his candid admissions that he lied, the Post editorial drew the following conclusion:

> Mr. Fitzsimmons's revelation is a sharp blow to the credibility of his allies. These late-term abortions are extremely difficult to justify, if they can be justified at all. Usually pro-choice legislators such as Sen. Daniel Patrick Moynihan and Representatives Richard Gephardt and Susan Molinari voted for the ban last year. Opponents of the ban fought hard, even demanding a roll call vote on their motion to ban charts describing the procedure from the House floor. They lost. And they lost by wide margins when the House and Senate voted for the ban. They probably will lose again this year when the ban is reconsidered. And this time, Mr. Clinton will be hard-pressed to justify a veto on the basis of the misinformation on which he rested his case last time.

There you have it, Mr. President. One of the abortion industry's most prominent leaders has admitted that the case against the partial-birth abortion ban was based on ''lies.'' Not my word, his word—''lies.'' The New York Times points out that in attempting to justify his veto of the Partial-Birth Abortion Ban Act, President Clinton ''echoed'' those lies. And the Washington Post points out, in a great understatement, that President Clinton will be ''hard-pressed'' to base another veto on Mr. Fitzsimmons's and his friends' ''misinformation.''

Pulitzer Prize-winning columnist George Will drew the following conclusion in an opinion article published on April 24, 1997, in the Washington Post:

> The accusation that President Clinton cares deeply about nothing is refuted by his tenacious and guileful battle to prevent any meaningful limits on the form of infanticide known as partial-birth abortion. However, that battle proves that his professed desire to make abortion ''rare'' applies only to the fourth trimester of pregnancies.

Mr. President, even though President Clinton seems bound and determined not to take another look at his stand on partial-birth abortion even in the face of Mr. Fitzsimmons's stunning admissions, I urge my colleagues who voted against this bill in the last Congress to do just that—take another look. Many, if not most, of you voted against this bill because you believed Mr. Fitzsimmons and his friends when they told you that partial-birth abortions are rare and they are only done on women facing grave physical threats or whose unborn children are hopelessly deformed. I urge you to take another look, reconsider your position, and on reconsideration, support us. Partial-birth abortions aren't ''rare''—they're common—and they are done, in the overwhelming majority of cases, on perfectly healthy women with perfectly healthy unborn children.

Mr. President, aside from the Fitzsimmons revelations, I believe that another reason why the Partial-Birth Abortion Ban Act continues to attract greater and greater support in the Senate is that Senators are coming to realize that this issue really transcends abortion. Indeed, as one Senator who did not vote for this bill the first time, but supported us on the veto override last year, Senator MOYNIHAN, put it, partial-birth abortion is ''too close to infanticide.'' That was a starkly truthful way to put it, Mr. President, and it took courage for Senator MOYNIHAN to say it. I commend him for it.

Mr. President, another Senator who did not support this bill the first time around, but who also joined us on the veto override vote, Senator SPECTER, also believes that partial-birth abortion is more like infanticide than it is abortion. Listen to what Senator SPECTER had to say on the Senate floor on September 26, 1996. ''In my legal judgment,'' Senator SPECTER said, ''the medical act or acts of commission or omission in interfering with, or not facilitating the completion of a live birth after a child is partially out of the mother's womb constitute infanticide.'' ''The line of the law is drawn, in my legal judgment,'' Senator SPECTER concluded, ''when the child is partially out of the womb of the mother. It is no longer abortion; it is infanticide.''

Once again, Mr. President, those are strong words and they are truthful words. Senator SPECTER is a pro-choice Senator, and it took courage for him to support this bill. But he did so, again, Mr. President, because he recognized that partial-birth abortion is more like infanticide than it is abortion.

So, Mr. President, we are steadily picking up more and more support in the Senate because, as I have argued here today, more and more Senators are realizing that the case against this bill was built on a foundation of what are now conceded to have been ''lies.'' We are also picking up greater and greater support because more and more Senators are realizing that this issue transcends abortion—that the tiny little human being whom we are talking about is a partially born baby who is just inches from drawing her first breath.

To those Senators who are still considering joining the ever-increasing majority of Senators who support the Partial-Birth Abortion Ban Act, let me address a few more comments to you. Perhaps the Nation's most respected and revered doctor—''America's Doctor''—is the former Surgeon General of the United States, C. Everett Koop. I am particularly proud of Dr. Koop because he is a part-time resident of my home State of New Hampshire.

This is what Dr. Koop has to say: ''Partial-birth abortion is never medically necessary to protect a mother's health or future fertility. On the contrary, this procedure can pose a significant threat to both her immediate health and future fertility.'' We all know that Dr. Koop is not a man who uses words lightly. On the contrary, Dr. Koop is a doctor who chooses his words with care and precision. Listen to those words again: ''Partial-birth abortion is never medically necessary to protect a mother's health or future fertility.''

Now, of course, Mr. President, as I mentioned earlier, even the American Medical Association, which is pro-choice on abortion, has endorsed the Partial-Birth Abortion Ban Act. So, my colleagues, if you are worried about protecting women, listen to the words of Dr. Koop and listen to the American Medical Association. They are for the Partial-Birth Abortion Ban Act because partial-birth abortion is never necessary to protect a woman's health.

Finally, Mr. President, I urge my colleagues who are still undecided about this bill to look at it in light of our beloved Nation's history. We all know those beautiful and majestic words

that Thomas Jefferson wrote for our Declaration of Independence: ''We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are Life, Liberty and the pursuit of happiness.''

Mr. President, one does not have to agree with my view that human life begins at conception to see that a living baby who is in the process of being born has, in Jefferson's words, been endowed by her creator with the unalienable right to life. Can anyone seriously doubt where that great American, Thomas Jefferson, would stand on that question?

Mr. President, another of America's greatest leaders, Abraham Lincoln, made one of the most dramatic and prophetic statements of his life in a speech that he delivered on June 16, 1858. In that speech, Abraham Lincoln said ''I believe this government cannot endure permanently, half slave and half free.'' Today, Mr. President, as we debate this Partial-Birth Abortion Ban Act in this great Capitol of the Union that Lincoln saved, I would say this: The moral foundation of this Government cannot endure permanently when even the half born are not free to live. Can anyone, Mr. President, really doubt where that moral giant, Abraham Lincoln, would have stood on the question before us here today?

Mr. President, let us rise to the moral level to which our Nation's history calls us. Let us recognize the unalienable, God-given right to life of the partially born. Let us protect the partially born from a brutal death. Let us be worthy of the Nation that Jefferson helped create and that Lincoln surely saved. Let us pass the Partial-Birth Abortion Ban Act with a two-thirds' majority in the Senate and then dare President Clinton to turn his back on the moral legacy of Jefferson and Lincoln.

Mr. GORTON. Mr. President, from the time that I first became involved in national politics, it has seemed to me that, for mature adults, under most circumstances, the law was not an appropriate method of determining what are ultimately moral choices for the people most intimately involved with those choices. I believe that my views probably reflect those of a majority of the American people who believe that this should be a matter of an individual woman's choice and that of close family—under most cases.

But, Mr. President, when we talk about late-term abortion and when we speak specifically about partial-birth abortion, we are not dealing with most cases. I think it is clear that the majority of the American people, as they have come increasingly to understand exactly what this procedure is, are horrified by it.

I have been disturbed by the nature of this debate, by the intentional deceit and misinformation about the frequency and necessity of this practice. Only recently, have the opponents of this ban have admitted ''lying through their teeth'' about the facts on the number of partial-birth abortions performed and grounds for this horrific procedure.

It is clear, Mr. President that this practice is not necessary. Just last week, the American Medical Association Board of Trustees said there is ''no identified situation'' that requires the use of this procedure and as of yesterday, endorsed this bill. The American College of Obstetricians and Gynecologists state that there are ''no circumstances under which this procedure would be the only option to save the life of the mother''.

This is a practice that is not compassionate, nor is it within the bounds of civilized or humane behavior. My colleagues have described it in detail, and I don't need to repeat that detail. But I do think that it is significant that those who oppose this bill generally speaking, talk in circumlocution, disguise the language, resist and object not only to a description of the procedure itself, but even to the title-partial-birth abortion. They speak about slippery slopes rather than the procedure itself and attempt to avoid the true brutality and extreme nature of the procedure.

It is simple, this procedure is brutal, inhumane and clearly unnecessary. This vote will be a defining issue about our own society, about our feelings for indifference to brutality, about violence, about uncivilized, inhumane behavior. For all of those reasons, Mr. President, I am convinced that we should pass the Partial-Birth Abortion Ban Act, and I deeply hope that a sufficient majority of my colleagues will vote to do that.

Mr. BYRD. Mr. President, once again we find ourselves addressing the very difficult and emotional issue of partial-birth abortion. The bill the Senate is considering today would criminalize the performance of the partial-birth abortion procedure, unless it is necessary to save the life of the mother. I still have many unanswered questions about this matter, and, as I have indicated in the past, I am extremely hesitant to thrust the Congress into the role of the physician. I am concerned that this measure seemingly ignores the Supreme Court's determinations regarding the role of the state in banning abortions pre- and post-viability and with regard to the health of the mother. I have also noted concerns that this might be the first step in a process which may lead Congress to play the role of doctor again and again and again on specific medical procedures.

As in the past, I have given this issue a great deal of thought and I have particularly considered the new information brought to light by Ron Fitzsimmons of the National Coalition of Abortion Providers. His remarks made clear that this particular procedure is performed far more often than originally thought and not just under certain extreme circumstances which severely threaten the life and the health of the mother. In addition, an endorsement of the ban by the American Medical Association (AMA), which represents a large number of our Nation's doctors, certainly allays some of my earlier concerns about this measure. In previous votes, I had opposed banning this specific procedure; however, in light of the fact that it is not as rare as some claimed and that there appear to be other alternatives, I cannot, in good conscience, continue to oppose a ban on this specific procedure.

Due to my concern about the serious health risk to the mother that can, unfortunately, occur during pregnancy, I voted in support of the alternative measure offered by Senator DASCHLE. I believe that the Daschle amendment would have been more effective in addressing warranted concerns about post-viability abortions while ensuring that severe, serious health risks to the mother are taken into account. However, that amendment was rejected by the Senate.

Like so many West Virginians and Americans who have heard about this specific procedure, I find it extremely disturbing. Mr. President, I will cast my vote in support of H.R. 1122 to ban the partial-birth abortion procedure that is done in too many questionable circumstances.

Mr. DOMENICI. Mr. President, I rise in support of the Partial-Birth Abortion Ban Act of 1997. Let me first begin by stating that an abundance of misinformation has characterized the debate on the partial-birth abortion procedure. I am deeply troubled at how abortion activists have misled the American public, Members of Congress, and especially the President, on the number of partial-birth abortions performed each year and the reasons for them.

The debate on this issue reminds me of a variation of the old courtroom saying: If you have the facts, then argue the facts. If you have the law, then argue the law. If you have neither the law or the facts, then don't tell the truth.

The proponents of the partial-birth abortion have neither the facts nor the law, so they argue with lies.

Ron Fitzsimmons, the executive director of the National Coalition of Abortion Providers, which represents approximately 200 independently owned abortion clinics across the country, recently admitted in February of this year, that he ''lied'' through his teeth when he said that the procedure was used rarely and only on women whose lives were in danger or whose fetuses were damaged. According to Mr. Fitzsimmons, he ''spouted the party line'' about the procedure—even though he believed his statements were wrong.

In debating a procedure as grotesque as the partial-birth abortion, the facts regarding its use and necessity are important. Because the facts about this

procedure are so damaging, pro-abortionists like Mr. Fitzsimmons, have tried to distort or withhold facts from the American people. Let me highlight some of the mistruths that have surrounded this issue.

Proponents of the partial-birth abortion claim that the procedure is rare—only occurring about 500 to 600 times a year. However this is not true. The number of partial-birth abortions is closer to 4,000 to 5,000 a year. In New Jersey alone, at least 1,500 procedures are done each year.

Proponents of the partial-birth abortion also claim that the procedure is necessary to save the life or health of the mother. This is not true. According to the more than 600 doctors nationwide who make up the Physicians' Adhoc Coalition for Truth, it is never medically necessary to kill an unborn child in the second or third trimester of pregnancy in order to protect the life, health, or future fertility of the mother. Former Surgeon General C. Everett Koop has stated that the ''partial-birth abortion is never necessary to protect a mother's health or her future fertility.'' Even the American College of Obstetricians and Gynecologists has admitted that there are ''no circumstances under which this procedure would be the only option to save the life of the mother and preserve the health of the woman.''

The fact is that partial-birth abortions are elective and not performed for medical reasons. As one abortion doctor stated most of the abortions were performed on women who didn't realize, or didn't care how far along they were.

Proponents of partial-birth abortion fail to mention that the 3-day-long procedure actually increases the risk of harm to the mother. After 21 weeks, an abortion is two times as risky for the mother as childbirth.

Finally, proponents of the partial-birth abortion claim it is used only in extreme cases of fetal abnormality. This is not true. Mr. Fitzsimmons admitted that the majority of these procedures are performed on healthy fetuses and healthy mothers. In a March 3, 1997, article in American Medical News, Mr. Fitzsimmons admitted that he called around to doctors who performed the procedure. According to Mr. Fitzsimmons, ''I learned right away that this was being done for the most part in cases that did not involve those extreme circumstances.''

It is disheartening that the debate on this issue has been so clouded by misinformation. The simple truth is that partial-birth abortions are common and the majority of the procedures are performed on healthy mothers and babies.

On an issue as emotionally charged and divisive as abortion, elected officials have a heightened responsibility to carefully gather the facts and to vote their consciences.

Mr. FEINGOLD. Mr. President, I will vote against H.R. 1122, the so-called partial-birth abortion bill that would outlaw a particular abortion procedure, the intact dilation and extraction, sometimes called intact D&E. I do support a ban on post-viability abortions, if it contains important and constitutionally required exceptions to protect the life and health of the woman. I am disappointed that the proponents of H.R. 1122 have steadfastly refused to accept any amendment, no matter how tightly crafted, which would include provisions to protect women's health.

I have said repeatedly here on the floor of the Senate, during hearings in the Judiciary Committee, and at listening sessions held across the State of Wisconsin that I believe that a law to ban this controversial procedure could have been enacted last year with one simple addition—an exception that would allow physicians to perform the procedure on women whose health is at risk. Such an exception, in combination with the bill's existing exception to save the life of the woman, is an important and necessary provision. I am sensitive to the fears of the bill's proponents that such an exception could prove to be a major loophole, and I agree that the health exception should be narrow. But it needs to be there.

Let me remind my colleagues that the Supreme Court has clearly ruled that, although States have the right to restrict post-viability abortions, exceptions must always be made to protect the life and health of the mother. Women cannot be required to trade off their well-being in order to increase the likelihood of fetal survival.

Last Thursday, I voted for the bipartisan alternative amendment to H.R. 1122 introduced by Senator DASCHLE and others. I voted for this amendment because it took a comprehensive approach to banning abortions on viable fetuses, rather than merely banning a single procedure. In addition, Mr. President, this amendment contained the critical, constitutionally necessary exception to protect the life and health of the woman.

I believe that the health exception in the Daschle amendment was sufficiently narrow to satisfy most reasonable people's concerns about creating a loophole in the law. It would have required a physician to certify that continuation of the pregnancy would threaten the woman's life or risk grievous injury to her physical health. Grievous injury was defined in the amendment as a severely debilitating disease or impairment specifically caused by the pregnancy, or an inability to provide necessary treatment for a life threatening condition.

The other side claims that abortion is never necessary to protect a woman's health. But Mr. President, I have met women whose doctors believed differently. The American College of Obstetricians and Gynecologists supports them, and has stated that although the intact D&E procedure is never the only option to save a woman's life or preserve her health, it sometimes may be the best or most appropriate procedure, depending on the woman's particular circumstances.

Members on both sides of this debate can cite respected physicians who will support their positions. But precisely because I am not a doctor, I say again that it is essential to include a health exception in any bill we pass. The point is, Mr. President, that there is a dispute within the medical community about the necessity for and the risk associated with intact D&E. And that is where it should be resolved. It should be women and their doctors, not politicians, who decide which medical procedure is appropriate in those circumstances where an abortion is performed.

If some doctors believe that it is never necessary to perform an intact D & E on a viable fetus to protect a woman's health, then they would not recommend such an intervention. But for those physicians who disagree, I do not think it is the place for this Senator or any other government entity to override that judgment. A decision regarding which medical intervention is necessary is best decided on by individual women and their physicians, in light of their individual circumstances.

Another equally important aspect of the Daschle alternative amendment was its comprehensive ban on post-viability abortions. Rather than taking the approach of H.R. 1122, which would prohibit a single procedure, regardless of the stage of pregnancy, this amendment took a broader approach. It would have protected women's constitutional right to choose an abortion before the fetus is viable. But once the fetus is determined by a physician to be viable, usually around the 24th week of pregnancy, this amendment would have outlawed abortion, except in the situations I have already addressed, in which the woman's life is threatened or her health is at risk of grievous injury.

This bipartisan alternative amendment struck the right balance between protecting women's constitutional right to choose abortion and the right of the State to protect future life. It would have protected a woman's physical health throughout her pregnancy, while insisting that only grievous, medically diagnoseable conditions could justify aborting a viable fetus. Both fetal viability and women's health would have been determined by the physician's best medical judgment, as they must be. It was a sensible and responsible amendment.

Unfortunately, Mr. President, the Daschle amendment was rejected. This is particularly disappointing, because if the underlying bill were to become law, it would not prevent a single abortion. It would merely deny physicians the right to exercise their best medical judgment, and it would force women in critical health situations who would have opted to have an intact D&E to use different, and perhaps less safe, options.

Finally, Mr. President, let me address a related topic. We all know that

this debate has unfortunately been characterized by a great deal of misinformation and distortion of the facts. One particular piece of misinformation has been widely circulated by the proponents of this legislation, and I frankly don't think it is helpful to a truthful debate. It involves the deliberate misinterpretation of a conversation that I had with the junior Senator from Pennsylvania last year.

During last year's floor debate over the veto override, Senator SANTORUM and I had a brief exchange on the Senate floor which proponents of this legislation have used to suggest that I support infanticide—that is, killing an infant after it has been fully delivered. Obviously, that is untrue. I was answering the question I thought I had been asked. I was addressing the issue of who should decide whether the life or health of a woman was at risk.

Let me be clear, for the record. Once a child has been born, there is no conceivable argument that would suggest a woman's life or health would be at risk any longer. The distortion of our exchange by the National Right to Life Committee and others is the kind of tactic which undermines efforts to reach an agreement that would ban late term abortions except in the most narrow of circumstances where a woman's life or health is at stake.

We are near the end of Senate debate on this issue for the time being, but I suspect that this issue will arise again when this body attempts to override another Presidential veto. As we continue to engage in this volatile and emotional debate, both on the Senate floor and in the media, I hope we will make an effort to recognize that there are strong feelings about this issue on all sides. We should respect these differences, avoid efforts to confuse or trick each other and the public, and maintain a level of debate that reflects the importance of ascertaining the truth about this issue and finding responses that are sensitive and constitutionally sound.

Mr. SANTORUM. Mr. President, we are now down to 36 minutes of debate on both sides. And I agreed with the other side that I would take up some of the time to bring down some of our time.

I want to bring up a point, discuss a point that I believe is very important for two reasons: No. 1, I think it is important that Members understand the issues of constitutionality that have been raised by some about this legislation and whether it is constitutional in light of Roe versus Wade and Doe versus Bolton and other decisions on the subject of abortion; and, No. 2, I want to put down a marker for this piece of legislation when it does, if it does, any time in the near future go before the courts.

I hope that by the actions of the Senate today, and hopefully the actions of the President later on, that he will now decide to sign this legislation in light of all the new evidence that has been presented since his initial veto.

I wanted to discuss some of the elements of constitutionality, and in so discussing, I would like to read a letter that was sent to Senator ORRIN HATCH, the chairman of the Judiciary Committee, by 62 law professors from universities all over the country, to state to Senator HATCH their opinion on the constitutionality of the statute.

I will remark that this letter was written May 8, prior to the amendment that we adopted here on the bill today which I believe tightens the language up even more and makes it more impregnable to constitutional overruling by the courts.

I will read the letter sent to Senator HATCH:

DEAR SENATOR: We write to you as law professors in support of the Partial-Birth Abortion Ban Act. S 6. We do not write as partisans. We are both Democrats and Republicans, and we are of different minds of various aspects of the abortion issue. We are concerned, however, that baseless legal arguments are being offered to oppose a ban on partial-birth abortions, and we are unanimous in concluding that such a ban is constitutional.

We have learned that some Senators are concerned about claims that a ban on second trimester partial-birth abortions, or a ban on third trimester procedures without a ''health'' exception, would be unconstitutional under *Roe v. Wade* and later abortion decisions.

The destruction of human beings who are partially born is, in our judgment, entirely, outside the legal framework established in *Roe v. Wade* and *Planned Parenthood v. Casey*. No Supreme Court decision, including these, ever addressed the constitutionally of forbidding the killing of partially born children. In fact. *Roe* noted explicitly that it did not decide the constitutionality of that part of the Texas law which forbade—and still forbids—killing a child in the process of delivery.

Continuing on.

Even should a court in the future decide that a law banning the partial-birth procedure is to be evaluated within the *Roe Casey* ''abortion'' framework, we believe such a ban would survive legal scrutiny thereunder. The partial-birth procedure entails mechanical cervical dilation, forcing a breech delivery, and exposing a mother to severe bleeding from exposure to shards of her child's crushed skill. Before viability, an abortion restriction is unconstitutional only if it creates a ''undue burden'' on the judicially established right to have an abortion. A targeted ban of a single, maternal-health-endangering procedure cannot constitute such a burden.

To the extent of its constitutionally delegated authority, Congress may also ban all forms of abortion after viability, subject to the health and life interests of the mother. Under the most recent Supreme Court decision concerning abortion. *Planned Parenthood v. Casey,* there is no reason to assume that the Supreme Court would interpret a post-viability health exception to require the government to tolerate a procedure which gives zero weight to the life of a partially-born child an which itself poses severe maternal health risks. Furthermore, according to published medical testimony, including that of former Surgeon General C. Everett Koop ''Partial-birth abortion is never medically necessary to protect a mother's health or future fertility. On the contrary, this procedure can pose a significant threat to both her immediate health and future fertility.'' Even the American College of Obstetricians and Gynecologists—which opposes the bill—acknolwedges that partial-birth abortion is *never* the ''only option to save the life or preserve the health of the woman.'' Banning this procedure does not compromise a mother's health interests. It protects those interests.

In short, while individuals may have ideological or political reasons to oppose banning the partial-birth procedure, those objections should not, in good conscience, be disguised as legal or constitutional in nature.

Mr. President, I ask unanimous consent to have this letter printed in the RECORD.

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

MAY 8, 1997.

DEAR SENATOR: We write to you as law professors in support of the Partial-Birth Abortion Ban Act, S. 6. We do not write as partisans. We are both Democrats and Republicans, and we are of different minds on various aspects of the abortion issue. We are concerned, however, that baseless legal arguments are being offered to oppose a ban on partial-birth abortions, and we are unanimous in concluding that such a ban is constitutional.

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[1] 410 U.S. 113, fn. 1 (1973), citing Art. 1195, of Title 15, Chapter 9. (Presently, this law is codified at Vernon's Ann. Texas Civ. St. Art. 4512.5.) A similar ban remains in effect in Louisiana (LA. Revised Statutes 14.87.1). The Texas and Louisiana statutes are also consistent with existing case law in California. *See People v. Chavez*, 77 Cal. App. 2d 621 (1947) (''It should equally be held that a viable child in the process of being born is a human being within the meaning of the homicide statutes, whether or not the process has been fully completed.''); *accord Keeler v. Superior Court*, 2 Cal. 3d 619 (1970).

which gives zero weight to the life of a partially-born child and which itself poses severe maternal health risks. Furthermore, according to published medical testimony, including that of former Surgeon General C. Everett Koop: ''Partial-birth abortion is never medically necessary to protect a mother's health or future fertility. On the contrary, this procedure can pose a significant threat to both her immediate health and future fertility.'' Even the American College of Obstetricians and Gynecologists—which opposes the bill—acknowledges that partial-birth abortion is never the ''only option to save the life or preserve the health of the woman.'' Banning this procedure does not compromise a mother's health interests. It protects those interests.

In short, while individuals may have ideological or political reasons to oppose banning the partial-birth procedure, those objections should not, in good conscience, be disguised as legal or constitutional in nature.

Respectfully submitted,

Rev. Robert J. Araujo, S.J., Gonzaga Law School; Thomas F. Bergin, University of Virginia School of Law; G. Robert Blakey, University of Notre Dame Law School; Gerard V. Bradley, University of Notre Dame Law School; Jay Bybee, Louisiana State University Law Center; Steven Calabresi, Northwestern University School of Law; Paolo G. Carozza, University of Notre Dame Law School; Carol Chase, Pepperdine University School of Law; Robert Cochran, Pepperdine University School of Law; Teresa Collett, South Texas College of Law.

John E. Coons, University of California, Berkeley; Byron Cooper, Associate Dean, University of Detroit Mercy School of Law; Richard Cupp, Pepperdine University School of Law; Joseph Daoust, S.J., University of Detroit Mercy School of Law; Paul R. Dean, Georgetown University Law Center; Robert A Destro, The Catholic University of America; David K. DeWolf, Gonzaga Law School; Bernard Dobranski, Dean, The Catholic University of America; Joseph Falvey, Jr., Assistant Dean, University of Detroit Mercy School of Law; Lois Fielding, University of Detroit Mercy School of Law.

David Forte, Cleveland-Marshall College of Law, Cleveland State University; Steven P. Frankino, Dean, Villanova University School of Law; Edward McGlynn Gaffney, Jr., Dean, Valparaiso University School of Law; George E. Garvey, Associate Dean, The Catholic University of America; John H. Garvey, University of Notre Dame Law School; Mary Ann Glendon, Harvard University Law School; James Gordley, University of California, Berkeley; Richard Alan Gordon, Georgetown University Law Center; Alan Gunn, University of Notre Dame Law School; Jimmy Gurule, University of Notre Dame Law School.

Jacqueline Nolan-Haley, Fordham University School of Law; Laura Hirschfeld, University of Detroit Mercy School of Law; Harry Hutchison, University of Detroit Mercy School of Law; Phillip E. Johnson, University of California, Berkeley; Patrick Keenan, University of Detroit Mercy School of Law; William K. Kelley, University of Notre Dame Law School; Douglas W. Kmiec, University of Notre Dame Law School; David Thomas Link, Dean, University of Notre Dame Law School; Leon Lysaght, University of Detroit Mercy School of Law; Raymond B. Marcin, The Catholic University of America.

Michael W. McConnell, University of Utah College of Law; Mollie Murphy, University of Detroit Mercy School of Law; Richard Myers, University of Detroit Mercy School of Law; Charles Nelson, Pepperdine University School of Law; Leonard J. Nelson, Associate Dean, Cumberland School of Law, Samford University; Michael F. Noone, The Catholic University of America; Gregory Ogden, Pepperdine University School of Law; John J. Potts, Valparaiso University School of Law; Stephen Presser, Northwestern University School of Law; Charles E. Rice, University of Notre Dame Law School.

Robert E. Rodes, Jr., University of Notre Dame Law School; Victor Rosenblum, Northwestern University School of Law; Stephen Safranek, University of Detroit Mercy School of Law; Mark Scarberry, Pepperdine University School of Law; Elizabeth R. Schiltz, University of Notre Dame Law School; Patrick J. Schiltz, University of Notre Dame Law School; Thomas L. Shaffer, University of Notre Dame Law School; Michael E. Smith, University of California, Berkeley; David Smolin, Cumberland School of Law, Samford University; Richard Stith, Valparaiso University School of Law; William J. Wagner, The Catholic University of America; Lynn D. Wardle, Brigham Young University; Fr. Reginald Whitt, O.P, University of Notre Dame School of Law.

Mr. SANTORUM. Thank you, Mr. President.

Does the Senator from Michigan seek some time?

Mr. ABRAHAM. Yes, I do.

Mr. SANTORUM. I yield the Senator from Michigan 3 minutes.

Mr. ABRAHAM. That would be fine.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. ABRAHAM. Thank you very much, Mr. President.

I thank, again, the Senator from Pennsylvania who is doing an outstanding job to try to work with all sides on this issue. I believe the approach which he has taken has been very constructive. And now the endorsement of the American Medical Association, I think, is a further indication that this legislation is on the right course.

I just want to basically reiterate some points I made the other day when I spoke on this issue. At that time I responded to some of the arguments on the other side. Those arguments were that because Members of Congress were not themselves physicians somehow we were not the appropriate people to be addressing issues with respect to partial-birth abortion that fall within the area of medical procedures.

As I said at that time, Members of Congress—many of us are not farmers, yet we deal with agriculture issues here on this Senate floor. Virtually none of us are nuclear physicists, and yet we deal with nuclear issues pertaining to nuclear weapons and issues pertaining to the disposal of nuclear waste, a variety of other highly scientific issues. Only a few of us, such as the Presiding Officer, have served in the military in combat, and yet we are asked to be experts with regard to issues pertaining to national security.

So with this issue as well we are called upon to get the best information possible and seek to make the best decisions as a result.

However, now we actually have some additional information that comes from the experts who have been referenced in previous debates. The endorsement of the American Medical Association of the partial-birth abortion bill, combined with the endorsement and strong support of that legislation by the one Member among us who is a physician, I think buttresses better than virtually anything else said during this debate the case that this procedure is never needed for the medical reasons that its advocates have claimed to protect the health of the mother.

So in my judgment, Mr. President, we now have an overwhelming case in favor of the passage of this legislation, legislation which will I think help us move in the right direction as we consider a variety of other issues that pertain to abortion in the months and years ahead.

So I just wanted to once again come to the floor to express my support for the bill, and to thank the Senator from Pennsylvania for his many efforts in furtherance of its passage.

I thank the Senator and I yield the floor.

Mr. SANTORUM. I thank the Senator from Michigan for his statement and being here on the floor to add to the debate and for his terrific work that he has done on this issue in the past now 2 years. I thank the Senator very much.

Mr. President, I do not have a speaker at this point.

I ask unanimous consent that when I suggest the absence of a quorum the time come off the other side.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mrs. BOXER. Mr. President, I ask what the time situation is between Senator SANTORUM's side and this side.

The PRESIDING OFFICER. The Senator from Pennsylvania controls 27 minutes, 13 seconds, and the Senator on the other side of this argument controls 27 minutes and 25 seconds.

Mrs. BOXER. Mr. President, I yield myself up to 20 minutes.

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

Mrs. BOXER. Mr. President, throughout this debate we have heard both

sides accuse each other of misstatement and worse. We have heard charges and countercharges. Today, as we close down this argument, I am not going to engage in any of those charges and countercharges. I am going to talk about what both sides know to be fact.

Fact: This Santorum bill will outlaw a procedure known as an intact dilation and extraction.

Fact: This procedure is used by obstetricians and gynecologists in circumstances where they believe it is in the best interests of the woman, to save her life or to save her health.

Fact: Those very same physicians who use this procedure oppose this bill. The American College of Gynecologists and Obstetricians confirmed today that they oppose this bill.

Fact: This bill is opposed by the California Medical Association.

Fact: This bill is opposed by the American Medical Women's Association, an organization of women physicians.

Fact: This bill is opposed by the American Nurses Association.

Fact: This bill is opposed by the Society of Physicians for Reproductive Health.

Fact: The American Medical Association endorsed this bill in a 4-day reversal of opinion. Having done that, they have taken a position against the very doctors who handle these procedures.

Fact: We have a series of women who have come forward to testify, about their pain, their grief, that this procedure—that would be outlawed in the pending Santorum bill saved their lives and their health, retained their fertility in many cases, and in the opinion of their doctors was the humane procedure to use for all concerned.

Fact: Most of these women, whose photographs I have behind me, most of these women who came forward to share their stories are very religious, and many say they are opposed to all abortions, but they decided after all the facts were on the table and after consulting their families and many doctors—many went to several doctors, in many cases five or six, to try and come up with another solution to a tragedy—they decided this was their only choice after they consulted with these many doctors, with their families, with their clergy, and with their God.

Several went on to have healthy pregnancies. Coreen Costello was among them. You can see little Tucker in this photograph, who was born after Coreen underwent the procedure.

I will quote from some of the letters we have received from doctors organizations against the Santorum bill.

Mr. President, I ask unanimous consent to have all these letters printed in the RECORD.

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

THE AMERICAN COLLEGE OF OBSTETRICIANS AND GYNECOLOGISTS,
Washington, DC, May 19, 1997.

Hon. TRENT LOTT,
Senate Majority Leader,
Capitol Building, Washington, DC.

DEAR SENATOR LOTT: In light of the slight modifications being proposed to HR 1122, the ''Partial-Birth Abortion Ban Act of 1997,'' we wanted to take this opportunity to reiterate our opposition to this legislation. Our statement on this issue is attached.

Sincerely,

RALPH W. HALE, MD,
Executive Director.

STATEMENT ON INTACT DILATATION AND EXTRACTION

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

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

(1) Deliberate dilatation of the cervix, usually over a sequence of days;

(2) Instrumental conversion of the fetus to a footling breech;

(3) Breech extraction of the body excepting the head; and

(4) Partial evacuation of the intracranial contents of a living fetus to effect vaginal delivery of a dead but otherwise intact fetus.

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

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

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

Terminating a pregnancy is performed in some circumstances to save the life or preserve the health of the mother. Intact D & X is one of the methods available in some of these situations. A select panel convened by ACOG could identify no circumstances under which this procedure, as defined above, would be the only option to save the life or preserve the health of the woman. An intact D & X, however, may be the best or most appropriate procedure in a particular circumstance to save the life or preserve the health of a woman, and only the doctor, in consultation with the patient, based upon the woman's particular circumstances can make this decision. The potential exists that legislation prohibiting specific medical practices, such as intact D & X, may outlaw techniques that are critical to the lives and health of American women. The intervention of legislative bodies into medical decision making is inappropriate, ill advised, and dangerous.

Approved by the Executive Board, January 12, 1997.

AMERICAN MEDICAL WOMEN'S ASSOCIATION, INC.,
Alexandria, VA, May 20, 1997.

Hon. RICK SANTORUM,
U.S. Senate, Russell Senate Office Building,
Washington, DC.

DEAR SENATOR SANTORUM: On behalf of the American Medical Women's Association (AMWA), I would like to reiterate our opposition to H.R. 1122, the so-called ''Partial-Birth Abortion Ban Act of 1997,'' as amended. AMWA does not endorse legislation which interferes with medical decisionmaking, particularly when it fails to consider the health of the woman patient.

Our opposition to this legislation is based on the following issues. First, we are gravely concerned that this legislation does not protect a woman's physical and mental health, including future fertility, or consider other pertinent issues such as fetal abnormalities. Second, this legislation would further erode physician-patient autonomy forcing physicians to always avoid legislatively prohibited procedures in medical decisionmaking, including in emergency situations when physicians and patients must base their decisions on the best available information available to them. Third, medical care decisions must be left to the judgment of a woman and her physician without fear of civil action or criminal prosecution. We do not support the levying of civil and criminal penalties for care provided in the best interest of the woman patient.

AMWA remains committed to ensuring that physicians retain authority to make medical and surgical care decisions that are in the best interest of their patients given the information available to them.

Sincerely,

DEBRA R. JUDELSON, MD,
President.

AMERICAN NURSES ASSOCIATION,
Washington, DC, May 20, 1997.

Hon. BARBARA BOXER,
U.S. Senate,
Washington, DC.

DEAR SENATOR BOXER: I am writing to reiterate the opposition of the American Nurses Association to H.R. 1122, the ''Partial-Birth Abortion Ban Act of 1997'', which is being considered by the Senate this week. This legislation would impose Federal criminal penalties and provide for civil actions against health care providers who perform certain late-term abortions.

It is the view of the American Nurses Association that this proposal would involve an inappropriate intrusion of the federal government into a therapeutic decision that should be left in the hands of a pregnant woman and her health care provider. ANA has long supported freedom of choice and equitable access of all women to basic health services, including services related to reproductive health. This legislation would impose a significant barrier to those principles. It is inappropriate for Congress to mandate a course of action for a woman who is already faced with an intensely personal and difficult decision.

The American Nurses Association is the only full-service professional organization representing the nation's 2.2 million Registered Nurses through its 53 constituent associations. ANA advances the nursing profession by fostering high standards of nursing

practice, promoting the economic and general welfare of nurses in the workplace, projecting a positive and realistic view of nursing, and by lobbying the Congress and regulatory agencies on health care issues affecting nurses and the public.

The American Nurses Association appreciates your work in safeguarding women's access to reproductive health care and respectfully urges members of the Senate to vote against H.R. 1122.

Sincerely,

GERI MARULLO, MSN, RN,
Executive Director.

Mrs. BOXER. The American Medical Women's Association says, in part, in a letter to Senator SANTORUM, ''On behalf of the American Medical Women's Association, I would like to reiterate our opposition to H.R. 1122.'' This letter is dated today.

The organization does not endorse legislation which interferes with medical decisionmaking, particularly when it fails to consider the health of the woman patient.

Our opposition is based on the following issues. First, we are gravely concerned that this legislation does not protect a woman's physical and mental health, including future fertility, or consider other pertinent issues such as fetal abnormalities. Second, this legislation would further erode physician-patient autonomy forcing physicians to always avoid legislatively prohibited procedures in medical decisionmaking, including in emergency situations when physicians and patients must base their decisions on the best available information * * *

That is the American Medical Women's Association letter, in part.

The American College of Obstetricians and Gynecologists, after learning of the opposition of the AMA, wrote a letter to Senator LOTT dated yesterday.

In light of the slight modifications being proposed to H.R. 1122, we wanted to take this opportunity to reiterate our opposition to this legislation.

They attach their statement in which they say:

Terminating a pregnancy is performed in such circumstances to save the life or preserve the health of the mother. Intact D&X is one of the methods available in some of these situations * * * and only the doctor, in consultation with the patient, based upon the woman's particular circumstances can make this decision.

Is it not interesting, an organization of obstetricians and gynecologists oppose this bill and have to plead the case that they are the ones who should make this decision—not Senator SANTORUM, not Senator BOXER, not Senator COATS, not Senator FEINSTEIN, not Senator HELMS. This is not our job. Our job is tough enough. We do not come close to being doctors. We have one physician in this body, but he is not an obstetrician and gynecologist.

A letter dated today from the American Nurses Association:

I am writing to reiterate the opposition of the American Nurses Association to H.R. 1122 * * *

It is the view of the American Nurses Association that this proposal would involve an inappropriate intrusion of the federal Government into a therapeutic decision that should be left in the hands of a pregnant woman and her health-care provider * * *

The American Nurses Association is the only full-service professional organization representing the Nation's 2.2 million registered nurses throughout its 53 constituent associations.

Now I want to tell you some of the real life stories that have been presented to us by some of the women who have undergone the procedure that this bill would ban. Many have heard these stories before, but they are worth repeating because not every woman who has had this procedure has come forward. These stories are representative of those women.

I talked to you about Coreen Costello pictured here with her newborn son, Tucker. She was able to have Tucker because it saved her fertility to undergo the procedure that is banned in the Santorum bill. She is a registered Republican, describes herself as very religious. She is clear that she and her family do not believe in abortion. When she was pregnant, she was rushed to the emergency room because her baby was having seizures, and found out something was seriously wrong with her baby.

She named the baby Katherine Grace. This is a woman and family who wanted that child desperately. And to hear women like this referred to as women who kill their babies to me is an absolute disgrace.

The baby had not been able to move for months—not her eyelids, tongue, nor her lips. Her chest cavity was unable to rise and fall for air, and her lungs and chest were left severely undeveloped almost to the point of nonexisting. Her vital organs were atrophied. The doctor told Coreen and her husband that the baby would not survive, and they recommended terminating the pregnancy. To Coreen and to Jim, this was not an option. Coreen wanted to go into labor naturally. She wanted her baby born on God's time and did not want to interfere. The family spent 2 weeks going from expert to expert.

Again, I have heard my colleagues on more than one occasion demean these women, saying, ''Well, if only they had checked, they would have found another option.'' There are always other options, say my colleagues who don't know anything about medicine.

Coreen and her family were told they couldn't consider inducing labor. They considered a caesarean section. But the doctors were adamant that the risks to her health and her life were too great.

Then Coreen finally said, ''There was no reason to risk leaving my two children motherless if there was no hope of saving Katherine Grace.''

My colleagues, women like Coreen Costello deserve our love and deserve our support. They don't deserve the kind of treatment they would get if this bill becomes law. They have come forward. They were saved. But they are coming forward to spare other families the tragedy they went through.

Coreen writes to us, ''The birth of Tucker would not have been possible without this procedure. Please give other women and their families this chance.

''Let us deal with our tragedies without any unnecessary interference from our Government. Leave us with our God. Leave us with our families and our trusted medical experts.''

I could go on. I will show you a picture of Vikki Stella, a mother of two. She went through a very similar case. She tried in every way to save her baby, but was told that her life was at risk if she didn't use this procedure. The surgery preserved her fertility.

Here she is shown with her son Nicholas. She calls him our darling son, Nicholas, who was born in 1995. This was after she had undergone the procedure that the Santorum bill seeks to outlaw.

So the procedure saved Vikki's life. It preserved her family. Vikki's situation was heart-wrenching.

Mothers and fathers need to be able to make medical decisions like that with their God and with their doctors, not with Senators. We don't belong in that room.

We have offered alternatives, alternatives that go to the heart of another matter, which is the decision *Roe* v. *Wade* that is the law of the land, which basically says in the early stages of a pregnancy a woman has the right to choose and the State does not have a right to interfere. But after viability, *Roe* says the State does have a right to interfere. And I agree with that.

Senator FEINSTEIN and I offered an alternative that would have said no abortion after viability. But we make two exceptions, consistent with compassion, consistent with caring, consistent with *Roe* and the Court cases. We say no abortion after viability except to preserve the life of the mother or to spare her serious adverse health consequences.

My colleagues on the other side have said, ''Senator BOXER and Senator FEINSTEIN believe in abortion on demand.'' They have misstated our position day in and day out. What we are saying is there should be absolutely no abortion after viability except to save the life and the health of the woman. That is the option that would be endorsed, I think, by the majority of the American people. The bill that is before us doesn't do anything about late-term abortion. It deals with one procedure, a procedure that in fact doctors say is necessary to save the life and the health of a woman.

I would like to read parts of an opinion piece that appeared in the Los Angeles Times written by Ellen Goodman.

I ask unanimous consent that the entire article be printed in the RECORD.

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

[From the Los Angeles Times]

CONGRESS CAN'T LEGISLATE MATERNAL HEROISM

(By Ellen Goodman)

You cannot hear it in the cacophony of outraged voices arguing about the so-called partial-birth abortion ban. But it is there. The theme song of the abortion controversy is being repeated, the soundtrack replayed:

Just how much are we willing to require of a woman for the sake of having a baby? Just how much can the government force a woman to sacrifice for a fetus?

The Senate debate has not really been about banning an abortion method. It's been about permitting exceptions to that ban. Senators led by Pennsylvania's Rick Santorum have refused to allow an exception even to protect the woman from serious harm to her health. President Clinton has refused to sign a bill without it.

So the push for a veto-proof majority to ban this rare procedure has drawn a line as clear as possible in this unrelenting and murky struggle. A line around a woman's health.

From the beginning abortion opponents have said that ''health'' is nothing but a loophole for women who would abort a pregnancy to fit into a prom dress. But pro-choice supporters have countered with real women whose bodies were at serious risk. Underlying it all has been the issue of women and sacrifice.

Last week, pro-lifer Kristi S. Hamrick argued against any exception, saying, ''Any woman who has ever been pregnant can tell you that every pregnancy carries potential risk.'' Indeed, women once died in pregnancy and childbirth with appalling frequency.

But while the focus is on health, is it fair to ask whether the law can force pregnant women to sacrifice more for ''unborn children'' than it can force parents to sacrifice for those who are born?

Imagine a different bill going through Congress. This one requires mothers and fathers to give up a kidney for their child. Or maybe it just allows the government to extract bone marrow against their will for an ailing son or daughter.

If such a bill got to the Senate floor, would Santorum decry ''the selfishness, the individual self-centeredness'' of its opponents? Surely, we expect a parent to eagerly exchange bone marrow for a child's life. But we would not assume the state's right to go in and take it.

''No case has ever been upheld that says you can intrude on the body of a genetic parent to protect a born child,'' says Eileen McDonagh, who raises such matters in a provocative book, ''Breaking the Abortion Deadlock.'' Indeed, in Illinois, a court ruled that the law could not even require a blood test to see if a relative could be a potential donor.

Can the law then require a woman to suffer ''serious health effects.'' for the sake of a fetus? A central question in the abortion debate, says McDonagh, is: ''What are the means the state can use to protect the fetus? One benchmark is to ask what the means are the state can use to protect a born child.''

The issue is government intrusion: who decides. How much more serious is this decision when we are talking, not about extracting bone marrow, but about losing a uterus or a kidney? Is it up to Congress to overrule the doctor? To overrule the ''selfish'' woman defending her health?

An outraged Santorum screamed that this procedure ''is killing a little baby that hasn't hurt anybody!'' But the whole point of a vote about a health exception is that this fetus—however unintentionally, well or deformed—is hurting someone: the pregnant woman.

This is a tough-minded argument about those few pregnancies that have gone most tragically awry. Pregnancy is risky. Many women embrace heroic procedures to have children.

But the bill is not really about banning one procedure. If dilation and extraction is the first method banned without exceptions, it won't be the last. The goals of abortion opponents are unequivocal.

Not was the losing bill by Democrat Tom Daschle a true ''compromise.'' Allowing late abortions for physical, ''real'' health reasons but not mental health? What would that distinction mean to a woman forced to carry an anencephalic (brainless) baby to term?

We already have compromises. The Supreme Court decisions weigh the interests of the woman with those of the developing fetus. The law allows states to severely limit abortion after viability. But at no point does it give the government the right to seriously damage a woman's health to protect a fetus.

This is at the primal heart of the matter. No Congress can be allowed to legislate a new flock of sacrificial women.

Mrs. BOXER. Mr. President, Ellen Goodman writes:

The Senate debate has not really been about banning an abortion method. It's been about permitting exception to that ban. Senators led by Pennsylvania's Rick Santorum have refused to allow an exception even to protect the woman from serious harm to her health. * * *

Is it up to Congress to overrule the doctor? To overrule the ''selfish'' woman defending her health?

The bill is not really about banning a procedure. If dilation and extraction is the first method banned, without exception it won't be the last. The goals of abortion opponents are unequivocal. And, indeed, in, I thought, a good debate that the Senator from Pennsylvania and I had on Sunday, I think he was very straightforward about that. The Senators who have been speaking on the other side of the aisle on this subject all would tell you they are against all abortions from the first moment of a pregnancy.

Ellen Goodman writes:

We already have compromises. The Supreme Court decisions weigh the interests of the woman with those of the developing fetus. The law allows states to severely limit abortion after viability. But at no point does it give the government the right to seriously damage a woman's health to protect a fetus.

This is at the primal heart of the matter.

She concludes:

No Congress can be allowed to legislate a new flock of sacrificial women.

What does she mean, sacrificial women? That is, women who will be sacrificed because of politics, because of laws that are made right here. And when abortion was illegal, women died.

There are those of us who will stand here as long as it takes to make sure we don't go back to those dark days. This bill should not be about politics, though, sadly, it might turn out to be. This bill should not be about 30-second misleading commercials, though, sadly, it might turn out to be. This bill should not be about fear, fear of doing the right thing, though, sadly, it might turn out to be.

What this should be about is at least the basic bottom line that we should keep in mind when we pass any legislation. And that bottom line should always be do no harm. Do no harm. Yet, we are told by physicians that this bill does harm. It has no exception for physicians who believe the banned procedure is in the best interests of the woman for her very survival and for her very health.

My colleagues, please do not relegate women to a status that says their life and their health do not matter. Please look inside your hearts. Ask yourself how you would feel if your daughter was told that the safest procedure in a pregnancy turned tragically wrong was an intact D&E, and, yet, the doctor fearing jail refused to use it. Look in your heart. Think about how you would feel. You would drop to your knees. You would pray to God that the doctor could use the option that was safe, that would save the life and the health of your daughter. And then, if this bill was the law, you would go to court to defend that doctor. But the rules would be stacked against him or her.

Just read this bill.

My colleagues, that is the wrong way to go. These women have been saved because this Congress didn't outlaw the procedure that was necessary to save their lives and their health.

There will be other women who look like this, who have families like this, who might be, as Ellen Goodman said, sacrificed because of politics. I say that we should save these women who are relying on us to protect them.

This isn't about them versus their babies. They wanted their babies. They desperately wanted their babies. But in circumstances that no one seemed able to predict, in rare circumstances, in tragic circumstances, they needed an intact D&E.

We are not doctors—not even close. Every speaker I have heard—I may be wrong on this—on the side of the Santorum bill has been a man. Again, I may be wrong on this. But I am 99 percent sure that every one of them would support outlawing all abortions. They do not know what it is like to find yourself in a desperate situation as a woman—as a woman. Situations like Vikki's or Coreen's or Eileen's, or any of the women who were told they needed an intact D&E to save their lives or their health.

Mr. President, I have a letter dated today from these women I have been talking about. They have listened to this debate. This is what they say:

Please don't forget us, and the stories that brought us to Washington to meet with so many of you over the last two years. We are just a sampling of the women and families who have had very wanted pregnancies go wrong, and whose doctors have wept with us as they explained the options that could help us maintain our health and our fertility. We know the truth about the so-called ''partial-birth abortions'' that you debate in Washington, because we needed the surgery that doctors call intact dilation and evacuation. * * *

The AMA endorsement of this legislation, and the superficial changes added today do

not change the fact that this ban still contains no provision to protect the health of women like us.

Mr. President, I ask unanimous consent that this letter in its entirety be printed in the RECORD, along with the following letter from the California Medical Association, which says, in part, ''The California Medical Association is opposed to this bill and is saddened that the debate appeals to the emotive, rather than the reasoning, segment of America.''

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

May 20, 1997.

DEAR SENATORS: Please don't forget us, and the stories that brought us to Washington to meet with so many of you over the last two years. We are just a sampling of the women and families who have had very wanted pregnancies go wrong, and whose doctors have wept with us as they explained the options that could help us maintain our health and our fertility. We know the truth about the so-called ''partial birth abortions'' that you debate in Washington, because we needed the surgery that doctors call intact dilation and evacuation.

We and our families stood with President Clinton last year when he vetoed similar legislation that would have banned the surgery that we needed. This ban would have torn families apart, robbing us of the ability to make the most private and personal decisions about our own well-being. It would have subjected women like us to unwarranted medical risks and even greater heartbreak than the loss of our precious babies had already caused. President Clinton did the right thing when he courageously vetoed this legislation and protected our health and that of the women who come after us. These are decisions that can only be made by a woman in consultation with her family and her doctor. Congress can't begin to know what's best for us as we face our own personal tragedies.

As you consider your vote on HR1122, we hope that you will take a few moments to remember us, and to recall that this is a bill that affects real people—American women and their families. Please don't compound the tragedies of families like ours. The AMA endorsement of this legislation, and the superficial changes added today do not change the fact that this ban still contains no provision to protect the health of the women like us.

Please vote ''no'' on HR1122.

Sincerely,

CLAUDIA CROWN ADES,
COREEN COSTELLO,
MARY-DOROTHY LINE,
VIKKI STELLA,
TAMMY WATTS.

CALIFORNIA MEDICAL ASSOCIATION,
Sacramento, CA, May 20, 1997.

Senator BARBARA BOXER,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR BOXER: We have reviewed the amendments to HR 1122 and believe that they make no substantive changes to the legislation. While the debate over late-term abortion is painful, both within the medical community and the general citizenry, we believe these decisions must be left to physicians and patients . . . acting together.

While late-term abortions may have occurred inappropriately in some instances, they have also saved women's lives and the health and well-being of many American families. In a society where values are assaulted on every side . . . and technology often seems to replace human relationship . . . the bond between healer and patient is ever more important. Passage of HR 1122 would be one more step in eroding that relationship. The California Medical Association is opposed to this bill and is saddened the debate appeals to the emotive, rather than the reasoning, segment of America.

Sincerely,

ROLLAND C. LOWE, *M.D.*,
President.

Mrs. BOXER. Mr. President, I say that we need to listen to these women. I say that we need to listen to these doctors. I say that the doctors who work with this every day of their lives know best. And I hope we will vote against the Santorum bill.

I reserve the remainder of our time on this side.

Mr. SANTORUM. Mr. President, I yield to the Senator from Indiana, who has done terrific work on this issue which deals with protecting children. He has been an outstanding spokesperson for a long time in the Senate.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. Mr. President, I thank my friend from Pennsylvania for his kind words. The real credit goes to the Senator from Pennsylvania for his effective and unrelenting advocacy on behalf of life. The Senator has expressed in many, many ways and provided us with many, many facts that I think gives all of us pause and that has given us a reason to give great deliberation and consideration to this most fundamental of issues.

I also think it is appropriate to mention the efforts of Senator SMITH of New Hampshire who had the courage to come to this floor some time ago and introduce the Senate to a procedure none of us had ever heard of. He was vilified on this floor and in the press. He had the courage to raise an issue that many didn't want to talk about. We have come a long way since that day when Senator SMITH walked onto this floor.

We are close. And we clearly have a majority in both the House and the Senate now in favor of banning partial-birth abortion. We have more than a two-thirds majority necessary to override a Presidential veto in the House, and we are hopeful that we can achieve that level today. We will know at 2:15 this afternoon.

Mr. President, I think it is most appropriate that we are debating this issue on the Senate floor because we are talking about one of the most fundamental, if not the most fundamental, of all issues that we debate on this floor. That is the meaning of life itself. It is a right that is guaranteed or enunciated in our Declaration of Independence. It is labeled an inalienable right, meaning it is not created by government; it is not taken away by government; it is not the purview of government. It is an inalienable right, according to our Founding Fathers, the right to life being the very first enunciated, written—inalienable right, part of the very fabric of the foundation of this society, not endowed by government but endowed by the Creator. Over the 200-years-plus history of this country and of this Congress, we have had monumental civil rights debates, appropriate debates on the meaning of inclusion in the American experiment of what it means to be part of this greatest in all experiments in human history, of democracy, of being part of a system which allows each individual the dignity of being part, an equal part, of this democracy.

Great civil rights debates have taken place in this Chamber, the debates about allowing women equal opportunities, equal rights to vote, equal rights to participate in society, the rights of handicapped, reaching out and providing within the American experiment to include them, the weakest of our society, the most disadvantaged of our society. And now we come to the weakest of all, now we come to the most disadvantaged of all, those who have no voice of their own, those who have no political action committee, no caucus, no ability to march, to speak for themselves, but those who have every right to be included in this great experiment in democracy.

I do not know what the vote count is going to be this afternoon. I am obviously hoping it will exceed the 67 votes needed to overcome the President's intransigence on this issue, the President who pledged to the American people and to the Congress that he wanted abortion to be safe, legal and rare, the President who is confronted with the information that this is not a rare procedure, that this is a procedure that is done thousands and thousands of times mostly for the convenience not of the woman but of the abortionist, a procedure that is more convenient for the abortionist than it is recognizing concerns of women and certainly the rights of the child to live.

I do not know what that vote count is going to be, but win or lose, we have fundamentally altered the nature of this debate. Win or lose, we are now debating the meaning of life and the right to life in this society, and that is where the debate should have been centered and where the debate needs to be centered.

I am pleased that we have finally arrived at this point. I do not question the motives of other Members, those who vote for or those who vote against. That is why I did not question the motives of the minority leader when he stated that he thought we ought to engage in the debate on the viability of the child. It advances the debate one way or another. Some are skeptical about his efforts, about his amendment. I do not think it is an appropriate amendment because I thought the exceptions allowing the decision to be in the hands of the abortionist himself or herself was not appropriate to defining the right to life. But by placing in the Chamber the question of viability, we will now center the debate on

what is the meaning of life. When does life begin? What are the rights of that life as well as the rights of the woman? So I am pleased that we have arrived at this point. As I said, win or lose, we are now focusing the debate where it ought to be.

Several years ago, Justice O'Connor made the statement that Roe versus Wade, the decision of the Court in Roe versus Wade, was on a collision course with medical science because medical science was demonstrating to us the viability of life at earlier and earlier ages. Sonograms, listening to heart beats, and the ability to perform fetal research, the protection of the infant in the mother's womb, and the rights of that infant in cases of negligence, in cases of attempted murder, in a whole number of areas of the law have demonstrated to us that there is a life with a heart beating within the womb of that mother, and that life deserves our consideration in terms of the protections that we give it.

Recently there has been a lot of talk about new discoveries of brain activity and a lot of focus on that, focus brought to this floor by those who say we must make sure we give children ages zero to 3 the right opportunities so that their brain can develop in ways that medical science tells us it needs to develop to a fully competent human being. We need to ensure that that takes place.

What medical science is also telling us and what we have not discussed on this floor is that we now know that brain activity exists much earlier than we thought. Never has the conflict between science and abortion been more dramatic than in the recent discoveries about the science of the brain. We know that a human embryo at 10 or 12 weeks after conception has astonishing brain activity. We know that by the fifth month of gestation the brain is fully wired, as the scientists say, with the connections between neurons largely complete. Astounding evidence. We know that these neurons are firing with impressive complexity once a minute, shaping the brain itself, and we know that when this process is interrupted by malnutrition or drug abuse or a virus, the results can follow a child its entire life, and we know that a child may be born knowing the distinctive sound of its mother's and father's voices. In short, our mental development, not just our physical development, the mental development, the process of learning begins well before birth.

If we look at the evidence—not the rhetoric, not the anecdotes, but the evidence, the facts—it is increasingly evident that human life is a continuum in which birth is really not a particularly decisive moment. An essential part of who each of us is, who we are, including the shape of our minds, is determined even before we are born. Even those who do not call themselves prolife have to find this a troubling experience and troubling knowledge. They have to because abortion not only destroys the body; it extinguishes a complex, developed mind. This point, I think, has particular relevance in this debate on partial-birth abortion because the very procedure itself destroys the brain. Yes, it kills the body, but when we understand the complexity of that brain, when we understand the development of that brain, mostly fully wired at the point of termination, we have to understand that plunging a scissors into the back of that skull and sucking out the brain has enormous implications.

Mr. President, I ask for just 2 additional minutes.

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

Mr. COATS. So here we are on this floor debating something that is very much in the role of the Senate. If it is not in the role of a Senator to make moral judgments, then we might as well close the place up because there is very little else to do. Most of what we do here has moral implications. There are some things that do not, but most things do. If that is the case, then I think a lot of people are going to have to remove their names from sponsorship of legislation that mandates mammograms for women under a certain age. Some Senators are going to have to remove their names from support for laws that require 48-hour hospital stays after birth. Some Senators are going to have to remove their support for laws and legislation that condemns genital mutilation. Are those not medical procedures? So if we are going to leave all that to the world outside of this Chamber, I think a lot of Senators are going to have to rethink their positions on a lot of issues.

I also think it is inappropriate to suggest that this is some kind of male conspiracy against women. I think when the vote is taken today, we will see women voting to terminate this procedure. I think when the polls are taken and women are addressed throughout our society, we will find there are as many women in opposition to this procedure and in abhorrence of this procedure as there are men.

It is also wrong to say that this is only some kind of a pro-life Senate movement. There are a number of people here who have openly stated they are pro-choice Senators but are voting to ban this procedure. So let us tone down the accusations and let us deal with the facts.

I think the facts and medical science that have been presented to us so outstandingly by the Senator from Pennsylvania need to be carefully considered by each and every one of us. A civil right to the weakest among us, the inalienable right to life as enunciated in the most fundamental of all the documents of democracy, our Declaration of Independence, can be honored here today by our vote to ban this procedure.

Mr. President, I thank the Senator from Pennsylvania particularly for his outstanding work and yield back whatever time I have remaining.

Mr. SANTORUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, if you will notify me when I have 4 minutes remaining.

The PRESIDING OFFICER. The Senator has 14 minutes and will be notified by the Chair when 4 minutes are remaining.

Mr. SANTORUM. I thank the Chair. I thank the Senator from Indiana for his excellent work. I want to address a couple issues the Senator from California raised.

One, she mentioned support of the American College of Gynecologists. I have 50 letters here from fellows of that organization who are outraged at the organization for the position they have taken. We have a group of over 500 obstetricians and gynecologists who have signed on saying they are supporting the ban on partial-birth abortions and are also outraged at the position taken by the board here in Washington that was not voted on by the general membership.

So I just suggest that this, as the Senator from California noted but I want to reemphasize, is not speaking for all physicians, certainly not all obstetricians and gynecologists, because we have read plenty of statements from them as to why this procedure is never medically necessary.

She went through her facts. Let me tell you the first fact. This is not about abortion. This is about infanticide. This is about taking a baby that is born, in the process of being born, four-fifths outside of the mother, moving outside of the mother and killing that baby. We can talk about abortion. I know the Senator likes to get it back to the issue of abortion. The reason we believe, as I just read a letter from 62 law professors, it is not governed by Roe versus Wade is because the baby now has rights. It is being born. So do not keep focusing back on this issue of abortion. This is about infanticide.

If the Senate today does not muster up the moral courage for 67 votes, it will be validating infanticide—not the woman's right to choose, infanticide.

As one of the listed facts, the Senator from California said the fact is this procedure is done by obstetricians and gynecologists acting in the best interests of the mother to save her life or health. That is not a fact, and we all know that. Even people who support the position of the Senator from California know that is not a fact, admit it is not a fact. It is very difficult to get engaged in a real debate when the other side keeps using misinformation about what is going on here.

Ron Fitzsimmons, the director of an association of 200 clinics, said that 90 percent of the abortions done, partial-birth abortions done, are done on healthy mothers and healthy babies in the 5th and 6th months of pregnancy for birth control reasons.

Now, that is not, as the Senator from California suggested, a procedure done by obstetricians and gynecologists.

Let me make a parenthetical remark there. This procedure was not invented by an obstetrician or gynecologist. It was invented by a family practitioner who does abortions. Obstetricians and gynecologists do not do this procedure. This is not done in hospitals. It is done in clinics, not by, in many cases, obstetricians and gynecologists. So to suggest that this procedure is done by obstetricians and gynecologists acting in the best interests of the mother and that's the fact is not in fact the case.

