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## Senate

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

The PRESIDENT pro tempore. Today's prayer will be offered by our guest chaplain, Dr. Clarence Newsome, dean of chapel, Howard University School of Divinity, Washington, DC. We are pleased to have you with us.

### PRAYER

The guest chaplain, Dr. Clarence G. Newsome, dean of chapel, Howard University School of Divinity, Washington, DC, offered the following prayer:

May we pray.

Almighty God, by whose permissive will the counsels of men and women are privileged to convene, we pause at the outset of a new day to acknowledge Your power and dominion and to proclaim Your goodness. We call upon Your grace to consecrate this hallowed Chamber so that Your power and goodness may guide the affairs of state to which these honored and honorable men and women will this day attend. Grant that they may see a vision of government for the people and by the people, in which the people are daily inspired by the law of the land to live, work, and play together according to a higher law: the law of love.

By the power of Your love, empower them to discharge the duties of their office in the confidence that they neither labor in vain nor without the abiding appreciation of a grateful republic. Be the source of refuge and peaceful release for them, the members of their staffs, and especially their families who sacrifice much so that they may dutifully serve the common good with dedication, devotion, and distinction.

Fill them with strength for today and bright hope for tomorrow. Amen.

### RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader, the able

Senator from North Carolina, is recognized.

### THE GUEST CHAPLAIN

Mr. FAIRCLOTH. Mr. President, it is, indeed, a special privilege for me today to welcome as our guest chaplain, Dr. Clarence Newsome.

Before I get into the other distinguished things about Dr. Newsome, I would like to mention that he is a native North Carolinian, born in Ahoskie, NC, and spent 18 years at one of our premier universities, Duke University, not only as a professor, but as a football player and a great leader of that university.

He is now dean of the Howard University School of Divinity. Dr. Newsome is a distinguished clergyman, an impelling preacher, and a very visionary educator. He is known throughout the Nation as one of the most insightful and sensitive thinkers on religion, culture, and social issues of our time. Dr. Newsome continues to play a major role in the strategic development of Howard University.

His presence with us today is an opportunity for the Senate to affirm the crucial and important contribution of Howard University to the city of Washington, to the District of Columbia, and to our Nation and world as a whole, being one of the leading producers of diplomats throughout the world.

I welcome Dr. Clarence Newsome.

### SCHEDULE

Mr. FAIRCLOTH. Mr. President, on behalf of the majority leader, I want to announce that this morning, the Senate will immediately resume consideration of Senator SESSIONS' second-degree amendment to Senator DURBIN's amendment, concerning the tobacco agreement, to S. 1061, the Labor-HHS appropriations bill. As Members are aware, the Senate has been able to dispose of all but a very few amendments

remaining in order to the bill. Therefore, the cooperation of all Members will be appreciated in the scheduling of time agreements and floor action on amendments. Members can anticipate rollcall votes throughout today's session of the Senate as we attempt to complete action on the Labor-HHS appropriations bill. Thank you, Mr. President.

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

The PRESIDING OFFICER. Under the previous order, the clerk will report S. 1061.

The assistant legislative clerk read as follows:

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

The Senate resumed consideration of the bill.

Pending:

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

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

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

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

Durbin-Collins amendment No. 1078, to repeal the tobacco industry settlement credit contained in the Balanced Budget Act of 1997.

Mack-Graham amendment No. 1090, to increase the appropriations for the Mary McLeod Bethune Memorial Fine Arts Center.

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



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Coverdell amendment No. 1097, to enhance food safety for children through preventative research and medical treatment.

Coverdell amendment No. 1098 (to Amend-ment No. 1097), in the nature of a substitute.

Specter amendment No. 1110, to reduce un-employment insurance service administra-tive expenses to offset costs of administering a welfare-to-work jobs initiative.

Harkin (for Wellstone) amendment No. 1087, to increase funding for the Head Start Act.

Harkin-Bingaman-Kennedy amendment No. 1115, to authorize the National Assess-ment Governing Board to develop policy for voluntary national tests in reading and mathematics.

Harkin (for Daschle) amendment No. 1116, to express the sense of the Senate regarding Federal Pell grants and a child literacy ini-tiative.

Murray-Wellstone amendment No. 1118, to clarify the family violence option under tem-porary assistance to needy families program.

Domenici (for Gorton) modified amend-ment No. 1122, to provide certain education funding directly to local educational agen-cies.

Sessions modified amendment No. 1125 (to Amendment No. 1078), to provide for certain limitations on attorneys' fees under any global tobacco settlement and for increased funding for children's health research.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Sen-ator from Minnesota.

AMENDMENT NO. 1125, AS MODIFIED FURTHER

Mr. WELLSTONE. I thank the Chair.

Mr. President, I rise today on the floor of the Senate to express my strongest opposition to an amendment which I am sure has been offered in good faith but the effect of which really will be to intimidate advocates of public health and, in particular, I think amounts to an intimidation of the attorney general of the State of Minnesota and, again, the public health community who have hired legal advocates on their behalf and on the behalf, I might add, of the collec-tive public health people in this coun-try.

Mr. President, let me give a little bit of information about Minnesota's to-bacco case, because this amendment does not have a neutral effect. My col-league, Senator DURBIN from Illinois, last night pointed this out. In a State like Minnesota we have pored through 36 million pages, 36 million documents, in what promises to be the biggest court case this winter. This will bring to light a tremendous amount of infor-mation in all likelihood, I think, deal-ing with some very serious abuses by the tobacco industry, which could lead to a very far-reaching and major finan-cial settlement for Minnesota and also lead the way for other States. It also could lead the way toward some really dramatic protection for people in this country. This amendment amounts to nothing less than an effort to intimi-date advocates of public health and to intimidate the attorney general of the State of Minnesota.

The \$250 per hour or \$5 million cap al-together does not take into account, as my colleague from Illinois mentioned

last night, different efforts that have taken place in different States. But to me, again, regardless of the motiva-tion, the effect of this amendment is a get Minnesota amendment and, I might add, it really goes after, again, most importantly, advocates of public health.

I have no idea—I am not a lawyer—what the particular arrangements are between the attorney general and the contract with lawyers who are working with our State, but I doubt very seri-ously that we, the U.S. Senate, have the constitutional right to directly in-tervene in that. I do know this amounts to nothing less than an effort to get people to back down. I don't think that will happen, I say to my col-leagues, not in Minnesota.

Let me say a little bit about Min-nesota's tobacco case. Minnesota is the first State in the Nation to charge the tobacco industry with consumer fraud and antitrust violations and the second State to seek Medicaid reimbursement.

It is the only State with a private co-plaintiff, Blue Cross and Blue Shield of Minnesota.

Minnesota's outside counsel, Robins, Kaplan, Miller, & Ciresi, has a national reputation for resolving complex liti-gation battles against corporate gi-ants, including the Dalkon shield case and the Bhopal, India, chemical spill case.

This case was launched in August 1994. There are 36 million documents. The State has won the majority of pre-trial motions and all appeals, including one in the U.S. Supreme Court.

The State has secured 30 million pages of documents through discovery. Minnesota has the largest collection of tobacco documents in the world, housed in two secured depositories in Minneapolis and London.

Public documents already cited as evidence in the case have detailed youth marketing, enhancement of the effect of nicotine, admissions of health problems, and other disclosures central to Minnesota's allegations. Most of the evidence remains under seal at the to-bacco industry's insistence.

The court is reviewing tobacco com-panies' most secret documents, for-merly hidden under attorney-client privilege claims, for possible disclo-sure. That is the current status.

The Minnesota case is rated by top tobacco stock analysts at Bernstein Research as "the biggest threat" to the industry.

The trial begins January 1998.

I think that is what this is all about, at least in its effect. Minnesota's court case is the biggest threat to the indus-try. We will see a disclosure of infor-mation that will be so critical to the health of people all across the country. This amendment amounts to an effort at intimidation toward the advocates of public health who have hired law-yers as their advocates and, again, I think is really aimed right at the State of Minnesota, really aimed right at the attorney general of Minnesota.

This is a tobacco industry amend-ment. This industry doesn't want a State like Minnesota to go forward. This industry doesn't want lawyers out there representing the public health community. Let's be realistic about it. The only way you can go through all these documents, the only way you can put together this kind of case, the only way you can go after these tobacco companies, these giants, is by having lawyers working for you. That is what the State of Minnesota has done. That is what the public health community has done. This amendment is an amendment aimed at trying to bring a halt to this process.

Mr. President, I am not, again, an at-torney, but I will raise two or three final points. One, I don't really know how we in the Senate can say to the at-torney general of Minnesota or the State of Minnesota, whatever your con-tractual arrangements are—and I don't even know what they are—with lawyers representing your State—we're going to come in and essentially declare that null and void; we're going to supersede that contractual arrangement. I don't even know if we can do that.

No. 2, I will just tell you that when you are talking about 30 million pages of documents through discovery, this cap is not neutral in its effect on a State like Minnesota, and \$5 million compared to what Minnesota might very well be able to accomplish by way of a damage suit, by way of compensa-tion for the people of Minnesota, by way of information for the public, by way of what information comes to those of us in the Congress, by way of what we can do with that information to protect the public health really amounts to hardly anything.

Finally, Mr. President, there is a world of difference between \$5 million and the amount ultimately that that kind of legal counsel on behalf of the public health community will be able to obtain, again, by way of financial compensation and by way of informa-tion and by way of protection for the public health, all of which has to do with research and protection of peo-ple's health in this country.

So let us just be real clear about this amendment. This is the tobacco com-pany's dream amendment. That is what this is all about. And that is what this vote is all about. I think my colleagues will be making a big mistake if they do not think that people cannot see through this.

Just a little bit of chronology here so that people in the country understand this debate right now. And I think they do already. My colleague from Illinois, Senator DURBIN, joined by Senator COLLINS, Republican from Maine, in a bipartisan effort, came to the floor of the Senate—let us just be sort of his-torical about this for a moment—and said, wait a minute, we had this tax package, and we had this budget bill,

and that is what it was supposed to be all about. And lo and behold, somebody slipped in a \$50 billion relief package for the tobacco companies that they could use as credit toward any final compensation that they owed to people in this country.

My colleague from Illinois was very polite. I will be just as polite because I do not really know who did it. He said that the tobacco industry's lobbyists put this in the bill. They did not actually, literally do that. Senators and Representatives did that. Actually, the tobacco companies' lobbyists are very powerful, obviously. We see it again with this amendment. But they are not actually so powerful, as the Chair knows, that they can actually directly write the amendment, literally be the ones who put the amendment in in the conference committee. They cannot actually do that. They cannot actually sit there and pretend like they are Senators and Representatives. Actually some Senator or Representative has to do that.

Mr. SESSIONS. Mr. President, will the Senator yield for a question?

Mr. WELLSTONE. I will be pleased to.

Mr. SESSIONS. I have three questions.

First, do you know whether the attorneys in the Minnesota case are being compensated on a contingent fee basis, that is, in which they would get a percentage of the recovery, and in many of these States they have done not much more than file a lawsuit, and already the tobacco industry is willing to pay large sums of money which would enable attorneys to receive huge fees for almost no work? I understand perhaps Minnesota is different and that they may be, perhaps, the only State in which the attorneys are employed on an hourly basis. Does the Senator know whether that is true or not?

Mr. WELLSTONE. Mr. President, why not take all three questions and then answer all three of them.

Mr. SESSIONS. That is the first one.

Second, is the Senator aware that, with regard to the receipt or copying of the documents, those are expenses which are not covered by this bill, or at least this bill provides a full payment of expenses to attorneys who incur them legitimately, even in furtherance of these lawsuits, and would be reimbursed? I pose those two questions to the Senator.

Mr. WELLSTONE. My understanding is that on the first arrangement—and I am just learning about the arrangement right now—it is a contingency fee, which was challenged by the tobacco industry, and the tobacco industry lost that in court, in response to your first question.

On the second question, I think, still, it does not have anything to do with the—

Mr. DURBIN. Would the Senator yield for a question?

Mr. WELLSTONE. I would be pleased to.

Mr. DURBIN. I believe the point by the Senator from Alabama is his covers the expenses but does not cover the legal fees. So the expenses of literally physically collecting all these documents would be covered, but to have the first attorney sit down and try to read them is going to be limited. So it is one thing to have a warehouse full of documents, but if you want to have competent legal minds reading those documents, deciding what is important for the lawsuit, the Senator from Alabama says that is fine, but we are going to put a ceiling on this, there is just so much money to spend.

Mr. SESSIONS. I guess the answer to the question, Mr. President, was the Minnesota case is not on an hourly basis but on a contingent fee basis?

Mr. WELLSTONE. That is my understanding.

If I could go on—I think I have the floor—I was going to say to my colleague, it is my understanding also that the tobacco industry challenged that and that they lost in court.

Then in response to the second question, actually what my colleague from Illinois said was what I was going to say as well. Again, I am not a lawyer, but it is pretty clear to me that it is fine to get the compensation for the copying or whatever needs to be done with all the documents, but somebody has to go through those documents, somebody has to read the documents, and somebody has to try to determine what those documents really are saying in terms of culpability, in terms of what might have happened. That is, of course, the work that the lawyers are doing on behalf of the public health community.

But, Mr. President, since there isn't a third question, let me go back because there are other colleagues on the floor. And I will be pleased to—

Mr. SESSIONS. I will be glad to present my third question.

Mr. WELLSTONE. Sorry. You have the third question. I will be pleased to yield for the third question.

Mr. SESSIONS. Did the Senator know that this Senator refused to take money from the tobacco industry as attorney general and has sought tougher laws against the sale of tobacco to children and is not a tool or pawn of any tobacco company? In fact, I am offended it would be suggested otherwise.

I believe tobacco is a very unhealthy substance. I think it is quite plain it causes cancer and premature death, and we ought to do everything we legitimately can to reduce its use. In fact, I am supporting the amendment of the Senator from the State of Illinois and also of the Senator from Maine, Senator COLLINS, that would prevent them from having a \$50 billion benefit. My concern is \$14 billion in legal fees to many attorneys who do not deserve anything like that kind of fee.

Mr. WELLSTONE. Mr. President, let me respond to the third question. Then I will just finish up. But the first ques-

tion actually raised by my colleague from Alabama raises an interesting question.

In response to the third question, I say to my colleague from Alabama, I very much appreciate what he said. That is why I was very careful in the beginning saying—I learned a long time ago to assume good faith on the part of other colleagues, to basically assume people are doing what they think is right. I would not suggest that my colleague is a pawn of anybody.

What I said was that the amendment, whatever the intention, has the effect, will have the effect, of intimidation of the public health community and will have the effect of and amounts to an effort in terms of its effect to intimidate the attorney general in Minnesota and the State of Minnesota. That is exactly true, and in that respect, it is a tobacco company amendment.

Mr. President, actually—to go back to Minnesota—I find it interesting that what happened apparently is Minnesota went to a contingency fee, and then as a result of that, the tobacco companies challenged this in court. So now we have an amendment on the floor which is another way of essentially trying to deal with this arrangement in Minnesota. I do not think we in the U.S. Senate should be doing this as it affects different States.

Mr. President, just a little bit of history to bring us to where we are right now.

So what happened is that unnamed colleagues—I mean, it was not the tobacco industry; they did not actually sit down in the committee and put the amendment in—somebody tucked the amendment in. Old politics, back room politics, you know, it just happens in the dark, just happens behind the scenes. I mean, once upon a time people viewed that as being clever legislators. It just does not work that way any longer.

So my colleagues come to the floor, and they essentially say, "Look, let's just at least knock that out. That ought not be in there." That is what this amendment is about. That would be a proposition that we could have an up-or-down vote on.

When I was back in Minnesota and the stories broke that in the tax bill we had this \$50 billion tax break, tax credit, tax giveaway to the tobacco industry, people in Minnesota were saying to me, "Congratulations, PAUL. You voted against that tax bill. You voted against that budget bill. You knew, and a lot of other people didn't." And I said to them, "You know, I've got to be honest. I voted against that bill for other reasons. I didn't know. I would love to tell you I was the one person who did and that is why I voted against it, but actually I didn't know."

This was just sort of tucked in there. Some Senators, Representatives—one, two; I do not know how many—put it in there. It was very cleverly done. But my colleagues have come to the floor and said, "Look, we didn't know that

was in there. This is not the way it's supposed to work. This is not exactly a political process with a lot of accountability. We ought to take it out. We can have an up-or-down vote on that."

Now what we have is an amendment with the intended effect to intimidate advocates of public health. I mean, that is not the motivation, but that would be the effect of it. I do not know that it is an intended effect. It probably isn't. But the effect of it would be to intimidate advocates of public health, to intimidate States like Minnesota where we have plowed through, again, 30 million pages of documents. The Minnesota case is rated by top tobacco stock analysts at Bernstein Research as "the biggest threat" to the industry. And I can see exactly what is going on here.

This is an amendment that is a dream come true for the tobacco industry to try to go after States like Minnesota, to try to make sure that States cannot go through with this. If that is what happens, then we all lose.

So, Mr. President, let me just make it clear that this amendment, if passed, would have the effect of intimidating the public health community, advocates for the public health community, and States like Minnesota that promised to bring to light, in what would be a huge court proceeding, information that will be vital to the public health of this country.

This amendment is not neutral in its effect. This is a tobacco industry amendment. That is what this is all about. Therefore, I urge my colleagues to vote no. As a Senator from Minnesota, I am proud that the Minnesota case is viewed as the biggest threat to the industry. I am proud that the trial is going to begin in January 1998. I am proud that, I think, a whole lot of information is going to come to light and we are really going to learn much more about what exactly has been going on within this industry and how it has affected our families and how it has affected our children.

But, Mr. President, this amendment is a get Minnesota amendment. This amendment, with its caps, is an effort to go after Minnesota, to go after advocates for Minnesota, to go after the public health community, to make sure that we do not have lawyers that are working on this and to make sure that "the biggest threat" to the industry court case may never take place. It is an outrageous amendment. I hope colleagues will see it for what it is and it will be voted down resoundingly.

Mr. President, I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I know that it is the desire of the Senator from Illinois and others to have the Senate make a judgment on this issue. But it is a very, very important issue. I welcome the opportunity to join my colleagues in making comments about the implications of this

particular amendment. And I do so at this time.

Mr. President, the Sessions amendment is really one more attempt to aid the tobacco industry at the expense of the public interest. Make no mistake about it, its effect would be to set up a major roadblock preventing the States from pursuing their cases against the tobacco industry.

The Sessions amendment, as I read it, would restrict the ability of States to retain the attorneys to pursue States' claims against the tobacco industry. As we all know, 40 States have filed suit against the tobacco companies. So far only two of those cases have been settled. Just yesterday, the tobacco industry said that it will no longer be settling cases. The Texas case is scheduled to go to trial within the next few weeks.

As Senator WELLSTONE has pointed out, Minnesota, which has done an enormous amount of work on covering the sordid history of the tobacco industry, is scheduled to go to trial in just a few months.

So it would be an outrage for this Senate, acting at the behest of the tobacco industry, to handcuff the States as they seek to compensate their citizens from an industry that kills 400,000 citizens each year.

If Senator SESSIONS'S intent is to regulate the amount of attorney's fees to be paid as part of a national settlement, clearly, this amendment is premature and unwarranted. Congress has not even begun to seriously debate the merits of the national proposal. The issue of attorney's fees in a settlement should be considered after there is a settlement, not before.

The real intent of the Sessions amendment is clearly demonstrated by the fact that, as originally drafted, it only sought to restrict the attorney's fees of attorneys representing the States, not the attorney's fees of the tobacco industry. To restrict the plaintiff attorney's fees would dramatically tilt the already uneven playing field even more in favor of the tobacco companies. While Senator SESSIONS has now added defense attorneys to his amendment, regulating the amount of attorney's fees paid by the private party is highly questionable and probably unconstitutional. Thus the effect of the amendment would still be to place a burden just on the States.

Since under the terms of the settlement plaintiff attorney's fees would be paid by the tobacco industry and those funds are not to come out of the proposed \$368 billion national settlement, limiting plaintiff attorney's fees would not produce an additional dollar for either the State governments or the Federal Government. It would merely further enrich the tobacco industry.

While the amendment says that the money saved would be paid to the Federal Government for use by the National Institutes of Health, the amount saved would never be determinable, and thus no significant payment to the Government would result.

So make no mistake about this amendment, blessed by the tobacco industry, it is a ploy to kill the Durbin amendment. We were all outraged when we learned that a paragraph had been slipped into the budget agreement to give the tobacco industry the \$50 billion credit. The amendment, if it is allowed to remain law, would cost the taxpayers \$50 billion.

There has been a justified outcry against that gross abuse of the legislative process. And there is now widespread support for repealing that ill-conceived provision. Big tobacco knows that it cannot prevent repeal directly, therefore, it has embraced the Sessions amendment as a diversionary tactic.

Let us decisively reject this cynical gambit, beat the Sessions second-degree amendment, and overwhelmingly approve the Durbin amendment. To do otherwise would be to erect an enormous roadblock in the path of the States pursuing justice for their citizens against the tobacco cartel.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Thank you, Mr. President. I speak in favor of the Sessions amendment.

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

Mr. ENZI. I have not even given my speech. I don't know how you could have a question.

Mr. DURBIN. It is about the procedure we are to follow during the remainder of this debate.

Mr. ENZI. I yield for a question on the procedure.

Mr. DURBIN. I wonder if the Senator would join Senator SESSIONS and myself in a discussion of a limit on the remaining debate on this amendment, if we could reach an accommodation and agreement as to how much time we would spend on the remaining debate?

Could I suggest, if the Senator would be kind enough to be party to this discussion, that perhaps we agree to 40 minutes, equally divided, between us, if that is agreeable to the Senators on the other side.

Mr. SESSIONS. Will the Senator yield?

Mr. ENZI. I yield.

Mr. SESSIONS. I think there is some discussion about us voting at 10:45. I think that would be agreeable with me if there is no objection. I think I indicated to the Senator from Illinois that I might need 15 minutes. That would be for me, personally. I think there are some other Senators that would want to talk during that time on this issue. I would be prepared to agree to that, but I would not want to limit my own time, the whole argument, in favor of this bill, to 15 minutes.

I want to say that to the Senator so I am not misleading him about the time.

Mr. DURBIN. I might not have caught the last comment made by the Senator, but it is my understanding we are going to take a vote on a motion to

table that I will offer at 10:45 and the time between now and then will be equally divided between the proponents that Senator SESSIONS shall acknowledge, and the opponents that I shall acknowledge on my side, is that correct?

Mr. SESSIONS. I have some concern. My concern about that is that the opposition to this amendment has already been talking at least 20 minutes, so I do not think it would be appropriate and I would not be able to agree to an evenly divided 22 minutes on each side. Perhaps if you added 15 minutes to that to our side and we voted at 11 o'clock, I would be prepared to consent to that.

Mr. DURBIN. I have no objection.

The PRESIDING OFFICER. Is there any objection?

Mr. ENZI. I agree to that time limit as well.

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

Mr. DURBIN. Mr. President, I am sorry, I want to make sure there is clarity here.

The debate will continue now for an hour, evenly divided, is that the point, and the vote to be taken at 11 o'clock?

The PRESIDING OFFICER. The debate will conclude at 11.

Mr. SESSIONS. What I indicated I would agree to would be that we would add 15 minutes to the 22 minutes that you have, making 37 minutes for the proponent of the amendment and 22 minutes for the opposition. I think that would be fair in light of the fact that you have already taken more time than that this morning in opposition to the Senator's amendment.

The PRESIDING OFFICER. The Chair understands that clarification. That would be in order.

Mr. DURBIN. Thank you.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, I do not have very many remarks on this but my remarks have grown just since I have been here this morning.

I am fascinated with this accusation that my fellow Senator from Alabama is doing this on behalf of the tobacco folks. I have not seen him do anything that has looked like it was on behalf of the tobacco folks in this settlement. I have not done anything on behalf of the tobacco folks in this settlement, and during my campaign, even though I was desperate for money, I didn't accept any money from the tobacco folks.

I am in support of the second-degree amendment and I am in support of the first-degree amendment. I am in support of both of them because they both leave all the money on the table. That is kind of hard to determine. We do not know at this point what the money is that is on the table. The Senator from Kentucky last night went through quite a discussion of how much it might be in addition to \$368.5 billion, but this debate is about how much less than \$368.5 billion it might be.

Quite frankly, I am fascinated with the whole discussion on the tobacco

settlement. I hear these comments about whether it is constitutional to limit attorney's fees or not. I cannot tell you for sure that it is constitutional for us to be talking about a tobacco settlement at all. This is an arrangement that the States entered into, through some lawsuits, and then some discussions, and now they are asking us to seal the deal on their behalf. Usually they are asking us to keep our hands out of their business, and I am in favor of doing that. I think the States have some rights that we have infringed on for a long time and that it is our job here to return as many of those rights to the States as we possibly can.

So now we have the States saying, "Please meddle in our affairs and seal this deal for us." Quite frankly, I am not hearing them say, "Meddle in this deal but don't meddle in the attorney's fees." They are not saying that. We are not even sure what the attorney's fee arrangements are between the different States.

If we have a constitutional right to do one, seal the deal, I think we have a constitutional right, too, to make sure that we understand what the attorney's fees are.

When this passes it will not be the final time that it will be debated. There will be a conference committee on it and one of the things I have learned in the short time I have been here in the Senate is that those conference committees can do almost anything they want. When this particular amendment comes back it can have eliminated every concern of the people in the House and the Senate. Everything we have debated here can be changed or it can be left out.

I think at this point it is extremely important that we talk about the attorney's fees and not let everybody in the country go running off to hire more attorneys at whatever rate they can entice them. Quite frankly, I think this could turn into one of the biggest lotteries in the United States. I think we need to have some parameters.

Now, the parameter that is in this amendment is \$5 million, or \$250 an hour for each and every hour they put in the process. It was mentioned just a little while ago that you have to have people read the documents and determine what is important out of several million documents. Well, each and every one of those people reading those documents would get \$250 an hour, not just the lead attorney, and him having to separate it out to the people reading the documents for him, everybody gets \$250 an hour. That is quite an economic boon. The only limitation on it is \$5 million per State.

Do you think these people went out and obtained \$5 million worth of State money or even suggested that attorneys ought to be able to get that through a contingency fee? If they did do that, why are they turning around and asking us to confirm what they did, but saying, "We cannot give you

the details?" This amendment will bring out the details, and it is not the final action. The first-degree amendment brings out the details.

We found that there was a stipulation in the last conference report—it was not an action we took, it was a conference report action—that there would be a credit against the tobacco tax, and we say, no, we will put that back on the table. I am all for putting that back on the table. We are starting to commit settlement money without having a settlement, without having a deal and without knowing whether the money is for the Federal Government or for the States. It is too premature to make those kinds of deals.

I commend the Senators from Maine and Illinois for their effort to get the cigarette tax back on the table so we can decide, and I commend the Senator from Alabama, Senator SESSIONS, for putting the attorney's fees on the table so we can take a look at whether they earned them or not and what part they played in this process. It seems to me to be logical.

Another little twist on this whole tobacco settlement is we are talking about several years of payments in the tobacco settlement, but we are talking about upfront, putting them out of business. There is not much clamor against putting them out of business, but you do not get money over a long term from somebody that you put out of business.

We want to stop the cigarette sales. We want to get people to quit smoking and having the harmful residuals that are showing up from the tobacco, but are we going to give away the first money that comes in, the money that is most assured of having, to the attorneys? And then when we put them out of business, saying "What happened to the other \$300 billion we were going to get out of the bill? How come we don't get the money?" We committed that money.

So I certainly hope that the Senate will be careful and not commit money that we do not have, commit money that we do not understand how we are going to get, commit money that it may not be constitutional to take. But I do hope we will investigate and work this thing to the greatest benefit possible for stopping smoking and helping the health situation in this country.

I yield the floor.

The PRESIDING OFFICER (Mr. SMITH of Oregon). The Senator from Alabama.

Mr. SESSIONS. I thank the Senator from Wyoming for his comments. He is a very thoughtful Member of this body and watches after the taxpayers' money with great interest. I think his comments are right on point. I am delighted to have him share those with us today.

We are talking about allowing \$5 million in attorney's fees to be paid. In addition to that, we are talking about allowing unlimited amounts of money to be spent for expenses in a litigation.

That could be for computerization, committees, receiving records, clerks analyzing records and collating records, filing records, and storing records.

I have been an attorney for a long time. This idea about 30,000 documents, that is what you normally say when you come to court and you are not ready to go to trial and you say, "Judge, we have 5,000 documents." Well, probably 4,999 of them are some sort of receipts or documents that do not even need reviewing, have no real significance to the issue at hand, but there may be a few in there that do. That is a price of fame about how many documents it is—suggesting the great complexity of the case that may have very little to do with the complexity of the case.

Let me say this, there has been a lot of talk about big tobacco. I am not supporting big tobacco. I am supporting the amendment that is on the floor today.

What I would like to say is there is another big political force in this country, there is another big force in this country that attempts to work its will, and that is the plaintiff lawyers. They are one of the major contributors to campaigns in this Nation. They receive settlements of millions of dollars in lawsuits and contribute millions of dollars to people, politicians and judges and others who further their view of what litigation is about.

Now, I believe in litigation. I am not against litigation. I am not against the lawsuits. I do not want to pass a bill that would stop these lawsuits. I am going to tell you we are talking about not just millions of dollars, not just tens of millions of dollars, not just hundreds of millions of dollars in legal fees. We are talking about billions of dollars, tens of billions of dollars.

Published reports indicate that this time that the plaintiff attorneys, these private attorneys who are hired to do these cases by the State attorney generals, they expect to receive \$10 to \$14 billion—billion dollars.

In the State of Alabama, outside the education, the general fund budget of the State of Alabama is less than \$1 billion. We are talking about a small group—not hundreds and hundreds of attorneys, but a small group of probably less than 100 firms, probably less than 50 firms, receiving \$10 to \$14 billion in legal fees. Many of these States have only just filed their lawsuits. The tobacco company comes in and agrees, and they put the money out on the table—\$300, \$400, or \$500 billion on the table. Most of these attorneys have contingent-fee contracts, in which they intend to receive a percentage of that money, and they did little more than copy a lawsuit and file the same lawsuit some other lawyer filed in some other State. They are entitled to do that under their fee agreement. It is not right. It is money that ought to be going to the health of children in America.

This bill says we are going to put a limit on it, and \$5 million is a pretty good legal fee. In my opinion, \$250 an hour is high-paid attorneys. I think anywhere else you would see that. So we think that is a good limitation on it. And it is unlimited on expenses that may be incurred. I think, Mr. President, this is a good way to deal with this matter.

I am going to tell you what has offended me. I was a State attorney general just last year, and I had some knowledge of how this litigation was being managed and how these attorneys were being hired on a contract basis. So I have asked about that when we have had hearings in the Senate Judiciary Committee of which I am a member. I have asked one of the attorneys general what the fee agreement was in his State. He avoided answering that. Others have asked that question. We have gotten no answers. I have written an attorney general and two of these plaintiff lawyers and asked them, over a month ago, to tell me the nature of their fee agreement and how much they expected to get. I have yet to hear from them. Senator GRASSLEY, a member of the Judiciary Committee, has also written letters asking about how much money is going to be paid for attorney's fees, and they won't say. They have everything else spelled out in this global settlement, but they don't talk about the billions of dollars that will be going to plaintiff attorneys, many of them who put little work into the case. They don't want to talk about that.

In fact, this whole settlement agreement is designed to conceal the amount of money paid as attorney's fees. There is no other way to describe it. I hate to say that. It is a serious matter, what is happening here. Let me explain to you, as a litigator and attorney myself, and former attorney general, I have an appreciation for this matter. These private plaintiff attorneys who expect to make themselves rich on this settlement representing the States involved have said: We won't talk about our attorney's fees publicly. We will just enter into a side agreement with big tobacco and they will pay our attorney's fees. The tobacco industry will pay our attorneys' fees. The State of Alabama, the State of Minnesota, or the State of Illinois won't have to pay our attorney's fees. The tobacco industry will pay our attorney's fees. That is a joke. That is not a way to settle a lawsuit. These attorneys work for the State, who is supposed to be paying their fee, not the party on the other side, not the person they are suing. They should not be paying the fee in a secret arrangement.

These attorneys are representing the State, the people. We need to know and we are entitled to know how much they are being paid. This bill says that they must make public any fee agreements they have and report to the people how much they expect to receive. I think that, at a minimum, we need do that. It is time to send a message that we

are not going to tolerate this behavior. Everything else is going to be on the table. We are not going to have bills that go through to provide tax benefits to tobacco and we are not going to have plaintiff lawyers, who are some of the biggest contributors to political campaigns in America, enriching themselves any more than tobacco ought to enrich itself with a secret, side agreement.

Now, let me talk about that just a little more. The problem—and I think any lawyer would recognize this—is a conflict of interest. The attorney for one side says to his client: Don't worry about the attorney's fee, Mr. Client. I will get the attorney's fees from the guy we are suing. He will pay me and we don't need to bother to tell you about that. See? So the deal is, well, you get into a tough point in the negotiation and you can't reach a settlement, and big tobacco says to the attorney for the State of Alabama, or the State of Illinois, or the State of Minnesota: Well, why don't we just add a billion dollars for attorney's fees, Mr. Attorney. Maybe you can agree to this idea.

See, that is the fundamental conflict that is there. I think this probably would violate the standard rules of ethics. Certainly, it would violate the high standards of the legal profession. And I am sure any group of prominent attorneys asked about that would express very serious concerns about that because it presents a conflict of interest and the kind of activity that ought not to be tolerated. So I think we need to get into this. I think we need to limit these fees and take that money, as our bill does, and send it to the National Institutes of Health so it can be used for research on children's diseases. I think that is the appropriate use of any of these excess fees.

Mr. President, let me just say this. There are a lot of States who have just recently filed these suits. I submit they have done little more than copy the suits that some of these other States have filed. Yet, they are large States and they are going to receive tens of billions of dollars, and based on what I understand may be a common fee arrangement, these attorneys would be entitled to receive 25 percent of the recovery. I don't know why the published reports say that it is \$10 to \$14 billion. That seems to me to be less than some of these arrangements. Maybe, but at any rate, it is too much. Twenty-five percent of that may be \$100 billion in legal fees, which could provide all kinds of assistance and aid to dealing with children's diseases and health-related matters, many of which we ought to focus on tobacco, because we do know that tobacco is a very unhealthy substance. We know that teenagers who become smokers find it extremely difficult to quit later as an adult. In fact, it is many times more difficult for a person to quit smoking if they commence smoking as a teenager than if they began as an adult. That is why we

need to deal with the health question of teen smoking and why I think it is an important national issue. I salute those who believe in doing something about it.

Finally, let me just say this. What business do we have in involving ourselves in this kind of litigation and trying to involve ourselves in what kind of attorney's fees should be paid? The reason we are involved in it is because we have been asked to. The attorney generals, these plaintiff lawyers, and big tobacco have all asked us to involve ourselves and legislate this settlement. That is an interesting, probably unprecedented event, so far as I know, in the history of this country. We are talking about dealing with that professionally and analyzing it. A number of committees in this body are looking at it today, and I am sure it will be hammered out and much will be done. But I simply say that if this body does not legislate a global settlement concerning this litigation, this amendment will have no effect. It takes effect only if there is a global legislative confirmation of some sort of this settlement. At that point, I think it is appropriate for us to limit attorney's fees and deal with this. As a matter of fact, I think it is more than appropriate; I think it is absolutely essential that we do so.

So, Mr. President, I say to this body that this amendment is, in no way, designed to assist big tobacco. I am offended that anyone would suggest that it does. It is designed to put money in the hands of children by taking it from lawyers who are about to receive one of the biggest windfalls in the history of litigation—not one of the biggest, but the biggest windfall in the history of litigation in the entire world is about to occur. Attorneys are about to receive tens, hundreds of millions of dollars for cases they only worked on a few months. A few firms may have worked longer, but most only have worked a few months on these cases and have not expended large sums of money. This amendment gives them a very generous \$5 million in attorney's fees and an unlimited expense account to carry on their litigation. And, in addition, it says there has to be some reasonable limits. We are not going to allow them to have a jackpot justice and make tens of hundreds of millions of dollars off of litigation of this kind.

So I say to the distinguished Members of this body that this is a proper thing for us to do. It is a proper time for us to do it. I also say there is something unhealthy here, something that does not quite smell right, when we have secret agreements on attorney's fees, representing billions of dollars, and they won't even be discussed at a time we are being asked to evaluate this entire settlement.

So, Mr. President, I strongly believe that this is a reasonable and fair amendment. It allows very generous attorney's fees and expenses to be paid, but sets a cap on it so the people of

this country can know that the recovery in these lawsuits is going to help and not go to attorneys in a windfall.

Mr. President, I yield the floor.

Mr. DURBIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Would the Chair be kind enough to alert the Members as to the remaining time allocated to both sides?

The PRESIDING OFFICER. The Senator from Illinois has 22½ minutes. The Senator from Alabama has 16 minutes and 8 seconds.

Mr. DURBIN. I thank the Chair.

Why are we here today? Because the tobacco company lobbyists, at the last minute, in our tax bill, which we considered several weeks ago, managed to sneak in a provision that was not debated on the floor of the Senate, nor on the floor of the House. It was never brought to public light. It wasn't discussed by the leadership, by anyone. And this provision, which is 46 words at the end of the tax bill—a provision which they hoped no one would notice—gave to the tobacco companies a \$50 billion setoff against any tobacco settlement. The tobacco companies that came to us and said, "We have learned our lesson, we are a new industry, we are sensitive to the public health problems we have created," managed to sneak in in the dead of night and put in this provision, which gave them a \$50 billion setoff.

Outrageous. When it was discovered and when we went about Capitol Hill, from office to office, saying, "All right, who is going to claim pride of authorship here?" Not a soul would admit they authored this provision. After weeks of investigation, finally, a staff member came forward and said to the USA Today that it was prepared, word for word, by the tobacco companies. They put this provision in the law. They put it at the tail end of this bill, and the leadership on Capitol Hill looked the other way, at best. As a result, this \$50 billion outrage is now in the law.

Senator COLLINS of Maine and I have offered an amendment to repeal that. Now, the tobacco companies don't like our amendment. They have already said publicly that if the Durbin-Collins amendment is adopted, it is going to jeopardize the settlement. They want a \$50 billion windfall. Well, I sense from the debate today that when this is over, that provision is going to be repealed. But I have learned from over 10 years of fighting these tobacco companies never to assume a thing. They always have one trick left in the bag. Unfortunately, that trick is the Sessions amendment.

Let me tell you this. I don't, for a moment, question the sincerity of my colleague from Alabama. Nor do I suggest that he is a cat's-paw of the tobacco companies. But make no mistake, if he ends up winning his amendment, you will see a smile on the grizzled mug of Joe Camel, because the

Sessions amendment will achieve what the tobacco companies have failed to achieve. The Sessions amendment is the effort of the tobacco companies when they can't stop the lawsuits to stop the lawyers.

Oh, how they must despise these plaintiffs' lawyers—this army of lawyers who joined with attorneys general across the United States in 40 different States and said, "We will join with you in suing the tobacco giants. We understand each State is hard pressed to have the resources to bring the lawsuits. We will be involved in the lawsuits on a contingent basis. If you win, if your State wins, then we get a fee. If you don't, then our fee is reduced."

It is a contingent-fee basis. It is a basis for many lawsuits. There is nothing inherently evil or outrageous about it. Many people come to lawyer's offices every day without the resources to prosecute a lawsuit, and a lawyer says, "I will take it on a contingency. If you win, I win a fee. If you lose, I don't win a fee." There is nothing sinister about this. It is a contingent fee.