This is done by abortionists—some of whom are obstetricians, many of whom are not—who perform in clinics, not in hospitals, who do it on healthy mothers and healthy babies. Those are the facts. That is why this is such a troubling debate today. That is why we have seen the movement across this country and in the Senate today, because the alleged facts that the Senator from California was offering again as the truth muddy the waters a little bit. But now we know what the real truth is from people who support her position. But yet we keep hearing these repeated allegations that have no basis in reality anymore, but they still find themselves on the Senate floor as a defense for an indefensible procedure, and this procedure is indefensible.

Mr. President, we have heard comments about women who suffered with a pregnancy that had gone tragic. Let me first say that my heart goes out to each and every one of the people whose picture we have seen displayed on the floor of the Senate. I know, I know personally the difficulty that these families face with a child that you hoped for and dreamed for and had something go wrong; that a life that you had hoped to be with and to mother and father would be cut short. I know what they went through.

I am just suggesting that the fact that the women came to testify, not the doctors, tells you something about the medical reality of what occurred. You have not seen any of these doctors who did these procedures come to the U.S. Senate, the House, or anyplace in a public arena and talk about what they did, because they know that they would not stand the light of day in front of any peer review. In fact, none of these procedures is peer reviewed. None of them is peer reviewed. None of these cases has been peer reviewed, none of them. They would not open up to any discussion by other experts in the field as to whether they acted correctly.

That is the problem, you see. We hide behind the emotion, and it is real, tragic, and I empathize, but we are hiding behind emotion when we are talking about the life and death of little babies. We owe it to them, we owe it to these mothers who are dealing with these tragic situations today to talk about the facts, to let the light shine in as to what are really the options, what is really necessary, not to hide behind pictures and emotional pleas that have no basis in medical fact, in medical practice.

I will give you a counterexample. This is a little baby girl, named Donna Joy Watts, who was born with hydrocephaly, the same condition that some of the children of the people Senator BOXER shared had. Her mother and father, Lori and Donny Watts, refused to abort this child. The genetics counselor and the obstetrician suggested a partial-birth abortion for this little baby. They said she couldn't survive, she wouldn't live. She had to go to four hospitals—four places—just to get this baby delivered. They wouldn't deliver her baby.

We worry so much about the right to choose. How about the right to choose life, to give your baby a chance? Well, Donny and Lori fought for this chance. This baby was born finally by cesarean section. And, by the way, the issue of future fertility, we hear that a lot, Lori and Donny now have another little baby. But this little baby was born and hooked up to IV's to give hydration to, water to, and for 3 days. These doctors, who will never come to testify before the Congress, all these doctors who recommend abortion, who never come to justify before a peer review panel what they do, called this little baby lying there breathing a fetus for 3 days. Do you want to know what some of the obstetricians and gynecologists think about little babies who are just not perfect? They called this baby a fetus 3 days after it was born. It is not a fetus, it is a baby. What they wanted to do was kill this baby by stabbing her in the base of her skull and suctioning her brains out, and Lori and Donny said no.

Through a lot of hard work, a lot of pain, a lot of suffering, a lot of forcing them to treat her daughter because they wouldn't treat her for 3 days, 5½ years later, this is little Donna Joy Watts, who is in my office right now. She would have been up in the gallery of the Senate were it not for the objection of the Senator from California prohibiting her from being there. She is in my office and watching this debate. She is watching to see whether the U.S. Senate is going to allow other doctors to misinform their mommies and daddies so we won't have other little Donna Joy Wattses to be with us, to ennoble us, to give us pride in our culture and in our civilization, that we care even for those who are like little Donna Joy—who runs around and plays in my office, who colors with my kids—but just didn't have the chance.

I reserve the remainder of my time.

The PRESIDING OFFICER. Four minutes are reserved. Who seeks time?

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I ask that I be allotted such time as I may consume in the remaining time.

The PRESIDING OFFICER. Five minutes is remaining.

Mrs. FEINSTEIN. I thank the Chair.

Mr. President, I myself find this a sad day. In a sense, it is a watershed debate, and I very much fear it is the first major legislative thrust to set this Nation back 30 years with respect to freedom of choice.

I am going to speak about what freedom of choice really means. Essentially, to me it means that Government will not become involved in these most intimate decisions that a woman has to make, not become involved in legislating a woman's reproductive system, what she must do, when she must do it, and how she must do it, but that government will essentially leave those intimate decisions to the physician, to a woman, to her faith, and to medicine. And here we have the Congress of the United States essentially saying that every woman in this country who may find out in her third trimester that she has a horribly, severely deformed child with anomalies incompatible with life, and if that child can be born, even if it is a major threat to her health, she must deliver that child.

Unfortunately, no Member of this body is going to be present, no Member of this body is going to hold that mother's hand and tell her that it is OK if she jeopardizes her health perhaps for the rest of her life. No Member of this Congress is going to be present in that delivery room and see a child who is incompatible with life, a baby that may not have a brain, a baby that may have a brain outside the head or other major physical anomalies. No Member of this Congress will be there to see that child delivered to live an hour, 6 hours, a day, 4 days and then die, and the woman's health may be seriously, adversely harmed in a major way for the rest of her life. No one will be there. No one will say, ''I'm so sorry, I didn't know about you when I cast this vote.''

We are all accustomed to legislating, and when we legislate, we legislate for a majority, not for the exception. We legislate with some knowledge, or should, of what we are doing. But I think in this case, it is a very skewed knowledge. It is based on a case that the distinguished Senator from Pennsylvania put forward of a young woman who I believe could have and would have been born in any event and saying that this one case typifies all mothers that we are talking about. In fact, it doesn't.

I must express my profound dismay. My father was chief of surgery at the University of California Medical Center. My husband, Bert Feinstein, was a distinguished neurosurgeon. And all my life, I have lived in a medical family. As I read the AMA's letter, essentially what they are doing is providing some protection for doctors, but they are doing nothing to see that a woman's health is protected, and I feel very badly about that. Both my husband and my father were members of the American Medical Association.

I take some heart in letters from the California Medical Association which indicate their opposition to this legislation and clearly state that they believe the amended legislation before us today falls very short of the mark. They indicate their strong opposition to this bill. I ask unanimous consent to include in the RECORD two letters I received from the California Medical Association.

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

CALIFORNIA MEDICAL ASSOCIATION,
San Francisco, CA, May 20, 1997.

Senator DIANNE FEINSTEIN,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR FEINSTEIN: We have reviewed the amendments to HR 1122 and believe that they make no substantive changes to the legislation. While the debate over late-term abortion is painful, both within the medical community and the general citizenry, we believe these decisions must be left to physicians and patients . . . acting together.

While late-term abortions may have occurred inappropriately in some instances, they have also saved women's lives and the health and well-being of many American families. In a society where values are assaulted on every side . . . the bond between healer and patient is ever more important. Passages of HR 1122 would be one more step in eroding that relationship. The California Medical Association is opposed to this bill and is saddened the debate appeals to the emotive, rather than the reasoning, segment of America.

Sincerely,

ROLAND C. LOWE, M.D.,
President.

CALIFORNIA MEDICAL ASSOCIATION,
San Francisco, CA, May 14, 1997.

Re opposition to H.R. 1122.

Senator DIANNE FEINSTEIN,
Hart Senate Office Bldg., Washington, DC.

DEAR SENATOR FEINSTEIN: The California Medical Association is writing to express its strong opposition to Congressional intrusion into the physician-patient relationship, as exemplified by the above-referenced bill, which would ban ''partial-birth abortions.'' We believe that it is wholly inappropriate for a legislature to make decisions which prevent physicians from providing appropriate medical care to their patients. Physicians must be allowed to exercise their professional judgment when determining which treatment or procedure will best serve their patients' medical needs.

The obstetricians and gynecologists have already eloquently expressed the medical justifications for this procedure in rare but very real circumstances. CMA certainly does not advocate the performance of elective abortions in the last stage of pregnancy. However, when serious fetal anomalies are discovered late in a pregnancy, or the pregnant woman develops a life-threatening medical condition that is inconsistent with continuation of the pregnancy, abortion—however heart-wrenching—may be medically necessary.

CMA respects the concern that performing this type of abortion procedure late in a pregnancy is a very serious matter. However, political concerns and religious beliefs should not be permitted to take precedence over the health and safety of patients. CMA opposes any legislation, state or federal, that denies a pregnant woman and her physician the ability to make medically appropriate decisions about the course of her medical care. The determination of the medical need for, and effectiveness of, particular medical procedures must be left to the medical profession, to be reflected in the standard of care. It would set a very undesirable precedent if Congress were by legislative fiat to decide such matters. The legislative process is ill-suited to evaluate complex medical procedures whose importance may vary with a particular patient's case and with the state of scientific knowledge.

CMA urges you to defeat this bill. Many of the patients who would seek the procedure are already in great personal turmoil. Their physical and emotional trauma should not be compounded by an oppressive law that is devoid of scientific justification.

Sincerely,

ROLLAND C. LOWE,
President.

Mrs. FEINSTEIN. Mr. President, I believe the California Medical Association still represents the largest group of physicians anywhere in this Nation. No one seems to care about the Constitution, that this bill constitutes a direct challenge to the Roe versus Wade Supreme Court decision. The Supreme Court held that in Roe, a woman has a constitutional right to choose whether or not to have an abortion. It set for the different trimesters, some specific limitations on that right, that before viability, abortion cannot be banned; after viability, the Government can prohibit abortion, except when necessary to protect a woman's life or health.

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

Mrs. FEINSTEIN. This bill, the bill before us, says the woman's health doesn't matter, it is of no consideration. I must tell you, to me a woman's health matters. It should be of direct consideration.

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

Mrs. FEINSTEIN. So I will vote no on this bill, and I really regret that this day is upon us. I thank the Chair.

Mr. SANTORUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, I just suggest the American Medical Association and the other hundreds of doctors understand the point that seems to elude the Members of this Chamber. By outlawing this procedure they are, in fact, protecting the health of the mother, because this is an unhealthy procedure, this is a dangerous procedure. This procedure, as said by over 500 physicians ''is never medically necessary, in order to preserve a woman's life, health or future fertility, to deliberately kill an unborn child in the second and third trimester, and certainly not by mostly delivering the child before putting him or her to death.''

I will quote another obstetrician/gynecologist, Dr. Camilla Hersh:

Any proponent of such a dangerous procedure is at least seriously misinformed about medical reality or at worst so consumed by narrow minded ''abortion-at-any-cost'' activism to be criminally negligent.

What we are doing here is, in fact, advocating for the life health of the mother by banning a procedure which is a rogue procedure, not performed at hospitals, performed at abortion clinics, not even performed by obstetricians, invented by someone who is not an obstetrician. That is why the AMA wrote to me yesterday supporting H.R. 1122 as it now appears on the floor of the U.S. Senate saying:

Thank you for the opportunity to work with you toward restriction of a procedure we all agree is not good medicine.

In other words, it is not in the interest of the health or life of the mother to do this procedure. It is wrong to do this procedure. It is immoral to do this procedure because you are killing a little baby. You are killing a baby that is fourth-fifths born, that is moving outside of its mother. How can we accept that when there are other options available?

As I suggested before, here is living proof of other options available: a little girl who is here today on Capitol Hill, who will be right out here by the elevators during that vote. I ask Members to go over and to look into her eyes, to talk to her, because if her parents would have listened to all the expert doctors who knew what was best for their child, she wouldn't be here today.

She would have had this brutality, this violence, this vile procedure done on this innocent little girl who now walks and talks and writes notes—''Donna'' with a hand there, reaching out asking that this procedure not be made available, so little girls like her, little boys like her, be given a chance at life.

The Senator from California said, these kids who are not well enough to make it. Who are we to decide whether they are well enough to make it? Who are we to say they should die because they are not perfect?

Give them a chance. Give them the dignity of being born and brought into this world with love, not violence and brutality. Give them a chance. Give them a chance.

I yield the floor.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate will stand in recess now until the hour of 2:15 p.m.

Thereupon, the Senate, at 1:01 p.m., recessed until 2:15; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. SMITH of New Hampshire).

PARTIAL-BIRTH ABORTION BAN ACT OF 1997

The Senate continued with consideration of the bill.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. What is the pending business?

The PRESIDING OFFICER. The pending business is H.R. 1122, as amended.

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

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

The clerk will call the roll.

The legislative clerk called the roll.

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

The result was announced— yeas 64, nays 36, as follows:

[Rollcall Vote No. 71 Leg.]

YEAS—64

Abraham	Faircloth	Mack
Allard	Ford	McCain
Ashcroft	Frist	McConnell
Bennett	Gorton	Moynihan
Biden	Gramm	Murkowski
Bond	Grams	Nickles
Breaux	Grassley	Reid
Brownback	Gregg	Roberts
Burns	Hagel	Roth
Byrd	Hatch	Santorum
Campbell	Helms	Sessions
Coats	Hollings	Shelby
Cochran	Hutchinson	Smith (NH)
Conrad	Hutchison	Smith (OR)
Coverdell	Inhofe	Specter
Craig	Johnson	Stevens
D'Amato	Kempthorne	Thomas
Daschle	Kyl	Thompson
DeWine	Landrieu	Thurmond
Domenici	Leahy	Warner
Dorgan	Lott	
Enzi	Lugar	

NAYS—36

Akaka	Feinstein	Lieberman
Baucus	Glenn	Mikulski
Bingaman	Graham	Moseley-Braun
Boxer	Harkin	Murray
Bryan	Inouye	Reed
Bumpers	Jeffords	Robb
Chafee	Kennedy	Rockefeller
Cleland	Kerrey	Sarbanes
Collins	Kerry	Snowe
Dodd	Kohl	Torricelli
Durbin	Lautenberg	Wellstone
Feingold	Levin	Wyden

The bill (H.R. 1122), as amended, was passed.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Democratic leader is recognized.

Mr. DASCHLE. Mr. President, I wish to explain my vote today on H.R. 1122, the partial-birth abortion ban.

As with many of my colleagues, this was not an easy decision. Virtually every Senator who has participated in the debate has noted his or her abhorrence to the procedure.

I respect the views of Senators on either side of this issue. I have chosen to speak after the vote because this is a decision each Senator must decide for himself or herself.

My own decision was not easy, in part, because this bill may have no practical effect on abortions in this country. It is likely that doctors wishing to perform later-term abortions will simply choose another option.

As I repeated last week, this is not a ban of abortion; it is a ban of a specific procedure.

It is not an easy decision because I favor a woman's right to consult the physician of her choice to decide the most appropriate course of action on matters directly affecting her health and her most personal circumstances.

This decision was not easy because, in spite of the personal nature of this debate, its complexity, the medical repercussions, and its seriousness, this issue has become politicized to the extent that much of the rhetoric has substantially diminished the potential for real discourse on such an important matter.

The result is that sincere efforts to find common ground have been labeled as ''shams,'' as ''political cover,'' and ''deceptive'' by many who passed judgment without having even read the legislation.

Perhaps because my expectations were much too high, my greatest disappointment is reserved for some officials in the Catholic Church, especially in my State, for whom I had great respect and from whom I was given initial encouragement for my efforts. Their harsh rhetoric and vitriolic characterizations, usually more identified with the radical right than with thoughtful religious leadership, proved to be a consequential impediment to the decision which I have made today. It was most instructive.

This was not an easy decision, because it is highly likely that H.R. 1122 will be declared unconstitutional should it be enacted into law.

The Supreme Court has been very clear in regard to two issues concerning abortion.

First, prior to the viability of a fetus, a woman's ability to choose to terminate her pregnancy is a fundamental constitutional right and cannot be abrogated. The Court has ruled that the Government cannot impose an undue burden on a woman who wishes to terminate her pregnancy with an abortion, prior to the viability of the fetus. Second, that after a fetus is determined to be viable, it can be given protection, so long as it does not endanger the life or health of the mother.

On both principles, the bill just passed appears to be in conflict with numerous Supreme Court rulings.

Yet in spite of the difficulty in coming to my decision, I voted in favor of its passage because I still desire to find common ground with those outside the extremes who truly hope to resolve the issue in a constructive and meaningful way.

I will continue to insist that any common ground approach fall within the constitutional parameters which protect a woman and respect the legitimate concerns for her health. But I will consider other proposals which accommodate that need in a manner more effective than mine.

My hope is that we can get beyond this debate to find a lasting, more acceptable legislative response. Recurring efforts to pass and veto a bill which is likely to be found to be unconstitutional only delays meaningful progress in an effort to ban not just one procedure but all of them once a fetus is viable.

Failure to find common ground leaves little choice but to accelerate the legislative process to allow the earliest review of the law by the Supreme Court. Its determination of the questionable constitutionality of this approach will guide us and will certainly force those unwilling to compromise now to a more conciliatory position later.

Our Nation must find the solution to this deeply vexing, moral problem which has persisted in dividing us.

Let us not give up hope.

I yield the floor.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

RILEY ANNE CZARTORYSKI

Mr. CRAIG. Mr. President, I certainly respect the comments of my colleague, and I will leave it at that because at this moment I would like to announce to my fellow Senators a joyous event in my family.

Yesterday afternoon at 4:46 my daughter, Shae Czartoryski, with the help of her husband Jeff, gave birth to our first grandchild—Suzanne Craig's and Larry Craig's first grandchild —a beautiful baby girl by the name of Riley Anne Czartoryski. She came in at 6 pounds 6 ounces, and 20½ inches long, and yelling her head off.

We are just tickled pink about that.

So, as we talk about life and as we talk about joy, I wanted to share with all of you today a joy in my life, my first grandchild, the first grandchild of our family.

I thank the Chair.

THE PARTIAL BIRTH ABORTION BAN ACT

Mr. DORGAN. Mr. President, I supported passage of the Partial-Birth Abortion Ban Act when it was considered during the 104th Congress and I supported overriding the President's veto of that measure. Today, I again voted in favor of this legislation.

My position on abortion issues is clear. I have consistently stated that I would not support overturning the Supreme Court's decision in Roe versus Wade. I support a women's right to have an abortion. I do not think we should turn back the clock and make abortion illegal, but we should work in every way to reduce the number of abortions that are performed.

I have also cast votes in Congress in opposition to using Federal funds to pay for abortions except in cases of life endangerment, rape, or incest.

Today, the Senate again voted on legislation which would prohibit a physician from performing partial-birth

abortions, a procedure in which a fetus is delivered into the birth canal before its skull is collapsed and delivery is completed. This legislation contains a provision which would make an exception for partial-birth abortions that are necessary to save the life of the mother in cases in which no other medical procedure would suffice.

After careful thought about this issue, I have concluded that I simply cannot justify the use of this specific procedure to terminate pregnancies in which the mother's life is not at stake. For this reason, I voted to support the ban on partial-birth abortions, and I hope that the President will reconsider his decision to veto this measure and sign it into law.

Mrs. MURRAY. Mr. President, I rise today to express deep regret at the passage of H.R. 1122, the so-called partial birth abortion bill. I find it appalling that the U.S. Senate will enact legislation that is not just an attack on choice, but more importantly an assault on a woman's reproductive health.

I had hoped that the Daschle amendment, which I cosponsored, would address the alleged concerns about unnecessary abortions being performed after viability. This amendment was a reasonable approach and would have met the State objective of preventing late-term abortions on healthy fetuses when there was no serious threat to the life or health of the mother. However, it has become obvious what the real agenda is; to chip away at the guarantees and protections afforded to all women by the Supreme Court. Those on the other side have now solicited the American Medical Association [AMA] in their efforts to undermine Roe versus Wade and to jeopardize the health of women.

The AMA has simply cut a deal which unfortunately does not include women's reproductive health. They have acted in such a way to protect their interests and not the interest of their patients. Their announcement does not in any way change the intent of this legislation nor does it do anything to address the concerns about women's health. It is simply a political, calculated decision.

During the 104th Congress, there were 53 floor votes attacking reproductive health. Today's vote is simply a continuation of this attack. In the 104th Congress we witnessed attacks on title X, international family planning, and access to save and legal abortion coverage for Federal employees and military personnel. This is not about preventing late-term abortions, this is about preventing a women's and physician's right to determine their own health care needs. They will not stop here. This attack will continue until all abortions, regardless of viability or the life and health of the mother are illegal. Today, we have taken a huge step backward.

Since joining the Senate Labor and Human Resources Committee, I have heard from numerous groups representing physicians and from numerous doctors from Washington State. I have been told repeatedly that Congress must act to prevent the further eroding of the patient-doctor relationship currently taking place in the managed care delivery system. I have heard numerous stories about physicians who are unable to prescribe the appropriate treatment for their patients because insurance companies have determined this treatment too costly or not necessary. I have always agreed that doctors should be making health care decisions, not insurance companies. I now am baffled as to why the AMA would want the U.S. Congress to dictate what treatment options physicians can use to save the life and health of their female patients. Today's action invites the U.S. Congress into the operating room and appears to have the blessing of the AMA.

I am grateful that there is one last line of defense; the President's veto. I am hopeful that the President will act swiftly to veto this offensive and threatening legislation and that we will do the right thing and sustain this veto.

Mr. ENZI addressed the Chair.

THE PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. ENZI. I thank the Chair.

(The remarks of Mr. ENZI pertaining to the introduction of S. 765 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. ENZI. 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. 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.

CONCURRENT RESOLUTION ON THE BUDGET

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Senate Concurrent Resolution 27, the concurrent budget resolution, and I might indicate that we conferred with the ranking minority member and he concurs in this consent request.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 27) setting forth the congressional budget for the U.S. Government for fiscal years 1998, 1999, 2000, 2001, and 2002.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the presence and use of small electronic calculators be permitted during consideration of the fiscal year 1998 concurrent resolution on the budget and any conference report thereon.

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

Mr. DOMENICI. Mr. President, I ask unanimous consent for full floor privileges be granted to the following members of the Budget Committee staff: Austin Smythe and Ann Miller.

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

Mr. DOMENICI. That is for the duration of the discussion on the resolution.

I ask unanimous consent that the staff of the Senate Committee on the Budget including congressional fellows and detailees from the executive branch named on the list I now send to the desk be permitted to remain on the Senate floor during consideration of Senate Concurrent Resolution 27 and any conference report thereon.

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

The list is as follows.

SENATE BUDGET COMMITTEE—MAJORITY STAFF TITLE LIST

Scott Burnison, Budget Analyst.
Amy Call, Communications Assistant.
Jim Capretta, Sr. Policy Analyst.
Lisa Cieplak, Sr. Analyst for Education and Social Services.
Kay Davies, Legislative Counsel.
Kathleen Dorn, Administrative Director.
Beth Smerko Felder, Chief Counsel.
Alice Grant, Analyst for International Affairs.
Jim Hearn, Sr. Analyst for Government Finance and Management.
G. William Hoagland, Majority Staff Director.
Carole McGuire, Assistant Staff Director, Director of Appropriations Activities.
Anne Miller, Director of Budget Review.
Mieko Nakabayashi, Staff Assistant.
Cheri Reidy, Sr. Analyst for Budget Review.
Ricardo Rel, Sr. Analyst for Agriculture and Natural Resources & Community Development.
Karen Ricoy, Legal Assistant.
Brian Riley, Sr. Analyst for Transportation and Science.
Michael Ruffner, Sr. Analyst for Income Security and Veterans.
Andrea Shank, Staff Assistant.
Amy Smith, Chief Economist.
Austin Smythe, Assistant Staff Director, Director of Budget Process and Energy.
Bob Stevenson, Communications Director.
Marc Sumerlin, Fellow.
Winslow Wheeler, Analyst for Defense.

Mr. DOMENICI. Mr. President, I note the presence of Senator LAUTENBERG in the Chamber and I wonder if he might join with me in at least discussing with the Senate how we might try together to be as helpful to fellow Senators yet move this resolution along as expeditiously as possible.

From my standpoint, I do not believe my opening remarks and the opening remarks of any Members that I am aware of who want to speak in favor of the resolution should take any longer than 1 hour. I am not holding anyone to that but just sort of indicating to

the Senate that is the way I kind of see the time elapsing, to be exchanged side by side, one on the Democrat side and one on ours. But I think we need about 1 hour in that regard. Does the Senator have any idea in reference to that side?

Mr. LAUTENBERG. Mr. President, I thank the chairman of the Budget Committee for the way in which cooperation has taken place. Both of us and our staffs have worked cooperatively together to get this done, and we now arrive at the point before giving our formal statements where we are about to begin the debate that counts the most, going beyond the discussions we have had within the committee.

I have had several requests for people who would like to make opening statements. I think I probably need 20 to 25 minutes on my own. I do not know how long the distinguished chairman of the committee is going to take for his statement, but I would think that an hour might be on the short side of things.

So, Mr. President, I hope that we could give enough of our colleagues a chance to air their views. It is my fervent hope we will be able to conclude our business before the full 50 hours are used. I also hope that we can get this budget agreement passed. We have a historic opportunity to work together on something that I think the American people want to see, a bipartisan effort to reduce our annual deficit to zero. I think we accomplished that, and I hope the amendments will be those we can discuss honestly, having votes where required and move on with the business of the country.

Mr. DOMENICI. Let me try this. I know that in our conference the leader, Senator TRENT LOTT, suggested we will be voting tonight and that we will be in here late and that is because we expect amendments. There may have to be a window of a couple of hours from 6 to 8 because of some event on that side of the aisle and likewise tomorrow night some window but we do intend to stay in late. I would be willing to accommodate Senators in any way possible, but we need Senators to begin to bring amendments down as soon as possible.

Mr. LAUTENBERG. Absolutely.

Mr. DOMENICI. I am going to suggest if a Senator has amendments ready to go, even if we have not finished our opening remarks, other than the Senator's and mine, we ought to welcome them to the floor and proceed.

Mr. LAUTENBERG. In response to the need to get business done here, our leader asked at the caucus that people get their amendments up early this afternoon, at least let us know what amendments are coming so we can deal with them, and move on with the business. Meanwhile, I have alerted my colleagues on the Democratic side to the fact that we will be accepting opening statements this afternoon and those who want to make them are welcome to do so, I think under the structure of our understanding.

Mr. DOMENICI. Mr. President, first I thank my friend, Senator LAUTENBERG, for those remarks. Fellow Senators from either side of the aisle, if you have amendments, it would really be helping the Senate with its work if you would let us know about your amendments. We have about five or six already that we are aware of, and we will start sharing those with the Senator from New Jersey so that he will know about them. If the Senator will do the same with us, it will be very helpful.

Mr. LAUTENBERG. We have reason to believe there are about a half a dozen presently listed. We will confirm that.

Mr. DOMENICI. All right.

Mr. President, I want to thank and compliment a few people before I proceed to my substantive remarks. First and foremost, I thank Senator TRENT LOTT, the majority leader of the Senate. He has exhibited a rare determination and real dedication and commitment to trying to get a bipartisan budget resolution through so that the Congress could do the work of the people this year and do as much of it together as we possibly could.

I thank the Democratic leadership, at least the Democratic leadership in the Senate, for their work in behalf of this resolution. Senator DASCHLE has been extremely helpful. On the Democrat side, Senator LAUTENBERG, Senator FRANK LAUTENBERG of New Jersey, has been extremely helpful. He has worked hard. And together we intend to get this budget resolution out of here as close as possible to the form approved by the committee yesterday afternoon, by as overwhelming a vote as we could expect, 17 to 4, and I believe this morning the vote finished up at 17 to 5. So there were 17 Senators from both sides of the aisle and 5 against.

I thank President Clinton and his negotiators, the President personally for his insistence we stay with it and for his early determinations made to this Senator and to Senator LOTT that he wanted to proceed to try to do this.

Obviously, there are many other people who were very important. I am not going to name them all here now but in due course we will try to do that.

Let me say to those listening today that 2 weeks ago we announced in the rotunda that Republicans and Democrats had reached an important agreement on a bipartisan budget plan. That announcement represented a crucial step in both sides coming together to produce a budget in the best interests of the American people.

Yesterday, the Senate Budget Committee took the next step and approved this bipartisan plan, and I sincerely hope this body will follow suit and pass this agreement within the next day or two at the most.

Because the real winners in this budget are the American working families, this budget will lead to reduced Federal spending, the largest tax cut since 1981, and ultimately to lower interest rates that will mean more and better paying jobs.

Moreover, this agreement responds to the American people who clearly sent a message in the last election, tough elections for many Members with many issues, but I believe there was one unmistakable resonance through that campaign across America. I think the people said work together when the interests of the American people are at stake, work together when the issues are American. Do not fight all the time. So we have done just that. A year will find this Congress on opposite sides in the best tradition of debate, disagreeing with each other. Ultimately, parts of the implementation of this budget will find us disagreeing, but the truth is we have taken, yesterday afternoon, the first real step in saying to the American people we accept your request, in many cases your desire and your begging us to work together, and we have done just that. And in doing so we have produced a compromise that I believe will improve the lives of families today while providing a better future for tomorrow.

It will mean, when it is all finished, the first balanced budget in 30 years. It will mean $135 billion in gross tax relief over 5 years. Included in this will be a capital gains tax differential, obviously a child tax credit, and other things that both sides have talked about. Clearly, it will include some of the President's tax requests with reference to education, higher education and some of the ideas he has enacted.

Now, a budget resolution does not tell anybody precisely what these are. The committees that have to write the law will do that. But what we do give them is a flow of taxes over the years saying how much they can cut each year, and at the end of 5 years they will have a gross revenue number of $135 billion in new tax cuts. We have also agreed, the leadership has, that over 10 years just in the normal sequence of things that body of new taxes will amount to $250 billion in permanent reductions over a 10-year period.

I believe those two are pretty good propositions that many Americans would support, but we do not want to stop there. We have made adjustments to the trust fund for senior citizens under Medicare such that it will be solvent for about 10 years. That provides Americans, American leadership with ample opportunity to permanently reform the Medicare system. It also without question provides more options for the Medicare plan which can be adopted as part of this agreement by the Finance Committee and its counterpart in the House. Ten years of solvency for Medicare while providing more choice is, indeed, accomplishing something significant.

Entitlement reforms over the next 10 years including those that will be found in Medicare amount to about $630 billion over the next 10 years. Some of these might be challenged by Members and we are willing to debate

them. But it is obvious that the entitlement package we are used to in our country will grow far less because of this budget resolution than if we had left everything alone. Funding for White House and Republican domestic priorities and Democratic priorities including education, transportation, housing, environment, crime control, and science programs have been provided for.

All of those will be in the ascendancy, and all of those will be deemed priorities so that the Appropriations Committee will have the full support of the leadership in funding these items at a higher level, including, if I did not mention, the basic environmental protection funding for the United States.

(Mr. KEMPTHORNE assumed the chair.)

Mr. DOMENICI. Mr. President, passing this Balanced Budget Act of 1997 will force the Federal Government to finally live within its means. It makes permanent change that will reduce Government spending by some $320 billion in the next 5 years and more than $1 trillion over the next decade.

The agreement will also give families relief by cutting gross taxes, as I have indicated before, by $135 billion in the first 5 years and gross taxes by as much as $350 billion over 10 years.

Seniors can be assured that Medicare will remain solvent, ensuring this solvency for 10 years by enacting reforms that slow the growth of spending while providing seniors with more choices, which is what we need in the Medicare system. But nobody should assume that this budget resolution, and I would be prepared as one who knows a bit about budget resolutions, neither this nor any budget resolution will be the vehicle to provide permanent, long-term major reform of the Medicare system which is going to be needed within the next 5 to 6 to 7 years to meet what everybody understands is a very, very large population increase, where the demographics begin to change dramatically because of the baby boomers. We do not have a plan. This budget is not a plan to make Medicare solvent for that kind of change. Anybody who thought it should be has a mistaken understanding of what you can do in a budget resolution. But we did a lot, because it is done on a bipartisan basis and with the President.

This overall plan will shrink Government, making most of the programs leaner and more efficient. Medicaid, Federal retirement, housing, veterans, student loans programs are just some of those that will be targeted for reform and savings, while overall spending will be reduced, as I have indicated, over 10 years by an excess of $1 trillion. We have added money to protect priorities, and so those priorities that I have mentioned find themselves this time in this budget resolution, and the agreement that attends it finds modest but necessary increases for education, transportation, anticrime, environment, and science.

Contrasted with other budget resolutions, wherein these kinds of ideas would be nothing more than telling the Appropriations Committee what we hope would happen, we have entered into a very major bipartisan leadership agreement, which I will hold up here, and eventually it will be made a part of the RECORD, entitled the ''Bipartisan Agreement on the Budget,'' dated May 15, between the President and the leadership of Congress. It contains the summary tables, the description of agreements by major category, both in the discretionary programs and the mandatory and budget process reforms that have been agreed to that will have to work their way through the various bills, Mr. President, as they find themselves reported by the various committees.

There are also two letters pertaining to the taxes which were executed by the Republican leaders of the House and Senate directed to the committee chairmen and the President indicating the situation regarding the tax cuts. Once again, I know those listening would like for those of us who write a budget to tell them exactly what the capital gains tax will be. We don't know that. We know it will be significantly reduced. Exactly when the $500 child care credit will be totally implemented we cannot tell you, but it will be, because, with all of the tax proposals, it may be that some have to wait a little bit and others will start more quickly, but that will be done. Some education tax relief for middle-income Americans who are sending children to college as part of the President's request is included in the letter of agreement as to what our committees will work on as they carry out and implement this budget.

It should be pointed out that this is the first time we have ever had such an agreement, and that means that those of us in the bipartisan leadership and those who worked on this committee, my Democratic counterpart and I, have a very serious responsibility to see we try to carry out on the floor of the Senate not only the budget resolution, but the terms of the agreement as it applies to the budget resolution. We will try that, yet we will have the Senate working its will in its normal manner for the next couple of days.

I am sure there will be many very, very difficult votes. I myself believe the budget is about as good as we are going to get it. It is now agreed to by Democrats and Republicans and the President. I believe before we finish, it will receive an overwhelming vote of support, and we will just have to wait and see whether that prediction is true or not.

We have also agreed in two areas to deal with some problems in society that needed some attention, and let me address the two in a general way.

First of all, it is obvious that even with Medicaid, which should cover many of our children, poor children, there are a lot of American children who have no health insurance. We have agreed to put money into two programs, and in the basic agreement that we have with the President, it is spelled out that over the next 5 years, $16 billion will be spent in an effort to cover all children in America who are not covered. There is a lot of leeway on the part of the committees to write that, but it is obvious that there will be added moneys for Medicaid so that they can pick up many of the children who are not covered. There are additional resources in there for a program that will go back to the States, a partnership arrangement, where the States will receive our money and match it and try to cover other children in their own way as they manage the programs in the best possible way.

That is one area that we agreed needed coverage, and I am pleased to say my own polling of Republicans, not a whip check or anything, indicates there are many of them who want to do that. The question remains, how do we do it best and what will it ultimately cost? But we have provided the $16 billion that goes to the committee of jurisdiction to do the very best job they can.

We also found in the U.S. Senate not too many days ago on an appropriations bill presented by Senator STEVENS that the Senate voted by a huge margin to continue coverage for a group of legal—legal—residents of the United States who happened to come here as immigrants in a legal manner and remain here legally but are not American citizens. They come under an American program of generosity, which permits family reunification. Many of them come here as grandparents and parents. The program has broken down because the sponsors who are supposed to take care of them have not taken care of them, and the law intended to do that has not been enforced for years. As a result, there are more than a few thousand disabled senior Americans who are here as legal immigrants who are getting an SSI check every month. This budget resolution says we are providing sufficient funds so that those people will not drop off the rolls automatically on a date certain as contemplated under last year's law but will continue coverage so long as they live.

We have also said if there are Americans of the same condition that are here under the same circumstance that I described, if they reach the time when they are both senior and disabled, they would be entitled to SSI. But that ends the pool. In the future, any newcomers under these rules will have to rely upon their sponsors, and we wrote strong laws last year to make the sponsors more responsible.

Those are the two major areas of additional expenditures that we have put in place and agreed with the President on.

I will just make a few comparisons by dollars and show those who are paying any attention what we are talking about.

While some accounts are protected, as I indicated, the emphasis in this plan is clear: For every new $1 added to the budget, it is reduced by $15. For every new $1 in spending, there is roughly $3.50 in tax cuts.

This displays in a very vivid manner what happens to the deficit. Without the agreement is the red line; with the agreement is the green line. We think that is as simple as we can show it. The deficit will be going up from 90 and not coming back down significantly, according to the best estimates. And under these estimates, the green line represents how we will get to balance and, in fact, have a slight surplus by 2002, a pretty important and very-easy-to-understand chart.

This simple chart is nondefense discretionary spending. In our national budget, we have essentially three kinds of expenditures. One batch is called discretionary, which simply means we appropriate it every year. I am not one who thinks that is the greatest idea. I am hoping we can change that and appropriate for 2 years at a time. Part of that is defense, which is appropriated every year. It is a discretionary account annually done, and then all the domestic programs that are appropriated every year are called the nondefense discretionary program.

The sum total of those amount to about $540 billion plus, about 37 percent of the budget. Some people think it is the whole budget, but it is about 37 percent.

This shows under the greenline, spending without this agreement, for the discretionary domestic part of this budget, and under the red line, it shows what will happen. There were some a few weeks ago who were saying this budget agreement was one that was just throwing money at the discretionary programs instead of trying to get some frugality and some better performance.

This redline indicates that the entire discretionary piece of our Government for the domestic programs will go up, Mr. President, one-half of 1 percent a year. In the prior decade, it went up 6 percent on average. For some, that is bad news. For others, that is good news. The fact that the President of the United States has agreed to that and that we have and said even while it is adjusting at such a low rate of growth, we want to have some priorities like roads, like in education, to me seems to be the kind of thing the public would like us to do.

Share of the total outlays of our budget has changed dramatically, and I will just show that quickly and summarize my remarks very quickly.

When John Kennedy was President of the United States, the budget of the United States was broken up into two parts and went something like this. The interest on the debt was small, Mr. President, so let's leave that aside. It was about 67 percent discretionary spending for defense and domestic programs, those annual ones we do every year, and the rest of the budget, which would be about 33 percent, were what we call mandatory or entitlement programs. That means a program that spent out on its own, unless Congress changes the law—a Social Security check, a Medicare benefit payment to a hospital.

All the other programs, pensions, and the like, and I guess I would summarize them this way, any program that the U.S. Government has that if they failed to pay it to a citizen or an institution that is entitled to it, they can prevail in getting their money from the Treasury of the United States direct through a court of law.

It turns out from President Kennedy's time to ours, it has flipped on its head, and 67 percent of the budget is now on automatic pilot, running on its own, mandatory programs which we can only control if we change the underlying law by a vote of the Congress and the signature of the President. The balance of 33 percent makes up all of the expenditures for defense and domestic programs.

So it seems to most of us that we know where the area of growth is and the areas that cry out for reform if we are going to bring this Government's fiscal policy under control and not have to look at taxes skyrocketing 15 years from now and the bill that our children must pay getting bigger and bigger and the credit card that we kind of take from them without representation. If ever there was taxation without representation, it is the deficit you impose on kids where they do not get to vote. It clearly means they are going to have to pay taxes in order to pay these bills that they were not even around to vote on.

So I believe when you look at what we have done and add three other things, we will enforce this program. The discretionary caps, the discretionary programs that I have described for domestic spending, we will have a cap on them for each year at a dollar number agreed to in the resolution. That dollar number is the one that moves this one-half percent growth we spoke of. That will be a cap that says, at the end of a year if you spend more than that, by operation of law, every program in the Government will get cut by the percentage needed to bring it back to that cap.

It has been the only effective tool we have had. It has worked twice because we have only breached it twice. That is set to expire. We need to reput that in the law for another 5 years. That is provided for here.

We also preserve budget points of order against those caps. I will not go into that, but that is a second remedy to make sure we are doing what we promised and what we say here.

In addition, the deficit comes down each year starting in 1998, albeit not as much as we would like in the early years because, remember, we are cutting taxes in those early years and the entitlement program savings grow in the outyears. But essentially it will not go back up and down in spurts; it will be at a level and gradual road and path downward.

We used conservative economics in this budget. There is some confusion about that. But if one wants to check them, we use the economic assumptions of the Congressional Budget Office as to growth, unemployment, and those basic ingredients, those basic pieces of the economy that we measure.

This budget is conservative. So when somebody says you have not provided for a recession, I ask, have you ever seen a budget presented by a President or Congress that anticipates specifically a recession and says in 2 years we have a recession and therefore things are changed? Obviously, nobody does that. But when you use the conservative numbers that the Congressional Budget Office says should be used, they say built within it over time is the conservativeness that would permit you to be much safer in case of a recession, that your numbers will not be very much out of kilter, because of the conservatism of the economic assumptions.

Now, later on, if a Senator wants to talk about the revenues that we assume will come into this budget, I will be pleased to do that. We were confronted midstream with a change in the revenue expectations, but I would be pleased to discuss that with anybody who chooses during the next 2 days.

Suffice it to say that we hope—we found out the revenues were going to be up, and the Congressional Budget Office, heretofore very conservative in that regard, had decided that their estimates were too low. We spent only about $30 billion of their $225 billion, and that was done for very specific purposes, and the rest stayed in there as deficit reduction.

So I believe for the future of our country and in particular for the future of our children, the time is now to pass this budget rather intact and get on with implementing it.

Mr. President and fellow Senators, this budget has the best chance of reaching the reality that is predicted within the four corners of this resolution of any we have produced, because this is not one party's budget resolution, and that party being in Congress, and another party's President being in the White House with a different idea. Since we have something that is agreed to by both, it would seem to me that its implementation has a much better chance of being achieved rather than just fought over and reach stalemates because we cannot agree.

That is why last year as I finished doing our Republican budget, I said, I hope I do not have to do one that is just Republican again unless we happen to have a Republican President, because it would seem to me you have to take into consideration the President and his wishes to some extent. And I

believe we have done that. And he has taken ours into account to some extent. And that is the final product.

So, fellow Senators, that is my best explanation. I will answer anybody's questions and go into as much detail on any parts of it that anyone wants. But for now, again, if you can give us ideas about amendments you intend to offer, it will be greatly appreciated.

With that, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, first, I start by issuing the plea also that Senator DOMENICI, the distinguished chairman of the Budget Committee, started with; that is, to our fellow Senators, get your amendments down here. Do not cause a jam up at the end when you may not be able to get the floor. You may not be able to have a full explanation of that which you are interested in.

We want to move the process. This is no longer a time for delay and bickering among ourselves. We are obliged to move it because it is the right thing for America.

First, let me say that I am pleased to join my colleague, the chairman of the Budget Committee, Senator DOMENICI, in urging support for this budget resolution.

For the past several weeks, Senator DOMENICI and I, along with representatives of the administration and the House Budget Committee, have been working long hours and arduously to reach a budget agreement. It has been a long, difficult and occasionally a painful process. But in the end I am pleased to say that we succeeded in our mission.

Today, for the first time in many, many years, we will be considering a budget resolution that is truly bipartisan. This resolution, Mr. President, is historic. It will lead to the first balanced budget since 1969. It calls for the largest investment in education and training since the Johnson administration. It combines tough fiscal discipline with a strong commitment to Medicare, the environment, transportation, and other national priorities.

Beyond its substance, Mr. President, I am hopeful that this agreement represents a turning point in contemporary American politics. For many years, Congress has been dominated by partisanship and immobilized by gridlock. This constant infighting has undermined our standing around the country. It has made it more difficult to solve our Nation's problems. And we all hope that a sense of comity that now seems to be here during these budget discussions will prevail here in Washington. This agreement marks a major step in that direction.

The agreement shows Democrats and Republicans are ready to put aside partisan differences, rise above petty bickering, and make the hard decisions that our people across the country want us to do. That is what we are delivering.

Mr. President, this agreement comes before us at a time when our economy is remarkably strong. Over the past 2½ years the stock market has skyrocketed by more than 80 percent; unemployment is at its lowest point in 24 years; inflation is at the slowest pace in 31 years; new investment has soared at a 9 percent annual rate over the last 4 years, a welcome change from the performance over the preceding 8 years; and real wages have started to rise again after years of stagnation.

The tremendous strength of our economy is a tribute to President Clinton and the Democratic Party. When President Clinton came into office, the budget deficit was $290 billion and it was expected to explode to more than $500 billion by 2002. Since then, just the contrary has happened. The deficit has been cut by 63 percent, falling 4 years in a row to $107 billion in 1996. This year, the deficit is estimated to be falling to $67 billion.

This, Mr. President, is remarkable progress. We want to continue that progress, and this budget agreement will get it done.

People tend to think of budgeting as a zero sum game in which one person's win is another's loss. But this budget agreement is a win-win-win all around. It is a win for our economy. It is a win for ordinary Americans who are working hard to raise their families and keep their heads above water. It is a win for the future of our country.

Mr. President, both parties should be pleased with this bipartisan achievement. But I want to take a few minutes to explain why I think Democrats deserve to be especially proud.

Throughout this process, we Democrats have insisted on an agreement that imposes real fiscal discipline that builds on President Clinton's tremendous success in reducing the deficit, and that balances the budget in a real, credible way. And the American people have won.

Democrats have insisted that we make education a top national priority. We have demanded that middle-class families get tax relief to help pay for college, and that all Americans get assistance in affording further education and job training. And the American people have won.

Democrats have insisted that Medicare be protected. We have demanded that the solvency of the Medicare trust fund be extended, that senior citizens not be asked to bear unfair burdens, that the quality of their health care not be put at risk, and that new preventative benefits be added. And the American people have won.

Democrats have insisted on targeting tax relief to the middle class. We have demanded that when Congress cuts taxes, much of the relief must go to struggling families who need help the most. And the American people have won.

Democrats have insisted that uninsured children be provided with health insurance. We have demanded that millions of kids get the health care they need and deserve. And the American people have won.

Democrats have insisted on fairness for people who come into this country legally, who have obeyed the law, and paid their taxes and who then suffer from a disability. We have demanded the elimination of extreme laws that punish people because they get hit by a bus or lose their eyesight. And the American people have won.

Democrats have insisted on maintaining our commitment to environmental protection. We have demanded more funding to clean up hazardous waste sites while resisting schemes to gut the Environmental Protection Agency. And the American people have won.

Democrats have also insisted on investing in transportation. We have demanded that transportation be made a priority and that funding be increased substantially over the levels originally proposed earlier this year. And the American people have won.

Mr. President, my point is not that Democrats are the sole winners here. That of course is not true. This is a fair and balanced agreement. The Republicans have won on many of their most cherished priorities. Some of those wins have been bitter pills for me and for many Democrats, but I say to my friends on this side of the aisle, the fact is that we do not control either Houses of the Congress. And we have to respect the will of the American people. So there is no way to solve our Nation's problems without compromise. It is the only way, and painful though it may be for some, it is the right thing to do.

Mr. President, let me turn to some of the specifics in the budget agreement, some of which have been mentioned by the distinguished chairman of the Budget Committee, but I think are worthy of repetition.

First, and perhaps most fundamentally, this agreement will balance the budget by the year 2002. Beginning next year, when the agreement first goes into effect, the deficit will decline every year until we reach balance. Balancing the budget will require real fiscal discipline. This agreement calls for $320 billion in savings over the next 5 years. More than half of those savings will come from entitlement programs and other mandatory spending. More than $75 billion will come out of the military budget. While important domestic priorities will be spared the meat cleaver, nondefense discretionary spending, which encompasses many of the programs that the people across the country are interested in, will be reduced in real terms by $61 billion, or about 4 percent. As I said, some pain comes.

Will all of these savings really balance the budget? Mr. President, any

budget projection must rely on economic assumptions. But the assumptions in this budget are on the conservative side. They are based on economic projections of the Congressional Budget Office which have proven to be far from reality for the past 4 years. They have missed the targets. They have overestimated some poor results.

Consider that just a few months ago, CBO, the Congressional Budget Office, estimated this year's budget deficit would be $124 billion. That was only in January. In March, CBO, 2 months later, revised its estimate down to $115 billion from $124 billion. Now, in May, there are reports that the deficit could be as low as $67 billion.

Think about that, Mr. President. We are talking about the current fiscal year which ends in less than 5 months, and in just that same length of time, the projected deficit has shrunk by 45 percent from $124 billion to $67 billion.

At this rate, some have suggested the best way to balance the budget would be for Congress to sit down, keep quiet, and go home. Who knows, they may be right. If they are, this agreement will produce significant budget surpluses, a result unimaginable not long ago.

My point, though, is simply that in using CBO's economic assumptions, we are using projections that have consistently proven to be too pessimistic. This budget does not rest on unrealistic rosy scenarios, as have past budget agreements, so it is very likely that we will actually reach balance or a surplus before the next 5 years is out if we can get this agreement enacted into law.

Mr. President, this budget resolution establishes without question that both political parties are now firmly committed to fiscal discipline. For years, Republicans have run for office by accusing the Democrats of being tax-and-spend liberals, unconcerned about fiscal responsibility. This agreement puts these charges to rest once and for all. It is now clear that Democrats and Republicans are both committed to a balanced budget. We disagree only about the means to that end and how the burden of the deficit reduction will be distributed.

Fortunately, this budget agreement is more than an accounting exercise. It will set our country on a firm course into the 21st century by empowering our people, by investing in them and ensuring they are ready to compete in the years and decades ahead.

As I noted earlier, this agreement includes the largest investment in education and training since the administration of Lyndon Baines Johnson. The agreement moves us toward a day when every 8-year-old child can read, every 12-year-old child can log in on the Internet, and every 18-year-old can go to college. Those are the goals that President Clinton committed to when he addressed us earlier this year, and they are the right goals for America.

Mr. President, I grew up the son of working-class immigrants, but was able, because of my service in World War II, to attend Columbia University, thanks to the GI bill. I want all Americans to have the same opportunities I had, because education is the key to prosperity and security and because, like I, not only will they learn important subjects, but maybe their horizons will be less limiting. My horizons were developed because I saw my parents standing behind the counter making sandwiches, washing dishes, working from 6 o'clock in the morning until 11 o'clock at night, typically, 7 days a week, just to grind out a living to take care of my sister and me. They could not give us much more than the comfort of interested parents, and goals to which they wanted us to aspire. That is the way it ought to be, Mr. President.

The opportunity came along for me to have an education that never would have come my way. It changed my perspective totally, and enabled me, without being too immodest, to start a company that started an industry—the computing industry—that is today larger than the hardware industry. That is on the service side, software—everybody now is familiar with software—outsourcing services. The company has 29,000 employees. I am a member of something called the ''Information Processing Hall of Fame,'' all of that because I got a boost from my Government, from my fellow citizens, for something that I did.

All Americans, no matter how rich or poor, should have access to that American dream. My parents never thought that I would have the opportunity to serve in the U.S. Senate, to be given the honor of serving the American people, but, again, it happened because a start was given to me at just the right time in my life.

Toward that end, Mr. President, toward access to the American dream, this agreement includes the largest Pell grant increases in two decades. Four million students will receive a grant of up to $3,000 for higher education. These grants, we hope, will open the doors of opportunity and help lead our country in the next century. Our entire Nation will reap the reward.

The agreement also will provide significant tax relief to those who want to attend college. It endorses the objectives of President Clinton's HOPE scholarship proposal, which would provide a $1,500 annual tax credit for higher education. This extra money would encourage millions of young people to go to college.

The agreement also endorses the objectives of the President's proposal to give a $10,000 tax deduction to help cover education and job training costs for young people in the family. This proposal is critical to ensure that Americans are able to train and retrain themselves throughout their lives, not just upper level managers, but each and every American.

There are several other education initiatives that are guaranteed by this agreement. For example, it guarantees funding for a child literacy initiative such as the President's America Reads proposal. This program would provide individualized after-school and summer help for more than 3 million children in kindergarten through the third grade. More than a million tutors would be involved.

The budget agreement also will fund a technological literacy initiative. The President has proposed to connect every American classroom to the Internet and to ensure that all teachers are trained to work with this latest in technology. His proposal would help schools integrate the technology into their programs so that no American child is burdened with computer illiteracy.

The budget agreement also calls for significant expansion of Head Start. This widely praised program has had tremendous success in preparing very young children for their education and for their futures. This agreement will help move us toward President Clinton's goal of increasing Head Start enrollments to 1 million children by the year 2002.

Mr. President, the combination of increased Pell grants, the tuition tax credit, the education training deduction, the children literacy initiative, the technological literacy program, Head Start, and many other educational initiatives, make this agreement a truly historic commitment to education, and it is reason enough for Democrats and Republicans alike to support this agreement.

I want to move on to some other important features of the budget resolution. It will ensure that up to 5 million uninsured children are provided with health coverage. The resolution includes $16 billion toward that end, and it will be up to the committees of responsibility to decide whether to use Medicaid expansion or a grant program to States or another approach, but the commitment and the resources are there to get the job done. In the end, that will mean that more children of working families will have health insurance.

This budget agreement also will strengthen and modernize our Medicare Program. The agreement first would extend the solvency of the Medicare trust fund for at least 10 years. Senator DOMENICI made mention of the fact that during that time we will have to look to the longer term problems often associated with Medicare while carrying on the wonderful, very positive benefits that have resulted. It makes positive structural reforms which will bring Medicare more into line with the private sector while preparing it for the baby-boom generation.

The agreement extends the trust fund solvency in part by reforming payment systems for hospitals and doctors. In addition, it gives the seniors more choices. It increases the number of health plan options such as preferred provider organizations and provider-sponsored organizations. It also gives beneficiaries comparative information

about their options such as now provided Federal employees of the Federal Employees Health Benefits Program.

Additionally, the agreement provides funding for several very significant new preventive benefits. These include expanded mammography coverage, coverage for colorectal screening, coverage for diabetes self-examination, and vaccinations. Beyond investing in education and protecting and improving Medicare, this agreement will provide significant tax relief to millions of American families.

In addition to the education tax cuts that I mentioned earlier, the agreement includes a $500-per-child tax credit. This will be of real assistance to many Americans who are working hard and struggling to make ends meet. The agreement also will allow the Finance Committee to cut capital gains and estate taxes, as well as expand IRA's and make other changes to the Tax Code. These changes will benefit many small businesses and farmers, goals which Republicans and Democrats strongly agree upon.

However, there is real concern, Mr. President, among many Democrats that these tax breaks will go disproportionately to the wealthy and will explode the deficit in the long term. Frankly, I share those concerns. In a time of scarce resources, it seems wrong to be handing out huge tax breaks to people who do not need them.

The bottom line is we would not have a budget agreement if Democrats were not willing to accept some of these tax breaks. This was the main win that the Republicans demanded. Though it is a bitter pill for some, in my view, it is a pill we have to swallow for the benefits of a balanced budget, education investment, health coverage for 5 million children, restoration of disability benefits for desperate legal immigrants, and other positive parts of this agreement.

I do want to assure my colleagues, however, that the agreement includes significant constraints in the tax area that will help prevent a redo of the kind of economics that created the deficit problem in the first place.

First, there are firm limits on the size of the tax cuts—the agreement states that the net tax cuts shall be $85 billion in the first 5 years, and no more than $250 billion through 2007. Second, Leader LOTT and Speaker GINGRICH have given their firm commitment—in writing—that tax cuts, and I quote ''shall not cause costs to explode in the outyears.''

For those who are not satisfied with that commitment, I would point out that President Clinton has made it clear that he will not tolerate a tax bill that imposes huge costs in the future. And while he has agreed to a significant capital gains and estate tax cut, he has not signed away his right to veto extreme legislation that violates our basic understanding.

I also want to assure my colleagues that the size of the tax cuts in this agreement are very small compared to the enormous breaks that were approved in the early 1980's. The tax cut of 1981 cost $2.8 trillion over 10 years, in today's dollars. By contrast, this agreement would allow tax cuts of $250 billion—less than 10 percent of those that were proposed 17 years ago.

Mr. President, Republicans may have won in their insistence on tax breaks for wealthier Americans, but they did abandon radical plans to completely gut domestic priorities, and undermine the basic functions of Government. Over the next 5 years, this agreement calls for $355 billion more in domestic discretionary spending than NEWT GINGRICH demanded in the infamous Contract With America. And it includes $189 billion more than in last year's Republican budget resolution.

Mr. President, lest anyone has the impression that Government is going to be growing over the next 5 years because of these increases in some of the discretionary funds, it won't be. Nondefense discretionary spending will be cut from baseline by 4 percent overall, and by 10 percent in real terms in 2002. And when you consider that priority programs will be spared, the real cuts in other programs will be significant.

Still, in nominal terms, available resources for basic Government functions will increase overall, if only modestly. And we will trim Government with a scalpel, not a meat axe cleaver. Under the circumstances, that's a major victory.

Let me now move on to another part of the budget agreement, which deals with Medicaid.

Mr. President, this agreement preserves the Medicaid Program in two major respects. First, it preserves the guarantee of health coverage for our Nation's most vulnerable citizens. Second, it rejects the administration's proposal to establish a per capita cap on Medicaid payments. I want to publicly thank my fellow negotiators for both of these decisions.

I think it would have been a poor way to administer the Medicaid Program. We shouldn't be adopting a scheme that jeopardizes the quality of health care for millions of children, seniors, and other vulnerable Americans.

At one point, I was in a distinct minority in the negotiating room in my opposition to the per capita cap, and I am very pleased that the proposal was rejected in the end. In my view, at a time when the growth in Medicaid spending has dropped dramatically, we should not be adopting risky schemes that could jeopardize the quality of health care for millions of children, seniors, and other vulnerable Americans.

Mr. President, the agreement does include a cut in payments for hospitals that serve a disproportionate share of Medicaid and uninsured patients. I have real concerns about this. Clearly, some States have abused the program, and we should be able to find savings by reforming the program. But we must be very careful not to hurt children's hospitals and others who are very reliant on this funding. I look forward to working with my colleagues on the Finance Committee to ensure that this does not happen.

Mr. President, let me turn now to another important element of this agreement, the provisions that will roll back some of the more extreme provisions in last year's welfare reform bill.

First, this agreement will restore Medicaid and disability benefits for many disabled legal immigrants. These are people who have come to this country legally, who have worked and paid their taxes, and who suffer from a serious disability.

Mr. President, it is wrong to punish these people for getting hit by a bus, or losing their eyesight. Many of them are desperately poor to begin with. Now they may be confined to bed or a wheelchair, with nowhere to go and nobody to turn to. They can't work. And they need help to survive. Providing basic assistance is the right thing to do.

This agreement also will provide relief to some individuals who would lose food stamps because they are unable to find work. This was another provision of the welfare reform bill that simply went too far. The agreement will permit States to exempt 15 percent of those who would lose benefits because of the law's very strict time limits, and would fund additional work slots for individuals subject to those limits.

In addition, the agreement includes $3 billion to help people move from welfare to work, something that all of us want to see happen.

Mr. President, let me now turn to an area of special interest to me, transportation.

Mr. President, as most of my colleagues know, I believe strongly in the value of investing in transportation, because I'm convinced that it yields tremendous benefits for our people and our economy. For years, our Nation has underinvested in transportation. And we are paying the price for that—in deteriorating roads, in snarling traffic, and in crumbling bridges and deteriorating rail systems.

Mr. President, when you compare transportation to other functions within the Government, this agreement treats transportation relatively well. I pushed hard in the negotiations for additional resources, and we were able to find over $8 billion more than the President's request over the next 5 years. That was a major increase from where we began.

Is it enough? No, it's not. But the bottom line is that there just aren't enough resources to balance the budget while doing everything we'd like. Compared with most parts of the Government, transportation does very well in this budget. And I'm hopeful we can identify even more resources as the legislative process moves forward.

Let me turn briefly to another area of particular interest to me, the environment. This budget agreement confirms that the environment is a priority. It commits the congressional leadership to fully fund environmental protection and natural resources. And it specifically protects the President's funding requests for operations of the EPA and the National Park Service's operation of the National Park System and the Everglades. In addition, the agreement reserves funds for cleaning up hazardous waste sites, assuming we can reach an agreement on policy issues concerning Superfund, which I expect will happen. Finally, the agreement provides an additional $700 million for priority land acqusitiions and exchanges.

Mr. President, before I close, let me once again say how much a privilege it has been for me to work with the distinguished chairman of the Budget Committee, Senator DOMENICI. We have spent many, many hours together over the past several weeks. And the more I have gotten to know him, the more I have come to respect and like him. He is an honorable man who genuinely cares about our country, even if we often disagree. And he is a strong negotiator.

I also want to take this opportunity to publicly thank the other negotiators who have worked so hard to make this agreement a reality. First, Congressmen JOHN KASICH and JOHN SPRATT, men of totally different styles who share a common commitment to hard work and serious policymaking. And Frank Raines, John Hilley, and Gene Sperling of the administration, all of whom did a tremendous job in pulling this agreement together. The President has put together a very impressive team.

I also want to acknowledge the many contributions of Democratic Senators on the Budget Committee who have worked with us on this agreement.

Senators HOLLINGS, CONRAD, FEINGOLD and JOHNSON have all been vocal and effective advocates for truth in budgeting, and for a plan that makes real progress in addressing our long-term deficit problems. They have held our feet to the fire, and deserve real credit for that.

Senator SARBANES has taken the lead to ensure that the burdens of deficit reduction are distributed fairly. I know he still has some concerns about the resolution, but I want to thank him for his input as the process has moved forward.

Senators BOXER and MURRAY have been outspoken advocates for our children. They have demanded that we do a better job of covering our uninsured young people, and that we not make dangerous changes in the Medicaid Program that could jeopardize health care for our Nation's most vulnerable citizens. Their efforts will touch the lives of millions of Americans.

Senator WYDEN has been unrelenting in his demand that we modernize Medicare, that we provide additional health care choices for senior citizens, and that we protect the long-term solvency of the Medicare trust fund. No Senator has been more devoted to the future of this critical program, or more determined to make it work.

Last but not least, Senator DURBIN has in many ways been the conscience of our efforts in recent weeks. He has demanded that ordinary Americans, especially those with modest incomes, be treated fairly as we reduce the deficit. And he has helped lead the fight to restore critically needed protections for legal immigrants and children.

Mr. President, I know that many of my fellow Democrats have been frustrated with the process that led to this agreement. And I share that frustration. This was not the process that I wanted. But we have done our best under the circumstances to maximize consultation with committee members, and with all Senate Democrats. And I am optimistic that, in the end, most of my colleagues will be pleased with the end product.

Finally, I want to congratulate President Clinton for his leadership in this effort. We are here today on a bipartisan basis only because the President decided to make it happen. He deserves enormous credit for that. And I think his commitment will be appreciated and acknowledged for many years to come.

Mr. President, let me close this way. I don't think there's anyone who is entirely happy with this agreement. But while nobody sees it as perfect , everyone should see it as a good compromise. It's fair and it's balanced. And it will serve America well.

It will balance the budget. It will invest in education and training. It will provide tax relief to the middle class. It will protect Medicare and Medicaid. It will provide health care coverage to millions of children. It will throw a life vest to disabled legal immigrants. It will invest in transportation, and in environmental protection. And it will make life better for millions of ordinary, working Americans.

I close, Mr. President, with saying my thanks and appreciation to my staff who worked so hard on the Budget Committee—Bruce King, Sander Lurie, and Sue Nelson—and all of the members of the staff of the Budget Committee for their effort. We all did what we thought was right for America. I am proud to have been a part of it.

I yield the floor.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, might I inquire of the number of Senators present on the floor—which pleases me to no end. Normally at this hour at this stage of the budget resolution nobody is interested. Senator DODD was here first. Might I inquire what he intends to do, so we kind of know?

Mr. DODD. Mr. President, I thank the chairman. My intention was to offer an amendment at the appropriate time. I thought if I got here early, I would be high on the list, if not first, to offer my amendment. I will defer any comment on the bill itself and reserve time to offer an amendment favorably on the budget agreement that was reached. That is my purpose.

Mr. DOMENICI. Senator SARBANES?

Mr. SARBANES. Mr. President, it was my intention to offer a statement about the bill.

Mr. DOMENICI. Senator BYRD? I am not trying to limit or anything of this sort.

Mr. BYRD. Yes. Mr. President, if the Senator will yield, I expect to speak about 20 minutes. It will not be on the budget resolution.

Mr. DOMENICI. We will take the time off the resolution.

Mr. BYRD. Very well, if you will allow me.

Mr. DOMENICI. Indeed.

Senator WELLSTONE?

Mr. WELLSTONE. It is my intention to speak on the bill in general and to try to analyze the overall agreement. I will in all likelihood join with Senator DODD in his amendment later.

Mr. LAUTENBERG. Mr. President, I think we have established in the beginning that we would go from side to side in recognition. If it is all right with my colleagues, I would like to give Senator BYRD the 20 minutes that he has asked for and permit him to speak as he wishes at this juncture.

Mr. DOMENICI. Mr. President, will the Senator from West Virginia yield to me for just a moment?

Mr. BYRD. Yes.

Mr. DOMENICI. I am going to leave Senator GORTON in my stead here in a minute or so. Whatever rights have been designated to me by the leader I designate to him under the statute. I am not going to try to make any further allotment. But if there are no Republicans forthcoming after Senator BYRD, then I will have no objection to whomever you choose next, and I will ask you to hold the amendments until some of these speeches are finished. Then we can kind of pile some of those up, and that is what people would like to do. I shouldn't use that word. That carries with it some resonance that is not so nice. We will try to stack them like beautiful lumber.

Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. SARBANES. Do they grow lumber in New Mexico?

Mr. DOMENICI. They grow anything you like in New Mexico. It is all sweet, aromatic, and beautiful.

Mr. President, I want to make a few points.

First of all, I am very glad, even though I did not intend to during this budget debate, to go through a litany of what Republicans have stood for and what we have accomplished, nor do I intend at this moment to go through all of the things the President asked

for that he didn't get. I would like to make just a couple of comments.

First of all, I believe that I should be very proud of being a Republican because I don't believe without Republicans pushing for a balanced budget this President would ever have gotten to the point where he would have been for a balanced budget, much less negotiating one with us. I think history will reveal that. It was very hard to get him to come to that point.

I am not now offering this as a critical thing but merely saying that Republicans—since my friend Senator LAUTENBERG chose to have a great litany of Democratic things the Democratic Party has done—I am very pleased to be part of the party that actually pushed this country and its leaders to get a balanced budget.

Second, I would like to say I am unabashed in talking about tax cuts.

Mr. President, there is no question that our philosophy and our idea is that tax dollars don't belong to the Government, that they belong to the people who earned it, and that the Government ought to take from the people only that minimum amount needed leaving the people as free as possible.

I believe that before we are finished, many middle-income families will be receiving some of their money back. We will not be saying that we are refunding taxes to them. They will be keeping some of their money, which we are hopeful as time passes they can keep more and more of as we make Government more and more efficient.

The country with the most individual freedom is the country that is going to achieve the most. And one measurement of that over time is going to be the level of taxation that the Government chooses by virtue of which they take from people rather than leave money with people.

I yield the floor.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia is recognized for 20 minutes.

Mr. BYRD. Mr. President, I thank the Chair. I thank the two managers for yielding time.

SEXUAL CONDUCT, TRAINING, AND AMERICAN NATIONAL SECURITY

Mr. BYRD. Mr. President, two weeks ago, on May 6, 1997, a military jury sentenced an Army staff sergeant to 25 years in prison for raping six female trainees, just one of a series of highly visible scandals regarding sexual relations now plaguing training facilities in the Army. Press reports indicate that hundreds of similar cases of alleged sexual abuse and discrimination have been reported and are being investigated at other military training commands around the country. On May 10, 1997, the senior enlisted soldier in the U.S. Army was charged with similar offenses. The extent of the scandals that have been unearthed at Aberdeen Proving Ground, Maryland, as well as other facilities, indicates to me that the time has arrived for a thorough review of further gender-integrated training in the military. There are those who feel that same-sex training has failed as a training mechanism and is adversely affecting morale, discipline and the integrity of our armed forces. This is a serious situation, involving very serious allegations with possible repercussions on our national security. The situation needs to be examined with a dispassionate attitude, and it greatly complicates our task if well-meaning advocacy groups in our country make the assumption that anyone who calls for a thorough investigation of the viability of gender integrated training and operational roles is per se, a bigot, is against equal treatment and opportunity, and is trying to roll the clock back because of his or her narrow vision.

The Senate Armed Services committee held a hearing on this matter on February 4, 1997, at which the Army leadership testified. Certainly one of the issues we need to understand is the pervasiveness of sexual misconduct in the services. Are these isolated incidents we have been reading about, or are there systemic problems rooted in the integration of the armed forces and the environments in which they must train and operate? There was some testimony before the committee that these incidents are akin to the proverbial few bad apples in the barrel, and that what needs to be done is emphasize right and wrong, professional behavior, and punish unprofessional behavior. But, Mr. President, the numbers involved here tell a different story. The Army established a hot line for women to report sexual harassment, misconduct, or abuse last fall when the first incidents were reported. In a little over two and a half months, that hot line received about 7,000 phone calls. That is an astonishing and disturbing number. It takes little courage to make such a phone call. One wonders how many phone calls, on top of the 7,000, that should have been made were not made for fear of retaliation, or just reticence. Now, the Secretary of the Army testified that by February the number of calls on the hot line had ''tapered off'' to about 50 a week. This is not indicative to me of just a few bad apples in the barrel. More than one thousand of those calls have generated an investigation of some kind. Furthermore, recent surveys taken by the Defense Manpower Data Center Survey indicated that large numbers of women reported one or more incidents of unwanted sexual attention. In 1988–89, 68 percent of women reported such incidents. In 1995 a similar survey got similar results, with 61 percent of the women in the Army reporting such incidents. So this is not just your random, marginal population. There is a serious, central problem that needs to be looked at.

This is not just about sexual harassment among soldiers of equal rank. It is about that, but it is about much more, it is about the use of power and authority of sergeants and officers whom we put in authority, over the recruits and junior people whom they are responsible to train and look after. It is about raw abuse of power of a shocking, crude kind. It is about power and sexual misconduct. It leads one to ask a fundamental question: are women actually safe in the U.S. military? As Senator SNOWE said during that hearing: ''As we incorporate the sexes together in tighter and tighter situations, at higher and higher stress situations, in more confined situations, common sense tells us that we are going to be dealing with a very difficult problem. Is there a danger that we are trying to minimize the very real differences here between men and women? Might there really be enough significant distinctions between being a man and being a woman that we should be more discriminating, not less, in terms of assignments and utilization?''

The Chief of Staff of the Army, Mr. Joe Reimer, testified at the Armed Services hearing that this is an issue that is not about policy, and instead it is an issue about right and wrong. That is, it is not about whether we should have women in the military, but whether we can expect our sergeants and officers in authority to carry out their job properly, not use their power to engage in misconduct. But, I think that just begs the question. While it is about right and wrong, it is also surely about policy. It is about in what situations, what kinds of training, what kinds of operations, women and men can work effectively in the military, and in what kinds of training and operations situations the sexual diversion is just too difficult a factor. For instance, we have had gender integrated training in the military since 1974, but we have only had such training of recruits in the military for the last three years. It is in the recruit training situation that we are certainly experiencing very serious problems, and surely that needs to be revisited now. I note that there is legislation moving through the other body to prohibit mixed recruit training. That is one natural reaction to the situation, as I now understand it, and that is the approach that I would support.

But I think the better policy question is this: are we putting people into situations that put at risk our goal of an effective trained combat force with high morale, discipline and unit cohesiveness, making that goal more difficult to achieve than it should be? Are we putting temptations in the face of people and saying to them, ''overcome those temptations?''

The U.S. military goal is not to change basic human nature. It is to mold that nature for very specific military tasks. We do not need a major sociological analysis to know that sexual tension between men and women is affected by the environment in which

they are placed. Surely every military activity, and particularly recruit training, and high tension battlefield environments, are the kinds of environments wherein we need to be particularly attentive to the burdens we are placing on normal American men and women.

It certainly should be clear that integrating men and women in the training, and into the combat forces of the military, introduces an explosive new element into the attempt to create an effective fighting force. The ultimate, bottom-line question should be this: what is the impact of sexual integration on the battlefield? The purpose of an Army is to fight, and to win. If gender integration enhances the prospects of readiness, and effectiveness in combat, then we should all be for it. If it reduces American effectiveness on the battlefield, should we be for gender integration on the general grounds of social equality? I, for one, think the question answers itself, and the answer is no. Perhaps the facts are not all in. There are few, if any models around the world, of other modern, effective Armies which have gender-integrated their forces. So we are breaking new ground in America on gender integrated training, particularly when it comes to combat roles. In plain words, we are conducting an experiment.

I think that the scandals which we are seeing in the training commands must be taken as a danger sign that sexual integration complicates an Army's fighting capabilities, in that it introduces a new element which diverts the focused attention on winning battles that an Army must have.

It seems completely obvious to me that living and training in close quarters puts a strain and a stress on people's behavior. Furthermore, the effect of confined environments where men and women work and live in close quarters certainly involves sexual issues. It is laughable to assume otherwise. Sexual issues involve not just breaking the rules on fraternization and sexual relations, per se, but involve perceptions of favoritism in unit life which can negatively affect the cohesiveness, morale, and discipline that are the critical ingredients of success in military life, and success in combat. Whether one believes in equality among men and women is not the issue here. In the special world of military life where the ultimate mission of fighting and winning is uniquely different from all other environments and roles in civilian life, the issue is the national security of our nation and how best to maintain it with the most effective fighting force.

There is no real reason for social experimentation in mixing the sexes at all levels of military life and functions. Certainly this does not mean women cannot be as successful as men in all or certainly most of the levels of work in the military. But this may only be true with two caveats. First, because women are not as a rule as physically able to meet harsh combat conditions, they start with a disadvantage. This reality is central to the consideration by the Marine Corps not to include women in infantry units. Second, the relations among the sexes present an irreducible diversion which complicates the effectiveness of combat units. The Marines train women and men separately as recruits, and have found that it works best for them. After initial recruit training, they are trained together, except for the unique function of combat training, since women do not serve in Marine infantry units.

It is not at all clear to me that there is any body of evidence that a force trained on a gender-integrated basis performs better in combat than a force trained on a segregated basis. More to the essential point, there is no credible body of evidence showing that gender-integrated combat forces, such as infantry forces, perform better than all male units. Before we extend our desire to treat women fairly and equally with men, a bedrock working principle of American society, we need to satisfy ourselves that the conditions under which men fight are actually conducive to fielding integrated units. Indeed, it would be folly to assume that the natural attractions, jealousies and diversions that close sexual quarters enhance can be overcome by issuing an edict that professionalism only will be permitted. It is quite clearly the case, as Aberdeen and other scandals indicate to me, that gender-integrated training is having a very bumpy ride, and we should review the kinds of integrated training that will work, and the kinds of gender-integrated training that will not work.

Mr. President, there must be ways to thoroughly examine, review, and evaluate the reasons for the recent spate of scandals regarding sexual relations in training commands. Such a study should be made by an independent blue-ribbon body with unquestioned credentials—with no social agenda, but geared solely to the effect of gender integration at all levels of the military, in support as well as combat roles, in training recruits as well as seasoned soldiers—to evaluate the impacts solely on our national security. In the meantime, until such a review can be done and fully considered by the Congress, I intend to propose an amendment to the fiscal year 1998 Department of Defense authorization bill which would suspend the continuation of gender-integrated recruit training in all the services, as is currently the case with regard to the Marine Corps.

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

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

CONCURRENT RESOLUTION ON THE BUDGET

The Senate continued with the consideration of the concurrent resolution.

Mr. GORTON. Mr. President, as we are going back and forth, I will take a very few moments and then yield to one of my Democratic colleagues, so I yield such time as I may use.

Mr. President, the parentage of this successful budget resolution is ardently sought by many. Only failure is an orphan. In this case—I hope not to drive the metaphor too far—I believe that many properly may claim parentage of the resolution that is before us here.

In the decade and a half during which I have served in the U.S. Senate, this budget resolution marks two firsts. It is the first resolution that genuinely will yield us, when passed and enforced, to a balanced budget, to a situation in which we will no longer be piling debt upon debt on the backs of our children and our grandchildren. It is also, remarkably, the first budget resolution during that period of time that seems likely to pass with significant majorities in favor of it from both political parties.

As I look back on the history that has led to this point, I reflect on the fact that members of the Democratic Party and the President of the United States can claim some credit in moving in this direction for the highly controversial resolution that they proposed and passed without any support from the Republican Party some 4 years ago. Our predictions that that resolution would have dire consequences did not, in fact, turn out to be the case. We may still believe that a different course of action would have had even better results, but, obviously, at this point we cannot prove that. The Senator from New Jersey has already spoken to that proposition.

At the same time, 2 years later, when the Republicans became a majority in both the House and in the Senate, we passed and attempted to enforce a budget resolution more dramatic even than the one that is before us today, with its reform of entitlement programs, its securing of Medicare for many, many years to come, and in the tax relief that it provided for the American people.

Ultimately, the enforcing mechanism for that budget resolution was successfully vetoed by President Clinton, but, nonetheless, it charted a new and different course of action for the American economy and especially for the way in which the Congress and the President determined spending and taxing priorities.

Before the President vetoed the results of that budget resolution, he had, for the first time, committed himself to balancing the budget. I think, again, many Members of this side discounted that commitment, as we believed that it was not carried out by the policies that he recommended pursuant to his commitment to a balanced budget. But nevertheless, the debate then became not whether to balance the budget but how. That debate, a debate separating the two political parties, continued until just a short few weeks ago.

At that point, the President, the leaders of the Republican Party in both the House and the Senate, with the assent of much of the Democratic leadership, reached an agreement, not only on the ultimate goal but on the means by which to reach that goal, and it is some of the details of that agreement which, after further negotiation, are a part of the budget resolution that is before us this afternoon.

The Senator from New Jersey has outlined many of the elements of this budget resolution which he believes meet the agenda of his party and of the President of the United States. Ours on this side may be fewer, but we think they may be more profound. We have reached the goal we have sought without wavering and without compromise: of a resolution that would, in real terms, promise a balance to the Federal budget with lower interest rates, with a fiscal dividend that that would bring with it. And we are now right at the edge of meeting that goal.

We have succeeded in crafting a budget resolution and getting agreement to a budget resolution which will provide real genuine tax relief for the American people, for American families with children, for farmers and small businessmen, and estate tax relief, for investors and for job creators in the realm of capital gains, and we have also succeeded, at least modestly, in getting agreement to the beginnings of certain reforms in the entitlement programs, which are almost exclusively responsible for spending increases each and every year for decades that outpaced both inflation and the growth of our economy.

Government will not grow as a result of this resolution at anything like the rapidity it would have grown without it. The distinguished chairman of the Budget Committee, the Senator from New Mexico, has, in this illustration, shown what happens with respect to the budget deficit, even including the tax relief that is an integral part of this resolution today.

So we will have more modest spending than would otherwise have been the case. We will have tax relief for the American people. We will have a balanced budget due to the diligence of the distinguished Senator from New Mexico and the broad support he has from his own party, due to the eloquence and hard work of the majority leader, the Senator from Mississippi, and the wonderful relationship he and the Senator from New Mexico created for one another, due to the hard work of many members of the Democratic Party and of the President and his advisers, and perhaps not least in all of the credit that should be given here in the parenting of this budget resolution would go to those outsiders led by the Senator from Rhode Island [Mr. CHAFEE] and the Senator from Louisiana [Mr. BREAUX] who last year created a bipartisan budget resolution, with all of the elements that this one has—some to a more dramatic extent than this one has—and came within four votes of carrying that resolution on the floor of this U.S. Senate, even though they were opposed by the leadership in both parties and by the President of the United States. Many of the elements of their proposal are included today, but they blazed the trail for a degree of bipartisan cooperation that had not previously existed.

So for my part at least, Mr. President, I am delighted to give credit where credit is due and to say that credit is extremely widely spread. I trust that after listening to the debate today and tomorrow—I hope not longer than that—that the resolution that is before us will not have been significantly changed by amendment, that it will be passed by a very substantial bipartisan majority, a majority of both parties, and that it will then be properly carried out and properly enforced by all of those who have supported it, for which the Congress and the President will deserve credit and thanks from the people of the United States, both for their responsibility and for having created the opportunities for greater economic growth and greater prosperity for the people of the United States.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I yield so much time as the Senator from Maryland wants to use to make a statement.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. I thank the distinguished Senator from New Jersey.

Mr. President, in 1993, just 4 years ago, in order to reduce the deficit, the Congress, by a narrow margin, enacted a budget resolution which curtailed programs and increased taxes. The increase in taxes primarily impacted those at the upper end of the income scale.

This combination of spending restraint and revenue increases represents a logical way of dealing with the deficit issue. When you are trying to reduce and then eliminate the deficit, the logical way to do it is to restrain spending and to seek additional revenues. That combination, presumably, will result in lowering your deficits.

This approach has worked in a most impressive way. A flourishing economy has brought unemployment below 5 percent for the first time in 24 years. This chart shows the unemployment rate going back to 1971. As you can see, with one exception, the unemployment rate now is the lowest it has been in this period. Back here, in 1973, is when it just dipped below 5 percent. It has now gone below 5 percent again.

While unemployment is at a 24-year low, inflation is at a 31-year low, as is shown by this next chart, which shows the inflation rate from 1966 to 1996.

I do not know what better proof one can offer of a strong economy than the low unemployment rate and the low inflation rate we are now experiencing.

As a consequence of this flourishing economy, the deficit has declined on a steady basis since fiscal year 1992. In fiscal year 1992, the deficit was at $290 billion. And it has come down in each succeeding year, to $255 billion in 1993, $203 billion in 1994, $164 billion in 1995, and to $107 billion in the last fiscal year, the year that ended this past September 30. It is now expected to be below $70 billion for the current fiscal year. In other words, we will have gone from a $290 billion deficit in 1992 on a straight downward trend, and we are expecting a deficit under $70 billion for the fiscal year in which we now find ourselves.

As a percent of the gross domestic product, the deficit has declined in a most impressive way, from 4.9 percent in 1992 to 1.4 percent for the fiscal year that ended this past September 30. As you can see from this next chart, it declined from 4.9 percent in 1992 to 4.1 percent in 1993 to 3.1 percent in 1994 to 2.3 percent in 1995 to 1.4 percent in the fiscal year ending September 30, and it is now anticipated that the deficit as a percent of gross domestic product will be less than 1 percent for the current fiscal year, the lowest percentage since 1974.

So you have the best unemployment rate in 24 years, the lowest inflation in 31 years, the lowest deficit as a percent of GDP in 23 years.

By way of comparison, the Maastricht Agreement of the European Community, which established what are regarded as tough requirements for the member nations, has as its goal the bringing of deficits down to under 3 percent of GDP—3 percent. We, at the end of this year, will be down to less than 1 percent.

In fact, just comparing the United States with the other major industrial countries, we see from this chart that our deficit as a share of GDP is 1.4 percent. Japan is at 3.1 percent, Germany at 3.5 percent, Canada at 4.2 percent, France at 5 percent, the United Kingdom at 5.1 percent, and Italy at 7.2 percent.

Now, by any measure, this is a most impressive economic performance, and certainly a very impressive deficit reduction performance.

Given this performance, one would think that the wise policy would be to stay the course and finish the job. I mean, this is a spectacular course that I have outlined here that we have been following. So one would assume that the wise policy would be to stay the course and finish the job. Instead, the budget resolution before us combines spending restraint with tax cuts—I repeat, spending restraint with tax cuts.

Obviously, spending restraint, as in 1993, works in the direction of deficit reduction. As I said at the outset, that is logical. You are trying to bring the deficit down. Spending restraint works in the direction of deficit reduction. But tax cuts work against deficit reduction. And the tax cuts contained in

this budget agreement will grow over time in a way that may well jeopardize the goal of reaching and staying—and staying—in budget balance.

The capital gains, inheritance, and IRA tax cuts, all of which are provided for in the tax portion of this budget agreement, carry with them the potential for substantial increases in future years.

In fact, this budget agreement recognizes such a trend line by providing for $85 billion net tax cuts in the first 5 years, 1998 to 2002, and almost double that, a net tax cut of $165 billion, in the next 5 years, 2003 to 2007. No agreements were made as to the following decade. But obviously, if we are concerned about the future strength and viability of the economy, it is important to look to the out years, to have some sense of where these trend lines may be taking us.

The budget agreement itself, in the tables accompanying the text of the agreement, projects that in the 10th year of the agreement—in other words, at the end of the period when we are to have a total of $250 billion in tax cuts—the tax cuts would be $42 billion. Now this represents a rising trend line with respect to the tax cuts. In fact, the projections are that the tax cuts will increase by $5 billion in each of the last 2 years of the 10-year agreement on which this resolution is based, that is from 2005 to 2006, and from 2006 to 2007.

If you are at $42 billion in the 10th year, then one can anticipate two scenarios for the following decade, from 2008 to 2017. If in fact the cost of the taxes stayed at $42 billion a year for each of those years, in other words, plateaued—a most unlikely assumption given the trend line—you would then project $420 billion in tax cuts over the next 10 years. If, however, the cuts continued to increase according to the trend line established through the first 10 years, in other words, increasing by $5 billion a year through 2017, you would have tax cuts of $700 billion in the following decade.

So we have a situation here where it is almost certain that the tax cuts that are part of this agreement will carry with them a rising trend that will, in effect, undercut the deficit reduction effort. And I ask, is it not imprudent, indeed irresponsible to commit to such tax cuts before we have actually achieved budget balance and before we have a more accurate and realistic view of whether it can be sustained?

We are talking about responsibility here. Yet we are undertaking in this resolution to commit to tax cuts before we have actually achieved budget balance and furthermore before we have a realistic and accurate view of whether budget balance can then be sustained.

I believe that the tax-reduction side of the budget agreement carries with it the potential for undermining the deficit-reduction effort. Furthermore, the combination of program curtailment on the one hand and tax reduction on the other represents an inequitable allocation of the burdens of deficit reduction.

The impact of a reduction in programs will be felt by ordinary working people primarily. The tax reductions, by contrast, will primarily benefit those at the top end of the income and wealth scale.

Consider that 75 percent of the benefits of the capital gains tax can be expected to go to those making over $100,000 a year, the top 5 percent of the population. The inheritance tax cut would benefit an even smaller percentage of the population. Yet this resolution that is before us imposes additional burdens on working people through program reductions.

In fact, the projections are that domestic discretionary programs will be 10 percent below—10 percent below—the current service level, namely, the level adjusted for inflation, in the year 2002. At the same time that we have a 10-percent cut in programs, substantial tax reductions will be given to those at the apex of the income and wealth pyramid. This is not fair or equitable.

A budget agreement should undertake equitable deficit reduction, namely, apportioning the burdens in a way that it is reasonably spread across the entire society, as was done in 1993, when ordinary working people made their contribution through program reductions and those at the top end of the income scale made their contribution through tax increases.

But in this instance, we have working people bearing a burden through program reduction, but we can anticipate tax reductions which markedly benefit those at the upper end of the income and wealth scale, and impose no burden on these individuals.

Thus, this budget fails the equity test. A budget agreement should also lead to lasting, long-term deficit reduction. As I have indicated, I am most apprehensive about this agreement because I foresee that we will not be able, even if we were to reach balance in 2002—and there is some serious doubt about that under this agreement—to sustain that balance in the subsequent decades. Thus, this agreement also fails the long-term deficit reduction test.

In short, this budget agreement does not have either of the two essential attributes of a budget: equitable deficit reduction and lasting, long-term deficit reduction. Because of that, I do not support it.

Mr. President, I yield the floor.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. I ask Senator ALLARD, do you want to offer an amendment?

Mr. ALLARD. I do have an amendment at the desk, but I understand that Senator DODD is going to offer an amendment before me.

Mr. DOMENICI. I say to the Senator, that means we are going to have Senator WELLSTONE give his general speech because we are going with general speeches ahead of amendments.

Is that all right with the Senator?

Mr. ALLARD. I thank the Senator.

Mr. LAUTENBERG. Mr. President, I yield 20 minutes to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I thank all of my colleagues for their courtesy.

Let me first of all start out by saying I associate myself with the remarks of Senator SARBANES, the Senator from Maryland. Senator SARBANES talked about equitable deficit reduction. I emphasize the equitable part of that formulation.

Mr. President, those on both sides labored very hard. People make the decisions they think are the right decisions. I do not rise to point an accusatory finger at any of my colleagues. As I look at this agreement, I do not see that equitable deficit reduction.

To give but one example, I see very little of the shared sacrifice, and I think to be shared sacrifice we would have to extend part of the deficit reduction burden onto large and wealthy corporations and zero in on what has been called corporate welfare. That means some of our large multinational corporations—oil and gas, mining, pharmaceutical, health care conglomerates, and others—who now reap benefits of huge loopholes in our Tax Code, who are fed, if you will, at the trough of unjustified tax giveaways, would, in fact, be required to pay their fair share toward deficit reduction. They are the heavy hitters, the well connected. They are the players. That is not a part of this budget agreement. I do not think what we have here is equitable deficit reduction.

I know a number of my colleagues, as they look at some of these loopholes and deductions or as they make the case for across-the-board, what I call kind of a scatter-gun approach to cuts in capital gains or estate tax, make the argument this will bolster the economy by boosting savings and investments.

I cite a report by the Republican staff of the House Budget Committee from just a few short years ago:

> Whether aimed at increasing efficiency or growth, many so-called ''growth enhancements'' backfire. This is due to two factors. First, few incentives are very powerful, and simply do not result in large increases in output. Second, they typically lose revenues, increasing government borrowing as a consequence, and thus reducing the accumulation of private capital as a result.

My friends say to me, ''But we are balancing the budget.'' I smile and say, ''We will see.'' My guess is, as I look at those who are in control of the committees and especially are going to be dealing with the tax legislation, it looks to me like we go toward indexing capital gains. It looks to me that we will have across-the-board cuts in capital gains in estate not targeted to family business, not targeted to middle

income, with the lion's share of benefits going to the very top of the American population.

Mr. President, studies have shown consistently that households with incomes of over $100,000 a year receive approximately 75 percent of the capital gains income. If the goal is to provide relief to middle-income taxpayers, that is one thing, but what is happening here is the vast majority of the benefits go to those at the very top.

At the same time, as we look at capital gains or estate tax, if you talk about family farmers or small businesses, fine. But I think that under the cover of the problems of small family farmers and small business people we are seeing in this budget agreement massive tax breaks to those who least need it.

This estate tax goes to some of our families. Some of the families that will benefit are Cargo Co., a family-owned company, or Mars Candy or Continental Grain. I suggest to you that the multinational corporations hardly need more by way of more tax breaks.

Mr. President, I think many Democrats are going to vote for this budget agreement but with far less enthusiasm than their public posture suggests. They are hoping when the reconciliation bill fills in the blanks on the budget and it comes to the floor this summer, we will not explode the deficits, and in addition, the critical investments in health care and education and children and all the rest that we believe in will, in fact, be there.

As I look at the record of my colleagues on the other side of the aisle over the last couple of years, I have seen a defeat of efforts to go after corporate welfare. I have seen outrageous tax giveaways. I have seen a relentless attack on those in society least able to protect themselves, and I have seen very little standard of fairness when it comes to deficit reduction. I have seen deficit reduction based upon the path of least political resistance. Cut the benefits for those who are weakest—for children, for legal immigrants, for low- and moderate-income people, but when it comes to the subsidies for large oil companies or big insurance companies or some of the multinational corporations, big grain companies, no; they need more by way of benefits.

I agree with my colleague from Maryland, I fear, and I think there is every reason to believe this based upon the pronouncements I have heard so far, that when we get to the tax part of this package we will see backloaded cuts, indexing, and cuts in capital gains and estate taxes that will explode the deficit as we move into the next millennium, at the very time, I might add, Mr. President, that many of us baby boomers come of age and we will have precious little by way of investment.

Mr. President, I have several amendments that I will propose. I will start out joining with my colleague from Connecticut, Senator DODD. But I just want to highlight a few things I want to focus on.

First let me talk a little bit about child nutrition. The School Breakfast Program, currently 6.5 million children participate. That is barely half of the children that are eligible. In the reform bill passed last year, all in the name of deficit reduction, we eliminated, wiped out grants for schools to start up the School Breakfast Program.

Anybody who understands anything about education, anybody who understands anything about children, anybody who spends any time in schools will certainly acknowledge the fact that children who come to school hungry and cannot participate in school breakfast because we cut the funding for this program, are not going to be able to do as well in school as children who do not come to school hungry.

Where is the standard of fairness?

Mr. President, we also have a Summer Food Service Program, not real well known. As a matter of fact, only 2 million out of 14 million children participate because we do not adequately fund it. But do you want to know something, Mr. President? These children that really are so dependent upon school lunch and school breakfast, where it is available, during the summer they are malnourished and do not have an adequate diet. We are able to fund only 2 million out of 14 million children. Mr. President, in my amendment I will call for increasing the funding for this program.

Finally, I want to talk a little bit about school construction. My friend Jonathan Kozol wrote a book called ''Savage Inequalities.'' He traveled all across the country and reported on what he observed.

Mr. President, let me just make the point, I will not give specific examples, but let me say to my colleagues, we have too many children who go to rotting schools. What kind of message are we conveying to children in this country when they go to schools that are dilapidated, with rotting infrastructure, toilets that do not work, cold in the winter, too hot in the summer, crumbling buildings, decrepit? What kind of message are we conveying to these children? Are they not all God's children? Is there not some need for investment in infrastructure?

The General Accounting Office reported in 1994, that over all, it would be about a $112 billion investment, and we want a $5 billion investment by way of a start as we move into the next century?

Mr. President, have I not heard before speeches given, the talk about the importance of building a bridge to the next century? If we are not going to invest in rotting schools, if we are not going to invest in the infrastructure of the schools our children attend in this country, if we are not willing to invest a little bit more in child nutrition programs, if we are not willing to invest in some of what Senator DODD's amendment, an amendment I want to join in and I know others will join, Head Start and Early Start, if we will not invest in children in these very critical early years of their lives, how can this budget agreement be a blueprint or a bridge for moving into the next century?

My amendments will just simply say, take it out of corporate welfare and invest it in Head Start, child nutrition programs, and invest in the infrastructure of schools in America for our children.

I have another amendment that will focus on some of the tax cuts that will say scale down the capital gains tax cut, scale down the estate tax cut, target it to middle-income people, target it to small business people, and target it to family farmers. Frankly, these large multinational corporations do not need it, nor do the top 1 or 2 percent of the population. Instead, invest in children. Invest in children.

Mr. President, my final point, because I know we want to go on with the amendments, my final point, we have in the last several months been reading in Time magazine, in Newsweek magazine, there was a White House conference on the importance of early childhood development and the argument that is made is that the neuroscience evidence tells us if we do not do well for these children from the very beginning of their lives, if we to not do well with a mother expecting a child, in the very early years up to age 3, many of these children will never come to school ready to learn, and many of these children will never be prepared for life.

One out of every four children in America under the age of 3 are poor. And one out of every two children of color in America under the age of 3 are poor.

Mr. President, it is a scandal. It is unconscionable that we do not yet even fully fund the programs that we know work—Head Start, to give children a head start, nutrition programs so they do not come to school hungry, investment in infrastructure so the schools are inviting places as opposed to being decrepit and so demoralizing for children.

Mr. President, my amendments will say invest in these areas and take it out of the subsidies of these large multinational corporations or scale back these tax giveaways that go mainly to the top 1, 2, or 3 percent of the population.

To my colleagues, all of us have to make our own decisions, but for my own part, I think this is a budget without a soul. Quite frankly, I say to Democrats in particular, I think there comes a point in time where there are certain values and there are certain principles we hold dear. I think there comes a point in time when we cannot keep giving the speeches about the importance of children, the importance of education, the importance of equality of opportunity, the importance of each

and every child having the same opportunity to reach his and her full potential. We cannot keep giving those speeches if we do not match the legislative lives that we live with the words that we speak.

I will join with Senator DODD in his amendment, and I will have other amendments on the floor, and I will raise this issue over and over and over again. I will raise this question over and over and over again.

I do not believe this is a budget that calls for equitable deficit reduction. I do not believe this is a budget that is a bridge to the next century. I do not believe this is a budget that gives children in our country, every child—they are all God's children—the same opportunity to reach their full potential.

I do not think this is a budget that invests in our future, because this budget, as opposed to being a new deal for too many children in America, is a raw deal for too many children in America, and that makes this budget unfair and that makes this budget wrong and that makes this budget not the best that we can do for children in America. Therefore, I will oppose this budget agreement.

I yield the floor.

Mr. SMITH of Oregon. Mr. President, as previously agreed, Senator DODD was to be recognized for 10 minutes to offer an amendment.

Mr. DODD. If I could, I have discussed this with my colleague from Colorado, and we will defer at this moment and let my colleague from Colorado go first and I will follow.

AMENDMENT NO. 293

(Purpose: To express the sense of the Senate about the Federal debt and that the President should submit a budget proposal with a plan for repayment of the Federal debt)

Mr. ALLARD. I send an amendment to the desk.

The PRESIDING OFFICER (Ms. SNOWE). The clerk will report.

The bill clerk read as follows:

The Senator from Colorado [Mr. ALLARD] proposes an amendment numbered 293.

At the end of the budget resolution add the following new section:

SEC. . SENSE OF THE SENATE ON REPAYMENT OF THE FEDERAL DEBT.

(a) FINDINGS.—The Senate finds that—

(1) Congress and the President have a basic moral and ethical responsibility to future generations to repay the Federal debt, including money borrowed from the Social Security Trust Fund;

(2) the Congress and the President should enact a law that creates a regimen for paying off the Federal debt within 30 years; and

(3) if spending growth were held to a level one percentage point lower than projected growth in revenues, then the Federal debt could be repaid within 30 years.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the provisions of this resolution assume that—

(1) the President's annual budget submission to Congress should include a plan for repayment of the Federal debt beyond the year 2002, including the money borrowed from the Social Security Trust Fund; and

(2) the plan should specifically explain how the President would cap spending growth at a level one percentage point lower than projected growth in revenues.

Mr. ALLARD. Madam President, I would like to begin by commending the chairman of the Budget Committee, Senator DOMENICI, in fact, the entire Budget Committee, Senator LAUTENBERG, the ranking member of the committee, for their hard work and diligence in crafting the budget resolution.

While I am pleased that we have a budget resolution before the Senate, I believe that this document is not without faults and that improvements can be made.

The people of Colorado elected me on the premise that I would utilize all the tools at my disposal to balance the budget. This is a promise that I made to my constituents and a commitment that I do not take lightly.

In this light, I am pleased that the current budget debate is focused on not ''if'' we are going to balance the budget, but ''how'' are we going to balance the budget. I believe that this is in and of itself a moral victory for those of us who preach fiscal responsibility. Yet, we must now begin the process of balancing the budget by 2002. The framework provided within the budget resolution is an excellent starting point on which we can improve.

The sense-of-the-Senate amendment talks about what we are going to be doing today. The economy is strong. People have jobs. And the stock market is surging. History tells us, however, that this is not always the case. Unfortunately, the budget resolution assumes economic growth over the next 5 years that is unmatched in this country's history. I am a veterinarian. I am not an economist. But I do know that the document before us today must be able to account for a future that is not necessarily as rosy.

On the sense-of-the-Senate resolution, we are talking about the years that are following after 2002. Let us say that we have eliminated the deficit. Then what is the next step in the Congress? We need to begin to address the problem of the debt.

This amendment is a resolution that was adopted on the House side. It says that in order to continue to move forward on the fiscal soundness of this country, we need to begin to pay down the debt, and we do that by spending less than what we bring in in revenues. The amount that I suggested in the sense-of-the-Senate resolution is to spend 1 percent less than what comes in in revenues.

For example, if we have 5 percent in revenue that comes in in any one of the years, then we would spend out 4 percent. One percent would be moved toward paying down the debt. If the Congress, both the House and the Senate, will commit themselves to this type of plan to pay down the debt, we can balance the budget and pay down the debt by the year 2023.

The debate so far in both the House and the Senate has been concerning deficits that have been accumulating, and now we must move toward paying those down. I am comfortable that the direction of deficit spending is moving down. But once we eliminate deficit spending, then I think we have to begin to look at paying down the debt.

The debt is reflected in this budget by the interest that we are paying on the debt, which is running somewhere around $245 billion a year, about 15 percent of our total budget. That is almost as much as what we pay for defense.

So we put ourselves at considerable liability as we move through the years after 2002 because we do not know what the interest rates are going to be. We do not know whether they are going to be 2 percent, or 6 percent, and heaven forbid if they ever get into the double-digit inflation rates and interest rates that we had in the late 1970's.

The purpose of this amendment is to begin to pay down that total debt so we don't have that unknown liability that this country will be facing year after year. The sense-of-the-Senate resolution is to point out to the Senate that there is a potential problem.

So I am asking that this amendment be adopted so that we can begin considering a plan that says that we will begin paying down the debt by spending 1 percent per year less than comes in in revenues, which would eliminate our debt around the year 2023, which would indeed put this country on a very sound fiscal and financial basis.

I yield the floor.

Mr. SMITH of Oregon addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. SMITH of Oregon. Madam President, we are prepared to accept the amendment and yield time back off the amendment, if the Senator from Colorado agrees with that.

Mr. ALLARD. I yield the remainder of my time.

Is there any reason to ask for the yeas and nays? Is the floor manager ready for the yeas and nays?

Mr. LAUTENBERG. Madam President, it was my understanding that this amendment was going to be offered and dealt with on a voice vote. As far as I know, there is no further debate required. If that is the case, then I suggest that we move in that direction.

Mr. ALLARD. Madam President, if the Senator from New Jersey will yield, I agree to a voice vote and ask for a voice vote.

Mr. LAUTENBERG. To my colleague, the manager at the moment, we will accept this.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Colorado.

The amendment (No. 293) was agreed to.

Mr. LAUTENBERG. Madam President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SMITH of Oregon. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SMITH of Oregon. Under a previous agreement, Madam President, I yield 10 minutes to the Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. LAUTENBERG. Madam President, unfortunately, it is our obligation to yield time to our people.

So, is the Senator from Connecticut ready?

Mr. DODD. Yes, Madam President.

If my colleague will yield, I would like to take a few minutes to discuss the budget proposal generally, and then I will be offering an amendment on behalf of myself and the Senator from Vermont [Mr. JEFFORDS] and others. We have not reached any agreement on time, but I am sensitive to the needs of the committee to move along. I don't intend to take a long time on the amendment.

Mr. LAUTENBERG. With that understanding, Madam President, I would certainly be willing to yield as much time as the Senator from Connecticut requires.

Mr. DODD. I thank my colleague from New Jersey.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Madam President, I would like to spend a few minutes on the overall budget agreement. I know several of my colleagues have talked about it earlier today.

I had the privilege of serving on the Budget Committee for a number of years with the distinguished chairman of the committee, Senator DOMENICI, and my colleague from New Jersey, Senator LAUTENBERG, and my colleague from South Carolina, whom I see on the floor, Senator HOLLINGS, and others.

It was involuntary servitude, I would say. Serving on the Budget Committee was not a position that I sought at all. I was asked to go on the committee and I served there for a number of years. I enjoyed my service. But it can be a thankless task in many ways to be on the Budget Committee.

So, I begin these brief remarks by commending the chairman of the committee and the ranking Democrat, Senator LAUTENBERG, for their tremendous effort. It is not easy to put these agreements together, this year in particular. Over the last several months, we have seen a major effort here to come up with a budget agreement that would bring the Federal budget into balance over the next 5 years. I commend them for their efforts.

I must say that despite reservations that we all have, I don't know of a single Member of this body who wouldn't have written a different agreement had they been king or queen for a day.

So I begin by complimenting my colleagues and endorsing their work with reservations. I will offer an amendment to do a bit better for Head Start, Healthy Start and child care issues.

I support this agreement. Obviously, I am going to watch what happens in the amendment process and reserve final judgment. I respect, as well, my colleagues on both sides who will have strong feelings about this agreement. But, as it stands today, I think the authors have done a pretty good job with this budget agreement.

In 1981, I voted against that budget agreement. In my view, that deal went way too far. As has been pointed out already, this agreement is vastly different from the 1981 agreement that created such huge deficits from which we still are recovering. In many ways, today's agreement is an effort to really try to solve the problem that began back almost 16 years ago with that vote and the problems which were created by that legislation.

David Stockman, who many may have forgotten, was the Director of the Office of Management and Budget at that time. He has since written a wonderful book about that agreement, ''The Triumph of Politics,'' which I strongly urge my colleagues to read if they want to know the history of what happened in 1981 when this earlier agreement was reached causing the deficit to reach the magnitude that we have seen in the last number of years.

So this agreement I think needs to be seen in a broader context. It is the culmination of a 4-year effort by the President and supporters in this body and the other to try to come up with a budget that would protect American families, that would allow us to reduce that deficit and reduce interest rates, which are like a tremendous tax people pay when they buy homes or automobiles. Obviously, as we have seen over the last several years, the declining deficit has contributed significantly to the growth and expansion in this country.

When the President came to office 4 years ago we had an annual deficit of some $290 billion. That annual deficit has been reduced to $67 billion, a major achievement over the last 4 years that has brought significant prosperity to this country. We have seen 12 million new jobs created, the lowest average inflation since John F. Kennedy was President; median family income rise over $1,600, and the list goes on and on of effects of the improved economy in this country.

Without this progress, obviously, we would never have what we have today, and that is the first credible chance in a generation to actually eliminate the deficit completely. I believe that we must take advantage of this chance, and that is why I will support this resolution, provided that it is not amended beyond recognition. It is a good framework for a budget that achieves real balance while protecting our Nation's most important priorities. It is, of course, as I said only a framework. We will have to see what the details will be before ultimate passage.

Obviously, there will be two sets of debates, the one that we will go through on the outlay side, and then, of course, on the tax-cut proposals, the specifics of which we will not see until the fall, and that will be another debate. I myself am going to be interested, as my colleagues will be, to see the details of the tax plan that is passed by the Finance Committee.

Any final tax bill should be designed, I think all of us would agree, so that its cost in the out years is limited. And I listened very carefully to the remarks of my colleague from Maryland, Senator SARBANES. I know my colleague from South Carolina will address this issue in part. Their concerns should not go unheeded because there is a legitimate concern about what happens at the end of this process. And if we end up where we were at the end of the 1981 process, with an explosion in the deficit, obviously, we may look back on this agreement and wish we had done otherwise.

But nonetheless, I think it strikes a good balance here with tax cuts in the education field. I for one might reserve any tax cuts until we actually got down to zero. I think there is a lot of legitimacy in that argument. But I accept the notion that that is not going to happen, that we are going to have some tax cuts here, and some, like the postsecondary education tax cuts, can actually be helpful to many families.

I would note as well that in addition to these tax cuts, there are large increases in discretionary spending on education. For instance, the Pell grant is increased to a historic high of $3,000 a year. Many of us have fought for this program, which we think is tremendously important, for years. There also is real progress in the area of children's health insurance. Obviously, we will have a chance with the Kennedy-Hatch proposal tomorrow to do even more in that regard. But nonetheless, I would be less than honest if I did not commend the budgeters for doing a lot in moving in the right direction.

Madam President, I think the budget agreement is pretty good and one that I think is going to help the country. This has not been an easy process. There have been weeks and weeks of discussion. I respect that. I also respect the fact that each and every one of us here as individual Members of this body have the right certainly and obligation where we disagree to offer some changes to this agreement.

And so for those reasons I will be offering an amendment that will increase funding for Head Start, Healthy Start, and child care. These are three issues that I have spent a good part of my entire career in this body working on. In fact, the Presiding Officer and I, in years past, worked on a number of issues together, as I have with a number of my colleagues here. I never would have passed the original child care development block grant legislation if it had not been for my colleague from Utah, Senator HATCH, who joined in bringing that bill together.

On the issue of Head Start, there have been a lot of people here who supported the efforts over the years to do

more. I noted in this budget, there is a determination to serve 1 million children by 2002 in Head Start. That is certainly progress; it is an increase of 200,000 over where we are today. But I think we can do better over 5 years. We should ensure that all eligible children are served. We know it works so well and makes such a difference in children's lives. Particularly now with welfare reform, we are going to have so many more families that are going to need to have child care or Head Start. It is clear we are coming up short in this area. Serving 1 million children in Head Start is a laudable goal—but it is far short of what is needed. With this amendment over 1.4 million children eligible and in need would receive Head Start services.

In addition, this amendment would triple the size of the Early Head Start Program, which serves that critical zero to 3 group. We see so many of these families now that have these new infants, with Early Head Start, we can make a real difference in these children and their families to provide them a safe, quality environment where these infants will be while the parents go to work.

Welfare reform is all about getting people off welfare and into jobs. However, we know, and the Governors tell us, there will be tremendous need in the child care area. If we are going to move these families off welfare and public assistance into a working environment, there must be someone to care for these children.

I do not know of anyone who disagrees with that. No one wants to see children wander neighborhoods or in makeshift baby-sitting operations. In every State, there are horror stories of what has happened when parents have left children unattended and uncared for. We have had dreadful stories in my State in the last year alone; some five deaths have occurred in these settings that are far from high quality. I am not suggesting you are going to solve every one of those problems, but at a most basic level, none of us here could come to work each day if we had a child that we did not have someone to care for. We would miss votes, we would miss committee hearings, if it were a question of placing our child in a unsafe environment. And there is not one of our constituents who would disagree with that. We would be indicted publicly for irresponsibility.

This is a fine agreement, but we can do better in this area. This amendment would provide Head Start to 400,000 more children, it doubles the size of the child care development block grant and addresses infant mortality. When we are talking about $85 billion in tax cuts—and I do not disagree with that—do not tell me we cannot find over 5 years less than $15 billion to deal with Early Head Start, Head Start, Healthy Start, and child care so that these kids and families can really have the kind of support they need in their lives.

That is the intent of this amendment that I am offering on behalf of myself, Senator JEFFORDS, Senator MURRAY, Senator BINGAMAN, Senator WELLSTONE, and Senator LANDRIEU to this resolution. We think it is a modest request to make. It is not as if we do not respect the work of the Budget Committee. I also feel we can do a bit better here.

I support the hard work of those who put this agreement together, but let us not suggest somehow that this is totally inviolate. Some suggestions we might offer here would make this a better bill in our view. I think quality child care is one of those issue. I know very few of my colleagues who disagree with that. I know of no one who disagrees with Head Start, the work its done, and the Early Head Start Program. A few more dollars here, shaving off a bit on one end to provide a bit more on the other is really not too much to ask to make this agreement that much more worthwhile.

AMENDMENT NO. 296

(Purpose: To improve funding of critical programs to assist infants, toddlers and young children by increasing the discretionary spending caps by $15.752 billion in outlays over five years and offsetting this effort by closing corporate tax loopholes)

Mr. DODD. So with that, Madam President, I will send this 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 Connecticut [Mr. DODD], for himself, Mr. JEFFORDS, Mrs. MURRAY, Mr. BINGAMAN, Mr. WELLSTONE, and Ms. LANDRIEU, proposes an amendment numbered 296.

Mr. DODD. 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 3, line 4, increase the amount by 2,006,000,000.

On page 3, line 5, increase the amount by 2,820,000,000.

On page 3, line 6, increase the amount by 3,991,000,000.

On page 3, line 7, increase the amount by 5,766,000,000.

On page 3, line 12, increase the amount by 2,006,000,000.

On page 3, line 13, increase the amount by 2,820,000,000.

On page 3, line 14, increase the amount by 3,991,000,000.

On page 3, line 15, increase the amount by 5,766,000,000.

On page 4, line 5, increase the amount by 2,533,000,000.

On page 4, line 6, increase the amount by 3,481,000,000.

On page 4, line 7, increase the amount by 4,993,000,000.

On page 4, line 8, increase the amount by 7,305,000,000.

On page 4, line 13, increase the amount by 2,006,000,000.

On page 4, line 14, increase the amount by 2,820,000,000.

On page 4, line 15, increase the amount by 3,991,000,000.

On page 4, line 16, increase the amount by 5,766,000,000.

On page 21, line 25, increase the amount by 1,013,000,000.

On page 22, line 1, increase the amount by 643,000,000.

On page 22, line 8, increase the amount by 1,951,000,000.

On page 22, line 9, increase the amount by 1,335,000,000.

On page 22, line 16, increase the amount by 3,453,000,000.

On page 22, line 17, increase the amount by 2,458,000,000.

On page 22, line 24, increase the amount by 5,755,000,000.

On page 22, line 25, increase the amount by 4,224,000,000.

On page 23, line 15, increase the amount by 20,000,000.

On page 23, line 16, increase the amount by 13,000,000.

On page 23, line 22, increase the amount by 30,000,000.

On page 23, line 23, increase the amount by 23,000,000.

On page 24, line 5, increase the amount by 40,000,000.

On page 24, line 6, increase the amount by 33,000,000.

On page 24, line 12, increase the amount by 50,000,000.

On page 24, line 13, increase the amount by 43,000,000.

On page 26, line 14, increase the amount by 1,500,000,000.

On page 26, line 15, increase the amount by 1,350,000,000.

On page 26, line 22, increase the amount by 1,500,000,000.

On page 26, line 23, increase the amount by 1,463,000,000.

On page 27, line 5, increase the amount by 1,500,000,000.

On page 27, line 6, increase the amount by 1,500,000,000.

On page 27, line 13, increase the amount by 1,500,000,000.

On page 27, line 14, increase the amount by 1,500,000,000.

On page 41, line 7, increase the amount by 5,766,000,000.

On page 41, line 8, increase the amount by 15,752,000,000.

On page 43, line 21, increase the amount by 2,533,000,000.

On page 43, line 22, increase the amount by 2,006,000,000.

On page 43, line 24, increase the amount by 3,481,000,000.

On page 43, line 25, increase the amount by 2,820,000,000.

On page 44, line 2, increase the amount by 4,993,000,000.

On page 44, line 3, increase the amount by 3,991,000,000.

On page 44, line 5, increase the amount by 7,305,000,000.

On page 44, line 6, increase the amount by 5,766,000,000.

At the appropriate place insert the following:

It is the sense of the Senate that funding should be increased for vital programs serving the youngest children. Head Start should be funded at a level necessary to serve all eligible children. Funding for the Child Care Development Block Grant should be doubled to support the working poor and new resources should be dedicated to addressing issues of quality and supply in areas such as infant care and care during non-traditional work hours. The Healthy Start should be expanded to improve maternal and infant health. These initiatives should be funded through by changes in the tax code such as the elimination of the runaway plant deduction, the billionaire's loophole, the exclusion of income from Foreign Sales Corporations and other changes as necessary.

Mr. DODD. Let me, if I can, briefly describe what the amendment does. I see my colleagues here who have come to the floor. I note the chairman standing. Is he looking for a time agreement? When a chairman stands, it usually means he is looking for a time agreement. Is my colleague from New Mexico looking for a time agreement?

Mr. DOMENICI. I wanted to just—excuse me. I yield on my time.

Mr. DODD. I will yield to my colleague.

Mr. DOMENICI. I just wanted to sort of suggest to those in the Chamber who I see—I see Senator DODD has an amendment, and I assume that is what the Senator from Minnesota is going to speak to.

Mr. WELLSTONE. Madam President, my colleague from New Mexico is correct. I join with him on his amendment.

Mr. DOMENICI. I understand Senator HOLLINGS has an amendment, and I do not know how long the Senator intends to speak to it, but I plan sequentially to call on the distinguished Senator from Colorado, Mr. ALLARD, who has an amendment.

I was wondering if we might just at least be considering for our fellow Senators that we might finish the debate on those amendments by somewhere around 6: 15. It is 5:30 now. And then we try to stack these three so people after that could have a little time for dinner while we continue debating here. We would eventually ask those votes be 10-minute votes. I am just wondering, does that make any sense?

Mr. DODD. If my colleague will yield, I don't know how many Members want to speak on this, and there may not be that many. So rather than trying to spend the time negotiating an agreement, why not let it roll a little while on the bill; we just got underway, and see how it comes out. We may not need a time agreement. There is probably going to be just on this amendment 45 minutes, just the three of us on the floor who I know are sponsors of the amendment, and I presume Senator JEFFORDS is coming over, and there may be a couple of others. So we will try to move quickly. It is not my desire—I understand what the chairman wants to do, and we will try to move as fast as we can.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Senator SMITH is in the Chamber in my stead and whatever parliamentary privileges I have under the bill, I designate to him until I return.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. I do not want to cut off the debate, but I wonder, because I deferred to my colleague from Connecticut to present his comments on the amendment, whether there is—can we ask the people who want to speak, I ask the Senator, whether the Senator from Minnesota and the Senator from Washington would be able to conclude their remarks in 5 minutes. Would that be asking too much?

Mr. WELLSTONE. Madam President, if I could respond to my colleague from New Jersey, I think it would be difficult to do so. I think it is a very important amendment. I did not go into the specifics of what this amendment was about earlier because I thought we would have a chance to speak to it. I think it speaks to a fundamental question of priorities. I could not cover this in 5 minutes. I certainly will do whatever I can to stay within a reasonable limit but 5 minutes would not be a sufficient time. I do not know about Senator MURRAY.

Mr. LAUTENBERG. The Senator from Washington has requested 5 minutes. And we will take the rest of the time as needed. I yield the floor.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. I thank the Senator.

Madam President, the amendment I have sent to the desk that is under consideration basically says I think we can do a little bit more here. That is basically what it comes down to. As I said earlier, it is not to be offered to undo the budget agreement that has been struck by the committee along with the President. I respect and support that agreement.

I think we can do a bit more when it comes to investing in our most important resource. Statements are made over and over on the floor of this Chamber, about America's children. I do not know anyone who would list a higher priority than doing what we can to serve the most innocent in our society, who have the most in front of them. There is no lack of people expressing an interest in the subject matter today.

I recall going back some 15 to 16 years ago when Senator SPECTER of Pennsylvania and I formed the first children's caucus of the Senate. We had a difficult time, but we tried to convince people over the years that this was a worthwhile endeavor in which to engage on child care, on the issue of Head Start, and family and medical leave. No one would believe it today, but back then we had to fight hard just to form a caucas. Fortunately, we were successful in that effort as well as in the effort to pass critical legislation on issues affecting families and their children.

Today, few argue against these initiatives. Most people agree in our society, as we look to the 21st century, that we want to give our children the best start they can possibly have. We cannot guarantee them success. No one can be guaranteed that in our society. But we want to guarantee them an opportunity.

What we are talking about with Healthy Start, Early Head Start, Head Start, and quality child care is trying to give children a good start, the best start we can so they will at least have the opportunity for success.

In that regard, the amendment I am offering increases funding for three children's programs that strike at the very heart of the most basic needs of children in our Nation: Head Start, Healthy Start, and child care. These three programs truly are sound investments and, I think, time tested. These are not new ideas. They have been around now, in the case of Head Start, a generation. We have had the benefit of analyzing the programs and know they work.

In the case of child care, it has been over a decade, and Healthy Start, almost as long. We know from recent scientific findings that creative, positive environments for children in their earliest years is an investment that yields tremendous returns in the long term.

We are now engaged in the process of laying out this Nation's priorities for the next 5 years. In addition to numbers, we are laying out where are our priorities, where do we believe the most important things that need to be addressed over the next half decade are. We managed to find $85 billion in tax cuts intended to spur investment. While I do not necessarily disagree with that, I think it can be tremendously helpful and important. But I believe we can certainly find an additional $14.6 billion over the next 5 years to improve the investment of children, and that is what I am talking about.

This amendment would provide for full funding of Head Start by the year 2002. The President's budget and the budget agreement take a positive step in this direction by committing, as I said, to serve 1 million children over the next 5 years. That is up from 800,000 currently to 1 million in 2002, 200,000 additional slots. I think we can do better. This amendment would ensure that all eligible children who need Head Start will get it. By increasing funding to $11.2 billion in the year 2002, Head Start could reach over 1.4 million children. That is 400,000 more who would be reached than under the budget agreement.

As my colleague from New Mexico, Senator BINGAMAN, related the other day, in Albuquerque, NM, they have a staggering number of children waiting to get into Head Start and were unable to because the resources were not there. I am sure that story can be repeated in every State in the country, where parents are trying to get their children into the programs.

Going from 800,000, where we are today, to 1 million, 1.4 million over the next 5 years ought not be an impossibility for us to achieve in this country.

This amendment would also triple funding for Early Head Start programs to $560 million by the year 2002. This program, which my colleagues certainly recall, provides high-quality child development for infants and toddlers ages zero to 3. Again, I am

preaching to the choir here, I presume, because of the tremendous amount of new information on this 36-month period that occurs in a child's life, to see to it that they get the quality care and development they need.

This amendment that I have offered on behalf of myself and Senator JEFFORDS, along with others, would also make an investment in quality child care. It would double the size of the child care development block grant to $2 billion annually and provide an additional $500 million each year to help increase quality and meet supply shortages in critically underserved types of care, including infant care and nontraditional hours.

I heard my colleague from Minnesota speak on the need for child care during nontraditional hours. Most people think of people working from 8 to 5. However, there are a vast number of people in our country who do not work traditional hours because of time shifts and so forth. We have very few child care slots for the nontraditional hours. We need to be doing everything we can as people are struggling to hold their families together economically to provide for that quality child care.

Again, I say to my colleagues, when Senator HATCH and I initially offered the Child Care Development Block Grant Program 10 years ago, we made the point over and over again how important it is to working people that their children are in quality child care. The block grant provides vital assistance to working families as they struggle to meet these needs. But it is not enough; it is sorely underfunded. The Congressional Budget Office has estimated that in the wake of welfare reform, there will be a $1.4 billion shortage in assistance for child care. This amendment provides an additional $1 billion for supply and another $500 million to address issues of quality and supply in key areas such as infants and the nontraditional hours. Again, as we move people from welfare to work, it is going to be critically important that we have these quality slots out there for people. So that is the second part of this amendment.

The additional $140 million is for the Healthy Start Program. Let me just remind my colleagues, I think all of us, I hope, have had an opportunity to visit Healthy Start programs. These programs offer to at-risk mothers prenatal care and other services that have been tremendously successful in seeing to it that new infants and their mothers get the proper care. Again, the studies show how critically important this can be for children's cognitive and emotional development.

Overall, this effort dedicates an additional, as I said, $14 billion to meeting the most basic needs of our youngest children. Healthy Start, Head Start, and quality child care are all about the earliest days. Obviously, the quality child care can spill over to school years, to after school programs, but nonetheless, the bulk of it goes to the earliest days of these infants' lives to see to it they have the best possible beginning. I realize $14 billion is not an insignificant amount, but over 5 years, that is less than $3 billion a year to fully fund Head Start, to double quality child care, and to provide more resources for Healthy Start. If we can find the $85 billion over 5 years, isn't it possible to find $3 billion less than that a year to make a difference in the lives of children from zero to 5 years?

So tonight, as we begin this process, this very first amendment that will be voted on in this budget debate, to say we have done a good job here and we can do a bit more. In my view, this agreement must serve the children who we talk about endlessly, who we debate and discuss at every meeting. Here is to reset our priorities for children with just a few more dollars. We know it is going to be hard. We realize there are other problems we are faced with, but when it comes to our children, this Congress, this Senate will stand up and say we can find the resources to see to it that these children get the proper kind of beginning that they deserve.

But don't look in the faces of innocent children and tell them we can't do a bit more. I know we are going to do a lot for people in the upper income levels, I understand that. If we can do that, we can do this and still balance this budget by asking for a little less in some areas for children, even though they don't vote, don't have political action committees, and don't participate in this process. With all the speeches that are given over and over again, this is the time to let rhetoric become a reality.

Madam President, at the proper time, obviously, I will ask for a rollcall vote on this amendment and urge my colleagues to join Senator JEFFORDS and me in this bipartisan proposal. Senator JEFFORDS is the chairman of the Labor and Human Resources Committee and has worked on a number of these issues over the years. He has joined with me, as Senator COATS did, on family and medical leave and Senator HATCH on the child care legislation.

With that, I yield the floor and invite my colleagues' comments.

Mr. SMITH of Oregon addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. SMITH of Oregon. Madam President, I yield myself 5 minutes. I would like to respond to the Senator from Connecticut.

I think there are many on my side of the aisle who care a great deal about issues with respect to children. I am one of those who has kind of bucked the tide in my party and signed up as a cosponsor, with enthusiasm, to the Hatch-Kennedy bill, which raises the tax on tobacco to provide expanded Medicaid to children. I also have great sympathy for many of the points Senator DODD is making. I believe we should fully fund Head Start. I am told it takes $10 billion to do that, not $14 billion——

Mr. DODD. Eleven billion dollars.

Mr. SMITH of Oregon. I am interested in that, but I am not interested in breaking this budget agreement, if it means that we are breaking our promises to the American people. Republicans and Democrats alike—neither side, frankly—are thrilled with every provision of this budget, but the truth is, a lot of promises are being kept with this budget.

Ultimately, it comes into balance, but in addition to that, we are protecting essential programs, we are cutting taxes, and we are balancing budgets. I think that is what America expects. I think that is what they want, and overriding all of our individual little concerns, I think they want us to keep our word on balancing the budget. In defense of this Congress, I think it is important to point out that since 1990, funding for Head Start has tripled. It ought to do better, but it ought not to do so at the expense of the promises we have made to cut the tax burden on the American people.