So that is what we are debating here today. The Senator from Alabama calls it jackpot justice. I have heard him in committee and on the floor. And he has very strong personal feelings about contingent-fee lawsuits. That is his point of view. I don't share it. But consider what his amendment would do.

First, it would limit the total attorney's fees paid in the United States of America to all the plaintiffs' lawyers assisting all the attorneys general to \$250 million maximum—a huge sum of money, is it not? But in the context of a tobacco settlement of \$368 billion, how big is it? It is one-tenth of 1 percent. That is the contingency fee which the Senator from Alabama thinks is a reasonable amount. I would suggest to him that he shouldn't prejudice what each State attorney general faced when they were asked by their taxpayers and consumers in the State to bring a lawsuit against these giant tobacco companies and entered into agreements with the various attorneys to help them do that.

In fact, I think quite honestly the Sessions amendment is designed to stop one lawsuit in particular—the Minnesota lawsuit. Attorney General Skip Humphrey of Minnesota said he is going to try it. Unlike the States of Mississippi and Florida, which have settled, the State of Minnesota has said we are going to take this to trial. The tobacco companies dread that prospect because, if, in fact, Minnesota goes to trial, then the documents which they have secreted, the documents which they have concealed for decades, will finally come to light.

I went to a meeting a few weeks ago, Senator DASCHLE's task force on this subject. And a representative of the tobacco companies came in, and said that if the Minnesota case goes to trial there will not be a tobacco settlement. They dread so the prospect that the things which they have secreted away



from public scrutiny will come to light that they, in fact, have said, "Stop the Minnesota case."

I believe the Sessions amendment wittingly or unwittingly will stop the Minnesota case. Is that fair? Is that fair after the State of Minnesota and so many other States have invested so much in this effort for us to step in at this moment, and say, "We will void your agreements, we will void your contracts, we are the Federal Government, after all, and we will second-guess you?"

Some people even question whether Senator SESSIONS' amendment is constitutional. They wonder if we, in fact, under article I, section 10, of the Constitution can impair the obligation of contracts already entered into. But I don't know that we will resolve that constitutional question on the floor.

What we can accept as a reality is that if the SESSIONS amendment goes forward it will at least put a damper on any future lawsuits and perhaps stop them in place. They will be jumping for joy on tobacco road, if the Sessions amendment is successful. In aiming at the attorneys and their contingency fees, the Sessions amendment hits the public health community, which has had the courage to step forward with 40 attorneys general and sue the tobacco companies. The Senator from Alabama may think that he is sending a message to the attorneys of America about contingency fees. He is sending a message to tobacco companies that they still have a chance on the floor of the U.S. Senate.

I hope my colleagues will not support this amendment. In fact, I would like to let them know that if, in fact, my motion to table prevails and the Sessions amendment is not agreed to, that I will then offer a sense-of-the-Senate amendment of my own.

I would like to read it.

It is the sense of the Senate that attorney's fees paid in connection with an action maintained by a State against one or more tobacco companies to recover tobacco related costs affected by Federal tobacco settlement legislation should be publicly disclosed and should not displace spending in the settlement legislation intended for public health.

The bottom line of my substitute would require each State, each attorney general, to make a public disclosure of their fee arrangement with any attorneys that have been brought into this lawsuit, and no moneys paid to those attorneys will be at the expense of the public health initiatives that are part of this settlement. Then in each State the attorney general, in most cases elected, will have to be held accountable as he or she should be for their decision.

I don't think that is unreasonable. And I think, as they come forward to explain to the taxpayers of their State that they entered into this contingency fee arrangement knowing that they might or might not recover, that the attorney's fee ultimately paid will be justified by the money coming back

from the tobacco companies to the taxpayers of the State. Public disclosure—I don't think that is unreasonable.

But I do believe the Sessions amendment is unreasonable. What it seeks to do is begin to draft the national tobacco settlement agreement. And I don't think that is fair, and I don't think this is the appropriate time to do it.

The purpose of the Durbin-Collins amendment is to go back to where we started—to that point in time where the tobacco companies' offer of \$388.5 billion, through the State attorneys general, came to Capitol Hill to be debated. It wipes off the books the \$50 billion set-aside—the \$50 billion giveaway—and it says we are back to the starting point.

If we adopt the Sessions amendment, I think we are going to jeopardize not only the active prosecution of these tobacco companies but jeopardize this settlement agreement.

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

Mr. GREGG addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. GREGG. Will the Senator from Alabama yield 5 minutes?

Mr. SESSIONS. I yield 5 minutes to the Senator.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized for 5 minutes.

Mr. GREGG. Mr. President, first off, I am a cosponsor of the underlining Collins-Durbin or Durbin-Collins amendment. Second, I am a very suspicious of this tobacco agreement.

I tend to think that there are some serious concerns here relative to what we are getting and what is being done. And especially I am concerned about the fact that I think the only winners out of this may be the trial lawyers and the tobacco companies. And I don't think that should be the result of the settlement.

But I also strongly support what Senator SESSIONS, the former attorney general from Alabama, is proposing here because basically what we have here is an unholy alliance between the tobacco industry and the trial lawyers.

It was pointed out very effectively by Senator SESSIONS that there is almost an ethical question here of whether then you pay off the people suing you to stop suing—pay them all off in terms of multiple billions of dollars. We are talking about here potentially \$40 billion to \$50 billion in attorney's fees, and whether or not when such an occurrence happens, whether you have any sort of agreement which is fair, ethical, or appropriate. So Senator SESSIONS has raised an extraordinarily legitimate question.

I think it is extremely inconsistent for those who are opposing the tobacco settlement generally, and who have put forward this amendment—the underlying amendment, which is a good one, to try to knock out at least one section of this proposal which was moved in the

middle of the night—for that same position to be arguing on behalf of the trial lawyers, I find that to be entirely inconsistent.

Moreover, I find the arguments that have been made from the either side to be filled with straw dogs and red herrings. Let's talk about them for a second.

First is the argument that the Minnesota case wouldn't go forward. Of course the Minnesota case will be forward because the trial attorney's fees, which will be affected by the Sessions amendment, apply to the agreement—not to trying cases when there is a case tried, when it goes to trial, or when it is outside the parameters of the agreement. Then clearly the contingent fee will lie if the case is successful. So that is a red herring in the first order.

The idea that this is unconstitutional because there is some sort of contract that is being abrogated, obviously it is constitutional because the fact is the Congress is being asked to create this contract. That is what we are being asked to do. There is no contract yet. The Congress is being asked to create a contract. If we are going to be asked to create this contract, we can certainly dictate one of the terms. And one nice term might be that we not end paying the trial lawyers \$40 billion but rather pay NIH that \$40 billion. In fact, by my estimate you can fund almost all the uninsured health care in this country today. Almost all of the people who do not have health care could be funded if we were to take \$40 billion of the trial lawyer's fees and apply it to the uninsured people in this country. And, as a result, for almost a 5-year period I think you would have funding for the uninsured health care of people who do not have health insurance in this country. In fact, in the major debate that we just had over child health care insurance the issue was whether we should go from \$16 to \$24 billion in order to cover uninsured children in this country today—\$24 billion for a 5-year period.

This \$50 billion for trial lawyers—let's put it toward the kids. Let's put it toward health care. It is a heck of a good idea that the Senator from Alabama has come up with. NIH can use this money much better. Uninsured people in the health care community can use this money much better.

At the absolute minimum we should have some disclosure here as to what is going on. You talk about deals in the middle of the night, which the Senator from Illinois has so aptly pointed to, and the Senator from Maine has so aptly pointed to in the passage of this tax break, which is totally inappropriate, a deal in the middle of the night. This is a deal in the middle of night on some other continent. I mean, we can't even find out what this deal is. At least we found out what the tobacco deal was on the tax side, and the Sessions amendment will get us to the bottom of that issue to find out what the heck really happened here, and how much



the attorney's fees are going to be. But we know they are going to be massive. Otherwise they wouldn't be fighting so hard to keep us from finding out about them.

So the Senator from Alabama has raised a totally appropriate amendment. It is a red herring to allege that this in any way assists the tobacco industry. It does just the opposite. The fact is that the trial lawyers have had a stranglehold on, regrettably, this administration. They have seen this administration veto two major product liability bills—the securities bill and the product liability bill, one of which we were smart enough to override, the other of which we couldn't override as a result of the trial lawyer influence. Now when we are trying to get to the bottom of just how much is going to be paid here, how much is coming out of the people's pockets, we run into this argument that it is inappropriate.

The amendment of the Senator from Alabama is totally appropriate. And I strongly support it.

The PRESIDING OFFICER. Who yields time?

Ms. COLLINS addressed the Chair.

The PRESIDING OFFICER. Who yields to the Senator from Maine?

Mr. DURBIN. I yield 5 minutes to the cosponsor of my amendment, Senator COLLINS.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Ms. COLLINS. Thank you, Mr. President.

Mr. President, I rise in very reluctant opposition to the amendment offered by my friend and colleague from Alabama, Senator SESSIONS. I do believe that the issue of attorney's fees is an important one. But it should be debated in the context of the global tobacco settlement. My fear is that despite the best intentions of the sponsors of this amendment that passage of the Sessions amendment would jeopardize the underlying Durbin-Collins amendment to repeal the \$50 billion tax giveaway to big tobacco. For that reason, I am going to vote to table Senator SESSIONS' amendment.

I do want to point out one issue that has become obscured in this debate, and that is that the money that will be paid in attorney's fees does not come out of the \$368.5 billion global settlement. Instead, the attorney's fees will be paid by the tobacco industry, separate from the settlement. So the attorney's fees do not diminish the amount of the \$368.5 billion settlement. I think that is an important point that has been lost in this debate.

I share the concerns of my colleague from Alabama about an attorney's fees. I think there are, however, constitutional issues about whether Congress can step in and abrogate contracts that were reached between the States attorneys general and private law firms. That is an issue that deserves to be thoroughly explored. But, most of all, I urge my colleagues, whatever their position on the tobacco settlement, what-

ever their position on the issue of attorney's fees, to save this debate for a more appropriate time. And that is when the global tobacco settlement is before the Senate. My fear is that the passage of this amendment would jeopardize the underlying amendment to repeal the \$50 billion tax break, and I do not believe we should allow that to happen. For this reason, I will support the motion to table, offered by the Senator from Illinois.

I thank the Chair and I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. DURBIN. Mr. President, could the Chair inform us of the time remaining?

The PRESIDING OFFICER. The Senator from Illinois has 9½ minutes; the Senator from Alabama has 10½ minutes.

Mr. DURBIN. Mr. President, I am prepared to yield some time to my friend, the Senator from New Jersey. I would like to yield 5 minutes to the Senator.

Mr. LAUTENBERG. I thank the Chair. I thank the distinguished Senator from Illinois for the courtesy. I will not talk long now. It is my understanding this is the only vote that has been registered for consideration at this juncture, and I assume that there will be time between the vote on the Sessions amendment and the underlying Durbin amendment.

Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. LAUTENBERG. Mr. President, I just want to register my support for the Durbin-Collins amendment to repeal big tobacco's rebate in the tax reconciliation bill that granted a \$50 billion giveaway—\$50 billion giveaway—to the tobacco industry. The condition that has created so much suspicion about the tobacco companies and their industry is that there is no time, no time at all when they come forward cleanly, let the smoke clear away, and offer direct and candid explanations about what it is they have been up to all these years.

I will have some comments later about the speech given last night by the distinguished chairman of the Judiciary Committee, Senator HATCH. He asked for a quick conclusion—let's get going. He asked that the President send down a bill that we can discuss and vote on, get it done with.

Well, Mr. President, this attack on the American people's health has been going on for decades, more than 50, 60 years. I remember when I was a soldier and part of the ration kit that I got to be used as an emergency food supply had some cigarettes stuck in it. It was so much a part of our structure, so much a part of our culture that cigarettes became more valuable than currency in some of the countries during the Second World War.

So there is a lot of information that has been accumulated over a lot of

years, and contrary to the comments of the distinguished Senator from Utah last night, I think we ought to take our time. I think we ought to make sure that we have the most complete review of millions of pages of information. I think that we can find what we want within a group of documents about 1.5 million pages long. They are called the Minnesota Select Set. There has been a consolidation of information to fewer pages than the full 33 million that the court in Minnesota is going to have for review.

Last night, the distinguished Senator from Utah talked about 33 million pages. He said, what do we need that for? Well, I think it is quite clear to people within earshot here and who have been watching what has been going on in the Capitol when the committee now reviewing campaign expenditures or campaign revenue raising, fundraising, has requested over 10 million documents for review from the AFL-CIO alone, by the Senator who is chairman of that committee, Senator THOMPSON.

So, Mr. President, we are talking about a very complicated piece of agreement. We have by the most conservative yardstick probably 5 million people killed as a result of smoking, who died prematurely as a result of smoking. We know that 430,000 die each year from respiratory-related conditions—lung cancer, you name it, emphysema. We learned recently from a study by the Harvard public health school that 50,000 heart attacks per year, fatal heart attacks per year, take place among those who are subjected to passive smoking, not smoking themselves. So again by the most conservative of calculations we say that some 500,000 people have been dying as a result of smoking-related illness.

If I might ask, Mr. President, my friend from Illinois for another minute.

Mr. DURBIN. I yield an additional minute to the Senator from New Jersey.

Mr. LAUTENBERG. So, Mr. President, I hope that we will not be rushed into doing something, get it behind us, get it over with. There is much too much to be gained by a thorough review of all of the documents, and we should not ask the President of the United States to come down here pell-mell, willy-nilly with a bill for us to consider and pass. If it takes time, I think that time can be valuably used despite the fact that I would like the assault on our children to stop as quickly as possible. I do not want any more seduction of our children to pick up smoking because the tobacco industry knows, in their spurious attempts at trying to ensure their marketplace, they have directed their marketing at children, trying to get 3,000 kids a day to pick up the smoking habit so a million a year of new smokers will be there to replace that market which is affected by those who are dying prematurely.

So, Mr. President, I look forward to an extended debate. I hope that the

Durbin-Collins amendment will be supported overwhelmingly to show the American people that we are not going to knuckle under to the machinations of the tobacco industry. We are not going to let it get through the front door or the back door. We want to close down what the tobacco industry has been doing to our citizens for these many years, and it is perhaps going to take more time than would be thought to be necessary to arrive at a proper settlement.

With that, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. SESSIONS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. DURBIN. Will the Senator from Alabama yield for two very brief questions about his amendment?

Mr. SESSIONS. Certainly.

Mr. DURBIN. I want to clarify something that has been said during the course of debate. First, is it the intention of the amendment of the Senator that the limitation on attorney's fees would apply in those cases where States decide to go forward and prosecute a case as opposed to those that are involved in the national settlement agreement?

Mr. SESSIONS. I believe that the correct interpretation of this amendment and the intention of it would be, if a case went on to litigation and was not a part of the global settlement, it would not be covered by this agreement. But any settlements that were entered into now or subsequently that asked to be part of the global settlement by Congress would be appropriately covered.

Mr. DURBIN. So the Senator is saying—I am trying to reconcile his section (b). He applies this limitation to court orders as well as any settlement agreement. It would seem his limitation on attorney's fees would apply in either instance, whether the State decides to prosecute the claim and ignore the possibility of a national settlement or in fact reaches a settlement agreement. It would appear that his limitation on the attorney's fees would apply in either case.

Mr. SESSIONS. I don't think it would apply if the case went on to litigation because it would not be part of the global settlement. Our bill does not take effect unless there is an act of this Congress that globally settles the litigation.

Mr. DURBIN. I might say to the Senator I think his amendment needs to be clarified because that was not clear to me.

The second point I would like to raise, in section (e) where you provide for funds for children's health research, if in fact attorney's fees are not to be paid out of the \$368.5 billion and in fact are to be paid separately, from what source is the Senator drawing these funds that would go to the National Institutes of Health?

Mr. SESSIONS. Mr. President, I don't mind responding to the Senator's

question. I sought the floor. But I choose to have it on his time.

The PRESIDING OFFICER. The Senator may decline to yield further time.

Mr. SESSIONS. I have some comments that I would like to make and my time is getting short, but I think it would support the National Institutes of Health and that is what we would favor.

This is a matter of real seriousness. We are not talking about a little game or gimmick here. We are talking about huge sums of money. The Senator from New Hampshire talked in the debate on this floor of from \$16 to \$20 billion of children's insurance and how \$4 billion was considered carefully before the Congress appropriated that money. We are talking about perhaps \$40 billion in attorney's fees, and they refuse to tell the American public how much the fees are. They refuse to produce their agreements. These are attorneys representing public bodies, not private individuals.

With regard to contingent fees, I am not against private contingent fees. I think in many cases that is an effective and appropriate way to handle litigation for a private party. But I am very concerned about public bodies hiring attorneys to represent them and the people of their States on a contingent fee basis that could result in awards of attorney's fees of tens of billions of dollars. So I would think very seriously about that.

I was amazed to hear the comment made that this would intimidate and hamper the public health community. The public health community will benefit from this because we would see this money go to the National Institutes of Health and not to attorneys, so they could use it for research and other good things. It will not stop the ongoing litigation. I certainly believe it will continue in every State in the Nation that chooses to proceed.

Finally, I think the Senator from Maine is incorrect in suggesting that this is somehow not money that counts because it was money not made part of the settlement but added on to it by the tobacco industry. If you have been a part of the litigation, before you know it, the defendant, before the award is paid, wants to know the total bill, and when he finally agrees what his total bill is, he does not care how it is spent or how the other side uses it. So he will call it attorney's fees, he will call it anything else. He just wants to spend the \$386 plus billion, and that money is money the tobacco company is prepared to spend to end this litigation. Therefore, it is money that ought to be spent, as much as possible, on children and not on lawyers.

Mr. President, I see the Senator from Kentucky is here and I will yield for a question, or time. I will yield the floor at this time and yield my time to the Senator from Kentucky for 4 minutes.

Mr. McCONNELL. Yes.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. McCONNELL. I thank my friend from Alabama. Again I want to commend him on an outstanding amendment. I have been able to pick up part of the debate, and I might ask my friend from Alabama if one of the arguments being made by those who oppose his amendment is that somehow these lawsuits are not likely to be brought if a lawyer could only bill \$250 an hour? Is that, I gather from my friend from Alabama, one of the suggestions being made by the opponents of his amendment, that somehow being restricted to a mere \$250 an hour is going to deter the lawyers of America?

Mr. SESSIONS. That is correct—\$5 million is not a sufficient fee for a lawsuit.

Mr. McCONNELL. Right. That is the other part, I gather, of the Senator's amendment, either \$250 an hour or \$5 million, whichever is—

Mr. SESSIONS. Less.

Mr. McCONNELL. Less. I would ask my friend from Alabama, who has had a distinguished career over the years, has he ever known a lawyer to be deterred from representing a client when there was a potential \$5 million or \$250 an hour fee on the line?

Mr. SESSIONS. I have not, and I consider \$5 million to be a very substantial fee on any market in America, certainly.

Mr. McCONNELL. I do not know how the economy is in Alabama, but I would say to my friend I am not aware of many people in Kentucky that make \$5 million over a year, or even 2 or even 3—just a small handful of people. Would my friend from Alabama agree with me that this is not likely to be a deterrent to representation of a client if the fee is so restricted?

Mr. SESSIONS. I do not think it is a deterrent, and also I point out that these are attorneys representing the people, the States involved, and it is not unusual at all for lawyers to work for less an hour rate for a governmental body than they do for a private individual.

Mr. McCONNELL. So, further, I ask my friend from Alabama, if I understand this correctly, whatever fees were proposed to be paid above the \$5 million cap would then be diverted to the National Institutes of Health for children's health research; is that correct?

Mr. SESSIONS. That is correct. We think there are going to be some real jackpot fees awarded here, under the way this case ended so abruptly. That really exacerbates the unfairness of it. The litigation was filed. Many people thought it would last for years. Then, all of a sudden, there is a settlement entered into with huge sums of money being paid by the tobacco industry, allowing attorneys, under their agreements, to receive huge sums of money for very little work.

Mr. McCONNELL. So, I say to my friend from Alabama, it seems to me in my 13 years in the Senate, this is one

of the clearest choices I have ever observed laid before the Senate on an amendment.

I ask the Senator from Alabama, if the Senator from Kentucky understands this correctly, if this is a choice between plaintiffs' lawyers on the one hand and children's health research on the other? Does the Senator from Kentucky understand this correctly?

Mr. SESSIONS. The Senator from Kentucky understands completely.

Mr. MCCONNELL. So a Member of the Senate who would vote for the Sessions amendment would be voting, in effect, for children's health care?

Mr. SESSIONS. A vote for the Sessions amendment is a vote to put that extra money in the children's health care.

Mr. MCCONNELL. And a Senator who voted against the Sessions amendment would in effect be saying paying legal fees in excess of \$250 an hour, or more than \$5 million a State, is a more important priority than children's health care research; is that correct?

Mr. SESSIONS. That is precisely correct, as I see it.

Mr. MCCONNELL. So it seems to me that this is about as clear as it gets. It is about as clear as it gets. The Senator from Alabama is giving the Senate an opportunity to enhance the ability of NIH to discover the cure for the diseases that afflict the children of America, and he is asking the Senate to pay for that through what most people would consider excessive legal fees for representing various State governments around America. Does the Senator from Kentucky have this correct?

Mr. SESSIONS. The Senator from Kentucky has it correct. The fees we are talking about in this case would be the largest fees in the history of the world.

Mr. MCCONNELL. Mr. President, I want to commend the Senator from Alabama. I think this is a very, very important amendment. It certainly relates not only to the debate currently before us, but to the debate yet to be had in the coming months, or maybe even next year, about a global tobacco settlement, if that should be forthcoming.

I yield the floor.

The PRESIDING OFFICER. The time of the Senator from Alabama has expired. The Senator from Illinois.

Mr. DURBIN. Mr. President, how much time is remaining under our agreement?

The PRESIDING OFFICER. Two minutes twelve seconds.

Mr. DURBIN. Two minutes twelve seconds I have remaining. And the Senator from Alabama?

The PRESIDING OFFICER. His time has expired.

Mr. DURBIN. Mr. President, let me say in conclusion, I was really captivated by this closing argument. Now the tobacco companies, after all these years of exploiting children, come in with this "God bless Tiny Tim" amendment which says if we can just stop

these mendacious lawyers, we are going to find money for children's health research. I think the American people have seen through this before and will see through this amendment. There is no money in here for children's health research. The \$368.5 billion settlement does not include attorneys' fees. So, any money saved, according to the Senator from Alabama, is not going to be there for us to appropriate to the National Institutes of Health.

No, I think this is window dressing on an amendment which is very clear. It is late in the ball game. The score is very heavy on the side of public health and very heavy against the tobacco companies. So, on the last play, as the quarterback or the State attorney general tries to down the ball, in come the tobacco boys trying to sack him. They are angry. They hate to lose and they hate to lose big, so they come in with this amendment, this amendment to get even with these plaintiff lawyers for having brought these lawsuits to try to limit any State attorney general's authority to regulate a fee.

I agree with others who have spoken. I am not sure this is constitutional, but it is certainly not fair. It is not fair at this moment in time to presume, on every attorney general who brought this lawsuit, that they were, in fact, making a bad bargain for the taxpayers of their State. I think they should be held accountable. My substitute amendment, when this is defeated, will say there will be a public disclosure and none of the attorney's fees will come out of the money for the public health aspects of this settlement. But make no mistake, the Sessions amendment is an amendment which the tobacco companies want. It will put a damper on lawsuits. It will give the tobacco companies the upper hand in the settlement negotiations. And it will completely discount the sincere and good-faith efforts of 40 different States that had the courage to step forward and sue the tobacco companies.

The Senator from Alabama says their decision to go forward was a wrong one; their decision to pay the attorneys was a wrong one. I do not think he should presume to make that decision. It is a decision made by each of them, and we should respect it.

At this point, I move to table the amendment offered by the Senator from Alabama.

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. HUTCHINSON). The question is on agreeing to the motion to table the amendment.

The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Utah [Mr. BENNETT] is necessarily absent.

Mr. FORD. I announce that the Senator from Hawaii [Mr. AKAKA] and the Senator from New Mexico [Mr. BINGAMAN] are necessarily absent.

I further announce that, if present and voting, the Senator from Hawaii [Mr. AKAKA] would vote "yea."

The result was announced, yeas 48, nays 49, as follows:

[Rollcall Vote No. 224 Leg.]

#### YEAS—48

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

#### NAYS—49

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

#### NOT VOTING—3

Akaka	Bennett	Bingaman
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The motion to lay on the table the amendment (No. 1125), as further modified, was rejected.

Mr. STEVENS. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. DURBIN. I ask for the yeas and nays on the motion to reconsider.

The PRESIDING OFFICER. The motion to reconsider was just laid on the table by consent.

Mr. LOTT. Mr. President, are we ready to vote on the question?

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

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

#### UNANIMOUS-CONSENT AGREEMENT

Mr. LOTT. Mr. President, I ask unanimous consent that the Sessions amendment be agreed to, and the Senator from Minnesota, Senator WELLSTONE, be recognized to offer a second-degree amendment, and there be 30 minutes for debate to be equally divided.

I further ask that at the conclusion of the debate, the amendment be laid aside and Senator DURBIN be recognized to offer an amendment, which would be in the form of a sense-of-the-Senate resolution, with debate limited to 5 minutes, and following that debate the Senate proceed to vote on or in relationship to the Wellstone amendment to be followed by a vote on or in relation to the Durbin amendment, to be followed immediately by a vote on or in relation to the Durbin amendment No. 1078, as amended.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Amendment No. 1125, as modified further, was agreed to.

Mr. LOTT. Mr. President, therefore, there will be three back-to-back votes beginning in approximately 35 minutes.

I thank Senator DASCHLE for his cooperation in working out this arrangement. It will allow us to complete this section of consideration on the Labor-HHS bill, and hopefully we can go on then with other amendments that can be agreed to, or accepted, or voted on, and hopefully we can complete this very important appropriations bill before the day is out.

I yield the floor.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, let me also thank the majority leader for his cooperation in coming to an agreement, and I thank Senator DURBIN who waited patiently to present this issue and debated it eloquently and forcefully over the last several days. We wanted a way to bring to closure the issue with regard to the deductibility question. And we will now have that opportunity for a final vote within the hour.

So I think we have made great progress in the last 30 minutes. I am pleased now that we are at a point where we can have a final vote.

I yield the floor.

The PRESIDING OFFICER. Under the previous agreement, the amendment of Senator SESSIONS, No. 1125, was agreed to.

The Senator from Minnesota is recognized to offer a second-degree amendment.

Mr. WELLSTONE. Mr. President, I thank the Chair.

AMENDMENT NO. 1126 TO AMENDMENT NO. 1078

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

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Minnesota [Mr. WELLSTONE] proposes an amendment numbered 1126 to amendment No. 1078.

At the end of the amendment, add the following: "Nothing in this Act may be construed to interfere with, or abrogate, any agreement previously entered into between any State and any private attorney or attorneys with respect to litigation involving tobacco."

The PRESIDING OFFICER. On this amendment, there will be 30 minutes of time equally divided.

The Senator from Minnesota is recognized.

Mr. WELLSTONE. I thank the Chair. Mr. President, and colleagues, I shall be brief.

I, too, thank the majority leader, the minority leader, Senator SESSIONS, and Senator DURBIN for their cooperation.

Mr. President, this amendment is very simple and straightforward, and in a way the context for this is Minnesota. But it really affects all of our States.

This amendment just says that nothing in the act may be construed to interfere with, or abrogate, any agreement previously entered into between any State and private attorney with respect to litigation involving tobacco.

For example, in Minnesota the case is in a State court.

What are we doing? I am not a lawyer. But what are we doing here in the U.S. Senate telling Minnesota that its contract with lawyers that are working with the State of Minnesota could be declared null and void? What are we doing saying that to the State of Minnesota, or what are we doing saying that to any State? I thought we had a States rights Congress. This goes just in precisely the opposite direction.

Mr. President, again a little bit of information about Minnesota, so we know what is at stake here. I mean I am out here fighting for my State of Minnesota. But I think this is important to all of our States.

I cannot believe that my colleagues want to be in a position of arguing against the proposition that we should pass an amendment that tells the State it has to abrogate its contract with attorneys that are representing that State in State court. That is absolutely unbelievable.

Mr. President, in Minnesota, against some background, is the first State in the Nation to charge the tobacco industry with consumer fraud and anti-trust violations. It is the second State calling for Medicaid reimbursement. It is the only State with a private co-plaintiff, Blue Cross and Blue Shield of Minnesota.

The case was launched in August 1994. We have won the majority of pre-trial motions, and all appeals, including the one that went to the U.S. Supreme Court. Minnesota secured 30 million pages of documents through discovery. Minnesota has the largest collection ever of tobacco documents in the world, housed in two secured depositories in Minneapolis and London.

The Minnesota case is rated by the top tobacco stock analysts of Burnstein Research as the "biggest threat to the industry."

I want to talk about what that means—"biggest threat to the industry."

We go to trial in January. This trial stands to be important not just for Minnesota but for the whole Nation—not just in terms of financial compensation for my State, for the people in my State, but the discovery, the in-

formation that will come to light about past abuses, about what the tobacco industry has known, about marketing techniques, and all of the rest.

This amendment, which is an amendment albeit for my State of Minnesota but really applies to every single State, just says to colleagues that in whatever action we take let us be clear that nothing that we are doing here can be construed to interfere with or abrogate any agreement previously entered into between any State and private attorney or attorneys with respect to litigation involving tobacco.

We have a case in Minnesota. It is in State court. What are we doing in the Congress telling Minnesota that it will have to abrogate its contract with attorneys? The arrangement is made with attorneys so those attorneys can represent the public health community, so those attorneys can represent the State of Minnesota and people in Minnesota, so those attorneys can represent all of us who would like to see these documents and this information come to light. I do not think this is constitutional and I certainly think it is inappropriate.

Mr. GREGG. Will the Senator yield?

Mr. WELLSTONE. I yield to my colleague from Illinois.

Mr. DURBIN. If the Senator will yield, I support the Wellstone amendment. Make no mistake, what Senator Wellstone is proposing before this Senate is the other side of the argument of the Senator from Alabama. The Senator from Alabama came before us and basically said, even though we are not talking about any Federal dollars here, even though we are not talking about any action in any Federal court, we as a Federal legislature will dictate to the State of Minnesota, the State of Illinois, I suppose even the State of Alabama that they cannot enter into an agreement with any attorneys to proceed with tobacco litigation unless it meets the Federal guidelines proposed by the Senator from Alabama.

Well, I am sorry, but I do not believe that that is our responsibility. I think it goes beyond our constitutional responsibility. I think what the Senator from Minnesota has offered is reasonable. How can we ever presume to judge what are the appropriate attorneys' fees and arrangements in a State like Minnesota where Attorney General Humphrey has probably gone to greater lengths than any attorney general in the United States bringing these documents together, filing a creative lawsuit, being assertive, making certain that the people of Minnesota are represented. For any Senator from Illinois, Alabama or anywhere to stand up and say, I am sorry, Minnesota, this is not yours to decide, this is to be decided by the Federal Congress, even though there is no Federal money, no Federal court. We are dealing in State courts, we are dealing with tobacco companies making payments. I think it is entirely presumptuous for us to go along with the premise that we in the

Senate will decide attorneys' fees case by case and State by State.

I stand in support of the Senator from Minnesota.

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

The PRESIDING OFFICER. The Senator has 6 minutes 45 seconds.

Mr. WELLSTONE. I thank my colleague. I reserve the remainder of my time.

Mr. SESSIONS. Mr. President, will the Senator from Minnesota yield for a question?

Mr. WELLSTONE. I would be pleased to yield on the Senator's time.

Mr. SESSIONS. All right. Just briefly, what is the percentage contingent fee that has been given to the plaintiff attorneys who are representing the State of Minnesota?

Mr. WELLSTONE. My understanding is 25 percent.

Mr. SESSIONS. I thank the Senator.

Mr. President, I think that points out the problem we are dealing with here. This is the first time, in any inquiry that I have made in a number of different instances, that I have gotten a figure on the detail of the fee agreements that have been entered into in these kinds of cases.

Twenty-five percent. That sounds fine, but the truth of the matter is the tobacco company has just pleaded guilty. They put \$300 billion, \$400 billion, the Senator from Kentucky says \$500-plus billion on the table. Now the lawyers who were saying they were going to trial and spent these huge sums of money all over America are not going to trial. They are just collecting the money, and they have agreements like this.

Now, I would assume, with regard to Minnesota, that they are an average size State and they probably would be entitled to something like a \$10 billion settlement of this matter. If that is true, then this law firm would be entitled to \$2 billion—\$2 billion, not \$2 million but \$2 billion. That would be probably as of this date the largest legal fee ever paid in the history of this country, largest legal fee probably ever paid in the history of the world.

So I submit that is exactly what has happened. Many States, I understand, because less than a year ago I was an attorney general, have entered into contracts of 25 percent. I know of another State which, I understand, has entered into a settlement for 20 percent of the recovery. These cases are not even going to trial if this body acts. If this body does not act and Minnesota goes on and litigates its own case, then Minnesota is not covered by our agreement. So only if there is a congressional action that takes over these cases, should we question attorneys' fees. Otherwise that issue is between the attorneys general and the States.

But the plaintiff lawyers, the very same ones who are now complaining about their fees through Members of this body, these very same plaintiff attorneys are the ones asking this Con-

gress to review this settlement and to take appropriate action that we think is just and fair.

So, first of all, I want to point out that we are talking about incredibly huge attorneys' fees, not just large. These are incredibly huge. Probably as much as, at 20 percent, \$40, \$50, \$60 billion in attorneys' fees. Publicly the figure has been floated in the press a number of times at \$14 billion. If the percentages are the same in most States, 20 percent, the figures will be much higher than \$14 billion.

So the tobacco lawyers who have entered into this private agreement with these plaintiff attorneys to pay them their fee, all these lawyers are now coming to us and saying just ratify this matter but don't ask us about how much they are paying; don't question these fees because we had a contract. We had a contract.

They can't prevail in their cases in an effective way without the legislation of this Congress. So I think it is right for us to question it.

Mr. FORD. Mr. President, will the Senator yield for a question?

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

Mr. SESSIONS. I yield to the Senator from Kentucky.

Mr. FORD. Mr. President, we are hearing now States rights, and I have tried to be on that side for some 23 years now. But the attorneys general are here asking us to approve their pact, to pass a Federal law and to have so-called protocols or side agreements that we would wind into the package. So it appears to me that it is no longer a States rights agreement. In Minnesota it may be somewhat different. But now they have come to the Congress and said here is our deal; you approve it and don't ask any questions.

Well, back home we call that a mailbox job. You get a job and go out to the mailbox the first of each month and get your check. Am I correct it has reached a higher level than it would be under normal circumstances since we are asked to make the judgment? We are attempting to make the judgment now, and in making that judgment we say we are trampling on States rights. You can't have it both ways. Am I correct?

Mr. SESSIONS. The Senator from Kentucky is precisely correct. These parties, both sides—do not forget, the tobacco industry is in here, too, asking us to approve it, and the tobacco industry also does not want to talk about how much they are paying these plaintiffs' lawyers. So they have asked us to review it. In effect, they have suggested in testimony before my Committee on the Judiciary that we approve it and analyze it fairly and justly, and that is our responsibility.

Mr. FORD. Mr. President, will the Senator yield for one additional question?

Mr. SESSIONS. Certainly.

Mr. FORD. The Senator has been an attorney general. He is from the legal

profession and I am not. Is it kind of unusual for a side agreement to be made by a defendant with a plaintiff lawyer?

Mr. SESSIONS. I say the distinguished Senator from Kentucky raises a very important and troubling point. It is, in my opinion, at least improper if not unethical for an attorney representing a party to enter into private negotiations with the person he is suing to establish how much his fee ought to be. You see, there is a conflict there.

Mr. FORD. I thank my colleague.

Mr. SESSIONS. All of a sudden it becomes important to that lawyer that the settlement be approved so he can get his fee. And if the person he sues, the tobacco industry, says: "You are being too hard on this issue; give up on this issue." "No, I won't." "Well, we will sweeten your attorney's fee if you will give up on it." That puts them in conflict. I am not saying that has happened. But I am saying good attorneys should not allow themselves to be put in a position of interest.

So we are talking about, if it is 20 percent of a \$600 billion settlement, \$100 billion in attorney's fees. We fought for weeks on this floor to raise from \$16 to \$20 billion the amount of money spent for health care for children. We are talking about \$100 billion in this bill in attorney's fees, and in many cases in many States very little legal work has been done on these cases. It is important and necessary for us to act on this matter, and this amendment as presented by the Senator from Minnesota would, in effect, undermine and abrogate the true effect of the amendment that I have offered, so I strongly oppose it.

I will yield the floor and reserve my time.

The PRESIDING OFFICER. Who yields time?

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. WELLSTONE. Mr. President, first of all, it is certainly not true that very little legal work has been done in Minnesota. The tobacco industry has already spent \$125 million defending the Minnesota case alone—\$125 million.

Mr. President, it takes a whole lot of resources to uncover a massive, decades-old coverup of fraud and conspiracy. The Sessions amendment that my amendment speaks to is an attempt to shut down the discovery process, to perpetuate a coverup and to keep secret documents concealed for a long time. The effect of this amendment, unless the second-degree amendment passes, is to punish States like Minnesota and Texas and Massachusetts and Connecticut and Washington and others that have invested heavily in exposing the coverup and bringing the industry to justice.

I do not know all the specifics of the arrangement between the State of Minnesota or Connecticut or Massachusetts

or any other State and attorneys that are working for the States and for, I might add, the public health community. Without this work, we would not have been able to bring these documents forward. There will not be the discovery. There will not be the information. There will not be the information to people in this country about a whole pattern of abuse.

But what I do know, one more time, colleagues, is this is in State court. This is an agreement between my State of Minnesota and attorneys. What in the world are we doing interfering and essentially saying to the State of Minnesota you have to abrogate your contract with your attorneys? Whatever you have decided upon, whatever you do in State court, State court is null and void. My State is not a party to this global agreement here in Washington. Attorney General Humphrey has made it very clear that we are going forward. This is an agreement in a State. This is an agreement between a State and attorneys. This is an effort to deal with a very long, unfortunately protracted, period of time of coverup by an industry. This is an effort that takes on a tobacco industry that spent \$125 million on this case alone with lawyers defending it. And you are going to vote against an amendment that says "nothing in this act may be construed to interfere with or abrogate any agreement previously entered into between any State and private attorney or attorneys with respect to litigation involving tobacco"?

I do not know how colleagues can vote against that proposition. Have whatever views you want, but we do not have any business telling the State of Minnesota that in its best judgment and its best effort, and, indeed, what is being called "the biggest threat to the industry," it has no right to enter into an arrangement with lawyers and to represent the people in Minnesota and represent the people in the country. And we in the U.S. Senate are going to try to vote against the proposition where we go on record saying we are certainly not going to tell a State it has to tear up its contract?

Minnesota gets to decide that. Massachusetts gets to decide that. Connecticut gets to decide that. Illinois gets to decide that. Kansas gets to decide that. The U.S. Senate doesn't decide that.

I yield the remainder of my time.

The PRESIDING OFFICER. The Senator yields the remainder of his time. The Senator from Alabama has 6 minutes and 50 seconds remaining.