In addition, children's programming is a priority in this budget. We have funded Head Start at the President's requested level of an additional $2.7 billion over 5 years. We provided $1 billion for this program last year and an additional $4.5 billion for child care through the welfare reform bill. So it is not like we are insensitive to this. In fact, many of us would like to do more. It is just the vehicle being chosen, and this vehicle, the Dodd amendment, will, frankly, in the end violate this bipartisan agreement, and that we cannot do, because to get a majority, we need to keep this promise to ourselves, to our constituents, and keep faith with the leadership and with the White House.

Thank you, Madam President.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Madam President, let me respond to the Senator from Oregon. I appreciate his remarks, but I want to point out that this amendment says that the offset comes from corporate welfare, as I understand it. Some we are looking at. The Joint Tax Committee and others have carefully studied hundreds of billions of dollars of tax loopholes that usually go to some of the largest corporations and some of the wealthiest individuals in the country.

We are saying, can you not take a little bit from that, and instead, wouldn't you invest this in Head Start? And wouldn't you invest this in affordable child care? And wouldn't you invest this in Early Start? And wouldn't this make much more of a difference in children's lives? And wouldn't this better represent the standard of fairness of the people in the country?

So, Madam President, this is not about breaking any deficit reduction plan. This is about whether or not this budget agreement reflects the priorities of people in this country.

With all due respect to my colleagues, I think that if the choice for people in this country is between eliminating some of these egregious loopholes and deductions and instead investing more in children, and especially investing in this critical area of early childhood development, I say absolutely we ought to be doing that.

Madam President, I would like to talk just a little bit about these programs and a little bit about the sort of overall context of this amendment.

First of all, I have heard it so stated—and I say to my colleague from Oregon I will be willing to be critical of my own colleagues. I actually say this in a scrupulously, if you will, nonpartisan way. We talk about how we are expanding Head Start and, therefore, we are going to serve an additional 1 million children. But are we doing enough to reach the 2 million children who are not now participating?

My colleague from Connecticut points out that in addition there is going to be some early Head Start funding, frankly, above and beyond the 1 million children who still are not receiving any assistance; that is, Head Start 3 to 5.

If I was to include early Head Start, which is very consistent with very compelling scientific evidence that these are the really critical years, you know, right after birth, 1, 2, up to age 3, we are not coming even close to providing many children in this country with a head start. I far prefer to do that than to continue with a variety of different loopholes and deductions and breaks for some of the largest corporations in this country and wealthiest individuals who do not need it.

I mean, I would be more than willing to lay out this proposition for people in the country over and over again and say, you know, whose side are you on? Cargo Continental Grain Co. or vulnerable children who are just looking for a break by way of Head Start to get them prepared for school or good child care or, as I was talking about earlier, though not in this amendment, adequate nutrition? That is what this is all about. That is what this amendment is all about.

So the issue is not whether or not Senators are going to vote against this amendment because they are opposed to a budget agreement. I think my colleague from Connecticut and I may have different views on the overall budget agreement. I do not know yet. I guess he reserves final judgment. But you can be for the budget agreement and vote for this amendment because this amendment still keeps us within this path of a balanced budget. It just says: Couldn't we do a little bit better for children?

I am aware of the fact that colleagues feel some time constraint, and I promise not to take more than a couple more minutes, but this is, I think, such an important amendment. I am proud to join in with the Senator from Connecticut and Senator JEFFORDS from Vermont and Senator MURRAY from Washington.

Another way of looking at this for just a moment, with all due respect—and this is my hard-hitting point; I might have said it before on the floor of the Senate but it just feels right to say it at 10 to 6 on Tuesday evening—a real heroine to me—she is no longer alive—was a woman named Fannie Lou Hamer. She was a share cropper from Mississippi, an African-American woman. She once said, ''I'm sick and tired of being sick and tired.'' She was a great civil rights leader.

I just get a little sick and tired of everybody who says they are for children and investment in children and we are now going to build a bridge going to the next century and we are all for these children—except when it comes to investment.

On the one hand, we say it is so important that children who come from really difficult circumstances get a head start. I mean, that is what we try to do. We do what the name of the program suggests, give these children a head start. And we talk about how unfair it is that so many children do not have this head start. And then we seem to be so comfortable with the fact that we still are not providing enough funding for 1 million children who are not going to receive it, ages 3 to 5, and God knows how many more children under the age of 3.

Can't we do better? Can't we do better? Can't we have just a little bit less by way of tax breaks, loopholes, deductions, whatever you want to call it, for large multinational corporations? I mean, Lord, we are just talking about $15 billion out of studies that have talked about hundreds of billions of dollars. Can't we just provide them with a little less so we can provide a little more for these children?

Second point. It will just be the last one, which is the child care piece. I believe my colleague from Connecticut, in this overall over 5 years, $15 billion, is saying we can do better. I think many of my colleagues on both sides of the aisle agrees with this.

You look at the child care picture, and whether or not you want to talk about family-based child care or center-based child care or figure out ways you can have child care available for parent or parents at place of work, however you do it, however you do it, Madam President, it is just amazing, it is stunning how little we have done and how much we have to do.

David Packard, who was Deputy Secretary of Defense under President Reagan, and his wife Lucile Packard have a foundation. They issued a report this past summer, and they talk about child care. They make the point, look, it is not just nutrition, it is not just health care, but in addition, if these children do not get the kind of nurturing and intellectual stimulation that affects the way the brain is wired, that affects whether or not they are going to have a chance.

So many families—if we want to talk about working families, this is not just a poor people's issue. So many working families, so many of our children of parents in their thirties with two small children themselves, you look at their salaries, they cannot afford really good child care.

What Senator DODD is trying to do is at least expand some funding for good developmental child care. This is critical. This is the critical time.

If the medical evidence is so compelling, if it is so irreducible, if it is irrefutable, and if we know we have to do this for children, why cannot we in this budget agreement take a little bit away from or have a little less by way of tax breaks, loopholes, deductions, you name it, for large multinational corporations and wealthy people at the top of the economic ladder in our country and instead do a little better by way of investment in children, so each and every child can finish this way, each and every child?

I think we should be able to get good, strong bipartisan support. Each and every child in America, regardless of color of skin, regardless of income, regardless of religion, regardless of rural or urban, regardless of whether they be in Oregon or Connecticut or Maine or New Jersey or Minnesota, each and every child, regardless of religion, should have the same chance to reach her full potential, have a full chance to reach his full potential.

That is the essence of the American dream. That is the goodness of our country. That is what we believe in. This amendment takes us just a little bit—but, boy, it really matters to many children in many families—takes us a little bit further in that wonderful direction.

I yield the floor.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. How much time does my colleague from Washington need?

Mrs. MURRAY. Five minutes.

Mr. DODD. I yield the Senator from Washington 5 minutes.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mrs. MURRAY. Madam President, thank you.

We are at a historic time in our Nation's history where we have before this body a balanced budget agreement that purports to balance this budget by the year 2002. I think many of my colleagues feel, as I do, that we have worked long and hard to reduce the deficit and we are finally getting there and we feel good about it.

But what we also know is that this economy is doing very well. We know that unemployment is down. We know that those people on Wall Street are doing well. We know that our college graduates are getting jobs that were not available to them 5 or 10 years ago. And there is a lot of hope and opportunity out there.

Madam President, it seems to me that this is the right time to take a

look and say, Who are we missing in this budget? And when we know that one out of four children in this country live in poverty, despite the fact that our economy is doing well and that things are looking really good, we ought to take this opportunity now, as we put this balanced budget agreement together, to make sure that this country focuses its resources on a place where it can really make a difference.

I come to you today as a mother, as a preschool teacher before I was in the Senate, and as a U.S. Senator to tell you that I can think of no place that we can invest money better than in the young children of this country.

I want to thank Senator DODD for his work on this issue over many years and for all the time and energy he has put in to make sure that that group of people who do not have a voice do have a voice on the Senate floor.

His amendment before us today, that I am delighted to be a cosponsor of, addresses the current needs of today's young children in a way that this budget does not and should.

I can tell you from personal experience that Head Start makes a difference, and it makes a dramatic difference for those kids who are not in Head Start today. I taught preschool. I know that when you have a child in your classroom and when they are 3, 4 years old and they learn cognitive skills and they learn, in their beginning time, to get along with other children and they learn child development in a healthy way with a good teacher and with good equipment and with good adults around them, they will enter our schools ready to learn. It makes an incredible difference.

But it makes an incredible difference in those families as well because that mother or father has to bring that child to your classroom every day, and as a result they begin to learn how to deal better with their own young children. The result is a rippling tide. You have the child in your classroom, you have the siblings of that child, and you have the parents of that child really focusing on family. This is about creating good, strong families in this country. There is nothing we can do better than to devote our resources to Head Start for the families across this country and for the children in this country.

The child care development block grants have been spoken eloquently to. We know, as welfare reform goes into effect, that as women and men on welfare go into the work force, who is going to be left behind at home is their children. If we do not do everything we can to provide child care at those odd hours when a mother is working the night shift at the grocery store, that we are going to have infants and children who are not well cared for.

The results of that are going to be dramatic on those young children as they are not paid good attention to. But it will have an even more dramatic impact on those welfare moms when they are at work, because I can assure you that just like every other parent today, if I know that my child is being taken care of, whether they are at school or whether they are in child care, I do a better job when I am at work.

We need to make sure that the child care is available out there so that every working adult can be the best and most competent they can be at work and so that those children grow up feeling secure. I am tired of having young children say to me today that they do not think adults care about them in this country. If we leave them home alone without child care, it sends that message strongly. Those children end up on our streets, they end up in gangs, and they end up disillusioned as American citizens. We have to invest time and money and energy into child care through the child care development block grant so that we can raise a healthy generation of adults.

Finally, on the Healthy Start, we know when we take care of children and their health when they are young, that it will pay dividends in the future. One out of four children live in poverty. One out of four children are not getting the health care they need, not being taken care of. Guess where they will be when they grow up?

Madam President, it is essential that as adults on the floor of the Senate, we take the time and the energy and the resources to send our country in the right direction when we have the time and energy to do that. And that is now.

I applaud the Senator from Connecticut and the other cosponsors, and I urge this body to do what needs to be done. Those children were not in on the budget agreement. They were not there. They were not available to be there for the handshakes. We have to be on this floor to speak for them and speak loudly. I urge your support of this amendment.

I yield the floor.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Madam President, I am going to shortly yield the floor as well to my colleague from New Mexico, who is also a cosponsor of the amendment.

Let me just address the issue of how does this get paid for. We are not allowed specifically here to target revenue sources, but I have tried to lay out in the amendment where the revenues will come from.

One source is the foreign sales corporation, which most of my colleagues may be familiar with. This was set up back about 1981 or 1982, in fact, part of another budget agreement, done in a conference report. These are basically paper companies with very few employees, if any, in some cases that enabled American companies to exempt export income from U.S. taxation. That is about $24 billion over 5 years. The cigarette tax is another source here.

I cannot dictate a specific revenue source in this amendment—I am prohibited from specifically directing the Finance Committee. But it would certainly be my intention, as we stated here, to take the $14 billion over 5 years from those sources. If you took a little bit from the foreign sales corporation—you do not have to take all of it—some from the cigarette tax increase, it would be easy to pay for this amendment to provide for full funding for Head Start, child care, and Healthy Start programs.

My colleague from New Mexico is here, and I yield, Madam President, 5 minutes to my colleague from New Mexico.

Mr. BINGAMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Madam President, I appreciate the opportunity to speak on behalf of this amendment by the Senator from Connecticut.

I think, to put this in context, at least as I see it, this budget resolution is a blueprint for taking us into the next century. It sets out our priorities as a nation as we go into the next century, what we think it is important to spend our resources on, and what can we justify to the people who elect us in our States for spending resources on.

I believe very strongly that we can justify to our constituents, to those who vote for us and those who vote against us, we can justify to any of them the additional expenditure for the Head Start Program that the Senator from Connecticut is recommending here.

I look at my home State and the inadequate funding that we have for Head Start there, and it is a great concern. Let me give you a few specifics. In a State like mine, New Mexico, for example, 16 percent of the eligible children under age 5 are enrolled in Head Start. That is in the 1995 fiscal year. The national average is around 20 percent; in my State, it is 16 percent. There are only 1,000 of the 8,000 eligible children that are being served by Head Start in our principal city of Albuquerque, NM, which is about 12 percent of the eligible children in Albuquerque being served. I had the good fortune of visiting a Head Start center and was impressed by the opportunities being offered to those young people, but for them to tell me there are 8,000 eligible students or eligible children who are not able to participate in Albuquerque, I think, is a real concern.

Despite the clear need and several proposals to obtain funding that received higher ratings, my State has no early Head Start programs. The early Head Start programs are for the students that are less than 3, as I understand it, and there are some of those around the country but very few. We will have another amendment later on in the budget debate here about the importance of early childhood education and the tremendous impact of trying to work with children from the age of birth until 3 years old. Early Head Start programs provide, fill a need

there, and we are doing too little. In my State, we have no, absolutely no early Head Start programs.

Increasing Head Start participation to 1 million children by the year 2002, as has been proposed in the resolution, would only increase participation by about 200,000 children, as I understand it. We need to add 1 million children to Head Start, not reach the total of 1 million by the year 2002.

For these reasons, I am glad to cosponsor the amendment of Senator DODD, and glad to speak on behalf of this amendment.

Let me say we need to recognize here on the floor, we have a lot of talk about what we can afford and what we cannot afford. We are the wealthiest nation in the world. We have the largest economy of any nation in the world. We are able to afford what we determine is a priority in our country.

Unfortunately, we have not determined that it is a priority to fully fund Head Start. This amendment would correct that very major defect in this budget resolution. I strongly support it. I urge my colleagues to vote for the amendment.

MODIFICATION OF AMENDMENT NO. 296

Mr. DODD. I send a modification of my amendment to the desk.

The PRESIDING OFFICER (Mr. BROWNBACK). The amendment is so modified.

The modification is as follows:

On page 8 on line 13 after ''loophole,'' insert ''increases in the cigarette tax,''.

Mr. DODD. Briefly, Mr. President, the modification, as I pointed out a moment ago, obviously, under the way the budget agreement is struck here, we cannot dictate to the Finance Committee where revenues—that is up to the committee to decide. I listed various tax cuts that might be modified or increased to pay for the amendment. You have to offset it. I have listed a number at the end of the amendment. I have added the cigarette tax as one that could also be considered, obviously. So that is the modification I sent to the desk. I listed a couple of those already.

As I said earlier, I think this agreement is a pretty good agreement. I began my remarks in offering the amendment by suggesting that I thought the members of the Budget Committee and others have done a good job, certainly, in this process, and the reason we are debating and voting is we have to offer our own ideas to it. My colleagues may reject the idea or accept the idea.

I happen to believe that by doing a bit more, a little under $3 billion each year over the next 5 years, in Head Start, in child care, in Early Start, in Healthy Start, is in the best interests of our country. By doing so, by adding a bit more to the cigarette tax or lopping off some of the foreign sales corporation, a program that I think, in fact, we voted on, the billionaire tax cut I listed, 96 Senators voted, 1.6 billion it would bring in. Many times we voted on it. It is there. There are resources that would not in any way get to the issue of middle-income tax cuts that are also included as part of this agreement which I would support.

Mr. HARKIN. Mr. President, there is no issue of greater importance to our country than the education of our citizens. The budget before us calls for modest new investments in education over the next 5 years by increasing resources for education and training programs. In addition, the budget provides tax credits and deductions to middle income families to help pay for postsecondary education as outlined in the budget resolution. I fully support those initiatives. However, I believe we can and must do better.

Several years ago I read a report by the Committee on Economic Development. This is a group of CEO's from some of our Nation's largest companies and they called on us to fundamentally change how we think about education. They said education is a process that begins at birth and that preparation must begin before birth. They called on the Federal Government to make additional investments in early intervention activities such as Head Start. I believe we should heed their words.

The pending amendment makes these investments to ensure the readiness of all children and I want to commend Senator DODD for his leadership.

Last month, at my request, the Labor, Health and Human Services Appropriations Subcommittee held a hearing focusing on the importance of early childhood education. That hearing was on the eve of the White House conference on early learning and the brain which highlighted this most significant issue of the education of our youngest children.

Over the past several months we have been reading a great deal about research on the brain and the implications for the education and development of young children.

The research provides the scientific evidence which validates what many parents and children's advocates have been saying for years—the greatest potential for learning happens during the first years of a child's life. Therefore, we need to make sure that all children have rich learning experiences during that critical time.

The first National Education Goal states that by the year 2000, all children will start school ready to learn. I strongly support all of the goals, but believe that the first goal is essential for achieving the rest of our national goals. Without a strong foundation in the early years, children, particularly children from low-income families, start school behind their peers school and often find it very difficult to catch up.

Early intervention also makes good economic sense. Studies tell us that each dollar invested in high quality early childhood education programs such as Head Start saves $7 in future costs by increasing the likelihood that children will be literate and employed rather than dependent on welfare or engaged in criminal activities. However, less than half of the 2.1 million children eligible for Head Start participate. With the additional resources provided by the Dodd amendment, Head Start will be fully funded in 2002. That's a goal that is long overdue.

The most perplexing problem for working families is the availability and affordability of high-quality child care. In Iowa, 67 percent of children under the age of 6 have all parents in the labor force. The cost of child care overwhelms the modest budgets of most working families since the care for one young child can cost as much as $4,000 per year. Availability of subsidies for working families are vital to helping many of these families stay off of welfare and the pending amendment provides an additional $7.5 billion over the next 5 years for this purpose.

Finally the amendment increases funding for the Healthy Start Program. This initiative provides grants to areas with high rates of infant mortality to decrease the incidence of infant deaths. The additional will help sustain the gains made in those places and help disseminate information on successful interventions for other areas.

Mr. President, we must not lose sight of the importance of investments in the education of young children. After all, high quality educational activities during a child's first years often alleviates the need for more expensive interventions later in life. I hope that we will be able to work together to create the infrastructure which truly redefines how we view education—as a process that begins at birth, with preparations beginning before birth.

This amendment significantly increases investments for these vital early intervention initiatives and pays for these investments by closing several tax loopholes.

I urge my colleagues to support the Dodd amendment and yield the floor.

Mr. DODD. Mr. President, I ask unanimous consent that Senator HARKIN be added as a cosponsor.

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

Mr. SMITH of Oregon. Would the Senator from Connecticut call for the yeas and nays?

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

The PRESIDING OFFICER. Is there a sufficient second?

Mr. DODD. Reserving the request, I withhold, and 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. SMITH of Oregon. I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. SMITH of Oregon. I ask all time be yielded back from our side.

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

All time is yielded back.

Mr. SMITH of Oregon. The DODD amendment is not germane. Pursuant to section 305 of the Budget Act, I raise a point of order against the amendment.

Mr. DODD. This is not in line, I do not believe, on this particular amendment. There are no budget increases in the first year. I changed the amendment, and my colleagues may not have been aware of it, to comply.

Mr. SMITH of Oregon. It is my understanding from the Parliamentarian that——

The PRESIDING OFFICER. The question is on the motion. There is 1 hour equally divided.

Mr. DOMENICI. Parliamentary inquiry, Mr. President. This will take 60 votes to waive the nongermaneness, will it not?

The PRESIDING OFFICER. That is correct. The Senator from New Mexico is correct.

Mr. DOMENICI. Unless you need further time, we do not need time. We can have the vote.

Mr. DODD. My point was, I say to my colleague from New Mexico, to try to avoid a point of order is the reason we modified the amendment. I am happy to make this a sense-of-the-Senate resolution, and I think that would then get us away from the point-of-order issue, and I would so modify my amendment to make it a sense-of-the-Senate resolution, in which case we can avoid.

Mr. DOMENICI. Have the yeas and nays been ordered?

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

Mr. DOMENICI. I do not believe he can amend, can he?

The PRESIDING OFFICER. It would take unanimous consent to modify.

Mr. DODD. Mr. President, I ask unanimous consent if I can modify it to make it a sense of the Senate.

Mr. DOMENICI. I object.

The PRESIDING OFFICER. The objection is heard.

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

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

Mr. DOMENICI. Mr. President, parliamentary inquiry: What is the status in the regular order at this moment?

The PRESIDING OFFICER. The question is on the motion to waive the Budget Act. The Senator from New Mexico has 20 minutes.

Mr. DOMENICI. Have the yeas and nays been sought on the motion?

The PRESIDING OFFICER. No. They have not.

Mr. DOMENICI. Mr. President, it is my understanding that the sponsor of the bill would like to—and the manager of the bill on this side with the consent of Senator LAUTENBERG on the minority side—propose to the Senate a solution to this problem which would expedite the matter.

We would like to proceed—and I ask unanimous consent that we do this—that we vitiate the motion and we vitiate the germaneness statement; that the Senator be permitted to modify his amendment; that we will not make a germaneness point of order; and that we will proceed after about 5 minutes—and I will say who gets the 5 minutes—to move to a motion to table the amendment; and the yeas and nays will be ordered on that, and the first vote will then be on the motion to table this amendment.

The PRESIDING OFFICER. Is there objection?

Mr. DODD. Reserving the right to object, I apologize to my colleague from New Mexico. What was the last part?

Mr. DOMENICI. That when we rid ourselves of the germaneness and the motion to waive it, we will be back on the amendment of the Senator from Connecticut. And I will then move to table it, and the Senator from Connecticut will ask for the yeas and nays, which we will grant, obviously, and we will vote on a tabling motion to the Senator's amendment without a germaneness defense being asserted.

Mr. DODD. There will no other points of order raised. I will just offer the amendment as proposed with the modification.

Mr. DOMENICI. I think we are just permitting the Senator from Connecticut to make it as it is and not raising the germaneness issue.

Mr. DODD. I accept that. I would prefer we didn't have a tabling motion. But I respect my colleague.

Mr. DOMENICI. I suggest that we ought to have 3 or 4 minutes.

Mr. DODD. Let me have a quorum call so that I can make sure we have the modification correctly.

Mr. DASCHLE. Mr. President, perhaps as the amendment is being reworked, maybe I can comment very briefly.

This is one of those very difficult circumstances that I am sure the majority leader and I are going to find ourselves in throughout this debate. I am very enthusiastic about the subject matter, about the issue, about the amendment. I would in any other set of circumstances be a cosponsor of it. I applaud the Senator for raising the issue.

But because it falls outside the parameter of the agreement of this budget I am going to oppose this amendment under these circumstances.

Again, I regret that I have to do that. But that is the agreement that we have enjoined, and I am going to try to adhere to that agreement throughout this debate.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Mr. President, I thank the distinguished Democratic leader for making that statement at this time. I intend to do the same thing as we go forward.

When we have amendments that change the basic content of the budget agreement, as this one does, which would provide for changes in the tax provisions, to have tax increases in the code, and move that over into funding programs at a level above what was included in the budget agreement, we think that would be outside the agreement. And, while there are a number of Senators led by the Democratic leader who see an attractiveness in it, I think this is the right thing to do.

We were trying to be cooperative by not going through the waiver of a point of order. But we will have the vote on the motion to table.

It would be my intent to take the same position when amendments are offered of this nature from our side of the aisle.

I think it is important that the two leaders on both sides make it clear that we are going to try to stick with this agreement as we go forward in the next 2 days.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

MODIFICATION NO. 2 OF AMENDMENT NO. 296

Mr. DODD. Mr. President, I send the modification to the desk.

The PRESIDING OFFICER. The amendment is so modified.

The modification No. 2 is as follows:

On page 8, line 5 after ''that'' add ''the assumptions underlying the budget resolution assume that,''.

Mr. DODD. I think this modification of the amendment conforms with the conversation that I had with the Parliamentarian.

Mr. DOMENICI. Has the modification been accepted?

The PRESIDING OFFICER. The modification has been accepted.

Mr. LAUTENBERG. Mr. President, a brief moment: That is to say, with great reluctance I am going to oppose the amendment offered by the Senator from Connecticut. He has a long and distinguished record on matters affecting children and their well-being.

I have also been a supporter of those programs that protect America's children to try to help them develop into functioning citizens.

But we do have an agreement that was hammered out, if I can use the expression, in great pain with a great pain in many cases over many weeks of hard work.

I just make the point that I commend the Senator for his interest, his continuing interest in the well-being of our children in the country, and that I again acknowledge regretfully that in my position here I am going to be opposing the amendment.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I ask unanimous consent to be added as a cosponsor.

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

The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I ask that I be permitted to speak for 2 minutes after which we will vote, unless the Senator wants a minute.

Mr. DODD. I will take 30 seconds.

I respect immensely both my leaders, the chairman and the ranking member of the Budget Committee, and their positions on all of this. I understand their positions. I understand as well that, as Senators, we all have a chance to modify this resolution, hopefully without doing damage to the underlying agreement.

This resolution is a 5-year commitment to our country. I thought it should also be a stronger 5-year commitment to our children.

It seems to me that in the midst of everything else going on here, shifting around a little bit to accommodate those needs is very little to ask for America's kids.

I understand again the leadership position on it. I respect it. I offered the amendment. I am one who supports this agreement, by the way. I am not out here to undo it. I simply want to make it better with this amendment.

I regret that the leadership will oppose this amendment. But I respect that position, and urge my colleagues to support the amendment when the tabling motion is made.

Mr. DOMENICI. Mr. President, because there will be a lot of people supporting my motion to table, I do not want them to feel the least bit embarrassed about doing that because, as a matter of fact, this agreement that is before us contains every single nickel that the President of the United States asked for in terms of Head Start—$2.7 billion. That is what he asked for. It is a priority item. It must be funded. And you can't do better than that.

We have a good record in the U.S. Congress in terms of child care. Mr. President, $1 billion was added last year, and $4.1 billion in the welfare bill.

So those who support my motion are, indeed, doing that with the full cognizance that the U.S. Congress and the President have done right by these programs over the last 2 years, and intend to do even better by them without the Dodd amendment when it is tabled tonight, because we are going to leave that $2.7 billion in. It is in the agreement right now.

With that, Mr. President, I move to table the Dodd amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from New Mexico to lay on the table the amendment of the Senator from Connecticut.

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

The legislative clerk called the roll.

The result was announced—yeas 61, nays 39, as follows:

[Rollcall Vote No. 72 Leg.]

YEAS—61

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

NAYS—39

Akaka	Feinstein	Levin
Biden	Glenn	Lieberman
Bingaman	Graham	Mikulski
Boxer	Harkin	Moseley-Braun
Bryan	Hollings	Moynihan
Bumpers	Inouye	Murray
Byrd	Jeffords	Reed
Conrad	Kennedy	Reid
D'Amato	Kerrey	Sarbanes
Dodd	Kerry	Specter
Dorgan	Kohl	Torricelli
Durbin	Landrieu	Wellstone
Feingold	Leahy	Wyden

The motion to lay on the table the amendment (No. 296) was agreed to.

Mr. DOMENICI. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Mr. President, I would like to propound ask a unanimous-consent agreement now which would say we would not have any more recorded votes until 7:45, but we would have two at 7:45.

So I ask unanimous consent the next two amendments in order to Senate Concurrent Resolution 27 be an amendment to be offered by Senator ALLARD and an amendment to by offered by Senator HOLLINGS, that no amendments be in order to either amendment, and at 7:45 this evening, the Senate proceed to vote on or in relation to the Allard amendment, to be followed by 2 minutes for debate, to be followed by a vote on or in relation to the Hollings amendment.

Mr. LAUTENBERG. We have no objection.

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

Mr. LOTT. I further ask all time between now and 7:45 p.m. be equally divided between the two amendments in the usual form, with Senator ALLARD's amendment being offered first.

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

Mr. LOTT. For the information of all Senators, it would be the intention, I believe, of the managers of this legislation, to proceed, then, to continue to work on some other amendments that would be voted on in the morning. But, for now, these would be the two votes stacked at 7:45, and they would be the last recorded votes tonight.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition? The Senator from Colorado.

Mr. ALLARD. Mr. President, I request order.

The PRESIDING OFFICER. There will please be in order in the Chamber.

AMENDMENT NO. 292

(Purpose: To require that any shortfall in revenues projected by the resolution be offset by reductions in discretionary spending)

Mr. ALLARD. Mr. President, I send the amendment to the desk.

The PRESIDING OFFICER. Could we please have order in the Chamber? The Senator is proposing an important amendment and deserves to be heard.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Colorado [Mr. ALLARD] for himself and Mr. INHOFE, proposes an amendment numbered 292.

Mr. ALLARD. 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 title II, add the following:

SEC. . OFFSET OF REVENUE SHORTFALLS BY DISCRETIONARY SPENDING REDUCTIONS.

(a) POINT OF ORDER.—It shall not be in order in the Senate to consider any concurrent resolution on the budget for fiscal year 1999, 2000, 2001, or 2002 that provides a revenue total for any of those fiscal years below the levels provided in this resolution unless the discretionary budget authority and outlay totals in that resolution are reduced to offset the amount by which revenues are below the levels provided in this resolution.

(b) WAIVER.—This section may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn.

(c) APPEALS.—Appeals in the Senate from the decisions of the Chair relating to any provision of this section shall be limited to 1 hour, to be equally divided between, and controlled by, the appellant and the manager of the concurrent resolution, bill, or joint resolution, as the case may be. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

(d) DETERMINATION OF BUDGET LEVELS.—For purposes of this section, the levels of new budget authority, outlays, new entitlement authority, and revenues for a fiscal year shall be determined on the basis of estimates made by the Committee on the Budget of the Senate.

The PRESIDING OFFICER. The time on the amendment is limited to approximately 25 minutes.

The Senator from Colorado.

Mr. ALLARD. Mr. President, I again thank the chairman of the Budget Committee and the ranking member of the Budget Committee for their hard work in putting together this agreement. I still have one overriding concern. I think there are a number of Members in the Senate that share my concern about what happens if the revenues we are projecting do not hold up over the years.

Mr. President, I share the concern that as we move through our economic cycles, the projected revenues in this budget agreement may not hold up. So I think it is a very legitimate question for us to ask ourselves, what happens if the revenues do not hold up to this agreement? Potentially, we could find ourselves back at the negotiating table, working hard to reestablish those priorities set up in the original agreement because the revenues were falling short.

Mr. President, I ask you bring the Senate to order.

The PRESIDING OFFICER. The Senator is correct. Can we please have order in the Chamber?

The Senator from Colorado.

Mr. ALLARD. Mr. President, I think it is important that we move toward our goal, that we continue to eliminate the deficit by 2002. The amendment that I am offering considers that if the revenues do not come in as projected, then there will be an automatic adjustment that would occur through the procedure set forth to hold down spending and keep the deficit from increasing.

We all recognize that the economy goes through cycles. As a member of the House Budget Committee several years ago, I felt the figures coming out of the Congressional Budget Office, built on the first 2 or 3 years prior to that, were good numbers. But I have a feeling that we are reaching the top of our economic cycle and that at some point in time we will be forced to address the problem of not meeting our projected revenues.

This amendment tries to address that problem. Today, the economy is strong. People have jobs and the stock market is surging. History tells us, however, that this is not always the case. Unfortunately, the budget resolution assumes economic growth over the next 5 years that is unmatched in this country's history.

The Congressional Budget Office has provided Congress with a series of revised revenue forecasts, all pointing to future economic growth. In fact, balancing the budget is $629 billion easier now than last year at this time. If these revenues do not materialize, then all of our hard work will be lost to increasing deficits. I do not want this hard work to be lost. That is why I have introduced my amendment today.

The concept behind my amendment is simple: Provide a means to reduce spending within this budget agreement if real revenues fall short of those projected. This amendment will decrease discretionary spending in proportion to the revenue shortfall. This would help ensure that the budget remains on the glidepath to balance by the year 2002.

I am well aware of the historic nature of this agreement and would like to back the resolution with my undivided support, but I cannot mortgage the future of my children and grandchildren on Congressional Budget Office revenue forecasts. We should make sure that the document before us today has a mechanism to secure deficit forecasts. I do not believe that this change alters the intent of the agreement, but rather enhances its ability to react to changes in the economy, changes we may never see. But we cannot be shortsighted in this matter. If we are going to craft legislation to blueprint the next 5 years, let us be smart enough to realize that we cannot see into the future. Let us be smart enough to include language that allows this agreement to react to future changes.

I believe we can and should do more. We should do more in the form of tax relief for the American family, more in the form of tax relief for the family farmer, more in the form of reducing waste and duplication within the Federal Government. But I also believe that we can do more in future budget debates.

My amendment is not to serve as a protest, but rather a constructive improvement to a realistic budget compromise. I served on the Budget Committee in the other body and realize how difficult it was even to get to the point where we are today. But this cannot preclude us from holding true to our commitments. This amendment locks in nothing but our commitment to balance the budget.

My greatest fear is that reduced future revenues will unravel this agreement, just as we have seen with similar resolutions in the past. This amendment allows for future economic changes and would only strengthen the budget resolution.

The people of Colorado sent me to Washington to balance the budget and, in the process, make sure that any budget agreement keeps the Federal budget on a glidepath to balance. I ask that my colleagues hold true to balancing the budget and support this amendment.

I yield my time.

The PRESIDING OFFICER. Who seeks recognition?

Is the manager opposed to the amendment?

Mr. DOMENICI. The manager is opposed to the amendment.

The PRESIDING OFFICER. Then the manager controls time in opposition.

Mr. DOMENICI. Then I yield to Senator LAUTENBERG as much time as he wishes.

Mr. LAUTENBERG. I thank the manager. I think, just to ask a parliamentary question, when there is time for an amendment, that time is automatically divided between the two sides regardless of which side is being spoken for?

The PRESIDING OFFICER. When an amendment is proposed, half of the time is controlled by the proponent of the amendment, the other half is controlled by the majority manager if he is in opposition, and if he is not in opposition, then the minority manager will control that time.

Mr. LAUTENBERG. Mr. President, now that that is resolved, this amendment would force a cut in discretionary programs, if I read the amendment correctly, if projected revenues fall. That means that we would be putting national security at risk as well, because we would be taking it from defense as well as from discretionary accounts. That hardly seems the way, in my view, that the country ought to be doing business.

There may be circumstances that we cannot possibly imagine at this juncture, and apart from the basic rule of saying, look, this falls outside the understanding that, again, was negotiated at length, this means that if the economy falters, critical programs, in addition to defense, would be cut. It might be a time when, if things suddenly start turning tough, you might want to make other decisions. This would tie our hands and not enable us to consider these things as expected, and there are many other conditions that might be considered.

Would the Senator from Colorado suggest, if revenues fall short, that taxes ought to be increased? I hardly think so. I will not bother the Senator for a response to that; I will answer for him, taking that liberty. I just want to make the point that an agreement has, again, been negotiated, considering all prospects—revenues, expenditures, firewalls, protection of defense, development of discretionary accounts—again, through long, arduous discussions. While I think there are probably a number of people who would like to change the agreement, the fact is this represents a consensus point of view, and we are going to oppose the Senator's amendment and hope that the manager will agree with us that the amendment is going to be opposed. I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I thank the Chair. Mr. President, yes, I do oppose the amendment, and let me tell the Senate why. First of all, I think everybody should understand that revenues are not the only thing we estimate in the budget. We estimate the economic growth, we estimate the inflation, we estimate the unemployment, and, frankly, all of them are estimates. We also estimate the amount of revenues that are coming in.

Might I suggest, it is very interesting, during this recovery, which is not an enormously high recovery in terms of gross domestic product growth, it

has been an enormous yielder of revenues. Revenues have been coming in for 4 successive years at much higher than the Congressional Budget Office ever assumed, and, frankly, we have been saying the OMB is too generous, it has even been coming in higher than they have assumed.

On the other hand, the economic growth, the gross domestic product, has come in higher than estimated by either OMB or CBO. Now, the best you can do in a budget resolution is get the information regarding those factors that you do not have control over, how much revenue is coming in, how fast are we going to grow, what is the inflation rate going to be, how much unemployment are you going to expect and the other myriad of indicators of economic significance to the country.

Why we would just take one, revenues, and say if revenues do not meet the expectation, that we would then set about to do what? To cut the appropriated accounts.

Let me remind everyone, the appropriated accounts are now about 33 percent of the budget, and guess what they are, Mr. President? Half of them are defense—about half, almost split in the middle—and half are all the rest of the domestic programs. But how about this? What about the 67 percent of the budget that are the entitlements and mandatory programs and all the other things?

It would seem to me if you are going to have some kind of automatic adjustment—we tried this before and it has never worked—but if you are going to have one, then you ought to do it to everything. Why would you pick out defense, and it essentially is going to get half the cut if such is necessary? I do not think that is fair. Right off the bat, I would oppose this amendment on that alone.

There are others who say, ''If you only do defense, we will support you, Senator from Colorado, and leave out the domestic.'' But the point of it is, you are not going to be absolutely accurate when it comes to estimating. You are not going to be absolutely accurate. You do the very best you can, and then you make the alterations year by year if such are required.

I have even reached the point where I think you ought to make the alterations every 2 years. That is what I think about estimating. Having to go through budgets and appropriations, I think it ought to be every 2 years rather than one.

I do commend the distinguished Senator from my neighboring State of Colorado. He is a new Senator, and he knows a lot about putting budgets together. He knows a lot about putting reserve funds in place so that you come out right, because he has told me about them in his State of Colorado, a good conservative State that knows how to budget.

Frankly, it is very difficult to be that accurate with our National Government's budget the size it is, since we have so many programs that, if you change the economic growth just a little bit, then the unemployment compensation goes up a whole bunch and we have a lot of indicators, a lot of things that are related to this estimating that we cannot be certain of, other than look back after we have done it.

Incidentally, we have even done that. We have even said that, if that is the case, let's look back and correct it retroactively. I am not for that either. I am for being conservative in the estimating, and we have been as conservative as you can be in this budget. We have used the economic assumptions of the Congressional Budget Office in terms of growth, in terms of all the other important indicators, and I believe that that is among the lowest and most conservative set of estimates out there. I think blue chips' is higher than that. I think OMB is higher than that. Most of the major companies who do it have higher ones than we do. I think we are protecting the integrity of this budget as best we can by using that approach.

Once again, I commend my friend and colleague and neighbor for being genuinely concerned and targeting some of the issues that we might look at more carefully and try to handle in a better way.

Let me suggest that the only other amendment after my good friend from Colorado completes his argument is Senator HOLLINGS' amendment. I kind of made a mistake. I thought we were going to have a full half hour, starting at 7:30, for Senator HOLLINGS, but it looks like we are going to vote at a quarter of. So I hope if somebody can get hold of him and get him here earlier—I will not use much time in opposition to his amendment, so he will have all the time once he gets here until the vote. I yield the floor.

Mr. ALLARD addressed the Chair.

The PRESIDING OFFICER (Mr. SESSIONS). The Senator from Colorado.

Mr. ALLARD. Mr. President, how much time do I have left?

The PRESIDING OFFICER. Seven minutes.

Mr. ALLARD. Mr. President, I again compliment the chairman and ranking member. I know they have worked hard with the best figures they had. I come from a State, the State of Colorado, that has a balanced budget amendment. I have been involved in the legislative body in the State of Colorado when we went through good years and bad years. During those good years, you look back and you build your budget based on what you think is going to happen at some future point in time.

The fact is, we do go through economic cycles, and despite the best of intentions and how valid our figures are today, those cycles are unpredictable. I think at one point in time we will have an economic downturn. This Congress needs to be prepared to address those unforeseen circumstances.

The point of my amendment addresses when those unforeseen circumstances do happen, when revenues coming in do not meet what was forecast and we have a spending level up here and maybe the revenues are coming in lower than expected, we just bring down the spending level and say that we need to adjust our figures in the baseline so that our budget reflects the change in economic conditions in this country. I think it is a commonsense type of amendment, and I ask the Members of the Senate to vote yes on this amendment. I yield the floor.

Mr. DOMENICI. Is the Senator finished?

Mr. ALLARD. I yield the floor, and if the Senator from New Mexico is willing to yield back his time, I will yield back my time.

Mr. DOMENICI. The Senator from Colorado should not yield his time because we might get back to his amendment for a little bit. We are waiting for Senator HOLLINGS, and if the Senator doesn't mind, Senator DURBIN would like to speak in opposition for a couple minutes.

Mr. ALLARD. That will be fine.

Mr. DOMENICI. I yield 5 minutes to the distinguished Senator from Illinois.

Mr. DURBIN. Mr. President, I thank the Senator for yielding.

Not being a high priest on the Budget Committee, I am not bound by sacred oath to the agreement, but I stand in opposition to this amendment. I believe that the Senator from Colorado has raised an important issue.

We can see the fact that the economy has moved forward very nicely over the last 4½ to 5 years. Those on the Democratic side take particular pleasure in saying that, but regardless of the reason, we are happy the economy has moved forward. As the Senator from New Mexico has mentioned, it has generated more jobs, more revenue and, in fact, more economic growth than even some of the experts suggested.

If I follow the suggestion of the Senator from Colorado, he is saying that if at some future date the economy has a downturn, revenues to the Federal Government decrease, he would want us to cut spending programs to match those cuts in revenue. I stand in opposition to that for one very obvious reason.

Since the late 1940s, we have noticed a very positive occurrence in the economy of America. As we have gone into recessions, we have not seen those deep spikes that we had in years gone by. The recessions have been milder, there has been less unemployment, less dislocation by businesses and families. It is no accident. It is known as automatic stabilizers, things in our Government and in our economy that step in in times of recession to try to bring us back into a time of economic expansion.

For instance, if we have a recession and a business lays off workers, there are Government programs available to help that working family get back on its feet. We have training programs, we have education programs, we have safety net programs, whether it is food

stamps or unemployment compensation, to make sure that family doesn't fall even deeper, but rather to keep them in a position and poised ready for retraining and reemployment, and it has worked.

With these automatic stabilizers and this Government spending, we have managed to moderate recessions. The Senator from Colorado has suggested we remove the stabilizers. If you have a recession, if you have a downturn, if your Government revenues have been reduced, then cut spending. Well, what about the family that needs a helping hand? ''I am sorry, there is not enough Federal money to go around.''

We are more determined to balance the budget than recover from a recession under the Senator's amendment, and I think that is a mistake. We do not want to see a downturn in the economy become a recession. We certainly do not want to see a recession become a depression. The Senator's amendment would make economic circumstances even worse for the families out of work, worse for the businesses that have had to close, worse for the family farmers who have had to give it up.

I would think that the Senator would want to go in the opposite direction. We would want to get the American economy moving forward again, help those families back to work, help that business back on its feet, help those farmers, if we can, and the ranchers as well. But the Senator's amendment would have exactly the opposite effect. As a recession hits, revenues go down, the Senator would say spend less and bring the economy back to its feet. I think that is the wrong, wrong medicine.

As important as a balanced budget is, it is more important for America to have an expanding economy, to recover from a recession, and to have the wherewithal to do it. So I respect the Senator for his suggestion, but I respectfully disagree with his point of view.

I yield back the remainder of my time.

Mr. ALLARD addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado has 3½ minutes.

Mr. ALLARD. How much time remains?

The PRESIDING OFFICER. There are 3½ minutes remaining.

Mr. ALLARD. Mr. President, I would like to respond to the comments made on the floor about our economy and what happens if we go through an economic downturn.

First of all, I think the biggest burden that the farmers and small businesspeople and the average American family has to deal with in today's world is this huge Federal debt that we are facing. When you look at the amount of interest that we are paying on that debt and the potential liability to the budget, I believe—and this is a fundamental difference being discussed here on the floor of the Senate—but I happen to believe that the most important thing we can do to help our economy, to help the farmers of this country, to help the small businesses and help the homeowner, to help the family businessperson, is to get that burden off their shoulders.

If you are born today, you are born with a $20,000 debt which each individual in America burdens. How did we get to this point? We got to this point because of the very arguments we just heard on how we need to continue to spend more and more believing that it is going to help our economy. But inevitably we are going to have to pay the price.

If we do not make the decisions today, the tough decisions today, we are going to have to make them tomorrow. If we do not make those tough decisions, then our children and grandchildren are going to have to pay the price. And I think that is unforgivable. I think it is morally wrong to pass those tough decisions off to the next generation.

I happen to feel that this is an important amendment because it is holding the Congress accountable, both the House and the Senate. I am saying that if revenues do not measure up, we reduce spending. We have some flexibility in there to protect the most needed programs. I think it is a commonsense amendment. I think it holds true to the agreement generally and the fact that we will hold our priorities together that were agreed upon between the President and the Congress. I think it is a good amendment, and I ask for an aye vote.

The PRESIDING OFFICER. All time has expired on the amendment.

Mr. DOMENICI. Has all time expired?

The PRESIDING OFFICER. Time has expired.

Mr. DOMENICI. For both sides?

The PRESIDING OFFICER. Both sides.

Mr. DOMENICI. This vote will not occur at this time.

Parliamentary inquiry. May I move to table it at this point?

The PRESIDING OFFICER. The Senator may make that motion now, and the vote will occur at 7:45.

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

The PRESIDING OFFICER. Is there a sufficient second? There appears to be.

The yeas and nays were ordered.

The PRESIDING OFFICER. Under the previous order, the amendment is set aside, and the Senator from South Carolina is to be recognized to offer an amendment.

Mr. DOMENICI. Mr. President, Senator HOLLINGS is the one we have the consent for. He is not here, but he is coming.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. HOLLINGS. Mr. President, I understood from the distinguished chairman of the Budget Committee I have 30 minutes.

Mr. DOMENICI. I say to the Senator, we vote at a quarter of. You have the time from now to a quarter of.

Mr. HOLLINGS. You said vote at 8 o'clock when I left the floor.

Mr. DOMENICI. The leader asked for 7:45.

Mr. HOLLINGS. I ask unanimous consent that I have 30 minutes.

Mr. DOMENICI. I will not object.

Mr. HOLLINGS. I thank the distinguished chairman.

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

AMENDMENT NO. 295

Mr. HOLLINGS. Mr. President, I have an amendment at the desk and ask the clerk to report it.

The PRESIDING OFFICER. The clerk will read the amendment.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS] proposes an amendment numbered 295.

At the appropriate place, insert the following: ''Notwithstanding any other provision of this resolution, all function levels, allocations, aggregates and reconciliation instructions in this resolution shall be adjusted to reflect elimination of tax cuts of $85 billion from baseline levels and elimination of Presidential initiatives of $31.2 billion and interest savings of $13.8 billion for a total saving of $130 billion over five years.''

Mr. HOLLINGS. Mr. President, this amendment does away with the sweetheart deal that will continue to increase the deficit instead of decreasing the deficit that current budget laws allow. We have had 5 years of decreasing deficits. This amendment continues the decrease of the deficits and actually puts us on a steady path of a balanced budget with no deficit whatsoever by the year 2007.

I measure my comments and words because we have been engaged in an outrageous charade for 15 years now. I speak advisedly having been on the Budget Committee since its institution and as a former chairman of the Budget Committee. That is one of the reasons I wanted to try to cooperate with the distinguished chairman because he has a tremendous burden of moving this bill along. It was not my intent to hold the legislation up, but to bring into sharp focus the situation we have created for the American people.

I supported and worked on a balanced budget in 1968 with the chairman of the Senate Appropriations Committee. We did not have a Budget Committee. We called over to the White House to ask President Lyndon Johnson if we could cut another $5 billion so that we could make sure that we had a balanced budget. And he said, ''cut it.''

Mind you me, Mr. President. We had the war in Vietnam: guns. We had the Great Society: butter. Guns and butter. President Lyndon Baines Johnson was

awfully sensitive about paying the bill. Wherein, we have no idea in this particular budget resolution of paying the bill. It is a sweetheart resolution, much like we had back in 1985.

In 1985, the Republicans, to their credit, brought former Senator Pete Wilson to the floor in great pain. Senator Wilson had had an appendectomy, and they brought him in at 1 o'clock in the morning on a stretcher, and they voted to freeze spending, Social Security, and the other particular matters at the time.

We went over early the next morning to see President Reagan. At that particular time, President Reagan said, ''Now, gentlemen, before we start''—we were all gathered around the Cabinet table —he said, ''I want to tell you, I had a little visit from the Speaker last evening, Speaker O'Neill.'' And we went outside there, you see right underneath that tree, and we had a little toddy, and we talked along, and we finally agreed. The Speaker said, ''I'll take your defense if you take my Social Security entitlements.''

I can see Senator Dole now. He threw down the pencil on the Cabinet table and he said it was a whole waste of time.

We faced the fire. We did the job that was necessary. So did Senator DOMENICI. He remembers it. So there was a swap.

Now, here 12 years later in 1997, we have a swap. President Clinton says, ''I'll take your tax cuts if you take my spending increases.'' And then everybody races around and hollers ''balanced budget.'' But folks, there is no balance in this budget.

Like Patrick Henry might have said, ''But as for me, give me either a balanced budget or give me a freeze.''

Let me show you exactly what is going on here. What we have here are the actual budget realities. And underneath budget realities you can see, Mr. President, the budgets for every President, from Truman right on through President Clinton.

You see the United States budget, the borrowed trust funds in this particular column, what they call the ''unified deficit,'' which is the greatest deception of all. For years we have been acting like ''unified'' meant ''net.'' Necessarily, the Government has income. It also has spending. And the inference is this is a net deficit after you take it all in. Absolutely false.

The real actual deficit is really listed in this column, because this one here borrows the money and loots the trust funds.

We have been looting the Social Security trust fund, as of last year, $550 billion; by 1997, the end of this fiscal year, September 30, it will be $629 billion; and under this budget resolution they take another practically $500 billion, half a trillion bucks to $1.095 trillion.

They say, ''Oh, watch out here in the next century with the baby boomers. The baby boomers are coming. We used to have five or six workers per recipient or retiree. We're only going to have one worker per retiree.''

Do not watch the baby boomers in the next century. Watch the adults on the floor of the U.S. Senate. Watch the adults that are looting the fund. We are causing the deficit. And it is not any charismatic formula that changes now or in the next century. Incidentally, I voted and will continue to support Senator KERREY on doing something about entitlements. I am not messianic that you cannot touch entitlements. I voted already with the Danforth-Kerrey solution last Congress.

But be that as it may, we are using $1.095 trillion from the Social Security trust fund. We have been looting it. After 5 years, the military retirees fund will owe $173 billion and the government will say they ought to start contributing more. If there is any military retiree within the sound of my voice, watch out, because they are already doing this with civilian retirement funds. We have a full $422 billion surplus, and they are saying we have to increase the contribution. Why? If you increase the contribution it goes to the deficit, not civilian retirement.

It is the same with unemployment compensation and the highway trust fund. We are using $40 billion from the highway trust fund. I have been trying to get funding for a bridge in South Carolina. You can build a bridge in every one of the 50 States with the money we are using to reduce the deficit.

We are going to continue the airport tax to make way for a net tax cut. So we continue this tax for all the air travelers, but this money does not go to airports. It goes to reduce the deficit. It takes unmitigated gall to extend the airport tax, and then put it toward the deficit. In fact, you don't put it all toward the deficit. Some of it is put toward a tax cut for inheritance taxes or capital gains taxes. And everybody traveling in an airplane wonders why the planes are bumping into each other in the sky and the airport radar is broken down and communications go out and everything else—remember that we are solving the deficit in Washington. We are giving them a unified deficit instead of an actual deficit.

So turning to the resolution itself, Mr. President, I want you to show me in this document I hold in my hand—Calendar 55, Senate Concurrent Resolution 27—where it says the budget is balanced. Do not give me this nonsense about the conversation that is in the committee report. That is a farce. Look at the actual law, the actual resolution that we are going to pass. If you can find in here, by way of language that there is a balanced budget by the year 2002, I will jump off the Capitol dome. I made that particular charge 4 years ago with the chairman of the Budget Committee, and I have not had to jump yet. Why?

Just turn to page 2, line 23, under the heading of deficits. ''For purposes of the enforcement of this resolution'' it says, deficit for fiscal year 2002—$108.7 billion. Then turn the page and get the actual deficit. That only counts under the law of section 13301 about Social Security. But you see, you have all of the other trust funds in there. Anytime you want to add up the annual deficit, just subtract the annual increase of the debt from the present year. In other words, you go here to page 5 and you will find that we have a debt of $6,301,200,000,000 in 1997 but then for the fiscal year 2002 the debt has gone up to $6,473,500,000,000, a deficit of 172 billion bucks.

Why did they have to borrow? Because that is what the deficit is. Now you can see from this other chart that the deficit this year is $180 billion. That is after 5 years of deficits going down. Under this budget resolution, deficits go up in 1998, 1999, and the year 2000. They go way up. They do not go down. Just look at the figures.

So after 5 years, instead of a deficit of $180 billion, we will have a deficit of $172 billion. That is, if everything goes right. And then it is still back-end loaded, Mr. President. 72 percent of the spending cuts occur in the last 2 years. It is back-end loaded, as usual, and the back-end loaders will say that those Congresses can do it in the year 2001 and 2002. In any event, the deficit comes out $172 billion. That is according to the Committee's facts and figures.

What we have to do—and that is why I proposed this amendment—is see if we can just take the entire spending cuts and tax increases and just eliminate them. I want to be realistic. I would like to do away with the so-called spectrum auctions. These are totally out of the question. We got somebody to come in last year—and it was verified by the Chairman of the Federal Communications Commission—and say that we can get $2.9 billion from this spectrum auction. We had a spectrum auction 6 months later and we got $13.1 million. This is the kind of extreme exaggerated figures we are dealing with.

But aside from that, take all the figures in the work of the two Budget Committees and the agreement they have made. Eliminate the tax cuts and eliminate the spending increases—the Presidential initiatives—and steady as you go. If we can do that—that is what my amendment calls for—then you actually get a balanced budget. Government on a pay-as-you-go basis in fiscal year 2007. An honest budget. Truth in budgeting.

Mr. President, we have had conscience. That is why we came back after the Reagan deal with Tip O'Neill. We came back in here and we passed Gramm-Rudman-Hollings. I got it through over on this side over the objection of the majority leader, the majority whip, and the chairman of the Budget Committee. I got 14 votes up and down, the majority of the Democrats joined with the Republicans, in

1985, for that initiative. We could develop that kind of initiative now, instead of this sweetheart deal.

What good really has occurred as a result of the 1993 vote? Give President Clinton credit. And give this side of the aisle credit, because we could not get a single vote on that side of the aisle. They said they were going to hunt me down in the street and shoot me like a dog. Majority leader Dole said it would cause a recession and the world would end. I wish we had time to read those particular statements made by opponents of the 1993 plan.

Be that as it may, it worked. And that is the first President that has come around here in the past 15 years, since we started that Reaganomics, and has lowered the deficit.

To President Clinton's credit, he lowered the deficit in 1993, 1994, 1995, 1996, and we are in the fifth year of lowered deficits, and this particular instrument asks us to go turncoat and start increasing spending so that we can give the rich a tax cut. Inheritance taxes, capital gains taxes, and all of these other things. Somewhere, sometime, Mr. President, we have to tell the American people that we in the Congress have been giving them over 200 billion bucks a year in Government that we are not willing to pay for. We have been buying their votes.

They are talking about campaign finance reform: it starts on the floor of the U.S. Senate here this evening. If you really want campaign finance reform, quit using the subterfuge to the taxpayers of America and offloading the debt to future years and vote to do away. Keep us on a steady course, because that is exactly what we need to do.

We are moving this deficit over. I do not know if you can see this on the chart, come up here to President Kennedy. We had already had all the wars under President Kennedy, except the closing days of the war in Vietnam. We had Korea, the world wars, the Revolutionary War and everything else, and we only ran up a debt that cost us $9 billion in interest costs. Now, it is projected by CBO to be $359 billion. So you can see where we have come.

We are spending $360 billion more—for what? For waste. The crowd that came to town to do away with waste, fraud, and abuse has caused the biggest waste of all. That $360 billion more we are spending is the biggest spending item; it is like taxes. It is almost $1 billion a day. We are sitting around here giving each other the good government award saying, ''heavens above, balanced budget, balanced budget, balanced budget,'' when we are increasing taxes, or the same as taxes, interest on the national debt, of $1 billion a day.

Now Mr. President, let me just emphasize exactly the duplicitous conduct here of the Congress up here in Washington. Bob Reich, the Secretary of Labor, retired the other day and he wrote a book. I saw him on TV. He was proud of two things. He said, ''You know, we passed the Pension Reform Act of 1994, the Pension Reform Act of 1994.'' He said, ''In addition to getting the minimum wage, I am most proud of that Pension Reform Act because corporate America has to fully secure their pensions so the workers of America moving from one place to another are not going to lose their rights and their entitlements.''

Now what happens? Mr. President, I refer to the New York Times here just 10 some days ago, May 8, page 26: ''Former Star Pitcher Is Sentenced to Prison.''

> Denny McLain, the former star pitcher for the Detroit Tigers, was sentenced today to eight years in prison and ordered to pay $2.5 million in restitution for stealing from the pension plan of a company he owned.
>
> The two-time Cy Young Award winner, who was the last man to win 30 games in a season, and his business partner were convicted in December on charges that they had stolen $3 million from the pension fund of the Peet Packing Co., then used the money for company debts. . . .''

We make sure you get a criminal charge and a sentence, and a prison sentence if you steal from the fund, but up here in Washington, the same crowd that passed that, whoopee, there it is. We get the good government award. It is a wonderful thing. You can just steal from these funds; the money is there. I do not see how you could in good conscience come around here with this budget without getting ashes in your mouth. To say balanced budget when you know the instrument itself says we have a deficit of $108 billion. Look on page 4, you can see down there on line 23, the actual amount of $108 billion. Then you can see where they list the debt for each year. As it increased, you can find that the actual deficit in the fiscal year 2002 is 172 billion bucks.

So after all of this work, we have come from $180 billion—Mr. President, I see the distinguished ranking Member looking at the chart. The actual deficit according for this year according to CBO is $180 billion, not $70 billion. They are bragging about $67 billion. They gave us a figure of $70 billion a couple days ago because we use $110 billion of the trust funds. We steal that money and give it to ourselves, saying we have the deficit down to $70 billion and it is actually $180 billion; and after 5 years under this resolution, by their own figures, it is estimated to be $172 billion.

So, Mr. President, we have to stop the destruction of the economy of this country. It is a 1 percent drag on economic growth when you run these deficits and pay out all of this money when you don't pay for the Government you have. Here they have 12 million new jobs, low inflation, low interest rates, and the finest growth for 5 years in a row. If we can't stop look, listen, sober up, and begin to put this Government on a pay-as-you-go basis tonight and this week in Washington, DC, in this U.S. Congress, it is never going to happen. And somehow, somewhere, we have to get the free press, the media, to report the truth, because they continue to report misleading figures. They don't quote the actual deficit. All they have to do is read this bill. Find in here where they say they balance the budget in the year 2002.

On the work sheet, they had the figures down here, Mr. President, of a $1 billion surplus. But when they put out the actual resolution, that is not the case. They hide that in the descriptive language.

That is the way the system works. It is a cancer. We are spending more money on waste. Interest payments cannot build a school, a highway, and not 1 hour of research. There is no medical treatment. There is nothing for the children of America that we are all concerned about. There is nothing for Head Start, nothing for WIC, nothing for school construction. We could build all the new school buildings all over the country for $360 billion.

That is how much we have increased our national interest payments with this extravagance and this charade. It is a fraud on the American people. The free press is supposed to keep us honest. They, as co-conspirators, unindicted, joined with us to defraud the American people.

I hope we can vote for this amendment of mine this evening and stop the fraud and get back to truth in budgeting. It is not too traumatic. Everybody is doing fine this year.

Just the other day, the Senate said rather than shut down the Government we could take this year's budget for next year. The mayor of any city in this situation would say, ''Let's not fire the policemen and firemen. We will just take this budget for the next year.'' A Governor of any State would say, ''Let's just take this year's budget for next year.''

We can save $50 billion by doing it. But we don't want to do that. We play this game. We exact this fraud on the American people. Somehow, somewhere it has to stop.

I yield the floor, and I thank the distinguished chairman of our Budget Committee and our ranking member.

I reserve the remainder of my time.

Mr. LAUTENBERG. Mr. President, we are due to vote, as I understand it, pursuant to the last unanimous-consent agreement at 10 minutes to 8.

The PRESIDING OFFICER. That is correct.

Mr. LAUTENBERG. I know that the manager, the chairman of the Budget Committee, wants to say something. I would like to make a quick comment, if I might.

Few have the knowledge of the budget that the distinguished Senator from South Carolina has. He understands it thoroughly, and he has been a consistent purveyor of the alarm to be aware and to make sure that we do the right thing.

It would be an ideal situation if we had the trust funds off budget, if we could deal with that in a quick moment like this. But the reality is that

we just can't do it, Mr. President. We have hammered out a budget. I used the term before. ''Hammer'' suggests the arduous effort that the budget agreement took to get 5 million children covered under health care, to make sure that impoverished seniors aren't further burdened by additional premiums because we have moved the home health care from part A to part B.

There are a whole series of things. There are tax cuts for the middle class. There are tax cuts for education. This bill was put together with a lot of work and a lot of giving by many people, people who do not like every part of this budget. I am one of them, I must tell you, but I am determined that we see that we pass this budget.

I say to the Senator from South Carolina, a dear friend to many of us here, that we ought to take a couple of these issues and work on them.

I agree with him on the trust funds on Social Security. I really do. I think we ought to take the time now—because we will be dealing with a more solvent situation in several of the trust funds—to deal with that. But it is not going to happen, I say here and now.

I will, unfortunately, be forced to vote against what the distinguished Senator from South Carolina is proposing. I intend to do just that, to vote against it.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Could I ask the parliamentary situation?

The PRESIDING OFFICER. The Senator from South Carolina still has 3 minutes left.

Mr. HOLLINGS. Mr. President. The distinguished chairman said in an ideal world that trust funds would be off budget. We live in an ideal world with respect to Social Security. Section 13301, in accordance with the Greenspan commission recommendation—President George Herbert Walker Bush signed legislation on November 5, 1990 that put Social Security off budget.

That is why, instead of a surplus in this document, you have a deficit of $108 billion. We didn't get the rest of the trust funds off budget like we should have. We should get the highways, airport, retirement trust funds, Medicare off budget. But this document uses the money on the deficit. You are allocating it to the deficit. So the ideal world would be truth in budgeting.

I thank the distinguished Senator.

Mr. DOMENICI. Has the Senator yielded back the remainder of his time?

Mr. HOLLINGS. I do.

Mr. DOMENICI. Mr. President, I will use just 2 minutes.

Mr. President, there has been a lot of talk about trust funds. But let everybody understand that the amendment has nothing to do with trust funds. The amendment has to do with just two things.