Mr. SESSIONS. Mr. President, first of all, if Minnesota proceeds to litigate its case and gets a judgment, then Minnesota would not be covered by this act. And I would be willing to consider Minnesota's case, because it is somewhat different than most. Perhaps it is more unusual than any of the others. However, I would say this to the Senator from Minnesota, his bill covers all States. It doesn't just cover Minnesota.

It doesn't just cover unusual fact situations. It says we cannot deal with contracts in any of the States.

I have to oppose his amendment because it applies to every State including States bigger than Minnesota that filed lawsuits just a few months ago. Attorneys have done almost no work on these cases. Yet they would stand to receive billions of dollars in attorney's fees without this legislation.

So I would say, first of all, I would be willing to discuss the unique problems of Minnesota. But I cannot, and must resist with every bit of strength that I have this amendment because it applies throughout the Nation and it will prevent this body from being able to stop great windfalls. And that money doesn't need to go to attorneys. It needs to go for the purpose of this lawsuit, which is health care.

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

Mr. SESSIONS. I will yield.

Mr. GREGG. As I understand your underlying amendment, which has now been adopted, in the case where there is a settlement and the settlement has to come to the Congress to be confirmed, your amendment applies. But, in the case of Minnesota, where there is litigation going forward, and where there is a trial going forward and the matter will be decided by the courts through the litigation process rather than through a settlement confirmed by the Congress, your amendment would not apply.

Mr. SESSIONS. The Senator is correct.

Mr. GREGG. So basically the amendment of the Senator from Minnesota doesn't apply to the Minnesota situation because the Minnesota situation is outside the underlying amendment. The amendment of the Senator from Minnesota applies to all the other States, except Minnesota, that are trying to reach an agreement through negotiation which has to be confirmed by this Congress.

Mr. SESSIONS. That is correct. To my understanding, Minnesota is the only State that has objected to the global settlement. They are going to have to be treated separately in any case.

Mr. GREGG. If I might ask a further question, it appears the Senator from Minnesota has launched an arrow that has missed its mark?

Mr. SESSIONS. I think that is fair to say.

Mr. WELLSTONE. Mr. President, I ask unanimous consent to reclaim what time I have left.

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

The Senator has 2 minutes and 20 seconds.

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

Mr. WELLSTONE. Mr. President, I might ask my colleague from Illinois to comment. I would like to look at the amendment again, the Sessions amend-

ment, but my understanding from reading that amendment is that if there is a global settlement, it applies to all the States. Otherwise, I would have much less difficulty with his amendment.

Mr. DURBIN. I thank the Senator for yielding. I might say at this point neither the Senator from Alabama, the Senator from Illinois or the Senator from Minnesota knows how this story is going to end. We don't know what this global settlement will say and how it affects the agreements heretofore entered into by other States, whether it's Minnesota, Mississippi, or Florida. I think it is presumptuous of us today to suggest we are going to set the guidelines.

The Senator from Alabama stood up repeatedly and said, "I don't know what these legal agreements are. They could be awful." If the Senator doesn't know what they are, then how can he suggest they are awful? I don't know that some of those agreements might say if a case is settled either by global settlement or otherwise, the attorney's fees will be dramatically reduced. The Senator doesn't know, but he went forward with his amendment.

The Senator from Minnesota has hit the nail on the head. These attorneys general who had the courage to come forward in the lawsuits but didn't have the resources to prosecute them, entered into agreements to bring in other attorneys to help. They fought a big battle in Minnesota; \$125 million spent by the tobacco companies, yet they fought on valiantly and they are going to bring this case on to trial in January. And for us to close the door today and say it's over, no more agreements in terms of attorney's fees—I think it's presumptuous. It's exactly what the tobacco companies are praying for.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota has 40 seconds remaining.

Mr. WELLSTONE. Mr. President, I think that is precisely the problem. That is what I am speaking to. I don't think the Senator from Alabama can argue otherwise, in terms of what his amendment does.

One more time I will say to colleagues, given this ambiguity, we can argue about it over and over again. This amendment is not ambiguous. It just simply says that nothing that we do may be construed to interfere with or abrogate any agreement previously entered into.

What are we doing, telling the State of Minnesota, which is a State court, whatever you had to do to get lawyers to represent your State and the people of Minnesota and the people in the country, we are now going to pass something that will tear that agreement up—we have no business doing that. I don't think it's constitutional and I certainly don't think it's right. So I'm out here fighting for Minnesota, but for other States as well.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. SESSIONS. How much time have we have?

The PRESIDING OFFICER. The Senator from Alabama is recognized. The Senator from Alabama has 2 minutes and 32 seconds remaining.

Mr. SESSIONS. Mr. President, precisely on the question he raised, this amendment that I have presented, that has been passed by a large vote, without objection that I heard, maybe a few—says that it would only include States involved in the national tobacco settlement agreement.

My view is, if Minnesota wants to opt out of this deal, maybe they ought to be treated separately. But for the 49 other States who are in it, who have asked for this review and legislation by Congress, I think it is absolutely critical that we deal with attorney's fees. I repeat, I have sought on multiple occasions, and other Senators have, to find out what the agreements are that they have with these attorneys. They are hiding those agreements. They have been very secret about it. It's a secret agreement between plaintiffs' attorneys representing the States and the tobacco industry. And only today has the Senator from Minnesota indicated that they have a 20-percent contingency fee. That means that whatever recovery Minnesota has of all these billions that we are looking for and hope that we can recover, of all those billions, 20 percent of it will go to attorneys.

They talk about a lot of records and documents. I have been involved in litigation. People always talk about records. But you have paralegals, you have clerks, you have statisticians to go through those documents. They don't have to be read by every attorney involved in the case.

So I would say what really exacerbates this problem and makes it so critical is the fact that the tobacco companies, early on, agreed to this settlement. Therefore, a lot of attorneys general entered into contracts, maybe thinking it would be prolonged litigation and these fees might be justified, but now they find out that the money is already on the table and we have to work out an agreement to collect it. Attorneys do not have to justify these huge billion-dollar fees we are hearing talked about.

These are reasonable fees, \$250 an hour, \$5 million per State in attorney's fees. That is reasonable and fair. I think generous, in fact.

I believe that this body needs to send a message, for those people who think they can execute secret side agreements at the expense of the people they are supposed to be representing to divert \$14 billion, \$40 billion, \$60 billion, \$100 billion from health care for children and families and tobacco victims—taking that money and putting it in their pockets is not a good way for this Government to be run.

I feel very strongly about this. Unfortunately, the Senator from Minnesota

chose not to limit his amendment to the situation in Minnesota but to apply it throughout the Nation, which in effect preserves the prerogative of the plaintiff lawyers to make themselves rich off of this settlement. Therefore I must oppose it.

Mr. WELLSTONE. Will the Senator yield?

The PRESIDING OFFICER. The time of the Senator has expired. Under the agreement, the Wellstone amendment will be set aside. The Senator from Illinois is recognized for purpose of introducing an amendment. The Senator from Illinois is recognized for 5 minutes.

AMENDMENT NO. 1127 TO AMENDMENT NO. 1078

Mr. DURBIN. Mr. President, I have an amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Illinois [Mr. DURBIN] proposes an amendment numbered 1127 to amendment No. 1078.

At the end of the amendment, insert the following:

"SEC. . SENSE OF THE SENATE.—It is the sense of the Senate that attorneys' fees paid in connection with an action maintained by a State against one or more tobacco companies to recover tobacco-related costs affected by federal tobacco settlement legislation should be publicly disclosed and should not displace spending in the settlement legislation intended for public health."

Mr. GREGG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I ask the time, the 5 minutes, be divided evenly between those in favor and those in opposition.

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

Mr. DURBIN. Mr. President, this amendment gets to the heart of the question. What are these agreements? Are they generous? Are they reasonable? Each attorney general, under my agreement, will be forced to put it on the table in front of the people and say, "Here is what I agreed to. If I agreed to pay 25 percent of the settlement then I have to explain to the taxpayers of the State why that was a sensible thing to do at the time." If it is a reasonable agreement, so be it. If not, the public official will be held accountable. And none of the money paid in attorney's fees will come out of the amount to be spent for public health purposes. I think this gets to the heart of it.

The Senator from Alabama, in his amendment, says \$5 million a State is more than enough to prosecute the tobacco companies; \$5 million a State. It sounds like a princely sum until we hear the Senator from Minnesota stand up and tell us the tobacco companies spent \$125 million in that State to defend themselves, 25 times as much. All of a sudden you step back and say maybe \$5 million doesn't give you the resources for a fair fight.

The Senator from Alabama has repeatedly said he doesn't know what these agreements consist of in other

States. I think that is the reason why his amendment is flawed.

Also, I think we should know in a State like Florida, which recently entered into an agreement, the question of attorney's fees was necessarily set aside. It is not part of the agreement that was announced. It is another amount to be paid by the tobacco companies, separate and apart from what is going to be paid to the taxpayers of Florida.

Finally, let me say in virtually every one of these cases, in every State, not only will the court of public opinion decide whether attorney's fees are fair, but the courts will decide. Ultimately they have to rule on any order of settlement and any kind of agreement which might, in fact, bring it into a lawsuit. So they will have to ultimately rule on these attorney's fees.

I reserve the remainder of my time.

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

Mr. GREGG. Mr. President, just to correct the RECORD, the \$5 million the amendment of the Senator from Alabama presented is \$5 million on top of ordinary and customary expenses. So if it cost \$20 million or \$100 million in the area of expenses to bring this lawsuit, that can be added to the \$5 million base cost.

My opposition—actually I probably will vote for it—but my position on the Durbin amendment is this. In concept, it is an excellent idea. But this is a sense of the Senate. A sense of the Senate means nothing. If the Senator from Illinois really means this, then he should have made it a matter of law. That is what it should be, a matter of law. We should be telling the tobacco companies you have to disclose. This sense of the Senate is a political document. It will give a lot of people in this body comfort politically, but it is not going to do one darned thing to get to the bottom of the question, which is how much are we going to end up paying to attorneys who are basically working with tobacco companies in obtaining their payment? How much is going to get paid to them as part of this settlement?

The gravamen of this issue—to use the one legal term I remember from my law school days—is the point Senator SESSIONS made. When you have attorneys working against tobacco companies, and the tobacco company comes in and says, "Well, here's another \$1 billion in settlement," how long do they work against them? How aggressive are they in opposing them?

If there is \$40 billion of attorney's fees going out the door here, which is what is represented in some of the periodicals that have discussed this issue, how can you say that there is any sort of independence on the part of the plaintiff's counsel in the cases? The fact is, there are very few attorneys I know who, if somebody comes forward and says, "Let's make this agreement," and they say, "No, I can't agree



to that," and then the person who says let's make this agreement says, "Well, I'll give you another billion dollars in fees"—the attorneys are going to say that's pretty hard to turn down.

Until we know what these attorneys are getting paid, we can't answer a lot of these questions. This Durbin amendment, as well-intentioned as it may be, accomplishes nothing in obtaining that knowledge. It is a sense of the Senate. We all know where those amendments go. This should be a matter of law.

The PRESIDING OFFICER. The time of the Senator from New Hampshire has expired. The Senator from Illinois has 40 seconds remaining.

Mr. DURBIN. Thank you. Mr. President, let me say at the outset, we don't have a settlement agreement. We are not talking about legislating one today. There is a good question, whatever we add to this appropriations bill, whether it is going to have an ultimate impact on that agreement.

Let me also say, on the question of expenses, I think the Senator from New Hampshire would acknowledge expenses are specified costs of a lawsuit and don't get to attorney's fees. So, I would quarrel with him on that.

Let me end by saying, there is on old poem:

While I was walking up the stair, I met a man who wasn't there.  
I saw that man again today.  
I wish that man would go away.

The man that many of the people on this floor would wish to go away is a \$50 billion tax credit. That is the underlying issue, and that is the important part of this debate.

#### AMENDMENT NO. 1126

The PRESIDING OFFICER (Mr. GREGG). The time of the Senator from Illinois has expired. The question is on agreeing to the Wellstone amendment.

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. SESSIONS. Mr. President, I move to table the Wellstone amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the Wellstone amendment.

Mr. WELLSTONE addressed the Chair.

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

Mr. WELLSTONE. Mr. President, point of order. Would you read back the unanimous-consent agreement?

The PRESIDING OFFICER. The clerk will report the unanimous-consent agreement.

The assistant legislative clerk read as follows:

That the Sessions amendment be agreed to and the Senator from Minnesota [Mr. WELLSTONE], be recognized to offer a second-degree amendment and there be 30 minutes for debate, to be equally divided.

Further, that at the conclusion of the debate, the amendment be laid aside and the Senator from Illinois [Mr. DURBIN] be recognized to offer an amendment with debate limited to 5 minutes. Following that debate, the Senate proceed to vote on or in relation to the Wellstone amendment, to be followed by a vote on or in relation to the Durbin amendment, to be followed immediately by a vote on the Durbin amendment No. 1078, as amended.

Mr. WELLSTONE. I thank the Chair.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the Wellstone amendment No. 1126. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. NICKLES. I announce that the Senator from Vermont [Mr. BENNETT] is necessarily absent.

Mr. FORD. I announce that the Senator from New Mexico [Mr. BINGAMAN] is necessarily absent.

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

The result was announced—yeas 48, nays 50, as follows:

#### [Rollcall Vote No. 225 Leg.]

##### YEAS—48

Abraham	Frist	Mack
Allard	Gramm	McCain
Ashcroft	Grams	McConnell
Bond	Grassley	Murkowski
Brownback	Gregg	Nickles
Burns	Hagel	Roberts
Campbell	Hatch	Santorum
Chafee	Helms	Sessions
Coats	Hutchinson	Smith (NH)
Coverdell	Hutchison	Smith (OR)
Craig	Inhofe	Specter
DeWine	Jeffords	Stevens
Domenici	Kempthorne	Thomas
Enzi	Kyl	Thompson
Faircloth	Lott	Thurmond
Ford	Lugar	Warner

##### NAYS—50

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

##### NOT VOTING—2

Bennett	Bingaman
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The motion to lay on the table the amendment (No. 1126) was rejected.

The PRESIDING OFFICER. The yeas and nays have been ordered on the pending amendment.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. I thank the Chair.

Mr. President, between the second and third votes, as a matter of management, it would be appreciated if the

following Senators could be on the floor so we can sequence the balance of the amendments. We are fairly close to seeing light at the end of the tunnel. So if the following Senators would be good enough to stay on the floor for a brief scheduling discussion at that time it would be appreciated by the managers: Senator MURRAY, Senator WELLSTONE, Senator DASCHLE, and Senator COVERDELL. If those Senators would be on the floor, it would be appreciated.

The PRESIDING OFFICER. The yeas and nays have been ordered on the pending amendment, which is the Wellstone amendment.

Mr. SPECTER. Mr. President, parliamentary inquiry. Are the yeas and nays ordered on the Wellstone amendment?

The PRESIDING OFFICER. That is correct.

Mr. SPECTER. Mr. President, I ask unanimous consent that the yeas and nays be vitiated.

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

The question is on agreeing to amendment No. 1126.

The amendment (No. 1126) was agreed to.

The PRESIDING OFFICER. Is there a motion to reconsider?

Mr. DURBIN. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

#### AMENDMENT NO. 1127

The PRESIDING OFFICER. The question now is on agreeing to Durbin amendment No. 1127.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 1127. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Utah [Mr. BENNETT] is necessarily absent.

Mr. FORD. I announce that the Senator from New Mexico [Mr. BINGAMAN] is necessarily absent.

The result was announced—yeas 97, nays 1, as follows:

#### [Rollcall Vote No. 226 Leg.]

##### YEAS—97

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

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

NAYS—1

Faircloth

NOT VOTING—2

Bennett

Bingaman

The amendment (No. 1127) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1078, AS AMENDED

The PRESIDING OFFICER (Mr. SANTORUM). The question is on the Durbin amendment, as amended.

Mr. LAUTENBERG. Mr. President, I rise today in strong support of the Durbin-Collins amendment to repeal Big Tobacco's rebate in the tax reconciliation bill. I will speak about this critical amendment in a minute, but first I would like to talk about an issue that was raised on the floor last night.

That issue is whether Congress should subpoena hidden tobacco documents.

Mr. President, we need to know the truth about nicotine and tobacco. That is why I, along with Senator LEAHY and many of our colleagues, have asked the chairmen of the various committees with jurisdiction over portions of the settlement, to subpoena critical documents that the tobacco industry has conspired to hide from the American people.

In debate on the floor yesterday, the distinguished chairman of the Judiciary Committee raised the issue of whether to subpoena these documents. The senior Senator from Utah has long been dedicated to saving our children from the dangers of tobacco. He has been outspoken about the critical need to reduce teen smoking rates.

Yet, the chairman questioned the necessity of Congress subpoenaing these documents which have been kept from the public because they were falsely stamped attorney-client privilege. The chairman raised some valid concerns, and I would like to respond.

Mr. President, we are at a critical juncture in the war between the tobacco companies and the public health. The tobacco industry wants the American people to disarm. They want to strip Americans of their right to seek punitive damages for harm caused by

the tobacco industry's deceitful practices. The industry wants Congress to grant it unprecedented protections from legal liability.

In return, the American people are promised a reform of our public health laws that will protect loved ones in the future from the dangers of tobacco addiction and illness. It would be up to Congress to write these laws. That is a heavy responsibility.

In order to properly execute this responsibility, we owe it to the American people to collect the most complete information about the effects of tobacco and nicotine on human health. Through our subpoena power, we have the ability to collect this information. We need information on whether a safer cigarette could be manufactured, or if we can produce a less addicting form of nicotine.

Mr. President, that information is in the hands of the tobacco industry, and they have consistently hidden it from the American people for decades. If we are to enter into a legislative settlement with this industry, then it must come clean with Congress and the American people. Since it has not done so yet, we should start issuing subpoenas for the truth.

Mr. President, some have suggested that the document disclosure provisions in the proposed settlement are sufficient. However, I strongly disagree. The proposed settlement would merely set up a clearinghouse for documents already produced in court cases. In other words: it discloses nothing new.

Mr. President, we have learned more details in recent weeks about how the tobacco companies routinely funneled documents through their lawyers in order to fraudulently mark them as attorney-client privileged. In fact, many of these documents relate to health concerns and were simply given to the lawyers to cloak them in a false shroud of the attorney-client privilege.

These are the most critical documents. They hold the keys to saving millions of lives.

Congress has the power to subpoena and examine these documents before we enact a legislative settlement. We need that information to craft effective public health policy. The settlement would allow the industry to delay court review of these documents for years after a settlement is enacted.

Now, review of these documents might be time consuming. The distinguished chairman of the Judiciary Committee, in his floor statement yesterday, noted that over 33 million pages have been collected in the State of Minnesota's suit against the tobacco industry. Our estimate is that we'll find the information we need in at most 1½ million pages.

The Minnesota attorney general, in preparation for his trial against Big Tobacco, has bound, numbered and indexed around 500,000 pages into a volume called the Minnesota Select Set. This set of documents contains critical

information we need in order to draft appropriate public health legislation. We should subpoena this set.

In addition, the Minnesota court hearing the case has collected around 1 million pages of material that the industry has claimed is privileged. However, we know that the Industry has a history of falsely claiming this privilege in order to hide critical health information.

It is unclear how many pages are in the privileged set, but it has been estimated to be about 1 million pages. Both of these sets are being held in warehouses in Minneapolis and London under the control of a Minnesota court.

Mr. President, I would like to clarify that my subpoena request is for, at most, about 1½ million pages. Although this is a lot of material, one need only watch another child light up a cigarette to realize it is well worth the time.

Let me put this into perspective: The Governmental Affairs Committee has subpoenaed over 10 million pages of documents from the AFL-CIO alone in its campaign finance investigation.

This subpoena request for tobacco industry documents is about the lives of American children. Isn't that worth the time needed to carefully review these documents? Why rush into a settlement in 50 days with an industry that has lied to America for 50 years?

Therefore, I ask my colleagues to support the request of Senator LEAHY and myself to the chairmen of relevant Senate committees to subpoena these hidden tobacco industry documents.

I hope that this discussion clarified this issue for my colleagues.

Now, Mr. President, I would like to address the Durbin-Collins amendment to repeal the provision in the tax reconciliation bill that granted a \$50 billion giveaway to the tobacco industry. This clause should never have been snuck into that bill and it is time to remove it.

This provision of the recently enacted tax reconciliation bill would divert \$50 billion away from the public health and into the pockets of Big Tobacco. If comprehensive tobacco legislation is eventually enacted, Big Tobacco will write 50 billion off the top of their payment obligations.

This shortfall could mean billions of dollars in programs to keep kids away from cigarettes will be lost. It could mean billions of dollars in smoking cessation programs will not be paid for.

In any settlement, the tobacco industry must pay its fair share. If the industry gets a \$50 billion break in the settlement, that cost will have to come out of taxpayer's pockets. That is unacceptable.

The tobacco companies shouldn't get a rebate. They're not a car dealership—they're a drug dealership.

There are those who say that this rebate was part of the proposed settlement deal. Well, that's news to the attorneys general who negotiated it. They never signed off on such an arrangement.

Mr. President, this is another example of why we can't trust this industry. After claiming to act in good faith, they scheme behind closed doors to undermine the American people. As we embark on public health legislation for the next century, let's work to keep this process out in the open and get rid of the smokey back room deals on tobacco.

Mr. President, I therefore urge my colleagues to support the Durbin-Colins Amendment and join us in repealing the \$50 billion credit for Big Tobacco. The last thing the tobacco industry is entitled to is a rebate.

Mr. FAIRCLOTH. Mr. President, I rise to say a few words about this amendment, which will probably sail through the Senate. I spoke to my colleagues, and I know that we don't have the votes now, but we will revisit this issue in the global settlement.

It is quite easy to come down to the Senate floor and rail about the tobacco companies. Well, Mr. President, let me say something about those tobacco companies. Mr. President, those companies employ more than 20,000 people in North Carolina, and those jobs are in jeopardy if we tax the tobacco companies into bankruptcy.

These are hard-working men and women punching the timeclock every day. They are raising families on these wages, paying mortgages, just trying to get by. These jobs represent a payroll of more than \$1 billion. They are good jobs, well-paying jobs, and I will not be part of this attack on their livelihoods.

This is just another attack on tobacco carefully staged for the television cameras. This is a personal attack on tobacco farmers. The companies are the front this time. Just a subterfuge for yet another attack on the farmers and another potential source of revenues. In fact, they're ready to spend money we don't even have, and I think that this is the height of irresponsibility.

I hope that my colleagues will resist the lure of easy political points.

Mr. MOYNIHAN. Mr. President, I will support the amendment of the Senator from Illinois to repeal section 1604(f)(3) of the Taxpayer Relief Act of 1997, which purports to credit the increase in tobacco excise taxes against any federally legislated tobacco settlement agreement. While I have opposed other amendments that would have opened up the balanced budget agreement signed into law on August 5, 1997, a mere 5 legislative days ago, there are good reasons to support the amendment offered by Senator DURBIN. Unlike the other provisions of the reconciliation legislation that have been the subject of amendments, the provision at issue in the Durbin amendment is an orphan. No one is willing publicly to take credit for having written it and securing its inclusion in the tax bill—which was done at the last minute, without analysis or debate by the Members of either the House or Senate.

On July 31, 1997, during the debate on the conference report to the Taxpayer Relief Act of 1997, the Senator from Illinois sought to raise a point of order against the provision he now seeks to repeal. I voted, with 77 other Senators to waive all points of order against the conference report. I said at the time that the provision was meaningless and had no binding effect. I continue to hold this view, as the tobacco settlement is far from completed, and it is still subject to approval by the President and Congress. Yesterday's New York Times reported that President Clinton will not offer an opinion on the proposed tobacco deal until next week at the earliest, and that the White House will not endorse a settlement without significant changes. In fact, it is beginning to appear unlikely that Congress will complete action on the matter before adjourning for the year. In addition to any changes that the administration proposes, the Congress will want to exercise its independent judgment on the proposed agreement. The June 20, 1997, agreement does not contain all of the details necessary to effectuate a settlement. There are a number of areas where the agreement provides no guidance, the most striking of which is the lack of a mechanism to govern the payment and distribution of the \$368.5 billion by the cigarette manufacturers.

A White House spokesman has indicated that President Clinton supports this amendment, and if Congress does not act to rescind this credit, the President will insist that \$50 billion be added to any final settlement amount.

And so, although the provision has no real impact on legislation that this Senate may take up at some future date, I agree with Senator DURBIN that the mere existence of the provision, and the process by which it found its way into the statute, is troubling. Let us strike it and eliminate any concern that the tobacco companies are getting away with something.

Mr. SPECTER. Mr. President, if I might have the attention of all Senators to discuss sequencing. It might be possible, realistically, to finish the bill this evening. The next amendment, following the vote, will be the Murray amendment, where there is 1 hour equally divided. But it is my anticipation that Senator MURRAY will use her 30 minutes, but there will not be a reply. The next amendment will be the Wellstone amendment, 40 minutes equally divided. Here again, I think that will be disposed of in less than 40 minutes. Then we have the Daschle amendment, which is 20 minutes equally divided, and then the Coverdell amendment, 10 minutes equally divided.

It is the manager's intention to have votes on these four amendments later this afternoon, but it is impossible to say when because of the impossibility of determining the amount of time. But the votes will occur as soon as the arguments are finished on those four

amendments. We will then go to the Gorton amendment, where we don't have a time agreement. But the Senator from Washington says he may be able to enter into one shortly after that discussion starts. That would leave us with only two amendments outstanding on school testing, where the parties are reasonably close to an agreement on the Teamsters issue, which we will, I think, be able to resolve. But that is yet uncertain. That will be the sequence.

The PRESIDING OFFICER. The question is on agreeing to the Durbin amendment, as amended.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

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

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NICKLES. I announce that the Senator from Utah [Mr. BENNETT] is necessarily absent.

Mr. FORD. I announce that the Senator from New Mexico [Mr. BINGAMAN] is necessarily absent.

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

The result was announced—yeas 95, nays 3, as follows:

[Rollcall Vote No. 227 Leg.]

#### YEAS—95

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

#### NAYS—3

Faircloth	Helms	McConnell
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#### NOT VOTING—2

Bennett	Bingaman
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So the amendment (No. 1078), as amended, was agreed to.

Mr. DURBIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Mrs. MURRAY addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Thank you, Mr. President.

AMENDMENT NO. 1118

Mrs. MURRAY. Mr. President, I ask unanimous consent to call up my amendment No. 1118.

The PRESIDING OFFICER. Without objection, it is so ordered. Amendment No. 1118 is the pending business.

Mrs. MURRAY. Mr. President, I ask unanimous consent that no second-degree amendments be in order.

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

Mrs. MURRAY. Mr. President, I ask unanimous consent that Senator LANDRIEU be added as a cosponsor to this amendment.

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

Mrs. MURRAY. Thank you, Mr. President.

Mr. President, this amendment that is being offered today by myself, Senator WELLSTONE, and Senator LANDRIEU is not unfamiliar to this body. In fact, the U.S. Senate has voted three times on the amendment that is now before us. Three times we have passed this amendment unanimously—once in the welfare bill, once in the budget bill, and once in the budget reconciliation bill. All three times when this amendment was brought before this body, not one Senator spoke against it. It was voted on and passed and sent to conference committee. Without one single voice of opposition and without one single vote of opposition, this amendment was stripped in the conference. Perhaps it is no surprise when you hear the subject of this amendment. It is regarding domestic violence.

Too often women in our country when it is in the light of day have everyone behind them and support them when it comes to domestic abuse. But these women know where abuse occurs. It occurs behind closed doors when no one is watching.

This Senate should not approve of that kind of action. This amendment is one that is absolutely vital to the health and welfare of women, their families, and the communities that surround them. The policemen are too often called to situations where a domestic violence incident is occurring, and their lives are then put on the line.

The amendment that we are offering today does a simple thing. It allows a temporary waiver of the work requirement for a victim of domestic violence in order for them to take care of their medical needs, to change their Social Security number, to take care to make sure that their children are in a safe place and that their family is secure before they are required to be at work. We know that, if a woman is being

abused and she is required to be at work, her abuser will often go there to find her or put up barriers so she can't be there. She knows that her life is insecure if her abuser can find her at a workplace where she has to give her Social Security number, where she has to let them know where she is going to be. Where her children are in day care, she can't take care of them to make sure they are safe and secure.

That is why this humane and compassionate Senate three times has passed this amendment. It is a temporary waiver. We are not asking for a permanent waiver of the work requirements. In fact, we want women who are victims of domestic violence to be at work. Being economically able to take care of themselves is the security they need in order to leave a domestic violence situation. But we want to make sure that they aren't at work with bruises and don't show up at work and are afraid to show up at work with bruises. We want to be sure that their children are in a safe place, if they are victims of domestic violence, before we require them to be at work. We want them to be able to change their Social Security number so they can't be followed before we require them to be at work. Too often these things take months. Changing your Social Security number can often take months.

We in this Congress don't want to put these women in abusive situations inadvertently. This amendment simply is going to remove a barrier for women so that they can get out of the domestic violence situation. When a woman decides to get out of a situation, she has to know, "Can I have the money? Can I have the ability to take care of my children, to take care of myself?"

Welfare allows her the ability to get out of that situation, to get herself back on her feet, and to get into the work force, which is exactly what she wants to do so she can be economically secure.

The way the welfare bill is written today, it does not allow her to do that.

When we passed this temporary waiver, we said to these women that we would give to States the ability to screen for domestic violence so that they will be allowed to help these women get on their feet and get back into the work force. We did that intelligently here in the Senate. In fact, it passed unanimously in the House as well. But when this amendment got behind closed doors, women were once again abused, and it was stripped from the bill.

It is absolutely essential that we put this law into the books so that the States across the Nation who are waiting to see what our action is can make sure that women who are abused are taken care of.

Today, the Children's Defense Fund has come out in support of this amendment, and I ask unanimous consent to have this printed in the RECORD.

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

CHILDREN'S DEFENSE FUND,

September 9, 1997.

CDF SUPPORTS ANTI-FAMILY VIOLENCE  
AMENDMENT

WASHINGTON, DC.—The Children's Defense Fund (CDF) announced its support today for the Victims of Family Violence provision proposed by Senators Patty Murray (D-Wash.) and Paul Wellstone (D-Minn.) as an amendment to the Senate Labor, Health & Human Services, and Education Appropriations bill for Fiscal Year 1998.

The amendment allows states to temporarily waive certain requirements of the 1996 welfare law for families that are victims of domestic violence, even if their number exceeds the law's 20 percent cap on exemptions to the time limit.

"Mothers who have been threatened or battered need a safe place for themselves and their children, and need support to reenter the work force. The Victims of Family Violence amendment makes it possible for states to offer that protection and help to mothers and children," said Grace Reef, Director of Intergovernmental Relations of the Children's Defense Fund. "Twenty-eight states have opted under the 1996 welfare law to screen for family violence and offer services to families affected. These and other states need the clarification that this amendment provides to ensure that families receive the help they need to escape immediate danger and plan for their return to work."

Studies by the Better Homes Fund and the University of Massachusetts Medical Center and by the Taylor Institute in Chicago have documented the prevalence of domestic violence in the lives of women and children receiving public assistance. Another study found that 55 percent of battered women surveyed had been prevented from working by their batterer (Shepard and Pence, 1988). More than half of battered women responding to a survey said that they stayed with their batterer because they did not feel they could support themselves and their children (Sullivan, 1992).

"The Victims of Family Violence amendment means safety for children and their mothers while they take the steps necessary to move on with their lives," said Reef.

Mrs. MURRAY. Mr. President, they know what far too often happens to children who are in abusive situations if there are barriers to that woman getting to work. We want to make sure that there are no barriers. The CDF explicitly outlines this in their statement today, and I thank them for their support.

Mr. President, I have worked on this issue for a number of months—in fact, for a number of years. It has become more critical to me in the last few weeks because of events that happened in my home State.

About a week ago a young officer in Takoma, WA, was called to a home where a domestic violence situation had occurred. Unfortunately, he was shot and killed. He has a 1-year-old child. He is gone. I heard from many police officers who tell me how risky it is for them to go to homes where domestic violence calls have been placed. We need to make sure that we allow these women to get out of those situations so we don't have the increased numbers that we today have of domestic violence calls. I am amazed at the increased number. In fact, in the Seattle Times just a few days ago was an

article, that I will submit in a minute, which says that in Seattle in 1995—which is the latest year for which any data are available—there were over 16,000 calls to 911 related to domestic violence.

It was just reported that there is an epidemic, an increase in the violence in Spokane County with more than 6,400 cases reported last year, which is a big increase over prior years.

In Tacoma, where a young police officer was just killed, it is reported that during the past 15 years 11 police officers in the Puget Sound area have been killed in the line of duty. Four of those officers were slain while responding to calls to help settle domestic disputes, a huge portion of them.

We need to make sure that as a body we do everything we can to help women get out of domestic violence situations in a safe and responsible manner, to get them back to work in a way that economically works, that their health care is taken care of, that their children are taken care of so that they get out of these situations. If the work requirement remains in place, women will be forced to stay at home with their abuser. They will not be able to go out and get themselves economically independent in a responsible way.

Mr. President, 27 States have asked for a waiver on family violence. Until we clarify the language here in the Senate and approve it in conference, these States will not be able to move forward without being penalized under the work requirements of the welfare bill.

I urge my colleagues to support this amendment with a recorded vote this time so that we can send it to conference and do the responsible thing that is required of all of us when we care in a humane way about women who are in a situation in which none of us ever wants to be.

I see my colleague, Senator LANDRIEU, a cosponsor of the amendment, is here, and I yield her time to speak.

THE PRESIDING OFFICER (Mr. HUTCHINSON). The Senator from Louisiana.

Ms. LANDRIEU. I thank the Chair.

I rise to thank my colleague from Washington State for her admirable work in this area and for her persistence in year after year presenting this amendment that so clearly is deserving on its merits, and coming back again for the third time to this body, which has already expressed strong support for this clarification of this waiver because this body, on both sides of the aisle, Mr. President, I think, understands the great trauma and pain of families experiencing violence, both to the woman primarily and also to the children.

I rise because I supported the welfare reform effort. I was not here as a new Senator, so I was not able to vote. But I want to say for the record that I support our efforts to change the welfare system in America, as long as those

changes allow for job training and day care opportunities and transition. We do need to do a better job in this country of moving people from welfare to work. We need to do a better job of honoring work, particularly for those working at the minimum wage. So I support the changes.

My colleague from Washington has expressed beautifully that there are some modifications and clarifications that are essential. This one is essential.

With the suffering that is incurred by millions of children—and I say millions of children—who are in homes where this violence is occurring, the screams in the night, the begging for someone to help, the years of torture and abuse that many children suffer and many spouses suffer, we have to do more. Let us not add to their pain and suffering by letting this remain unclear in the law, when it is so clear that we want to say that the States simply have the right to design temporary relief for them so that they do not have to give certain information that would put them in jeopardy and put their children's lives at risk.

I can only say how hopeful I am that when we pass this amendment, which looks as if it will pass by a large margin, it will this time stay in this bill for the children of the Nation, who literally—and I wish I could play a tape that I heard just this week by a chief of police who stood up before a group of us and said, "This is a tape that I use for training my officers." It was horrifying to listen to this child scream in the night for a dispatcher, an operator to send help quickly to the home where a male—I do not know if it was the father or a friend—was beating this child's mother. To close your eyes and listen to this tape and this child's screams was almost more than I and others in the room could stand.

So let us not add to the suffering. Let us be clear. Let us give the States a chance to do the humane thing.

I thank the Senator from Washington and I urge our colleagues to support this amendment.

I thank the Chair.

THE PRESIDING OFFICER. Who yields time?

Mrs. MURRAY addressed the Chair.

THE PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, I thank my colleague, Senator LANDRIEU, for her excellent statement and for all of her support and her help on this very important piece of legislation.

I know that Senator WELLSTONE also wants to speak on behalf of our amendment today, and I believe he is on his way to the floor. While we are waiting for him, let me read a paragraph or two from a press release put out by the Children's Defense Fund today, who, as I spoke about before, know firsthand what happens to children in violent situations. I quote:

Mothers who have been threatened or battered need a safe place for themselves and

their children and they need support to reenter the work force. Passage of the family violence amendment makes it possible for States to offer that protection and to help mothers with children.

There are studies by the Better Homes Fund and the University of Massachusetts Medical Center and by the Taylor Institute in Chicago that have documented the prevalence of domestic violence in the lives of women and children receiving public assistance. It is important that we pass this amendment today so that we can make sure these women and these children are taken care of in this country and live in safe environments.

Mr. President, I am going to yield time now to Senator WELLSTONE, who has been instrumental in this battle. I thank him for all of his work on behalf of the many women and children across this country who will be able to feel much safer when we finally get this passed and put into the law.

THE PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. I thank Senator MURRAY. This has been a labor of love, working with her on this, from the very beginning. I do think it is very, very important. We have had voice votes on this, but we now need to get the Senate on record, and this is an extremely important amendment.

It is interesting; this amendment essentially says—and I know Senator MURRAY and I are so pleased that Senator LANDRIEU has also joined us—to States, look, Arkansas, Minnesota, if you decide what you want to do is request a good-faith waiver, not a total exemption, so that you can as a State such as Minnesota in dealing with a family, a woman who has been battered, has been beaten up over and over again and also dealing with her children, say, look, from the point of view of our work force participation requirements of the welfare bill or ultimately from the point of view of how many people there are going to be in terms of what percentage of people have to be off the rolls, we may need a little more time to give support to these families. We may need a little bit more time. One size does not fit all.

I would like to thank my wife, Sheila. I said to Senator MURRAY, she has worked so hard on this. I would like to thank her and also the community in Minnesota that has provided us with a lot of support. The fact is when you meet with families, you realize that all too often a woman has been battered over and over again, her children have seen it, and it just may be that she is not able right away to move into a job.

I just want to thank Jody Raphael at the Taylor Institute in Chicago, who does rather magnificent work. I would also like to thank Pat Reuss, of the NOW Legal Defense and Education Fund, who has been great.

Jody pointed out—I am not going to quibble on statistics—in some of her work that a real high percentage, maybe 20 percent or more, of these mothers, welfare mothers who have in fact been beaten, are, in fact, if you will, victims of abuse in their homes.

This also affects the children who see it.

So the reason for this amendment is we just want to make crystal clear to our States, all of our States, that they do have clear direction and support from the Federal Government, from the Congress and the White House and Health and Human Services, that Minnesota, Washington, if you want to provide additional support services and you want to make sure that a woman gets those support services, you can ask for a good-faith waiver to make sure you can do that.

Otherwise—and colleagues need to understand this, and that is why Senator MURRAY and I come back to the floor again—we are talking about a very dangerous situation. We talk in this Chamber, the words are spoken and we mean it, but sometimes we forget the connection to people's lives.

If you do not do this, what is going to happen to all too many women is they are going to be in a situation where they are going to be forced into a work situation. They are not able to do it. They are stalked by a former boyfriend or former husband or whatever the case is. They have been beaten up and maybe they can't even come that day for job training. Maybe physically they cannot come. Maybe they are just ashamed to show up. All of a sudden, because women cannot work, given what is going on, given what is happening to them, given what their children are seeing, we are going to say to these women, "You are off of any AFDC assistance. You do not get any assistance at all."

Then what happens, colleagues, is they have one choice for their children. They have to go back into that very dangerous home. They have to go back and be with that batterer.

Now, Mr. President, the shame of it is—and this is why we come to the floor—the Senate has gone on record, what, three times, I ask the Senator, and then every time—I have heard Senator MURRAY speak about this eloquently so I do not need to repeat her words—and then every single time in conference this just gets knocked out. That is really outrageous. That is really outrageous.

It is time that we pass this with a strong recorded vote, and this should be a message to the Congress and a message to the White House and a message to Health and Human Services: Please, get the directive out to the States making it clear to States—right now we have, what, I ask the Senator, 26 States?

Mrs. MURRAY. Twenty-seven.

Mr. WELLSTONE. Twenty-seven States that have been able to go forward. But even Minnesota, which has gone forward, on the basis of talking to the Senator and Sheila, they have still gone ahead with clear direction. They know the amendment has been passed. They know what it is they are supposed to be doing, but they have not really seen it in writing from the White

House, from Health and Human Services. We need that to happen. This is what this amendment is all about.

I conclude by thanking my colleague, Senator MURRAY. I think it is extremely important that not only women and not only their children, but there are a lot of men who care about this issue in the State of Washington, Arkansas, and all across the country—I think it is very important that people in our country realize you need a strong voice on this issue.

Senator MURRAY has been that kind of Senator. I really would like to thank her for all of her leadership and, for that matter, for just her tenaciousness in coming back over and over and over again and not letting up on this, because this is about people's lives, it is about a lot of women who have had to deal with something that we hope and pray none of our daughters and none of our sisters ever have to deal with. We ought to make sure that we provide them with the assistance they need.

I will tell you, as a Senator from Minnesota, a State which has done a lot of good work in trying to provide support for women and children, and as the husband of my wife, Sheila, who cares so much about this, I am honored to be in this struggle with Senator MURRAY, and I know we will prevail with a strong vote.

I yield back the rest of my time.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. I thank my colleague from Minnesota for his strong words and his support of this amendment and all of his work on behalf of this as well as that of his wife, Sheila.

Mr. President, how much time remains on my side?

The PRESIDING OFFICER. The Senator from Washington has 10 minutes remaining.

Mrs. MURRAY. Mr. President, I am going to ask shortly for a rollcall vote on this amendment. It is imperative we have a strong rollcall vote on the underlying amendment so we can move it to conference with a very strong message from the U.S. Senate that we are going to support this with our voices, with our votes, and that we are going to watch it in the conference committee so it remains in this time.

We are going to send a strong message to the White House that this body is not just doing this as some kind of political maneuver, we are doing it because we mean it and our votes are going to back it up. We are not just going to talk about domestic violence, we are going to be there to make sure the action takes place to take care of the women who are abused and are put in this horrendous situation that each of us hopes never to be in. It is imperative we do this for the women who are being abused. It is also imperative we do it for the neighborhoods and communities they live in. And it is imperative we do it for our police officers across this country who are put in these violent situations far too often

today. We need to do our part to prevent that from happening as well.

Mr. President, I am ready to yield the remainder of my time if there is no one going to speak in opposition, and to ask for the yeas and nays.

The PRESIDING OFFICER. Is the Senator seeking the yeas and nays?

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mrs. MURRAY. Mr. President, I ask unanimous consent that we yield back all time on amendment No. 1118 and set it aside so Senator WELLSTONE can move forward.

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

The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I will be ready in just a moment. 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. WELLSTONE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

AMENDMENT NO. 1087, AS MODIFIED

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

Mr. WELLSTONE. Mr. President, I ask unanimous consent that I modify my amendment and I send the modified amendment to the desk.

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

The amendment (No. 1087), as modified, is as follows:

On page 61, after line 25, insert the following:

SEC. . (1) The total amount appropriated under this Act to carry out the Head Start Act shall be \$4,830,000,000, and such amount shall not be subject to the nondefense discretionary cap provided in section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985, and shall not count toward the Committee and Subcommittee allocation pursuant to that Act; and

(2) the amount appropriated for the Department of Defense for fiscal year 1998 is hereby reduced by \$525,000,000.

Mr. WELLSTONE. Mr. President, this amendment would add \$525 million to the budget for Head Start. I thank my colleagues, Senator HARKIN and Senator SPECTER, for their fine work. This bill already provides Head Start with a \$324 million increase in funding for 1997. The President, the Clinton administration, claims this will allow

Head Start to serve 1 million students by the year 2002.

The Head Start Association has said rather loudly and clearly that, in order for Head Start to actually serve 1 million students by the year 2002, it would need another \$525 million this year and every year until 2002. Therefore, I offer this amendment to increase Head Start's funding by an additional \$525 million to reach that goal of 1 million. We ought not say we will reach that goal unless we make the commitment.

In order to reach this goal, the offset that I propose would be by a rescission from this year's appropriation for the Department of Defense. I could talk about a whole lot of different waste in the defense bill, but just to give but one example, the B-2 bomber most recently has been reported to be unable to fly in the rain and the snow by the General Accounting Office. It, itself, is slated to receive \$586 million from the Senate, and \$928 million from the House. Though this amendment is not about the debate on the B-2, I understand the Senate has basically said no more B-2's; I think on the House side they have talked about moving forward.

The Head Start Program currently serves 740,000 students. Head Start, roughly speaking, serves 30 percent of the eligible population of 4- to 5-year-olds; and only 18 percent, if we were going to talk about right after birth until age 5. That means Head Start does not have the money to serve more than 2 million eligible 4- and 5-year-olds and roughly 4 million children from right after birth to age 5. There is no way that this amendment does enough, but it would make a difference. In my State of Minnesota, the money for Head Start covers 9,000 Minnesota children who are eligible out of a population of, roughly speaking, 25 million children.

I want to be clear about this. I know I will be up against a point of order and I do not expect to win on this amendment. This amendment says that there is still plenty of waste in the Pentagon budget—the B-2 bomber is one good example. On the House side it barely passed any increased funding, a plane that cannot fly in the snow or in the rain, but there are other examples as well. I am just saying, when we look at hundreds of billions of dollars for the Pentagon, couldn't we transfer \$525 million to make sure we reach our goal of covering 1 million children?

But there are two parts to this amendment. The first part is, if we are going to say White House, or we are going to say U.S. Senate, that we are going to make sure that 1 million children are covered, let's not make it symbolic.

Let's do what the Head Start Association itself says we have to do to make sure we at least cover 1 million children. That is what this amendment says.

Mr. President, let me go on and say one more time that Head Start alto-

gether leaves out 4 million children—plus who could receive a head start.

Just to focus on what this amendment is about, there are plenty of people who have said there is more than enough waste in the Pentagon budget—administrative waste, going forward with some weapons systems that make no sense whatsoever—but I hardly hear anybody on the floor of the U.S. Senate say that we should make a commitment to Head Start, which is just about that, giving children from families with really difficult circumstances a head start.

But we are not even going to reach our goal of 1 million children unless we provide this additional \$525 million. We can do better, I say to my colleagues. We can do better for children in this country. We can do better for poor children in this country.

The scandal to all this is that we are not even coming close to covering 30 percent of the overall population that is eligible. On the one hand, we say we are committed to small children. On the one hand, we have all of this research that is coming out about the development of the brain, talking about how the early years are most critical—right after birth to age 3, actually before birth, that a woman expecting a child should get good care. But at the same time, when you look at just not the 4 and 5 year olds, but when you look at early Head Start, which is right after birth to age 3, we are covering just a small, tiny fraction of the children who could really benefit from this help. What my amendment does is try to appeal to the goodness of the Senate and try and say that we can do better.

Mr. President, I have been honored as a U.S. Senator from Minnesota to have the opportunity to travel in the country and to be in communities where people are really struggling against some pretty difficult odds, I will just tell you, whether it be in Chicago, in a heavily Latino neighborhood on the south side of Chicago and visit with the Head Start Program and you see these beautiful programs and you meet with the staff.

Mr. President, the men and women who are the Head Start teachers and teachers' assistants barely make above poverty wages, but you see the good work they are doing and you see all the ways in which children in Head Start receive some intellectual stimulation, they get referred to health care clinics so that they can get the health care that they need, so that they can get the dental care that they need. You see the way in which these programs, at their best, give children encouragement. It breaks my heart that we cover such a tiny percentage of children who could really use this help.

This really can make a huge difference in young children's lives. I have gone to east Kentucky and have spent time in Appalachia and, again, I met, first of all, mainly women who are Head Start teachers. They should be

heroines. I asked a woman who has been with Head Start from the beginning, "Why do you do this? You certainly don't make much money."

She said, "I do this because I know what I can do for children. I get so much satisfaction from giving these children this encouragement, from making sure I can help these children at a very young age."

We know that. We say we are committed to early childhood development. We say we are committed to covering. We say we are committed to covering that. The administration says we have to make sure 1 million children are covered. We don't have enough funding. The Head Start Association tells us we don't have enough funding for actually 1 million students by the year 2002—1 million children—which is just a tiny percentage of the number of children who are eligible.

Mr. President, my amendment is pretty simple and straightforward. It says let's live up to our words. We have more than enough waste in the Pentagon budget. We ought to be able to transfer \$525 million to make sure we live up to our word and/or contract with these children and at least 1 million children by 2002 receive this Head Start assistance.

I don't know whether or not we are or are not going to have a discussion about the testing and whether or not the Federal Government or an independent group develops tests, but I want to speak about that for a moment because I think it is directly related.

I want to say two things by way of conclusion. I say to my colleagues, I don't expect to win. I don't expect to get a huge vote because this is a transfer amendment, and I have seen what happens to transfer amendments from the Pentagon to these kinds of needs. But you can travel in this country, go to Chicago, or go to Minnesota, or go to delta Mississippi or go to Kentucky and meet with children and meet with families and see the good work that is being done by people who should be famous and then see how little they have to work with and how, if we would just invest a little more and not come to the floor and fight, more of these children would have a head start. So win or lose, I am going to speak out on this, and I am going to fight for it.

Mr. President, I also want to say to the President, to the White House and to the administration, I have been thinking long and hard, if we actually have a vote on this in the Senate, about this whole question of testing. I just want to say that I have a certain amount of sympathy, as someone who was a teacher for 20 years, with those who kind of wonder about the standardized tests. Yes, we want accountability and, yes, it is voluntary.

I will tell you, I have a real concern about the focus on tests as the way we measure accountability when I think that what it could very well lead to is standardized teaching to standardized tests, worksheets which are educationally deadening.



I will tell you, in Minnesota, every year I read very carefully the profiles of the teachers of the year. Not a one uses those worksheets. They get kids or young people to connect themselves personally to what is being discussed in the classroom.

I really worry about the direction we are heading in the name of reform. I also have quite a bit of sympathy with those who are saying to the White House and the administration, in all due respect, if you are going to talk about education and you find that people in the country are with you, if you are going to talk about each and every child should have the same opportunity to reach his or her full potential and people in the country are with you, and if you are going to talk about the need for us as a country to renew and reinvigorate our vow of equal opportunity for every child and you see that the people in the country are with you, well, then, do you know what? Make a commitment to do something about it.

In all due respect, just to have some more tests doesn't do a whole lot. If you don't change the concerns and circumstances of children's lives, starting with more of a commitment to Head Start, then we already know who is going to fail those tests. We have a huge learning gap in this country. We know the children who are going to do well, and we know the children who are not going to do well. What good is it to just fail those children again this time on a test?

If we don't make sure there is a commitment to Head Start and good child care so that children come to kindergarten ready to learn, and if we don't make a commitment to make sure these schools are inviting places for our children as opposed to being so dilapidated and dreary, investment in school infrastructure, of which we have done hardly anything, and if we don't make a commitment to making sure that these children have hope and have opportunity and that there is the necessary funding, then these tests don't do anything at all. They don't do anything at all. They amount to little more than a technical fix.

(Ms. COLLINS assumed the Chair.)

Mr. WELLSTONE. Madam President, on the other hand, I think that I will support this initiative. I have had a chance to talk with Secretary Riley. He is about as gentle a person as there is in Washington, DC. He is so committed to children, and I guess since it is voluntary and we are trying to develop good tests, it can't really hurt a lot. I guess it would represent a very small step forward and, as a college teacher for 20 years, I don't think I am prepared to just sort of say no, thumbs down.

But I would like to say to the White House, I would like to say to the President and I would like to say to my party, the Democratic Party, we are going to have to do much better. We

cannot say that a million children are going to be in Head Start and then not appropriate enough money to make sure that happens.

We can't say that we are committed to equal opportunity for every child and not adequately fund Head Start and not adequately fund good developmental child care.

We can't say that we are for children doing much better in the schools and not invest hardly anything. We have invested hardly anything in rebuilding crumbling schools all across America. We cannot make that case.

If we are not willing to do what is necessary by way of changing the concerns and circumstances of children's lives before they go to school and when they go home and to make sure that these schools have the resources to work with and have the support services to work with, then these tests are just going to fail the same children who are already failing, in which case it is just absolutely outrageous.

This amendment that I have offered isn't going to win. Maybe this is what you call a message amendment. But I am telling you something, just as Fannie Lou Hamer, the great civil rights leader, said, "I'm sick and tired of being sick and tired." I get a little sick and tired of our not following through the words we speak with some investment. Everybody is for the children except when it comes to digging in the pocket and making the necessary investment. It doesn't seem to me to ask too much to say an additional \$525 million to go into Head Start so, as the Head Start Association says, we can at least serve 1 million children.

Madam President, I just want to make one other point, and then I will reserve the remainder of my time. Again, if I do this the wrong way, it is not going to come across well, and maybe a lot of Senators do this already. I am telling you, I have learned so much from traveling to communities around the country, just looking, learning from people who are in these struggles of trying to earn a decent living, trying to raise their children well, people struggling economically, looking at the poverty in this country and meeting women and men who should be heroines and heroes who are doing great work. It just reminds you of what being a U.S. Senator is all about.

Today on the floor of the Senate, I am hoping, even if I don't win, to at least push this debate forward. I just get a little bit indignant that the sole focus becomes testing, and we don't put the money into early childhood development. We don't make sure children come to kindergarten ready to learn. We don't do much of anything about investing in crumbling schools. We don't do much of anything about the huge disparity in resources that different schools have to work with. We

don't do much by way of encouraging the teachers.

I will tell you something, some of the harshest critics of public schoolteachers couldn't last 1 hour in the classrooms they condemn. I am just asking my colleagues today to vote for a small transfer from the Pentagon budget to Head Start. There is no reason to spend a whole lot of more money on planes that can't fly in the snow or the rain. I think we can spend the money trying to provide help and support for children right here in our own country.

Madam President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time? If neither side yield time, time will be charged equally against both sides.

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

The PRESIDING OFFICER. The Senator from Minnesota has 10 minutes and 45 seconds remaining.

Mr. WELLSTONE. I thank the Chair.

Madam President, while I am waiting, just some facts by the National Commission on Children.

The first 3 years of a child's life are a time of unparalleled development: physical, intellectual, linguistic, social, and emotional.

I do not need to use a commission. Let me use my expertise as a grandpa. I mean, we know this as parents and grandparents. We know now what all of this scientific evidence tells us, which is, these early years are critical years. You have to get it right for children. In fact, if we don't get it right for children in our country, all these children—they are all God's children—then by age 3 many of them may never be ready for school or never ready for life.

The fact of the matter is, I am just saying, take \$500 million for Head Start and at least make sure we cover 1 million children. If we were to consider not just the 4- to 5-year-olds, but the 3-year-olds and the 2-year-olds and the 1-year-olds, where it is probably even more important they get that additional help and families that additional support—we are covering maybe 15, 18, 20 percent of the overall number of children that need this help.

I find it very difficult, frankly, to explain, why don't we fully fund the Head Start program? If we are going to argue the Head Start program gives children—special children; all children—a special head start, and we are going to argue we know these are the critical years, then why in the world are we not investing the money? Why are we not matching our rhetoric with the resources?

Madam President, I will say it one more time, and then I will reserve the balance of my time. It is just on a personal note. I love the work that the

men and women and women and men in Head Start are doing.

Thank you for your work in eastern Kentucky, thank you for your work in Chicago, in Minnesota, thank you for your work in delta Mississippi; and I am sure it would apply to Maine and every other State in the country.

There is nothing more important you can do, because I just tell you that when I spend time with my 20-month-old grandson, the youngest, Joshua, I can't believe it—I have said on the floor before—every 5 or 10 seconds he is interested in something new. We are not, but these children are. They are experiencing all the unnamed magic of the world that is before them.

You can take that spark of learning, and you can ignite it. And if you ignite it in our Head Start programs—some of them do that; many of them do that—then you can take a child from any background to a life of creativity and accomplishment, or you can pour cold water on that spark of learning. And we do that to too many children.

In the State of Minnesota we could do so much more. We cover 9,000 out of 25,000 eligible children in Minnesota—9,000 out of 25,000.

Madam President, this is unacceptable. This is unacceptable. We cannot keep saying that we are for the children, we cannot keep saying we are for equal opportunity for every child, we cannot keep saying we are for education, Democrats we cannot keep saying we are for expanding opportunities and just focus on testing. We have to do much more.

Where is the investment to rebuild the crumbling schools all across the country? Where is the investment in Head Start? Where is the investment in early childhood development? Where is the investment in making sure that standards are met and that all of the children that are in our child care, whether they be centers or whether they be family child care or home-based child care, that standards are met and children are safe and children are receiving not custodial but developmental care? Where are the standards? Where are the resources? Where is the commitment?

I do not know if anybody is going to debate me today on this. My guess is it would be just to table the amendment or a point of order. But I would like to debate colleagues, whether they be Democrats or Republicans, about why it is we can't do better.

We just had this budget agreement. And everybody said that the budget agreement was so successful in dealing with the budget deficit. What about the spiritual deficit? What about the children deficit? What about the education deficit? What about the community deficit? We have not dealt with any of those deficits.

I just suggest that if we cannot put a little bit more money, at least into Head Start as a start, then we are not doing as good as we could be doing for children in this Nation.

Now, I grant you, the children who we are talking about in Head Start, these are children that are low income, these are children whose mothers and fathers do not have much by way of economic resources, and they do not have much by way of economic or political clout, but we ought to do better.

I reserve the balance of my time.

The PRESIDING OFFICER. Who yields time?

If time is not yielded, it will be charged equally against both sides.

Mr. HARKIN. Madam President, I rise in support of the amendment offered by the Senator from Minnesota.

The Senator's amendment is simple. It would shift \$525 from the Pentagon budget to Head Start, a very worthy program under the Labor, Health and Human Services, and Education appropriations bill. The amendment does not specify where in the Pentagon budget the funds would come from, we leave that for a later time and for input from our military leaders.

The first National Education Goal states that by the year 2000, all children will start school ready to learn. Earlier this year, scientific research provided irrefutable evidence that the best way to achieve this goal was in a child's first three years of life.

The release of this research was followed by a White House conference, television specials, magazine articles and a lot of talk about the need to improve activities to promote the development and education of young children.

The pending legislation made some very modest efforts to seize the momentum created by these activities, but were limited by the constraints of the budget agreement. The bill does make some improvements, such as:

Head Start is increased by \$324 million with 10 percent dedicated to the Early Head Start program. This action doubles the set-aside for the programs which serve children up to the age of three.

The early intervention program for infants and toddlers with disabilities is increased by 11 percent to \$351 million.

The National Institute of Child Health and Human Development is directed to examine the quality of child care funded by federal resources to determine to what extent recent research on the brain development of young children is being applied by recipients.

In addition, the bill provides more resources for other programs to enhance the education and development of young children such as the Parents as Teachers Program, child care block grant and the Healthy Start Program.

While I am pleased with these investments in the education of young children and appreciate Senator SPECTER's support, however, we need to do more—much more.

That's why I am pleased to support Senator WELLSTONE's amendment to provide additional funding for Head Start. At the present time, Head Start is serving only a fraction of the num-

ber of children eligible for these services. The additional funding would expand the number of children receiving the education and health services that will enable them to start school ready to learn.

The key to our economic security requires a well-educated, highly skilled and healthy work force and the strong foundation for this skilled work force is formed during the first years of a child's life. To achieve this goal however, it is critical that children start school ready to learn so that they will leave school able to earn.

The amendment would reduce funds for the Department of Defense so I would like to take a few moments talking about the Pentagon spending.

A perfect example of unnecessary spending is the plan by the other body to spend \$331 million for additional B-2 bombers. The Department of Defense has spent \$44.4 billion to develop and purchase 21 planes. Now B-2 bomber advocates want to purchase an additional 20 planes at a cost of \$35.9 billion for procurement and operations. This works out to more than \$1.7 billion per plane. In fact, this means that the B-2 bomber costs more than three times its weight in gold. Both the House Defense authorization and Defense appropriations bills include \$331 million as a down payment for an additional nine planes, with the hopes of building even more later on.

The list of folks who oppose additional B-2 bombers has become noteworthy. The Air Force doesn't want more B-2 bombers. This has been well know for quite some time. Now, other parts of the defense establishment oppose additional planes. In August, Defense News—hardly a bastion of the liberal press—published an editorial entitled, "Time to Pause on B-2." To quote the editorial, "the U.S. House of Representatives should pause for reflection before it takes one more step to resuscitate the B-2 bomber program and buy nine more planes."

I ask unanimous consent that the full text of the Defense News editorial be printed in the RECORD.

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

[From Defense News, Aug. 11-17, 1997]

#### TIME TO PAUSE ON B-2

The U.S. House of Representatives should pause for reflection before it takes one more step to resuscitate the B-2 bomber program and buy nine more planes. The extraordinary cost will far exceed the sticker price, estimated at \$1.4 billion per plane.

The level of funding for defense during the next five to 10 years means that money for the planes would be taken from other weapon systems, such as the V-22 tiltrotor aircraft, the Comanche helicopter and various warships. It probably would adversely affect theater missile defense projects, a top national security priority, and even the purchase of basic munitions for operational units.

That is a lot to pay for a bomber the Air Force says is not a top priority.

In addition, serious questions recently have been raised about the viability of the

airplane itself. In a preliminary report, the Pentagon's director of operational testing concludes that only 22 percent of the fleet is available to meet wartime requirements when the B-2's low-observable systems are in use.

In addition, the amount of time spent on repair of the airplane's radar-evading devices was found to be excessive.

Though tentative, these are substantial criticisms because the low-observable, or stealth, characteristics are central to the value of the airplane.

The Air Force paid a premium price for the B-2 because it is supposed to be able to evade most radar systems.

These and other conclusions in the report should prompt a full-scale assessment of the B-2 fleet's readiness.

The testing director's findings are preliminary. But they are reason enough for the House to delay even initial funding for an expensive airplane that may not work very well.

Mr. HARKIN. Madam President, the latest bad news for the B-2 bomber program is a GAO report that describes some serious shortfalls with the planes' stealth features. Specifically, the aircraft is more sensitive to climate and exposure than expected. The B-2 requires special shelters to maintain its stealthiness or prolonged exposure to the rain and other common weather problems can negate the planes' ability to avoid radar.

This is not the first time that the B-2 bomber has faced problems with rain. Two years ago, we heard how the bomber's radar had trouble telling the difference between a rain cloud and a mountain.

In fact, the Air Force hinted at the stealth problems back in 1990, when they sought approval for a series of special hangars for the B-2 bomber at a cost of \$4.7 million each. I am sure the cost has gone up in the past 7 years, but even then, the problem of maintaining the sensitive stealth skin of the B-2 bomber was talked about. And now the GAO has shed more light on the B-2 bomber stealth problems. According to the GAO, the B-2 bomber must be kept in shelters because of their sensitivity to moisture, water or other severe climatic conditions. Unless flown in only the most benign environments—low humidity, no precipitation, moderate temperature—the plane requires extensive maintenance or it will not be ready for use. I think modern warfare will include conditions that aren't exactly the most benign environment.

Here is how some newspapers are now describing the bomber.

The New York Times has said: "The \$2 billion Stealth Bomber Can't Go out in the Rain."

The St. Petersburg Times used the headline: "Not so stealthy when wet."

And Robert Scheer of the Los Angeles Times said "Let's hope it rains on the B-2's parade."

No one disputes that the Cold War is now over, but some in this body would like to continue funding the Department of Defense as if it had never ended. The B-2 bomber is the perfect example of that view.

The world today is not the world of 1985. True, there are dangers to the United States, but they are not the kind of dangers which justify a military budget that swallows discretionary spending and harms the very citizens it seeks to protect. They are not the kind of dangers that require more B-2 bombers at a price we cannot afford.

Even with the elimination of the Soviet Union, our defense spending is still over 80 percent of United States cold war spending levels.

The United States will spend nearly three times what any other country on the face of the Earth will spend on defense. In fact, if you added up the military expenses of all of Europe and South America combined, that is to say every country in Europe and South America together, you would find that the United States still out spends them on defense.

I ask you Madam President, what is all of this money for? What enemy are we going to fight? Cuba, who spends less than 1 percent of our military budget? Or Libya or Iraq or Iran or North Korea or Syria? Or are we spending \$266 billion a year simply to have a large military.

Let's look at some more figures. United States military spending is three times more than China, India, Pakistan, Russia, and Vietnam combined. It is more than double all of our NATO allies combined and it is larger than the next eight largest military budgets combined.

As it stands now, such a large portion of our discretionary budget goes toward defense spending, that the security of our citizens is threatened. Yes, Madam President, you heard me correctly, they are threatened by increased defense spending. Why? Because every extra dollar we spend on defense is a dollar less for education, for putting police on the streets, for stopping the drug epidemic and feeding our children.

The amount of discretionary funding spent on defense totals over 50 percent of the discretionary budget. That means that the portion of the total budget that Congress actually decides where it will get spent, or the discretionary budget, goes overwhelmingly toward defense. For every discretionary dollar, 50 cents goes to defense. Not education, not health care for children, but defense.

Every dollar we spend on defense has to come from somewhere. My question is, Where does the funds for defense come from? Does it mean one less school gets connected to the Internet? One more child can't read, or one more child goes hungry?

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. Madam President, I assume I am recognized as being the person in opposition to the amendment.

The PRESIDING OFFICER. The Senator is so recognized.

Mr. DOMENICI. How much time do I have?

The PRESIDING OFFICER. Sixteen minutes forty two seconds.

Mr. DOMENICI. I surely will not use the entire time, and whatever time I do not use I will yield back.

In a couple minutes I will make a point of order against the pending amendment. It is a clear violation of section 306 of the Congressional Budget Act. I understand the sponsor of the amendment will move to waive the point of order, and I in no way want to infringe upon that privilege.

Let me just say this is a very simple proposition. Everybody should understand that in the budget agreement there were a lot of priority items. That meant, literally, that the Congress and the President agreed that certain programs would be funded at the President's request.

Anyway, it is pretty interesting because we indeed funded Head Start at the exact amount the President asked for in his budget. Head Start funding is increased substantially in this bill, \$324 million above the 1997 level for total funding of \$4.3 billion.

It just seems like enough is never enough, despite the fact that we adopted the President's request and increased funding for Head Start \$324 million over last year.

My good friend, Senator WELLSTONE, wants to add an additional \$525 million. Now, you understand I am not that quick with arithmetic, but \$525 million versus an already existing increase of \$324 does permit one to wonder what is the reason for this vote. It seems like it is a vote to vote, because we have already increased Head Start dramatically and in fact provided for this program exactly what the President requested.

Having said that, for those who are concerned about military spending, and there are many, we are struggling mightily on various defense measures that we are hoping the President will sign, and the arguments are essentially over money. What we have agreed on with the President in the bipartisan budget agreement is that we will provide a certain amount of money for all of defense. Then we say for the next 2 years you cannot spend any defense money for domestic programs. That is called a wall between defense and domestic spending.

When we did not have this wall between defense and domestic spending, defense never knew how much money they would receive because they had to wait for the completion of all the appropriations bills to see if money would be transferred from defense to domestic spending.

Again, Senator WELLSTONE did not want to confront the wall and tear it down so he went around it. He just established his amendment and then he said the amount appropriated for the Department of Defense shall be reduced by \$525 million and the Head Start Act would be increased by the same

amount. However, his amendment would direct the Budget Committee not to show an increase in domestic spending so as not to bump up against the overall nondefense discretionary spending cap nor would it count against the committee and subcommittee allocations.

Therein lies the Budget Act point of order. By directing the Budget Committee not to follow the scoring rules established by the Congressional Budget Act, the Wellstone amendment is subject to a 60 vote point of order pursuant to section 306 of the Budget Act.

Madam President, the pending amendment contains matter within the jurisdiction of the Committee on the Budget in that it provides that the spending associated with this amendment will not be counted against non-defense discretionary spending caps. I therefore raise a point of order against the amendment pursuant to section 306 of the Congressional Budget Act.

Now, Madam President, I ask unanimous consent that I, prior to reading that and making that point of order, be deemed to have yielded back any time I have remaining.

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

Mr. DOMENICI. Could I be recognized for an observation, Madam President?

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

Mr. DOMENICI. I understand Senator WELLSTONE has time and clearly we would not vote until he uses his time or the leadership agrees.

The PRESIDING OFFICER. The time of Senator WELLSTONE has expired.

Mr. DOMENICI. I do not intend to move ahead until the leadership has agreed on the time, and that Senator WELLSTONE be given time to make his waiver motion prior thereto. I hope that is the game plan we are operating under.

I yield the floor.

The PRESIDING OFFICER. Without objection, the amendment will be set aside temporarily.

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

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

Mr. KENNEDY. Madam President, what is the matter before the Senate?

The PRESIDING OFFICER. There is no amendment currently pending.

#### AMENDMENT NO. 1116, AS MODIFIED

Mr. KENNEDY. I see. Well, I understand from the discussion of the leaders that we will be addressing the sense-of-the-Senate resolution as proposed by Senator DASCHLE and cosponsored by myself.

I send a modification to the desk on behalf of Senator DASCHLE to amendment No. 1116, a sense of the Senate re-

garding Pell grants and child literacy funding. The modification is technical and it has been cleared on the other side. I ask that it might be in order. If it is the desire of the Chair, I will withhold making that request for a moment or two.

The PRESIDING OFFICER. Is the Senator seeking immediate consideration of the amendment, or is he merely seeking to modify the amendment?

Mr. KENNEDY. I am merely seeking to modify it.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment (No. 1116), as modified, is as follows:

On page 61, after line 25, insert the following:

SEC. . (a) The Senate finds that—

(1) Federal Pell Grants are a crucial source of college aid for low- and middle-income students;

(2) in addition to the increase in the maximum Federal Pell Grant from \$2,700 to \$3,000, which will increase aid to more than 3,000,000 low- and middle-income students, our Nation should provide additional funds to help more than 250,000 independent and dependent students obtain crucial aid in order to help the students obtain the education, training, or retraining the students need to obtain good jobs;

(3) our Nation needs to help children learn to read well in fiscal year 1998, as 40 percent of the Nation's young children cannot read at the basic level; and

(4) the Bipartisan Budget Agreement includes a total funding level for fiscal year 1998 of \$7,600,000,000 for Federal Pell Grants, and of \$260,000,000 for a child literacy initiative.

(b) It is the sense of the Senate that prompt action should be taken by the authorizing committee to—

(1) make the change in the needs analysis for Federal Pell Grants for independent and for dependent students; and

(2) enact legislation and authorize funds needed to cover the costs of the changes for a \$260,000,000 child literacy initiative.

(c) It is the sense of the Senate that the maximum level possible of fiscal year 1998 funding should be achieved in the appropriations conference committee.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the distinguished Senator from Georgia.

Mr. COVERDELL. Mr. President, I ask unanimous consent that the pending business be set aside so that we might go to my amendment.

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

#### AMENDMENT NO. 1098

Mr. COVERDELL. Mr. President, I understand we have 10 minutes equally divided, and I would like to begin by thanking Senators ABRAHAM, LEVIN, HARKIN, and MCCONNELL for joining me in the amendment. The amendment is in response to the E. coli problems we have experienced. The amendment calls for \$5 million in funds to be distributed at the discretion of the Secretary of HHS, and there is no offset. CBO reports that there are no budgetary problems with this amendment. Its score would not result in a budget point of order.

This amendment, the first section of the amendment provides funding for research on the development of improved medical treatment for patients infected with E. coli. The most vulnerable members of society susceptible to the chronic effects of E. coli infection are children and the elderly. Funding should focus on helping these individuals to recover fully.

Another section provides funding to help detect and prevent colonization of E. coli in live cattle. Research should focus on determining the host-pathogen relationship between cattle and the E. coli microbe and explore which factors contribute to its incidence in cattle.

Another section provides funding for the administration's food safety initiative, more directly for the important consumer education component. This national consumer education campaign on food safety represents a partnership between Government, industry and consumer groups. This is an important link in the food safety chain and a critical initiative endorsed last year by former U.S. Surgeon General C. Everett Koop, along with the U.S. Department of Agriculture, the Department of Health and Human Services and the U.S. Department of Education as well.

Another section would implement a much needed study on the feasibility of irradiating raw red meat to eliminate the E. coli pathogen and to develop a consumer education program on the process of safety. Currently available for poultry products, irradiation is a proven method of confronting this disease, and its feasibility on red meat needs to be explored.

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

Mr. President, this is a very good amendment. It is directed at the long-term and short-term health of every American, and I urge my colleagues to support it.

Mr. President, I yield the floor and ask how much time is remaining.

The PRESIDING OFFICER. The Senator has used about 3½ minutes.

Mr. COVERDELL. I reserve the remainder of my time.

Mr. McCain addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the distinguished Senator from Arizona.

Mr. McCain. I heard the distinguished Senator from Georgia say that this \$5 million would be spent at the discretion of the Secretary. Is that correct?

Mr. COVERDELL. That is correct.

Mr. MCCAIN. Does that not mean then that the language of the amendment would be changed to say, on line 4, "of Health and Human Services may carry out activities" and then on line 9 would say, "The Secretary of Health and Human Services may carry out the following"? Would that not be the change that would provide this to be done at the discretion of the Secretary, because presently the copy of the amendment I have says "shall," which does not provide discretion for the Secretary. It just says "shall."

Mr. COVERDELL. It does not have to. She doesn't have the discretion not to spend it. They are directed to perform these activities.

Mr. MCCAIN. OK. Then the fact is it is not at the discretion of the Secretary when it says "shall." The reality is that when it says "shall" in the amendment, it means there is no discretion involved.

In fact, \$1 million goes to Atlanta, GA, is exactly what this amendment means. The Senator from Georgia knows very well that I have for 11 years opposed this kind of earmarking, and I intend to oppose it now. But let us not have the Senate be deceived by what the Senator from Georgia just said. The discretion of the Secretary is not the case. There is no discretion when the amendment says "shall."

If the Senator from Georgia would be willing to change that word to "may," then I would be more than happy not only to agree with the amendment but support it. The fact is that now it means that \$1 million to fund ongoing research to detect E. coli, or prevent E. coli in live cattle only goes to one place and that happens to be, by coincidence, in Atlanta, GA, which is something I strongly object to. If this kind of practice goes on and continues, we will see the unbridled earmarking of funds for specific projects in specific places, which the American people rejected in concept. There is an authorization process and there is an appropriations process. This meets neither one of those criteria.

I understand that the Senator from Georgia will carry this amendment overwhelmingly. I also support the research for detection and prevention of E. coli and infections. It is a worthy cause. There is a system and procedure that we go through, which the Senator from Georgia is violating grossly with this amendment, and therefore I will ask for a rollcall on this amendment. I fully expect it to carry overwhelmingly in his favor, but I wanted the Senator to know that I am deeply disappointed that he will not change the language of this amendment to the proper form which is "may" rather than "shall."

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

The PRESIDING OFFICER. The Chair recognizes the Senator from Georgia.

Mr. COVERDELL. We do have a management problem here.

The PRESIDING OFFICER. The Chair did not understand the Senator from Arizona to ask for a rollcall vote.

Mr. COVERDELL. I think the Senator from Arizona is asking for the yeas and nays, for a rollcall vote at the appropriate time later in the day. I believe that is his motion.

Mr. MCCAIN. My motion is, Mr. President, that I ask for the yeas and nays now.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second at the moment.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. MCCAIN. Mr. President, I ask further unanimous consent that the yeas and nays be set aside until such time as the managers of the bill decide the sequence of the votes that will take place later this afternoon.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Georgia.

Mr. COVERDELL. 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. COVERDELL. Mr. President, in response to the good Senator from Arizona, I know he has been long an advocate of nonearmarking, but we just simply disagree on the substance of the amendment. There is no discretion about whether this research will be engaged in or the consumer studies, that is correct, but it is up to the discretion of the Secretary as to how and where that is funded. And that is the difference between us.

The Senator is wrong in his assertion that \$1 million of this would go to Atlanta, GA. It is possible that some of these funds would go to the University of Georgia, although it is not directed. The reason that it is possible, I would say probable, is that unbeknownst to me until very recently but long known in the industry, the University of Georgia has been among the several isolated universities that has advanced research on how to deal with E. coli in the live

herds versus the contemporary process of trying to somehow spot this disease and irradiate it in the processing of the meat itself. Indeed, a discovery on this would be at the level of discovering penicillin, and it just happens that that research is highly advanced at this university at a time when this problem is such a focus of the attention of health concerns in the United States.

Mr. HARKIN. Mr. President, I am pleased to cosponsor Senator COVERDELL's amendment. Americans need to have the cleanest and safest meat and other foods. The emergency of E. coli:0157H7 is a real threat which we must quickly respond to. The Coverdell amendment provides funding to address this important issue.

There are several ways to reduce E. coli and other microbial contamination and we need to take a multifaceted approach. More research is one of those. The new hazard analysis and critical control point inspection system will start to be implemented on January 1, 1998. That will be a considerable benefit. I believe that an additional improvement that can be made is the use of electronic pasteurization. Through that means, we can kill a wide variety of pathogens that may come into accidental contact with foods with no downside to the consumer other than a very small cost.

I would expect that the Department should coordinate its research efforts with USDA in those areas where the Department of Agriculture has expertise.

I am hopeful that we will move along all of these paths in order to provide the safest and most reliable possible food supply.

Mr. COVERDELL. Mr. President, I reserve the remainder of my time, if any is left.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BIDEN. 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. BIDEN. Mr. President, I ask unanimous consent that I be able to proceed for 15 minutes as if in morning business.

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

#### COMPREHENSIVE TEST BAN TREATY

Mr. BIDEN. Mr. President, a generation ago, President John F. Kennedy called for a Comprehensive Test Ban Treaty. President Kennedy's visionary appeal met with modest but important success: the treaty banning nuclear tests in the atmosphere, in outer space, and underwater.

One year ago today, the world community took a major step toward fulfilling President Kennedy's vision.

With the United States once again in the lead, the U.N. General Assembly voted 158 to 3, with 5 abstentions, to endorse the so-called CTBT, drafted by the U.N. Conference On Disarmament. Two weeks later, all the declared nuclear powers signed that treaty.

Soon this treaty will be submitted to the U.S. Senate for our advice and our consent to ratification. Much work is needed to educate this body and to assure us that the Comprehensive Test Ban Treaty will be effectively verifiable and will not undermine nuclear deterrence. But it is time to begin that effort, and I welcome the administration's commitment to do so.

The Comprehensive Test Ban Treaty will not enter into force for some time. This is because all nuclear-capable States must ratify this treaty before it can enter into force, at least during the next 3 years, and India has refused to do that—although I am given to understand that the President will be traveling there, to try to change that view on the part of the Indian Government.

Timely U.S. ratification is still needed, however, to prevent the CTBT from becoming a dead letter and to maintain the pressure on all states not to test a nuclear device. The 144 states that signed the CTBT are largely bound not to undermine it, even before it enters into force. But nonnuclear states will feel little obligation to ratify or obey a test ban if the powers with admitted nuclear weapons programs fail to ratify it themselves.