One, it strikes all of the tax cuts provided in this budget agreement, hammered out with the President and the Democratic leaders and the Republican leaders of both Houses. That is No. 1. Strike them all.

Second, it says that the $31.2 billion over 5 years of new initiatives that we have hammered out with the President—and we cut his initiatives almost in half to get there—but it says those initiatives are gone, too.

So essentially the President got $31 billion in initiatives on covering the little kids and things like that that most of us want. He would take that out of this agreement, and at the same time, take out all of the tax cuts.

I don't intend to argue the substantive issue, which I think is totally wrong for America today. I just suggest that nothing could more basically attack the agreement than this, for the fundamentals of the agreement are gone if this amendment passes.

I yield any time I may have.

The PRESIDING OFFICER. All time is yielded.

Under the previous order, the Hollings amendment is set aside.

AMENDMENT NO. 292

The PRESIDING OFFICER. The question recurs on the motion to table the Allard amendment, No. 292. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Iowa [Mr. HARKIN] is necessarily absent.

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

The result was announced—yeas 70, nays 29, as follows:

[Rollcall Vote No. 73 Leg.]

YEAS—70

Akaka	Feingold	Mikulski
Baucus	Feinstein	Moseley-Braun
Bennett	Ford	Moynihan
Biden	Frist	Murray
Bingaman	Glenn	Reed
Bond	Gorton	Reid
Boxer	Graham	Robb
Breaux	Hagel	Roberts
Bryan	Hollings	Rockefeller
Bumpers	Inouye	Roth
Byrd	Jeffords	Sarbanes
Campbell	Johnson	Shelby
Chafee	Kennedy	Smith (OR)
Cleland	Kerrey	Snowe
Cochran	Kerry	Specter
Collins	Kohl	Stevens
Conrad	Landrieu	Thompson
D'Amato	Lautenberg	Thurmond
Daschle	Leahy	Torricelli
DeWine	Levin	Warner
Dodd	Lieberman	Wellstone
Domenici	Lott	Wyden
Dorgan	Lugar	
Durbin	Mack	

NAYS—29

Abraham	Gramm	Kyl
Allard	Grams	McCain
Ashcroft	Grassley	McConnell
Brownback	Gregg	Murkowski
Burns	Hatch	Nickles
Coats	Helms	Santorum
Coverdell	Hutchinson	Sessions
Craig	Hutchison	Smith (NH)
Enzi	Inhofe	Thomas
Faircloth	Kempthorne	

NOT VOTING—1

Harkin

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

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

The motion to lay on the table was agreed to.

Mr. DOMENICI. Regular order, Mr. President.

The PRESIDING OFFICER. The Senate will please come to order.

AMENDMENT NO. 295

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of debate equally divided on the HOLLINGS amendment No. 295.

The Senator from South Carolina is recognized for 1 minute.

Mr. HOLLINGS. I thank the Chair. Right to the point, here is the concurrent resolution. You will not find in this document anywhere a balanced budget. Everyone is running hither and yon: ''Balanced budget, balanced budget.'' The truth is, if you look on page 5, you have the fiscal year debt to the year 2001 and for the year 2002, the fiscal year debt there going up to $172 billion. Actual deficit, without the use of the trust funds, without looting all the pension funds, there is $172 billion.

This increases the debt each year every year for 5 years, whereby the interest costs on the debt is a billion a day. We have spending on autopilot of $1 billion a day for absolutely nothing. Not for children. Not for highways. Not for research. Not for foreign aid. Not for defense. We have total waste.

We have a cancer and it ought to be removed. My particular amendment says do away with the tax cuts in this instrument; do away with the spending increases, the President's initiatives. We are on course for a balanced budget by the fiscal year 2007. Truth in budgeting is the question put before us.

The PRESIDING OFFICER. The Senator from New Mexico has 1 minute. The Senate will please come to order.

Mr. DOMENICI. Mr. President, this amendment takes out all of the tax cuts and all of the President's initiatives. Essentially it totally guts the entire agreement. There would be no tax cuts and there would be no initiatives that we have agreed with the President on. I urge a no vote. I yield the remainder of my time.

The PRESIDING OFFICER. The question occurs on the amendment No. 295. A rollcall has not been requested.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER (Mr. ALLARD). The question is on agreeing to the amendment of the Senator from South Carolina. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Iowa [Mr. HARKIN] is necessarily absent.

The result was announced, yeas 8, nays 91, as follows:

[Rollcall Vote No. 74 Leg.]

YEAS—8

Byrd	Feingold	Reid
Conrad	Hollings	Robb
Dorgan	Moynihan	

NAYS—91

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

NOT VOTING—1

Harkin

The amendment (No. 295) was rejected.

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

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

The motion to lay on the table was agreed to.

Mr. CRAIG. Mr. President, I rise in support of the fiscal year 1998 balanced budget resolution.

I congratulate the hard-working chairman of the Budget Committee for his leadership and dedication in bringing us to this point, as well as our distinguished majority leader.

Am I especially happy to be able to use those 2 words, ''balanced budget.''

This budget resolution represents a victory for the American people; for sound, conservative principles; for those of us who have fought for years for a balanced budget; for the seniors who will be protected by a safer, sounder Medicare system; and for the workers of today and the children of tomorrow, who will benefit from a healthier economy and better jobs.

Some may be disappointed because this is not a ''perfect'' budget; but it's a big improvement over the status quo; and there's a world of difference between this budget and the big-government, tax-and-spend budgets of just a few years ago.

Less than 2 years ago, President Clinton was saying we didn't even need to balance the budget; then he said, maybe we could balance by 2005; but the new Republican majority elected in 1994, and reelected in 1996, insisted on a plan to a balanced budget by 2002—and now we've got one.

Two years ago, when the first Republican Congress in 40 years took office, we found a Medicare system ready to go bankrupt in 2001.

We said it was time to fix Medicare and we tried to slow its rate of growth to 6 or 7 percent a year, with pro-senior citizen, pro-consumer reforms.

Some from the other side tried to hit us with 30-second attack ads, claiming that seniors' benefits would be slashed and burned.

But the American people didn't believe them.

Today, finally, we have a sober, responsible, bipartisan agreement that says Medicare must be repaired—so that Medicare continues to be there for our seniors who need it.

And yes, in this budget agreement, Medicare grows at about 6 percent a year.

Under this budget, Medicare part A will be solvent for a decade.

The details that finally emerge later this year in a budget reconciliation bill will probably not contain all the structural, market-based reforms that Medicare needs for the long term, but this budget should be a good start.

Four years ago, the President asked for, and Congress unfortunately passed, the biggest tax increase in history.

Today, this budget agreement includes real, pro-family, pro-growth, tax cuts.

We finally begin to roll back that last, huge tax increase.

The skeptics said you couldn't balance the budget, cut taxes, and get bipartisan agreement.

But this budget will do those things.

Let's remember: What this budget begins to do is let the people keep more of their own money.

Under this budget, we will finally begin to get spending growth under control.

Will the government still be too big and intrusive? Yes.

But the Federal Government will spend $1.1 trillion less over the next 10 years than it would have spent under previous policies.

Spending growth will drop from 4.4 percent a year under previous policies to 3.1 percent a year under this budget—just barely more than inflation.

The Government will finally begin to shrink relative to the size of the economy.

Spending will still go up in nominal dollars, but it will drop from 20.8 percent to 18.9 percent of gross domestic product, by 2002.

Of course, a lot depends on the enforcement provisions that will have to be part of the budget reconciliation legislation later this year.

I'll be watching that legislation closely.

We've learned from bitter existence in the past that permanent procedures are needed to keep spending from running wild.

After all, the road to a $5.3 trillion debt was paved with good intentions.

That's why we should have passed—and still need—a balanced budget amendment to the Constitution.

But the budget enforcement rules called for under this budget resolution should help keep us on course to a balanced budget by 2002.

A majority of the people in America have seen the budget balanced exactly once or never in their lifetimes.

The last two balanced budgets were in 1960 and 1969.

A majority of Americans alive today were born after 1960.

It's time for that destructive trend to end.

It's time to create a better future for all Americans.

This budget resolution is the right beginning of that promising future.

Mr. DOMENICI. Mr. President, I ask unanimous consent that when the Senate resumes the budget resolution on Wednesday, there be an additional 5 hours subtracted from the overall time constraints provided for in the Budget Act.

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

Mr. DOMENICI. Mr. President, I assume we have no further amendments tonight, but I think Senator GRASSLEY would like to take some time, and I will yield that time to him at this point. How much time would the Senator like?

Mr. GRASSLEY. Can I have 20 minutes?

Mr. DOMENICI. Will the Senator mind closing the Senate after his 20 minutes? Does the Senator from New Jersey have any objection? The Senator from Iowa is going to take 20 minutes, and we will let him close the Senate if we are finished for the evening.

Mr. LAUTENBERG. No, I certainly trust the Senator from Iowa. He is not going to cut taxes.

Mr. DOMENICI. I yield the floor, Mr. President.

The PRESIDING OFFICER. The Senator from Iowa.

MORNING BUSINESS

Mr. GRASSLEY. Mr. President, on behalf of the majority leader, I ask unanimous consent that there now be a period for the transaction of morning business, with Senators permitted to speak for up to 10 minutes each. I assume that is after I have finished my remarks on the resolution.

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

BIGOTRY MUST BE DENOUNCED

Mr. BIDEN. Mr. President, I rise to condemn in the strongest possible terms recent comments that have been attributed to Mr. Freih Abu Medein, the Justice Minister in the Palestinian authority.

In a May 17 article in the Washington Post, journalist Barton Gellman reported that Mr. Medein stated last month that ''five Zionist Jews'' are running the United States' Middle East policy and, in the words of the article, he ''added that it is implausible that a

nation the size of the United States can find no one else to maintain diplomatic contacts with Palestinians.''

This statement, if quoted correctly, is deeply offensive on two counts. First, it is patently anti-semitic, or more properly, anti-Jewish. Its conspiratorial overtones reflect the worst traditions of hate-mongering that characterizes classical anti-semitism.

Second, it is a thinly veiled attempt to manipulate our sovereign right as a country to choose whoever we wish to represent us diplomatically. It also evinces complete ignorance of the American system.

I am confident that the individuals to whom Mr. Medein refers were not chosen for their religious beliefs, but rather on the strength of their qualifications for the jobs for which they were selected. Anyone who thinks otherwise has great deal to learn about this country.

If Mr. Medein or anyone else in the Palestinian Authority has difficulty meeting with American representatives who happen to profess a particular religious faith, then that is their problem, not ours.

I would submit, Mr. President, that we have the right to choose a person of any faith, any gender, and any race to represent us in any place. Should we choose an American who happens to be a Muslim to represent us in Israel, a Hindu to represent us in Pakistan, a Jew in Syria, a Roman Catholic in Yugoslavia, a Greek Orthodox in Turkey, or a Buddhist in China, then that is our sovereign right as a nation. The only criterion should be that the person be qualified for the job for which he or she is selected. Religious affiliation should have absolutely nothing to do with it. Zero. Zilch.

That is what distinguishes us from the rest of the world. For unfortunately, Mr. Medein's views are not isolated ones. They reflect an all-to-common obsession with race, religion, and ethnicity that plagues much of the world.

We may not be perfect, but our guiding ideals are unassailable. And we have successfully put those ideals into practice, with the result that many others seek to emulate us.

Mr. President, the day we pause even for a fraction of a second to contemplate the possible validity of remarks such as Mr. Medein's is the day that we abandon our most fundamental beliefs.

Bigotry must be denounced, whether it is at home or abroad. American representatives who are the object of bigoted attacks deserve to know that their country stands four-square behind them.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Monday, May 19, 1997, the Federal debt stood at $5,344,451,048,224.65. (Five trillion, three hundred forty-four billion, four hundred fifty-one million, forty-eight thousand, two hundred twenty-four dollars and sixty-five cents)

Five years ago, May 19, 1992, the Federal debt stood at $3,920,456,000,000. (Three trillion, nine hundred twenty billion, four hundred fifty-six million)

Ten years ago, May 19, 1987, the Federal debt stood at $2,291,418,000,000. (Two trillion, two hundred ninety-one billion, four hundred eighteen million)

Fifteen years ago, May 19, 1982, the Federal debt stood at $1,066,133,000,000. (One trillion, sixty-six billion, one hundred thirty-three million)

Twenty-five years ago, May 19, 1972, the Federal debt stood at $428,331,000,000 (Four hundred twenty-eight billion, three hundred thirty-one million) which reflects a debt increase of nearly $5 trillion—$4,916,120,048,224.65 (Four trillion, nine hundred sixteen billion, one hundred twenty million, forty-eight thousand, two hundred twenty-four dollars and sixty-five cents) during the past 25 years.

TRIBUTE TO COL. ROBERT LEARY

Mr. KENNEDY. Mr. President, it is a privilege to take this opportunity to pay tribute to Col. Robert Francis Leary, who died on April 27 at his home in Concord, MA.

Colonel Leary served in the U.S. Army for 34 years, retiring in 1987. His tours of duty included positions as executive officer of the 373rd General Hospital, and chief of staff of the 804th Medical Brigade, coordinating the medical readiness of Army Medical Units in the United States, the United Kingdom, and Germany. He also served as commandant at Fort Devens, MA, successfully conducting this course the first time it was exported outside of Fort Sam Houston, TX. Colonel Leary was the recipient of numerous military awards for distinguished service, including Meritorious Service Medals, the U.S. Army Commendation Medal, and the Legion of Merit.

Colonel Leary also had a distinguished civilian career. He was employed by the Department of Veterans Affairs in Bedford, MA as coordinator and supervisor in the Social Work Service Department. Most recently, he was program manager of the Veterans Homestead transitional housing program in Leominster, MA. In addition, he served as an equal employment opportunity Officer at Veteran Affairs Central Office in Washington, DC, and in several capacities in private practice as a licensed independent clinical social worker.

Colonel Leary shared his many wide-ranging interests with his family and friends including politics, travel, golf, hockey, baseball, and soccer. He was constantly involved in youth sport activities and was his children's most avid fan. To all who knew him, he was a model citizen and family member. His patriotism and commitment to service are an example to us all, and I am honored to pay tribute to him today.

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 Committee on Foreign Relations.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT OF THE EXECUTIVE ORDER PROHIBITING NEW INVESTMENT IN BURMA—MESSAGE FROM THE PRESIDENT—PM 38

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs.

To the Congress of the United States:

Pursuant to section 570(b) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (Public Law 104–208) (the ''Act''), I hereby report to the Congress that I have determined and certified that the Government of Burma has, after September 30, 1996, committed large-scale repression of the democratic opposition in Burma. Further, pursuant to section 204(b) of the International Emergency Economic Powers Act (50 U.S.C. 1703(b)) (IEEPA) and section 301 of the National Emergencies Act (50 U.S.C. 1631), I hereby report that I have exercised my statutory authority to declare a national emergency to respond to the actions and policies of the Government of Burma and have issued an Executive order prohibiting United States persons from new investment in Burma.

The order prohibits United States persons from engaging in any of the following activities after its issuance:

—entering a contract that includes the economic development of resources located in Burma;

—entering a contract providing for the general supervision and guarantee of another person's performance of a contract that includes the economic development of resources located in Burma;

—purchasing a share of ownership, including an equity interest, in the economic development of resources located in Burma;

—entering into a contract providing for the participation in royalties, earnings, or profits in the economic development of resources located in Burma, without regard to the form of the participation;

—facilitating transactions of foreign persons that would violate any of the foregoing prohibitions if engaged in by a United States person; and

—evading or avoiding, or attempting to violate, any of the prohibitions in the order.

Consistent with the terms of section 570(b) of the Act, the order does not prohibit the entry into, performance of, or financing of most contracts for the purchase or sale of goods, services, or technology. For purposes of the order, the term ''resources'' is broadly defined to include such things as natural, agricultural, commercial, financial, industrial, and human resources. However, not-for-profit educational, health, or other humanitarian programs or activities are not considered to constitute economic development of resources located in Burma. In accordance with section 570(b), the prohibition on an activity that constitutes a new investment applies if such activity is undertaken pursuant to an agreement, or pursuant to the exercise of rights under an agreement that is entered into with the Government of Burma or a non-governmental entity in Burma, on or after the effective date of the Executive order.

My Administration will continue to consult and express our concerns about developments in Burma with the Burmese authorities as well as leaders of ASEAN, Japan, the European Union, and other countries having major political, security, trading, and investment interests in Burma and seek multilateral consensus to bring about democratic reform and improve human rights in that country. I have, accordingly, delegated to the Secretary of State the responsibilities in this regard under section 570(c) and (d) of the Act.

The Secretary of the Treasury, in consultation with the Secretary of State, is authorized to issue regulations in exercise of my authorities under IEEPA and section 570(b) of the Act to implement this prohibition on new investment. All Federal agencies are also directed to take actions within their authority to carry out the provisions of the Executive order.

I have taken these steps in response to a deepening pattern of severe repression by the State Law and Order Restoration Council (SLORC) in Burma. During the past 7 months, the SLORC has arrested and detained large numbers of students and opposition supporters, sentenced dozens to long-term imprisonment, and prevented the expression of political views by the democratic opposition, including Aung San Suu Kyi and the National League for Democracy (NLD). It is my judgment that recent actions by the regime in Rangoon constitute large-scale repression of the democratic opposition committed by the Government of Burma within the meaning of section 570(b) of the Act.

The Burmese authorities also have committed serious abuses in their recent military campaign against Burma's Karen minority, forcibly conscripting civilians and compelling thousands to flee into Thailand. Moreover, Burma remains the world's leading producer of opium and heroin, with official tolerance of drug trafficking and traffickers in defiance of the views of the international community.

I believe that the actions and policies of the SLORC regime constitute an extraordinary and unusual threat to the security and stability of the region, and therefore to the national security and foreign policy of the United States.

It is in the national security and foreign policy interests of the United States to seek an end to abuses of human rights in Burma and to support efforts to achieve democratic reform. Progress on these issues would promote regional peace and stability and would be in the political, security, and economic interests of the United States.

The steps I take today demonstrate my Administration's resolve to support the people of Burma, who made clear their commitment to human rights and democracy in 1990 elections, the results of which the regime chose to disregard.

I am also pleased to note that the Administration and the Congress speak with one voice on this issue, as reflected in executive-legislative cooperation in the enactment of section 570 of the Foreign Operations Act. I look forward to continued close consultation with the Congress on efforts to promote human rights and democracy in Burma.

In conclusion, I emphasize that Burma's international isolation is not an inevitability, and that the authorities in Rangoon retain the ability to secure improvements in relations with the United States as well as with the international community. In this respect, I once again call on the SLORC to lift restrictions on Aung San Suu Kyi and the political opposition, to respect the rights of free expression, assembly, and association, and to undertake a dialogue that includes leaders of the NLD and the ethnic minorities and that deals with the political future of Burma.

In the weeks and months to come, my Administration will continue to monitor and assess action on these issues, paying careful attention to the report of the U.N. Special Rapporteur appointed by the U.N. Human Rights Commission and the report of the U.N. Secretary General on the results of his good offices mandate. Thus, I urge the regime in Rangoon to cooperate fully with those two important U.N. initiatives on Burma.

I am enclosing a copy of the Executive order that I have issued. The order is effective at 12:01 a.m., eastern daylight time, May 21, 1997.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *May 20, 1997.*

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–1933. A communication from the Acting Executive Director of the U.S. Commodity Futures Trading Commission, transmitting, pursuant to law, the report of the final schedule of fees received on May 15, 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1934. A communication from the Assistant Administrator of the U.S. Environmental Protection Agency, transmitting, pursuant to law, a report relative to conditional registration; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1935. A communication from the Chairman and Chief Executive Officer of the Farm Credit Administration, transmitting, pursuant to law, a report relative to debt; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1936. A communication from the Chairman and Chief Executive Officer of the Farm Credit Administration, transmitting, pursuant to law, the report of a rule entitled ''Referral of Known or Suspected Criminal Violations'' (RIN3052–AB33) received on May 1, 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1937. A communication from the Chairman of the Farm Credit System Insurance Corporation, transmitting, pursuant to law, the annual report for calendar year 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1938. A communication from the Secretary of Agriculture, transmitting, pursuant to law, the annual animal welfare enforcement report for fiscal year 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1939. A communication from the Administrator of the U.S. Small Business Administration, transmitting, pursuant to law, a rule entitled ''Small Business Size Regulations'' received on May 12, 1997; to the Committee on Small Business.

EC–1940. A communication from the Administrator of the U.S. Small Business Administration, transmitting, a draft of proposed legislation of the SBA budget for fiscal year 1998; to the Committee on Small Business.

EC–1941. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the report of the certification of a proposed issuance of an export license; to the Committee on Foreign Relations.

EC–1942. A communication from the Deputy Secretary of the U.S. Securities and Exchange Commission, transmitting, pursuant to law, a rule entitled ''Custody of Investment Company Assets Outside the United States'' (RIN3235–AE98) received on May 14, 1997; to the Committee on Banking, Housing, and Urban Affairs.

EC–1943. A communication from the Federal Register Liaison Officer of the Office of Thrift Supervision, Department of the Treasury, transmitting, pursuant to law, a rule entitled ''De Novo Applications For A Federal Savings Association Charter'' (RIN1550–AA76) received on May 15, 1997; to the Committee on Banking, Housing, and Urban Affairs.

EC–1944. A communication from the Chairman of the U.S. Securities and Exchange Commission, transmitting, pursuant to law, the annual report for fiscal year 1996; to the Committee on Banking, Housing, and Urban Affairs.

EC–1945. A communication from the Secretary of Veterans' Affairs, transmitting, a draft of proposed legislation entitled ''The Veterans' Compensation Cost-of-Living Adjustment and Benefit Programs Improvement Act of 1997''; to the Committee on Veterans' Affairs.

EC–1946. A communication from the Assistant Secretary of State (Legislative Affairs),

transmitting, pursuant to law, the report of a rule entitled ''Amendments to the International Traffic in Arms Regulations''; to the Committee on Foreign Relations.

EC–1947. A communication from the Director of the Executive Office for Immigration Review, Department of Justice, transmitting, pursuant to law, a rule affecting representation and appearances by law students and law graduates (RIN1125–AA16) received on May 14, 1997; to the Committee on the Judiciary.

EC–1948. A communication from the Director of the Federal Bureau of Prisons, Department of Justice, transmitting, pursuant to law, a rule entitled ''Postsecondary Education Programs for Inmates'' (RIN1120–AA35) received on May 7, 1997; to the Committee on the Judiciary.

EC–1949. A communication from the Secretary of Education, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1996; to the Committee on the Judiciary.

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. ENZI (for himself, Mr. ALLARD, Mr. BURNS, Mr. CRAIG, Mr. HAGEL, Mr. MCCONNELL, Mr. ROBERTS, Mr. SESSIONS, Mr. THOMAS, and Mr. HUTCHINSON):

S. 765. A bill to amend the Occupational Safety and Health Act of 1970 to further improve the safety and health of working environments, and for other purposes; to the Committee on Labor and Human Resources.

By Ms. SNOWE (for herself, Mr. REID, Mr. WARNER, Ms. MIKULSKI, Mr. CHAFEE, Mr. DURBIN, Ms. COLLINS, Mrs. MURRAY, and Mr. JEFFORDS):

S. 766. A bill to require equitable coverage of prescription contraceptive drugs and devices, and contraceptive services under health plans; to the Committee on Labor and Human Resources.

By Mr. GREGG (for himself and Mr. GRAMM):

S. 767. A bill to clarify the standards for State sex offender registration programs under the Jacob Wetterling Crimes Against Children and Sexuality Violent Offender Registration Act; to the Committee on the Judiciary.

By Mr. D'AMATO (for himself, Mrs. FEINSTEIN, Mr. HATCH, Mr. DODD, Mr. ABRAHAM, Mr. TORRICELLI, Mrs. BOXER, Mr. BIDEN, and Mr. DEWINE):

S. 768. A bill for the relief of Michel Christopher Meili, Giuseppina Meili, Mirjam Naomi Meili, and Davide Meili; to the Committee on the Judiciary.

By Mr. LAUTENBERG (for himself, Mr. TORRICELLI, Mr. KERRY, Mrs. BOXER, Mr. GRAHAM, Mr. WELLSTONE, and Mr. KENNEDY):

S. 769. A bill to amend the provisions of the Emergency Planning and Community Right-To-Know Act of 1986 to expand the public's right to know about toxic chemical use and release, to promote pollution prevention, and for other purposes; to the Committee on Environment and Public Works.

By Mr. NICKLES:

S. 770. A bill to encourage production of oil and gas within the United States by providing tax incentives, and for other purposes; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. HAGEL (for himself, Mr. KERRY, Mr. CLELAND, Mr. KERRY, Mr. MCCAIN, Mr. ROBB, Mr. ABRAHAM, Mr. AKAKA, Mr. ALLARD, Mr. BIDEN, Mr. BINGAMAN, Mr. BOND, Mr. BROWNBACK, Mr. BURNS, Mr. BYRD, Mr. CAMPBELL, Mr. COATS, Mr. COCHRAN, Ms. COLLINS, Mr. COVERDELL, Mr. CRAIG, Mr. D'AMATO, Mr. DASCHLE, Mr. DEWINE, Mr. DODD, Mr. DURBIN, Mr. FAIRCLOTH, Mrs. FEINSTEIN, Mr. FRIST, Mr. GLENN, Mr. GORTON, Mr. GRAMS, Mr. GRASSLEY, Mr. GREGG, Mr. HARKIN, Mr. HELMS, Mr. HOLLINGS, Mr. HUTCHINSON, Mrs. HUTCHISON, Mr. INHOFE, Mr. INOUYE, Mr. JEFFORDS, Mr. JOHNSON, Mr. KEMPTHORNE, Mr. KENNEDY, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEVIN, Mr. LIEBERMAN, Mr. LOTT, Mr. LUGAR, Mr. MACK, Mr. MCCONNELL, Ms. MOSELEY-BRAUN, Mr. MOYNIHAN, Mr. MURKOWSKI, Mr. NICKLES, Mr. REED, Mr. REID, Mr. ROBERTS, Mr. ROCKEFELLER, Mr. ROTH, Mr. SANTORUM, Mr. SESSIONS, Mr. SMITH of New Hampshire, Mr. SMITH of Oregon, Ms. SNOWE, Mr. SPECTER, Mr. STEVENS, Mr. THOMAS, Mr. TORRICELLI, and Mr. WARNER):

S. Res. 87. A resolution commemorating the 15th anniversary of the construction and dedication of the Vietnam Veterans Memorial; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ENZI (for himself, Mr. ALLARD, Mr. BURNS, Mr. CRAIG, Mr. HAGEL, Mr. MCCONNELL, Mr. ROBERTS, Mr. SESSIONS, Mr. THOMAS and Mr. HUTCHINSON):

S. 765. A bill to amend the Occupational Safety and Health Act of 1970 to further improve the safety and health of working environments, and for other purposes; to the Committee on Labor and Human Resources.

THE SAFETY AND HEALTH ADVANCEMENT ACT

Mr. ENZI. Mr. President, I am very pleased and proud to rise and speak in support of S. 765, the Safety and Health Advancement Act that I have sponsored.

I thank all of the people who have been involved in the process of coming up with an OSHA modernization bill. You notice I mentioned modernization, not reform.

There have been a lot of people involved in this. My colleagues, my staff members, and over 50 organizations have been involved in reviewing suggestions that we have had for modernizing the OSHA process.

Over the last 6 years, there have been bills introduced by both Republicans and Democrats that wound up on the great scrap heap of unfinished business because they have been put in to make a statement, a political statement.

For every time that a bill is put into committee, there is a committee report, an 8½ by 5½ inch booklet that lists a paragraph-by-paragraph analysis of the bill, the majority opinion, the minority opinion, every amendment that has been suggested for the bill, and how people voted on it.

We have gone back through the last 6 years of those bills, and we found on the issues that there seem to be common ground, and we have put those in the bill. We have looked for the issues that were conscientious that were dividing, and we found some new approaches for some of those things.

We have not been able to address everything. But we have a bill that will help to move small business forward, that will give small business a better chance to have safety in the workplace for their workers.

That is the main point of this bill.

Again, I thank all of the people who have helped me on it, and I look forward to working with everybody on what I think will be a very reasonable approach that can go through both bodies and help out the workers in the workplace.

For 6 year's Members on both sides of the aisle have seen the need for modernization. Unfortunately, its been approached each year as reform—and often as drastic reform. Big business and big union have seen the bills as an opportunity to make a statement—a political statement. The workers and small business have needed some clarification and a lot of help that has gotten lost in the statements. The issue of workplace safety and health is extremely important to a healthy America. Advancing safety and health in the American workplace is a matter of great importance and it must be considered in a serious and rational manner by Congress, by the Occupational Safety and Health Administration, by employers, and yes, by employees too. This bill is overdue, common sense legislation.

When I began my service on the Senate Labor and Human Resources Committee, I was surprised to discover the volume of documentation and resources available to us and our staffs. Each time a bill is reported out of committee, a 5½- by -8½ booklet is made available to us that lists every detail about that bill—a luxury I never had when I served in the Wyoming State Legislature. Included in that booklet is a paragraph by paragraph analysis of the bill, with a majority and a minority opinion on each section. It shows every amendment, discusses them at length and reports who voted for and against them in committee. With this abundance of committee reports, I felt like a kid in a candy store. I just picked up 6 year's worth of OSHA bills and began reading. Surprisingly enough, I found that the things that business and labor needed to have done were pretty commonly agreed upon as necessary. Just the politicized statements separated the two sides.

The fate of each bill was determined when such statements reared their ugly heads and squelched any chance of improving the safety and health of

America's workplaces. Each year, legislators in the House and Senate introduce bills that appeal to a wide variety of special interests—setting the stage for a lot of mudslinging. These bills contained good ideas, but they eventually toppled from a barrage of political attacks—tossing them all onto the great scrap heap of Congress' unfinished business. It just goes to show that people who sling mud, lose ground. I found that both big businesses and big unions have made a lot of statements over the years, but statements don't become law and they certainly don't change things. Good legislation becomes law. It is time that we tuck the statements back into our coat pockets and start passing some common sense legislation that advances the safety and health of the American workplace.

We all want a healthy and safe workplace. Legislation should therefore revolve around not what we want, but how to get there in a manner that is fair and equitable to all. There is no room for politics in the arena of human life. For this reason, I spent the last 14 weeks pouring the foundation for a new, comprehensive OSHA bill. This foundation does not consist of cement, but something stronger—the thoughts, suggestions and good ideas of employees, employers, and the individuals that govern them. I want to be clear that this bill does not include all the concerns of every interested party, but I do believe that it constitutes an important first step.

This bill sticks to a theme— ''the advancement of safety and health in the workplace.'' I am proud to say that it has been crafted to promote and enhance workplace safety and health—rather than dismantle it. We are addressing an issue that affects people from all walks of life. It is essential that we take each step with care.

To be successful and effective, a well-crafted bill must provide incentives for employers and employees to act more responsibly. We need to make the profit motive work for worker safety, not against it. This spirit of cooperation must overpower political polarization if true improvements are to be achieved. OSHA must recognize that the vast majority of employers are not heartless and cruel. Having played the wage payer role for over 26 years, I take great offense when employers are characterized as Ebenezer Scrooges or Simon Legrees. The majority of employers cherish their most valuable assets—their employees. It is truly misleading and deceptive for anyone to say otherwise. For without the employee, management will ultimately have no staff, no profits—and no business. Watching out for employees is just good business

When the Occupational Safety and Health Act was enacted 27 years ago, its intended purpose was to make the workplace free from ''recognized hazards that are causing, or likely to cause death or serious physical harm to . . . employees.'' As is the case with many programs established by Congress over the years, OSHA strayed from its original mission of protecting people from occupational safety and health hazards through preventative measures. The focus has instead been heavily weighted toward and concentrating on penalties and enforcement. OSHA should retain the ability to punish employers who don't embrace workplace safety and health, but it should reward those who do. The carrot and stick approach has always worked before, but OSHA prefers using the stick by itself—and they rarely walk softly. I want to be clear that this bill does not dismantle OSHA's enforcement capabilities. That approach has been tried time and time again. But, enforcement alone cannot ensure the safety of our Nation's workplaces and the health of our working population. America would be better served by an OSHA that places a greater emphasis on promoting employers and employees working together and this bill would strike that balance.

To continue the course set by Congress' original intent back in 1970, consultative services must be drastically expanded. My bill calls for that. Studies have shown that many sites where serious workplace accidents have occurred were not inspected by Federal OSHA inspectors for several years prior to the accident. This lack of attention to potential problem areas is due in part to an overemphasis on enforcement. If just the inspectors are working on safety, you can't possibly have enough inspectors. Everyone has to be involved. My legislation will allow OSHA greater flexibility in allocating its resources so it can give the most serious workplace problems its highest priority and most careful attention.

This bill advances safety and health by allowing employers to actively promote employee/employer discussions concerning occupational safety and health hazards. Voluntary compliance by employers would be encouraged as part of the solution, not as part of the problem—as part of the prevention, not as part of the penalty. Employers would have the option of implementing an alcohol and substance abuse testing program in order to ensure a safe workplace. I have had the opportunity to see first hand the benefits of this type of program. I have been tested and given tests and I know about validity and dignity. Employees would be held accountable for misconduct in a site that has been determined by OSHA to be in compliance with existing regulations. Employees have the ultimate control as to whether safety toes, hard hats or safety goggles are worn. Employers would receive incentives from OSHA for utilizing the services of third party consultants. Moreover, continuing education and professional certification for OSHA consultants and inspectors would be required to ensure that the rapid advancement of technology doesn't surpass OSHA's ability to identify occupational safety and health hazards in the workplace.

Not only have 6 years of OSHA proposals been reviewed, Meetings have been held with over 50 interested groups from the National Federation of Independent Businesses to the AFL-CIO. Contact has been made and some explanation given to every member of the Labor Committee. All suggestions received have been considered. Those that meet the goal of safety and health improvement without appearing contentious have been included. I am looking forward to a bipartisan effort to create the kind of workplace we want and need in America. This bill doesn't call for radical change, but it does start the progress and the process to safety. It makes changes small business can't wait any longer for.

The Safety and Health Advancement Act represents a clean, fresh start to addressing the problems that affect OSHA, employers and employees. I am quite eager to work with each of my distinguished colleagues as this issue winds its way through the legislative process. By working together, we can return OSHA to its original course as envisioned by Congress when it crafted the Occupational Safety and Health Act of 1970. I urge my colleagues to give fair consideration to this bill and I welcome your support.

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. 765

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCE.

(a) SHORT TITLE.—This Act may be cited as the ''Safety and Health Advancement Act''.

(b) REFERENCE.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Occupational Safety and Health Act of 1970 (29 U.S.C 651 et seq.).

SEC. 2. PURPOSE.

Section 2(b) (29 U.S.C. 651(b)) is amended—

(1) in paragraph (13), by striking the period and inserting ''; and''; and

(2) by adding at the end the following:

''(14) by increasing the joint cooperation of employers, employees, and the Secretary in the effort to ensure safe and healthful working conditions for employees.''.

SEC. 3. EMPLOYEE AND EMPLOYER PARTICIPATION PROGRAMS.

Section 4 (29 U.S.C. 653) is amended by adding at the end the following:

''(c)(1) In order to further carry out the purpose of this Act to encourage employers and employees in their efforts to reduce occupational safety and health hazards, employers may establish employer and employee participation programs which exist for the sole purpose of addressing safe and healthful working conditions.

''(2) An entity created under a program described in paragraph (1) shall not constitute a labor organization for purposes of section 8(a)(2) of the National Labor Relations Act (29 U.S.C. 158(a)(2)) or a representative for

purposes of sections 1 and 2 of the Railway Labor Act (45 U.S.C. 151 and 151a).

''(3) Nothing in this subsection shall be construed to affect employer obligations under section 8(a)(5) of the National Labor Relations Act (29 U.S.C. 158(a)(5)) to deal with a certified or recognized employee representative with respect to health and safety matters to the extent otherwise required by law.''.

SEC. 4. ESTABLISHMENT OF SPECIAL ADVISORY COMMITTEE.

Section 7 (29 U.S.C. 656) is amended by adding at the end the following:

''(d)(1) Not later than 6 months after the date of enactment of this section, the Secretary shall establish an advisory committee (pursuant to the Federal Advisory Committee Act (5 U.S.C. App)) to carry the duties described in paragraph (3).

''(2) The advisory committee shall be composed of—

''(A) 3 members who are employees;

''(B) 3 members who are employers;

''(C) 2 members who are members of the general public; and

''(D) 1 member who is a State official from a State plan State.

Each member of the advisory committee shall have expertise in workplace safety and health as demonstrated by the educational background of the member.

''(3) The advisory committee shall advise and make recommendations to the Secretary with respect to the establishment and implementation of a consultation services program under section 8A.''.

SEC. 5. THIRD PARTY CONSULTATION SERVICES PROGRAM.

(a) PROGRAM.—The Act (29 U.S.C. 651 et seq.) is amended by inserting after section 8 the following:

''SEC. 8A. THIRD PARTY CONSULTATION SERVICES PROGRAM.

''(a) ESTABLISHMENT OF PROGRAM.—

''(1) IN GENERAL.—Not later than 12 months after the date of enactment of this section, the Secretary shall establish and implement, by regulation, a program that certifies individuals to provide consultation services to employers to assist employers in the identification and correction of safety and health hazards in the workplaces of employers.

''(2) ELIGIBILITY.—Each of the following individuals shall be eligible to be qualified under the program:

''(A) An individual licensed by a State authority as a physician, industrial hygienist, professional engineer, safety engineer, safety professional, or occupational nurse.

''(B) An individual who has been employed as an inspector for a State plan State or as a Federal occupational safety and health inspector for not less than a 5-year period.

''(C) An individual qualified in an occupational health or safety field by an organization whose program has been accredited by a nationally recognized private accreditation organization or by the Secretary;

''(3) GEOGRAPHICAL SCOPE OF CONSULTATION SERVICES.—An individual certified under the program may provide consultation services in any State.

''(b) SAFETY AND HEALTH REGISTRY.—The Secretary shall develop and maintain a registry that includes all individuals that are certified under the program to provide the consultation services described in subsection (a) and shall publish and make such registry readily available to the general public.

''(c) DISCIPLINARY ACTIONS.—

''(1) IN GENERAL.—The Secretary may revoke the status of an individual certified under subsection (a) if the Secretary determines that the individual—

''(A) has failed to meet the requirements of the program; or

''(B) has committed malfeasance, gross negligence, or fraud in connection with any consultation services provided by the certified individual.

''(d) CONSULTATION SERVICES.—

''(1) SCOPE OF CONSULTATION SERVICES.—

''(A) IN GENERAL.—The consultation services described in subsection (a), and provided by an individual certified under the program, shall include an evaluation of the workplace of an employer to determine if the employer is in compliance with the requirements of this Act, including any regulations promulgated pursuant to this Act.

''(B) NON-FIXED WORK SITES.—With respect to the employees of an employer who do not work at a fixed site, the consultation services described in subsection (a), and provided by an individual certified under the program, shall include an evaluation of the safety and health program of the employer to determine if the employer is in compliance with the requirements of this Act, including any regulations promulgated under this Act.

''(2) CONSULTATION REPORT.—Not later than 10 business days after an individual certified under the program provides the consultation services described in subsection (a) to an employer, the individual shall prepare and submit a written report to the employer that includes an identification of any violations of this Act and requirements with respect to corrective measures the employer needs to carry out in order for the workplace of the employer to be in compliance with the requirements of this Act.

''(3) REINSPECTION.—Not later than 30 days after an individual certified under the program submits a report to an employer under paragraph (2), or on a date agreed on by the individual and the employer, the individual shall reinspect the workplace of the employer to verify that any occupational safety or health violations identified in the report have been corrected and the workplace of the employer is in compliance with this Act. If, after such reinspection, the individual determines that the workplace is in compliance with the requirements of this Act, the individual shall provide the employer a declaration of compliance.

''(4) GUIDELINES.—The Secretary, in consultation with an advisory committee established in section (7)(d), shall develop model guidelines for use in evaluating a workplace under paragraph (1).

''(e) ACCESS TO RECORDS.—Any records relating to consultation services (as described in subsection (a)) provided by an individual qualified under the program shall not be admissible in a court of law or administrative proceeding against the employer except that such records may be used as evidence for purposes of a disciplinary action under subsection (c).

''(f) EXEMPTION.—

''(1) IN GENERAL.—If an employer enters into a contract with an individual certified under the program, to provide consultation services described in subsection (a), and receives a declaration of compliance under subsection (d)(3), the employer shall be exempt from the assessment of any civil penalty under section 17 for a period of 2 years after the date the employer receives the declaration.

''(2) EXCEPTIONS.—Paragraph (1) shall not apply—

''(A) if the employer involved has not made a good faith effort to remain in compliance as required under the declaration of compliance; or

''(B) to the extent that there has been a fundamental change in the hazards of the workplace.

''(g) DEFINITION.—In this section, the term 'program' means the program established by the Secretary under subsection (a).''.

SEC. 6. INDEPENDENT SCIENTIFIC PEER REVIEW.

Section 6(b) (29 U.S.C. 655(b)(1)) is amended—

(1) by striking: ''(4) Within'' and inserting: ''(4)(A) Within''; and

(2) by adding at the end the following:

''(B)(i) Prior to issuing a final standard under this paragraph, the Secretary shall submit the draft final standard and a copy of the administrative record to the National Academy of Sciences for review in accordance with clause (ii).

''(ii)(I) The National Academy of Sciences shall appoint an independent Scientific Review Committee.

''(II) The Scientific Review Committee shall conduct an independent review of the draft final standard and the scientific literature and make written recommendations with respect to the draft final standard to the Secretary, including recommendations relating to the appropriateness and adequacy of the scientific data, scientific methodology, and scientific conclusions, adopted by the Secretary.

''(III) If the Secretary decides to modify the draft final standard in response to the recommendations provided by the Scientific Review Committee, the Scientific Review Committee shall be given an opportunity to review and comment on the modifications before the final standard is issued.

''(IV) The recommendations of the Scientific Review Committee shall be published with the final standard in the Federal Register.''.

SEC. 7. CONTINUING EDUCATION AND PROFESSIONAL CERTIFICATION FOR CERTAIN OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION PERSONNEL.

Section 8 (29 U.S.C. 657) is amended by adding at the end the following:

''(i) Any Federal employee responsible for enforcing this Act shall (not later than 2 years after the date of enactment of this subsection or 2 years after the initial employment of the employee) meet the eligibility requirements prescribed under subsection (a)(2) or (c).

''(j) The Secretary shall ensure that any Federal employee responsible for enforcing this Act who carries out inspections or investigations under this section, receive professional education and training at least every 5 years as prescribed by the Secretary.''.

SEC. 8. THE USE OF ALTERNATIVE METHODS AS AN AFFIRMATIVE DEFENSE.

Section 9 (29 U.S.C. 658) is amended by adding at the end the following:

''(d) A citation issued under subsection (a) to an employer who violates section 5, or any standard, rule, or order promulgated pursuant to section 6, or any other regulation promulgated under this Act shall be vacated if such employer demonstrates that the employees of such employer were protected by alternative methods that are equally or more protective of the safety and health of the employees than the methods required by such standard, rule, order, or regulation in the factual circumstances underlying the citation.''.

SEC. 9. EMPLOYEE RESPONSIBILITY.

The Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.) is amended by inserting after section 10 the following:

''EMPLOYEE RESPONSIBILITY

''SEC. 10A. (a) Notwithstanding any other provision of this Act, an employee who willfully violates any requirement of section 5 or any standard, rule, or order promulgated pursuant to section 6, or any regulation prescribed pursuant to this Act, may be assessed a civil penalty of up to $500, but not less than $50 for each violation.

''(b) If, upon inspection and investigation, the Secretary or the authorized representative of the Secretary believes that an employee of an employer has violated any requirement of section 5 or any standard, rule, or order promulgated pursuant to section 6, or any regulation prescribed pursuant to this Act, the Secretary shall within 60 days issue a citation to the employee. Each citation shall be in writing and shall describe with particularity the nature of the violation, including a reference to the provision of this Act, standard, rule, regulation, or order alleged to have been violated. No citation may be issued under this section after the expiration of 6 months following the occurrence of any violation.

''(c) The Secretary shall notify the employee by certified mail of the citation and proposed penalty and that the employee has 15 working days within which to notify the Secretary that the employee wishes to contest the citation or penalty. If no notice is filed by the employee within 15 working days, the citation and the penalty, as proposed, shall be deemed a final order of the Commission and not subject to review by any court or agency.

''(d) If the employee notifies the Secretary that the employee intends to contest the citation or proposed penalty, the Secretary shall immediately advise the Commission of such notification, and the Commission shall afford an opportunity for a hearing (in accordance section 554 of title 5, United States Code). The Commission shall thereafter issue an order, based on findings of fact, affirming, modifying, or vacating the Secretary's citation or proposed penalty, or directing other appropriate relief, and such order shall become final 30 days after issuance of the order.''.

SEC. 10. INSPECTION QUOTAS.

Section 9 (29 U.S.C. 658), as amended by section 8, is further amended by adding at the end the following:

''(e) The Secretary shall not establish for any employee within the Occupational Safety and Health Administration (including any regional director, area director, supervisor, or inspector) a quota with respect to the number of inspections conducted, the number of citations issued, or the amount of penalties collected, in accordance with this Act.

''(f) Not later than 12 months after the date of enactment of this subsection and annually thereafter, the Secretary shall report on the number of employers that are inspected under this Act and determined to be in compliance with the requirements prescribed under this Act.''.

SEC. 11. REVIEW BY THE COMMISSION.

Section 17 (29 U.S.C. 666) is amended by striking subsection (j) and inserting the following:

''(j)(1) The Commission shall have the authority to assess all civil penalties under this section. In assessing a penalty under this section, the Commission shall give due consideration to the appropriateness of the penalty with respect to—

''(A) the size of the employer;

''(B) the number of employees exposed to a violation;

''(C) the likely severity of any injuries directly resulting from the violation;

''(D) the probability that the violation could result in injury or illness;

''(E) the good faith of the employer in correcting the violation after the violation has been identified;

''(F) the history of previous violations by an employer; and

''(G) whether the violation is the sole result of the failure of the employer to meet a requirement, under this Act or prescribed by regulation, with respect to—

''(i) the posting of notices;

''(ii) the preparation or maintenance of occupational safety and health records; or

''(iii) the preparation, maintenance, or submission of any written information.''.

SEC. 12. TECHNICAL ASSISTANCE PROGRAM.

(a) IN GENERAL.—Section 21(c) (29 U.S.C. 670(c)) is amended—

(1) by striking ''(c) The'' and inserting ''(c)(1) The'';

(2) by striking ''(1) provide'' and inserting ''(A) provide'';

(3) by striking ''(2) consult'' and inserting ''(B) consult''; and

(4) by adding at the end the following:

''(2)(A) The Secretary shall, through the authority granted under section 7(c) and paragraph (1), enter into cooperative agreements with States for the provision of consultation services by such States to employers concerning the provision of safe and healthful working conditions. A State that has a plan approved under section 18 shall be eligible to enter into a cooperative agreement under this paragraph only if such plan does not include provisions for federally funded consultation to employers.

''(B)(i) Except as provided in clause (ii), the Secretary shall reimburse a State that enters into a cooperative agreement under subparagraph (A) in an amount that equals 90 percent of the costs incurred by the State for the provision of consultation services under such agreement.

''(ii) A State shall be fully reimbursed by the Secretary for—

''(I) training approved by the Secretary for State personnel operating under a cooperative agreement; and

''(II) specified out-of-State travel expenses incurred by such personnel.

''(iii) A reimbursement paid to a State under this subparagraph shall be limited to costs incurred by such State for the provision of consultation services under this paragraph and the costs described in clause (ii).

''(C) Notwithstanding any other provisions of law, not less than 15 percent of the total amount of funds appropriated for the Occupational Safety and Health Administration for a fiscal year shall be used for education, consultation, and outreach efforts.''.

(b) PILOT PROGRAM.—Section 21 (29 U.S.C. 670) is amended by adding at the end the following:

''(d)(1) Not later than 90 days after the date of enactment of this subsection, the Secretary shall establish and carry out a pilot program in 3 States to provide expedited consultation services with respect to the provision of safe and healthful working conditions to employers that are small businesses, as defined by the Small Business Administration,. The Secretary shall carry out the program for a period not to exceed 2 years.

''(2) The Secretary shall provide consultation services under paragraph (1) not later than 4 weeks after the date on which the Secretary receives a request from an employer.

''(3) The Secretary may impose a nominal fee to an employer requesting consultation services under paragraph (1). The fee shall be in an amount determined by the Secretary. Employers paying a fee shall receive priority consultation services by the Secretary.

''(4) In lieu of issuing a citation under section 9 to an employer for a violation found by the Secretary during a consultation under paragraph (1), the Secretary shall permit the employer to carry out corrective measures to correct the conditions causing the violation. The Secretary shall conduct not more than 2 visits to the workplace of the employer to determine if the employer has carried out the corrective measures. The Secretary shall issue a citation as prescribed under section 5 if, after such visits, the employee has failed to carry out the corrective measures.

''(5) Not later than 90 days after the termination of the program under paragraph (1), the Secretary shall prepare and submit a report to the appropriate committees of Congress that contains an evaluation of the implementation of the pilot program.''.

SEC. 13. PREVENTION OF ALCOHOL AND SUBSTANCE ABUSE.

The Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.) is amended—

(1) by striking sections 29, 30, and 31;

(2) by redesignating sections 32, 33, and 34 as sections 30, 31, and 32, respectively; and

(3) by inserting after section 28 (29 U.S.C. 676) the following:

''SEC. 29. ALCOHOL AND SUBSTANCE ABUSE TESTING.

''(a) PROGRAM PURPOSE.—In order to secure a safe workplace, employers may establish and carry out an alcohol and substance abuse testing program in accordance with subsection (b).

''(b) FEDERAL GUIDELINES.—An alcohol and substance abuse testing program described in subsection (a) shall meet the following requirements:

''(1) SUBSTANCE ABUSE.—A substance abuse testing program shall permit the use of an onsite or offsite urine screening or other recognized screening methods, so long as the confirmation tests are performed in accordance with the mandatory guidelines for Federal workplace testing programs published by the Secretary of Health and Human Services on April 11, 1988, at section 11979 of title 53, Code of Federal Regulations (including any amendments to such guidelines), in a lab that is subject to the requirements of subpart B of such mandatory guidelines.

''(2) ALCOHOL.—The alcohol testing component of the program shall take the form of alcohol breath analysis and shall conform to any guidelines developed by the Secretary of Transportation for alcohol testing of mass transit employees under the Department of Transportation and Related Agencies Appropriations Act, 1992.

''(c) TEST REQUIREMENTS.—This section shall not be construed to prohibit an employer from requiring—

''(1) an applicant for employment to submit to and pass an alcohol or substance abuse test before employment by the employer; or

''(2) an employee, including managerial personnel, to submit to and pass an alcohol or substance abuse test—

''(A) on a for-cause basis or where the employer has reasonable suspicion to believe that such employee is using or is under the influence of alcohol or a controlled substance;

''(B) where such test is administered as part of a scheduled medical examination;

''(C) in the case of an accident or incident, involving the actual or potential loss of human life, bodily injury, or property damage;

''(D) during the participation of an employee in an alcohol or substance abuse treatment program, and for a reasonable period of time (not to exceed 5 years) after the conclusion of such program; or

''(E) on a random selection basis in work units, locations, or facilities.

''(d) CONSTRUCTION.—Nothing in this section shall be construed to require an employer to establish an alcohol and substance abuse testing program for applicants or employees or make employment decisions based on such test results.

''(e) PREEMPTION.—The provisions of this section shall preempt any provision of State

law to the extent that such State law is inconsistent with this section.

''(f) INVESTIGATIONS.—The Secretary is authorized to conduct testing of employees (including managerial personnel) of an employer for use of alcohol or controlled substances during any investigations of a work-related fatality or serious injury.''.

SEC. 14. VOLUNTARY PROTECTION PROGRAMS.

(a) COOPERATIVE AGREEMENTS.—The Secretary of Labor shall establish cooperative agreements with employers to encourage the establishment of comprehensive safety and health management systems that include—

(1) requirements for systematic assessment of hazards;

(2) comprehensive hazard prevention, mitigation, and control programs;

(3) active and meaningful management and employee participation in the voluntary program described in subsection (b); and

(4) employee safety and health training.

(b) VOLUNTARY PROTECTION PROGRAM.—

(1) IN GENERAL.—The Secretary of Labor shall establish and carry out a voluntary protection program (consistent with subsection (a)) to encourage and recognize the achievement of excellence in both the technical and managerial protection of employees from occupational hazards. The Secretary of Labor shall encourage small businesses (as the term is defined by the Administrator of the Small Business Administration) to participate in the voluntary protection program by carrying out outreach and assistance initiatives and developing program requirements that address the needs of small businesses.

(2) PROGRAM REQUIREMENT.—The voluntary protection program shall include the following:

(A) APPLICATION.—Employers who volunteer under the program shall be required to submit an application to the Secretary of Labor demonstrating that the worksite with respect to which the application is made meets such requirements as the Secretary of Labor may require for participation in the program.

(B) ONSITE EVALUATIONS.—There shall be onsite evaluations by representatives of the Secretary of Labor to ensure a high level of protection of employees. The onsite visits shall not result in enforcement of citations under the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.), unless representatives of the Secretary of Labor observe hazards for which no agreement can be made to abate the hazards in a reasonable amount of time.

(C) INFORMATION.—Volunteers who are approved by the Secretary of Labor for participation in the program shall assure the Secretary of Labor that information about the safety and health program of the volunteers shall be made readily available to the Secretary of Labor to share with employees.

(D) REEVALUATIONS.—Periodic reevaluations by the Secretary of Labor of the volunteers shall be required for continued participation in the program.

(3) EXEMPTIONS.—A site with respect to which a program has been approved shall, during participation in the program be exempt from inspections or investigations and certain paperwork requirements to be determined by the Secretary of Labor, except that this paragraph shall not apply to inspections or investigations arising from employee complaints, fatalities, catastrophes, or significant toxic releases.

Mr. HAGEL. Mr. President, I want to compliment my distinguished colleague from Wyoming, Senator ENZI, for introducing this important piece of legislation. This bill addresses an issue that is critical to small businessowners across America. I am proud to be an original cosponsor.

The Safety and Health Advancement Act is a commonsense approach to reining in an overreaching Federal agency.

I worked in Congress when the Occupational Safety and Health Administration [OSHA] was created in the 1970's. Many people today would find it hard to believe that OSHA was created to assist business—especially small businesses. In its original intent, OSHA existed not just to help enforce workplace safety laws, but to help small businessowners understand those laws and advise them on how to comply.

What OSHA has grown into is an agency of confrontation and intimidation. The mere mention of OSHA strikes fear in the hearts of small businessowners everywhere.

The father of one of my staff members owns small heating and air-conditioning business in Nebraska. He's a good employer. He runs a safe workplace and treats his employees fairly. But he faces the constant threat that an unannounced visit by OSHA could shut him down because he doesn't have the resources to appeal the high fines frequently handed out by OSHA.

I hear stories like this from small businessowners throughout Nebraska. Businesses that are fined tens of thousands of dollars for a minor infraction of a regulation they frequently did not even know existed. They are forced to close their doors and lay off their employees because they can't afford to fight the fines that come through arbitrary process.

Mr. President, the safety of our workplaces must continue to be a top priority. Where there are those violating the law and creating unsafe working conditions, we should go after them and persecute to the fullest extent of the law. Those are the individuals OSHA should be going after. But the Government should not be killing jobs by intimidating honest, hard-working small businessowners. We need to focus on the real problems in the workplace.

The Safety and Health Advancement Act would help address this problem. It gives OSHA the flexibility to prioritize its resources in order to target the worst offenders. It encourages voluntary compliance by rewarding employers who use third-party consultants. It holds employees responsible for their misconduct at a site that is in compliance with OSHA regulations.

This bill returns OSHA to its original intent and expands its consultative services. Under this legislation, OSHA would actually work hand in hand with small businessowners to create safe workplaces, not merely hand down punitive fines. It moves OSHA away from confrontation and back toward cooperation.

I am proud to be an original cosponsor of the Safety and Health Advancement Act. Not only will this bill help make America's workplaces safer, it will go a long way in freeing America's small businessowners from the heavy burdens of Government regulation. I urge my colleagues to support this commonsense legislation.

By Mr. D'AMATO (for himself, Mrs. FEINSTEIN, Mr. HATCH, Mr. DODD, Mr. ABRAHAM, Mr. TORRICELLI, Mrs. BOXER and Mr. BIDEN):

S. 768. A bill for the relief of Michel Christopher Meili, Giuseppina Meili, Mirjam Naomi Meili, and Davide Meili, to the Committee on the Judiciary.

PRIVATE RELIEF LEGISLATION

Mr. D'AMATO. Mr. President, I rise today, along with Senators FEINSTEIN, HATCH, DODD, ABRAHAM, TORRICELLI, BIDEN, and BOXER to introduce a bill to provide protection to Christophe and his family so that they may stay in this country and that Christophe may be allowed to work and support his family.

Christophe Meili is the Swiss bank guard fired after he reported the destruction of Holocaust era bank records at the Union Bank of Switzerland, Zurich branch, on January 8, 1997. He is here along with his wife Guiseppina, and his two children, Miriam and David.

For his bravery in saving historically important documents from the shredder, Christophe was fired and today is under investigation for violating Swiss bank secrecy laws for disclosing the records, first to the Zurich Jewish Community and then to the Swiss police. He has faced persecution and penalties for a deed that ennobles him in the eyes of the world. Moreover, he and his family have faced hundreds of death threats, including kidnaping threats made against his children. He is truly a man without a country.

When we held a hearing on his plight in the Banking Committee, he made two remarkable statements. First, when asked why he felt the records he saved were important, he responded,

''A few months before, I had seen the movie 'Schindler's List.' And that's how, when I saw these documents, I realized I must take responsibility; I must do something.''

When I asked him at the end of the hearing if he had anything to add, he said,

Please protect me in the U.S.A. and in Switzerland. I think I become a great problem in Switzerland. I have a woman, two little children, and no future. I must see what goes on in the next days for me. Please protect me. That is all.

Mr. President, we owe Christophe Meili this much. He has asked to be protected and it is our duty to do so. We are in the presence of a very good man, a man who has made a difference and will be remembered for generations to come.

Christophe Meili should be viewed as a hero, not a criminal. His actions in preventing the destruction of evidence are courageous and serve the cause of justice for the victims and survivors of the Holocaust and their families. It is a stain upon the victims' memory that a

young man who saved records to help their cause is now being made a victim. It is unfortunate that the chairman of UBS, Robert Studer, has even made remarks questioning the motivation of Christophe for preventing the destruction of these records.

Moreover, while Christophe and his family have been persecuted for his noble deed, it is a disgrace that the bank's archivist who ordered the shredding at UBS, Erwin Haggenmuller, still has his job. I wrote to Peter Cosandey, the district attorney of Zurich who is investigating this case, and I asked him to end his harassment of Christophe. I also asked him why he is not investigating Erwin Hagenmuller for his role in ordering the shredding of the files.

Christophe has been unemployed since January and this hardship is taking its toll on this brave young man and his family. Thankfully, Edgar Bronfman has come to the rescue once again by offering Christophe a job. I am sure that this is a comfort to Christophe and his family.

Christophe Meili's story is one of a man dedicated to seeing that justice is achieved, yet persecuted because he tried to ensure it. His treatment by the security firm that employed him and the bank that wants him prosecuted, is unjust and unfair.

This is a tragedy. Because he did his job, Christophe Meili was fired. Because he showed courage and integrity, Christophe Meili was fired. And now, they are threatening him with prosecution. The people deserve better.

Mr. President, I urge my colleagues to join me in granting this hero, this righteous man, the sanctuary that he has requested and that he and his family deserve.

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. 768

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

Congress makes the following findings:

(1) The actions of Swiss banks and their relations with Nazi Germany before and during World War II and the banks' actions after the war concerning former Nazi loot and heirless assets placed in the banks before the war have been the subject of an extensive and ongoing inquiry by the Committee on Banking, Housing, and Urban Affairs of the Senate and a study by a United States interagency group.

(2) On January 8, 1997, Michel Christopher Meili, while performing his duties as a security guard at the Union Bank of Switzerland in Zurich, Switzerland, discovered that bank employees were shredding important Holocaust-era documents.

(3) Mr. Meili was able to save some of the documents from destruction and then turned them over to the Jewish community in Zurich and to the Swiss police.

(4) Following Mr. Meili's disclosure of the destruction of the Holocaust-era documents, Mr. Meili was suspended and then terminated from his job. He was also interrogated by the local Swiss authorities who tried to intimidate him by threatening prosecution for his heroic actions.

(5) Since this disclosure, Mr. Meili and his family have been threatened and harassed, and have received many death threats. Mr. Meili also received a hand-delivered note threatening the kidnapping of his children in return for the ''Jewish money'' he would receive for his actions, and urging him to emigrate to the United States or be killed.

(6) Because of his courageous actions, Mr. Meili and his family have suffered economic hardship, mental anguish, and have been forced to live in fear for their lives.

SEC. 2. PERMANENT RESIDENCE.

Notwithstanding any other provision of law, for purposes of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), Michel Christopher Meili, Giuseppina Meili, Mirjam Naomi Meili, and Davide Meili shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fees.

SEC. 3. REDUCTION OF NUMBER OF AVAILABLE VISAS.

Upon the granting of permanent residence to Michel Christopher Meili, Giuseppina Meili, Mirjam Naomi Meili, and Davide Meili as provided in this Act, the Secretary of State shall instruct the proper officer to reduce by the appropriate number during the current fiscal year the total number of immigrant visas available to natives of the country of the aliens' birth under section 203(a) of the Immigration and Nationality Act (8 U.S.C. 1153(a)).

By Mr. LAUTENBERG (for himself, Mr. TORRICELLI, Mr. KERRY, Mrs. BOXER, Mr. GRAHAM, Mr. WELLSTONE, Mr. DEWINE, and Mr. KENNEDY):

S. 769. A bill to amend the provisions of the Emergency Planning and Community Right-To-Know Act of 1986 to expand the public's right to know about toxic chemical use and release, to promote pollution prevention, and for other purposes; to the Committee on Environment and Public Works.

THE RIGHT-TO-KNOW MORE AND POLLUTION PREVENTION ACT OF 1997

Mr. LAUTENBERG. Mr. President, today the Environmental Protection Agency is making public its annual inventory of toxic chemical releases. This information is made available to the public under the Emergency Planning and Community Right-to-Know Act which I authored in 1986.