A comprehensive ban on nuclear testing is no minor matter. This is not your father's arms control agreement, Mr. President. You remember that old commercial—I know, the old automobile man that my father was—"this isn't your father's Oldsmobile." This is not your standard arms control agreement, merely codifying actions already planned by the two superpowers, which most of our arms control agreements were. This treaty will pinch, it will hurt; but the CTBT will pinch other countries far more than it pinches us, and the world will be a safer place for that.

There is always a risk, of course, that a State Party—a fancy foreign policy phrase for another country—will violate this test ban treaty rather than do without nuclear testing. Last month's so-called—it's amazing the phrases we use—"seismic event" at or near the Russian nuclear test site of Novaya Zemlya is a timely reminder that arms control compliance can be assured only through effective verification.

Article 4 of the test ban treaty and the treaty's accompanying protocol do include, in fact, some very welcome verification provisions. An international monitoring system will combine seismic, radionuclide, hydro-acoustic and infrasound monitoring. This monitoring system will provide States Parties with both raw and processed data, as well as with analyses of those data.

Article 4 requires prompt clarification by States Parties in "any matter which may cause concern about possible noncompliance with the basic obligations of the treaty."

In addition, the United States, if supported by 29 of the 50 other members of the Organization's Executive Council, will be able to force a truly extensive onsite inspection by the CTBT Organization's Technical Secretariat. We would be in a much stronger position to investigate last month's possible Russian explosion if the CTBT were in effect and Russia were required, as a consequence of that, to accept onsite inspections.

Verification of this treaty will not be cheap, and the United States will be expected to help other countries participate in seismic monitoring, in particular. We have provided such assistance for many years, for a simple reason: not out of our generosity and our charitable instinct, but because it is in our naked self-interest, it is in our national interest, both to monitor nuclear tests by other countries and to obtain timely and accurate data on earthquakes.

It is important to keep up this effort, whether we eventually ratify the CTBT or not, and I urge my colleagues, as an afterthought here, to support full funding of the international monitoring systems that I am talking about.

How will this treaty really pinch—I mentioned that at the outset—assuming that the verification provisions deter any violations? For the five countries with a history of nuclear testing, among which we are one, the CTBT will mean an end to that testing. We, and other declared nuclear powers, will need to use other means in order to ensure that our nuclear weapons are safe and are in working order, or to modify those weapons in any way.

Let me explain the meaning of that. Most people say, "Why don't you have to worry about testing anymore? A nation like ours wouldn't want to test in any circumstance." To raise a legitimate point raised by others who don't support this treaty, however, in order to ensure that our nuclear arsenal is accurate and working and functioning, you occasionally have to test it, you occasionally have to know what you have. You can't just let it sit there and let the components of it sit there for 20, 30, 40, 50 years and not test it, and still have confidence in its deterrent capacity. That is the reason why even nations like ours that do not have any desire to increase their nuclear capacity, that want to reduce nuclear weapons, might still want to be able to test.

In our country, the Department of Energy plans to use tests that do not actually cause a nuclear explosion, known as subcritical experiments, as well as computer analyses and simulations to assure the safety, reliability, and effectiveness of U.S. nuclear weapons. Ground was broken just last month for a billion-dollar National Ignition Facility at the Lawrence Liver-

more National Laboratory in California to do some of that very work. One hoped-for side benefit is further progress toward controlled fusion, an important potential power source for the next century.

Many of my colleagues question whether this Stockpile Stewardship and Management Program, as it is referred to, will suffice in the absence of nuclear testing. The Energy Department, where the scientists and experts are, says "yes," while opponents of arms control say "no."

I say nobody knows for sure. We can't guarantee that stockpile stewardship will work because this is a new scientific frontier. But the executive branch must take stockpile stewardship—that is, those tests other than actually exploding nuclear devices—seriously, and we must—we must—fund it appropriately, in my view. Senator DOMENICI has warned that the current funding plan is insufficient for that job. I hope and expect that the administration will take that concern to heart and not just blow smoke at it.

Mr. President, even if we were not going to sign a test ban treaty, it should be very much in America's interest for us not to test nuclear weapons if we have an alternative that can guarantee the safety, stability, security, and usability of our nuclear stockpile. So, for whatever the reasons, even unrelated to this treaty, it makes sense to follow the admonition of Senator DOMENICI and give the Energy Department the resources it needs to maximize the chances that the Stockpile Stewardship and Management Program will suffice in the absence of nuclear testing.

Stockpile stewardship, Mr. President, is an opportunity, however, not just a challenge. It is precisely this sort of high-technology activity at which the United States excels. Recent press stories on our improved earth-penetrating nuclear bomb make clear that the United States is capable of maintaining nuclear capabilities, even without nuclear testing, that other countries can only dream of. The truth is that we may well extend our nuclear advantage in a test-free world.

So let me be clear about this. I do not think we are seeking any greater advantage in nuclear weapons, over other countries in the world, but if we, in fact, move all the acknowledged nations and those we think have nuclear capacity and nuclear weapons to enter into this treaty, then there will be no more testing.

You hear opponents say, "Well, that will put us at a competitive disadvantage in terms of our nuclear capacity." My argument would be if the verification is real, which it is in this treaty, we are potentially at a competitive advantage because we would be able to continue to develop and assure the capacity of our nuclear stockpiles and capabilities—thanks to our testing capacity, our ability to measure their utility absent an actual nuclear explosion.

So this is an argument that I know we will engage in, but I would just like to lay a marker down now. I think our security is enhanced and our capability can be enhanced with this treaty in place.

But we will not be so likely to develop a whole new generation of nuclear weapons, and that is important. Why? Because there is a deal here between the nuclear weapons "haves" and the nuclear weapons "have-not" states. For the vast majority of countries, those that have never tested nuclear weapons, the Comprehensive Test Ban Treaty will greatly impede any efforts on their part to develop nuclear weapons, but it will also reassure those countries that the nuclear powers will be much more limited in their development of still newer weapon designs.

Mr. President, think about it. If you are a developing country and you are late into the game of nuclear weapons, you are asked to say, "OK, these other guys got theirs, we don't have ours yet, but let's make sure no one can test any more so that we, in fact, can never develop nuclear weapons." Well, you sit there and say, "Wait a minute, the other guys have these things, they have these weapons and the only way they developed them is they tested them. Now you are telling us we can never test them, which is synonymous to saying we can never have them."

OK, in order for them to give up that, because they then are locked into this inferior status in terms of nuclear capability, we have to give something to them. What they get in return for this is that, although we will maintain that capacity and be able to maintain it without testing, none of the nations of the world will be able to move to whole new generations of those nuclear weapons, which is some reassurance to a nation that knows the argument that I made to such countries and their leaders, which is, "Look, you can never catch up, you can never get ahead of the curve; you may get nuclear weapons, but you're never going to get to the point in your lifetime or the lifetime of your children where you are going to be able to match the capacity of the nuclear powers. So isn't it better for us to freeze or to build down, in effect, to use an expression that Bill Cohen used to push years ago during the arms control debates of the late seventies and early eighties?"

How will this test ban impede other countries' nuclear weapons programs? We hope to maintain our nuclear weapons without further testing and non-nuclear powers might hope similarly to develop or obtain nuclear weapons without ever testing them. But developing a new weapon without testing is risky, especially for a country with no experience in nuclear weapons; after all, even the advanced nuclear powers have test failures.

Military leaders are hardly eager to go into battle with untested weapons, Mr. President. In fact, they get downright cranky about that, and once they

start questioning the reliability of their weapons, they begin to think more about the dangers that come with war than about the glory of it all. The Comprehensive Test Ban Treaty thus may limit the progress that we and other nuclear powers can make in further developments of nuclear weapons, but its greatest benefit will be in non-proliferation by foreclosing nuclear weapons from many countries and making it difficult for new entrants even to approach the sophistication of our existing nuclear weapons.

The power of the CTBT as a non-proliferation tool explains why Pakistan was unwilling to sign the CTBT if it could enter into force without India's ratification. If their nuclear weapons program is going to be hobbled, they want India to be hobbled as well. And the CTBT's likely effectiveness is probably also a real reason why India has been unwilling to sign the treaty at all. Both of those countries have rudimentary nuclear weapons capabilities, but they know that a ban on testing, which may eventually come into force despite India's objections, will severely hamper their ability to develop those devices into a stable of weapons that they can count on in a real war.

Just as India and Pakistan appreciate CTBT's power to hamper the development of nuclear weapons, so should we. We rightly value the stability that mutual deterrence has brought us over the last 50 years. That is why we want reassurance that "stockpile stewardship" will be adequately funded and that the experts expect it to succeed.

But the gravest threat to security of our Nation, Mr. President, may not be from Russian or Chinese missiles, but rather from nuclear weapons in the hands of others—Iraq, Iran, Libya, or North Korea, just to name a few, or even terrorist groups that a rogue state might befriend.

The biggest risk of nuclear weapons actually being used may not be against us, against Russia or even against Taiwan, but rather by India and Pakistan against innocent civilians in the teeming cities which are within range of each country's bombers or shorter range missiles.

With U.S. leadership in ratifying this treaty, the CTBT will gain near unanimous international support and keep pressure on India and any like-minded countries to ratify it—or at least to refrain from testing. A comprehensive test ban, once in force, will reduce substantially the threats of regional nuclear wars or terrorist acquisition of nuclear weapons. And that is reason enough, Mr. President, in my view, to support ratification.

But, Mr. President, as I have said, serious observers are sincerely divided over whether the United States will be able to maintain nuclear deterrence without nuclear testing. Achieving the Senate's advice and consent to ratification depends, therefore, in my opinion,

upon careful and intensive education both of the public and of this body, myself included. It is time for the administration to begin the sustained effort that will be required to assure that 67 U.S. Senators will feel that this CTBT is in our national interest.

The world in which we live today, Mr. President, is, as I said before, not your father's cold war. But there has been no end of history as has been prophesied. Neither will there be any end of arms control. Already this year the Senate has acted on the Chemical Weapons Convention and the "Flank Document" to the Treaty on Conventional Forces in Europe, referred to as CFE. Measures awaiting Senate action include: the Convention on Nuclear Safety; protocols to the Convention on Conventional Weapons on undetectable landmines, blinding lasers, and incendiaries; and two treaties to establish nuclear-free zones.

Over the next 2 years, the executive branch will likely submit to the Senate a START III treaty, an extension of the START II weapons destruction deadlines, an amendment or protocol making START I a permanent treaty, a CFE adaptation agreement, a succession memorandum and demarcation agreement regarding the ABM treaty, a new safeguards protocol between the United States and the International Atomic Energy Agency, a nuclear liability convention, a nuclear waste convention, and a verification protocol to the Biological Weapons Convention.

Given that lengthy agenda, Mr. President, I am not in a position to say that the CTBT must be taken up as the next item for the Senate's attention. Indeed, I hope we will approve some of these less controversial measures—such as the Convention on Nuclear Safety, the protocols to the Convention on Conventional Weapons, and a new safeguards protocol with the International Atomic Energy Agency—before we bring this issue to the floor.

But that need not stop the administration from submitting this treaty and beginning the work of educating us as to its merits. Chairman HELMS and I have shown that the Foreign Relations Committee can get things done, and I am confident that we will secure agreement on many more issues, hard ones as well as the easier ones.

The time has come, Mr. President, to move ahead on the Comprehensive Test Ban Treaty, as well as other arms control initiatives and NATO enlargement. The end of the cold war has made all these both possible and—I would emphasize—also necessary. This is an ambitious agenda for the Senate in the field of foreign relations, and the issues will be difficult.

But we represent the citizens of the world's greatest country. Or, the best phrase I have heard in my 25 years here to describe us is President Clinton's phrase. He said, we are the "essential nation." We are the "essential nation." We represent the citizens of the essential nation. We are charged with the



historic task of making the world a safer place for coming generations—not through war, but through fashioning of durable agreements and institutions. We must not—and I am sure we will not—flinch at that challenge.

This is a rare opportunity that you and I have, to serve at a time when we are setting down a whole new institutional framework for the conduct of world affairs. It has not happened in 50 years; it is happening now. I pray we are as wise as our fathers and grandfathers and grandmothers and mothers were when they did the job at the end of World War II.

I thank the Chair for its indulgence and for listening to me. I appreciate it very much.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

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

The Senate continued with the consideration of the bill.

Mr. SPECTER. Mr. President, we are, for the information of our colleagues, in a position soon to vote on three pending amendments, and I think a fourth amendment which will be offered by the distinguished Democratic leader, Senator DASCHLE. And we expect to proceed soon to the amendment to be offered by Senator DASCHLE. And as soon as that is done, we will be proceeding to rollcall votes on four amendments. The time should not be too extensive. I just give notice to my colleagues that that will be occurring in relatively short order.

Then following the votes we will proceed to debate on the Gorton amendment, and that will leave then two principal outstanding issues—the issue of school testing, where the parties have been negotiating and may be in a position to give us a final answer soon whether they could come to agreement or whether we will have to move ahead with Senate debate on that, and the issue with respect to the pending Nickles amendment. We will see what will happen on that, if we are in a position to move ahead there. I am not sure exactly what will occur there.

Mr. President, I have just been advised that Senator DASCHLE is engaged in a meeting that he cannot leave at the moment. So we will have to defer action on his amendment.

On behalf of the leader, I have been asked by staff, at the request of the majority leader, to propound this unanimous consent request. I ask

unanimous consent that at the hour of 5 o'clock today, the Senate proceed to a vote on or in relation to the Murray amendment, No. 1118; to be followed by a vote on or in relation to the Wellstone amendment, No. 1087; to be followed by a vote on the Coverdell amendment, No. 1098. And I further ask unanimous consent that there be 2 minutes of debate equally divided prior to each vote. I ask, finally, unanimous consent that no amendments be in order to any of the previous amendments prior to the vote, and that the first vote be with the customary 20 minutes, and that each additional vote be—the first vote be 15 minutes, but we have the automatic extension of 5 minutes, and each subsequent vote be limited to 10 minutes, with the extension of 5 minutes, so they can expedite the vote process.

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

(The remarks of Mr. SPECTER pertaining to the submission of Senate Resolution 121 are located in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

Mr. SPECTER. Seeing the hour of 5 o'clock having arrived, I yield the floor.

#### AMENDMENT NO. 1118

The PRESIDING OFFICER. There will now be 2 minutes of debate equally divided on the Murray amendment.

Mr. SPECTER. I am advised, Mr. President, that Senator MURRAY is on her way. We do not want to use up her 2 minutes. She is on her way.

So I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

There will now be 2 minutes of debate equally divided on the Murray amendment.

Mrs. MURRAY. Mr. President, this body is about to go to a vote that is not one that is unknown to this Senate. It is regarding the welfare bill that was passed a year or so ago, an amendment that we offered at that time that was unanimously approved by this body and sent to the conference committee that merely allows a woman who is a victim of domestic violence a temporary waiver from the work requirements if she needs to get medical care or she needs to change her Social Security number so that she is not pursued by her abuser, or to put her children in a safe place so she is not worried about them and can work without being concerned about what happens to her children while she is at work.

It is a temporary waiver. It has been passed by the Senate three times. Not one Senator has spoken against it. Not one Senator has voted against it. But every time it goes behind closed doors in a conference committee it is pulled out.

That is what happens to abused women constantly. In the light of day, everyone is there to say, "I support you," but when they go behind closed doors they are abused.

I call on the Senate to vote with a strong voice to the members of the conference committee. We want this amendment to remain in so women across this country, children across this country, communities across this country, and police who are required to come to the scenes of domestic violence incidents are safe once again.

I yield my remaining time to Senator WELLSTONE, who has been helpful in this debate and has been very good at working through this.

The PRESIDING OFFICER. The time of the Senator has expired so the Senator must seek unanimous consent.

Mr. WELLSTONE. Mr. President, I ask unanimous consent for 30 seconds.

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

Mr. WELLSTONE. I am very pleased to have worked on this with Senator MURRAY going way back when. I think it is extremely important for the protection of many women and many children in all of our States. Our States are looking for clear direction from the Congress, from the White House, and from Health and Human Services.

This amendment is very important. I hope we will have a resounding, strong vote.

The Murray-Wellstone amendment is an amendment I think the Senate will be proud to support.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 1118 of the Senator from Washington, Senator MURRAY.

The yeas and nays have been ordered.

The clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from New Mexico [Mr. BINGAMAN] is necessarily absent.

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

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

#### [Rollcall Vote No. 228 Leg.]

#### YEAS—98

Abraham	Daschle	Inhofe
Akaka	DeWine	Inouye
Allard	Dodd	Jeffords
Ashcroft	Domenici	Johnson
Baucus	Dorgan	Kemthorne
Bennett	Durbin	Kennedy
Biden	Enzi	Kerrey
Bond	Faircloth	Kerry
Boxer	Feingold	Kohl
Breaux	Feinstein	Kyl
Brownback	Ford	Landrieu
Bryan	Frist	Lautenberg
Bumpers	Glenn	Leahy
Burns	Gorton	Levin
Byrd	Graham	Lieberman
Campbell	Gramm	Lott
Chafee	Grams	Lugar
Cleland	Grassley	Mack
Coats	Gregg	McCain
Cochran	Hagel	McConnell
Collins	Harkin	Mikulski
Conrad	Hatch	Moseley-Braun
Coverdell	Hollings	Moynihan
Craig	Hutchinson	Murkowski
D'Amato	Hutchison	Murray

Nickles	Sarbanes	Thomas
Reed	Sessions	Thompson
Reid	Shelby	Thurmond
Robb	Smith (NH)	Torricelli
Roberts	Smith (OR)	Warner
Rockefeller	Snowe	Wellstone
Roth	Specter	Wyden
Santorum	Stevens	

## NAYS—1

Helms

## NOT VOTING—1

Bingaman

The amendment (No. 1118) was agreed to.

Mrs. MURRAY. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. SPECTER. Mr. President, by way of scheduling, to inform Senators as to what we anticipate, as previously ordered, we have two more votes. We then intend to go to the amendment by the distinguished Democratic leader. And then we intend to go to an amendment by Senator GORTON. It is our hope that we will vote on those two amendments this evening, not too late. That will leave us with only two major matters remaining—the issue of testing, where we may be able to have an agreement, and the Nickles amendment.

The majority leader earlier said we would like to go to final passage tomorrow morning at 9:30, if we can clear those matters and after we have these two votes, and perhaps two more votes, so that we will conclude the rollcall votes not too late. And if there is any argument on the remaining matters, we will try to vote on them tomorrow morning at 9:30 and go to final passage at that time.

I thank the Chair.

## AMENDMENT NO. 1087

The PRESIDING OFFICER. There will be 2 minutes, equally divided, on the Wellstone amendment No. 1087.

The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I thank both managers of the bill for their fine work on Head Start. But I think we can do better. If we reach the goal the President set forth, and we say that we are for really serving 1 million children, then the Head Start Association says we need an additional \$535 million to do that. That would be 1 million children. I might add that if we are talking about the early years, 1 million children is but a tiny percentage of the children that could be served by this program.

So I think we could do better. This just says let's get it up to what the Head Start Association says they need to make sure that we cover the 1 million children that we say we are committed to covering. This \$535 million would come from the Pentagon budget. There is plenty of waste in that budget that we can talk about.

I hope that this amendment will get a good strong vote.

## MOTION TO WAIVE BUDGET ACT

Mr. WELLSTONE. Mr. President, I also move to waive the Budget Act. 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. There is 1 minute in opposition to the amendment of the Senator from Minnesota.

The Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, fellow Senators, I made a point of order because the Wellstone amendment seeks to add \$535 million to the Head Start Program. We have already added \$325 million in agreement with the President of the United States. This is a priority item. We filled every priority the President sought. And we have increased it by a total of \$325 million. That is one point.

Second, Senator WELLSTONE would like to take the wall that separates defense and domestic, and he would say the appropriators can appropriate \$535 million less in defense by virtue of this amendment, which essentially takes the wall and spends \$535 million of defense money for Head Start, which we have already fully funded as requested by the President.

The PRESIDING OFFICER. The question occurs on agreeing to the motion to waive the Budget Act in relation to the Wellstone amendment No. 1087. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from New Mexico [Mr. BINGAMAN] is necessarily absent.

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

The yeas and nays resulted—yeas 27, nays 72, as follows:

## [Rollcall Vote No. 229 Leg.]

## YEAS—27

Akaka	Johnson	Moynihan
Boxer	Kennedy	Murray
Bryan	Kerry	Reed
Bumpers	Kohl	Reid
Durbin	Lautenberg	Rockefeller
Feingold	Leahy	Sarbanes
Harkin	Levin	Specter
Hollings	Mikulski	Wellstone
Jeffords	Moseley-Braun	Wyden

## NAYS—72

Abraham	Domenici	Landrieu
Allard	Dorgan	Lieberman
Ashcroft	Enzi	Lott
Baucus	Faircloth	Lugar
Bennett	Feinstein	Mack
Biden	Ford	McCain
Bond	Frist	McConnell
Breaux	Glenn	Murkowski
Brownback	Gorton	Nickles
Burns	Graham	Robb
Byrd	Gramm	Roberts
Campbell	Grams	Roth
Chafee	Grassley	Santorum
Cleland	Gregg	Sessions
Coats	Hagel	Shelby
Cochran	Hatch	Smith (NH)
Collins	Helms	Smith (OR)
Conrad	Hutchinson	Snowe
Coverdell	Hutchison	Stevens
Craig	Inhofe	Thomas
D'Amato	Inouye	Thompson
Daschle	Kempthorne	Thurmond
DeWine	Kerrey	Torricelli
Dodd	Kyl	Warner

## NOT VOTING—1

Bingaman

The PRESIDING OFFICER. On this vote the yeas are 27, the nays are 72. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to. The point of order is sustained and the amendment fails.

## CHANGE OF VOTE

Ms. SNOWE. On rollcall vote No. 229 I voted yea. It was my intention to vote no. Therefore, I ask unanimous consent I be permitted to change my vote. This will in no way change the outcome of that vote.

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

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

## AMENDMENT NO. 1098

The PRESIDING OFFICER. There will now be 2 minutes of debate under the previous order equally divided in relation to the Coverdell amendment No. 1098.

Who yields time?

Mr. COVERDELL. Mr. President, I yield 1 minute to the Senator from Arizona.

Mr. MCCAIN. Mr. President, what is the regular order?

The PRESIDING OFFICER. The Senate is not in order. The Chair requests the Senate to please come to order so the Senator from Arizona may be recognized.

Mr. MCCAIN. Is the regular order the proponent or the opponent of the amendment?

The PRESIDING OFFICER. Each side has 1 minute.

Mr. COVERDELL. Mr. President, the amendment upon which we are about to vote—incidentally, I ask unanimous consent Senator SANTORUM be added as a cosponsor.

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

The Senate will please come to order so the Senator from Georgia may be recognized.

Mr. COVERDELL. Mr. President, this amendment is endorsed by the American Meat Institute, the National Pathological Association and the National Cattlemen's Association. It deals with E. coli, it deals with research, it deals with education, and it deals with health.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, this amendment if carefully read directs "the Secretary shall." It also directs "the Secretary shall provide" funding to detect and prevent colonization in live cattle, which is to only take place in Atlanta, GA. That is the place where this amendment is intended to apply. It flies in the face of everything I have stood for, and I have committed to demand recorded votes on what I believe are earmarked pork barrel projects.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. Mr. President, I take some exception to the remarks of the Senator from Arizona.

The PRESIDING OFFICER. The Senate is not in order. The Senator from Georgia will withhold until the Senate comes to order. There is only 40 seconds remaining on each side.

Mr. COVERDELL. Mr. President, I rest my case.

The PRESIDING OFFICER. The Senator from Georgia has concluded. Does the Senator from Arizona have any further debate?

Mr. McCAIN. Mr. President, I have no additional remarks.

The PRESIDING OFFICER. The question now is on agreeing to amendment No. 1098, an amendment in the second degree to amendment No. 1097. The yeas and nays have been ordered. The clerk will now call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from New Mexico [Mr. BINGAMAN] is necessarily absent.

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

The result was announced—yeas 91, nays 8, as follows:

(Rollcall Vote No. 230 Leg.)

YEAS—91

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

NAYS—8

Ashcroft	Gramm	Kyl
Bryan	Grams	McCain
Glenn	Jeffords	

NOT VOTING—1

Bingaman

The amendment (No. 1098) was agreed to.

Mr. COVERDELL. Madam President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1097, AS AMENDED

The PRESIDING OFFICER. Without objection, the underlying amendment, as amended, is agreed to.

The amendment (No. 1097), as amended, was agreed to.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

EXPLANATION OF ABSENCE

Mr. AKAKA. Madam President, I was absent on the recent vote on the motion to table the Sessions amendment. Had I been present, I would have voted aye to table the Sessions second-degree amendment No. 1125. My vote would not have changed the outcome of the vote. This morning I was issued a new legislative pager to announce rollcall votes. Unfortunately, the pager was not properly programmed and did not function when the vote was called.

I thank the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. LOTT. Madam President, I think we are making some good progress now. Those three votes move us much closer to being able to get to final passage.

I see the manager of the bill is here. I have been talking to the Democratic leader and I need to converse a few moments more with the manager of the bill. We are hoping maybe we can take up another amendment and get a vote in a relatively short period of time, and then after that we are working on getting some time agreement on a couple of issues. Depending on how much time is needed, then we would probably—if it is going to be a lengthy period of time, we would probably have those votes in the morning, at 9:30, one or two of them, as we come in. But we are still working through how much time is needed for debate and the time agreements. As soon as we get that all worked out we will notify the Members.

It is our plan now, I think it is safe to say, that the next major amendment we would like to take up is Senator DASCHLE's amendment and have a vote. I assume that would not take too long. At that point we hope to be able to give the Members an idea about what the remainder of the night would be and what would be the votes, if any, tonight or the first votes in the morning.

I believe we have a 20-minute time agreement on the amendment of Senator DASCHLE.

Before we begin on that, 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. DASCHLE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

AMENDMENT NO. 1116, AS MODIFIED

Mr. DASCHLE. I have an amendment at the desk. I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Dakota [Mr. DASCHLE] proposes an amendment numbered 1116, as modified.

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

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

Mr. DASCHLE. Madam President, I want to commend Senators SPECTER and HARKIN for the commitment they have made to educational funding levels that are represented in this bill. They certainly have demonstrated, I think, the extraordinary need for investment in education in ways that we have not seen in recent years. I am very grateful for their leadership and their responsiveness to many of these issues. The overall funding level for education is now well over the level requested by the President.

There still is some unfinished business that needs to be addressed, and this amendment addresses two very significant concerns. I am introducing, with Senator KENNEDY, this sense-of-the-Senate amendment to draw attention to two places where, in our view, more action is needed to fulfill the budget agreement agreed to earlier this year.

This amendment will call on Congress in the form of a sense-of-the-Senate resolution to authorize and increase Pell grant funding to support both independent and dependent students and, second, to fund a child literacy initiative at \$260 million for this fiscal year.

I don't think there is much disagreement that Pell grants are an indispensable source of college aid for low- and middle-income students, but the current eligibility rule shortchanges too many students today. The current needs analysis system expects independent students, those whose eligibility is not linked to their parents' income, with incomes of \$10,000 or higher to make such a large contribution that they receive little or virtually no help at all from the Pell Grant Program today.

Furthermore, many of these students will not be helped by the tax credits enacted earlier this year. So the rules need to be changed so that students with low incomes can get help if they need it, students that don't have families, students that are working, students that have a marginal level of income that put them right in the middle between those eligibility criteria that would favorably affect them at the low end and those eligibility criteria having to do with tax credits at the high end.

Similarly, the current rules governing the Pell Grant Program are discouraging dependent students, those whose parents' income are considered in determining eligibility, from getting part-time work. Students who have low incomes and who try to help out with their college expenses should still be eligible for some level of assistance.

The President has proposed that we modify the rules to ensure that more of the students in these circumstances have the opportunity to qualify for

Pell grants. As many as 250,000 students will be helped if the President's proposal is enacted as he proposed it. These are young people who are just getting started in life who want an education, but now their Government is denying them assistance. That simply isn't right, and we should resolve to fix it.

So I hope this amendment will send a message to the authorizing committee and the conferees to this bill that we think this provision is important and worth reconsideration. I hope that we will closely consider the issues facing these students and act on it in this bill, and in a more substantive way in other legislation as it presents itself to the Senate.

The second part of the amendment addresses a vital issue for the country, and that is literacy. We have an undeniable problem in this country. Forty percent of the Nation's fourth-grade children cannot read today at the basic level. Low achievement in reading is a national crisis, and it demands immediate attention. Children are at higher risk of falling behind in school and eventually dropping out because of it. It is important not only to these children, but for the future of this country that we address this problem head on. We can't afford to leave any child behind as we head into the next century. That is why we have to provide the full amount, the \$260 million agreed to in the budget, and live up to our commitment if, to address this critical issue of child literacy. We must show that we are willing to respond to what we have said is our commitment this year.

We are falling short in that regard and this is our only opportunity to revisit the question and really ask ourselves if, indeed, we are facing up to this challenge, to this crisis, if, indeed, we want to see literacy to be a higher priority as we consider education. What will we do to address it budgetarily? We can only hope that we live up to the budget agreement we passed just a month ago.

So I hope that, on an overwhelming basis, we can support this amendment and send the message both on literacy, as well as on assisting those independent college students that we are going to live up to our words and our expectations with regard to the budget and the commitment we have made to them to give them the kind of education they deserve and need in society today.

I am asking for a rollcall vote simply because I think it is imperative that we be forceful and as certain about this issue and demonstrate the broad bipartisan commitment about these issues that I believe exists within the Chamber tonight.

So, Madam President, with that, I reserve the remainder of my time and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. KENNEDY. Madam President, I strongly support Senator DASCHLE's sense-of-the-Senate amendment and its two key provisions—that Pell grants should be funded at a total of \$7.6 billion, and that a child literacy initiative should be funded at \$260 million in the 1998 fiscal year.

I also congratulate Senator SPECTER and Senator HARKIN for their leadership in making education a priority in the bill. Education is a national priority and we need to do all we can to make sure that education is accessible and affordable for all Americans of all ages and all income levels. This amount is a significant step toward achieving that goal.

Pell grants are an indispensable source of college aid for low- and middle-income students. But too often, the current eligibility rules shortchange too many students.

Single, independent students at public 4-year institutions are not eligible for a Pell grant if their annual income is over \$10,000. At that low-income level, many of them will not benefit from the tax credit for college expenses recently enacted in the budget law. So fair eligibility standards for Pell grants are especially important for these students.

A similar problem faces parents trying to pay for college for their children. Current law penalizes college students who work part time to help pay the cost of their education, by reducing their eligibility for Pell grants. We should be encouraging students to work, not take out additional loans, so that they do not graduate under a mountain of debt.

The budget agreement contained a clear commitment to allocate \$700 million to improve the needs analysis formula for Pell grants. The House bill provides only \$500 million to meet this commitment, and the Senate bill contains no funds at all for this needed change. A strong, bipartisan vote in favor of the Daschle amendment is our best hope of achieving the reform we need in the conference because the House of Representatives, with their figures, have some disposable resources that will be available. A strong vote in the Senate will be a clear indication of a strong, bipartisan effort to channel those funds into this needed area.

The second provision of the amendment reiterates the budget agreement's promise to provide \$260 million for a child literacy initiative this year. The Senate should be strongly committed to seeing that legislation authorizing the initiative is enacted as soon as possible.

Forty percent of the Nation's fourth grade children cannot read at the basic level. Low achievement in reading is a national crisis, and it demands immediate attention. President Clinton is right to focus on this critical problem, and Congress should respond. It makes no sense to delay the appropriation.

Both of these items have been considered over a considerable period of time

in the discussion on the budget resolution and, basically, we are conforming this appropriation bill to what was agreed on in the budget resolution by Republicans and Democrats. We believe that there is a very, very important reason and justification in prioritizing these funds, in these two very particular areas, when this legislation goes to conference.

So I urge my colleagues to support the amendment. I hope we will have an overwhelming vote of approval to insist that the conferees find a way to pay for these two essential reforms in education. It will be a clear indication that education, and particularly for the independent students and also in the area of reading, have the wholehearted support of the Senate, and it will be a clear instruction that those functions should be given the priorities that I think all of us in this body and the American people think they should receive.

Mr. KYL. Mr. President, I rise in support of the Daschle amendment expressing the sense of the Senate in support of Pell grants. I would say to my colleagues, however, that I think we have already achieved what is intended here when the Senate considered my amendment last week.

Even though my amendment to increase Pell grant funding was not adopted, the Senator from Pennsylvania, the distinguished chairman of the Labor-HHS appropriations subcommittee, assured the Senate that, to the extent the committee could yield to the Pell grant number in my amendment and the House bill—a figure that was \$528 million higher than in the Senate's Labor-HHS bill—Senate conferees would do so.

Let me read back Chairman SPECTER's remarks from the RECORD:

I might say to my colleague from Arizona that with the additional arguments he has advanced today in a very cogent way, to the extent we can yield to the House figure, we will try to do so when we get to conference.

Mr. President, in many ways, the vote on the Daschle amendment should be an easy vote for Members of the Senate. It expresses support for the very important Pell Grant Program, but does not say where the increased funding will come from. It is not binding on the Senate.

By contrast, it was my amendment last week that expressed more than non-binding support. It would have provided the actual dollars to extend Pell grant eligibility to additional categories of needy students, including independent students without dependents.

I am sure it is not the minority leader's intent to merely add the cost of that expansion to the budget deficit—to the debt that our children and grandchildren will ultimately have to repay. But if education is as high a priority as we all believe it is, we ought to be willing to put funding for Pell grants ahead of other programs. That is what I attempted to do last week

with my amendment to fund Pell grants with offsets from the LIHEAP Program.

I can understand that some people did not agree that LIHEAP should be cut. Those who believed LIHEAP was a higher priority than education and Pell grants voted against my amendment. But then why not identify some alternative source of funding?

Mr. President, I have a letter from the chairman and ranking member of the authorizing committee—a letter that was sent to Chairman SPECTER and Senator HARKIN—pledging that, if the additional Pell grant money were provided, the Labor and Human Resources Committee would work to authorize the increase in assistance for independent students. I ask unanimous consent that the text of the letter be printed in the RECORD.

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

U.S. SENATE, COMMITTEE ON LABOR  
AND HUMAN RESOURCES,  
Washington, DC, July 21, 1997.

Hon. ARLEN SPECTER,  
Chairman, Subcommittee on Labor, Health and  
Human Services and Education.

Hon. TOM HARKIN,  
Ranking Member, Subcommittee on Labor,  
Health and Human Services and Education.

DEAR ARLEN AND TOM: We are writing to express our strong support for increased funding for the Pell Grant Program. Increasing the maximum Pell Grant to \$3,000 should be the top funding priority for all of the higher education programs. It is also very important to increase assistance for certain categories of independent and dependent students participating in the Pell Grant Program.

The 1992 amendments to the Higher Education Act established a new Federal Needs Analysis Methodology to be used for the Pell Grant Program. The new methodology resulted from the integration of two existing formulas. In reconciling the differences, Congress attempted to minimize the impact on the current distribution of Pell Grant recipients and award amounts.

Unfortunately, single, independent students without dependents and dependent students with earnings have been hurt by the new formula. We believe some modest changes to the needs analysis formula would significantly improve the Pell Grant Program. Specifically, the income protection allowance provided for these two groups of students needs to be increased. The income protection allowance for single, independent students without dependents is too low to reflect actual living expenses. With regard to dependent students, we believe an increase in the income protection allowance will provide an incentive for students to work, rather than borrow to finance their education.

Concerns about the eligibility for these two groups of students for Pell Grant awards have been raised both at Higher Education reauthorization hearings as well as through letters from students across the country. At many campuses, the average age of the student population is over twenty-five. These students are studying to improve their skills for the job market or are starting in new fields as a result of business closures and downsizing. Pell Grant assistance is often vital to their ability to pursue a new career.

The current House Appropriations Subcommittee mark for independent students is about \$500 million, subject to authorization.

The amounts provided for the Pell Grant program by the House fall below the levels included in the bi-partisan budget agreement. We urge that the Senate subcommittee provide the full amount of approximately \$700 million so that needs analysis adjustments for independent students without dependents and for dependent student with earnings can be made. We are aware that there are difficult decisions to be made, and addressing these needs should not be done at the expense of an increase in the Pell Grant maximum or other education programs.

We believe that we need to continue our investment in education at all levels in order to strengthen our economic and technological competitiveness. Our support for students today through the increase in the income protection allowance for independent students without dependents and for dependent students with earnings will lead to a stronger economy and a better future for the country.

If this request for funding is granted, we will work to ensure that our Committee makes the necessary changes to authorize this increase in assistance for these students. Thank you for your consideration.

Sincerely,

JAMES M. JEFFORDS,  
Chairman,  
Committee on Labor and Human Resources.  
EDWARD M. KENNEDY,  
Ranking Member,  
Committee on Labor and Human Resources.

Mr. KYL. As I noted before, Chairman SPECTER has already indicated that he will move toward the higher numbers for Pell grants in conference. And the Labor Committee has indicated that it will act on the necessary authorization. So I think we have already accomplished what is intended here in the Daschle amendment. Nevertheless, since this represents another opportunity to express support for Pell grants, I will support it. However, I do hope that the conference committee will offset the increase from savings in other programs, and not just add the cost to the deficit.

The PRESIDING OFFICER. Who yields time?

Mr. DASCHLE. Madam President, if there is no other Senator seeking to debate the matter, I suggest we yield back all remaining time, and I ask for the vote.

Mr. LOTT. Have the yeas and nays been ordered?

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

Without objection, all time is yielded back. The question is on agreeing to amendment No. 1116, as modified. 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 New Mexico [Mr. BINGAMAN] is necessarily absent.

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

The result was announced—yeas 96, nays 3, as follows:

[Rollcall Vote No. 231 Leg.]

YEAS—96

Abraham	Ashcroft	Biden
Akaka	Baucus	Bond
Allard	Bennett	Boxer

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

NAYS—3

Faircloth	Helms	Inhofe
NOT VOTING—1		
Bingaman		

The amendment (No. 1116), as modified, was agreed to.

Mr. GORTON. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

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

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

Mr. GORTON. Madam President, the majority leader and the minority are working on a unanimous-consent agreement for the order to proceed with several more amendments tonight. Amendment No. 1122, of which I am the primary sponsor, will be the first of those amendments, and I am authorized to ask we call up amendment No. 1122 and begin the debate. It will be interrupted by the majority leader when he is prepared to offer a unanimous-consent agreement.

AMENDMENT NO. 1122, AS MODIFIED

Mr. GORTON. I ask unanimous consent amendment No. 1122 be placed before the Senate.

The PRESIDING OFFICER. Without objection, the amendment is now pending.

AMENDMENT NO. 1122, AS FURTHER MODIFIED

Mr. GORTON. Madam President, I am sending a modified amendment to the desk, and I ask unanimous consent it be considered in place of the amendment that is before the Senate now.

Mr. JEFFORDS. Reserving the right to object, I wonder if the Senator would be so good as to explain what the modifications are.

Mr. GORTON. Yes. This amendment changes the one we talked about yesterday only in that it has the distribution of the amount of money going to title I based on the total number of eligible title I students in each district rather than the total of all students in each district.

Mr. JEFFORDS. I withdraw my objection.

The PRESIDING OFFICER. The amendment is so modified.

The amendment (No. 1122), as further modified, is as follows:

On page 85, after line 23, insert the following:

SEC. \_\_\_\_ (a) Notwithstanding any other provision of law, the Secretary of Education shall award the total amount of funds described in subsection (b) directly to local educational agencies in accordance with subsection (d) to enable the local educational agencies to support programs or activities for kindergarten through grade 12 students that the local educational agencies deem appropriate.

(b) The total amount of funds referred to in subsection (a) are all funds that are appropriated for the Department of Education under this Act to support programs or activities for kindergarten through grade 12 students, other than—

(1) amounts appropriated under this Act—

(A) to carry out title VIII of the Elementary and Secondary Education Act of 1965;

(B) to carry out the Individuals with Disabilities Education Act;

(C) to carry out the Adult Education Act;

(D) to carry out the Museum and Library Services Act;

(E) for departmental management expenses of the Department of Education; or

(F) to carry out the Educational Research, Development, Dissemination, and Improvement Act;

(G) to carry out the National Education Statistics Act of 1994;

(H) to carry out section 10601 of the Elementary and Secondary Education Act of 1965;

(I) to carry out section 2102 of the Elementary and Secondary Education Act of 1965;

(J) to carry out part K of the Elementary and Secondary Education Act of 1965;

(K) to carry out subpart 5 of part A of title IV of the Higher Education Act of 1965; or

(L) to carry out title I of the Elementary and Secondary Education Act of 1965; or

(2) 50 percent of the amount appropriated under title III under the headings "Rehabilitation Services and Disability Research" and "Vocational and Adult Education".

(c) Each local educational agency shall conduct a census to determine the number of kindergarten through grade 12 students served by the local educational agency not later than 21 days after the beginning of the school year. Each local educational agency shall submit the number to the Secretary.

(d) The Secretary shall determine the amount awarded to each local educational agency under subsection (a) as follows:

(1) First, the Secretary, using the information provided under subsection (c), shall determine a per child amount by dividing the total amount of funds described in subsection (b), by the total number of kindergarten through grade 12 students in all States.

(2) Second, the Secretary, using the information provided under subsection (c), shall determine the baseline amount for each local educational agency by multiplying the per child amount determined under paragraph (1) by the number of kindergarten through grade 12 students that are served by the local educational agency.

(3) Lastly, the Secretary shall compute the amount awarded to each local educational agency as follows:

(A) Multiply the baseline amount determined under paragraph (2) by a factor of 1.1 for local educational agencies serving States that are in the least wealthy quintile of all States as determined by the Secretary on the basis of the per capita income of individuals in the States.

(B) Multiply the baseline amount by a factor of 1.05 for local educational agencies serving States that are in the second least wealthy such quintile.

(C) Multiply the baseline amount by a factor of 1.00 for local educational agencies serving States that are in the third least wealthy such quintile.

(D) Multiply the baseline amount by a factor of .95 for local educational agencies serving States that are in the fourth least wealthy such quintile.

(E) Multiply the baseline amount by a factor of .90 for local educational agencies serving States that are in the wealthiest such quintile.

(4) Notwithstanding paragraph (3), the Secretary shall compute the amount awarded to each local educational agency serving the State of Alaska or Hawaii by multiplying the base line amount determined under paragraph (2) for the local educational agency by a factor of 1.00.

(e) If the total amount of funds described in subsection (b) that are made available to carry out subsection (a) is insufficient to pay in full all amounts awarded under subsection (d), then the Secretary shall ratably reduce each such amount.

(f) If the Secretary determines that a local educational agency has knowingly submitted false information under subsection (c) for the purpose of gaining additional funds under subsection (a), then the local educational agency shall be fined an amount equal to twice the difference between the amount the local educational agency received under subsection (d), and the correct amount the local educational agency would have received if the agency had submitted accurate information under subsection (c).

(g)(1) Notwithstanding any other provision of law, the Secretary of Education shall award the total amount of funds made available under this Act to carry out title I of the Elementary and Secondary Education Act of 1965 for fiscal year 1998 directly to local educational agencies in accordance with paragraph (2) to enable the local educational agencies to support programs or activities for kindergarten through grade 12 students that the local educational agencies deem appropriate.

(2) Each local educational agency shall receive an amount awarded under this subsection that bears the same relation to the total amount of funds made available under this Act to carry out title I of the Elementary and Secondary Education Act of 1965 for fiscal year 1998 as the number of children counted under section 1124(c) of such Act for the local educational agency for fiscal year 1997 bears to the total number of students so counted for all local educational agencies for fiscal year 1997.

(h) In this section—

(1) the term "local educational agency" has the meaning given the term in section 14101 of the Elementary and Secondary Education Act of 1965;

(2) the term "Secretary" means the Secretary of Education; and

(3) the term "State" means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, the

Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

Mr. GORTON. Madam President, I spoke to this amendment at length on two occasions and intend to do so again tonight, but as a matter of deference to my many friends on this side who want to speak on the amendment and to many of those on the other side who wish to do so and to go on to other business, I will reserve my principal argument until the end.

Suffice it to say this is an amendment designed to see to it that the individual school districts in the United States be permitted to spend the great bulk of the money that we appropriate, in this case somewhat over \$11 million, as they see fit rather than with respect to hundreds and thousands of pages of detailed regulations that are the bane of almost every school district in the country.

The fundamental philosophical question is just this: Do we believe that individual school districts and parents and teachers know best how to handle education in their own communities, or do we believe those fundamental decisions are best left to bureaucrats here in Washington, DC? I believe the former. The opponents to this amendment believe the latter.

With that, I yield the floor to allow other Members who wish to speak to the amendment.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. SMITH of Oregon. Madam President, I am pleased to rise as one of the cosponsors of Senator GORTON's amendment. Many here, including the Presiding Officer, spent the last year campaigning, and, frankly, I made education one of the cornerstones of my campaign.

Everywhere I went there was frustration at the local level about Federal redtape, bureaucracy, burdens and costs that were imposed upon our common desire to educate our children. I said over and over again that I believed in local control. Now it is time to put to the truth what we said in how we will vote.

I am proud to cosponsor this with Senator GORTON because it does exactly what we ought to be doing.

Madam President, this amendment focuses the area of education on reform, returning the control of our education dollars back to where it belongs, at the local level. This amendment simply block grants the funds from the Department of Education for K through 12 and gives it to local schools.

As my colleague, Senator DOMENICI, stated, we keep adding regulations, adding programs, adding money. But when we get to the end of the equation, we end with a negative result and subtracting from education.

This amendment gives us the opportunity to give schools the flexibility to improve the quality of education at the local level, to improve the basic skills of reading, writing and arithmetic.

Madam President, this is an opportunity for us to do the right thing, not only by reducing the bureaucracy that exists in our school education system, but to provide our schools with the flexibility and the funding to achieve a higher standard.

I urge my colleagues to support this. I urge government at all levels, who care about education, to do so by showing, in an affirmative way, that our interest is in an educated child, our interest is not in adding to well-funded bureaucracies. I urge support of this amendment.

I yield the floor.

Mr. McCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. McCONNELL. Madam President, I have listened with considerable interest to the comments of my friend and colleague from Washington with regard to his amendment. I would like to make certain that I understand what he seeks to do.

I say to my friend from Washington, is the Senator from Kentucky correct that the Gorton amendment, with the exception of IDEA, I gather—or is that still excepted?

Mr. GORTON. With the exception of IDEA impact aid, and a few other smaller categorical aid programs.

Mr. McCONNELL. Would it essentially distribute the balance of Federal educational funds for elementary and secondary education to the school districts of America?

Mr. GORTON. It would.

Mr. McCONNELL. And would it be safe to say that, in all likelihood, the school districts of the Commonwealth of Kentucky would receive more Federal assistance under the amendment of the Senator from Washington than they currently receive?

Mr. GORTON. I cannot answer that question categorically. I can say that we have something over \$11 billion in this appropriations bill, which would be distributed pursuant to this amendment. Because at the present time the administrative costs—the sand in the wheels—amounts to about 15 percent of all of the money that we as taxpayers send to Washington, DC, that goes to the Department of Education, before it gets back, the total distribution to the school districts of the United States will be more than a billion and a half dollars more than it is at the present time, which means—just in simple mathematics—that a great bulk of school districts will end up getting more money. Moreover, that 15 percent doesn't include the amount that the State superintendents of public schools take out of most of these categorical aid programs for their part of the administration at the present time, further enhancing the amount of money that will get to each individual school district.

Even having said that, I say to my friend from Kentucky, I believe the most important single element in this

bill, from the point of view of having money spent on children's education, is the removal of the huge numbers of requirements to meet the qualifications for hundreds of different categorical aid programs, which now come out of even the money that gets to the school districts, who must hire all kinds of administrators to see to it that the money is spent in this federally determined, uniform category. One school district superintendent, reported to me by one of my friends, has said something that is consistent with what I hear from my own State: "We get about 10 percent of all of the money we spend on schools from the Federal Government, but 60 percent of all of the forms we have to fill out, 60 percent of all the time we have to use, is spent accounting for that 10 percent."

So it is hard for me to imagine a school district anywhere in the country that is going to have less money to spend on the education of its children under this amendment than it does at the present time, and the overwhelming majority of them will have far more.

Mr. McCONNELL. Further, I ask my friend from Washington, a State like Kentucky, which frequently is ranked among the lowest 10 States in variety of categories, including poverty, would a State like that under the distribution formula in the amendment of the Senator from Washington also be likely to gain additional assistance over and above what is anticipated would be saved by a reduction in administrative costs here in Washington?

Mr. GORTON. Yes. I am quite certain that Kentucky would—with the exception of the modification that we made with respect to title I, where the proportions will be identical next year to what they are in the present year. We have a slight poverty-based preference in this bill. We divide the 50 States—or the 48 States other than Alaska and Hawaii—into five categories, and the 10 richest States have their allocation multiplied by .9, the 10 poorest States by 1.1, and the States in between by 1.05, 1.0, or .95, respectively, so that the student in the poor State gets a greater degree of aid than the student in a rich State.

Mr. McCONNELL. I thank my friend from Washington.

Madam President, I think the explanation of the distinguished Senator from Washington makes it quite clear that support for his amendment would mean more money for the school districts of my State of Kentucky and substantially fewer regulations with which they would have to comply.

It seems to me, Madam President, as education moves into the position of No. 1 on the interest chart of the American people, it is our responsibility here at the Federal level to think of ways that we can further enhance American education and help those who are really doing the job, which are obviously the local school districts and the parents of our country.

So I commend the Senator from Washington for a superb amendment and indicate my enthusiastic support for the Gorton amendment. I urge my colleagues, when we finally have a vote, to resoundingly support a proposal that clearly will benefit the school districts and the children of America.

Madam President, few would dispute that one of the primary concerns of American families today is the quality of education that our children receive. I am sure that other Members of the Senate have heard from concerned parents as I have. They don't understand why instruction in the most basic skills has fallen to the wayside, and they fear that a rudderless education will leave their children adrift and unprepared for the future.

Nearly everyone involved in education today—parents, teachers, administrators, and legislators—wants to improve the quality of learning in America. But the quest for education reform will only be successful if the classrooms—the classrooms—have the money they need to implement change and follow-through on the academic programming our children need.

When the Senate approves funding for education, most of our constituents believe—and trust—that those moneys are going directly to their child's school. But, the numbers show that this is not the case. An examination reveals that out of \$100 billion in Federal education support, local schools received only \$13 billion. Let me repeat—\$13 billion of \$100 billion. Where is this money going? It's supporting paper-pushing and concept discussions in the Washington, DC education offices of adults while our children starve for learning aides and chalk at home.

Senator GORTON's amendment to S. 1061 seeks to help our children by actually providing their schools with the funds we assign to them. This amendment consolidates selected Federal education funds for kindergarten through 12th grade and sends the money directly to school districts. State and local education agencies can then use these additional funds to design and operate the quality education programs families are begging for. It does not change the administration of funds for special education, professional development for teachers, adult education, education research, the national writing project, impact aid, and other similar programs.

This amendment will not undermine education in America. It seeks to strengthen a teetering educational system by focusing our resources on the construction of a firm foundation—strong schools. I am confident that Kentucky communities can use these funds to better their future. Local educators must negotiate through a teeming swamp of administrative rules and regulations in order to meet the day-to-day needs of their students. They need flexibility to implement change and determine what works. The Gorton



amendment provides the first key step to stronger schools across America—funding children's education not layers of repetitive bureaucracy. I urge my colleagues to join me in support of the Gorton amendment and its promise to help our Nation's schools fulfill their commitment to our children and communities.

Mr. HAGEL. Madam President, I take the floor this afternoon to talk about an issue that we have debated in this body all week, an issue that is as important to our Nation as these young pages who sit among us today and the future of this country, as any issue that we debate.

The issue of education is the foundation of the future of our country. At a time when our schoolchildren—over 50 million—across America are returning to school, including my 6-year-old daughter, Allyn, who started first grade last week at Great Falls, VA, elementary school, it is appropriate that we talk about education not just in terms of amendments to the appropriations bill, but we talk about education in a way that is relevant to our young people and to our future. We will continue to debate education, as we should, because not only does every home in America show, as it has shown over the years, that education is the No. 1 issue on the minds of our citizens—and well it should be—but because we spend billions of dollars on education, K through 12 and beyond.

This morning's Washington Times had two very interesting articles, one talking about the American Federation of Teachers and President Sandra Feldman discussing why our young people are not being educated.

If I might, Madam President, allow me to read the first paragraph of a story that appeared in the Washington Times this morning.

The practice of promoting students to the next grade before they are ready is "rampant across the country," according to American Federation of Teachers President Sandra Feldman.

It is a very lengthy article. Madam President, I ask unanimous consent that it be printed in the RECORD.

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

[From the Washington Times, Sept. 10, 1997]

SCHOOLS PROMOTE REGARDLESS OF MERIT—TEACHERS FEDERATION CALLS FOR STANDARDS

(By Carol Innerst)

The practice of promoting students to the next grade before they are ready is "rampant across the country," American Federation of Teachers President Sandra Feldman said yesterday.

While no school district explicitly endorses social promotion, most have an "implicit policy" encouraging it because they place limits on holding students back, she said.

"That is a clear message to promote socially," Miss Feldman said at a newsmaker luncheon at the National Press Club, where the teachers federation released a national study on student promotion policies.

Citing examples, she noted that students in Orange County, Fla., can be held back

only once in elementary school, and in New Orleans they can be retained only twice. Houston restricts retention to once in kindergarten through fourth grade and once in fifth through eighth. Other districts forbid holding back students with limited English or learning disabilities.

Simply holding students back isn't the answer either, she said. Many students are retained each year, and most do not receive the special help they need to catch up.

An estimated 15 to 19 percent of U.S. students are retained each year. In many large, urban districts, more than 50 percent of the students who enter kindergarten are likely to be retained at least once before they graduate or drop out.

The report, "Passing on Failure: District Promotion Policies and Practices," examined promotion policies at 85 school districts, including the 40 largest districts nationwide.

Locally, the study looked at public schools in the District and Montgomery, Prince Georges, Anne Arundel and Fairfax counties.

D.C. policy is "unclear as to who has the final authority for promotion decisions in all grades," the report says. It states that a student may be retained for a maximum of two years.

Prince Georges has no formal promotion policy. In Montgomery County, the principal has the final authority in promotion decisions in all grades, but there are limits on retention and for special education students.

Parents are the final authority on promotion decisions for elementary students in Anne Arundel County, the principal has the final say for junior high students and the policy is not clear at the high school level.

Fairfax County policy does not specify limitations on student retention. Promotion is based on grades for elementary and junior high students. The criteria is not clear for high school students.

Among the study's general findings:

- Some districts limit the number of times a student can be retained, prohibit retention in specific grades or set age limits to move older students along.

- Student progress often is judged according to vague and varying criteria, as in Nevada's Clark County schools where a promotion requires only that a student's "progress should be continuous and student advancement through the curriculum should be according to the student's demonstrated ability."

- Teachers play only an advisory role in promotion decisions.

- Only 15 percent of the districts mention tutoring, and 13 percent call for alternative programs and strategies such as transitional classes or extended instructional time for students who are held back. Half the policies mention summer school.

Solutions to the problem, according to Miss Feldman, involve creating rigorous grade-by-grade standards for students and ensuring that all elementary teachers are proficient in teaching reading, catching and helping struggling students early in their school careers.

"Without common standards, teachers' grades appear arbitrary—and therefore negotiable," she said. "This undermines students' motivation to work hard in school. Teachers who uphold high standards can find themselves under a lot of pressure to change grades or just pass kids on."

Mr. HAGEL. Madam President, another story in the Washington Times this morning talks about the Governor of Minnesota, Arne Carlson, who was in town yesterday, it says:

... to spread the word on how he finally made school choice a reality in his State by

finding an alternative to politically unpopular vouchers.

It goes on. I ask unanimous consent that this be printed in the RECORD.

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

[From the Washington Times, Sept. 10, 1997]

CARLSON SHARES SCHOOL-CHOICE SUCCESS STORY—MINNESOTA GOVERNOR LOST BATTLE FOR VOUCHERS BUT WON SUPPORT FOR TAX BREAKS

(By Nancy Roman and Carol Innerst)

Gov. Arne Carlson was in town to spread the word on how he finally made school choice a reality in his state by finding an alternative to politically unpopular vouchers.

Mr. Carlson said yesterday that vouchers—government education dollars that follow children to public or private schools—are the best route to school choice, but he stressed that tuition tax credits and deductions are achievable now.

At several gatherings, he told GOP policy-makers and reporters how the Minnesota Legislature, controlled by Democrats, overwhelmingly defeated his voucher proposal in 1995, so he put together a \$150 million package of tax incentives for Minnesota parents seeking alternatives to public schools.

"Vouchers were a lost battle, so we revamped, went to the tax side and put together a plan," Mr. Carlson said in a message he hopes will resonate with the public and policy-makers as Congress prepares to debate several school-choice measures.

The results in Minnesota was overwhelming support for Democrats, Republicans, rich, poor, blacks and whites for a dollar-for-dollar tax credit for families earning less than \$33,500 and a tax deduction for educational expenses of up to \$2,500 for families earning more than that.

Mr. Carlson said the trick was making sure to offer something for everyone, including suburban and rural voters and the parents of public school students.

The strategy confounded the teachers unions, which historically "opposed virtually everything" having to do with school choice, he said at a luncheon at the Heritage Foundation. "A lot of people, including Democrats, got very tired of this 'no, no, no' position of the unions."

The Minnesota plan, which goes into effect next year, allows a family to use the money for educational efforts ranging from a summer language program to a math tutor to the purchase of a home computer.

Technically, the education credit cannot be used to pay for private school tuition, but private schools can easily shift their accounting to use the credits for approved expenses such as books and transportation.

"It's a tantalizing strategy," said Jeanne Allen, the president of the Center for Education Reform, a clearinghouse on national choice issues. "But each state has to figure out its own political realities."

"There's no correlation for the District. In places with no history of tax credits, it's a tough call. In many areas, there's a need for full tuition to follow children, and the District would be one."

Paul Steidler, senior fellow at the Alexis de Tocqueville Institution, regretted that Mr. Carlson had to "back off" on vouchers but found the governor "inspiring" for his tenacity against Democratic lawmakers and the vast resources of the teachers unions.

Equally impressed, house majority Leader Dick Armey of Texas invited the governor to Washington this week to talk to fellow Republicans.

"All too often school vouchers can be thought of as a conservative notion," Mr.

Armev said. "We are finding that the idea has great appeal across the political spectrum."

Mr. Carlson said that after his defeat on vouchers he assigned two staff members to work full time on a plan offering educational choices to parents and having the political support to make it viable.

Tax breaks across the economic spectrum were the answer.

"The bulk of the public raised their eyebrows," Mr. Carlson said.

But as tests revealed that half the children in Minneapolis and St. Paul were dropping out, a third of the state's eight-graders failed a basic reading test and a fourth failed a math test, he said, the public realized something had to change.

Mr. HAGEL. Madam President, as we pick up newspapers daily across this country we don't talk of great success stories for the most part about our American education system. We talk about failures. That will be a self-fulfilling prophecy if we allow our newspapers to be consumed with what is wrong with our public educational system without focusing on not only what is right, because there are many things right with our system, but how we fix them. How do we make American education better? It is easy to criticize. But how do we make it better? It is not just money. We know that. Quite honestly, it is more important than money. There is not a parent in this country who doesn't understand that.

We need to look beyond the technicalities and the small details of the Gorton amendment, or any other amendment to the appropriations bill. We need, and we will continue, to debate a much bigger question that gets to our Nation's philosophy, our basic philosophy on education.

Who should control what our children learn and what our teachers teach? The Federal Government? I don't think so. No, I don't think so. That is not the role of the Federal Government. Our Founding Fathers gave us the answer very clearly. We need to look no further than article I and amendment 10 of the U.S. Constitution, which reserve the authority for education to the States, to the people—not to the Federal Government.

Education should be between parents, teachers, and local school boards—not the Department of Education, not the President, not the Congress, but the school boards, the teachers, the parents.

I am one Senator who wants to stop the flow of taxpayers' money, parents' money, coming to Washington, and it resides here, and all the smart people in Washington sort out for all the children of America—more than 50 million—what they should know and what teachers should teach. I want to stop that.

One, among many, reasons why I support the Gorton amendment is that I want to give the money back to the States, back to the people, back to the local school boards and the teachers. They can better spend it. They can reward teachers. They can improve our schools. They can help our students.

Who understands it better than the people who are there? I trust the people. I trust our teachers. I trust our school boards. I don't trust Government. I don't trust Government to educate our young people. Who cares most about making sure that children get a good education? Who cares most? Well, of course, the parents care most, and the teachers care most.

All parents—all parents—should have the opportunity to choose where their children go to school. It shouldn't be just for rich people. The parents pay the bills. We seem to forget that dynamic in Washington. The taxpayers, the parents of the children, pay the bill for education; for everything. Why then do we take the opportunity away from the people who pay the bill from applying their money where they think their children can get the best education? That makes sense to me.

Another reason is that I support efforts by my colleague from Georgia, Senator PAUL COVERDELL, to allow parents to use money they have saved in educational savings accounts for K through 12 education. What in the world is wrong with that? Not only does logic dictate that that makes sense, but it seems to me that it is fundamental to America. Education standards should be set locally, not imposed by the Federal Government.

We need to motivate our children to learn. We need to motivate our children to learn, not just take tests. There has been some debate lately on national testing and school standards. We are confusing the issue here by shifting the emphasis from learning to testing. We have it backward. The emphasis should not be on testing; it should be on learning. The motivation should be learning and not testing. If we institute national testing, our teachers will teach to the test. Of course, they will. Who wants to be a teacher in a school with a low standard on national testing? So if you figure out what the test is and what the testing process is and what the questions are, then you teach to the test. That is wrong. That doesn't prepare our young people.

It is time that we stop making our teachers jump through the hoops that they have been jumping through with these senseless and burdensome paperwork responsibilities and free them up to do what they can do better than anybody, and that is teach our children. Let's help our teachers teach our children. It is a novel idea. Anyone who has talked to teachers in any State, in any town, or in any community has heard all the horror stories of amounts of time they spend on wasteful, unproductive paperwork. That is time that could be spent teaching our children. We need to prepare our children to compete in a global economy in the 21st century. Just preparing them to pass a test will do nothing to ensure they have the knowledge and the skills, the abilities, to compete in a very competitive new century.

For example, if we let students off the hook in math by letting them use calculators for the most basic of problems, they will never learn, they will never grasp the logic and discipline gained through exercising good mathematics skills.

There is nothing wrong with calculators, but let us start with the basics first. Everybody knows why we have trigonometry and geometry and the advanced mathematical courses. Very few will ever use that in their professions, but it is about discipline. It is about learning. It is about pain in your mind and using your brain. Any fool can pick up a calculator. That is not what education is about. That kind of thinking, that kind of training will be vital, if we do it right, throughout the lives of our young people for what they will need to succeed in a very competitive global economy.

Where I am from in Nebraska, we call that thinking. We call that thinking. If our young people cannot read and write, they do not know much about science and math and have limited knowledge of history, economics, and geography, what chance do they have to succeed in the next century? Very little.

Preparing our children for the next century is not the job of the Federal Government. My goodness, we have not been able to balance our budget for over 30 years. That is not our job. It is the job of parents and teachers and local school boards working together to ensure that all of our children have the very best education possible and ensuring that all of our children have an opportunity to attend the school of their choice.

That is what this is about. Our Founding Fathers knew very clearly what they were doing when they determined that education should be a local issue.

It is time we get back to the fundamental principles and basics that made this a great nation. We are a great nation today not because of our Government, not because of our systems, but because of our people. Our people have, through their wisdom, through their common sense, through their hard work, their discipline, made the right choices for over 200 years. And basic to all those choices has been how you educate your children. There will be much debate, as there should be, in this Chamber over the next few days, weeks, months, and years on our philosophy about education, but let us not forget where it all resides. It resides at the local level with the parents, with the teachers, with the schools.

I wish to go on record supporting the Gorton amendment. I wish to also go on record supporting the Coverdell bill and the philosophy of local control for education.

I thank the Chair and I yield the floor.

I yield the floor.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER (Mr. BROWNBACK). The Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, I am very pleased to be able to join my colleague from the State of Washington this evening in support of and as a cosponsor of his amendment to allow resources, money, tax dollars to get to the young people of this country in a way that seems so easy and so simplistic and, yet, so right, because I suspect that the Presiding Officer, myself, and everyone on this floor believes in, and we are collectively supporters of, public education.

I happen to be a member of the Republican leadership, and I have worked hard over the last several years to make sure that education funding is one of our party's top priorities and that we, along with everyone else who serves here, are seen to be strong supporters of public education. And we do that by expanding programs where the need is, by increasing dollars, by looking at priorities. That is what we should be doing.

As a member of the Appropriations Subcommittee on Labor, Education and Human Services, I have worked to make sure that that kind of rhetoric gets translated into increases in Federal funding for education, and I am pleased that this year's bill—the one that we are currently debating—has such increases in it.

In other words, what we are doing here in the Senate is something we should be doing because the American public has asked us to do it—to examine our priorities, balance the budget, and redirect our resources and, in doing so, placing education as one of those enhanced priorities. Yet, despite all of the increases in spending, I find that teachers and parents in my State and across the Nation have not yet been able to see an improvement in their schools. There is still a high level of frustration, especially at the parental level, with the quality of education that our young people get, the method by which they are educated, and the whole combination of the environment that we call our public school system. They want to know—and I want to know—where the money goes, how the money gets spent. Why do we have a lot of people at different levels of the administrative process making decisions when, in fact, we have elected officials at the local level and professional educators who should be allowed to make the largest block of those decisions?

Now, in many instances, the Department of Education can't tell you where the money went. It doesn't get lost, it just gets administered. The fact is that between the time we appropriate it and the time a student feels the impact of it, anywhere from 15 percent up to 25 percent of the money gets lost at the Federal and State administrative levels. The Gorton amendment cuts to the chase. It basically asks us to be true to the very arguments we have placed

time and again in our town meetings and in our citizen gatherings in every State, and that is, we want local control and we want the money to get to the local level. Yet, in our desire to fund public education, we are constantly working at—if I can use the word—new schemes, new processes by which the money moves through. And in the end, as I say, as much as 25 percent doesn't get there.

As the Senator from Washington was mentioning a moment ago—and he didn't mention my name, but I was the one visiting with him the other evening in relationship to an administrator in my State. After I toured his school, he said, "You know, Larry, the Federal programs that we have just seen, some of them are very good and well meaning and are providing very valuable service to our young people, but there is a problem." I said, "What is that problem?" He said, "Well, 60 percent of the paperwork that my school has to do . . ."—and he means all of the paperwork—" . . . is spent on approximately 10 percent of the money we get, and that 10 percent is Federal money. That is about one-and-a-half staff people in time involved in the paper shuffle to get 10 percent of the money, because the programs are there and the projects are there. So they are bound to go after them."

By the way, that individual is not in the classroom teaching. That individual is sitting in an office filling out forms to identify with the Federal dollar. We all support education, but how will increases in spending make a difference if the money gets lost in the process or gets diminished dramatically in the process, at a time when we are trying to balance the budget and sort out the differences in very limited resources, trying to empower our taxpayers by letting them keep more of their hard-earned money, and still wanting to spend more on education because the public believes it is necessary, and so do we? So why can't we think of a better way to do it, instead of the schemes and the systems and the bureaucracies, when we have people who are elected at the local level, charged and empowered with the responsibility of educating young people and professionally trained educators who are there to do it, and yet the Federal system and the State systems tells them how to do it, where to do it, why to do it, and when to do it. The Gorton amendment says in a very clear way that there is a better way. Title I has been corrected, and it is important that it be corrected. The idea of funding has been exempt. Impact aid should be exempt because that speaks to the Federal presence in a given school district, a Federal presence of employees that oftentimes don't pay tax dollars by the nature of Federal property they might be on, be it a military base or an Indian reservation. And because there is a Federal presence it is important that that money be selected.

Senator GORTON has exempted that. But what he has said—and importantly

so for the rest of it—is create an equitable formula, allow the Secretary of Education to be the administrator of that formula, and pass the Federal dollars straight through to the local school districts, and each school might choose how to spend that money just a little bit differently. But they would choose it on a priority based on what was needed in that community and in that school district instead of pursuing the paper chase because there was a Federal program. And, we can get the money, but we really do not need that particular project in this district. But it is there, and we ought to apply for it because it will help fund a piece of this teacher's salary, and we can have them educate in the standard curriculum program along with the special program.

That is, of course, exactly what happens. And those are the dynamics involved. That is why Senator GORTON has brought to the floor what I think is a very clean and simple idea. We are all for public education. This amendment is about public education. It is for public education. It dramatically increases the ability to get the \$11 billion that we spend in public education to the teacher, to the school board member, and to the administrator but, most importantly, directly to the student.

In fact, the Senator, who is the primary sponsor of this, believes that it increases the amount that goes to the students by well over \$1 billion. I suspect we are going to hear arguments tonight: Well, but, but; How about; maybe, and This program is so valuable. Of course, that is the standard argument because that is the bureaucracy that has built up over the years, and we become defensive about it, if we are a creator of it, or an administrator of it.

But what we are saying here tonight is let us pass the money through the Department of Education directly to the schools, to the students, to the educators, and to the administrators, and save 15 percent in administrative costs at the Federal and the State level, increase the finite resource dollar spent by well over \$1 billion to the student, and be proud of the fact that we are strong supporters of public education but recognizing the fact that there are the professionals at the local level who know what they are doing and we are simply empowering them with more resources to do it.

I am proud to be a cosponsor of the Gorton education amendment. I hope my colleagues will join with us at the time of passage in voting for it.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The distinguished majority leader.

#### UNANIMOUS-CONSENT AGREEMENT

Mr. LOTT. Mr. President, there has been a concerted effort on all sides to work out a unanimous-consent agreement. I think it is a fair one in view of the time—and the amendments—that we have spent on this important appropriations bill, the Labor-Health and Human Services and Education bill.

We have an agreement here now that I think will allow us to complete all action on the bill before noon tomorrow. Then it would be our intent at that time to go to the Interior appropriations bill. In the middle of the afternoon we would probably go to FDA reform. There would be at least an hour of debate by Senator KENNEDY, followed by others certainly, and then we would have probably a cloture motion, and we would return to Interior appropriations.

That is not a part of the UC. There are a lot of contacts still being made on behalf of Senators on both sides of the issues involved in Interior appropriations. But I believe we have the FDA reform time, and general understanding of what we will do there.

But I just wanted to give Members some idea of what we hope our schedule will be tomorrow beyond this agreement.

I ask unanimous-consent that time on the Nickles amendment, No. 1081, be limited to 30 minutes equally divided in the usual form, and following the debate the Craig second-degree amendment, No. 1083, be agreed to, and that no other second-degree amendments be in order.

I further ask that the time on the Gregg amendment, No. 1070, as modified, be limited to 30 minutes, equally divided in the usual form, and, following the debate, the second-degree amendment, No. 1071, be withdrawn, and no other second-degree amendments be in order.

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

Mr. LOTT. I ask unanimous consent that following the debate on the Gorton amendment, No. 1122, the amendment be laid aside, and, at 10 a.m. on Thursday, the Senate proceed to vote on or in relation to the Gorton amendment, to be followed by a vote on or in relation to the Nickles amendment, to be followed by a vote on or in relation to the Gregg amendment, to be followed by third reading and final passage of S. 1061.

So we have stacked votes beginning in the morning at 10 on the amendments that are listed here, and on final passage.

Mr. FORD. Mr. President, will the distinguished majority leader consider the 2 minutes equally divided for debate just prior to the vote?

Mr. LOTT. Mr. President, certainly we should do that. I should have included that in our unanimous consent, as is always the case when we stack votes like that. We will have 2 minutes equally divided before each vote so that Members will know exactly what the substance is.

Mr. FORD. The majority leader has always been generous with that portion of it. I apologize for bringing it up.

Mr. LOTT. That is fine.

Mr. FORD. We want to be sure. So that is part of the UC agreement.

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

Mr. LOTT. I further ask that, following the passage of S. 1061, on Thursday the Senate begin consideration of S. 830, and there be 1 hour under the control of Senator KENNEDY and 1 hour under the control of Senator JEFFORDS, and, following the filing of a cloture motion by the majority leader, S. 830 be placed back on the calendar.

The PRESIDING OFFICER. Is there objection?

Mr. FORD. Reserving the right to object, Mr. President, I wonder if the leader has the language of the modification on testing? If not, I would be constrained to object unless he could modify his agreement with respect to the modification.

Mr. LOTT. Mr. President, in response to that reservation, I understand that the efforts are still underway to get agreement on the exact language. It is hoped that we will be able to get some agreement. I understand the White House is involved in that discussion, and Senators from both sides of the aisle are I think making some progress. But if that does not come to a head, I would modify then—let me put this part of the consent.

I modify the consent to reflect that, if the Gregg amendment, as modified, is not the agreed-upon text between the two leaders, then this consent agreement will be null and void.

Mr. FORD. Mr. President, I have no objection under those circumstances.

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

Mr. LOTT. Mr. President, then in light of this agreement, there will be no further votes this evening, and at 10 a.m. on Thursday, four back-to-back votes will occur. Also, for those Senators interested in the Gorton education amendment, that debate will be occurring this evening. The debate on the Teamsters issue and the testing issue will occur between 9 a.m. and 10 a.m. followed by, of course, the stacked votes.

I do want to say, Mr. President, that I appreciate the effort by Senator GORTON. I agree with the statements I heard being made by Senator CRAIG. And the idea is to get education back to the people, back to the local level, back to the parents, and the children, the teachers and administrators. Let them make the decisions of how best to spend their allocation of these Federal funds. I believe they will make the right decisions, and it will be a way to help improve education in America. It is one thing to test. But we know that our children are not doing as well as they should be. What we should be focusing on is greater parental involvement in education, and in the decisions affecting that education at the local level. This amendment would do it.

I heartily endorse the Gorton amendment.

I yield the floor.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I ask unanimous consent to add my name as a cosponsor of the Gorton amendment.

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

Mr. GRAMM. Mr. President, every once in a while a vote comes along that is a defining vote. I am sure that to a lot of people the Gorton amendment looks like a fairly simple, straightforward concept. And that concept is that we are spending a lot of money on education at the Federal level. Yet, if one looks at the 30-year history of that expenditure, Federal spending and Federal control have expanded and we have crowded out parental involvement, and the quality of American education by almost any measure has declined.

This has created a dilemma on the part of many Members of Congress. Congress and bureaucrats dictating local education priorities and programs is failing. Yet those who are concerned about education have loathed the idea of reducing the amount of resources committed by the Federal Government for a purpose that they support.

So we have been in an endless debate where everybody admits that what we are doing is failing. And, yet, we continue year after year adding more money for the very programs that we have all concluded are failing because we want to show that we support education.

For example, one of the provisions of the bill before us that I strongly oppose is bilingual education. This program has become a vehicle to keep people dependent on a language other than the language of opportunity and commerce in America. It begins to produce a society where people who do not learn English are isolated. Yet, in this bill we have a 36-percent increase in funding for bilingual education. That is the dilemma.

How can we see the money is spent efficiently, if, in fact, we want to improve the quality of education? The Gorton amendment solves the problem by eliminating the dilemma.

The Gorton amendment will spend every penny on education that this bill calls for. For poor students, it maintains the same allocation for title I.

We have already dealt with the education of disabled persons. That is outside the purview of this debate. We have recently reformed that program. It is not included.

Impact aid is given on the basis of the number of Federal employees who are working in facilities that do not pay local taxes. That is a property tax supplement. Impact Aid is not included. But nearly all other K-12 educational funding at the Federal level is included in the Gorton amendment.

So what the Gorton amendment essentially says is this: Take the amount of money that is currently being spent by Washington bureaucrats and congressional politicians and give it to the school systems. But take away all of the mandates as to how it is to be spent, and let local teachers, local parents, and locally elected school board members decide how this money is spent.

I think conservatively it has been estimated that over \$1 billion of additional spending will get through the massive web of bureaucracy, through that maze of grants and applications and bureaucratic oversight, and get to the students. I think that number is a gross underestimation.

So this is one of those votes that really defines where we stand.

Those who vote against this amendment are voting to continue a system that for 30 years has failed the children of this country, that has increasingly dictated education policy in Washington, DC, where bureaucrats and Congressmen set priorities in education and where parents are basically excluded from having a real voice in how their Federal tax money is spent and often how their State and local tax money is spent. Those who oppose the Gorton amendment are saying let's protect the status quo. Let's continue a program where Washington knows best.

Those who support the Gorton amendment are saying, look, we want to commit the money, but rather than letting Washington bureaucrats and Washington politicians decide how it is being spent, let's let local teachers, local parents, local administrators, and locally elected school board members take this money and use it in a way that maximizes the rate of return in terms of quality education that we get.

I think for years to come, people will be able to look at this vote and determine where people stand on this fundamental issue. Do you believe Washington knows best on education? Well, obviously many do. But if they do, they believe it is in spite of 30 years where the record has shown a clear failure as Washington has dictated more and more of the spending on primary and secondary education in America.

It seems to me it is very difficult based on empirical evidence to suggest that the current program really works. What the Gorton amendment says is let local people set priorities in education. The American people overwhelmingly in poll after poll believe that. I am confident that local parents in my hometown of College Station, TX, local teachers, locally elected school board members love their children at least as much as we do.

I remember once engaging in a debate with someone from the Department of Education in the early 1980's, and I made what I thought was the convincing point. I said I may be ignorant, I may not know curriculum, I may not have a Ph.D. in education, but I do love my children more than you do, to which this very sweet lady said, "No, you don't." And I said, "Then what are their names?" She loved them but not enough to know their names.

So I am confident that people in my hometown care more about the quality of education their children receive than we do. I am convinced that if we give them the same money we are giv-

ing them now but we let them decide how to spend it, they will do a better job.

It is not going to do us much good to have the Department of Education or some surrogate create a test to give students, then discover that our schools are failing to teach our children. We already know that. Nothing is more documented in the country than the fact that public education is failing, especially in the big cities. The question is what are we going to do about it?

The Gorton amendment says let us in a very simple way fundamentally begin to change the equation. It is only the first step. If we give the money directly to the school system, then you have to ask, what do we need all these bureaucrats for? Perhaps next year we can go back and take the money we are spending on all the people who administer these programs and give that money to the school system and thereby greatly multiply our efforts.

So I am proud of this amendment. I think this is a defining amendment. I think how you stand on this amendment basically says whether you believe that Washington knows best or whether you believe that local parents, local teachers, locally elected school board members know best and care most. I do not have any doubt about the answer to that question. That is why I am for the Gorton amendment. I hope it will pass.