EPA announced today a 45.6 percent decrease nationwide in the release of toxic chemicals since 1988, when these data were first collected. In my State of New Jersey, which has a large chemical industry, releases were reduced by a stunning 70 percent.

Mr. President, the right-to-know law has been an enormous success. Shedding the light of day on toxic pollution has encouraged industries to find ways to reduce the threat of these cancer causing materials to our communities. We should build on that success.

Today I am introducing with Senators TORRICELLI, BOXER, KERRY, GRAHAM, KENNEDY and WELLSTONE the Right-to-Know More and Pollution Prevention Act of 1997, which will significantly expand the public's right-to-know about toxic chemicals in their homes, workplaces, and communities.

The landmark 1986 Right-to-Know Act requires companies to list the amount of certain chemicals that leave their facilities as pollution and enter our air, water, or soil. It has often been cited as one of the most effective environmental laws on the books. By shining a public spotlight on pollution, the public is better informed, and many companies have taken voluntary steps to reduce pollution.

In fact, without using traditional ''command and control requirements,'' the publication of right-to-know data has led companies to voluntarily reduce their releases of toxic chemicals by almost 46 percent, or 1.6 billion pounds, between 1988 and 1994.

The bill I am introducing today significantly expands the community right-to-know reporting requirements by tracking toxic materials as they move through a facility—to tell us what comes in, what is transformed into product or waste, and what leaves a facility as pollution. This tracking system, known as chemical use or materials accounting, can further decrease the use of toxic chemicals and their release into the environment.

When my own State of New Jersey began collecting information on toxic chemicals used by industries, in addition to recording toxic chemical releases, the results were dramatic. Whereas the national decrease in toxic emissions reported is 45.6 percent since 1988, in New Jersey it has been 70 percent. The discrepancy between New Jersey and the rest of the country, I believe, is due to the State requirement for materials accounting.

The reason that materials accounting data is so valuable is that it provides information to industry and incentives to prevent pollution. With this data, industrial facilities have the information necessary to develop pollution prevention plans.

Pollution prevention is the highest priority in managing waste, and falls at the top of the ladder of steps industry can take to reduce pollution—starting with prevention, then recycling, and then treatment, with disposal or release into the environment the least desirable last step. This so-called hierarchy of waste management has been endorsed by the Environmental Protection Agency as well as many Fortune 500 companies and the armed services.

Materials accounting makes pollution prevention planning possible. You can't reduce toxic use if you don't know the quantity of toxics used and how they're used. That's why materials accounting data is so important. The bill requires companies which collect materials accounting data to prepare pollution prevention plans to decrease their use of toxics to protect those who might be exposed to them and can help companies improve their bottom line.

It represents a strong marriage between environmental concerns and economic efficiency.

A recent New Jersey study found that for every dollar spent on additional reporting, companies actually saved between five and eight dollars in reduced costs. By reducing waste, companies reduce their cost of doing business.

Mr. President, materials accounting provides a framework for identifying opportunities to reduce pollution at the source through changes in production, operation and raw materials use. A random survey of 42 New Jersey facilities showed that 62 percent of the companies questioned anticipated that pollution prevention initiatives, based on information gleaned from materials accounting data, could save them money. Business wins, the public wins, and the public health and environment wins.

Mr. President, my bill directs the EPA to expand right-to-know reporting to include information on toxic chemicals being transported through communities and used by industries in their products and workplaces.

It would fill reporting gaps in the existing law by requiring all companies that have more than the stipulated threshold amounts to file reports, regardless of the industrial classification in which they fall. EPA could exempt categories of industry groups if the benefits and paperwork requirements are disproportionate to any benefit.

Finally, the bill requires businesses to prepare pollution prevention plans based on the materials accounting data they collect.

Mr. President, EPA has proposed requiring materials accounting data under existing authorities of the Emergency Planning and Community Right-To-Know Law [EPCRA] and other statutes.

I believe the law gives them that authority. However, some industry groups have challenged literally every action by the office that implements the Right-to-Know Law. To avoid continuing court fights and avoid needless delays, this law would clarify congressional intent.

Mr. President, this bill will help ensure a healthier environment for all of us, and can save industry money, making our economy and chemical industry more cost competitive. It makes good environmental sense and good business sense. And it's legislation that the public wants. I hope we will move to enact it in this Congress.

Mr. President, I ask unanimous consent that the text of the bill be inserted in the RECORD, along with letters from EPA Administrator Browner and USPIRG and the Environmental Information Center supporting the bill.

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

S. 769

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Right-To-Know-More and Pollution Prevention Act of 1997''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

TITLE I—PUBLIC RIGHT TO KNOW ABOUT TOXIC CHEMICAL USE

SEC. 101. REPORTING REQUIREMENTS.

(a) THRESHOLDS FOR TOXIC CHEMICALS WITH CERTAIN SIGNIFICANT RISKS.—Section 313(f) of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11023(f)) is amended—

(1) in paragraph (1), by adding at the end the following:

''(C) With respect to each of the toxic chemicals described in paragraph (3) that are released from a facility, the amount of the threshold for the toxic chemical under that paragraph.''; and

(2) by adding at the end the following:

''(3) THRESHOLDS FOR TOXIC CHEMICALS WITH CERTAIN SIGNIFICANT RISKS.—

''(A) ESTABLISHMENT OF THRESHOLDS.—Not later than 2 years after the date of enactment of this paragraph, the Administrator shall establish a threshold for each toxic chemical that the Administrator determines may present a significant risk to children's health or the environment because of—

''(i) the tendency of the toxic chemical to persist or to bioaccumulate or disrupt endocrine systems; or

''(ii) other characteristics of the toxic chemical.

''(B) CHEMICALS TO BE INCLUDED.—Among the toxic chemicals for which the Administrator shall establish thresholds under subparagraph (A) shall be lead, mercury, dioxin, cadmium, chromium, and the substances listed as bioaccumulative chemicals of concern in the notice published by the Administrator at 60 Fed. Reg. 15393.''.

(b) ADDITIONAL CHEMICALS.—Section 313(c) of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11023(c)) is amended—

(1) by striking ''are those'' and inserting the following: ''are—

''(1) the'';

(2) by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(2) dioxin and substances listed as bioaccumulative chemicals of concern in the notice published by the Administrator at 60 Federal Register 15393.''.

(c) RELEASES.—Subsections (a) and (b)(1) of section 313 of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11023) are amended by striking ''or otherwise used'' and inserting ''otherwise used, or released''.

(d) CIVIL ACTIONS.—Section 326(a)(1)(B) of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11046(a)(1)(B)) is amended—

(1) by redesignating clauses (iii) through (vi) as clauses (iv) through (vii), respectively, and

(2) by inserting after clause (ii) the following:

''(iii) Establish a reporting threshold for a toxic chemical described in section 313(f)(3).''.

(e) REVISED THRESHOLDS.—Section 313(f)(2) of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11023(f)(2)) is amended in the first sentence by striking ''paragraph (1)'' and inserting ''subparagraph (A) or (B) of paragraph (1)''.

SEC. 102. DISCLOSURE OF TOXIC CHEMICAL USE.

(a) TOXIC CHEMICAL RELEASE FORM.—

(1) IN GENERAL.—Section 313(g) of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11023(g)) is amended—

(A) in paragraph (1)(C)—

(i) by inserting ''for the preceding calendar year'' after ''items of information'';

(ii) in clause (i) by striking ''is'' and inserting ''was'';

(iii) in clause (ii) by striking ''preceding'';

(iv) in clause (iv) by striking ''annual quantity of the toxic chemical entering'' and inserting ''quantity of the toxic chemical that entered''; and

(v) by adding at the end the following:

''(v) The number of employees (including contractors) at the reporting facility, the number of employees (including contractors) at the reporting facility who were potentially exposed to the toxic chemical;

''(vi) The following materials accounting information:

''(I) A description of the uses of the toxic chemical at the facility.

''(II) The starting (as of January 1) inventory of the toxic chemical at the facility.

''(III) The quantity of the toxic chemical produced at the facility.

''(IV) The quantity of the toxic chemical that was transported to the facility and the mode of transportation used.

''(V) The quantity of the toxic chemical consumed at the facility.

''(VI) The quantity of the toxic chemical that was shipped out of the facility as a product or in a product and the quantities intended for industrial use, commercial use, consumer use, and any additional categories of use that the Administrator may designate by regulation.

''(VII) The quantity of the toxic chemical that entered any waste stream (or that was otherwise released into the environment) prior to recycling, treatment, or disposal (as required to be reported under section 6607(b)(1) of the Pollution Prevention Act of 1990 (42 U.S.C. 13107(b)(1))).

''(VIII) The amount of toxic chemical at the facility as of December 31.

''(IX) The amount of the toxic chemical recycled at the facility that was used during the calendar year at the facility.

''(X) The toxic chemical use of the chemical that is calculated by adding the quantities reported under subclauses (II), (III), (IV), and (IX) and subtracting the quantity reported under subclause (VIII).

''(XI) If the sum of the quantities reported under subclauses (II), (III), (IV), and (IX) does not equal the sum of the quantities reported under subclauses (V), (VI), (VII), and (VIII), a statement of the cause of the discrepancy.

''(vii) The reduction (from the calendar year preceding the calendar year for which the form is submitted) in the quantity of the toxic chemical that is reported under clause (vi)(VII), as a result of the following: equipment or technology modifications; process or procedure modifications; reformulation or

redesign of products; substitution of raw materials; and improvements in housekeeping, maintenance, training, or inventory control.

''(viii) The reduction (from the calendar year preceding the calendar year for which the form is submitted) in the quantity of toxic chemical use as defined in subclause (X) as a result of the following: equipment or technology modifications; process or procedure modifications; reformulation or redesign of products; substitution of raw materials; and improvements in housekeeping, maintenance, training, or inventory control.''; and

(B) by adding at the end the following:

''(3) COMPUTATIONS.—Quantities reported under this subsection shall be complete and verifiable by computations under generally accepted principles of materials accounting.''.

(2) DEFINITION OF MATERIALS ACCOUNTING INFORMATION.—

(A) IN GENERAL.—Section 329 of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11049) is amended—

(i) by redesignating paragraphs (7), (8), (9), and (10) as paragraphs (8), (9), (10), and (11), respectively; and

(ii) by inserting after paragraph (6) the following:

''(7) MATERIALS ACCOUNTING INFORMATION.—The term 'materials accounting information' means the information described in section 313(g)(1)(vi).''.

(B) CONFORMING AMENDMENT.—Section 6603(4) of the Pollution Prevention Act of 1990 (42 U.S.C. 13102(4)) is amended by striking ''329(8)'' and inserting ''329''.

(3) REGULATION.—Not later than 2 years after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall promulgate a regulation regarding the information to be provided under clauses (v), (vi), (vii), and (viii) of section 313(g)(1)(C) of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11023(g)(1)(C)), as added by paragraph (1).

(b) OTHER REQUIREMENTS.—The Administrator of the Environmental Protection Agency shall by regulation integrate the reporting requirements under the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11001 et seq.) and the Pollution Prevention Act of 1990 (42 U.S.C. 12101 et seq.).

SEC. 103. ENVIRONMENTAL REPORTING AND PUBLIC ACCESS TO INFORMATION.

(a) STREAMLINED DATA COLLECTION AND DISSEMINATION.—Section 313 of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11023) is amended by adding at the end the following:

''(m) STREAMLINED DATA COLLECTION AND DISSEMINATION.—

''(1) IN GENERAL.—To enhance public access and use of information resources, to facilitate compliance with reporting requirements, and to promote multimedia permitting, reporting, and pollution prevention, not later than 3 years after the date of enactment of this subsection, the Administrator shall—

''(A) create standard data formats for information management;

''(B) integrate information resources, using common company, facility, industry, geographic, and chemical identifiers and any other identifiers that the Administrator considers appropriate;

''(C) establish a system for indexing, locating, and obtaining agency-held information about parent companies, facilities, industries, chemicals, geographic locations, ecological indicators, and the regulatory status of toxic chemicals and entities subject to agency regulation;

''(D) consolidate all annual reporting requirements under this title and other Federal environmental laws for small businesses, including by permitting reporting to a single point of contact using a single form or electronic reporting system; and

''(E) provide the public a single point of contact for access to all the publicly available information gathered by the Administrator for any regulated entity.

''(2) CONSOLIDATION.—Not later than 5 years after the date of enactment of this subsection, the Administrator shall consolidate all annual reporting under this title and other Federal environmental laws administered by the Administrator for each entity required to report, including by permitting reporting to a single point of contact using a single form or electronic reporting system.

''(3) EASE OF COMPLIANCE.—In improving the means by which the Administrator provides information to the public and requires information be reported by regulated entities, as required by paragraphs (1) and (2), the Administrator, building on the experiences of the States, shall use technology to facilitate reporting by regulated entities and improve access to the data by the public.''.

(b) DISCLOSURE OF USES OF TOXIC CHEMICALS.—

(1) BASIC REQUIREMENT.—Section 313(a) of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11023(a)) is amended in the second sentence by inserting ''toxic chemical uses and'' before ''releases''.

(2) USE OF RELEASE FORM.—Section 313(h) of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11023(h)) is amended in the second sentence by inserting ''the uses of toxic chemicals at covered facilities and'' before ''releases of toxic chemicals to the environment''.

SEC. 104. TRADE SECRET PROTECTION.

Section 322 of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11042) is amended—

(1) in subsection (a)(1) by adding the following at the end:

''(C) WITHHOLDING OF MATERIALS ACCOUNTING INFORMATION.—A person that is required to submit materials accounting information under section 313(g)(1)(C)(vi) may withhold an element or portion (as defined by a regulation promulgated by the Administrator under subsection (c)) of the information if the person complies with paragraph (2) with respect to the information to be withheld.'';

(2) in subsection (b)(4) by inserting ''or other information withheld'' after ''The chemical identity'';

(3) in subsection (d)—

(A) in paragraph (1), in the first sentence, by striking ''toxic chemical which'' and inserting ''toxic chemical or other information that'';

(B) in paragraph (2), by inserting ''or other information withheld'' after ''specific chemical identity'';

(C) in paragraph (3)—

(i) in subparagraph (A), by inserting ''or other information withheld'' after ''specific chemical identity'';

(ii) in subparagraph (B), by inserting ''or other information withheld'' after ''chemical identity''; and

(iii) in subparagraph (C), in the first sentence, by inserting ''or other information withheld'' after ''chemical identity'' each place it appears; and

(D) in paragraph (4)(A), by inserting ''or other information withheld'' after ''chemical identity'';

(4) in subsection (f), by inserting ''or other information withheld under subsection (a)(1)'' after ''specific chemical identity''; and

(5) in subsection (h)—

(A) in paragraph (1), by inserting ''or other information withheld'' before ''is claimed as a''; and

(B) in paragraph (2), by inserting ''or other information withheld'' after ''identity of a toxic chemical''.

SEC. 105. CIVIL ACTIONS.

(a) PAST AND ONGOING VIOLATIONS.—Section 326(a)(1)(A) of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11046(a)(1)(A)) is amended by inserting ''any past or ongoing'' after ''An owner or operator of a facility for''.

(b) VENUE.—Section 326 of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11046(b)) is amended—

(1) in subsection (b), by striking paragraph (2) and inserting the following:

''(2) ACTIONS AGAINST THE ADMINISTRATOR.—

''(A) PETITIONS IN THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT.—

''(i) IN GENERAL.—Review of an action of the Administrator described in clause (ii) shall be sought by filing a petition for review in the United States Court of Appeals for the District of Columbia.

''(ii) ACTIONS OF THE ADMINISTRATOR.—The actions of the Administrator described in this clause are—

''(I) a final agency action in response to a petition filed under section 313(e);

''(II) a final agency action to revise a threshold under section 313(f)(2);

''(III) a final rule to modify nationally the reporting frequency under section 313(i);

''(IV) any other rulemaking of general applicability under this title; and

''(V) any other action that is based on a determination of nationwide scope or effect if, in taking the action, the Administrator publishes a finding that the action is based on such a determination.

''(B) PETITIONS FOR REVIEW IN OTHER CIRCUITS.—

''(i) IN GENERAL.—Review of an action of the Administrator described in clause (ii) shall be sought by filing a petition for review in the United States Court of Appeals for the circuit in which the geographic region to which the action relates is situated.

''(ii) ACTIONS OF THE ADMINISTRATOR.—The actions of the Administrator described in this clause are—

''(I) a final rule to modify the reporting frequency under section 313(i) for a particular geographic region; and

''(II) any other rulemaking specific to a particular geographic region.

''(C) CIVIL ACTIONS IN UNITED STATES DISTRICT COURT.—An action of the Administrator under subsection (a) other than an action described in subparagraph (A) or (B) shall be brought in the United States District Court for the District of Columbia.''; and

(2) by adding at the end the following:

''(i) TIME FOR FILING PETITION FOR REVIEW OF ACTION BY THE ADMINISTRATOR; EXCLUSIVE MEANS OF REVIEW.—

''(1) TIME FOR FILING PETITION.—A petition for review of an action of the Administrator under subparagraph (A) or (B) of subsection (b)(2) shall be filed not later than 60 days after the date on which notice of the action is published in the Federal Register.

''(2) EXCLUSIVE MEANS OF REVIEW.—An action of the Administrator with respect to which review can be or could have been obtained under subparagraph (A) or (B) of subsection (b)(2) shall not be subject to judicial review in a civil or criminal enforcement proceeding.''.

TITLE II—COMMUNITY RIGHT TO KNOW AND POLLUTION PREVENTION PLANNING

SEC. 201. TOXIC CHEMICAL RELEASE FORMS.

Section 313(b) of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11023(b)) is amended—

(1) by striking paragraph (2); and

(2) in paragraph (1)—

(A) by striking ''(A) The requirements'' and inserting ''The requirements'';

(B) by striking ''and that are in Standard Industrial Classification Codes 20 through 39 (as in effect on July 1, 1985)'';

(C) by striking subparagraph (B) and inserting the following:

''(2) DELETION OF FACILITIES.—

''(A) IN GENERAL.—The Administrator, at the instance of the Administrator or in response to a petition, may delete by rule a particular facility or category of facilities from the requirements of this section based on a determination that reporting by the owner or operator of the facility or category of facilities is inconsistent with the efficient operation of this title.

''(B) CONSIDERATIONS.—In making a determination under subparagraph (A), the Administrator may consider the toxicity of the toxic chemical, proximity to other facilities that release the toxic chemical or to population centers, the history of releases of toxic chemicals at the facility or category of facilities, and such other factors as the Administrator considers appropriate.'';

(D) in subparagraph (C) —

(i) by striking ''(C) For purposes'' and inserting ''(3) DEFINITIONS.—For purposes'';

(ii) by redesignating clauses (i) and (ii) as subparagraphs (A) and (B); and

(iii) in subparagraph (B) (as redesignated by clause (ii)), by redesignating subclauses (I) and (II) as clauses (i) and (ii).

SEC. 202. POLLUTION PREVENTION PLANNING.

(a) IN GENERAL.—Title III of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11001 et seq.) is amended—

(1) by redesignating subtitle C as subtitle D; and

(2) by inserting after subtitle B the following:

''Subtitle C—Pollution Prevention Planning

''SEC. 316. POLLUTION PREVENTION PLANS.

''(a) DEFINITIONS.—In this section:

''(1) AUTHORIZED STATE.—The term 'authorized State' means a State authorized under subsection (m) to carry out the Administrator's authorities and responsibilities under this section.

''(2) BYPRODUCT.—The term 'byproduct' means a toxic chemical that—

''(A) is generated prior to storage, recycling (except in-process recycling), treatment, control, disposal, or release;

''(B) is not intended for use as a product; and

''(C) is required to be reported under section 6607 of the Pollution Prevention Act of 1990 (42 U.S.C. 13107).

''(3) FACILITY.—The term 'facility' means a facility for which a toxic chemical release form is required to be submitted under section 313.

''(4) IN-PROCESS RECYCLING.—The term 'in-process recycling' means the practice of returning a recycled toxic chemical to a production process using dedicated equipment that is directly connected to and physically integrated with a production process.

''(5) PILOT FACILITY.—The term 'pilot facility' means a facility, or designated area of a facility, used for pilot-scale development of a product or process not primarily involved in the production of a good for commercial sale.

''(6) POLLUTION PREVENTION.—The term 'pollution prevention' means—

''(A) toxic use reduction; or

''(B) source reduction.

''(7) PRODUCTION PROCESS.—The term 'production process' means a process, line, method, activity, or technique used to produce a product or to reach a planned result.

''(8) RECOVERY.—

''(A) IN GENERAL.—The term 'recovery' means the act of extracting or removing the toxic chemical from a waste stream that includes—

''(i) the reclamation of the toxic chemical from a stream that entered a waste treatment or pollution control device or process (including an air pollution control device or process, wastewater treatment or control device or process, Federal or State permitted treatment or control device or process, and any other type of treatment or control device or process) where destruction of the stream or destruction or removal of certain constituents of the steam occurs; and

''(ii) the reclamation for reuse of an otherwise used toxic chemical that is spent or contaminated and that must be recovered for further use in the original operation or any other operation.

''(9) RECYCLING.—The term 'recycling' means—

''(A) the recovery for reuse of a toxic chemical from a gaseous, aerosol, aqueous, liquid, or solid stream; or

''(B) the reuse or the recovery for reuse of a toxic chemical that is a hazardous waste or is a constituent of a hazardous waste under the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.), as determined by the Administrator.

''(10) RESEARCH AND DEVELOPMENT LABORATORY.—The term 'research and development laboratory' means a facility or a designated area of a facility used for research, development, and testing activity, and not primarily involved in the production of a good for commercial sale, in which a toxic chemical is used by or under the direct supervision of a technically qualified person.

''(11) SOURCE REDUCTION.—The term 'source reduction' has the meaning given the term in section 6603 of the Pollution Prevention Act of 1990 (42 U.S.C. 13103).

''(12) TARGETED PRODUCTION PROCESS.—The term 'targeted production process' means a production process or a group of production processes (identified by the owner or operator of a facility) that accounts for 90 percent or more of—

''(A) the total toxic chemical use calculated in accordance with section 313(g)(1)(C)(vi)(X); or

''(B) the total quantity of byproducts generated at the facility.

''(13) TOXIC USE REDUCTION.—The term 'toxic use reduction' means the reduction in the quantity of toxic chemical use reported under section 313(g)(1)(C)(viii) that is reduced so as to reduce potential exposure to the public, workers, consumers, and the environment.

''(b) POLLUTION PREVENTION PLANNING.—

''(1) IN GENERAL.—To promote the assessment and implementation of pollution prevention alternatives, the owner or operator of a facility shall periodically complete a pollution prevention plan.

''(2) INITIAL PLAN AND UPDATES.—The owner or operator of a facility shall—

''(A) complete a pollution prevention plan on or before July 1 of the second calendar year that begins after the date of enactment of this section; and

''(B) review and update the pollution prevention plan biennially thereafter.

''(3) CONTENTS OF POLLUTION PREVENTION PLANS.—

''(A) ITEMS TO BE INCLUDED.—Except as provided in section 317, a pollution prevention plan shall include—

''(i) a statement of management policy regarding pollution prevention;

''(ii) a written certification by the owner or operator of the facility regarding the accuracy and completeness of the plan;

''(iii) 2- and 5-year pollution prevention goals for targeted production processes, including a numerical statement regarding the intended reduction in the quantity of each toxic chemical manufactured, processed, or otherwise used;

''(iv) a statement of progress achieved toward previously submitted pollution prevention goals;

''(v) an analysis of each targeted production process, including—

''(I) an assessment of materials accounting information of toxic chemicals with respect to the targeted production process; and

''(II) a full cost accounting of the direct and indirect costs (including liabilities) of toxic chemical purchase, use, and waste management;

''(vi) an evaluation of the options for reducing the use of toxic chemicals or the generation of byproducts in the targeted production unit process by means of the substitution of raw materials, reformulation or redesign of products, production unit modifications, and improvement in operation and maintenance, including—

''(I) identification of options that minimize potential exposure to workers, consumers, the public, and the environment; and

''(II) an assessment of the technical and economic feasibility of the options identified under subclause (I);

''(vii) an identification of options identified under clause (vi)(I) that are technically feasible and have a payback period of less than 2 years;

''(viii) a schedule for implementing the options identified under clause (vii) that the owner or operator of the facility intends to implement; and

''(ix) if there is an option identified under clause (vii) that is not included in the schedule developed under clause (viii), a statement of the reason why the option is not included.

''(B) ITEMS NOT TO BE INCLUDED.—A pollution prevention plan shall not include a waste management or control activity.

''(4) POLLUTION PREVENTION PLAN SUMMARIES.—

''(A) IN GENERAL.—For each pollution prevention plan, the owner or operator of a facility shall prepare a pollution plan summary.

''(B) CONTENTS.—A pollution plan summary shall include the information reported under—

''(i) clauses (i), (ii), (iii), and (iv) of paragraph (3)(A); or

''(ii) if applicable, subparagraphs (A), (B), (C), and (D) of section 317(c)(2).

''(c) POLLUTION PREVENTION PLAN PROGRESS REPORTS.—

''(1) IN GENERAL.—Beginning with the second full calendar year after a pollution prevention plan has been prepared under subsection (b), the owner or operator of a facility shall prepare a pollution prevention plan progress report annually for the facility in accordance with the schedule for the submission of toxic release forms under section 313.

''(2) CONTENTS.—A pollution prevention progress report shall include—

''(A) a description of the facility and identification of each targeted production process;

''(B) a numerical statement demonstrating the progress of the facility towards achieving each of its 5-year goals for pollution prevention; and

''(C) if the annual progress of the facility does not achieve the level of progress anticipated in the pollution prevention plan schedule for implementation, an explanation of the reasons why that level of progress was not achieved.

''(d) GUIDELINES FOR PREPARATION OF POLLUTION PREVENTION PLANS.—Not later than 2 years after the date of enactment of this section, the Administrator shall by regulation establish guidelines for the preparation of pollution prevention plans, pollution prevention plan summaries, and pollution prevention plan progress reports.

''(e) AVAILABILITY OF POLLUTION PREVENTION PLANS, SUMMARIES, AND REPORTS.—

''(1) POLLUTION PREVENTION PLANS.—

''(A) IN GENERAL.—The owner or operator of a facility shall—

''(i) retain each pollution prevention plan at the facility; and

''(ii) make each pollution prevention plan available for inspection by the Administrator or authorized State.

''(B) NOT PUBLIC RECORDS.—A document or other record obtained from or reviewed at a facility owned or operated by a private person shall not be considered to be a public record.

''(2) POLLUTION PREVENTION PLAN SUMMARIES AND PROGRESS REPORTS.—

''(A) SUBMISSION.—The owner or operator of a facility shall submit a pollution prevention plan summary for the facility and progress reports, with the toxic release forms required under section 313 for the year in which the summary is required, to the Administrator and to the State in which the facility is located, in a format that is compatible with electronic information storage and retrieval and compatible with the data submitted under section 313 (except in a case in which the Administrator determines that preparation in electronic format would create a significant hardship).

''(B) PUBLIC AVAILABILITY.—The Administrator shall, using electronic and other means, make pollution plan summaries and progress reports available to the public consistent with section 313(j).

''(f) REQUIRED MODIFICATION.—

''(1) IN GENERAL.—The Administrator or an authorized State may require the modification of a pollution prevention plan or pollution prevention plan summary if the Administrator or authorized State determines that the pollution prevention plan does not meet the requirements of subsection (b) or the pollution prevention plan summary does not meet the requirements of subsection (b)(4).

''(2) TIME FOR COMPLETION OF REQUIRED MODIFICATION.—Any modification required by the Administrator or authorized State shall be completed by the owner or operator of the facility not later than 90 days after the date on which the Administrator or the State provides written notice that the modification is required.

''(g) PRODUCT FORMULAS.—Nothing in this subtitle authorizes the Administrator or a State to require that information concerning nontoxic chemicals, or product formulas for mixtures that include only nontoxic chemicals, be included in a pollution prevention plan, summary, or progress report.

''(h) GROUPING OF PROCESSES.—The Administrator may publish rules establishing criteria pursuant to which the Administrator may permit an owner or operator of a facility to consider production processes that use similar ingredients to produce 1 or more similar products as a single production process.

''(i) TRAINING.—The Administrator or an authorized State may require that individuals that prepare pollution prevention plans for facilities in particular industrial categories or subcategories receive training or attend seminars and workshops on the proper preparation of toxic release inventories and pollution prevention plans and on the use of available pollution prevention measures.

''(j) RESEARCH AND DEVELOPMENT LABORATORIES.—The owner or operator of a facility shall not be required to prepare a pollution prevention plan, pollution prevention plan summary, or pollution prevention progress report concerning a research and development laboratory located at the facility.

''(k) PILOT FACILITIES.—The owner or operator of a facility shall not be required to prepare a pollution prevention plan, pollution prevention plan summary, or pollution prevention plan progress report for a pilot facility.

''(l) TECHNICAL ASSISTANCE.—

''(1) IN GENERAL.—At the request of the owner or operator of a facility, the Administrator or an authorized State may provide technical assistance in pollution prevention planning.

''(2) REIMBURSEMENT.—The Administrator may seek full (or in the case of a small business, full or partial) reimbursement for any technical assistance provided to a facility.

''(3) NO REQUIREMENT OF PARTICULAR MEASURES OR STANDARDS.—Nothing in this subsection authorizes the Administrator to require that a particular pollution prevention measure be implemented or that a pollution prevention performance standard be achieved at a facility or targeted production process.

''(m) STATE ADMINISTRATION.—

''(1) REQUEST FOR STATE AUTHORIZATION.—

''(A) GUIDELINES.—Not later than 1 year after the date of enactment of this section, the Administrator shall publish guidance that would be useful to the States in submitting a program for approval under this paragraph.

''(B) SUBMISSION OF PROGRAMS.—A State may submit to the Administrator a program for carrying out this section in the State.

''(C) IMPLEMENTATION OF STATE PROGRAMS.—On and after the date that is 180 days after date on which the Administrator receives a State program under subparagraph (B), the State may carry out the program in the State in place of the Federal program under this section, unless the Administrator notifies the State that the program is not approved.

''(2) CRITERIA FOR STATE AUTHORIZATION.—

''(A) IN GENERAL.—The Administrator shall approve a State program submitted under paragraph (1) if the Administrator determines that the State program requires that—

''(i) each facility develop a pollution prevention plan that includes materials accounting for full cost accounting; and

''(ii) each pollution prevention plan address the reduction of the use and generation as byproduct of toxic chemicals subject to this section so as to reduce overall risks to the public, workers, consumers, and the environment without shifting risks between them.

''(B) DISAPPROVAL.—If the Administrator does not approve a State program, the Administrator shall notify the State in writing of any revisions or modifications that are necessary to obtain approval.

''(3) WITHDRAWAL OF STATE AUTHORIZATION.—

''(A) IN GENERAL.—If the Administrator determines after public hearing that a State program approved under paragraph (1) no longer meets the criteria of paragraph (2), the Administrator shall so notify the State in writing. If appropriate corrective action is not taken within a reasonable time (not to exceed 90 days after notification), the Administrator shall withdraw authorization of the program and establish a Federal program under this section.

''(B) NOTIFICATION.—The Administrator shall not withdraw authorization of a State program unless the Administrator first notifies the State and makes public in writing the reasons for the withdrawal.

''(4) NO PREEMPTION OF STATE PROGRAMS.—Nothing in this subsection affects the authority of a State or political subdivision of a State to establish or continue in effect any regulation or any other measure relating to pollution prevention.

''(n) REPORTS.—

''(1) IN GENERAL.—Not later than 4 years after the date of enactment of this section and not less frequently than every 3 years thereafter, the Administrator shall submit a report to the President and Congress that describes the pollution prevention plans that have been prepared under this section.

''(2) MATTERS TO BE ADDRESSED.—A report under paragraph (1) shall include—

''(A) a detailed analysis that indicates the progress achieved toward any pollution prevention goals established by the Administrator under section 6604 of the Pollution Prevention Act of 1990 (42 U.S.C. 13103); and

''(B) a detailed analysis of the steps that need to be taken to ensure that the goals are achieved, including an identification of the industrial categories or subcategories that should be the highest priority for pollution prevention measures and that need improvement with respect to pollution prevention.

''SEC. 317. SMALL BUSINESS POLLUTION PREVENTION COMPLIANCE AND TECHNICAL ASSISTANCE PROGRAM.

''(a) ESTABLISHMENT OF PROGRAM.—The Administrator shall establish a small business pollution prevention compliance and technical assistance program to assist owners and operators of facilities in identifying and applying methods of pollution prevention.

''(b) ELEMENTS OF PROGRAM.—The program under subsection (a) shall—

''(1) provide compliance assistance, technical assistance, and other assistance to small businesses;

''(2) use funds provided under this subsection for matching grants to State and local government agencies for programs to promote the use of pollution prevention techniques by small businesses; and

''(3) allow small businesses to comply with the pollution prevention planning requirements of this by title complying with subsection (c).

''(c) USE OF MANUAL AND CHECKLIST IN LIEU OF POLLUTION PREVENTION PLAN.—

''(1) IN GENERAL.—The Administrator may by regulation allow a small business in a commercial sector for which a pollution prevention opportunity assessment manual and checklist have been published under paragraph (2) to comply with the pollution prevention planning requirements of subsections (a) and (b) of section 316 by completing the checklist and retaining on site the manual and checklist in lieu of preparing a pollution prevention plan.

''(2) CONTENTS OF MANUAL AND CHECKLIST.—The Administrator may publish a manual and checklist for any commercial sector by the use of which a small business in the commercial sector would develop—

''(A) a statement of management policy regarding pollution prevention;

''(B) a written certification by the owner or operator of the facility regarding the accuracy and completeness of the plan;

''(C) 2- and 5-year pollution prevention goals for targeted production processes, including a numerical statement regarding the intended reduction in the quantity of each toxic chemical produced or used and each toxic chemical generated as a byproduct;

''(D) a statement of progress achieved toward previously submitted pollution prevention goals;

''(E) an estimate of the costs associated with toxic chemical purchase, use, and waste management;

''(F) an evaluation of production processes and material, storage, and treatment practices;

''(G) an evaluation of toxic use reduction and source reduction opportunities; and

''(H) an economic impact analysis of options for achieving reductions in toxic chemical use and byproduct generation.''.

(b) CIVIL ACTION.—Section 326(a)(1)(A) of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11046(a)(1)(A)) is amended by adding at the end the following:

''(v) Complete and submit a pollution plan summary or pollution plan progress report under section 316.''.

(c) TABLE OF CONTENTS.—The table of contents in section 300(b) of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. prec. 11001) is amended by striking the item relating to subtitle C and inserting the following:

''Subtitle C—Pollution Prevention Planning

''Sec. 316. Pollution prevention plans.

''Sec. 317. Small business pollution prevention compliance and technical assistance program.

''Subtitle D—General Provisions.''.

SEC. 203. INFORMATION GATHERING AND ACCESS.

Section 325 of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11045) is amended by adding at the end the following:

''(g) PROVISION OF INFORMATION AND RECORDS; INSPECTIONS.—

''(1) DEFINITIONS.—In this subsection:

''(A) AUTHORIZED OFFICER.—The term 'authorized officer' means—

''(i) an officer, employee, or representative of the Administrator; or

''(ii) an officer, employee, or representative of an authorized State carrying out that section 316.

''(B) AUTHORIZED STATE.—The term 'authorized state' means a State that is authorized to carry out and enforce section 316 under section 317.

''(2) PROVISION OF INFORMATION AND RECORDS.—At the request of an authorized officer, a person who has or may have information relevant to the identification, nature, or quantity of materials, including hazardous chemicals, extremely hazardous substances, toxic chemicals, or other materials subject to this title that may have been manufactured, processed, or otherwise used, stored, or otherwise managed (including recycling, treating, combusting, releasing, or transferring from a facility subject to the requirements of this title) shall—

''(A) furnish to the authorized officer information pertaining to the identification, nature, and quantity of the materials; and

''(B) at the option and expense of the person—

''(i) afford the authorized officer access at all reasonable times to the facility or location to inspect and copy all documents and records relating to the identification, nature, and quantity of the material; or

''(ii) copy and furnish to the authorized officer all such documents and records.

''(3) INSPECTIONS.—

''(A) IN GENERAL.—At the request of an authorized officer, the owner or operator of a facility subject to the requirements of this title shall permit the authorized officer to enter, at reasonable times—

''(i) the facility; or

''(ii) any other facility, establishment, or other place or property owned or operated by the owner or operator of the facility, if, in the opinion of the authorized officer, entry is needed to determine compliance with and enforce this title with respect to the facility.

''(B) SAMPLES.—An authorized officer may inspect and obtain—

''(i) samples from any facility subject to the requirements of this title or from a facility, establishment, or other place or property described in subparagraph (A)(ii); or

''(ii) samples of any containers of toxic chemicals or other materials maintained at the facility.

''(C) PROMPT COMPLETION.—An inspection under this paragraph shall be completed with reasonable promptness.

''(D) RECEIPT FOR SAMPLES AND COPIES OF ANALYSES.—If an authorized officer obtains a sample under subparagraph (B), the authorized officer shall—

''(i) before leaving the premises, give to the owner or operator of the facility a receipt describing the sample obtained and, if requested, a portion of the sample; and

''(ii) furnish promptly to the owner or operator of the facility a copy of the results of any analysis made of the sample.

''(4) COMPLIANCE ORDERS.—

''(A) ISSUANCE.—If the owner or operator of a facility failed to comply with a request of an authorized officer under this subsection, the Administrator or authorized State may, after such notice and opportunity for consultation as is reasonably appropriate under the circumstances, issue an order directing compliance with the request.

''(B) CIVIL ACTION.—

''(i) IN GENERAL.—The Administrator may request the Attorney General to commence a civil action to compel compliance with a request or order under this subsection.

''(ii) RELIEF.—If the court finds that there is a reasonable basis on which to believe that there may be a violation of this title, unless the court finds that, under the circumstances of the case, the request or order under this subsection was arbitrary and capricious, an abuse of discretion, or otherwise not in accordance with law, the court—

''(I) shall enter an order directing compliance with the request or order; and

''(II) may assess a civil penalty of not more than $10,000 for each day of noncompliance.

''(5) OTHER AUTHORITY.—Nothing in this subsection precludes the Administrator or an authorized State from securing access or obtaining information in any other lawful manner.''.

SEC. 204. PUBLIC AVAILABILITY.

Section 313(j) of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11023(j)) is amended in the second sentence by striking ''on a cost reimbursable basis''.

SEC. 205. FEDERAL FACILITIES.

Section 329(7) of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11049(7)) is amended by inserting before the period at the end the following: ''or the United States''.

SEC. 206. ENFORCEMENT.

Section 325(c)(1) of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11045(b)(1)) is amended by striking ''or 313'' and inserting '', 313, or 316''.

U.S. ENVIRONMENTAL
PROTECTION AGENCY,
Washington, DC, May 20, 1997.

Hon. FRANK LAUTENBERG,
U.S. Senate,
Washington, DC.

DEAR SENATOR LAUTENBERG: I am writing to thank you for your leadership on community right to know. As you are aware, expanding the public's right to know about harmful pollutants in our communities is a top priority for this Administration. We understand that your bill, The Right to Know More and Pollution Prevention Act of 1997, seeks to advance community right to know, pollution prevention planning and the information available to the public on chemical use.

This Administration believes that putting environmental and public health information into the hands of the American people is one of the most effective ways to reduce local pollution and prevent it from occurring in the future. In fact, the Agency recently made final a rule to add seven new industry categories to the Toxics Release Inventory (TRI), increasing the number of covered facilities to 31,000—a thirty percent increase. During the coming year, we will be working on ways to further improve TRI, including a stakeholder process to address reporting burdens, an examination of types of data collected, consideration of new thresholds for persistent, bioaccumulating toxic chemicals and developing options regarding chemical use information.

I look forward to working with you in the future to further the public's right to know about environmental health threats in their homes, schools and communities.

Sincerely,

CAROL M. BROWNER.

U.S. PUBLIC INTEREST
RESEARCH GROUP,
Washington, DC, May 20, 1997.

DEAR SENATOR LAUTENBERG: We are writing on behalf of U.S. PIRG and the State PIRGs with more than a million members nation wide, to express our support for the Right to Know More and Pollution Prevention Act of 1997. This bill will dramatically improve the amount and quality of information that citizens count on to keep themselves and their children safe. This bill will also encourage pollution prevention. The reduction of toxic chemical use and waste is urgent while waste generation is steadily increasing nationwide, except in New Jersey and Massachusetts where companies are required by state law to collect and report toxic use data. The Right to Know More and Pollution Prevention Act of 1997 will reverse the dangerous trend for the rest of the nation.

The Community Right to Know Act is the best source of public information about toxic pollution and is lauded by the administration, environmentalists, and often industry leaders as one of the most effective environmental protections. Unfortunately, reporting under this law is woefully inadequate. Less than 5% of pollution information is reported to the public. We need to protect and expand the public's Right to Know. The Right to Know More and Pollution Prevention Act of 1997 will expand the public's Right to Know to include:

1. Toxics use reporting which tells the public about toxic chemicals transported through their neighborhoods; produced, used and stored in the work place and put into consumer products.

2. More complete data on toxic emissions including information from all major industrial sources of toxic pollution and data on extremely hazardous substances like dioxins and mercury which are currently not collected under the law.

3. Pollution Prevention Planning which will direct companies to develop pollution prevention plans by setting their own goals for pollution reduction.

The public has a right to know more than they currently do about toxic chemicals. In addition, preventing pollution must be our

goal in light of the data revealing the steady rise in waste creation throughout the nation. We hope each Senator makes this legislation a top environmental priority.

Sincerely,

CAROLYN HARTMANN,
Environmental Program Director.
ANDREA ASKOWITZ,
Right to Know Campaign Coordinator.

ENVIRONMENTAL INFORMATION CENTER,
Washington, DC, May 19, 1997.

Hon. FRANK LAUTENBERG,
U.S. Senate,
Washington, DC.

DEAR SENATOR LAUTENBERG: I want to express the support and appreciation of the Environmental Information Center for your efforts to expand the Emergency Planning and Community Right to Know Act. Your efforts should provide additional and useful information about toxic chemicals to every community and family in the country.

The last decade has proven how well community right to know laws work. You know well the success of the more comprehensive facility reporting statute in New Jersey, and we commend you for seeking to expand use data to better inform workers and families about toxic chemicals in their communities. In addition, bill language aimed at improving pollution prevention will help to eliminate problems before they occur.

We will support early consideration and passage of this legislation and look forward to working with you on this bill.

Sincerely,

PHILIP E. CLAPP,
Executive Director.

By Mr. NICKLES:

S. 770. A bill to encourage production of oil and gas within the United States by providing tax incentives, and for other purposes; to the Committee on Finance.

THE DOMESTIC OIL AND GAS PRODUCTION AND RECOVERY ACT

Mr. NICKLES. Mr. President, I rise today to introduce the Domestic Oil and Gas Production and Preservation Act. This legislation is an effort to help revive our domestic oil and gas industry which plays such a vital role in our national security. If our domestic industry is to survive, then Congress needs to act now to provide tax incentives to encourage production in America.

Since the early 1980's, oil and gas extraction employment has been cut in half. Employment in the oil and gas industry has declined by 500,000 since 1984. Imports of crude oil products were $68 billion in 1996, up 24 percent over last year and the import dependency ratio now exceeds 50 percent. From 1973 to 1996, crude oil production dropped 44 percent in the lower 48 States. We must take action now to save domestic production not only for the sake of the oil and gas industry but for the sake of the national security of this Nation.

To date, the Clinton administration has done nothing to encourage domestic production. In fact, in 1996, crude oil reserves continued to decline by 788 million barrels. Natural gas reserves fell by 2,600 Bcf to 162,415 Bcf. In the President's budget there is nothing to aid this industry. That is why I am introducing this bill today.

The Domestic Oil and Gas Production and Preservation Act is intended to do just what its name implies—encourage oil and gas production and preserve and revitalize the domestic oil and gas industry. This bill would accomplish these goals through specific tax proposals. Section 2 of the bill would allow current expensing of geological and geophysical costs incurred domestically including the Outer Continental Shelf. These costs are an important and integral part of exploration and production for oil and natural gas, and should be expensed.

In addition to the G&G expensing, this bill provides for the elimination of the net income limit on percentage depletion. Currently, the net income limitation requires percentage depletion to be calculated on a property-by-property basis and disallows depletion to the extent it exceeds the net income from a particular property, thus discouraging producers from investing income from other oil and gas properties to maintain marginal wells.

Furthermore, this bill clarifies that delay rental payments are deductible, at the election of the taxpayer, as ordinary and necessary business expenses. This clarifies an otherwise gray area in Treasury regulations and eliminates costly administrative and compliance burdens on both taxpayers and the IRS. It would also extend the 90-day prepayment period to 180 days for determining when deductions may be taken on certain oil and gas investments. Harsh winter conditions in many States make the current 90-day limitation for commercial drilling impractical.

Lastly, section 6 includes hydro injection as a tertiary recovery method for purposes of the enhanced oil recovery credit. Although the Treasury Department is tasked with continued evaluations and editions to the list of recovery methods covered under the EOR, they have proven notably lax in pursuing this objective. By legislating this outcome, this bill keeps domestic production of our endangered marginal wells on the cutting edge of available technology.

Collectively, the provisions of this bill provide much-needed incentives to an industry that is vital to our national security. The sooner the administration and Congress acknowledge the critical importance of the domestic oil and gas industry and stop burdening this industry with high taxes and regulatory obstacles, the sooner we can take the necessary actions to preserve and revitalize this important sector of our economy.

Mr. President, I ask unanimous consent that a summary of the bill be printed in the RECORD.

SUMMARY OF THE DOMESTIC OIL AND GAS PRODUCTION AND RECOVERY ACT

SECTION 2. ELECTION TO EXPENSE GEOLOGICAL AND GEOPHYSICAL EXPENDITURES

Current law treatment

G&G costs are not deductible as ordinary and necessary business expenses but are treated as capital expenditures recovered through cost depletion over the life of the field. G&G expenditures allocated to abandoned prospects are deducted upon such abandonment.

Reasons for change

These costs are an important and integral part of exploration and production for oil and natural gas. They affect the ability of domestic producers to engage in the exploration and development of our national petroleum reserves. Thus, they are more in the nature of an ordinary and necessary cost of doing business. These costs are similar to research and development costs for other industries. For those industries such costs are not only deductible but a tax credit is available.

Crude oil imports are at an all-time high which makes the U.S. vulnerable to sharp oil price increases or supply disruptions. Domestic exploration and production must be encouraged now to offset this potential threat to national security and our economy. Allowing current deductibility of G&G costs would increase capital available for domestic exploration and production activity.

The technical ''infrastructure'' of the oil services industry, which includes geologists and engineers, has been moving into other industries due to reduced domestic exploration and production. Stimulating exploration and development activities would help rebuild the critical oil services industry.

Encouraging the industry to use the best technology available and to reduce its environmental footprint are important public policy reasons to clarify that these ordinary and necessary business expenses for the oil and gas industry should be expensed.

SECTION 3. ELIMINATION OF NET INCOME LIMITATION ON PERCENTAGE DEPLETION FOR OIL AND GAS

The net income limitation severely restricts the ability of independent producers to use percentage depletion. Depletion is subject to many other limitations. First, it may only be taken by independent producers and royalty owners and not by integrated oil companies. Also, depletion may only be claimed up to specific daily production levels (1,000 barrels of oil or 6,000 mcf of natural gas). The depletion allowance is further limited to 65% of taxable income.

The net income limitation requires percentage depletion to be calculated on a property by property basis and disallows percentage depletion to the extent it exceeds the net income from a particular property. The current requirement creates a nightmarish quagmire of record keeping, paperwork and compliance for taxpayers and the IRS. The typical independent producer can have numerous oil and gas properties, and many of them can be marginal properties (with high operating costs and low production yields). During periods of low prices, the producer may not have net income from a particular property, especially from these marginal properties. In this situation, when domestic production is most susceptible to being plugged and abandoned, the net income limitation discourages producers from investing income from other oil and gas properties to maintain marginal wells.

PROPOSAL: ELIMINATE THE NET INCOME LIMITATION ON PERCENTAGE DEPLETION

Reasons for change

The Interstate Oil and Gas Compact Commission (IOGCC) estimates there are more than 433,000 marginal wells in the U.S. which produced more than 333 million barrels of oil in 1995. This represented more than 18% of all the oil produced in the U.S. (excluding Alaska). The United States is the only country with significant production from marginal wells. They represent the ultimate in

conservation, since once wells are plugged and abandoned access to the remaining resource is often lost forever. Eliminating the net income limitation on percentage depletion will encourage producers to keep marginally economic wells in production and enhance optimum oil and natural gas resource recovery. Relief would be focused to independent producers and royalty owners.

Eliminating the net income limitation on percentage depletion would simplify record keeping and reduce the administrative and compliance burden for taxpayers and the IRS.

SECTION 4. ELECTION TO EXPENSE DELAY RENTAL PAYMENTS

Delay rental payments are made by producers to an oil and gas lessor prior to drilling or production. Unlike bonus payments (made by the producer in consideration for the grant of the lease) which generally is treated as an advance royalty and thus capitalized, producers have historically been allowed to elect to deduct delay rental payments under Treasury Regulations 1.612–3(c). However, in September, 1995, the IRS issued a technical advice (LTR 9602002) stating that such payments are preproduction costs subject to capitalization under Section 263A of the Internal Revenue Code. The legislative history of Section 263A is unclear and subject to varying interpretation.

PROPOSAL: CLARIFY THAT DELAY RENTAL PAYMENTS ARE DEDUCTIBLE, AT THE ELECTION OF THE TAXPAYER, AS ORDINARY AND NECESSARY BUSINESS EXPENSES

Reasons for change

In passing the Section 263A uniform capitalization rules, Congress broadly intended to only affect the ''unwarranted deferral of taxes.'' Congress did not intend to grant the IRS the authority to repeal the well-settled industry practice of deducting ''delay rentals'' as ordinary and necessary business expenses.

Treasury Reg. 1.612–3. states that, ''a delay rental is an amount paid for the privilege of deferring development of the property and which could have been avoided by abandonment of the lease, or by commencement of development operations, or by obtaining production.'' Such payments represent ordinary and necessary business expenses, not an ''unwarranted deferral of taxes.'' Given the clear disagreement over the legislative history and the likelihood of costly and unnecessary litigation to resolve the issue, clarification would eliminate administrative and compliance burdens on taxpayers and the IRS.

SECTION 5. EXTENSION OF SPUDDING RULE

The Internal Revenue Code provides a ''spudding'' exception to the ''economic performance rule'' in determining the year in which deductions may be taken on certain oil and gas investments. The economic performance rule will be satisfied, in certain circumstances, when amounts are paid during the preceding tax year so long as the well is spudded (the initial boring of the hole) within 90 days of the beginning of the following year.

PROPOSAL: EXTEND THE 90 DAY PREPAYMENT PERIOD TO 180 DAYS

Reasons for change

Harsh winter weather conditions in many states and locations make the 90 day limitation for the commencement of drilling impractical. Moreover, the current shortage of skilled drilling rig personnel and the high utilization rate of land-based drilling equipment, make it difficult, and in some parts of the country impossible, to meet the 90-day requirement. This personnel shortage has resulted from skilled workers moving into other industries due to vastly reduced domestic exploration and production activity over the past few years.

Expanding the 90 day prepayment period to 180 days would ease the industry's ability to attract capital.

SECITON 6. INCLUDE HYDRO INJECTION AS A TERTIARY RECOVERY METHOD UNDER THE ENHANCED OIL RECOVERY TAX CREDIT

Marginal wells are our most endangered domestic energy resource. By providing incentives for new methods for enhanced recovery, we ensure domestic production of the marginal wells remains on the cutting edge of available technology.

ADDITIONAL COSPONSORS

S. 127

At the request of Mr. MOYNIHAN, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 127, a bill to amend the Internal Revenue Code of 1986 to make permanent the exclusion for employer-provided educational assistance programs, and for other purposes.

S. 178

At the request of Mr. DEWINE, the names of the Senator from Louisiana [Ms. LANDRIEU] and the Senator from Arkansas [Mr. HUTCHINSON] were added as cosponsors of S. 178, a bill to amend the Social Security Act to clarify that the reasonable efforts requirement includes consideration of the health and safety of the child.

S. 351

At the request of Mrs. MURRAY, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 351, a bill to provide for teacher technology training.

S. 356

At the request of Mr. GRAHAM, the name of the Senator from Minnesota [Mr. WELLSTONE] was added as a cosponsor of S. 356, a bill to amend the Internal Revenue Code of 1986, the Public Health Service Act, the Employee Retirement Income Security Act of 1974, the title XVIII and XIX of the Social Security Act to assure access to emergency medical services under group health plans, health insurance coverage, and the medicare and medicaid programs.

S. 394

At the request of Mr. LEAHY, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 394, a bill to partially restore compensation levels to their past equivalent in terms of real income and establish the procedure for adjusting future compensation of justices and judges of the United States.

S. 397

At the request of Ms. MIKULSKI, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 397, a bill to amend chapters 83 and 84 of title 5, United States Code. to extend the civil service retirement provisions of such chapter which are applicable to law enforcement officers, to inspectors of the Immigration and Naturalization Service, inspectors and canine enforcement officers of the United States Customs Service, and revenue officers of the Internal Revenue Service.

S. 460

At the request of Mr. BOND, the names of the Senator from Ohio [Mr. DEWINE] and the Senator from Utah [Mr. HATCH] were added as cosponsors of S. 460, a bill to amend the Internal Revenue Code of 1986 to increase the deduction for health insurance costs of self-employed individuals, to provide clarification for the deductibility of expenses incurred by a taxpayer in connection with the business use of the home, to clarify the standards used for determining that certain individuals are not employees, and for other purposes.

S. 503

At the request of Mr. NICKLES, the names of the Senator from Oklahoma [Mr. INHOFE] and the Senator from North Carolina [Mr. HELMS] were added as cosponsors of S. 503, a bill to prevent the transmission of the human immunodeficiency virus (commonly known as HIV), and for other purposes.

S. 511

At the request of Mr. CHAFEE, the names of the Senator from Louisiana [Mr. BREAUX] and the Senator from New York [Mr. MOYNIHAN] were added as cosponsors of S. 511, a bill to require that the health and safety of a child be considered in any foster care or adoption placement, to eliminate barriers to the termination of parental rights in appropriate cases, to promote the adoption of children with special needs, and for other purposes.

S. 525

At the request of Mr. HATCH, the names of the Senator from Michigan [Mr. LEVIN], the Senator from Georgia [Mr. CLELAND], and the Senator from Louisiana [Ms. LANDRIEU] were added as cosponsors of S. 525, a bill to amend the Public Health Service Act to provide access to health care insurance coverage for children.

S. 526

At the request of Mr. HATCH, the names of the Senator from Michigan [Mr. LEVIN], the Senator from Georgia [Mr. CLELAND], and the Senator from Louisiana [Ms. LANDRIEU] were added as cosponsors of S. 526, a bill to amend the Internal Revenue Code of 1986 to increase the excise taxes on tobacco products for the purpose of offsetting the Federal budgetary costs associated with the Child Health Insurance and Lower Deficit Act.

S. 572

At the request of Mr. ALLARD, the name of the Senator from Arkansas [Mr. HUTCHINSON] was added as a cosponsor of S. 572, a bill to amend the Internal Revenue Code of 1986 to repeal restrictions on taxpayers having medical savings accounts.

S. 607

At the request of Mr. COATS, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 607, a bill to amend the

Communications Act of 1934 to provide for the implementation of systems for rating the specific content of specific television programs.

S. 621

At the request of Mr. D'AMATO, the name of the Senator from Wyoming [Mr. ENZI] was added as a cosponsor of S. 621, a bill to repeal the Public Utility Holding Company Act of 1935, to enact the Public Utility Holding Company Act of 1997, and for other purposes.

S. 627

At the request of Mr. JEFFORDS, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 627, a bill to reauthorize the African Elephant Conservation Act.

S. 649

At the request of Ms. SNOWE, the names of the Senator from Maryland [Ms. MIKULSKI], and the Senator from Vermont [Mr. LEAHY] were added as cosponsors of S. 649, a bill to amend title XVIII of the Social Security Act to provide for coverage of bone mass measurements for certain individuals under part B of the medicare program.

S. 689

At the request of Mr. BROWNBACK, the names of the Senator from Maryland [Mr. SARBANES], the Senator from California [Mrs. BOXER], the Senator from Louisiana [Ms. LANDRIEU], the Senator from Illinois [Mr. DURBIN], the Senator from New Hampshire [Mr. SMITH], and the Senator from South Dakota [Mr. JOHNSON] were added as cosponsors of S. 689, a bill to authorize the President to award a gold medal on behalf of the Congress to Mother Teresa of Calcutta in recognition of her outstanding and enduring contributions through humanitarian and charitable activities, and for other purposes.

S. 727

At the request of Mrs. FEINSTEIN, the name of the Senator from Kentucky [Mr. FORD] was added as a cosponsor of S. 727, A bill to amend the Public Health Service Act and Employee Retirement Income Security Act of 1974 to require that group and individual health insurance coverage and group health plans provide coverage for annual screening mammography for women 40 years of age or older if the coverage or plans include coverage for diagnostic mammography.

S. 742

At the request of Mr. DEWINE, the name of the Senator from Arkansas [Mr. HUTCHINSON] was added as a cosponsor of S. 742, a bill to promote the adoption of children in foster care.

S. 747

At the request of Mr. ROTH, the name of the Senator from California [Mrs. FEINSTEIN] was added as a cosponsor of S. 747, a bill to amend trade laws and related provisions to clarify the designation of normal trade relations.

SENATE CONCURRENT RESOLUTION 21

At the request of Mrs. HUTCHISON, her name was added as a cosponsor of Senate Concurrent Resolution 21, A concurrent resolution congratulating the residents of Jerusalem and the people of Israel on the thirtieth anniversary of the reunification of that historic city, and for other purposes.

SENATE RESOLUTION 87—RELATIVE TO THE VIETNAM VETERANS MEMORIAL

Mr. HAGEL (for himself, Mr. KERREY, Mr. CLELAND, Mr. KERRY, Mr. MCCAIN, Mr. ROBB, Mr. ABRAHAM, Mr. AKAKA, Mr. ALLARD, Mr. BIDEN, Mr. BINGAMAN, Mr. BOND, Mr. BROWNBACK, Mr. BURNS, Mr. BYRD, Mr. CAMPBELL, Mr. COATS, Mr. COCHRAN, Ms. COLLINS, Mr. COVERDELL, Mr. CRAIG, Mr. D'AMATO, Mr. DASCHLE, Mr. DEWINE, Mr. DODD, Mr. DURBIN, Mr. FAIRCLOTH, Mrs. FEINSTEIN, Mr. FRIST, Mr. GLENN, Mr. GORTON, Mr. GRAMS, Mr. GRASSLEY, Mr. GREGG, Mr. HARKIN, Mr. HELMS, Mr. HOLLINGS, Mr. HUTCHINSON, Mrs. HUTCHISON, Mr. INHOFE, Mr. INOUYE, Mr. JEFFORDS, Mr. JOHNSON, Mr. KEMPTHORNE, Mr. KENNEDY, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEVIN, Mr. LIEBERMAN, Mr. LOTT, Mr. LUGAR, Mr. MACK, Mr. MCCONNELL, Ms. MOSELEY-BRAUN, Mr. MOYNIHAN, Mr. MURKOWSKI, Mr. NICKLES, Mr. REED, Mr. REID, Mr. ROBERTS, Mr. ROCKEFELLER, Mr. ROTH, Mr. SANTORUM, Mr. SESSIONS, Mr. SMITH of New Hampshire, Mr. SMITH of Oregon, Ms. SNOWE, Mr. SPECTER, Mr. STEVENS, Mr. THOMAS, Mr. TORRICELLI, and Mr. WARNER) submitted the following resolution; which was considered and agreed to:

S. RES. 87

Whereas 1997 marks the 15th anniversary of the construction and dedication of the Vietnam Veterans Memorial in Washington, D.C.;

Whereas this memorial contains the names of more than 58,000 men and women who lost their lives from 1957 to 1975 in the Vietnam combat area or are still missing in action;

Whereas every year millions of Americans come to this monument to pay their respects for those who served in the Armed Forces;

Whereas the Vietnam Veterans Memorial has been a source of comfort and healing for Vietnam veterans and the families of the men and women who died while serving their country; and

Whereas this memorial has come to represent the legacy of healing that has occurred and demonstrates the appreciation all Americans have for those who made the ultimate sacrifice: Now, therefore, be it

Resolved, That the Senate—

(1) expresses its support and gratitude for all of the men and women who honorably served in the United States Armed Forces in defense of freedom and democracy during the Vietnam War;

(2) extends its sympathies to all Americans who suffered the loss of friends and family in Vietnam;

(3) encourages all Americans to remember the sacrifices of our veterans; and

(4) commemorates the 15th anniversary of the construction and dedication of the Vietnam Veterans Memorial.

AMENDMENTS SUBMITTED

THE PARTIAL-BIRTH ABORTION BAN ACT OF 1997

SANTORUM AMENDMENT NO. 290

Mr. SANTORUM proposed an amendment to the bill (H.R. 1122) to amend title 18, United States Code, to ban partial-birth abortions; as follows:

On page 2, line 16, strike the semicolon and all that follows through ''purpose'' on line 17.

On page 3, between lines 8 and 9, insert the following:

''(3) used in this section, the term 'vaginally delivers a living fetus before killing the fetus' means deliberately and intentionally delivers into the vagina a living fetus, or a substantial portion thereof, for the purpose of performing a procedure the physician knows will kill the fetus, and kills the fetus.

On page 3, between lines 21 and 22, insert the following:

''(d)(1) A defendant accused of an offense under this section may seek a hearing before the State Medical Board on whether the physician's conduct was necessary to save the life of the mother whose life was endangered by a physical disorder, illness or injury.

''(2) The findings on that issue are admissible on that issue at the trial of the defendant. Upon a motion of the defendant, the court shall delay the beginning of the trial for not more than 30 days to permit such a hearing to take place.

On page 3, line 22, strike ''(d)'' and insert ''(e)''.

BUDGET CONCURRENT RESOLUTION

MURRAY (AND WELLSTONE) AMENDMENT NO. 291

(Order to lie on the table.)