I yield the floor.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, I rise in order to offer support for the principles outlined in the legislation submitted by my friend from the State of Washington, Senator GORTON. This amendment begins to bring about some very needed reform to give youngsters in our public education institutions, particularly so many in our large metropolitan areas and our inner core cities, the needed reforms that are long overdue.

What we are saying is that we want to see to it that the money gets into the classroom, that we empower good teachers to teach, that we give to the local districts the opportunity to direct the resources they need.

The amendment combines all of the Federal funds devoted to education, with several large exceptions, into block grants. The Secretary of Education is then required to distribute the consolidated funds directly to each school district through a formula outlined in the bill. Now, under this innovative approach, the Federal funds will be distributed directly to school districts, and it will be used in classrooms and no longer will Washington bureaucrats be dictating how schools use scarce resources. We need to empower local educators, and more importantly, parents and teachers, with the ability to bring the kind of education to youngsters that has been lost to many for so long.

I feel very strongly that we have to maximize resources and to return to citizens the ability to give educational opportunity to their children. It is clear that this country has now begun a long overdue debate on the future of public education, and I strongly believe that we need fundamental reforms that will give to our children what they need and deserve.

I have proposed five fundamental reforms which I hope we can make part of our educational mission, not necessarily by legislation, but as guiding principles.

First, you cannot give youngsters an educational opportunity unless we get violent and disruptive juveniles out of the classrooms so that teachers can teach and good students can learn.

A little over a week ago there was an article in the New York Times about crime in the schools, and according to New York City Chancellor Rudy Crew, last year there was a total of 22,615 reported—I say "reported" because we don't know how many were unreported—incidents including one murder, 221 sexual assaults including rape, and nearly 1,000 other physical assaults. That is outrageous. We are talking about schools that are supposed to be sanctuaries and havens for our children. How can teachers teach good youngsters with that taking place? Yet in district after district, State after State, we find parents unable to secure for their children a safe environment. Disruptive juveniles are permitted to stay in the classroom and create chaos to keep others from getting the education that they deserve. How can good teachers teach in those kinds of circumstances?

Second, talking about good teachers—and there are many, many—how do we reward good teachers when they are all treated the same? It is about time we rewarded outstanding teachers for their good performance with merit pay. What do we hear in response to that? I hear the president of the teachers' union say, "We are opposed to merit pay." Imagine, opposed to giving merit pay to good teachers.

Instead, what the union does is protect its own perks without making determinations about rewarding good teachers. We have outmoded tenure systems in State after State. In my State, the teachers' union protects incompetence, notwithstanding that the school board associations have begged, have pleaded, have said give us renewable tenure, tenure for 5 years so that we can review someone's performance. Now we lock in incompetence. We reward it. You have unions that are more interested in protecting the perks and the privileges of their members, not rewarding outstanding teachers, those teachers who come in early, those teachers who work with our youngsters, those teachers who stay after school, who give additional thought, who are inspirations—and there are so many. No, they are not rewarded with merit pay, but incompetents are protected.

We need to give parents more control over their children's education, and that means letting parents choose which public school in their own school districts their children can attend. Bring about competition. Do not assign, particularly working poor families, to the worst of public education systems without the choice or without the ability or without the financial means to give their children an educational opportunity, but give them choice.

By the way, in areas where this has been effected, it has worked. It has worked in East Harlem, and it can work elsewhere. In fact, there are at least four other examples of New York districts that are experimenting with similar interdistrict programs, and they work. It will let us empower parents to make educational choices for their children, and particularly those who are not of great affluence.

Finally, we need to put our children first and stand up to those special interests, which are teachers unions that are more interested in pay and perks than they are in good education for our children, and reward those teachers who are excellent and should deserve that recognition. I am strongly supportive of the principles of this amendment.

I have to ask my good friend and colleague, though, Senator GORTON, what, if anything, in the bill will see to it that the districts that will be receiving these moneys will not be impaired and that they will get at least as much in terms of funding under this proposal as they received in the past? I think that is a very important element.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, the statement by my friend and colleague from New York on educational policy is greatly to be commended. He set out a vision that I think is a magnificent one for parents and students and teachers and all interested in education all across the United States.

As he pointed out, this amendment is not directed at all of those goals by any stretch of the imagination but is focused on the goal of trusting to a far greater extent than we have in the past the wisdom of the parents and the teachers and the administrators and local school board members in each of the thousands of school districts in the United States with respect to what best can advance the education of the students for which they are responsible.

The principal goal of my amendment is to remove these thousands of pages of regulations and detailed supervision, frequently on a one-size-fits-all basis, directed from on high here in Washington, DC, at urban, rural and suburban school districts all across the United States.

Already, this amendment has been improved by suggestions by the Senator from New York and others with

respect to title I. And he has now asked the question that was asked by the Senator from Kentucky in a slightly different form—each Senator, while he or she has strong general ideas, also represents particular constituencies in the particular State—as to whether or not it is possible to see to it that as we move into this situation we do not have States that are huge losers as well as winners.

It is my opinion—it is the reason that I introduced this amendment—that every school district in every State in the United States should be a winner in two ways. First, because so much less money has to be spent on administration that more dollars would actually get down to individual students; but, second, because these mountains of regulations and impositions from the Federal Government on local school districts will be removed, the use of the same number of dollars would be far more effective in the ultimate educational result.

But, since that is much more important than the formula, the Senator from New York has said, "Can't we hold harmless each of the States, at least?" I think we can only do it by States, because now so much of this money doesn't go to school districts, it goes to the States. The States distribute it. And, on reflection, I think he is right. I think he is correct in that.

So, I will ask the indulgence of my colleagues to send one more modification to the desk. Before I send it to the desk I think I just simply ought to read it for their approval. It would be that:

Notwithstanding any other provision of this section, the total amount awarded to local education agencies in each State under this section shall not be less than the net dollars that State would have received absent the provisions of this section.

What does that mean? That means that roughly 85 percent of the money, the money that now gets out of Washington, DC, would be distributed just as it is at the present time. The other 15 percent, or the great bulk of that 15 percent that is no longer needed for all of the bureaucrats writing and enforcing these regulations here, would go in the way in which the rest of the amendment describes.

I think probably that makes even more forceful the point that I have made from the very beginning of this debate, that its primary goal is to see to it that we allow the decisions about the way the money is spent to be made by the people who are actually spending it and actually providing the education. My own opinion is that's far more important, even, than the billion-plus dollars that would be distributed to the various States because of the smaller expenses of administration. I think this meets with the suggestion the Senator from New York made, and I would like to ask for his comments on it.

Mr. D'AMATO. It certainly does. Mr. President, once again, I want to com-

mend Senator GORTON for his willingness to look at a problem that he has worked on for a long time, in terms of solving it, and having that flexibility of recognizing that there are complexities and ways to deal with this. I applaud the modification that the Senator has indicated he is willing to make because we now assure against the argument that, "Oh, this may cost us money." Indeed, I think what the implementation of his legislative proposals will demonstrate is that not only do you get at least the amount of money that we are talking about now, but absent the red tape, absent the administration—both from Washington and at the local levels, that schools are burdened with, hours and hours, and thousands of people nationwide who are just working on filling out forms and sending them back and forth—those wasted hours and resources can be used and directed much better to meet the educational needs that our youngsters have. We are talking about empowering the local districts, parents, and good teachers to utilize these scarce resources.

It is literally finding over \$1.5 billion. That is what the import of the Senator's message is here, giving that kind of resource; and, more important than just the money, is the tools to direct how these moneys will best be used, the resources to give the best education to youngsters—maybe determine in certain areas they need more computers, maybe in another area they need more books, maybe in another area there are some remedial requirements that are necessary. Whatever it is, those decisions should be made by the parents, by the educators, by the local superintendents, by the local districts, and not on high from Washington and not burdened with all kinds of reporting requirements that do nothing to educate our kids.

So, if the Senator goes forward with that, I commend him for his initial undertaking and for the fact that he has demonstrated that he has a willingness to meet the needs of the entire educational community and see to it that the resources get there, and that no one can make the argument, "Oh, in my school district our children will not get the resources that they are entitled to, or they will get less." This modification that he suggests will assure that. I am deeply appreciative of his sensitivity; more important, of his leadership in this important area.

There is no area more vital. Our public educational institutions, on the elementary level, have been suffering mightily throughout this country, particularly in the large metropolitan areas and our inner core cities, since so many working families are deprived of choice, are deprived of opportunity, are deprived of giving their youngsters a good education that we have had in the past.

I might make one comment. I am struck by the deterioration in our public schools, again: Because of disruptive students—you can't get them out

of class; you should be able to get them out of class—because we have not given and empowered good teachers with the kind of recognition and good pay that they need, because we have protected incompetents with outmoded tenure laws, because we stripped away the ability to make choices.

When my dad was in elementary school 75 years ago, when he first entered elementary school—and it was even a little more than that, almost 80 years ago—he didn't speak a word of English. His mom and pop had just come to this country. They lived in a ghetto, in a poor community. No one spoke English there. When he went to grammar school he flunked English right throughout. But he had teachers who were dedicated, willing, who persevered. And they were interested in giving those youngsters who came from all kinds of diverse backgrounds the best education. Let me tell you, disruptive kids—and they had disruptive kids—were not tolerated, nor their conduct.

As a result of that, over a period of time, going to summer school and with help, he graduated, went on to a State teachers college. He majored in English because the people who worked with him were an inspiration to him. That is the story of so many of our grandparents and parents, who had that great educational opportunity in our public schools. That is an opportunity that all too often, in too many of our communities, is lacking. It is one that we have an obligation to fight for and to bring about. We have to empower local educators, local decisions, parents, so the good children can get that opportunity that was available many years ago and unfortunately, in too many cases, is not available now.

So I commend the Senator for his excellent amendment and his initiatives and look forward to working with him.

Mr. KENNEDY. Mr. President, I strongly oppose the Gorton amendment because it hurts students and goes against the Nation's commitment to helping poor and educationally disadvantaged students who need our strong support. It also undermines the partnerships that have been created by Federal, State, and local education agencies to improve all schools for all children.

We all agree that education is a local responsibility. But the States and the Federal Government are important partners in helping to improve education for all children. We all need to work together to improve the Nation's public schools.

This amendment rejects that basic principle. It shifts Federal dollars away from the neediest communities to the wealthier ones. It destroys carefully crafted and widely supported Federal programs. And it undermines the States' roles as vital partners in improving the achievement of all students.

This amendment would strip the States of their ability to integrate Fed-

eral funds with innovative State programs and State standards. Most of the small portion of Federal funding that is retained by the States under current law—only 6 percent—supports technical assistance and training for local school districts that do not have the expertise, resources, or desire to conduct such training themselves.

Currently, Federal funds are offering a helping hand to local school districts in meeting high priority responsibilities important to the Nation as whole. The funds help schools and school districts improve reading and math skills of disadvantaged students, help teachers get the extra skills they need to teach all children to higher standards, help communities create safe and drug-free schools, and help communities modernize their schools. This amendment would take away Federal funding for these crucial, targeted purposes to help children who need it most, but who are often short-changed under current State and local law.

Contrary to arguments made by proponents of the amendment, Federal education laws are more flexible and school-friendly than ever before. States and local education agencies are working in closer and more effective cooperation. The result is that schools are doing a better job of helping all children meet higher standards of achievement. The Federal-State-local partnership in education isn't broken and the amendment can't fix it. Congress should be doing all it can to strengthen that partnership, not destroy it.

As a nation, we have made a commitment to help all students have the opportunity to get a good education. We have a responsibility to make sure that public tax dollars are well spent. This amendment provides no accountability for how these dollars are spent. Reforming the Federal role in education does not mean abdicating that role.

This amendment is the wrong direction for the Nation's children and the wrong direction for education. It is not an attempt to offer a helping hand to local schools. It is simply a thinly veiled attempt to dismantle the Federal role in education.

We should support efforts to improve education for all students, not undermine them. I urge my colleagues to oppose the Gorton amendment.

Mr. HARKIN. Mr. President, the amendment fundamentally alters the distribution of Federal education funds by converting a poverty based formula to a general aid formula. This is major change in Federal education policy and there has not been a single hearing on the impact or advisability of such a change.

The Senator from Washington said it is his goal to get more money into the classroom. However, I wonder how there can be any such assurance since his amendment eliminates the requirement that Federal funds must supplement and not supplant existing education funds. We all know that dollars

are fungible and there is nothing to prevent a state from merely reducing State Support for education and spending more money for other worthy things like roads and bridges.

The 1994 reauthorization of the Elementary and Secondary Education Act provided schools with greater flexibility, especially with respect to title I. These changes are working.

As Federal lawmakers, we have a responsibility to make sure the Federal dollar is well spent. This amendment undermines the provisions of the 1994 reauthorization of the Elementary and Secondary Education Act to improve accountability of Federal education programs.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Two mechanical matters. First of all, I ask unanimous consent that Senators DOMENICI, ABRAHAM, CRAIG, and SMITH of Oregon be added as cosponsors, if they are not already cosponsors of the modified amendment.

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

MODIFICATION TO AMENDMENT NO. 1122

Mr. GORTON. Second, I send the modification I just discussed to the desk and ask unanimous consent it be included.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The modification to the amendment (No. 1122) is as follows:

Insert between lines 22 and 23 on page 6: (h) notwithstanding any other provisions of this section, the total amount awarded to local education agencies in each state under this section shall not be less than the net dollars that state would have received absent the provisions of this section. Old subsection (h) relettered subsection (i).

Mr. D'AMATO. Might I ask I be also included as an original cosponsor.

Mr. GORTON. I make that request.

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

Mr. D'AMATO. I thank the Senator.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I compliment my colleague from Washington, Senator GORTON, for an outstanding amendment. Every once in a while we will vote on an amendment that will make a significant difference in our lives and the lives of our families, and this is just such an amendment. This is an amendment that says local school boards, local school districts and parents will be making decisions instead of Washington, DC.

I remember when we debated welfare reform and I asked my staff: How many Federal welfare programs do we have? I was thinking maybe we had 60 or something. It turned out we had 350-some Federal welfare programs. They were stacked on top of each other and, frankly, people could qualify for any number of programs, multiple programs.

Then I remember we started talking about education. I asked somebody how



many programs do we have and how much money are we spending in education? And my staff sent me back: Well, there's hundreds of programs and we spend almost \$100 billion.

I thought, "Well, I don't really think that's the case. We don't spend that much in the Department of Education. And we don't spend that much—I know we have other education programs in other agencies, but surely that is an exaggeration. Maybe that was something that some right-wing Rush Limbaugh group or somebody made up." So I asked the question and we did some homework and we got some information from CRS.

This is a listing of all the Federal education programs. It is a big list. There are 788 Federal education programs. I don't care how bright anyone is, there is no one person who can keep track of all these programs. These are all Federal education programs.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point—not this lengthy list, because I don't want to charge the Government that much—but a little summary of the list by departments, programs, and funding; and also by category; the listing and the amount of money spent on Federal education programs.

I ask unanimous consent to have these printed in the RECORD at the close of my statement.

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

(See exhibit 1.)

Mr. NICKLES. To outline just a little bit, the Department of Education has 307 education programs and spends a little over \$59 billion. The Department of Health and Human Services has 172 Federal education programs, that costs \$8.6 billion. The Department of Labor has 21 at a cost of \$5.4 billion, and I can go on down the list but we have had it printed in the RECORD. It is a total of 788 programs; a total cost of almost \$97 billion a year. I found that hard to believe, and I served on the Budget Committee for years and thought I knew a little bit about Federal budgeting. But I started looking at these figures, and they are astronomical.

Mr. President, we have had this information printed in the RECORD. I hope my colleagues will pay a little attention to it. I hope as a result of that they will realize there is no way in the world that we, on the Federal level, from Washington, DC, can micromanage 788 programs.

The amendment of the Senator from Washington says let's let the local school boards do it. Let's put this money, with a few exemptions—impact aid and a couple of other exceptions that maybe really have Federal cause—let's exempt them. But for the most part, let's take the balance of them, 788 programs, and put that money together and turn it over to the local school boards and to the parents and to the teachers where they can really do some quality education. They know what

works. Frankly, what works in Oklahoma may be different than what works in New York, what works in Arizona.

So I think my colleague from Washington has an outstanding amendment. I hope and urge my colleagues to support it. I hope it will be adopted tomorrow morning.

I complement him for his outstanding work and hope this amendment passes. I believe, if it passes, it will make a very positive contribution towards improving education throughout this country.

I yield the floor.

#### EXHIBIT 1

#### FEDERAL EDUCATION PROGRAMS BY CATEGORY

Category	No. of Programs	Funding
Construction .....	9	\$627,096,000
Education Research .....	14	841,534,000
General Education .....	52	684,250,501
K12 .....	181	25,920,623,342
Libraries .....	9	249,869,103
OMB 1&2 .....	33	577,929,000
Professional Development/Teacher Training .....	60	731,528,342
Postsecondary .....	259	44,765,196,759
Preschool .....	17	5,770,992,000
Research .....	27	1,711,255,000
Social Services .....	42	6,790,978,287
Training .....	79	8,178,372,048
Set Asides .....	6	19,719,038
Total .....	788	96,869,343,420

#### DEPARTMENTS, PROGRAMS AND FUNDING

Department	No. of Programs	Federal dollars
Appalachian Regional Commission .....	2	\$2,000,000
Barry Goldwater Scholarship Program .....	1	2,900,000
Christopher Columbus Fellowship Program .....	1	0
Corporation for National Service .....	11	501,130,000
Department of Education .....	307	59,045,043,938
Department of Commerce .....	20	156,455,000
Department of Defense .....	15	2,815,320,854
Department of Energy .....	22	36,700,000
Department of Health and Human Services .....	172	8,661,006,166
Department of Housing and Urban Development .....	9	81,800,000
Department of Interior .....	27	555,565,000
Department of Justice .....	21	755,447,149
Department of the Treasury .....	1	11,000,000
Department of Labor .....	21	5,474,039,000
Department of Transportation .....	19	121,672,000
Department of Veterans' Affairs .....	6	1,436,074,000
Environmental Protection Agency .....	4	11,103,800
Federal Emergency Management Administration .....	6	118,512,000
General Services Administration .....	1	0
Government Printing Office .....	2	24,756,000
Harry Truman Scholarship Foundation .....	1	3,187,000
James Madison Memorial Fellowship Program .....	1	2,000,000
Library of Congress .....	5	194,822,103
National Aeronautics and Space Administration .....	12	153,300,000
National Archives .....	2	5,000,000
National Institute for Literacy .....	1	4,491,000
National Council on Disability .....	1	200,000
National Endowment for the Arts/Humanities .....	13	103,219,000
National Science Foundation .....	15	2,939,230,000
Nuclear Regulatory Commission .....	3	6,944,000
National Gallery of Art .....	1	750,000
Office of Personnel Management .....	1	0
Small Business Administration .....	2	73,540,000
Smithsonian .....	14	3,276,000
Social Security Administration .....	1	85,700,000
State Department .....	1	0
United States Information Agency .....	8	125,558,000
United States Institute for Peace .....	4	3,371,000
United States Department of Agriculture .....	33	13,339,630,410
U.S. Agency for International Development .....	1	14,600,000
Total .....	788	96,869,343,420

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. SMITH of Oregon). Without objection, it is so ordered.

Mr. GORTON. Mr. President, I see no overriding reason to extend this debate. I want to thank the large number of my colleagues who have come to the floor, many of them greatly to their inconvenience, during the course of this evening to speak in favor of my ideas, and the significant number who, at one time or another during the course of the last 3 days, have spoken on it at other times.

I am prepared now to summarize the reasons for favoring the amendment, to defer to Senator JEFFORDS from Vermont, who will oppose the amendment, and perhaps take the opportunity to close very briefly and to announce, as I understand it, there is no further business to come before the Senate this evening except for a little wrapup which I will undertake.

The Senator from Oklahoma spoke about a study that I believe was prepared by a very thoughtful Member of the House on the total number of Federal education programs, and the number approaches almost 800. He also spoke of almost \$100 billion that were spent on these programs. That is a longer list and a larger amount of money than is involved in this amendment because, of course, it includes higher education, it includes preschool education, like Head Start, and it includes a number of education and training programs managed by departments other than the Department of Education.

I think that many of those programs could be and should be equally integrated into the formula that I have posed here, but I simply lacked the ability to analyze each of those 760 or 788 programs. So what we have done is to take the principal kindergarten through 12th grade programs administered by the U.S. Department of Education, with the exception of the Individuals With Disabilities Education Act, which we debated very thoroughly in the Senate a few months ago, impact aid and a few other programs which don't fit well into this formula, and to say that instead of continuing dozens of narrow, categorical aid programs to education, each managed by its own bureaucracy not just here in Washington, DC, but in State capitals and in school district offices all across the country, each with its own requirements, each presenting to school districts the risk that they may inadvertently spend some of the money on an educational purpose other than that outlined in the statute, and consolidating all of them into one appropriation which will total something over \$11 billion and stating that once each State has received the net amount of money that it would get under present law, that all of the money will be distributed not to State education agencies, but to local school districts on the basis of the number of students each of those school districts serve, with some slight preferences for school districts in poorer States and with the changes I have already described in title I.

One of the goals of this amendment, Mr. President, is to see to it that our school districts get more money, and get more money they will, because close to 15 percent of all of the money that we appropriate at the present time stays in administration in Washington, DC, or close to Washington, DC. More of it sticks in our State capitals with the administrators of school programs in each of those States, not so much because the State capitals want to stick it there, but because they have to meet the multitudinous requirements in Federal statutes and regulations. And much more of it must be spent by school districts, not on education, but on complying with these hundreds of pages of statutory and administrative requirements.

So if this amendment is adopted, school districts will have more money to spend on educating children in an aggregate amount of well over \$1 billion, and I suspect probably \$2 or \$3 billion out of the \$11 billion. But I think more important than even the extra money is the freedom that we will give to the people who are actually providing our children with their education: their teachers, with the contributions that come from active and concerned parents, the principals and other administrators of our schools, the elected school board members who almost, without exception, serve without pay. They will be empowered by this legislation to determine in each case how best to meet their educational goals, how best to meet standards imposed by the States or, in some cases, by the Federal Government, general standards of how well people should be educated, not detailed standards of how money should be spent.

So, in summary, seeing my friend and colleague from Vermont here, I simply want to present the issue in these terms: Do we believe that fundamental educational policies and procedures are best determined by those who are closest to the students—their parents and teachers and administrators—or do we believe that those policies are best determined on the floor of this U.S. Senate or by the bureaucrats of the U.S. Department of Education? To the extent that we hold the latter belief, of course, this amendment is unacceptable. I don't think that that belief is warranted. I don't think it is shared by other than a relatively small minority of the American people. In a free country, in a free society, we trust the people, and that's exactly what this amendment proposes to do.

Mr. JEFFORDS addressed the Chair. The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I rise in opposition to the amendment. I know the intentions of the Senator are certainly the best in wanting to assist our local governments in having a better handle on their educational situation. However, I want to point out several problems with the amendment. I will also say that, given the modifica-

tions that have been made, my opposition, as far as the energy involved, has been diminished substantially. Now, we are now talking about only \$4 billion, whereas originally the figure was closer to \$12 billion.

Even with those modifications having been made, I still want to raise my colleagues' understanding of what this amendment does.

A lot of the discussion has been about doing away with Federal involvement, but what the amendment really tends to do is to turn over to local governments functions that are now handled by the States. With the modifications, this is somewhat less the case.

As a Republican, I have the feeling that the States are better able to control, to help, and otherwise assist local schools than is the Federal Government. This amendment shifts some responsibilities back to the local governments, but also shifts a great bulk of it back to the Federal Government. For that reason, I am a little bit ambivalent as to how serious I consider this amendment.

I would like to point out one thing that does alarm me, as someone who believes that the States should have more control over things, and that is the fact that the control that we give back to the local governments is very precarious. If you read the amendment, the amendment says:

Notwithstanding any other provision of law, the Secretary of Education shall award the total amount of funds described.

I will recount a problem I once had. I had a wonderful amendment to reorder the Nation's priorities in energy. I worked with the committee that handled energy. They adopted all my points, and I thought I had a great victory. Then they said, "Gee, Jim, all we did was change one word in the amendment."

I said, "What was that?"

They changed "shall" to "may."

Now, if you were to take your language here and change "shall" to "may," then the Secretary of Education would have complete control of all these funds. It leaves us in a precarious situation when, with one word, you can change the total impact of this amendment.

As far as the full impact now, as I mentioned earlier, when you take out title I, you take out a huge, huge chunk of money. When you add to that the programs which were excluded from the original amendment, such as IDEA and 50 percent of voc-ed and several other programs, you end up with this amendment affecting a mere \$4 billion of the roughly \$20 billion made available under this bill for elementary and secondary education programs. So my vigor has diminished substantially.

But let me also point out that, without any guidelines to the local governments, funding for those programs which are included in the amendment and which is now targetted to try to help special bodies of individuals—Indians or whomever else—can be used in any way whatsoever.

I remember back when we had revenue sharing. What an embarrassment that turned out to be. I was a great one for revenue sharing: Send it back to the local governments. We found that, instead of doing the things we thought they would do with it, they built skating rinks, fish ponds and others things. So we said, "Gee, we better take it back."

I wish I had that much confidence that local governments would make the optimum use of general Federal funds for education. However, they have tight budgets. In my State, almost every town in the State is having a problem with its education budget because of its impact on property taxes.

There is nothing in the amendment about a maintenance of effort. You don't have to use the funds for additional education programs. You can take that money and replace the tax funds now being used. You don't have to improve your schools at all. You can just merely reduce the property taxes to the people in the community. I bet you, if we pass this and it becomes law, that a few years from now we will find out almost all the money went to property tax relief.

The problems of education are at the local level. They are not at the Federal level. They are at the local level. We argue about how much the Federal Government should influence the decisions of local governments, but what we have to do is give the local governments the ability, through professional development and assistance from the States, to try to make sure that they are living up to the obligation of educating our children.

In this Nation right now, 51 percent of the kids who graduate from high school graduate functionally illiterate. We are way in the back, almost last among the more developed nations, in math. We have right now 190,000 jobs in the information-technology area alone for which we can't find people who have the skills to fill them. In Europe and Asia, those skills are taught in high school.

Is giving money back to localities going to make a difference? I don't believe so. So I am afraid what we have here is a well-intentioned amendment which could backfire completely by a change in one word.

Let me also say that, although this amendment will not get enacted because it is veto bait, imagine yourself back home after you have voted for this amendment. You are out there, you are debating your opponent, and you say you are in favor of this amendment. He then brings up the amendment and reads it, without knowing the implications: "Notwithstanding any other provision of law, the Secretary of Education shall award all the money."

You can argue, but you know how it is trying to argue in a political situation by saying that the language is not really what it meant; that's what it says.

So, I just think we are not going to accomplish anything of any great dimension in terms of the intent of the amendment—to give the local communities more flexibility with spending. We have cut the States out, and we have a direct linkage now between the Secretary of Education and every local school district—with language just open, ripe for being changed from “shall” to “may” if we should ever lose the majority here.

Reluctantly, I have concluded that this amendment would be a very serious mistake if we were to pass it.

I yield the floor.

Mr. GORTON. Mr. President, I believe my friend and colleague from Vermont has stated the arguments on his side forcefully and eloquently and has illustrated, as I hope I have, the fundamental philosophical differences over this amendment, over any amendment that is even remotely similar to this.

The Senator from Vermont believes that a large number of educational priorities ought to be set here in the Congress of the United States by the Secretary of Education and the people who work in his department. Certainly there is an appropriate theory in this country that that is true, that the U.S. Department of Education ought to be able to impose significant controls over State departments of education and even more detailed controls over every school district in the United States, and that in the absence of such requirements not only will money be wasted but the quality of the educational product will be depreciated, will be less.

I don't know that there is much out there in the educational field that indicates any huge degree of success on the part of this top-down set of educational priorities. But nonetheless, it is possible to make such an argument.

My argument, and this is where the Senator from Vermont and I disagree, is that I believe informed parents, informed teachers who are in the classroom every single day of their professional lives, informed and dedicated administrators and school board members, most of whom are elected to non-paying jobs, not only have an interest in the quality of education that they supply to their children, their students, the young people in their community, but that they are better able to determine how the money they have from whatever source is spent toward those ends than can we here, or anyone in a Washington, DC bureaucracy.

As a consequence, this amendment says get rid of the regulations that apply to the programs that are covered by it, distribute the money directly to the school districts that are providing education and let them spend it as they will.

At one level, of course, that does bypass State education entities in order that they not spend any of the money or hold any of it back, but it does not prevent any State education entity

from saying you have to instruct the mathematics, history, whatever they wish to do, to set a curriculum, much of which is set by the States.

It just says with Federal money, the Federal Government is not going to tell you how to spend it. It is as simple as that.

We are not talking about local governments. The phrase in this amendment is “local education agencies.” By and large, though not entirely, single-purpose school districts.

To say what this really means is that people in these local communities will immediately take the new money and not spend it on education but do something else with it or provide property tax relief, in my view, evidences a great lack of trust in the fact that our citizens care about the education of their children.

I think we know from all of the surveys in which we engage, from all the speeches we make, from all the people we listen to, that our citizens care very deeply about the education of their children, and to say if we do not force them to spend money in particular ways here in Washington, DC, they will not spend it at all, that they will ignore our kids, is without any evidence, in fact, in the real world.

Much of this money is getting through to these school districts right now. I differ with the Senator from Vermont on how much we are talking about. We have not, by any of the changes of this amendment, taken out impact aid, disability education, or 50 percent of local education. They were never in the first version.

With respect to title I, we have not taken it out. We just have a somewhat different distribution formula. The same number of dollars is involved now as when I first discussed it earlier. The point, roughly 85 percent of this money is somehow or another getting at least down to the State level at the present time. Added money that school districts will get will be the money we save in administration here and in State capitals. I am convinced it will all go into the education of our children. But the number of dollars, the additional dollars, even if they can be measured, will not be nearly as important as the removal of Federal regulatory detail.

The Senator from Idaho described the situation in one of his districts, which I believe is pretty close to universal: 10 percent of the money comes from the Federal Government and 60 percent of the rules. That is a terrible imbalance. We would like to get rid of almost all of those 60 percent of the rules and power our school districts, power our teachers, and power our parents and see whether or not they cannot do a somewhat better job than the rather poor job we have done so far ourselves.

I yield the floor.

AMENDMENT NO. 1090 WITHDRAWN

Mr. GORTON. Mr. President, on behalf of Senator MACK, I ask unanimous consent amendment No. 1090 be withdrawn.

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

AMENDMENT NO. 1110

Mr. GORTON. Mr. President, I ask unanimous consent the pending amendments be set aside and the Senate turn to consideration of amendment No. 1110 to S. 1061.

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

AMENDMENT NO. 1110, AS MODIFIED

Mr. GORTON. Mr. President I send a modification to the amendment to the desk.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment (1110), as modified, is as follows:

On page 9, line 11, strike “\$3,292,476,000” and insert in lieu thereof: “\$3,288,476,000”.

On page 10, line 18, strike “\$216,333,000” and insert in lieu thereof: “\$212,333,000”.

On page 12, line 11, strike “\$84,308,000” and insert in lieu thereof: “\$88,308,000”.

Mr. GORTON. This amendment provides \$4 million to the Department of Labor for the administration of the welfare-to-work job training program authorized and funded in the recently enacted Balanced Budget Act of 1997.

The administration had requested \$6.2 million but the level was reduced in the amendment because of concerns raised by the Finance Committee.

The additional funds are fully offsetted.

The amendment has been cleared on both sides. I urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1110), as modified, was agreed to.

#### MORNING BUSINESS

Mr. GORTON. I ask unanimous consent there now be a period for the transaction of morning business with Senators permitted to speak for up to 5 minutes each.

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

#### APPOINTMENTS BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to 22 U.S.C. 276d-276g, as amended, appoints the following Senators as members of the Senate delegation to the Canada-United States Interparliamentary Group during the 1st session of the 105th Congress, to be held in Nova Scotia and Prince Edward Island, Canada, September 11 through 15, 1997:

The Senator from Washington [Mrs. MURRAY], Vice Chair; the Senator from Maryland [Mr. SARBANES]; and the Senator from Hawaii [Mr. AKAKA].

#### THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Tuesday,

September 9, 1997, the Federal debt stood at \$5,408,443,156,374.66. (Five trillion, four hundred eight billion, four hundred forty-three million, one hundred fifty-six thousand, three hundred seventy-four dollars and sixty-six cents)

Five years ago, September 9, 1992, the Federal debt stood at \$4,038,419,000,000. (Four trillion, thirty-eight billion, four hundred nineteen million)

Ten years ago, September 9, 1987, the Federal debt stood at \$2,359,979,000,000. (Two trillion, three hundred fifty-nine billion, nine hundred seventy-nine million)

Fifteen years ago, September 9, 1982, the Federal debt stood at \$1,110,794,000,000 (One trillion, one hundred ten billion, seven hundred ninety-four million) which reflects a debt increase of more than \$4 trillion—\$4,297,649,156,374.66 (Four trillion, two hundred ninety-seven billion, six hundred forty-nine million, one hundred fifty-six thousand, three hundred seventy-four dollars and sixty-six cents) during the past 15 years.

#### MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

##### EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on Armed Services.

(The nominations received today are printed at the end of the Senate proceedings.)

#### REPORT RELATIVE TO TELECOMMUNICATIONS SERVICES—MESSAGE FROM THE PRESIDENT—PM 64

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 Foreign Relations.

##### *To the Congress of the United States:*

This report is submitted pursuant to 1705(e)(6) of the Cuban Democracy Act of 1992, 22 U.S.C. 6004(e)(6) (the "CDA"), as amended by section 102(g) of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996, Public Law 104-114 (March 12, 1996), 110 Stat. 785, 22 U.S.C. 6021-91 (the "LIBERTAD Act"), which requires that I report to the Congress on a semiannual basis detailing payments made to Cuba by any United States person as a result of the provision of telecommunications services authorized by this subsection.

The CDA, which provides that telecommunications services are permitted between the United States and Cuba, specifically authorizes the President to provide for payments to Cuba by li-

cense. The CDA states that licenses may be issued for full or partial settlement of telecommunications services with Cuba, but may not require any withdrawal from a blocked account. Following enactment of the CDA on October 23, 1992, a number of U.S. telecommunications companies successfully negotiated agreements to provide telecommunications services between the United States and Cuba consistent with policy guidelines developed by the Department of State and the Federal Communications Commission.

Subsequent to enactment of the CDA, the Department of the Treasury's Office of Foreign Assets Control (OFAC) amended the Cuban Assets Control Regulations, 31 C.F.R. Part 515 (the "CACR"), to provide for specific licensing on a case-by-case basis for certain transactions incident to the receipt or transmission of telecommunications between the United States and Cuba, 31 C.F.R. 515.542(c), including settlement of charges under traffic agreements.

The OFAC has issued eight licenses authorizing transactions incident to the receipt or transmission of the telecommunications between the United States and Cuba since the enactment of the CDA. None of these licenses permits payments to the Government of Cuba from a blocked account. For the period January 1 through June 30, 1997, OFAC-licensed U.S. carriers reported payments to the Government of Cuba in settlement of charges under telecommunications traffic agreements as follows:

AT&T Corporation (formally, American Telephone and Telegraph Company) .....	\$13,997,179
AT&T de Puerto Rico .....	274,470
Global One (formerly, Sprint Incorporated) .....	4,857,205
IDB WorldCom Services, Inc. (formerly, IDB Communications, Inc.) .....	1,427,078
MCI International, Inc. (formerly, MCI Communications Corporation) ...	4,066,925
Telefonica Larga Distancia de Puerto Rico, Inc. ....	113,668
WilTel, Inc. (formerly, WilTel Underseas, Cable, Inc) .....	5,032,250
WorldCom, Inc. (formerly, LDDS Communications, Inc.) .....	1,378,502
total .....	31,143,432

I shall continue to report semiannually on telecommunications payments to the Government of Cuba from United States persons.

WILLIAM J. CLINTON.

THE WHITE HOUSE, September 10, 1997.

#### MEASURES REFERRED

The Committee on the Judiciary was discharged from further consideration of the following measure which was referred to the Committee on Labor and Human Resources.

S. 1124. A bill to amend title VII of the Civil Rights Act of 1964 to establish provisions with respect to religious accommodation in employment, and for other purposes.

The Committee on Governmental Affairs was discharged from further consideration of the following measure which was referred to the Committee on Rules and Administration:

S. Con. Res. 49. Concurrent resolution authorizing use of the Capitol Grounds for "America Recycles Day" national kick-off campaign.

#### 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-2916. A communication from the Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, the report on Civil Works activities for fiscal year 1995; to the Committee on Environment and Public Works.

EC-2917. A communication from the Assistant Attorney General, transmitting, a draft of proposed legislation to repeal Section 808 of the Antiterrorism and Effective Death Penalty Act of 1996; to the Committee on the Judiciary.

EC-2918. A communication from the Secretary of Education, transmitting, a draft of proposed legislation to authorize the National Assessment Governing Board to develop policy for voluntary national tests in reading and mathematics; to the Committee on Labor and Human Resources.

EC-2919. A communication from the Assistant General Counsel for Regulations, Department of Education, transmitting, pursuant to law, a rule (RIN1890-AA04) received on September 5, 1997; to the Committee on Labor and Human Resources.

EC-2920. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a rule entitled "CLIA Program: Fee Schedule Revision" (RIN0938-AG87) received on September 3, 1997; to the Committee on Labor and Human Resources.

EC-2921. A communication from the Director of Regulations Policy, Management Staff, Office of Policy, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, a rule entitled "Specific Requirements on Content and Format of Labeling for Human Prescription Drugs" (RIN0910-AA25) received on September 3, 1997; to the Committee on Labor and Human Resources.

EC-2922. A communication from the Director of Regulations Policy, Management Staff, Office of Policy, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, a rule entitled "Food Additives Permitted in Feed and Drinking Water of Animals" received on September 3, 1997; to the Committee on Labor and Human Resources.

EC-2923. A communication from the Assistant Secretary of Labor for Employment Standards, transmitting, pursuant to law, a rule entitled "Government Contractors, Affirmative Action Requirements, Executive Order 11246" (RIN1215-AA01) received on August 1997; to the Committee on Labor and Human Resources.

EC-2924. A communication from the Inspector General of the U.S. Railroad Retirement Board, transmitting, the report of the budget request for fiscal year 1999; to the Committee on Labor and Human Resources.

EC-2925. A communication from the Board Members of the U.S. Railroad Retirement Board, transmitting, the report of the budget

request for fiscal year 1999; to the Committee on Labor and Human Resources.

EC-2926. A communication from the Secretary of Defense, transmitting, a notice of a retirements; to the Committee on Armed Services.

EC-2927. A communication from the Acting Under Secretary of Defense (Acquisition and Technology), transmitting, pursuant to law, a report relative to the F-22 program; to the Committee on Armed Services.

EC-2928. A communication from the Acting Under Secretary of Defense (Acquisition and Technology), transmitting, pursuant to law, a report relative to purchases from foreign entities; to the Committee on Armed Services.

EC-2929. A communication from the Director of the Defense Procurement, Office of the Under Secretary of Defense, transmitting, pursuant to law, two rules received on September 3, 1997; to the Committee on Armed Services.

EC-2930. A communication from the Director of the Defense Procurement, Office of the Under Secretary of Defense, transmitting, pursuant to law, a rule received on September 9, 1997; to the Committee on Armed Services.