Mrs. MURRAY (for herself and Mr. WELLSTONE) submitted an amendment intended to proposed by them to the concurrent resolution (S. Con. Res. 27) setting forth the congressional budget for the U.S. Government for fiscal years 1998, 1999, 2000, 2001, and 2002; as follows:

At the appropriate place, insert the following:

SEC. . SENSE OF CONGRESS ON FAMILY VIOLENCE OPTION CLARIFYING AMENDMENT.

(a) FINDINGS.—Congress finds the following:

(1) Domestic violence is the leading cause of physical injury to women. The Department of Justice estimates that over 1,000,000 violent crimes against women are committed by intimate partners annually.

(2) Domestic violence dramatically affects the victim's ability to participate in the workforce. A University of Minnesota survey reported that ¼ of battered women surveyed had lost a job partly because of being abused and that over ½ of these women had been harassed by their abuser at work.

(3) Domestic violence is often intensified as women seek to gain economic independence through attending school or training programs. Batterers have been reported to prevent women from attending these programs or sabotage their efforts at self-improvement.

(4) Nationwide surveys of service providers prepared by the Taylor Institute of Chicago, Illinois, document, for the first time, the interrelationship between domestic violence and welfare by showing that from 34 percent to 65 percent of AFDC recipients are current or past victims of domestic violence.

(5) Over ½ of the women surveyed stayed with their batterers because they lacked the resources to support themselves and their children. The surveys also found that the availability of economic support is a critical factor in poor women's ability to leave abusive situations that threaten them and their children.

(6) The restructuring of the welfare programs may impact the availability of the economic support and the safety net necessary to enable poor women to flee abuse without risking homelessness and starvation for their families.

(7) In recognition of this finding, the Committee on the Budget of the Senate in considering the 1997 Resolution on the budget of the United States unanimously adopted a sense of the Congress amendment concerning domestic violence and Federal assistance. Subsequently, Congress adopted the family violence option amendment as part of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

(8) The family violence option gives States the flexibility to grant temporary waivers from time limits and work requirements for domestic violence victims who would suffer extreme hardship from the application of these provisions. These waivers were not intended to be included as part of the permanent 20 percent hardship exemption.

(9) The Department of Health and Human Services has been slow to issue regulations regarding this provision. As a result, States are hesitant to fully implement the family violence option fearing that it will interfere with the 20 percent hardship exemption.

(10) Currently 15 States have opted to include the family violence option in their welfare plans, and 13 other States have included some type of domestic violence provisions in their plans.

SEC. 2. SENSE OF CONGRESS.

It is the sense of Congress that the provisions of this Resolution assume that—

(1) States should not be subject to any numerical limits in granting domestic violence good cause waivers under section 402(a)(7)(A)(iii) of the Social Security Act (42 U.S.C. 602(a)(7)(A)(iii)) to individuals receiving assistance, for all requirements where compliance with such requirements would make it more difficult for individuals receiving assistance to escape domestic violence; and

(2) any individual who is granted a domestic violence good cause waiver by a State shall not be included in the States' 20 percent hardship exemption under section 408(a)(7) of the Social Security Act (42 U.S.C. 608(a)(7)).

ALLARD (AND INHOFE) AMENDMENT NO. 292

Mr. ALLARD (for himself and Mr. INHOFE) proposed an amendment to the concurrent resolution, Senate Concurrent Resolution 27, supra; as follows:

At the end of title II, add the following:

SEC. . OFFSET OF REVENUE SHORTFALLS BY DISCRETIONARY SPENDING REDUCTIONS.

(a) POINT OF ORDER.—It shall not be in order in the Senate to consider any concurrent resolution on the budget for fiscal year 1999, 2000, 2001, or 2002 that provides a revenue total for any of those fiscal years below the levels provided in this resolution unless the discretionary budget authority and outlay totals in that resolution are reduced to offset the amount by which revenues are below the levels provided in this resolution.

(b) WAIVER.—This section may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn.

(c) APPEALS.—Appeals in the Senate from the decisions of the Chair relating to any provision of this section shall be limited to 1 hour, to be equally divided between, and controlled by, the appellant and the manager of the concurrent resolution, bill, or joint resolution, as the case may be. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

(d) DETERMINATION OF BUDGET LEVELS.—For purposes of this section, the levels of new budget authority, outlays, new entitlement authority, and revenues for a fiscal year shall be determined on the basis of estimates made by the Committee on the Budget of the Senate.

ALLARD AMENDMENT NO. 293

Mr. ALLARD proposed an amendment to the concurrent resolution Senate Concurrent Resolution 27, supra; as follows:

At the end of the budget resolution add the following new section:

SEC. . SENSE OF THE SENATE ON REPAYMENT OF THE FEDERAL DEBT.

(a) FINDINGS.—The Senate finds that—

(1) Congress and the President have a basic moral and ethical responsibility to future generations to repay the Federal debt, including money borrowed from the Social Security Trust Fund;

(2) the Congress and the President should enact a law that creates a regimen for paying off the Federal debt within 30 years; and

(3) if spending growth were held to a level one percentage point lower than projected growth in revenues, then the Federal debt could be repaid within 30 years.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the provisions of this resolution assume that—

(1) the President's annual budget submission to Congress should include a plan for repayment of the Federal debt beyond the year 2002, including the money borrowed from the Social Security Trust Fund; and

(2) the plan should specifically explain how the President would cap spending growth at a level one percentage point lower than projected growth in revenues.

McCAIN (AND MACK) AMENDMENT NO. 294

(Ordered to lie on the table.)

Mr. MCCAIN (for himself and Mr. MACK) submitted an amendment intended to be proposed by them to the concurrent resolution S. Con. Res. 27, supra; as follows:

At the appropriate place, insert the following:

SEC. . HIGHWAY DEMONSTRATION PROJECTS.

(a) FINDINGS.—The Senate finds that—

(1) 10 demonstration projects totaling $362 million were listed for special line-item funding in the Surface Transportation Assistance Act of 1982;

(2) 152 demonstration projects totaling $1.4 billion were named in the Surface Transportation and Uniform Relocation Assistance Act of 1987;

(3) 64 percent of the funding for the 152 projects had not been obligated after 5 years and State transportation officials determined the projects added little, if any, to meeting their transportation infrastructure priorities;

(4) 538 location specific projects totaling $6.23 billion were included in the Intermodal Surface Transportation Efficiency Act of 1991;

(5) more than $3.3 billion of the funds authorized for the 538 location specific-projects remained unobligated as of January 31, 1997;

(6) the General Accounting Office determined that 31 States plus the District of Columbia and Puerto Rico would have received more funding if the Intermodal Surface Transportation Efficiency Act location-specific project funds were redistributed as Federal-aid highway program apportionments;

(7) this type of project funding diverts Highway Trust Fund money away from State transportation priorities established under the formula allocation process and under the Intermodal Surface Transportation and Efficiency Act of 1991;

(8) on June 20, 1995, by a vote of 75 yeas to 21 nays, the Senate voted to prohibit the use of Federal Highway Trust Fund money for future demonstration projects;

(9) the Intermodal Surface Transportation and Efficiency Act of 1991 expires at the end of Fiscal Year 1997; and

(10) hundreds of funding requests for specific transportation projects in Congressional Districts have been submitted in the House of Representatives.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) notwithstanding different views on existing Highway Trust Fund distribution formulas, funding for demonstration projects or other similarly titled projects diverts Highway Trust Fund money away from State priorities and deprives States of the ability to adequately address their transportation needs;

(2) States are best able to determine the priorities for allocating Federal-Aid-To-Highway monies within their jurisdiction;

(3) Congress should not divert limited Highway Trust Fund resources away from State transportation priorities by authorizing new highway projects; and

(4) Congress should not authorize any new demonstration projects or other similarly-titled projects.

HOLLINGS AMENDMENT NO. 295

Mr. HOLLINGS proposed an amendment to the concurrent resolution, Senate Concurrent Resolution 27, supra; as follows:

At the appropriate place, insert the following: ''Notwithstanding any other provision of this resolution, all function levels, allocations, aggregates and reconciliation instructions in this resolution shall be adjusted to reflect elimination of tax cuts of $85 billion from baseline levels and elimination of Presidential initiatives of $31.2 billion and interest savings of $13.8 billion for a total saving of $130 billion over five years.''

DODD (AND OTHERS) AMENDMENT NO. 296

Mr. DODD (for himself, Mr. JEFFORDS, Ms. MURRAY, Mr. BINGAMAN, Mr. WELLSTONE, Mr. LANDRIEU, Mr. HARKIN, and Mr. KERRY) proposed an amendment to the concurrent resolution, Senate Concurrent Resolution 27, supra; as follows:

On page 3, line 4, increase the amount by 2,006,000,000.

On page 3, line 5, increase the amount by 2,820,000,000.

On page 3, line 6, increase the amount by 3,991,000,000.
On page 3, line 7, increase the amount by 5,766,000,000.
On page 3, line 12, increase the amount by 2,006,000,000
On page 3, line 13, increase the amount by 2,820,000,000
On page 3, line 14, increase the amount by 3,991,000,000
On page 3, line 15, increase the amount by 5,766,000,000
On page 4, line 5, increase the amount by 2,533,000,000
On page 4, line 6, increase the amount by 3,481,000,000
On page 4, line 7, increase the amount by 4,993,000,000
On page 4, line 8, increase the amount by 7,305,000,000
On page 4, line 13, increase the amount by 2,006,000,000
On page 4, line 14, increase the amount by 2,820,000,000
On page 4, line 15, increase the amount by 3,991,000,000
On page 4, line 16, increase the amount by 5,766,000,000
On page 21, line 25, increase the amount by 1,013,000,000
On page 22, line 1, increase the amount by 643,000,000
On page 22, line 8, increase the amount by 1,951,000,000
On page 22, line 9, increase the amount by 1,335,000,000
On page 22, line 16, increase the amount by 3,453,000,000
On page 22, line 17, increase the amount by 2,458,000,000
On page 22, line 24, increase the amount by 5,755,000,000
On page 22, line 25, increase the amount by 4,224,000,000
On page 23, line 15, increase the amount by 20,000,000.
On page 23, line 16, increase the amount by 13,000,000.
On page 23, line 22, increase the amount by 30,000,000.
On page 23, line 23, increase the amount by 23,000,000.
On page 24, line 5, increase the amount by 40,000,000.
On page 24, line 6, increase the amount by 33,000,000.
On page 24, line 12, increase the amount by 50,000,000.
On page 24, line 13, increase the amount by 43,000,000.
On page 26, line 14, increase the amount by 1,500,000,000.
On page 26, line 15, increase the amount by 1,350,000,000.
On page 26, line 22, increase the amount by 1,500,000,000.
On page 26, line 23, increase the amount by 1,463,000,000.
On page 27, line 5, increase the amount by 1,500,000,000.
On page 27, line 6, increase the amount by 1,500,000,000.
On page 27, line 13, increase the amount by 1,500,000,000.
On page 27, line 14, increase the amount by 1,500,000,000.
On page 41, line 7, increase the amount by 5,766,000,000.
On page 41, line 8, increase the amount by 15,752,000,000.
On page 43, line 21, increase the amount by 2,533,000,000.
On page 43, line 22, increase the amount by 2,006,000,000.
On page 43, line 24, increase the amount by 3,481,000,000.
On page 43, line 25, increase the amount by 2,820,000,000.
On page 44, line 2, increase the amount by 4,993,000,000.
On page 44, line 3, increase the amount by 3,991,000,000.
On page 44, line 5, increase the amount by 7,305,000,000.
On page 44, line 6, increase the amount by 5,766,000,000.

At the appropriate place insert the following:

It is the sense of the Senate that funding should be increased for vital programs serving the youngest children. Head Start should be funded at a level necessary to serve all eligible children. Funding for the Child Care Development Block Grant should be doubled to support the working poor and new resources should be dedicated to addressing issues of quality and supply in areas such as infant care and care during non-traditional work hours. The Healthy Start should be expanded to improve maternal and infant health. These initiatives should be funded through by changes in the tax code such as the elimination of the runaway plant deduction, the billionaire's loophole, the exclusion of income from Foreign Sales Corporations and other changes as necessary.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet at 10 a.m. on Tuesday, May 20, 1997 in open session, to receive testimony on the quadrennial defense review and the impact of its recommendations on national security as we enter the 21st century.

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

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a Full Committee Hearing on ''Health Plan Quality'' during the session of the Senate on Tuesday, May 20, 1997, at 10 a.m.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, May 20, 1997, at 10 a.m. to hold an open hearing on intelligence matters.

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

SUBCOMMITTEE ON IMMIGRATION

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Subcommittee on Immigration, of the Committee on the Judiciary be authorized to meet during the session of the Senate on Tuesday, May 20, 1997, at 9:30 a.m. to hold a hearing on ''A Private Relief Initiative for Christopher Meili.''

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

ADDITIONAL STATEMENTS

NATO ENLARGEMENT AND U.S. SECURITY

● Mr. D'AMATO. Mr. President, I rise today to discuss the topic of North Atlantic Treaty Organization [NATO] enlargement and U.S. security. Now that there is agreement on the Founding Act on Mutual Relations, Cooperation and Security Between NATO and the Russian Federation, a significant obstacle to NATO enlargement has been removed. I have said before and say again that NATO enlargement is good for the United States, good for our NATO allies, good for the candidate states, and good for Russia.

The North Atlantic Treaty Organization is scheduled to announce at its July 8 and 9 summit meeting in Madrid, Spain, which candidate states will be invited to engage in negotiations leading to accession of these states to the Washington Treaty by 1999. Each of the states that have expressed interest in consideration for accession are participating states in the Organization for Security and Cooperation in Europe [OSCE].

As Chairman of the Commission on Security and Cooperation in Europe, I have led the Commission through a series of hearings on NATO enlargement which we will complete with a final hearing next Tuesday. We have invited official representatives of states to present their own positions to the Commission at these hearings to help meet the Commission's responsibility to the Congress and the American people to oversee implementation of the Helsinki Accords and subsequent Helsinki process documents, with a particular emphasis on human rights and humanitarian affairs. Congress and NATO have both recognized the significance of candidate states' compliance with OSCE principles in various official documents.

The Commission's approach to this series of hearings is focused on how well these candidate states have implemented OSCE agreements and complied with OSCE principles. Commissioners ask questions relating to other areas of candidate states' policies and conduct that have been identified as critical to acceptance into NATO, but we are not competing with the committees having legislative jurisdiction in these areas, who will examine those issues more thoroughly and with greater expertise.

Let me make it very clear that I am a supporter of NATO enlargement. I think that, in principle, every candidate state should be included in NATO when they meet the standards for accession. I do not believe that NATO enlargement should end with the Madrid announcement of the states invited to participate in accession negotiations.

I believe that it is very important that the United States, and our NATO allies, make very clear to those states

not invited to join in the first round that the door is not closed, that the process has not ended, and that we and our allies encourage them to press ahead to meet the standards so that they can join when they are ready.

We must, with our allies, establish a clearly defined process for achieving membership. If we don't, we run the risk of cutting the legs out from under the reform movements just now taking control of some of the Eastern European countries that have failed to reform their political, military, and economic systems fast enough to meet NATO member country standards. These reform governments must be given a clear, strong signal that when they meet the standards, they will be allowed to join.

We must not create in Eastern Europe a gray zone between NATO and Russia where the old spheres of influence and balance of power politics could give rise to lasting political instability, poverty, and isolation. While I have not yet seen the text of the new Founding Act, according to news reports it does not create a group of second class NATO members whose security guarantees are diluted and undermined. NATO enlargement does not threaten Russia's security.

An Eastern Europe without NATO could become a black hole of unrest, poverty, ethnic conflict, and extremism of the worst kinds. This would likely attract overt and covert Russian intervention in the affairs of the states in this area, pulling Russia into rebuilding its military machine and deploying it westward, and triggering United States and allied reaction. Neither the United States nor Russia want that to happen.

An eastern Europe without NATO would threaten Russia's security by preventing Russia from changing its thinking about NATO and about European political and economic relations, preventing constructive changes in Russian policy, and delaying or blocking Russia's full integration into the community of nations.

NATO enlargement is good for Russia. Russian agreement to the Founding Act signals that the Russian foreign policy elite recognizes that fact. Now, Russian energies can focus on driving political and economic reform to a successful conclusion instead of battling NATO enlargement. Russia should be pleased that one of its strategic flanks will be secured by a strong, friendly defensive alliance.

Russia should take note that the political, economic, military, and foreign policy changes NATO is insisting upon in successful candidate states will build stable, democratic, free market countries that will not themselves engage in aggression against Russia and that will not allow themselves to become participants in some other state's aggressive designs. Russia should want states with these characteristics on its borders.

The Russian foreign policy elites should climb up in the Kremlin's towers and look hard at the situations on Russia's other borders. Agreement with the Final Act signals some understanding that it is not in Russia's best long term interests to keep eastern Europe unstable and economically backward. After Russia's experiences in Afghanistan and Chechnya, does Russia really think that any threat, much less the main threat, to its independence and territorial integrity comes from NATO?

Russia's leaders have a question to which they need an answer—when Russia gets into trouble, who can Russia call upon for help? Recent reports of closer relations between Russia and China should not lead to the conclusion that Russia has a friend or an ally in China.

The only nations Russia can count on for help are the nations with the capacity to help. The only nations with that capacity are the developed nations of the West, the most powerful of whom are NATO members, and Japan.

For that help to be available, Russia now needs to press ahead with the same agenda of reforms that the NATO candidate states are implementing. It would be far easier to convince the western republics that Russia deserves help when it needs it if Russia is a democratic, rule-of-law state with a free market economy.

Reportedly under the new Founding Act, Russia does not have a veto over NATO enlargement and no state's candidacy is foreclosed. Russia needs leaders who can discard cold war thinking and stop seeing NATO enlargement as a victory for the West and a defeat for Russia. Boris Yeltsin is such a leader.

NATO enlargement is good for the United States, good for NATO's current member states, good for the candidate states, and, finally, good for Russia.

Wednesday's agreement on the Founding Act on Mutual Relations, Cooperation and Security Between NATO and the Russian Federation between NATO Secretary General Solana and Russian Foreign Minister Primakov proves that Russia's current leaders are not as opposed in fact as they sounded in rhetoric to NATO enlargement. The agreement reportedly was put before the North Atlantic Council, NATO's highest body, earlier today, and was approved.

Among other things, it draws Russia into closer collaboration with NATO on matters of mutual concern. The new NATO-Russia Council will give Russia insight into NATO processes and input into NATO consideration of issues without allowing Russia to block measures the alliance agrees must be taken for our mutual security.

Perhaps the best part of this enlargement process is not the military security guarantees that go with it to successful candidate states, but the leverage that the enlargement process exerts for basic change in each candidate state that will result in better, safer, and more prosperous lives for each of their citizens. The impact of that leverage has been on view during the course of the Commission's hearing process, as ambassadors of candidate states discuss their progress in meeting the standards for membership.

Even better, there may be the beginning of a halo effect on the surrounding countries. As they see their neighbors moving into closer integration with the West, they are becoming concerned about their own futures. They can see NATO membership being followed by European Union membership for these successful neighbors. They can see them pulling ahead in the competition for foreign investment, trade, and market access, growing in prosperity and stability behind NATO's shield. And they understand that there is no alternate path that they can follow that will get them to the same place any time soon.

Thus, even those states that are not now candidates for NATO membership are influenced in the direction of political and economic reform by the process of NATO enlargement. This will have a very positive and long-lasting impact on Europe's political stability, prosperity, and freedom, and decrease the chances that the security guarantees we solemnly extend to new NATO members will ever have to be invoked in crisis or in conflict. This, in the end, is a tremendous benefit for the security of the United States.

I believe that we must be resolute in pursuing our aim of expanding NATO to encompass all candidate states that meet the standards for membership. We must make it clear that the enlargement is a continuing process that will not end with the first group announced at Madrid, and that NATO membership remains open to states as they improve conditions for their people. In the end, this effort will move European security, prosperity, freedom, and human rights ahead more rapidly than any other course of action.

In closing, I want to briefly say something to those Americans who can trace their roots to those countries now being considered for NATO membership. Thanks in part to the hopes and beliefs that you would not let die even when times were very bad, and to your hard work in the American political system, these countries are free and independent again, something the realists of 10 years ago would have said couldn't happen, and would never happen. Keeping the faith, making sure that the United States never recognized the incorporation of the Baltic States into the Soviet Union, making sure that we supported Solidarity, sustaining support for Charter 77, keeping the life lines open to the many struggling Helsinki groups, making your voices heard here in Washington, those were key events that helped pave the way to where we are today. Thank you for your efforts and know that the futures of these countries could have been much worse but for your active support for their sovereign independence, and for freedom and human rights for their citizens.●

TRIBUTE TO JAMES R. MELLOR

• Mr. LIEBERMAN. Mr. President, I rise today to pay tribute to James R. (Jim) Mellor, who retires next week from his position as chief executive officer and chairman of the board of General Dynamics Corp., a position he has held for 3 years. Jim has been with General Dynamics for a total of 16 years. Prior to becoming CEO and chairman, he was the president and chief operating officer and before that, the executive vice president—Marine, Business Systems and Corporate Planning. Jim Mellor is completing an illustrious 42 year career in the defense industry having worked at Litton Industries and Hughes Aircraft Corp. before joining General Dynamics.

During his time with General Dynamics Jim took part in the delivery of 18 Trident ballistic missile submarines, the upgrade of the Army's M1 tank to the state-of-the-art M1A2, and the development and transition into production of the Tomahawk cruise missile. The Trident submarine played a major role in bringing about the end of the cold war, and we are all familiar with the important contributions made by the M1 tank and the Tomahawk cruise missile in our overwhelming success in Desert Storm.

Jim is a graduate of the University of Michigan, earning both bachelor of science and master of science degrees from that institution. He served in the U.S. Army from 1952 to 1955. While at Hughes & Litton he received three patents relating to large screen display and digital computing technology. He has also authored more than 30 articles in national and international publications covering a wide range of management and technical subjects.

In addition to these accomplishments, Jim has been active in many charitable and community causes. He is a member of the University of Southern California Business School Board of Councilors, a member of the National Advisory Committee of the University of Michigan, and a trustee of Ford's Theater. Under his leadership for the past 7 years, General Dynamics has sponsored the annual Memorial Day Concert held right here on the Capitol Grounds. Jim has also been an active sponsor of and participant in the Juvenile Diabetes Foundation's annual walk on the Mall. Jim and his wife, Suzanne, will be moving to California to be near their three children and nine grandchildren, but will maintain a residence in the Washington area and will remain active in business and governmental issues.

Please join me in paying tribute to this distinguished engineer, business leader, civic sponsor, and family man.•

TRIBUTE MARKING THE 40TH ANNIVERSARY OF U.S. ARMY SPACE AND MISSILE DEFENSE

• Mr. SESSIONS. Mr. President, it is with great pleasure that I rise today to recognize the celebration of the 40th anniversary of U.S. Army Space and Missile Defense.

During this week, May 19–22, 1997, a number of special events will be taking place in Huntsville, AL, to celebrate this important anniversary. I wish to express my congratulations to the Army community in Huntsville for their splendid record of achievement in space and missile defense, and to ask my colleagues to join me saluting them for what this has meant to our Nation's security.

The U.S. Army led the nation into space and ballistic missile defense [BMD] in 1957 with the authorization to proceed with the launch of an artificial satellite and the start of development of the Nike Zeus BMD system. The Army Ballistic Missile Agency successfully launched the free world's first artificial satellite in 1958, only 89 days after receiving the go-ahead, restoring America's leadership in space exploration following the Soviet Sputnik launch 3 months earlier.

The Huntsville BMD team performed the first demonstration of a successful intercept of an ICBM class ballistic missile in 1962, deployed the first and only BMD system in the United States, conducted the first nonnuclear intercept of an ICBM in 1984, and carried out the first and the largest number of intercepts of tactical ballistic missiles, including the spectacular performance of the Patriot system against Scud rockets during Desert Storm.

The U.S. Army role in space has continued to provide significant contributions to battlefield communications, precise detection, tracking of threatening missiles, and a host of space-based capabilities tailored for the warfighter on the ground.

The Huntsville team has made significant contributions to BMD technology, including development of nuclear and nonnuclear interceptors and kill vehicles; advanced BMD radar and optical sensors; the first BMD computer, associated software and a long progression of innovations in BMD computational capabilities; and lastly, a wide range of BMD phenomenology, components and techniques.

In view of their long record of outstanding achievements, the future of military space and BMD lies to a large extent in the hands of the men and women who work in the Army organizations in Huntsville, together with their industry team mates.

Mr. President, I salute Huntsville and the hard-working men and women of that great community. Most importantly, I wish to extend a warm and hearty congratulations to the U.S. Army Space and Missile Defense team for a job well done, and best wishes for its continued success now and during the next 40 years.•

TRIBUTE TO EDWARD P. SCOTT, VA ASSISTANT SECRETARY FOR CONGRESSIONAL AFFAIRS

• Mr. ROCKEFELLER. Mr. President, it is with a mixture of happiness and sadness that I pay tribute to Edward P. Scott, VA's Assistant Secretary for Congressional Affairs, as he retires from Federal service—happiness for Ed and his family as they embark on a new phase of their lives, and sadness for those of us who will miss Ed's wise counsel and assistance as we carry on our work on veterans issues.

Mr. President, Ed has had a long and distinguished career, including 16 years here in the Senate where he served on the Veterans' Affairs Committee as general counsel, minority general counsel, and in the 102d Congress, as chief counsel and staff director. I first became familiar with Ed's work when I joined the Veterans' Affairs Committee in 1985 when I first came to the Senate; I have recognized and relied on his great professionalism and integrity ever since. I particularly appreciated his assistance in 1993 when he worked tirelessly to ensure that my transition to the chairmanship of the committee went as smoothly as possible.

For the past 4 years, Ed has served ably in the often challenging job of Assistant Secretary for Congressional Affairs at the Department of Veterans Affairs. He is enormously knowledgeable about veterans' programs and laws, and both the committee and the Department have relied heavily on his expertise and keen insight. He has worked hard to keep his various constituencies—most particularly, Secretary of Veterans Affairs, Jesse Brown and the authorizing and appropriating committees of both the House and Senate—informed and working together. On any number of occasions, Ed has kept the train on the tracks when it was threatening to tumble off.

During these 4 years, Ed has played an important role in working with Congress to ensure passage of significant legislation to improve benefits and services for the service men and women who have sacrificed so much for our great country. He was particularly instrumental in working with the Congress last year to enact health care eligibility reform legislation, Public Law 104–262. Ed has also been in the middle of efforts to make sure that the Congress understood what the administration was doing in response to the concerns of veterans of the Persian Gulf.

Ed's high standards—in doing the job and doing it right, in being a person of unassailable integrity, and in working with all parties concerned to find solutions that all could embrace—have inspired all who have worked with him.

Mr. President, Ed's earlier career was equally distinguished. He graduated cum laude from the University of Pennsylvania Law School where he was an editor of the law review. Following a clerkship with a justice of the New Jersey Supreme Court, he entered active duty in the Air Force and served

as assistant staff judge advocate at Keesler Air Force Base, MS. He then served with the Peace Corps, first in the Office of General Counsel, where he served as the deputy general counsel, and then as the Peace Corps country director in Korea. Ed also worked at the Mental Health Law Project here in Washington, an experience that gave him significant expertise on mental health issues which he has brought to bear on any number of VA mental health matters.

Mr. President, I am certain that all in the Senate who have had the privilege of knowing and working with Ed Scott join me in wishing him well as he retires from a distinguished career of Government service. We will be the poorer for his going, but the richer for his having worked among us.●

NATIONAL EMERGENCY MEDICAL SERVICES WEEK

● Mr. GRAMS. Mr. President, I rise today to recognize National Emergency Medical Services Week and the heroic and courageous work our emergency medical service providers perform everyday.

As an author of the Emergency Medical Services Efficiency Act, I have had the opportunity to meet with many EMS providers both in Minnesota and Washington to hear firsthand the problems they face every day—and their suggestions on how those problems can be resolved. The meetings were constructive, and we identified specific areas of concern and ways in which Congress can address them. I hope that the Emergency Medical Services Efficiency Act will serve as a blueprint for helping these dedicated public servants make the system more efficient.

Mr. President, emergency medical services have come a long way since the 1860's when the first civilian ambulance service was begun in Cincinnati and New York City. Now we have sophisticated medical equipment on ambulances around the country, and the American people have come to rely on the readiness, efficiency, and quick response of the EMS system. Yet many Americans—including Members of Congress—take these crucial services for granted.

Mr. President, I have a great admiration and respect for those who dedicate their time and talents to the emergency care profession, whether as a career or through volunteering. It's a field that offers a great many rewards. And yet along with those rewards often come great challenges. EMS professionals are often thrust into dangerous situations—situations that set their profession apart from most any other 9-to-5 job. It's a difficult, sometimes terrifying time to be part of the public health and safety professions.

I'm reminded of a frightening example of the terrors EMS professionals face that happened here in Washington just 5 months ago when a paramedic team was attacked by a gunman. Emergency workers were transporting a shooting victim to the hospital when the gunman stormed the ambulance, killing the victim and wounding one of the paramedics. That followed another violent incident just a month earlier, when a man who had been shot was stalked by his attacker to the hospital and was fatally wounded as he sought treatment.

Despite these risks, there are many thousands of Americans who serve their communities with determination and compassion as paramedics and emergency medical service personnel. Last night, they honored those who exemplify the best of their profession as ''Stars of Life.'' I was asked to speak to their group, but was unable to attend due to the Budget Committee's markup of the fiscal year 1998 budget resolution. I was disappointed I could not attend so I wanted to take the time to recognize their achievements on the Senate floor today.

Mr. President, at this time I ask that the names of this year's ''Stars of Life'' be printed in the RECORD following my remarks.

Far too often, Washington fails to respond to pressing concerns until they become a crisis. We cannot wait for a crisis to occur before we respond to the needs of our emergency medical system.

It's ironic that we expect so much from our EMS providers and yet, when they seek assistance, we continue to ignore their 9–1–1 call for help. In recognizing and celebrating National EMS Week, we should all take the time to congratulate the ''Stars of Life,'' and their colleagues, who receive no special recognition and yet answer every call, every day, because they have chosen to serve.

The names follow:

STARS OF LIFE RECIPIENTS 1997

Irene Acquisto, NY.
Mike (Dewey) Albritton, MS.
Josh Alger, MI.
Thomas Anderson, CT.
Jim Bard, OR.
Robert Barmore, KY.
Sue Beals, ME.
Trish Beckwith, NV.
Walter Bedward, NJ.
Jeffrey Blank, WA.
Charles Blattner, CA.
Andy Bowersox, IN.
Terry Bracy, AR.
Ken Bradford, CA.
Tim Braithwaite, SD.
Bernie Callahan, PA.
Marty Carlson, OR.
Bryan Clark, GA.
Mike Coburn, NV.
Keith Cooper, PA.
David Curran, RI.
Virginia Davis, CA.
Vito DePietro, PA.
Jeffrey DeVine, MA.
George Drum, AZ.
Dave Elle, OR.
David Ellis, MO.
Linda Emery, OH.
Clarence Ervin, MI.
Ramona Fincher, LA.
Wayne Gilbert, MA.
Tom Gottschalk, MI.
Dave Green, NY.
Robert Gregory, CT.
Julian Guerrero, TX.
Marlene Guillory, LA.
David Hahn, IL.
Paul Haynie, CA.
Margaret Heckmann, IL.
Leigh Hennig, NY.
Victor Hoffer, OR.
Lynda Hoffman, NY.
Gregory Hogan, MA.
Dennis Hogges, GA.
Sharon Houghton, MO.
Shane Husted, MI.
Christopher Imm, NY.
Brent James, NE.
Charles Jarmon, CT.
Wilson Jean, FL.
Leonard Joseph, NY.
Shelly Kaczynski, MI.
James Lanier, FL.
Tony Lee, MA.
Carl Lind, AZ.
Thomas Lindgren, MA.
William Lindsay, OK.
Alvin Lynn, VA.
Tonia Mack, MA.
Steve Madrid, AZ.
Quijuan Maloof, CA.
Michael Mangan, MD.
Kerry Mariano, PA.
Donald Marsh, MI.
Greg Martino, CO.
Vicky McClanahan, TN.
Ed (Hunter) McKeever, CO.
Chris Mixon, LA.
Edward Moser, NY.
Jim Neal, ME.
Rella Neal, ME.
Keith Overcash, NC.
Cheryl Pasquarella, MN.
Thinh Pham, LA.
Ron Piel, FL.
John Piombo, FL.
Maye Pittman, CA.
Suzanne Pluskett, CA.
Judy Rains, VA.
Richie Ray, TX.
John Rivas, FL.
Jodi Roberts, OK.
Stephen Roberts Jr., TN.
Earl Ruberts, NJ.
Todd Sadler, OH.
Orlando Segarra, FL.
Mia Shelton, NY.
Penny Shuler, GA.
Todd Sims, NC.
Randy Sizelove, IN.
Mary Sloan, GA.
Carroll Smeltzer, AR.
Brent (Michael) Smith, TX.
Robert L. Smith Jr., NC.
John Sotero, CT.
Todd Stockford, MI.
Regina Stoneham, TX.
Matt Syverson, AZ.
Steve Thurman, PA.
Linda Tracey, NY.
Kevin Waddington, CO.
Beth Wally, NC.
Greg Ware, LA.
Courtney Williamson, GA.
Kevin Winte, CA.
Bill (Ronald) Wright, DE.
Destry Young, TN.●

DEATH SENTENCES FOR SALE OF LAND

● Mr. LEAHY. Mr. President, I was profoundly disturbed to learn that the Palestinian Authority has adopted a policy that any Palestinian caught selling land to a Jew will receive the death penalty. Only days after the announcement, the New York Times reported the brutal abduction and murder of Mr. Farid Bashiti, a 70-year-old

Palestinian real estate dealer who had been interrogated 2 weeks before his murder by the Palestinian police for allegedly selling land to Jews in and around Jerusalem.

Palestinian authorities have denied any involvement in Mr. Bashiti's death, and I understand an investigation is underway by Palestinian and Israeli police. I do not seek to prejudge that. But it is noteworthy that Palestinian officials have not condemned his death and have openly called Mr. Bashiti a traitor. I hope that his family is able to learn the truth, and that those responsible are brought to justice. This was a horrendous crime whatever the motive, and whoever was behind it should be severely punished.

But apart from Mr. Bashiti's murder, the policy of imposing a death sentence for the sale of land is nothing short of barbaric. It cannot be justified under any circumstances. I am very aware that Palestinians fervently disagree with the Israeli decision to proceed with the construction of Jewish housing in Har Homa. I disagree with that decision as well. And I am disturbed by the reports that torture is used by Israeli police. But executing someone because he or she sold land to Jews is beyond comprehension.

Mr. President, I have spoken many times about the fragility of the peace process in the Middle East. I am very disappointed by any actions that exacerbate the situation, when the focus should be on easing tensions and seeking common ground.●

DISTRICT OF COLUMBIA ECONOMIC RECOVERY ACT

● Mr. MACK. Mr. President, last Thursday, I, along with Senators LIEBERMAN and BROWNBACK, reintroduced the District of Columbia Economic Recovery Act (S. 753). I now ask that the text of this bill be printed in the RECORD.

The text of the bill follows:

S. 753

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''District of Columbia Economic Recovery Act''.

SEC. 2. SPECIAL RULES FOR TAXATION OF INDIVIDUALS WHO ARE RESIDENTS OF OR INVESTORS IN THE DISTRICT OF COLUMBIA.

(a) IN GENERAL.—Subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to determination of tax liability) is amended by adding at the end the following new part:

''PART VIII—SPECIAL RULES FOR TAXATION OF INDIVIDUALS WHO ARE RESIDENTS OF OR INVESTORS IN THE DISTRICT OF COLUMBIA

''SEC. 59B. LIMITATION ON TAX IMPOSED ON RESIDENTS OF THE DISTRICT OF COLUMBIA.

''(a) GENERAL RULE.—If a taxpayer elects the application of this section, the net income tax of an individual who is a resident of the District of Columbia for the taxable year shall not exceed the limitation determined under subsection (b) for such year.

''(b) LIMITATION.—

''(1) IN GENERAL.—The limitation determined under this subsection is the sum of the following amounts:

''(A) 15-PERCENT RATE.—15 percent of so much of District-sourced income as exceeds the exemption amount.

''(B) AVERAGE RATE.—An amount equal to the average rate of the non-District-sourced adjusted gross income.

''(2) DISTRICT-SOURCED CAPITAL GAINS.—

''For exclusion from tax of capital gains, see section 59C.

''(c) DEFINITIONS.—For purposes of this section—

''(1) RESIDENT OF DISTRICT OF COLUMBIA.—An individual is a resident of the District of Columbia for the taxable year if—

''(A) such individual used a residence in the District of Columbia as a place of abode (and was physically present at such place) for at least 183 days of such taxable year, and

''(B) such individual is subject to the District of Columbia income tax for such taxable year.

''(2) NET INCOME TAX.—The term 'net income tax' means—

''(A) the sum of regular tax liability and the tax imposed by section 55 (determined without regard to this section), reduced by

''(B) the aggregate credits allowable under part IV (other than section 31).

''(3) EXEMPTION AMOUNT.—The term 'exemption amount' means—

''(A) $30,000 in the case of a joint return or a surviving spouse,

''(B) $15,000 in the case of—

''(i) an individual who is not a married individual and is not a surviving spouse, and

''(ii) a married individual filing a separate return, and

''(C) $25,000 in the case of a head of a household.

''(4) AVERAGE RATE.—The term 'average rate' means the percentage determined by dividing—

''(A) the sum (determined without regard to this section) of the taxpayer's regular tax liability and the tax imposed by section 55, by

''(B) the taxpayer's taxable income.

If the percentage determined under the preceding sentence is not a whole number of percentage points, such percentage shall be rounded to the nearest whole number of percentage points.

''(5) REGULAR TAX LIABILITY.—The term 'regular tax liability' has the meaning given to such term by section 26(b).

''(d) DISTRICT-SOURCED INCOME.—For purposes of this section, the term 'District-sourced income' means adjusted gross income reduced by the sum of—

''(1) non-District-sourced adjusted gross income,

''(2) the deduction allowed by section 170, and

''(3) the deduction allowed by section 163 to the extent attributable to qualified residence interest (as defined in section 163(h)).

''(e) NON-DISTRICT-SOURCED ADJUSTED GROSS INCOME.—For purposes of this section, the term 'non-District-sourced adjusted gross income' means gross income of the taxpayer from sources outside the District of Columbia reduced (but not below zero) by the deductions taken into account in determining adjusted gross income which are allocable to such income.

''(f) SOURCES OF INCOME.—For purposes of this section—

''(1) RETIREMENT INCOME AND OTHER INCOME NOT SOURCED UNDER SUBSECTION.—The source of any income not specifically provided for in this subsection shall be treated as from sources within the District of Columbia.

''(2) PERSONAL SERVICES.—

''(A) IN GENERAL.—Compensation (other than retirement income) for services performed by the taxpayer as an employee, and net earnings from self-employment (as defined in section 1402)), shall be sourced at the place such services are performed.

''(B) SERVICES PERFORMED IN WASHINGTON-BALTIMORE AREA TREATED AS PERFORMED IN THE DISTRICT OF COLUMBIA.—Services performed in the Washington-Baltimore area shall be treated as performed in the District of Columbia.

''(C) INDIVIDUALS PERFORMING 80 PERCENT OF SERVICES WITHIN WASHINGTON-BALTIMORE AREA.—If, during any taxable year, at least 80 percent of the hours of service performed by an individual are performed within the Washington-Baltimore area, all such service shall be treated for purposes of this paragraph as performed within the District of Columbia.

''(D) WASHINGTON-BALTIMORE AREA.—For purposes of this paragraph, the term 'Washington-Baltimore area' means the area consisting of—

''(i) the Washington/Baltimore Consolidated Metropolitan Statistical Area (as designated by the Office of Management and Budget), and

''(ii) St. Mary's County, Maryland.

''(3) INTEREST.—

''(A) IN GENERAL.—Interest received or accrued during the taxable year shall be treated as from sources outside the District of Columbia.

''(B) EXCEPTION FOR SMALL AMOUNTS OF NON-DISTRICT-SOURCED INTEREST.—Interest which would (but for this subparagraph) be treated as from sources outside the District of Columbia shall be treated as from sources in the District of Columbia to the extent the amount of such interest does not exceed $400.

''(C) EXCEPTION FOR INTEREST PAID BY DISTRICT OF COLUMBIA BUSINESSES AND RESIDENTS.—

''(i) BUSINESSES.—In the case of interest paid during a calendar year by a debtor which was required to file (and filed) a franchise tax return with the District of Columbia for the debtor's taxable year ending with or within the prior calendar year, an amount equal to the D.C. percentage (as shown on such return) of such interest shall be treated as from sources within the District of Columbia. The preceding sentence shall apply only if such percentage is furnished to the taxpayer in writing on or before January 31 of the year following the calendar year in which such interest is paid.

''(ii) OTHERS.—Interest shall be treated as from sources within the District of Columbia if the interest is paid during a calendar year by a debtor—

''(I) which was required to file (and filed) an income tax return with the District of Columbia for the debtor's taxable year ending with or within the prior calendar year, and

''(II) which is not required to file a franchise tax return with the District of Columbia for such taxable year.

''(D) SPECIAL RULE FOR DETERMINATION OF D.C. PERCENTAGE FOR NEW BUSINESSES.—Interest shall be treated as from sources within the District of Columbia if the interest is paid during a calendar year by a debtor which was required to file (and filed) a franchise tax return with the District of Columbia for such debtor's taxable year ending with or within such calendar year, but which was not required to file such a return for such debtor's prior taxable year.

''(4) DIVIDENDS.—

''(A) IN GENERAL.—Dividends received or accrued during the taxable year shall be

treated as from sources outside the District of Columbia.

''(B) EXCEPTION FOR SMALL AMOUNTS OF NON-DISTRICT-SOURCED DIVIDENDS.—Dividends which would (but for this subparagraph) be treated as from sources outside the District of Columbia shall be treated as from sources in the District of Columbia to the extent the amount of such dividends do not exceed $400.

''(C) EXCEPTION FOR DIVIDENDS PAID BY CORPORATION ENGAGED IN BUSINESS IN THE DISTRICT OF COLUMBIA.—In the case of dividends paid during a calendar year by a corporation which was required to file (and filed) a franchise tax return with the District of Columbia for the corporation's taxable year ending with or within the prior calendar year, an amount equal to the D.C. percentage (as shown on such return) of such dividends shall be treated as from sources within the District of Columbia. The preceding sentence shall apply only if such percentage is furnished to the taxpayer in writing on or before January 31 of the year following the calendar year in which such dividends are paid.

''(D) SPECIAL RULE FOR DETERMINATION OF D.C. PERCENTAGE FOR NEW BUSINESSES.—Dividends shall be treated as from sources within the District of Columbia if the dividends are paid during a calendar year by a corporation which was required to file (and filed) a franchise tax return with the District of Columbia for such corporation's taxable year ending with or within such calendar year, but which was not required to file such a return for such corporation's prior taxable year.

''(5) DISPOSITION OF TANGIBLE PROPERTY.—Income, gain, or loss from the disposition of tangible property shall be sourced to the place such property is located at the time of the disposition.

''(6) DISPOSITION OF INTANGIBLE PROPERTY.—

''(A) IN GENERAL.—Income, gain, or loss from the disposition of intangible property shall be treated as from sources outside the District of Columbia.

''(B) EXCEPTION.— If any portion of the most recent income received or accrued by the taxpayer before such disposition which was attributable to such property was from sources within the District of Columbia, a like portion of the income, gain, or loss from such disposition shall be treated as from sources within the District of Columbia.

''(7) RENTALS.—Rents from property shall be sourced at the place where such property is located.

''(8) ROYALTIES.—Royalties shall be treated as from sources outside the District of Columbia.

''(9) INCOME FROM PROPRIETORSHIP.—

''(A) IN GENERAL.—In the case of a trade or business carried on by the taxpayer as a proprietorship, income from such trade or business (other than income which is included in net earnings from self-employment by the taxpayer) shall be treated as from sources outside the District of Columbia.

''(B) EXCEPTION FOR DISTRICT OF COLUMBIA BUSINESSES.—If the taxpayer is required to file (and files) a franchise tax return with the District of Columbia for the taxable year, subparagraph (A) shall not apply to an amount equal to the D.C. percentage of such income.

''(10) INCOME FROM PARTNERSHIP.—

''(A) IN GENERAL.—In the case of a taxpayer who is a partner in a partnership, income from such partnership (other than income which is included in net earnings from self-employment by any partner) shall be treated as from sources outside the District of Columbia.

''(B) EXCEPTIONS.—Subparagraph (A) shall not apply to a partnership—

''(i) which was required to file (and filed) a franchise tax return with the District of Columbia for the partnership's taxable year ending with or within the taxpayer's taxable year to the extent of the D.C. percentage of the taxpayer's distributive share of the partnership income, or

''(ii) which was not required to file a franchise tax return with the District of Columbia for the partnership's taxable year ending with or within the taxpayer's taxable year to the extent of the taxpayer's distributive share of partnership income which is not (as determined under this subsection) from sources outside the District of Columbia.

''(11) INCOME IN RESPECT OF A DECEDENT; INCOME FROM AN ESTATE.—Income in respect of a decedent, and income from an estate, shall be sourced at the place where the decedent was domiciled at the time of his death.

''(12) INCOME FROM A TRUST.—Income (other than retirement income) from a trust shall be treated as from the same sources as the income of the trust to which it is attributable.

''(g) DEFINITIONS RELATING TO SUBSECTION (f).—For purposes of subsection (f)—

''(1) RETIREMENT INCOME.—The term 'retirement income' has the meaning given such term by section 114(b)(1) of title 4, United States Code (determined without regard to subparagraph (I) thereof).

''(2) D.C. PERCENTAGE.—The term 'D.C. percentage' means the percentage determined by dividing—

''(A) the net income taxable in the District of Columbia (as shown on the original return for the taxable year), by

''(B) total net income from all sources (as shown on such return).

The preceding sentence shall be applied based on amounts shown on the original applicable District of Columbia franchise or income tax return.

''(h) SECTION NOT TO APPLY TO ESTATES AND TRUSTS.—This section shall not apply to an estate or trust.

''(i) ELECTION.—The election provided in subsection (a) shall be made at such time and in such manner as the Secretary may by regulations prescribe. Any such election shall apply to the first taxable year for which such election was made and for each taxable year thereafter until such election is revoked by the taxpayer.

''(j) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.

''SEC. 59C. EXCLUSION OF CAPITAL GAINS SOURCED IN THE DISTRICT OF COLUMBIA.

''(a) EXCLUSION.—

''(1) GENERAL RULE.—Except as provided in paragraph (2), in the case of a taxpayer who is an individual, gross income shall not include any qualified capital gain recognized on the sale or exchange of a District asset held for more than 3 years.

''(2) EXCEPTION FOR CERTAIN GAIN OF NONRESIDENTS.—In the case of a taxpayer who is not a resident of the District of Columbia for any taxable year, gross income shall not include 50 percent of the qualified capital gain recognized on the sale or exchange of residential rental property (within the meaning of section 168(e)(2)(A)) which is a District asset held for more than 3 years and which is not taken into account under section 1202.

''(b) DISTRICT ASSET.—For purposes of this section—

''(1) IN GENERAL.—The term 'District asset' means—

''(A) any District stock,

''(B) any District business property,

''(C) any District partnership interest, and

''(D) any principal residence (within the meaning of section 1034).

''(2) DISTRICT STOCK.—

''(A) IN GENERAL.—The term 'District stock' means any stock in a domestic corporation if—

''(i) such stock is acquired by the taxpayer on original issue from the corporation solely in exchange for cash,

''(ii) as of the time such stock was issued, such corporation was a District business (or, in the case of a new corporation, such corporation was being organized for purposes of being a District business), and

''(iii) during substantially all of the taxpayer's holding period for such stock, such corporation qualified as a District business.

''(B) REDEMPTIONS.—The term 'District stock' shall not include any stock acquired from a corporation which made a substantial stock redemption or distribution (without a bona fide business purpose therefor) in an attempt to avoid the purposes of this section.

''(3) DISTRICT BUSINESS PROPERTY.—

''(A) IN GENERAL.—The term 'District business property' means tangible property if—

''(i) such property was acquired by the taxpayer by purchase (as defined in section 179(d)(2)),

''(ii) the original use of such property in the District of Columbia commences with the taxpayer, and

''(iii) during substantially all of the taxpayer's holding period for such property, substantially all of the use of such property was in a District business of the taxpayer.

''(B) SPECIAL RULE FOR SUBSTANTIAL IMPROVEMENTS.—

''(i) IN GENERAL.—The requirements of clauses (i) and (ii) of subparagraph (A) shall be treated as satisfied with respect to—

''(I) property which is substantially improved by the taxpayer, and

''(II) any land on which such property is located.

''(ii) SUBSTANTIAL IMPROVEMENT.—For purposes of clause (i), property shall be treated as substantially improved by the taxpayer if, during any 24-month period beginning after the date of the enactment of this section, additions to basis with respect to such property in the hands of the taxpayer exceed the greater of—

''(I) an amount equal to the adjusted basis at the beginning of such 24-month period in the hands of the taxpayer, or

''(II) $5,000.

''(C) LIMITATION ON LAND.—The term 'District business property' shall not include land which is not an integral part of a District business.

''(4) DISTRICT PARTNERSHIP INTEREST.—The term 'District partnership interest' means any interest in a partnership if—

''(A) such interest is acquired by the taxpayer from the partnership solely in exchange for cash,

''(B) as of the time such interest was acquired, such partnership was a District business (or, in the case of a new partnership, such partnership was being organized for purposes of being a District business), and

''(C) during substantially all of the taxpayer's holding period for such interest, such partnership qualified as a District business.

A rule similar to the rule of paragraph (2)(B) shall apply for purposes of this paragraph.

''(5) TREATMENT OF SUBSEQUENT PURCHASERS.—The term 'District asset' includes any property which would be a District asset but for paragraph (2)(A)(i), (3)(A)(ii), or (4)(A) in the hands of the taxpayer if such property was a District asset in the hands of all prior holders.

''(6) 10-YEAR SAFE HARBOR.—If any property ceases to be a District asset by reason of paragraph (2)(A)(iii), (3)(A)(iii), or (4)(C) after the 10-year period beginning on the date the taxpayer acquired such property, such property shall continue to be treated as meeting

the requirements of such paragraph; except that the amount of gain to which subsection (a) applies on any sale or exchange of such property shall not exceed the amount which would be qualified capital gain had such property been sold on the date of such cessation.

''(c) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) QUALIFIED CAPITAL GAIN.—Except as otherwise provided in this subsection, the term 'qualified capital gain' means any long-term capital gain recognized on the sale or exchange of a District asset held for more than 3 years.

''(2) CERTAIN GAIN ON REAL PROPERTY NOT QUALIFIED.—The term 'qualified capital gain' shall not include any gain which would be treated as ordinary income under section 1250 if section 1250 applied to all depreciation rather than the additional depreciation.

''(3) DISTRICT BUSINESS.—The term 'District business' means, with respect to any taxable year, any individual, partnership, or corporation if for such year either—

''(A)(i) at least 50 percent of the total gross income of such individual, partnership, or corporation is derived from the active conduct of a trade or business in the District of Columbia,

''(ii) substantially all of the use of the tangible property of such individual, partnership, or corporation (whether owned or leased) is within the District of Columbia, and

''(iii) at least 35 percent of the employees of such individual, partnership, or corporation are located in the District of Columbia, or

''(B) at least 50 percent of the employees of such individual, partnership, or corporation are located in the District of Columbia.

''(d) TREATMENT OF PASS-THRU ENTITIES.—

''(1) SALES AND EXCHANGES.—Gain on the sale or exchange of an interest in a pass-thru entity held by the taxpayer (other than an interest in an entity which was a District business during substantially all of the period the taxpayer held such interest) for more than 3 years shall be treated as gain described in subsection (a) to the extent such gain is attributable to amounts which would be qualified capital gain on District assets (determined as if such assets had been sold on the date of the sale or exchange) held by such entity for more than 3 years and throughout the period the taxpayer held such interest. A rule similar to the rule of paragraph (2)(B) shall apply for purposes of the preceding sentence.

''(2) INCOME INCLUSIONS.—

''(A) IN GENERAL.—Any amount included in income by reason of holding an interest in a pass-thru entity (other than an entity which was a District business during substantially all of the period the taxpayer held the interest to which such inclusion relates) shall be treated as gain described in subsection (a) if such amount meets the requirements of subparagraph (B).

''(B) REQUIREMENTS.—An amount meets the requirements of this subparagraph if—

''(i) such amount is attributable to qualified capital gain recognized on the sale or exchange by the pass-thru entity of property which is a District asset in the hands of such entity and which was held by such entity for the period required under subsection (a), and

''(ii) such amount is includible in the gross income of the taxpayer by reason of the holding of an interest in such entity which was held by the taxpayer on the date on which such pass-thru entity acquired such asset and at all times thereafter before the disposition of such asset by such pass-thru entity.

''(C) LIMITATION BASED ON INTEREST ORIGINALLY HELD BY TAXPAYER.—Subparagraph (A) shall not apply to any amount to the extent such amount exceeds the amount to which subparagraph (A) would have applied if such amount were determined by reference to the interest the taxpayer held in the pass-thru entity on the date the District asset was acquired.

''(3) PASS-THRU ENTITY.—For purposes of this subsection, the term 'pass-thru entity' means—

''(A) any partnership,

''(B) any S corporation,

''(C) any regulated investment company, and

''(D) any common trust fund.

''(e) SALES AND EXCHANGES OF INTERESTS IN PARTNERSHIPS AND S CORPORATIONS WHICH ARE DISTRICT BUSINESSES.—In the case of the sale or exchange of an interest in a partnership, or of stock in an S corporation, which was a District business during substantially all of the period the taxpayer held such interest or stock, the amount of qualified capital gain shall be determined without regard to any intangible, and any land, which is not an integral part of the District business.

''(f) CERTAIN TAX-FREE AND OTHER TRANSFERS.—For purposes of this section—

''(1) IN GENERAL.—In the case of a transfer of a District asset to which this subsection applies, the transferee shall be treated as—

''(A) having acquired such asset in the same manner as the transferor, and

''(B) having held such asset during any continuous period immediately preceding the transfer during which it was held (or treated as held under this subsection) by the transferor.

''(2) TRANSFERS TO WHICH SUBSECTION APPLIES.—This subsection shall apply to any transfer—

''(A) by gift,

''(B) at death, or

''(C) from a partnership to a partner thereof of a District asset with respect to which the requirements of subsection (d)(2) are met at the time of the transfer (without regard to the 3-year holding requirement).

''(3) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of section 1244(d)(2) shall apply for purposes of this section.''

(b) CONFORMING AMENDMENTS.—

(1) Section 55(c)(1) of the Internal Revenue Code of 1986 is amended by adding at the end the following: ''Such regular tax shall be determined without regard to section 59B.''

(2) The table of parts for subchapter A of chapter 1 of such Code is amended by adding at the end the following new item:

''Part VIII. Special rules for taxation of individuals who are residents of or investors in the District of Columbia.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 3. EXPENSING OF ENVIRONMENTAL REMEDIATION COSTS WITHIN THE DISTRICT OF COLUMBIA.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to itemized deductions for individuals and corporations) is amended by adding at the end the following new section:

''SEC. 198. EXPENSING OF ENVIRONMENTAL REMEDIATION COSTS WITHIN THE DISTRICT OF COLUMBIA.

''(a) IN GENERAL.—A taxpayer may elect to treat any qualified environmental remediation expenditure which is paid or incurred by the taxpayer as an expense which is not chargeable to capital account. Any expenditure which is so treated shall be allowed as a deduction for the taxable year in which it is paid or incurred.

''(b) QUALIFIED ENVIRONMENTAL REMEDIATION EXPENDITURE.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified environmental remediation expenditure' means any expenditure—

''(A) which is otherwise chargeable to capital account, and

''(B) which is paid or incurred in connection with the abatement or control of hazardous substances at a qualified contaminated site.

''(2) SPECIAL RULE FOR EXPENDITURES FOR DEPRECIABLE PROPERTY.—Such term shall not include any expenditure for the acquisition of property of a character subject to the allowance for depreciation which is used in connection with the abatement or control of hazardous substances at a qualified contaminated site; except that the portion of the allowance under section 167 for such property which is otherwise allocated to such site shall be treated as a qualified environmental remediation expenditure.

''(c) QUALIFIED CONTAMINATED SITE.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified contaminated site' means any area within the District of Columbia—

''(A) which is held by the taxpayer for use in a trade or business or for the production of income, or which is property described in section 1221(1) in the hands of the taxpayer, and

''(B) which contains (or potentially contains) any hazardous substance.

''(2) TAXPAYER MUST RECEIVE STATEMENT FROM ENVIRONMENTAL AGENCY.—An area shall be treated as a qualified contaminated site with respect to expenditures paid or incurred during any taxable year only if the taxpayer receives a statement from the appropriate agency of the District of Columbia in which such area is located that such area meets the requirements of paragraph (1)(B).

''(3) APPROPRIATE AGENCY.— For purposes of paragraph (2), the appropriate agency of the District of Columbia is the agency designated by the Administrator of the Environmental Protection Agency for purposes of this section. If no agency is designated under the preceding sentence, the appropriate agency shall be the Environmental Protection Agency.

''(d) HAZARDOUS SUBSTANCE.—For purposes of this section—

''(1) IN GENERAL.—The term 'hazardous substance' means—

''(A) any substance which is a hazardous substance as defined in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and

''(B) any substance which is designated as a hazardous substance under section 102 of such Act.

''(2) EXCEPTION.—Such term shall not include any substance with respect to which a removal or remedial action is not permitted under section 104 of such Act by reason of subsection (a)(3) thereof.

''(e) DEDUCTION RECAPTURED AS ORDINARY INCOME ON SALE, ETC.—Solely for purposes of section 1245, in the case of property to which a qualified environmental remediation expenditure would have been capitalized but for this section—

''(1) the deduction allowed by this section for such expenditure shall be treated as a deduction for depreciation, and

''(2) such property (if not otherwise section 1245 property) shall be treated as section 1245 property solely for purposes of applying section 1245 to such deduction.

''(f) COORDINATION WITH OTHER PROVISIONS.—Sections 280B and 468 shall not apply to amounts which are treated as expenses under this section.

''(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.''

(b) CONFORMING AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

''Sec. 198. Expensing of environmental remediation costs within the District of Columbia.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures paid or incurred after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 4. FIRST-TIME HOMEBUYER CREDIT FOR DISTRICT OF COLUMBIA.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to nonrefundable personal credits) is amended by inserting after section 23 the following new section:

''SEC. 24. FIRST-TIME HOMEBUYER CREDIT FOR DISTRICT OF COLUMBIA.

''(a) ALLOWANCE OF CREDIT.—In the case of an individual who is a first-time homebuyer of a principal residence in the District of Columbia during any taxable year, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to so much of the purchase price of the residence as does not exceed $5,000.

''(b) FIRST-TIME HOMEBUYER.—For purposes of this section—

''(1) IN GENERAL.—The term 'first-time homebuyer' means any individual if—

''(A) such individual (and if married, such individual's spouse) had no present ownership interest in a principal residence in the District of Columbia during the 1-year period ending on the date of acquisition of the principal residence to which this section applies, and

''(B) subsection (h) or (k) of section 1034 did not, on the day before the close of such 1-year period, suspend the running of any period of time specified in section 1034 for such individual with respect to gain on a principal residence in the District of Columbia.

''(2) ONE-TIME ONLY.—If an individual is treated as a first-time homebuyer with respect to any principal residence, such individual may not be treated as a first-time homebuyer with respect to any other principal residence.

''(3) PRINCIPAL RESIDENCE.—The term 'principal residence' has the meaning given such term by section 1034.

''(4) DATE OF ACQUISITION.—The term 'date of acquisition' means the date—

''(A) on which a binding contract to acquire the principal residence to which this section applies to is entered into, or

''(B) on which construction or reconstruction of such principal residence is commenced.

''(c) CARRYOVER OF CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section and section 25), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year.

''(d) SPECIAL RULES.—For purposes of this section—

''(1) ALLOCATION OF DOLLAR LIMITATION.—

''(A) MARRIED INDIVIDUALS FILING JOINTLY.—In the case of a husband and wife who file a joint return under section 6013, the $5,000 limitation under subsection (a) shall apply to the joint return.

''(B) MARRIED INDIVIDUALS FILING SEPARATELY.—In the case of a married individual filing a separate return, subsection (a) shall be applied by substituting '$2,500' for '$5,000'.

''(C) OTHER TAXPAYERS.—If 2 or more individuals who are not married purchase a principal residence, the amount of the credit allowed under subsection (a) shall be allocated among such individuals in such manner as the Secretary may prescribe, except that the total amount of the credits allowed to all such individuals shall not exceed $5,000.

''(2) PURCHASE.—The term 'purchase' means any acquisition, but only if—

''(A) the property is not acquired from a person whose relationship to the person acquiring it would result in the disallowance of losses under section 267 or 707(b) (but, in applying section 267 (b) and (c) for purposes of this section, paragraph (4) of section 267(c) shall be treated as providing that the family of an individual shall include only his spouse, ancestors, and lineal descendants), and

''(B) the basis of the property in the hands of the person acquiring it is not determined—

''(i) in whole or in part by reference to the adjusted basis of such property in the hands of the person from whom acquired, or

''(ii) under section 1014(a) (relating to property acquired from a decedent).

''(3) PURCHASE PRICE.—The term 'purchase price' means the adjusted basis of the principal residence on the date of acquisition.''

(b) CONFORMING AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 23 the following new item:

''Sec. 24. First-time homebuyer credit for District of Columbia.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to purchases after the date of the enactment of this Act, in taxable years ending after such date.●

BUDGET SCOREKEEPING REPORT

● Mr. DOMENICI. Mr. President, I hereby submit to the Senate the budget scorekeeping report prepared by the Congressional Budget Office under section 308(b) and in aid of section 311 of the Congressional Budget Act of 1974, as amended. This report meets the requirements for Senate scorekeeping of section 5 of Senate Concurrent Resolution 32, the first concurrent resolution on the Budget for 1986.

This report shows the effects of congressional action on the budget through May 19, 1997. The estimates of budget authority, outlays, and revenues, which are consistent with the technical and economic assumptions of the 1997 concurrent resolution on the budget (H. Con. Res. 178), show that current level spending is above the budget resolution by $16.9 billion in budget authority and by $12.6 billion in outlays. Current level is $20.5 billion above the revenue floor in 1997 and $101.9 billion above the revenue floor over the 5 years 1997–2001. The current estimate of the deficit for purposes of calculating the maximum deficit amount is $219.6 billion, $7.6 billion below the maximum deficit amount for 1997 of $227.3 billion.

Since my last report, dated April 15, 1997, there has been no action to change the current level of budget authority, outlays or revenues.

The report follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 20, 1997.

Hon. PETE V. DOMENICI,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report for fiscal year 1997 shows the effects of Congressional action on the 1997 budget and is current through May 19, 1997. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the 1997 Concurrent Resolution on the Budget (H. Con. Res. 178). This report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended.

Since my last report, dated April 15, 1997, there has been no action to change the current level of budget authority, outlays or revenues.

Sincerely,

JUNE E. O'NEILL,
Director.

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE FISCAL YEAR 1997, 105TH CONGRESS, 1ST SESSION, AS OF CLOSE OF BUSINESS MAY 19, 1997

[In billions of dollars]

	Budget resolution H. Con. Res. 178	Current level	Current level over/ under resolution
ON-BUDGET			
Budget authority	1,314.9	1,331.8	16.9
Outlays	1,311.3	1,323.9	12.6
Revenues:			
1997	1,083.7	1,104.3	20.5
1997–2001	5,913.3	6,015.2	101.9
Deficit	227.3	219.6	-7.6
Debt subject to limit	5,432.7	5,257.7	-175.0
OFF-BUDGET			
Social Security outlays:			
1997	310.4	310.4	0.0
1997–2001	2,061.3	2,061.3	0.0
Social Security revenues:			
1997	385.0	384.7	-0.3
1997–2001	2,121.0	2,120.3	-0.7

Note: Current level numbers are the estimated revenue and direct spending effects of all legislation that Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE, 105TH CONGRESS, 1ST SESSION, SENATE SUPPORTING DETAIL FOR FISCAL YEAR 1997, AS OF CLOSE OF BUSINESS MAY 19, 1997

[In millions of dollars]

	Budget authority	Outlays	Revenues
Enacted in Previous Sessions			
Revenues			1,101,532
Permanents and other spending legislation	843,324	801,465	
Appropriation legislation	753,927	788,263	
Offsetting receipts	−271,843	−271,843	
Total previously enacted	1,325,408	1,317,885	1,101,532
Enacted This Session			
Airport and Airway Trust Fund Reinstatement Act of 1997 (P.L. 105–2)			2,730
Entitlements and Mandatories			
Budget resolution baseline estimates of appropriated entitlements and other mandatory programs not yet enacted	6,428	6,015	
Totals			
Total current level	1,331,836	1,323,900	1,104,262

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE, 105TH CONGRESS, 1ST SESSION, SENATE SUPPORTING DETAIL FOR FISCAL YEAR 1997, AS OF CLOSE OF BUSINESS MAY 19, 1997—Continued

[In millions of dollars]

	Budget authority	Outlays	Revenues
Total budget resolution	1,314,935	1,311,321	1,083,728
Amount remaining:			
Under budget resolution	.....	.....	.....
Over budget resolution	16,901	12,579	20,534
Addendum			
Emergencies:			
Funding that has been designated as an emergency requirement by the President and the Congress	1,814	1,233	.....
Funding that has been designated as an emergency requirement only by the Congress and is not available for obligation until requested by the President	315	300	.....
Total emergencies	2,129	1,533	.....
Total current level including emergencies	1,333,965	1,325,433	1,104,262•

TRIBUTE TO LARRY DOBY

• Mr. HOLLINGS. Mr. President, I rise today to pay tribute to Mr. Larry Doby, originally of Camden, SC, who was the first African-American to play in the American League. Mr. Doby's contributions to baseball and the American cultural conscience are of ineffable importance. He exemplified grace under fire, showing tact, resilence, and dignity in the unforgiving arena of a segregated nation. In light of his personal qualities and his professional achievements, I ask that the following editorial from the Chronicle Independent be printed in the RECORD.

The editorial follows:

LARRY DOBY

During this 50th anniversary of the desegregation of Major League Baseball, Jackie Robinson has again become a household name. Perhaps now more than ever, people—and not only baseball fans —are stopping to consider the true impact that Mr. Robinson had, not only as a baseball player but as a social pioneer. For indeed, that's what he was—a pioneer. When Brooklyn Dodgers owner Branch Rickey broke the color line by bringing Jackie Robinson up to the big leagues, he knew Mr. Robinson would face abuse. He also knew that the talented player had the character and the savoir faire to handle the situation.

Somewhere lost in the shuffle has been Kershaw County's own Larry Doby, who became the first black player in the American League. Few people realize that Mr. Doby, who was born in Camden and moved to New Jersey after the death of his father, followed Mr. Robinson into the major leagues by only 11 weeks. As in other phases of U.S. history, we usually remember the first person to do something, but those who follow shortly thereafter often get forgotten. That's been the case with Mr. Doby.

He was, after all, an excellent baseball player and athlete. He led the American League in home runs in 1952, and during a 13-year career, most of them with the Cleveland Indians, he batted .283 and made six consecutive American League all-star teams. Five times in a seven-season span, he drove in more than 100 runs. A player who posts those kinds of statistics today receives millions of dollars a year, but that wasn't the case back then. But Larry Doby was more than a great baseball player; just as Mr. Robinson did, he blazed a trail that made baseball at its highest level open to everyone, not just white players. And in doing so, he gracefully endured abuse that would be difficult to imagine today.

It is only proper that Mr. Doby is finally receiving his due for his accomplishments. This year's all-star game will be dedicated to him, and the Indians will honor the 50th anniversary of his debut before their July 5 game against Kansas City. He is now special assistant to the president of the American League.

Those who have reflected with Mr. Doby on his achievements, including the sports editor of this newspaper, have been impressed with his recall of the events of 50 years ago. Like Jackie Robinson, he struggled through a difficult time to open doors for all people.

Baseball fans—and yes, Americans who really don't give much of a hoot for the national pastime—should pay tribute to Jackie Robinson this year, a man whose courage and talent have made him a household name. But at the same time, let those of us in Kershaw County not forget one of our own: Larry Doby, a true champion in every sense of the word.•

MASS TRANSIT AMENDMENTS ACT OF 1997

• Mr. LAUTENBERG. Mr. President, I rise to join with my colleague from Pennsylvania, Senator ARLEN SPECTER, in supporting the Mass Transit Amendments Act of 1997. This bill is a bipartisan effort to support investment in our Nation's mass transit systems and industry. But more important, this bill will ensure that a critical part our Nation's transportation infrastructure—transit—will receive adequate investments into the 21st century. A healthy transit system will go a long way toward reducing congestion and increasing mobility even when vehicle miles traveled is increasing.

Good public transit increases the efficiency of existing roadways, especially in congested regions where many people live. Transit is essential to rural, suburban, and urban residents, it is a cost-effective solution to healthcare access, a key to successful welfare reform, and an environmentally sensible way to meet the commuting needs. It is an increasingly important service for the elderly, for persons with disabilities, for students, and for those who cannot afford a car.

Mr. President, anybody who questions the necessity for transit services only has to visit my home State of New Jersey. The most densely populated State in the Nation, it also has the most vehicle density on its roads. Located between two heavily populated metropolitan areas, New Jersey is known as the Corridor State. Over 60 billion vehicle miles are traveled on New Jersey's roads annually. The ability of trucks and cars to move freely on New Jersey's roads directly affects New Jersey's economy—congestion has dramatic effects on the economy.

New Jersey is also a commuter State. Millions of New Jerseyans face serious commuter problems every day. In many areas in New Jersey, there is nowhere else to lay new roads. We simply cannot build ourselves out of congestion. That's why New Jersey is heavily reliant on mass transit. The Midtown Direct, an Urban core project, was inaugurated 1 year ago. Within weeks, the ridership doubled in its projections. Transit in New Jersey is well used and well supported.

Nationally, transit has also proven to reduce congestion, and transit saves dollars. A 1996 report conducted by the Federal Transit Administration found that the annual economic loss to U.S. business caused by traffic congestion is $40 billion, and the additional annual economic loss if all U.S. transit commuters drove instead would be $15 billion.

It's also good for the environment. According to the FTA, transit use saves 1.5 billion gallons of U.S. auto fuel consumption every year. Transit is energy efficient, and the less gasoline used, the less the United States is dependent on foreign oil.

Mr. President, Americans also see direct public health benefits from transit use. According to the Environmental Protection Agency, up to 110 million Americans breathe air that is unhealthful. The American Lung Association estimates the national health care bill for air pollution-related illness is $40 billion a year. Transportation sources cause 40–60 percent of pollution that produces ozone, and 70–80 percent of carbon monoxide emissions. Nearly one-third of carbon dioxide—the most significant greenhouse gas—comes from transportation sources. The fastest growing source of carbon dioxide emissions is the transportation sector.

Mr. President, transit produces real environmental benefits. On average, riding transit instead of driving cuts hydrocarbon emissions that produce smog by 90 percent and carbon monoxide by more than 75 percent. One person using mass transit for a year instead of driving to work saves our environment 9 pounds of hydrocarbons, 62 pounds of carbon monoxide and 5 pounds of nitrogen oxides.

It doesn't stop there. Over the past 30 years, the U.S. transit industry and its riders have prevented the emission of 1.6 million tons of hydrocarbons, 10 million tons of carbon monoxide, and 275,000 tons of nitrogen oxides into the air; the importation of 20 billion gallons of gasoline; and the construction and maintenance of 20,000 lane-miles of freeways and arterial roads and 5 million parking spaces to meet demands, saving at least $220 billion.

Transit is an important part of our Nation's transportation system, and we ought to ensure that it is afforded the same priority as other modes of transportation.

Mr. President, this bill does just that. It increases the authorization level for transit programs to provide $34.4 billion over 5 years. It increases

discretionary capital grants and formula capital grants. It preserves operating assistance within formula programs for all areas and it continues funding for transit planning and research. It also makes a number of technical changes in the program to ensure better flexibility and streamlining, allowing transit managers to administer the program more effectively.

Mr. President, this bill does a few more things. It includes a provision which shifts the 4.3 cents of gas taxes per gallon currently allocated to deficit reduction, into transportation trust funds. One-half cent of the 4.3 cents is allocated into a new intercity passenger rail trust fund to fund Amtrak capital expenses; the rest—the 3.8 cents—is divided along the traditional 80 percent/20 percent split of highways/mass transit, respectively. Thus, 3.04 cents will go into the highway account of the highway trust fund, and 0.76 cents will go into the mass transit account of the highway trust fund. This is the fair, equitable way to divide any new trust fund revenue that would be allocated for transportation.

However, Mr. President, until a mechanism is provided to actually permit the expenditure of that additional funding, we will not see the investment we seek. Instead, the trust fund balances will only grow. As party to the budget negotiations just completed, I know as well as any Senator how hard it will be to make the necessary investments as we move to a balanced budget by 2002. However, I think it is important to lay out this principle and do our best to work toward it.

Mr. President, unfortunately, the balanced budget agreement reached last week will make it difficult to fund mass transit at the levels provided in this bill. As ranking Democratic member of the Budget Committee, I fought hard to ensure that we will be making an adequate investment within the context of the balanced budget agreement. I must say, it will be difficult to fund transportation at the levels I support over the next few years. However, as ranking Democratic member of the Transportation Appropriations Subcommittee, I will work to ensure continued, adequate funding over these years.

Mr. President, the Mass Transit Act Amendments of 1997 represent what I believe, and what transit advocates believe, is necessary to provide for transit's growing needs into the 21st century. As Congress considers funding for transportation, I look forward to discussing ways that transit, and other modes of transportation, can benefit.

Mr. President, this bill also includes a Reverse Commute Pilot Program which intends to assist individuals in both urban and rural areas receive employment and job training. This annual $250 million discretionary program reflects the growing needs of the work force, particularly those in urban and rural areas who do not have access to suburban jobs. A 1996 report conducted by the Eno Transportation Foundation, ''Commuting in America II,'' found that ''today, the dominant commuting flow pattern is suburban, with 50% of the Nation's commuters living in the suburbs and over 41% of all jobs located there, up from 37% in 1980.'' Suburban areas are now the main destination of work trips. The report also found that there was a substantial increase in reverse commuting—the central city-to-suburb commuting rose from a 9-percent share of growth over the decade from 1970 to 1980, to 12 percent from 1980 to 1990.

Mr. President, reinvesting in our cities is important. However, if jobs are in the suburbs, we should provide mechanisms for employers, local and State employment and transportation agencies to assist those potential employees to simply get to where the work is. For those of us who are concerned about the effects of the Welfare Reform Act signed into law last year, we need to do all we can to ensure that the unemployed can move from welfare to work quickly and easily. The Reverse Commute Pilot Program makes sense.

Mr. President, we all know that the Intermodal Surface Transportation Efficiency Act—ISTEA—will expire on September 30. That law was far-reaching and visionary. It recognized that good transportation policy does not mean simply pouring more concrete and asphalt. Instead, it focused on moving goods and people—in a way that makes the most sense for our Nation, our States, our communities, and our economy. Its very title acknowledged a simple, yet important, aspect of transportation which had been previously overlooked—intermodalism. During this year's debate over reauthorization of ISTEA, it is imperative that we continue this tradition of intermodalism. We must continue the strong investments in transit and the flexibility provided in the first ISTEA.

Mr. President, this bill continues that tradition. I support it and I urge my colleagues to join me in doing so.●

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. GRASSLEY. Mr. President, on behalf of the majority leader, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations on the Executive Calendar: Calendar Nos. 77, 82–89, 94–97, 113, 114, and all nominations placed on the Secretary's desk in the Navy and Coast Guard.

I further ask unanimous consent that the nominations be confirmed, the motions to reconsider be laid upon the table, any statements relating to the nominations appear at the appropriate place in the RECORD, the President be immediately notified of the Senate's action, and that the Senate then return to legislative session.

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

The nominations considered and confirmed, en bloc, are as follows:

IN THE AIR FORCE

The following-named officers for appointment in the Reserve of the Air Force to the grade indicated under title 10, United States Code, section 12203:

To be major general

Brig. Gen. John J. Batbie, Jr., 0000
Brig. Gen. Winfred N. Carroll, 0000
Brig. Gen. Dennis M. Gray, 0000
Brig. Gen. Grant R. Mulder, 0000
Brig. Gen. Virgil J. Toney, Jr., 0000

To be brigadier general

Col. William E. Albertson, 0000
Col. Paul R. Cooper, 0000
Col. Gerald P. Fitzgerald, 0000
Col. Patrick J. Gallagher, 0000
Col. Edward J. Mechenbier, 0000
Col. Jeffrey M. Musfeldt, 0000
Col. Allan R. Poulin, 0000
Col. Giuseppe P. Santaniello, 0000
Col. Robert B. Siegfried, 0000
Col. Robert C. Stumpf, 0000
Col. William E. Thomlinson, 0000

IN THE ARMY

The following-named officer for appointment in the U.S. Army to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Claudia J. Kennedy, 0000

The following-named officer for appointment in the U.S. Army to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Tommy R. Franks, 0000

IN THE MARINE CORPS

The following-named officer for appointment in the Reserve of the U.S. Marine Corps to the grade indicated under title 10, United States Code, section 12203:

To be major general

Brig. Gen. Kevin B. Kuklok, 0000

The following-named officer for appointment in the Reserve of the U.S. Marine Corps to the grade indicated under title 10, United States Code, section 624:

To be major general

Brig. Gen. Terrence P. Murray, 0000

The following-named officers for appointment in the Reserve of the U.S. Marine Corps to the grade indicated under title 10, United States Code, section 624:

To be brigadier general

Col. James R. Battaglini, 0000
Col. James E. Cartwright, 0000
Col. Stephen A. Cheney, 0000
Col. Christopher Cortez, 0000
Col. Robert M. Flanagan, 0000
Col. John F. Goodman, 0000
Col. Gary H. Hughey, 0000
Col. Thomas S. Jones, 0000
Col. Richard L. Kelly, 0000
Col. Ralph E. Parker, Jr., 0000
Col. John F. Sattler, 0000
Col. William A. Whitlow, 0000
Col. Frances C. Wilson, 0000

IN THE NAVY

The following-named officer for appointment in the Reserve of the Navy to the grade indicated under title 10, United States Code, section 12203:

To be rear admiral (lower half)

Capt. Karen A. Harmeyer, 0000

The following named officer for appointment as Judge Advocate General of the U.S. Navy and for appointment to the grade indicated under title 10, United States Commission, section 5148:

To be rear admiral

Capt. John D. Hutson, 0000

The following-named officer for appointment in the U.S. Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be vice admiral

Rear Adm. Lee F. Gunn, 0000

IN THE COAST GUARD

Vice Admiral Roger T. Rufe, U.S. Coast Guard, to be Commander, Atlantic Area, U.S. Coast Guard, with the grade of vice admiral while so serving.

Rear Admiral James C. Card, U.S. Coast Guard, to be Commander, Pacific Area, U.S. Coast Guard, with the grade of vice admiral while so serving.

The following regular officers of the United States Coast Guard for promotion to the grade of rear admiral lower half:

Thomas J. Barrett	George N. Naccara
James D. Hull	Terry M. Cross
John F. McGowan	

The following regular officers of the U.S. Coast Guard for the appointment to the grade of rear admiral lower half:

Robert C. North	John T. Tozzi
Timothy W. Josiah	Thomas H. Collins
Fred L. Ames	Ernest R. Riutta
Richard M. Larrabee, III	

IN THE ARMY

The following U.S. Army Reserve officers for promotion in the Reserve of the Army to the grades indicated under title 10, United States Code, sections 14101.14315 and 12203(a):

To be major general

Brig. Gen. William F. Allen, 0000
Brig. Gen. Craig Bambrough, 0000
Brig. Gen. Peter A. Gannon, 0000
Brig. Gen. Francis R. Jordan, Jr., 0000

To be brigadier general

Col. James P. Collins, 0000
Col. William S. Crupe, 0000
Col. Alan V. Davis, 0000
Col. John F. Depue, 0000
Col. Bertie S. Duett, 0000
Col. Calvin D. Jaeger, 0000
Col. John S. Kasper, 0000
Col. Richard M. O'Meara, 0000
Col. James C. Price, 0000
Col. Richard O. Wightman, 0000

The following-named officer for appointment in the U.S. Army to the grade indicated under title 10, United States Code, section 624:

To be major general

Brig. Gen. Gregory A. Rountree, 0000

IN THE COAST GUARD AND NAVY

Coast Guard nomination of Brenda K. Wolter, which was received by the Senate and appeared in the Congressional Record of February 5, 1997.

Coast Guard nominations beginning Kelley Elizabeth Abood, and ending Andrew James Wright, which nominations were received by the Senate and appeared in the Congressional Record of February 5, 1997.

Navy nominations beginning Michael J. Bailey, and ending Stan A. Young, which nominations were received by the Senate and appeared in the Congressional Record of February 25, 1997.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

AUTHORIZING USE OF CAPITOL GROUNDS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of House Concurrent Resolution 49, which was received from the House.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 49) authorizing the use of the Capitol Grounds for the Greater Washington Soap Box Derby.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the resolution be considered agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution appear at the appropriate place in the RECORD.

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

The concurrent resolution (H. Con. Res. 49) was agreed to.

EXTENDING CERTAIN PRIVILEGES, EXEMPTIONS, AND IMMUNITIES TO HONG KONG ECONOMIC AND TRADE OFFICES

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 49, S. 342.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 342) to extend certain privileges, exemptions, and immunities to Hong Kong Economic and Trade Offices.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the bill be considered read for the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed at the appropriate place in the RECORD.

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

The bill (S. 342) was deemed read the third time and passed, as follows:

S. 342

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF CERTAIN PRIVILEGES, EXEMPTIONS, AND IMMUNITIES TO HONG KONG ECONOMIC AND TRADE OFFICES.

(a) APPLICATION OF INTERNATIONAL ORGANIZATIONS IMMUNITIES ACT.—The provisions of the International Organizations Immunities Act (22 U.S.C. 288 et seq.) may be extended to the Hong Kong Economic and Trade Offices in the same manner, to the same extent, and subject to the same conditions as such provisions may be extended to a public international organization in which the United States participates pursuant to any treaty or under the authority of any Act of Congress authorizing such participation or making an appropriation for such participation.

(b) APPLICATION OF INTERNATIONAL AGREEMENT ON CERTAIN STATE AND LOCAL TAXATION.—The President is authorized to apply the provisions of Article I of the Agreement on State and Local Taxation of Foreign Employees of Public International Organizations, done at Washington on April 21, 1994, to the Hong Kong Economic and Trade Offices.

(c) DEFINITION.—The term ''Hong Kong Economic and Trade Offices'' refers to Hong Kong's official economic and trade missions in the United States.

EXPRESSING CONCERN FOR THE CONTINUED DETERIORATION OF HUMAN RIGHTS IN AFGHANISTAN

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 50, Senate Concurrent Resolution 6.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 6) expressing concern for the continued deterioration of human rights in Afghanistan and emphasizing the need for a peaceful political settlement in that country.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution, which had been reported from the Committee on Foreign Relations, with an amendment and an amendment to the preamble:

(The parts of the resolution intended to be stricken are shown in boldface brackets and the parts of the resolution intended to be inserted are shown in italic.)

S. CON. RES. 6

[Whereas Congress recognizes that the legacy of civil conflict in Afghanistan during the last 17 years has had a devastating effect on the civilian population in that country and a particularly negative impact on the rights and security of women and girls;

[Whereas the longstanding civil conflict in Afghanistan among the warring political and military factions has created an environment where the rights of women and girls are routinely violated;

[Whereas the Afghan forces led by Burhanuddin Rabbani and Abdul Rashid Dostum are responsible for numerous abhorrent human rights abuses, including the rape, sexual abuse, torture, abduction, and persecution of women and girls;

[Whereas Congress is disturbed by the upsurge of reported human rights abuses, including extreme restrictions placed on

women and girls, since the Taliban coalition seized the capital city of Kabul;

[Whereas Afghanistan is a sovereign nation and must work to solve its internal disputes; and

[Whereas Afghanistan and the United States recognize international human rights conventions, such as the International Covenant on Economic, Social, and Cultural Rights, which espouse respect for basic human rights of all individuals without regard to race, religion, ethnicity, or gender: Now, therefore, be it]

Whereas Congress recognizes that the legacy of civil conflict in Afghanistan during the last 17 years has had a devastating effect on the civilian population in that country, killing 2,000,000 people and displacing more than 7,000,000, and has had a particularly negative impact on the rights and security of women and girls;

Whereas the Department of State's Country Reports on Human Practices for 1996 states: ''Serious human rights violations continue to occur[...] political killings, torture, rape, arbitrary detention, looting, abductions and kidnappings for ransom were committed by armed units, local commanders and rogue individuals.'';

Whereas the Afghan forces affiliated with Burhanuddin Rabbani and Abdul Rashid Dostum are responsible for numerous abhorrent human rights abuses, including the rape, sexual abuse, torture, abduction, and persecution of women and girls;

Whereas Congress is disturbed by the upsurge of reported human rights abuses in Taliban-controlled territory, including extreme restrictions placed on women and girls;

Whereas the Taliban have provided safe haven to suspected terrorists and may be allowing terrorist training camps to operate in territory under its control;

Whereas Afghanistan is a sovereign nation and must work to solve its internal disputes; and

Whereas Afghanistan and the United States recognize international human rights conventions, such as the Universal Declaration on Human Rights, which espouse respect for basic human rights of all individuals without regard to race, religion, ethnicity, or gender: Now therefore, be it.

Resolved by the Senate (the House of Representatives concurring), [That (a) Congress hereby—

[(1) deplores the violations of international humanitarian law by the Taliban coalition in Afghanistan and raises concern over the reported cases of stoning, public executions, and street beatings;

[(2) condemns the Taliban's targeted discrimination against women and girls and expresses deep concern regarding the prohibition of employment and education for women and girls;

[(3) takes note of the recent armed conflict in Kabul, affirms the need for peace negotiations and expresses hope that the Afghan parties will agree to a cease-fire throughout the country.

[(b) It is the sense of Congress that the President should—

[(1) continue to monitor the human rights situation in Afghanistan and should call for an end to discrimination against women and girls in Afghanistan and for adherence by all factions in Afghanistan to international humanitarian law;

[(2) review United States policy with respect to Afghanistan if the Taliban coalition and others do not cease immediately the harassment and other discriminatory practices against women and girls;

[(3) encourage efforts to procure a durable peace in Afghanistan and should support the United Nations Special Mission to Afghanistan led by Norbert Holl to assist in brokering a peaceful resolution to years of conflict;

[(4) call upon the Government of Pakistan to use its good offices with the Taliban to reverse the Taliban's restrictive and discriminatory policies against women and girls;

[(5) call upon other nations to cease providing financial assistance, arms, and other kinds of support to the militaries or political organizations of any of the warring factions in Afghanistan.

[SEC. 2. The Secretary of the Senate shall transmit a copy of this concurrent resolution to the President with the request that he further transmit such copy to the United Nations and relevant parties in Afghanistan.]

That (a) Congress hereby—

(1) deplores the violations of international humanitarian law by the Taliban coalition in Afghanistan and raises concern over the reported cases of stoning, public executions, and street beatings;

(2) condemns the Taliban's targeted discrimination against women and girls and expresses deep concern regarding the prohibition of employment and education for women and girls;

(3) urges the Taliban and all other parties in Afghanistan to cease providing safe haven to suspected terrorists or permitting Afghan territory to be used for terrorist training; and

(4) takes note of the continued armed conflict in Afghanistan, affirms the need for peace negotiations and expresses hope that the Afghan parties will agree to a cease-fire throughout the country.

(b) It is the sense of Congress that the President should—

(1) continue to monitor the human rights situation in Afghanistan and should call for adherence by all factions in Afghanistan to international humanitarian law;

(2) call for an end to the systematic discrimination and harassment of women and girls in Afghanistan;

(3) encourage efforts to procure a durable peace in Afghanistan and should support the United Nations Special Mission to Afghanistan led by Norbert Holl to assist in brokering a peaceful resolution to years of conflict;

(4) call upon the Government of Pakistan to use its good offices with the Taliban to cease human rights violations, end provision of safe haven to terrorists and terrorist training camps, and reverse discriminatory policies against women and girls; and

(5) call upon other nations to cease providing financial assistance, arms, and other kinds of support to the militaries or political organizations of any of the warring factions in Afghanistan;

(6) undertake a review of United States policy toward Afghanistan.

SEC. 2. The Secretary of the Senate shall transmit a copy of this concurrent resolution to the President with the request that he further transmit such copy to the United Nations and relevant parties in Afghanistan.

Mr. DODD. Mr. President, I rise today to urge my colleagues to vote for Senate Concurrent Resolution 6—a resolution disapproving the alarming human rights conditions in Afghanistan and highlighting the deleterious effects increased political strife has had on Afghan women and girls.

Intensification of armed hostilities and the proliferation of human rights abuses have characterized Afghanistan for too long. In both the countryside and in urban areas nearly two decades of civil conflict and chaos have wreaked havoc and disaster on innocent Afghan civilians. And, unfortunately the likelihood of peace for Afghans seems to grow dimmer with each new political development.

After successfully ousting the Soviet military in 1992, foreign threats to peace were almost immediately replaced by civil threats. Rivalries among political and military Afghan intensified the civil turmoil. Regional conflicts reached a new level of severity in September 1996, after the Taliban coalition seized the capital city of Kabul.

Upon seizure of Kabul and approximately two-thirds of Afghanistan, the Taliban imposed extreme restrictions on civilians including banning music and books, and specifically prohibiting women and girls from working or attending school. Penalties for those who do not observe the Taliban's strict code of conduct have been extreme ranging from verbal abuse, street beatings, amputations, to death. Western journalists were quick to report the upsurge of human rights abuses, writing about the summary justice used to punish Afghans, and the unusually brutal methods by which the Taliban killed Mr. Najibullah the former President. Amnesty International and other non-governmental organizations reported on the severity of the human rights situation in Afghanistan and urged greater international attention. The United Nations created a special rapporteur on human rights in Afghanistan to monitor the situation more closely.

Among all the accounts of human rights abuses in Afghanistan what has been particularly disturbing to me is the treatment of women and girls. Though under the Taliban women are no longer treated as spoils of war, women and girls have been subjected to a series of extreme restrictions including the prohibition to work, attend school, or leave one's home during the day. Without the ability to work, mothers, many widowed due to armed conflict, have no means to support their families. Without the ability to leave their homes to buy food, clothing, attain medical attention, women are unable to care for themselves and their families. Without education, girls are not being taught how to read or write—basic skills necessary for adulthood. The conditions under which Afghan women and girls live is unacceptable, and I can think of no reasonable justification for such circumstances.

Taliban leaders have been quick to point out in their defense that other political and military factions have committed numerous other human rights abuses. The Taliban is right to point this out. And while it is true that, none of the political factions vying for power in Afghanistan have thus far demonstrated a commitment to uphold international standards of human rights or decency. This does not diminish the gravity of those abuses committed by the Taliban, or the obligation of the international community to speak out against such abuses.

The need for peace in Afghanistan is clear, but it is equally clear that peace

will not be sustainable in an environment where human rights are routinely violated and disregarded. Internationally recognized rights such as freedom from torture, freedom of expression, and equality before the law regardless of race, gender, religion, or beliefs have long been absent in Afghanistan. Any ruling coalition, must know that the international community, and the United States in particular, will not turn a blind eye to a rights-abusive regime.

Though, we, in the United States, can not singlehandedly solve the crisis in Afghanistan, for that is a process which must take place internally, we can and should do something. As a first step I have offered this resolution—a sense of the Congress which emphasizes the plight of Afghan women and girls, expresses support for the United Nations-led peace negotiations, and recommends that the administration reevaluate United States policy toward Afghanistan.

I believe this resolution will send a strong message to the warring factions in Afghanistan that the United States is deeply concerned about the deteriorating human rights conditions. Further I hope this resolution will provide some hope to Afghan women and girls who silently disagree with the Taliban's code of conduct.

As the United States strongly supports an end to the armed conflict, we should emphasize that peace is not only defined by the absence of armed conflict but also the absence of human rights abuses. It has long been the experience of many other states that only with a rights-protective regime can there be any lasting prospects for peace.

Mrs. FEINSTEIN. Mr. President, I rise today in support of Senate Concurrent Resolution 6, a resolution expressing concern over the continuing deterioration of the human rights situation in Afghanistan and calling on the United States and the international community to redouble efforts to bring peace to that war-torn land.

Indeed, with yesterday's announcement that the Taliban militia have apparently seized power in the northwestern province of Faryab, it is especially fitting that we consider this resolution today.

I am particularly concerned about the situation in Afghanistan because, with the seizure of power by the Taliban militia, it appears that another tragic chapter in the story of the suppression of women's rights is being written. Worse still, this situation has unfolded with scant international attention, let alone condemnation.

Afghanistan has been embroiled in an almost constant state of war for close to two decades.

From 1979 to 1989 the Mujahedeen fought and finally outlasted the invading army of the Soviet Union. Then the Muslim warriors turned on each other. Since 1979 more than 1 million of Afghanistan's 16 million inhabitants have been killed, and millions more have become refugees. The capitol city of Kabul has been obliterated by the factional fighting, with over 45,000 civilians killed, and almost every prominent building damaged or destroyed.

In the last 2 years of the seemingly endless Afghan civil war the Taliban—who grew from a movement of former religious students and Islamic clerics along the Afghan-Pakistani border—have emerged as the strongest of the five major factions. After beating back its rivals, the Taliban movement now control more than two-thirds of Afghanistan, including Kabul, which they captured last September.

With the ascendency of the Taliban, Afghanistan is experiencing a new conflict: What some warriors call true Islam, others, including the U.N. General Assembly, say is an abuse of human rights.

Although the peculiar version of Islamic religious Sharia law espoused by the Taliban has fallen harshly on many in Afghanistan—in Kandahar this past July a man and woman accused of adultery were stoned in public, men have been forced to grow beards, and Taliban militia members harass men in the streets if they do not rush to the mosques for prayers—women, in particular, have come to feel the full brunt of the new extremism.

Afghani women have been banned from work.

Women have been banished from school.

Reportedly, Taliban soldiers have been so threatening that some women have not left their homes for months.

But there is nothing in Afghan tradition that can account for the Taliban phenomenon. The type of secret-police state that they are fostering and the widespread denial of women's basic human rights has little precedent in Afghan culture or history.

The new brand of extremism fostered by the Taliban and their gross violations of women's basic human rights have pushed an already war-torn and war-weary Afghanistan to the brink of disaster.

It is estimated, for example, that close to 500,000 to 800,000 war widows have been forced out of their jobs and have no opportunity to earn money for food, clothing, or shelter for either themselves or their children. In Kabul's stark ruins hordes of children—12,000 according to one estimate—paw each day through the shattered bricks and masonry in search of scrap metal that can be sold. And their mothers, many who previously worked in professional jobs, have been reduced to begging in the hopes of being able to feed their children.

The ban on women in the workplace has also compounded the already precarious food situation. With the war having killed more than 9 million head of cattle and sheep and destroyed much of Afghanistan's croplands, irrigation systems, and roads, the average Afghan has a caloric intake equal to less than a pound of bread a day. Relief needs are so critical that the United Nations expects to have to feed one in five Kabul residents this year.

Ironically, many of the relief and other local humanitarian agencies find that they can no longer hire local women—many of whom are highly skilled. An orphanage in Kabul has reportedly lost all but 100 of its 450 employees, decimating its ability to provide food, education, and medical care to thousands of children. In fact, in light of the continuing conflict, U.N. development agencies in Afghanistan have recently put operations on hold until an assessment of the situation is complete.

It is little surprise that a recent U.N. report on human rights in Afghanistan concluded that ''deprivation of basic rights and freedoms'' are coupled with ''newly emerging threats to basic rights,'' especially women's.

The silence from the world's capitols in light of these systematic abuses has been deafening. Former U.N. Secretary General Boutros Boutros-Ghali warned the Taliban that the United Nations objects to the extreme discrimination practiced against women. The European Union's Minister to the U.N. Food Conference expressed ''deep concern'' over the situation. Theresa Loar, the State Department's senior coordinator for women's issues has assured us that the situation in Afghanistan is ''very high on the United States agenda.''

In the nuanced language of diplomacy, these milquetoast statements are the equivalent of an international shrug of the shoulders.

Where is the world's outrage? Fully half of Afghanistan's population cannot work for a living or be educated. The world has responded by issuing mild denunciations and turning away. This is unacceptable.

In calling for the President to monitor the human rights situation in Afghanistan, and the situation of women in particular, this resolution calls on the United States to play a leading role in the international community in raising the salience of respect for women's rights.

For too long and in too many other tragic circumstances we have remained silent, placing women's rights on a second tier of concerns in our conduct of international affairs. Other Muslim nations with which the United States enjoys good relations and which respect women's rights, such as Turkey and Indonesia, can provide much needed leadership in this area, and assist the United States in our diplomatic efforts. It is incumbent upon us to call upon the nations of the international community —regardless of religious persuasion or cultural heritage—to take a strong stand in recognition of fundamental rights of women.

Because the United States lacks significant influence in Afghanistan, this resolution calls on the administration to urge the other states in the region

who do have influence to bring pressure to bear on the Taliban. In particular Pakistan—which has both elected the first female Prime Minister in the Islamic world and provided assistance to the Taliban—should cease to provide patronage to the Taliban and take a position at the forefront of international efforts to provide humanitarian assistance to Afghanistan.

This resolution also recognizes that the only long-term solution to the plight of the Afghani people is to help bring an end to the conflict that has created the Taliban, and to begin the long process of rebuilding a stable and prosperous Afghanistan. Food security, let alone the sort of long-term economic redevelopment that will be necessary to repair Afghanistan's battered infrastructure will not be possible unless both men and women are able to take up gainful employment and have equal access to educational opportunities.

To this end, this resolution calls for the members of the international community to cease activities, such as supplying weapons or financial assistance, to any of the warring factions in Afghanistan and encourages international efforts, especially that of the U.N. Special Mission, in procuring a durable and lasting peace in Afghanistan.

The treatment of Afghanistan's women should not be ignored. To continue to do so will send a dangerous message to others around the world who might violate the human rights of ethnic or religious minorities, or their own female populations.

I urge my colleagues to support Senate Concurrent Resolution 6, and send an important message to the Taliban and the entire international community regarding women's rights.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the committee amendment be agreed to, the resolution be agreed to, the amendment to the preamble be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution be placed at the appropriate place in the RECORD.

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

The concurrent resolution (S. Con. Res. 6), as amended, was agreed to.

The preamble, as amended, was agreed to.

CONGRATULATING THE REUNIFICATION OF JERUSALEM

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 51, Senate Concurrent Resolution 21.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 21) congratulating the residents of Jerusalem and the people of Israel on the thirtieth anniversary of the reunification of that historic city, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution be placed at the appropriate place in the RECORD.

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

The concurrent resolution (S. Con. Res. 21) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, is as follows:

S. CON. RES. 21

Whereas for 3,000 years Jerusalem has been Judaism's holiest city and the focal point of Jewish religious devotion;

Whereas Jerusalem is also considered a holy city by members of other religious faiths;

Whereas there has been a continuous Jewish presence in Jerusalem for three millennia and a Jewish majority in the city since the 1840s;

Whereas the once thriving Jewish majority of the historic Old City of Jerusalem was driven out by force during the 1948 Arab-Israeli War;

Whereas from 1948 to 1967 Jerusalem was a divided city and Israeli citizens of all faiths as well as Jewish citizens of all states were denied access to holy sites in the area controlled by Jordan;

Whereas in 1967 Jerusalem was reunited by Israel during the conflict known as the Six Day War;

Whereas since 1967 Jerusalem has been a united city, and persons of all religious faiths have been guaranteed full access to holy sites within the city;

Whereas this year marks the thirtieth year that Jerusalem has been administered as a unified city in which the rights of all faiths have been respected and protected;

Whereas in 1990 the United States Senate and House of Representatives overwhelmingly adopted Senate Concurrent Resolution 106 and House Concurrent Resolution 290 declaring that Jerusalem, the capital of Israel, ''must remain an undivided city'' and calling on Israel and the Palestinians to undertake negotiations to resolve their differences;

Whereas Prime Minister Yitzhak Rabin of Israel later cited Senate concurrent Resolution 106 as having ''helped our neighbors reach the negotiating table'' to produce the historic Declaration of Principles on Interim Self-Government Arrangements, signed in Washington on September 13, 1993; and

Whereas the Jerusalem Embassy Act of 1995 (Public Law 104–45) which became law on November 8, 1995, states as a matter of United States policy that Jerusalem should remain the undivided capital of Israel: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress—

(1) congratulates the residents of Jerusalem and the people of Israel on the thirtieth anniversary of the reunification of that historic city;

(2) strongly believes that Jerusalem must remain an undivided city in which the rights of every ethnic and religious group are protected as they have been by Israel during the past 30 years;

(3) calls upon the President and Secretary of State to publicly affirm as a matter of United States policy that Jerusalem must remain the undivided capital of the state of Israel; and

(4) urges United States officials to refrain from any actions that contradict United States law on this subject.

REGARDING THE TREATY OF MUTUAL COOPERATION AND SECURITY BETWEEN THE UNITED STATES OF AMERICA AND JAPAN

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 52, Senate Resolution 58.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 58) to state the sense of the Senate that the Treaty of Mutual Cooperation and Security Between the United States of America and Japan is essential for furthering the security interests of the United States, Japan, and the countries of the Asia-Pacific region, and that the people of Okinawa deserve recognition for their contributions toward ensuring the Treaty's implementation.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution be placed at the appropriate place in the RECORD.

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

The resolution (S. Res. 58) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

Whereas the Senate finds that the Treaty of Mutual Cooperation and Security Between the United States of America and Japan is critical to the security interests of the United States, Japan and the countries of the Asian Pacific region;

Whereas the security relationship between the United States and Japan is the foundation for the security strategy of the United States in the Asia-Pacific region;

Whereas strong security ties between the two countries provide a key stabilizing influence in an uncertain post-cold war world;

Whereas this bilateral security relationship makes it possible for the United States and Japan to preserve their interests in the Asia-Pacific region;

Whereas forward-deployed forces of the United States are welcomed by allies of the United States in the region because such forces are critical for maintaining stability in the Asia-Pacific region;

Whereas regional stability has undergirded economic growth and prosperity in the Asia-Pacific region;

Whereas the recognition by allies of the United States of the importance of United States armed forces for security in the Asia-Pacific region confers on the United States irreplaceable good will and diplomatic influence in that region;

Whereas Japan's host nation support is a key element in the ability of the United States to maintain forward-deployed forces in that country;

Whereas the Governments of the United States and Japan, in the Special Action Committee on Okinawa Final Report issued by the United States-Japan Security Consultative Committee established by the two countries, have made commitments to reducing the burdens of United States forces on the people of Okinawa;

Whereas such commitments will maintain the operational capability and readiness of United States forces;

Whereas the people of Okinawa have borne a disproportionate share of the burdens of United States military bases in Japan; and

Whereas gaining the understanding and support of the people of Okinawa in fulfilling these commitments is crucial to effective implementation of the Treaty: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the Treaty of Mutual Cooperation and Security Between the United States of America and Japan remains vital to the security interests of the United States and Japan, as well as the security interests of the countries of the Asia-Pacific region; and

(2) the people of Okinawa deserve special recognition and gratitude for their contributions toward ensuring the treaty's implementation and regional peace and stability.

ORDERS FOR WEDNESDAY, MAY 21, 1997

Mr. GRASSLEY. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 9:30 a.m. on Wednesday, May 21. I further ask unanimous consent that on Wednesday, immediately following the prayer, the routine requests through the morning hour be granted and that the Senate then immediately resume consideration of Senate Concurrent Resolution 27, the first concurrent budget resolution.

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

Mr. GRASSLEY. I further ask unanimous consent that at 9:30 a.m., Senator KENNEDY, or his designee, be recognized to offer his amendment on tobacco taxes. Following the disposition of the Kennedy amendment, I ask unanimous consent that Senator GRAMM be recognized to offer his amendment regarding deficit neutral natural disaster relief.

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

PROGRAM

Mr. GRASSLEY. Mr. President, Senators can expect rollcall votes throughout Wednesday's session as the Senate attempts to complete work on the first concurrent budget resolution. The majority leader states that he is still hopeful that the Democratic leader will join him in an effort to yield back much of the statutory time limitation for the budget resolution. All Members will be notified accordingly as any votes are ordered with respect to any amendments to this important legislation. Again, on behalf of the majority leader, I want to remind all Members that this is the last week prior to the Memorial Day recess, so we will appreciate all Members' cooperation in scheduling of votes and of other floor action. The majority leader expresses thanks to all Members for their attention.

ORDER FOR ADJOURNMENT

Mr. GRASSLEY. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment, under the previous order, following the remarks of the Senator from Iowa.

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

CONCURRENT RESOLUTION ON THE BUDGET

Mr. GRASSLEY. Mr. President, I would like to speak briefly on the plan to pump up the Pentagon budget. This resolution jacks it up by $2.6 billion in budget authority.

Last year, by comparison, we were staring at a $10 to $12 billion increase in the defense budget.

I was very much opposed to such a large increase and did everything I could to block it all the way through the process. In the end, I failed.

This year's proposed defense add-on of $2.6 billion is relatively modest.

Mr. President, I do not intend to offer an amendment to kill the $2.6 billion add-on.

I know defense is a top priority in the agreement and the defense number constitutes a carefully crafted consensus. Like last year, however, I still think we should stick with the President's request.

The $265 billion requested by the President for defense is plenty to maintain a strong national defense—if the money is spent right. Unfortunately, that's not what happens. Some of it will be wasted.

The Pentagon is like a ravenous monster that has an insatiable appetite for money. I am afraid the $2.6 billion add-on will be frittered away on cold war relics.

Mr. President, I think we need to give the Pentagon some strict guidance about how the extra money may be spent. The Budget Committee could do it. The Armed Services Committee could do it. Or the Appropriations Committee could do it. Somebody needs to do it.

The language should stipulate that the extra money be used exclusively to maintain the force structure and combat readiness. Otherwise, the Pentagon bureaucrats are going to rob the readiness accounts to pay for modernization.

In recent years, DOD has consistently promised to pay for modernization with savings derived from lower infrastructure costs. But the promised savings have never materialized. So they rob the readiness accounts to get the money. We should not let that happen.

Mr. President, the highly touted Quadrennial Defense Review or QDR will not solve this problem. The QDR is just a smoke screen for the status quo. It's another cover for robbing the readiness accounts to pay for modernization. The QDR is simply a repeat of the Bottom-Up Review.

They douse the cold war programs with perfume to make them smell better, but it is still the same old stuff. We still have cold war programs hooked up to a post-cold war budget. This is a recipe for disaster.

The QDR tells us to keep spending money on all the cold war relics—like the F–22 fighter. The F–22 is an excellent case in point. The F–22 was designed to defeat a Soviet military threat that is now ancient history. And it's cost is spinnning out of control.

In 1991, we were told that we could buy 750 F–22's for $58 billion. Now we are told that far fewer F–22's will cost $6 billion more. The quantity drops by 40 percent and the price goes up by 10 percent. That's the Pentagon way.

Four hundred thirty-eight F–22's are now estimated to cost $64 billion total, and production hasn't even started yet. If current trends continue, the Air Force will be lucky to get 200 F–22's for $100 billion.

Mr. President, I think the F–22 is the threat. The F–22 has the potential for ruining the Air Force. It will eat away at Air Force fighter muscle and will totally demolish plans to modernize the fighter force.

With the F–22, the Air Force will be lucky to have 2 or 3 wings—total, versus its force of 20 wings today. During the Reagan years, we actually had 40 wings and planned for more.

Lockheed Martin CEO Norman Augustine put this problem in perspective in his book ''The Defense Revolution.''

I would like to quote from his book. He is an authority. He should know. This is what Mr. Augustine said:

> If the cost of tactical aircraft continues to increase as it has since the World War I Spad [airplane], a projection of the history of the defense budget over the past century leads to the calculation that in the year 2054 the entire U.S. defense budget will purchase exactly one aircraft.

The F–22 is a prime candidate for fulfilling Mr. Augustine's prophecy.

Mr. President, we need to reverse this trend. We should make sure the extra money is used to maintain combat readiness. The extra money should be used to buy more training, fuel, spare parts, and maintenance. And that's it.

Mr. President, we need to take some drastic action. The centerpiece of Mr. COHEN's QDR is the plan to retain a capability to fight two major regional

conflicts or MRC's simultaneously. If we fail to protect readiness and force structure, Mr. COHEN's two MRC's will be nothing but a pipe dream.

Mr. President, I hope my colleagues on the defense committees will find a way to strike a better balance between readiness and modernization.

We must put well-trained, combat-ready troops ahead of obsolete programs.

That is the real choice. It is the only choice.

Mr. President, when I look at this budget agreement, I find myself playing Hamlet. I go back and forth, between all the good things, and all the bad things. And then I agonize over which way to go. To agree or not to agree. That is the question.

Usually when the leaders of the two parties get together on a budget agreement, it ends up being bad news. It means spending goes up for programs favored by each side. It is like a rising tide lifting all boats. And then the deficit is made to look OK. A little fairy dust produces a sudden windfall of revenues. This time it happens to be 225 billion dollars' worth.

I think back to the Rose Garden Budget in 1984 under President Reagan. And, the Andrews Air Force Base agreement in 1990. They were similar.

''Rising Tide'' agreements do two things. First, all the sacred cows get more money than they should. Second, accountability for those programs goes out the widow. Desperately needed reforms do not take place.

In 1984, we should have frozen the defense budget and demanded reforms. Instead we looked the other way. The freeze did not occur until the next year—with my amendment—and the reforms did not take place until 3 years later—with Nunn-Goldwater and the Packard Commission. By that time, we had already poured lots of money down a rathole.

In addition, with rising tide agreements, the budget enforcements we put in place are then violated. We saw that in 1990, when we gave Gramm-Rudman a fix. The only thing we fixed in that budget was the ability to overtax and overspend. Now, we're seeing another enforcement violated to accommodate the rising tide—and that's Exon-Grassley. If we violated budget enforcement before, why should we believe it won't happen again?

Meanwhile, in this budget, the absence of Medicare reform is deafening. A colossal structural nightmare is facing us just 15 years down the road. Especially in Medicare. Long-term reform is needed. Does this budget address that? No.

And the sacred cows? Two examples. One supported by my side of the aisle, another by the other side.

The cold war is over. But we need to spend an extra $2.6 billion this year for a defense budget that's still geared toward fighting the cold war. The same cold war that disappeared 10 years ago.

What the Pentagon should not do—but will do with this money—is buy a bunch of cold war relics, like the F–22 fighter. That money should be going into the readiness and training accounts. But it won't be. Because politics is more powerful than commonsense.

The Quadrennial Defense Review is simply a repeat of the Bottom-Up Review. It's a smokescreen to maintain the status quo, to plan for an obsolete war. Meanwhile, this is the same defense budget with 50 billion dollars' worth of unmatched disbursements, which cannot pass an audit, and whose financial records are in absolute chaos. We do not know what anything costs. It is hard to make rational decisions on bad information. It is a budget crying out for reform.

But that is OK. Because the other side of the aisle also has a few sacred cows crying out for reform. But we'll pump those up, too. Take AmeriCorps. Cannot pass an audit. Cannot even be audited. No accountability. In bad need of reform. We were shelling out $27,000 per volunteer. That is crazy.

So, last year we froze AmeriCorps and pushed for reforms. They have been promised, but not yet delivered. But this agreement would jeopardize reform and accountability at AmeriCorps. Instead of a freeze, plus reforms, this program will get an extra three-quarters of a billion dollars, plus no incentive to implement the promised reforms. And that hurts the efforts of many of us who have tried to save this program, but make sure the taxpayers are getting their money's worth.

Finally, there is the matter of the deficits. Under this agreement, they go up, and then they fall off the table. In other words, the only progress on deficit reduction comes in the last 2 years. This reflects that phenomenon I call the narcotic of optimism. We're still addicted to it. It is simply not realistic. But it sure feels good.

So that is a mountain of reasons why this agreement is bad. The reasons on the good side are not as impressive-sounding. But there are a couple of reasons.

First, even though the tide is rising, it does not mean we cannot push even harder for reforms, to make sure they take hold. We desperately need long-term Medicare reform. We have a responsibility to provide it. We cannot duck it. If it takes a bipartisan commission instead of a budget agreement, so be it.

But the most powerful reason, in my mind, in favor of this agreement, is that it is a bipartisan agreement of the leaders. When's the last time we saw that in this town? This is a first step, and only a first step. But it represents clearing a major, major hurdle—which was a lack of bipartisan cooperation. The importance of that accomplishment cannot be underestimated. And the desire of the American people to have us working together instead of fighting all the time also cannot be underestimated.

And so that means, even though I have a mountain of reasons to oppose this agreement, and even though the reasons for supporting it are the size of a mouse by comparison, it is a mouse that roars for us to take the first step.

And if we take that step, it means we are all the more obliged to pursue reforms in the meantime, and make sure we stick to the enforcement measures.

And so, Mr. President, I think ultimately the chairman of the Budget Committee, Senator DOMENICI, and the other leaders on both sides of the aisle are to be commended for taking a positive, yet very difficult first step toward addressing our fiscal problems. Even though I might disagree with much of this agreement, I look forward to supporting it, and then appealing to my colleagues over the next 5 years to keep us on track for two things: a balanced budget, and much needed program reforms.

THE CERTIFICATION PROCESS II

Mr. GRASSLEY. Mr. President, recently I spoke about the annual certification process on drug cooperation. I wanted to follow up on those remarks. As I noted then, I believe it is important to address some of the myths that have grown up around certification. I also believe that it is important to put on record why we need to keep this process.

One of the reasons often advanced for doing away with the certification process is that it just makes administrations lie.

Now, in the first place, I don't believe that this is true. But even if it were, I do not see changing a valid oversight requirement by Congress on the premise that compliance makes liars out of the administration. It seems to me that if there is a law and the administration isn't being honest, then you take steps to hold it responsible. You don't shrug your shoulders and throw away the law. Where would we be if we did that routinely? We might as well forget about oversight. We might as well legalize lying.

Like many of my colleagues, I have had problems with the executive branch. I am aware of misconduct, misfeasance, and downright lying by executive branch agencies and agents.

But I do not believe that simple differences of opinion or interpretation necessarily constitute lying. It is even possible to disagree over policy without calling someone a liar for disagreeing. Misguided perhaps.

It is possible, then, that the administration and Congress might disagree over a particular certification decision without jumping to conclusions about motive. It is also possible to have such differences without concluding that the only proper recourse is to scrap oversight efforts. Accountability is essential to our political process. This holds true even when there are serious disagreements about outcomes and procedures.

The recent certification decisions on Mexico and Colombia are cases in point. This last March 1, the President decided to again decertify Colombia. At the same time, he decided to fully certify Mexico. Both decisions caused concern in Congress. It is important to understand that there were lots of different concerns. Additionally, many of these concerns arose from contradictory opinions.

Some felt that if Colombia was decertified Mexico should have been. Others believed that if Mexico was certified then Colombia should have been. Still others believed that both should have gotten national interest waivers. Because none of these views were vindicated in the actual decision, many have drawn the conclusion that certification didn't work. Or they have concluded the administration lied. The answer in either case seems to be, ''dump certification.''

As I have already said, I don't think this is the right course. I believe the view is wrong on both substance and process.

In the first place, when we in Congress created the certification process, we did not create a pass/fail system. Nor did we create a system of shared outcomes. That is, we created a process that evaluated each country on its own merits in fighting drugs. Just like we don't give everyone in school the same grade if they performed differently, we don't base certification decisions on group behavior. We designed the process to permit nuanced decisions. We recognized the need to draw conclusions based not on single issues or purely momentary situations.

At the same time, we realized that without the push of law the administration, any administration, would likely not have made drugs a major foreign policy concern. In that sense, Congress had a healthy incredulity of administration motives. I remind my colleagues that it was a Democratic-controlled House and a Republican-controlled Senate that first passed certification during the tenure of a Republican President. We had a bipartisan wariness of the executive branch. It is, after all, the business of Congress to give administrations heck from time to time.

Initially, the administration resisted certification. It chose not to apply the standards in the law with any vigor. Indeed, the first countries to get decertified were all soft targets. Countries like Burma, Iran, and Syria.

These were countries we already disliked and with whom we had only limited dealings. Initially, no serious countries got decertified. Because of this history, a certain cynicism grew up around certification. There is also today an evident impatience with what is and must be a complex decision-making process.

That process has been around for 10 years. As with other cases, the longer the requirement has been on the books and the more Congress has insisted it be taken seriously, the more used and useful it has become. The process has gathered momentum. Last year, in fact, I asked the Congressional Research Service to review the merits of the certification process. That review, which is still available, makes clear how the certification process has matured and proved effective.

In the past several years, in fact, the list of countries decertified or given a national interest waiver has grown to include some real countries. Such countries as Nigeria, Colombia, Peru, Bolivia, and Pakistan. Countries with which we have a wide variety of interests apart from drugs. Just a few years ago, no one in Congress believed that any administration would ever decertify Colombia. Certainly there was a lot of sentiment in Congress that believed the evidence justified decertification. But the conviction was that it wouldn't happen. It did.

Not only has the standard been applied with more rigor, it has also encouraged greater cooperation from certified countries. All in all, more countries now take as a given that drug control must be an important element in their thinking.

That list includes the United States. To voluntarily choose to abandon such a tool out of a passing frustration is not very sound policy.

But, as the list of affected countries has grown to include more significant U.S. partners, the more controversial certification has become. This was to be expected. When Burma squawked, few in this country cared. Few people cared internationally. The military rulers of Burma had few friends. With Colombia affected and Mexico implicated, however, the noise level has gone up considerably. Both here and abroad.

To me, this indicates that certification is working. As I noted in an earlier statement, the fact that countries such as Colombia are complaining about our process is no sufficient reason to change it, much less throw it overboard.

Conversely, the fact that there was a difference of opinion on whether to certify Mexico or not, is also no sufficient reason to scuttle the boat.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands in adjournment until 9:30 a.m., Wednesday, May 21, 1997.

Thereupon, the Senate, at 9:10 p.m., adjourned until Wednesday, May 21, 1997, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate May 20, 1997:

DEPARTMENT OF STATE

A. PETER BURLEIGH, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE THE DEPUTY REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE UNITED NATIONS, WITH THE RANK AND STATUS OF AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY, VICE EDWARD WILLIAM GNEHM, JR.

JAMES W. PARDEW, JR., OF VIRGINIA, FOR THE BANK OF AMBASSADOR DURING HIS TENURE OF SERVICE AS U.S. SPECIAL REPRESENTATIVE FOR MILITARY STABILIZATION IN THE BALKANS.

CONFIRMATIONS

Executive nominations confirmed by the Senate May 20, 1997:

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTION 12203:

To be major general

BRIG. GEN. JOHN J. BATBIE, JR., 0000
BRIG. GEN. WINFRED N. CARROLL, 0000
BRIG. GEN. DENNIS M. GRAY, 0000
BRIG. GEN. GRANT R. MULDER, 0000
BRIG. GEN. VIRGIL J. TONEY, JR., 0000

To be brigadier general

COL. WILLIAM E. ALBERTSON, 0000
COL. PAUL R. COOPER, 0000
COL. GERALD P. FITZGERALD, 0000
COL. PATRICK J. GALLAGHER, 0000
COL. EDWARD J. MECHENBIER, 0000
COL. JEFFREY M. MUSFELDT, 0000
COL. ALLAN R. POULIN, 0000
COL. GIUSEPPE P. SANTANIELLO, 0000
COL. ROBERT B. SIEGFRIED, 0000
COL. ROBERT C. STUMPF, 0000
COL. WILLIAM E. THOMLINSON, 0000

IN THE ARMY

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. CLAUDIA J. KENNEDY, 0000

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. TOMMY R. FRANKS, 0000

IN THE MARINE CORPS

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be major general

BRIG GEN. KEVIN B. KUKLOK, 0000

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT IN THE U.S. MARINE CORPS TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTION 624:

To be major general

BRIG. GEN. TERRENCE P. MURRAY, 0000

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. MARINE CORPS TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTION 624:

To be brigadier general

COL. JAMES R. BATTAGLINI, 0000
COL. JAMES E. CARTWRIGHT, 0000
COL. STEPHEN A. CHENEY, 0000
COL. CHRISTOPHER CORTEZ, 0000
COL. ROBERT M. FLANAGAN, 0000
COL. JOHN F. GOODMAN, 0000
COL. GARY H. HUGHEY, 0000
COL. THOMAS S. JONES, 0000
COL. RICHARD L. KELLY, 0000
COL. RALPH E. PARKER, JR., 0000
COL. JOHN F. SATTLER, 0000
COL. WILLIAM A. WHITLOW, 0000
COL. FRANCES C. WILSON, 0000

IN THE NAVY

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE RESERVE OF THE NAVY TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTION 12203:

To be rear admiral (lower half)

CAPT. KAREN A. HARMEYER, 0000

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT AS JUDGE ADVOCATE GENERAL OF THE U.S. NAVY AND FOR APPOINTMENT TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTION 5148:

To be rear admiral

CAPT. JOHN D. HUTSON, 0000

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be vice admiral

REAR ADM. LEE F. GUNN, 0000

IN THE COAST GUARD

VICE ADMIRAL ROGER T. RUFE, U.S. COAST GUARD, TO BE COMMANDER, ATLANTIC AREA, U.S. COAST GUARD, WITH THE GRADE OF VICE ADMIRAL WHILE SO SERVING.

REAR ADMIRAL JAMES C. CARD, U.S. COAST GUARD, TO BE COMMANDER, PACIFIC AREA, U.S. COAST GUARD, WITH THE GRADE OF VICE ADMIRAL WHILE SO SERVING.

THE FOLLOWING REGULAR OFFICERS OF THE U.S. COAST GUARD FOR PROMOTION TO THE GRADE OF REAR ADMIRAL (LOWER HALF).

THOMAS J. BARRETT
JAMES D. HULL
JOHN F. MCGOWAN
GEORGE N. NACCARA
TERRY M. CROSS

THE FOLLOWING REGULAR OFFICERS OF THE U.S. COAST GUARD FOR THE APPOINTMENT TO THE GRADE OF REAR ADMIRAL:

ROBERT C. NORTH
TIMOTHY W. JOSIAH
FRED L. AMES
RICHARD M. LARRABEE, III
JOHN T. TOZZI
THOMAS H. COLLINS
ERNEST R. RIUTTA

IN THE ARMY

THE FOLLOWING U.S. ARMY RESERVE OFFICERS FOR PROMOTION IN THE RESERVE OF THE ARMY TO THE GRADES INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTINS 14101, 14315 AND 12203(A):

To be major general

BRIG. GEN. WILLIAM F. ALLEN, 0000
BRIG. GEN. CRAIG BAMBROUGH, 0000
BRIG. GEN. PETER A. GANNON, 0000
BRIG. GEN. FRANCIS R. JORDAN, JR., 0000

To be brigadier general

COL. JAMES P. COLLINS, 0000
COL. WILLIAM S. CRUPE 0000
COL. ALAN V. DAVIS, 0000
COL. JOHN F. DEPUE, 0000
COL. BERTIE S. DUEITT, 0000
COL. CALVIN D. JAEGER, 0000
COL. JOHN S. KASPER, 0000
COL. RICHARD M. O'MEARA, 0000
COL. JAMES C. PRICE, 0000
COL. RICHARD O. WIGHTMAN, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE U.S. ARMY TO THE GRADE INDICATED UNDER TITLE 10 UNITED STATES CODE, SECTION 624:

To be major general

BRIG. GEN. GREGORY A. ROUNTREE, 0000

IN THE COAST GUARD

COAST GUARD NOMINATION OF BRENDA K. WOLTER, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF FEBRUARY 5, 1997.

COAST GUARD NOMINATIONS BEGINNING KELLEY ELIZABETH ABOOD, AND ENDING ANDREW JAMES WRIGHT, WHICH NOMINATIONS WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF FEBRUARY 5, 1997.

IN THE NAVY

NAVY NOMINATIONS BEGINNING MICHAEL J. BAILEY, AND ENDING STAN A. YOUNG, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 25, 1997.