EC-2931. A communication from the Assistant Secretary of Defense (Force Management Policy), transmitting, pursuant to law, a notice relative to institutions of higher education; to the Committee on Armed Services.

EC-2932. A communication from the Director of the Office of the Secretary of Defense (Administration and Management), transmitting, pursuant to law, a rule entitled "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments" received on September 4, 1997; to the Committee on Armed Services.

EC-2933. A communication from the Director of the Department of Defense Washington Headquarters Services, transmitting, pursuant to law, a rule (RIN0720-AA33) received on September 4, 1997; to the Committee on Armed Services.

EC-2934. A communication from the Acquisition Executive, U.S. Special Operations Command, transmitting, pursuant to law, a report relative to a survivability test; to the Committee on Armed Services.

EC-2935. A communication from the Secretary of Defense, transmitting, pursuant to law, a report entitled "Military-Civilian Child-Care Partnerships"; to the Committee on Armed Services.

EC-2936. A communication from the Secretary of Defense, transmitting, pursuant to law, a report entitled "Youth Programs"; to the Committee on Armed Services.

#### PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-225. A resolution adopted by the House of the Legislature of the State of Alabama; to the Committee on Finance.

#### HOUSE RESOLUTION

Whereas, on August 1, 1997, the Parents and Students Savings Accounts Plus Act was introduced with bipartisan support in both houses of the United States Congress; and

Whereas, the act would amend the Internal Revenue Code to allow tax-free expenditures from education individual retirement accounts for elementary and secondary school expenses and would increase the maximum annual amount of contributions for these accounts to two thousand dollars; further, the bill would specify education expenses as in-

cluding tuition, fees, tutoring, special needs services, books, supplies, equipment, and transportation costs; and

Whereas, the A+ Act was described as a common-sense way to give parents the financial freedom to choose the best school for their children without taking funds from the public school system and to help families provide the best learning environment and tools to every child in America; and

Whereas, this legislative body believes such legislation would be of significant benefit to our nation and would supply all of our children with a positive learning environment and the educational supplies necessary to succeed in school and life: Now therefore be it

*Resolved by the House of Representatives of the Legislature of Alabama*, That the United States Congress is respectfully encouraged to enact H.R. 2373, the Parents and Students Savings Accounts Plus Act: Be it

*Further Resolved*, That a copy of this resolution be forwarded to the Speaker of the U.S. House of Representatives, the President of the U.S. Senate, and each member of the Alabama Congressional Delegation, so that each official may know of our support and interest in this important legislation.

#### REPORTS OF COMMITTEE

The following report of committee was submitted:

By Mr. D'AMATO, from the Committee on Banking, Housing, and Urban Affairs, with an amendment in the nature of a substitute:

S. 1026: A bill to reauthorize the Export-Import Bank of the United States (Rept. No. 105-76).

By Mr. STEVENS, from the Committee on Appropriations:

Special Report entitled "Further Revised Allocation to Subcommittees of Budget Totals from the Concurrent Resolution for Fiscal year 1998" (Rept. No. 105-77).

#### EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees was submitted:

By Mr. MCCAIN, from the Committee on Commerce, Science, and Transportation:

Katherine Milner Anderson, of Virginia, to be a Member of the Board of Directors of the Corporation for Public Broadcasting for a term expiring January 31, 2000.

Sheila Foster Anthony, of Arkansas, to be a Federal Trade Commissioner for the term of seven years from September 26, 1995.

Heidi H. Schulman, of California, to be Member of the Board of Directors of the Corporation for Public Broadcasting for a term expiring January 31, 2002.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. THURMOND, from the Committee on Armed Services.

The following named officer for appointment as Chairman of the Joint Chiefs of Staff and appointment to the grade indicated under provisions of title 10, U.S.C., section 152:

*To be general*

General Henry H. Shelton, 4698.

(The above nomination was reported with the recommendation that he be confirmed.)

#### INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. MURKOWSKI:

S. 1158. A bill to amend the Alaska Native Claims Settlement Act, regarding the Huna Totem Corporation public interest land exchange, and for other purposes; to the Committee on Energy and Natural Resources.

S. 1159. A bill to amend the Alaska Native Claims Settlement Act, regarding the Kake Tribal Corporation public interest land exchange, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DASCHLE (for himself and Ms. MOSELEY-BRAUN):

S. 1160. A bill to provide for educational facilities improvement; read the first time.

By Mr. ABRAHAM (for himself, Mr. KENNEDY, and Mr. GRAHAM):

S. 1161. A bill to amend the Immigration and Nationality Act to authorize appropriations for refugee and entrant assistance for fiscal years 1998 and 1999; considered and passed.

#### SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SPECTER:

S. Res. 121. A resolution urging the discontinuance of financial assistance to the Palestinian Authority unless and until the Palestinian Authority demonstrates a 100-percent maximum effort to curtail terrorism; to the Committee on Foreign Relations.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MURKOWSKI:

S. 1158. A bill to amend the Alaska Native Claims Settlement Act, regarding the Huna Totem Corp. public interest land exchange, and for other purposes; to the Committee on Energy and Natural Resources.

THE HUNA TOTEM CORPORATION LAND EXCHANGE ACT OF 1997

Mr. MURKOWSKI. Mr. President, I rise to introduce legislation today on behalf of the Huna Totem Corp. and the residents of Hoonah, AK.

This bill would require the Huna Totem Corp. to convey ownership of approximately 1,999 acres of land needed as a municipal watershed to the U.S. Forest Service. This will ensure that the residents of Hoonah, AK, have a reliable source of clean water. In exchange for these lands the Huna Totem Corp. will be allowed to select other lands readily accessible to Hoonah in order to fulfill their ANCSA entitlement. This legislation also requires the exchange of lands to be of equal value and provides for additional compensation if needed. Lastly, the legislation requires that any potential timber harvested from land acquired by Huna Totem Corp not be available for export.

Mr. President, the city of Hoonah is located in southeast Alaska on the northeast part of Chichagoff Island.

Hoonah has been the home of the Huna people since the last advance of the great ice masses into Glacier Bay, forcing the Huna people to look for new homes. Since the Huna people had traditionally used the Hoonah area each summer as a subsistence harvesting area, it was natural for them to settle in the area now called Hoonah. The community has a population of approximately 918 residents and is located 40 miles from Juneau; Alaska's capital city.

Within the city of Hoonah is located the Huna Totem Corp., an Alaska Native Corp. formed pursuant to the Alaska Native Claims Settlement Act [ANCSA]. Huna Totem is the largest Tlingit Indian Village Corp. in southeast Alaska. Under the terms of ANCSA each village corporation had to select lands within the core township or townships in which all or part of the Native village is located.

In 1975, Huna Totem filed its ANCSA land selections within the 2 mile radius of the city of Hoonah as mandated by ANCSA. Since the community of Hoonah is located along the shoreline at the base of Hoonah Head Mountain, the surrounding lands are steep hillsides, cliffs, or are designated watershed for the municipal water sources. Most of the acres, approximately 1,999, of this land are not conducive to logging or development due to the topography and watershed limitations.

Therefore in order for the Huna Totem Corp. to receive full economic benefit of the lands promised to them under ANCSA, and for the city of Hoonah to protect its watershed, alternative lands must be sought for Huna Totem to seek revenue from.

The legislation I am offering today would achieve these goals. By authorizing a land exchange between the Huna Totem Corp. and the U.S. Forest Service the residents of Hoonah will be assured a safe supply of drinking water. Additionally, Huna Totem Corp. will be able to fully recognize the benefits promised under the Alaska Native Claims Settlement Act.

By Mr. MURKOWSKI:

S. 1159. A bill to amend the Alaska Native Claims Settlement Act, regarding the Kake Tribal Corp. public interest land exchange, and for other purposes; to the Committee on Energy and Natural Resources.

#### THE KAKE LAND EXCHANGE ACT

Mr. MURKOWSKI. Mr. President, today I rise to introduce the Kake Tribal Land Exchange Act. This legislation would amend the Alaska Native Claims Settlement Act which authorized the transfer of 23,040 acres of land from the U.S. Government to Kake Tribal Corp. The land was transferred to Kake to recognize an immediate need for a fair and just settlement.

Unfortunately, Kake has not received the full beneficial use of its 23,040 acres because the city's watershed—over 2,400 acres—rest within Kake Tribal's lands. In order to protect the city's wa-

tershed and still receive beneficial use of their 23,040 acres we are proposing land exchange. This will assist the people of Kake, AK, as they move toward a safer, cleaner, and healthier future.

Under this proposal, Kake Tribal would exchange the watershed for other acres in southeast Alaska—thereby allowing Kake to receive its full entitlement under ANCSA. This legislation is of great importance to the residents of the community of Kake, AK.

This legislation will ensure protection of the Gunnuk Creek watershed which is the main water supply for the city of Kake as well as protect critical habitat for the Gunnuk Creek hatchery.

The legislation has received wide support in Alaska from diverse groups such as: the city of Kake, AK, the organized village of Kake, the Kake non-profit fishery, the Alaska Federation of Natives, and Sealaska Corp. Additionally, the Governor of Alaska has written to me in support of this exchange.

This legislation is similar to legislation I introduced last year and held hearings on in the Energy and Natural Resources Committee. During these hearings the Forest Service objected to the bill for four reasons, all of which have been addressed in the legislation I now introduce.

The first issue was the potential selection of Berners Bay/Slate Lake Parcel. Kake has made it clear as evident in the maps that they have no intention of selecting that area. Second, was the potential that Kake would select established log transfer facilities. Again it is clear from the maps that these areas will not be selected. Third, was regarding subsurface issues with Sealaska which are not addressed in this current version of the bill. And finally, the USFS objected to this exchange because they did not want to manage the watershed. Since the hearing the city of Kake has said they want to enter into a cooperative agreement with the Forest Service to manage the watershed themselves.

Additionally, Mr. President there is a provision in this bill that assures Kake Tribal will receive appropriate compensation for the watershed lands to be exchanged. This is important because this legislation would require Kake Tribal to process any timber derived from the newly acquired lands in State, potentially reducing the value of lands received. Therefore, in order to provide for a fair compensation, under the terms of this legislation Kake Tribal could be eligible for additional compensation should the value of the newly acquired lands be deemed less than their original lands. Likewise, the United States could also benefit from this provision should a determination be made that the lands they are receiving are less valuable than those they are conveying.

I introduce this legislation with the confidence that it is the best interest of not only the citizens of Kake but with the knowledge that it is in the

best interest of all Alaskans and Americans to protect drinking water for our communities. Lastly, this legislation will help fulfill our commitment to the Natives of Alaska that they will be treated fairly and justly under the Alaska Native Claims Settlement Act.

By Mr. DASCHLE (for himself and Ms. MOSELEY-BRAUN):

S. 1160. A bill to provide for educational facilities improvement; read the first time.

#### THE EDUCATIONAL FACILITIES IMPROVEMENT ACT

Mr. DASCHLE. Mr. President, today I am introducing with my colleague from Illinois, Senator MOSELEY-BRAUN, a bill to help local communities expand schools that are overcrowded, and repair or replace schools that are crumbling, or obsolete.

As you know, the Labor-HHS Appropriations bill that we are currently considering on the floor includes \$100 million for school construction and repair. This is an important step toward addressing what is a real and growing problem in this country.

The bill we are introducing today, the Educational Facilities Improvement Act, provides an additional \$1.9 billion over the next 5 years. It represents the second installment in our efforts to upgrade the school buildings America's children attend.

Communities can use the money to underwrite a part of the interest costs on school construction projects. In so doing, they will be using these dollars to leverage additional resources from other sources.

This is an urgent priority. All over the country, children are returning to schools this month that are crowded or obsolete—even dangerous. Children are being taught in trailers. Some school yards have so many trailers outside that you can't tell if it's a playground or a trailer court.

We need to address this problem now, not next year, not sometime in the future. This is why we are using rule 14 to skip the normal committee process and bring our bill directly on the Senate calendar. We hope our Republican colleagues will join the call for an early vote on this critical issue.

We don't need committee hearings to know what the problem is. The GAO, the non-partisan Government Accounting Office, has already documented the problem. They say it will take \$112 billion to bring all of America's schools up to par.

We obviously can't commit that many federal dollars. And we shouldn't. Public education has always been—and should remain—first and foremost a local responsibility.

But the sheer size of the problem requires that the Federal Government be a partner. We can't put America's educational house in order while our schools themselves are falling down. Students can't learn in classrooms that

are crowded and buildings that are crumbling. And most local communities can't afford to foot the whole school construction bill themselves. Our bill will help communities begin to fix the most urgent of the problems.

I urge my colleagues to support this important legislation. I ask unanimous consent that the bill and summary be included in the RECORD.

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

S. 1160

*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 "Educational Facilities Improvement Act".

#### SEC. 2. PROVISION OF ASSISTANCE FOR CONSTRUCTION AND RENOVATION OF EDUCATIONAL FACILITIES.

Title XII of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8501 et seq.) is amended—

- (1) by repealing sections 12002 and 12003;
- (2) by redesignating sections 12001 and 12004 through 12013, as sections 12101 and 12102 through 12111, respectively;
- (3) by inserting after the title heading the following:

##### "SEC. 12001. FINDINGS.

"The Congress finds the following:

"(1) The General Accounting Office performed a comprehensive survey of the Nation's public elementary and secondary school facilities, and found severe levels of disrepair in all areas of the United States.

"(2) The General Accounting Office concluded more than 14,000,000 children attend schools in need of extensive repair or replacement. Seven million children attend schools with life safety code violations. Twelve million children attend schools with leaky roofs.

"(3) The General Accounting Office found the problem of crumbling schools transcends demographic and geographic boundaries. At 38 percent of urban schools, 30 percent of rural schools, and 29 percent of suburban schools, at least one building is in need of extensive repair or should be completely replaced.

"(4) The condition of school facilities has a direct affect on the safety of students and teachers, and on the ability of students to learn.

"(5) Academic research has proven a direct correlation between the condition of school facilities and student achievement. At Georgetown University, researchers found students assigned to schools in poor condition can be expected to fall 10.9 percentage points below those in buildings in excellent condition. Similar studies have demonstrated up to a 20 percent improvement in test scores when students were moved from a poor facility to a new facility.

"(6) The General Accounting Office found most schools are not prepared to incorporate modern technology into the classroom. Forty-six percent of schools lack adequate electrical wiring to support the full-scale use of technology. More than a third of schools lack the requisite electrical power. Fifty-six percent of schools have insufficient phone lines for modems.

"(7) The Department of Education reported that elementary and secondary school enrollment, already at a record high level, will continue to grow during the period between 1996 and 2000, and that in order to accommodate this growth, the United States will need to build an additional 6,000 schools over this time period.

"(8) The General Accounting Office found it will cost \$112,000,000,000 just to bring schools up to good, overall condition, not including the cost of modernizing schools so the schools can utilize 21st century technology, nor including the cost of expansion to meet record enrollment levels.

"(9) State and local financing mechanisms have proven inadequate to meet the challenges facing today's aging school facilities. Large numbers of local educational agencies have difficulties securing financing for school facility improvement.

"(10) The Federal Government can support elementary and secondary school facilities, and can leverage additional funds for the improvement of elementary and secondary school facilities.

##### "SEC. 12002. PURPOSE.

"The purpose of this title is to help State and local authorities improve the quality of education at their public schools through the provision of Federal funds to enable the State and local authorities to meet the cost associated with the improvement of school facilities within their jurisdictions.

##### "PART A—GENERAL INFRASTRUCTURE IMPROVEMENT GRANT PROGRAM";

and

- (4) by adding at the end the following:

##### "PART B—CONSTRUCTION AND RENOVATION BOND SUBSIDY PROGRAM

##### "SEC. 12201. DEFINITIONS.

"As used in this part:

"(1) EDUCATIONAL FACILITY.—The term 'educational facility' has the meaning given the term 'school' in section 12110.

"(2) LOCAL AREA.—The term 'local area' means the geographic area served by a local educational agency.

"(3) LOCAL BOND AUTHORITY.—The term 'local bond authority' means—

"(A) a local educational agency with authority to issue a bond for construction or renovation of educational facilities in a local area; and

"(B) a political subdivision of a State with authority to issue such a bond for an area including a local area.

"(4) POVERTY LINE.—The term 'poverty line' means the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9902(2))) applicable to a family of the size involved.

"(5) STATE.—The term 'State' means each of the several States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

##### "SEC. 12202. AUTHORIZATION OF PROGRAM.

"(a) PROGRAM AUTHORITY.—Of the amount appropriated under section 12210 for a fiscal year and not reserved under subsection (b), the Secretary shall use—

"(1) 33 percent of such amount to award grants to local bond authorities for not more than 125 eligible local areas as provided for under section 12203; and

"(2) 67 percent of such amount to award grants to States as provided for under section 12204.

"(b) SPECIAL RULE.—The Secretary may reserve—

"(1) not more than 1.5 percent of the amount appropriated under section 12210 to provide assistance to Indian schools in accordance with the purpose of this title;

"(2) not more than 0.5 percent of the amount appropriated under section 12210 to provide assistance to Guam, the United States Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau to carry out the purpose of this title; and

"(3) not more than 0.1 percent of the amount appropriated under section 12210 to carry out section 12209.

##### "SEC. 12203. DIRECT GRANTS TO LOCAL BOND AUTHORITIES.

"(a) IN GENERAL.—The Secretary shall award a grant under section 12202(a)(1) to eligible local bond authorities to provide assistance for construction or renovation of educational facilities in a local area.

"(b) USE OF FUNDS.—The local bond authority shall use amounts received through a grant made under section 12202(a)(1) to pay a portion of the interest costs applicable to any local bond issued to finance an activity described in section 12205 with respect to the local area.

"(c) ELIGIBILITY AND DETERMINATION.—

"(1) ELIGIBILITY.—To be eligible to receive a grant under section 12202(a)(1) for a local area, a local bond authority shall demonstrate the capacity to issue a bond for an area that includes 1 of the 125 local areas for which the Secretary has made a determination under paragraph (2).

"(2) DETERMINATION.—

"(A) MANDATORY.—The Secretary shall make a determination of the 100 local areas that have the highest numbers of children who are—

"(i) aged 5 to 17, inclusive; and

"(ii) members of families with incomes that do not exceed 100 percent of the poverty line.

"(B) DISCRETIONARY.—The Secretary may make a determination of 25 local areas, for which the Secretary has not made a determination under subparagraph (A), that have extraordinary needs for construction or renovation of educational facilities that the local bond authority serving the local area is unable to meet.

"(d) APPLICATION.—To be eligible to receive a grant under section 12202(a)(1), a local bond authority shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including—

"(1) an assurance that the application was developed in consultation with parents and classroom teachers;

"(2) information sufficient to enable the Secretary to make a determination under subsection (c)(2) with respect to such local authority;

"(3) a description of the architectural, civil, structural, mechanical, or electrical construction or renovation to be supported with the assistance provided under this part;

"(4) a cost estimate of the proposed construction or renovation;

"(5) an identification of other resources, such as unused bonding capacity, that are available to carry out the activities for which assistance is requested under this part;

"(6) a description of how activities supported with funds provided under this part will promote energy conservation; and

"(7) such other information and assurances as the Secretary may require.

"(e) AWARD OF GRANTS.—

"(1) IN GENERAL.—In awarding grants under section 12202(a)(1), the Secretary shall give preference to a local bond authority based on—

"(A) the extent to which the local educational agency serving the local area involved or the educational facility for which the authority seeks a grant (as appropriate) meets the criteria described in section 12103(a);

"(B) the extent to which the educational facility is overcrowded; and

"(C) the extent to which assistance provided through the grant will be used to fund



construction or renovation that, but for receipt of the grant, would not otherwise be possible to undertake.

“(2) AMOUNT OF ASSISTANCE.—

“(A) IN GENERAL.—In determining the amount of assistance for which local bond authorities are eligible under section 12202(a)(1), the Secretary shall—

“(i) give preference to a local bond authority based on the criteria specified in paragraph (1); and

“(ii) consider—

“(I) the amount of the cost estimate contained in the application of the local bond authority under subsection (d)(4);

“(II) the relative size of the local area served by the local bond authority; and

“(III) any other factors determined to be appropriate by the Secretary.

“(B) MAXIMUM AMOUNT OF ASSISTANCE.—A local bond authority shall be eligible for assistance under section 12202(a)(1) in an amount that does not exceed the appropriate percentage under section 12204(f)(3) of the interest costs applicable to any local bond issued to finance an activity described in section 12205 with respect to the local area involved.

#### “SEC. 12204. GRANTS TO STATES.

“(a) IN GENERAL.—The Secretary shall award a grant under section 12202(a)(2) to each eligible State to provide assistance to the State, or local bond authorities in the State, for construction and renovation of educational facilities in local areas.

“(b) USE OF FUNDS.—The State shall use amounts received through a grant made under section 12202(a)(2)—

“(1) to pay a portion of the interest costs applicable to any State bond issued to finance an activity described in section 12205 with respect to the local areas; or

“(2) to provide assistance to local bond authorities in the State to pay a portion of the interest costs applicable to any local bond issued to finance an activity described in section 12205 with respect to the local areas.

“(c) AMOUNT OF GRANT TO STATE.—

“(1) IN GENERAL.—From the amount available for grants under section 12202(a)(2), the Secretary shall award a grant to each eligible State that is equal to the total of—

“(A) a sum that bears the same relationship to 50 percent of such amount as the total amount of funds made available for all eligible local educational agencies in the State under part A of title I for such year bears to the total amount of funds made available for all eligible local educational agencies in all States under such part for such year; and

“(B) a sum that bears the same relationship to 50 percent of such amount as the total amount of funds made available for all eligible local educational agencies in the State under title VI for such year bears to the total amount of funds made available for all eligible local educational agencies in all States under such title for such year.

“(2) ELIGIBLE LOCAL EDUCATIONAL AGENCIES.—For the purpose of paragraph (1) the term ‘eligible local educational agency’ means a local educational agency that does not serve a local area for which an eligible local bond authority received a grant under section 12203.

“(d) STATE APPLICATIONS REQUIRED.—To be eligible to receive a grant under section 12202(a)(2), a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require. Such application shall contain—

“(1) a description of the process the State will use to determine which local bond authorities will receive assistance under subsection (b)(2).

“(2) an assurance that grant funds under this section will be used to increase the amount of school construction or renovation in the State for a fiscal year compared to such amount in the State for the preceding fiscal years.

“(e) ADMINISTERING AGENCY.—

“(1) IN GENERAL.—The State agency with authority to issue bonds for the construction or renovation of educational facilities, or with the authority to otherwise finance such construction or renovation, shall administer the amount received through the grant.

“(2) SPECIAL RULE.—If no agency described in paragraph (1) exists, or if there is more than one such agency, then the chief executive officer of the State and the chief State school officer shall designate a State entity or individual to administer the amounts received through the grant.

“(f) ASSISTANCE TO LOCAL BOND AUTHORITIES.—

“(1) IN GENERAL.—To be eligible to receive assistance from a State under this section, a local bond authority shall prepare and submit to the State agency designated under subsection (e) an application at such time, in such manner, and containing such information as the State agency may require, including the information described in section 12203(d).

“(2) CRITERIA.—In awarding grants under this section, the State agency shall give preference to a local bond authority based on—

“(A) the extent to which the local educational agency serving the local area involved or the educational facility for which the authority seeks the grant (as appropriate) meets the criteria described in section 12103(a);

“(B) the extent to which the educational facility is overcrowded; and

“(C) the extent to which assistance provided through the grant will be used to fund construction or renovation that, but for receipt of the grant, would not otherwise be possible to undertake.

“(3) AMOUNT OF ASSISTANCE.—A local bond authority seeking assistance for a local area served by a local educational agency described in—

“(A) clause (i)(I) or clause (ii)(I) of section 1125(c)(2)(A), shall be eligible for assistance in an amount that does not exceed 10 percent;

“(B) clause (i)(II) or clause (ii)(II) of section 1125(c)(2)(A), shall be eligible for assistance in an amount that does not exceed 20 percent;

“(C) clause (i)(III) or clause (ii)(III) of section 1125(c)(2)(A), shall be eligible for assistance in an amount that does not exceed 30 percent;

“(D) clause (i)(IV) or clause (ii)(IV) of section 1125(c)(2)(A), shall be eligible for assistance in an amount that does not exceed 40 percent; and

“(E) clause (i)(V) or clause (ii)(V) of section 1125(c)(2)(A), shall be eligible for assistance in an amount that does not exceed 50 percent;

of the interest costs applicable to any local bond issued to finance an activity described in section 12205 with respect to the local area.

“(g) ASSISTANCE TO STATE.—

“(1) IN GENERAL.—If a State issues a bond to finance an activity described in section 12205 with respect to local areas, the State shall be eligible for assistance in an amount that does not exceed the percentage calculated under the formula described in paragraph (2) of the interest costs applicable to the State bond with respect to the local areas.

“(2) FORMULA.—The Secretary shall develop a formula for determining the percent-

age referred to in paragraph (1). The formula shall specify that the percentage shall consist of a weighted average of the percentages referred to in subparagraphs (A) through (E) of subsection (f)(3) for the local areas involved.

#### “SEC. 12205. AUTHORIZED ACTIVITIES.

“An activity described in this section is a project of significant size and scope that consists of—

“(1) the repair or upgrading of classrooms or structures related to academic learning, including the repair of leaking roofs, crumbling walls, inadequate plumbing, poor ventilation equipment, and inadequate heating or light equipment;

“(2) an activity to increase physical safety at the educational facility involved;

“(3) an activity to enhance the educational facility involved to provide access for students, teachers, and other individuals with disabilities;

“(4) an activity to improve the energy efficiency of the educational facility involved;

“(5) an activity to address environmental hazards at the educational facility involved, such as poor ventilation, indoor air quality, or lighting;

“(6) the provision of basic infrastructure that facilitates educational technology, such as communications outlets, electrical systems, power outlets, or a communication closet;

“(7) the construction of new schools to meet the needs imposed by enrollment growth; and

“(8) any other activity the Secretary determines achieves the purpose of this title.

#### “SEC. 12206. STATE GRANT WAIVERS.

“(a) WAIVER FOR STATE ISSUANCE OF BOND.—

“(1) IN GENERAL.—A State that issues a bond described in section 12204(b)(1) with respect to a local area may request that the Secretary waive the limits described in section 12204(f)(3) for the local area, in calculating the amount of assistance the State may receive under section 12204(g). The State may request the waiver only if no local entity is able, for one of the reasons described in subparagraphs (A) through (F) of paragraph (2), to issue bonds on behalf of the local area. Under such a waiver, the Secretary may permit the State to use amounts received through a grant made under section 12202(a)(2) to pay for not more than 80 percent of the interest costs applicable to the State bond with respect to the local area.

“(2) DEMONSTRATION BY STATE.—To be eligible to receive a waiver under this subsection, a State shall demonstrate to the satisfaction of the Secretary that—

“(A) the local bond authority serving the local area has reached a limit on its borrowing authority as a result of a debt ceiling or property tax cap;

“(B) the local area has a high percentage of low-income residents, or an unusually high property tax rate;

“(C) the demographic composition of the local area will not support additional school spending;

“(D) the local bond authority has a history of failed attempts to pass bond referenda;

“(E) the local area contains a significant percentage of Federally-owned land that is not subject to local taxation; or

“(F) for another reason, no local entity is able to issue bonds on behalf of the local area.

“(b) WAIVER FOR OTHER FINANCING SOURCES.—

“(1) IN GENERAL.—A State may request that the Secretary waive the use requirements of section 12204(b) for a local bond authority to permit the State to provide assistance to the local bond authority to finance

construction or renovation by means other than through the issuance of bonds.

"(2) **USE OF FUNDS.**—A State that receives a waiver granted under this subsection may provide assistance to a local bond authority in accordance with the criteria described in section 12204(f)(2) to enable the local bond authority to repay the costs incurred by the local bond authority in financing an activity described in section 12205. The local bond authority shall be eligible to receive the amount of such assistance that the Secretary estimates the local bond authority would be eligible to receive under section 12204(f)(3) if the construction or renovation were financed through the issuance of a bond.

"(3) **MATCHING REQUIREMENT.**—The State shall make available to the local bond authority (directly or through donations from public or private entities) non-Federal contributions in an amount equal to not less than \$1 for every \$1 of Federal funds provided to the local bond authority through the grant.

"(c) **WAIVER FOR OTHER USES.**—

"(1) **IN GENERAL.**—A State may request that the Secretary waive the use requirements of section 12204(b) for a State to permit the State to carry out activities that achieve the purpose of this title.

"(2) **DEMONSTRATION BY STATE.**—To be eligible to receive a waiver under this subsection, a State shall demonstrate to the satisfaction of the Secretary that the use of assistance provided under the waiver—

"(A) will result in an equal or greater amount of construction or renovation of educational facilities than the provision of assistance to defray the interest costs applicable to a bond for such construction or renovation; and

"(B) will be used to fund activities that are effective in carrying out the activities described in section 12205, such as—

"(i) the capitalization of a revolving loan fund for such construction or renovation;

"(ii) the use of funds for reinsurance or guarantees with respect to the financing of such construction or renovation;

"(iii) the creation of a mechanism to leverage private sector resources for such construction or renovation;

"(iv) the capitalization of authorities similar to State Infrastructure Banks to leverage additional funds for such construction or renovation; or

"(v) any other activity the Secretary determines achieves the purpose of this title.

"(d) **LOCAL BOND AUTHORITY WAIVER.**—

"(1) **IN GENERAL.**—A local bond authority may request the Secretary waive the use requirements of section 12203(b) for a local head authority to permit the authority to finance construction or renovation of educational facilities by means other than through use of bonds.

"(2) **DEMONSTRATION.**—To be eligible to receive a waiver under this subsection, a local bond authority shall demonstrate that the amounts made available through a grant under the waiver will result in an equal or greater amount of construction or renovation of educational facilities than the provision of assistance to defray the interest costs applicable to a bond for such construction or renovation.

"(e) **REQUEST FOR WAIVER.**—A State or local bond authority that desires a waiver under this section shall submit a waiver request to the Secretary that—

"(1) identifies the type of waiver requested;

"(2) with respect to a waiver described in subsection (a), (c), or (d), makes the demonstration described in subsection (a)(2), (c)(2), or (d)(2), respectively;

"(3) describes the manner in which the waiver will further the purpose of this title; and

"(4) describes the use of assistance provided under such waiver.

"(f) **ACTION BY SECRETARY.**—The Secretary shall make a determination with respect to a request submitted under subsection (d) not later than 90 days after the date on which such request was submitted.

"(g) **GENERAL REQUIREMENTS.**—

"(1) **STATES.**—In the case of a waiver request submitted by a State under this section, the State shall—

"(A) provide all interested local educational agencies in the State with notice and a reasonable opportunity to comment on the request;

"(B) submit the comments to the Secretary; and

"(C) provide notice and information to the public regarding the waiver request in the manner that the applying State customarily provides similar notices and information to the public.

"(2) **LOCAL BOND AUTHORITIES.**—In the case of a waiver request submitted by a local bond authority under this section, the local bond authority shall—

"(A) provide the affected local educational agency with notice and a reasonable opportunity to comment on the request;

"(B) submit the comments to the Secretary; and

"(C) provide notice and information to the public regarding the waiver request in the manner that the applying local bond authority customarily provides similar notices and information to the public.

#### "SEC. 12207. GENERAL PROVISIONS.

"(a) **FAILURE TO ISSUE BONDS.**—

"(1) **STATES.**—If a State that receives assistance under this part fails to issue a bond for which the assistance is provided, the amount of such assistance shall be made available to the State as provided for under section 12204, during the first fiscal year following the date of repayment.

"(2) **LOCAL BOND AUTHORITIES AND LOCAL AREAS.**—If a local bond authority that receives assistance under this part fails to issue a bond, or a local area that receives such assistance fails to become the beneficiary of a bond, for which the assistance is provided, the amount of such assistance—

"(A) in the case of assistance received under section 12202(a)(1), shall be repaid to the Secretary and made available as provided for under section 12203; and

"(B) in the case of assistance received under section 12202(a)(2), shall be repaid to the State and made available as provided for under section 12204.

"(b) **LIABILITY OF THE FEDERAL GOVERNMENT.**—The Secretary shall not be liable for any debt incurred by a State or local bond authority for which assistance is provided under this part. If such assistance is used by a local educational agency to subsidize a debt other than the issuance of a bond, the Secretary shall have no obligation to repay the lending institution to whom the debt is owed if the local educational agency defaults.

#### "SEC. 12208. FAIR WAGES.

"The provisions of section 12107 shall apply with respect to all laborers and mechanics employed by contractors or subcontractors in the performance of any contract and subcontract for the repair, renovation, alteration, or construction, including painting and decorating, of any building or work that is financed in whole or in part using assistance provided under this part.

#### "SEC. 12209. REPORT.

"From amounts reserved under section 12202(b)(3) for each fiscal year the Secretary shall—

"(1) collect such data as the Secretary determines necessary at the school, local, and State levels;

"(2) conduct studies and evaluations, including national studies and evaluations, in order to—

"(A) monitor the progress of activities supported with funds provided under this part; and

"(B) evaluate the state of United States educational facilities; and

"(3) report to the appropriate committees of Congress regarding the findings of the studies and evaluations described in paragraph (2).

#### "SEC. 12210. FUNDING.

"(a) **IN GENERAL.**—There are appropriated \$1,900,000,000 for fiscal year 1998 to carry out this part.

"(b) **ENTITLEMENT.**—Subject to subsection (a), each State or local bond authority awarded a grant under this part shall be entitled to payments under the grant.

"(c) **AVAILABILITY.**—Any amounts appropriated pursuant to the authority of subsection (a) shall remain available until expended."

#### SEC. 3. CONFORMING AMENDMENTS.

(a) **CROSS REFERENCES.**—Part A of title XII of the Elementary and Secondary Education Act of 1965 (as redesignated by section 2(3)) is amended—

(1) in section 12102(a) (as redesignated by section 2(2))—

(A) in paragraph (1)—

(i) by striking "12013" and inserting "12111";

(ii) by striking "12005" and inserting "12103"; and

(iii) by striking "12007" and inserting "12105"; and

(B) in paragraph (2), by striking "12013" and inserting "12111"; and

(2) in section 12110(3)(C) (as redesignated by section 2(2)), by striking "12006" and inserting "12104".

(b) **CONFORMING AMENDMENTS.**—Part A of title XII of the Elementary and Secondary Education Act of 1965 (as redesignated by section 2(3)) (20 U.S.C. 8501 et seq.) is further amended—

(1) in section 12101 (as redesignated by section 2(2)), by striking "This title" and inserting "This part"; and

(2) in sections 12102(a)(2), 12102(b)(1), 12103(a), 12103(b), 12103(b)(2), 12103(c), 12103(d), 12104(a), 12104(b)(2), 12104(b)(3), 12104(b)(4), 12104(b)(6), 12104(b)(7), 12105(a), 12105(b), 12106(a), 12106(b), 12106(c), 12106(c)(1), 12106(c)(7), 12106(e), 12107, 12108(a)(1), 12108(a)(2), 12108(b)(1), 12108(b)(2), 12108(b)(3), 12108(b)(4), 12109(2)(A), and 12110 (as redesignated by section 2(2)), by striking "this title" each place it appears and inserting "this part".

#### SEC. 4. MODIFICATION TO FOREIGN TAX CREDIT CARRYBACK AND CARRYOVER PERIODS.

(a) **IN GENERAL.**—Subsection (c) of section 904 of the Internal Revenue Code of 1986 (relating to limitation on credit) is amended—

(1) by striking "in the second preceding taxable year," and

(2) by striking "or fifth" and inserting "fifth, sixth, or seventh".

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to credits arising in taxable years beginning after December 31, 1997.

#### EDUCATIONAL FACILITIES IMPROVEMENT ACT— FACT SHEET NEED FOR ACTION

Democrats continue to believe that Federal support for education is one of the best investments our nation can make to ensure

its secure and prosperous future. For our students to learn, they must be in a physical environment that is conducive to learning. Unfortunately, our nation's schools are in disrepair: about one third of all schools need extensive repair or replacement, and about 60 percent of schools have at least one major problem, such as a leaky roof or crumbling walls.

## SUMMARY

The Educational Facilities Improvement Act provides \$1.9 billion over 5 years to pay a portion of the interest cost on state and local bond issues used to finance public elementary and secondary school repair, renovation, modernization, and construction projects.

After set-asides for Indian Schools, U.S. territories, and evaluations, 33 percent of the funds will be administered by the Secretary of Education for competitive awards to the 100 school districts with the largest numbers of poor children, and 25 other districts with extraordinary needs. The remaining 67 percent will be distributed to states according to a formula that takes into account school-age population, poverty, and other criteria. States will set up competitive programs to award these funds to school districts. School districts will be eligible for a subsidy of up to 50 percent of the interest cost on the bonds, using a sliding scale based on need.

## AUTHORIZED ACTIVITIES

The new program funds may be used to:

Repair or upgrade classrooms or structures related to academic learning, including the repair of leaking roofs, crumbling walls, inadequate plumbing, poor ventilation, and heating or light problems; increase physical safety; enhance access for students, teachers or others with disabilities; improve energy efficiency; address environmental hazards; provide the basic infrastructure to facilitate educational technology, such as communications outlets and closets, electrical systems, and power outlets; construct new schools to meet the needs imposed by growth; or conduct any other related activity identified and approved by the Secretary.

## DISTRIBUTION OF THE FUNDS

Of the new funds, 1.5 percent would be reserved for Indian schools, and 0.5 percent would be reserved for the U.S. territories to be administered at the discretion of the Secretary. Not more than 0.1 percent would be set aside for the Secretary to collect data, study the condition of elementary and secondary schools, evaluate the program, and report the findings to Congress.

Of the remaining funds, 33 percent would be reserved for administration by the Secretary to the 100 school districts with the largest numbers of poor children, as well as to 25 additional districts at the discretion of the Secretary. The remaining 67 percent would be reserved for administration by the states to local education agencies.

## FUNDS TO LOCAL BOND AUTHORITIES

Under this program, 33 percent of the funding will be administered directly by the Secretary of Education. School districts will be eligible for up to a 50-percent interest rate subsidy, using a sliding scale based on need. The 100 school districts with the largest numbers of poor children will be eligible to apply directly to the Secretary for the interest-rate subsidy. Eligible districts will be the top 100 with the highest levels of children ages 5 to 17 living in poverty. In addition, the Secretary may designate up to 25 additional districts for direct grants, based on their extraordinary needs.

The Secretary will award grants to districts based on a number of criteria, including the numbers of poor children in that district, the overall age and condition of the

schools and their potential threat to children's health and safety, the extent of overcrowding, the extent to which construction would otherwise not occur, and other factors.

## FUNDS TO STATES

Of the remaining funds, 67 percent will be administered directly by the states. The states must submit an application to the Secretary describing the criteria the state will use to award funds within the state. States can use the money to subsidize local bond issues or to subsidize state bonds issued on behalf of the school districts.

The federal government will award the funds to the states based on a two-part formula. Half of the funds will be based on the state's share of federal Title I funds, and half will be based on the state's share of federal Title VI funds. School districts that receive direct grants from the Secretary will be excluded from the calculations used to determine the state-by-state allocations.

## FUNDING

The amendment is funded at \$1.9 billion, to remain available until obligated. It is paid for by restructuring the foreign tax credit carryover rules passed by the Senate and left on the table during conference on the tax bill (Section 867 of the Senate bill). This proposal would cut the current carryback period for taxpayers with unused foreign tax credits from 2 years to one, while extending the carryforward period from 5 to 7 years.

Ms. MOSELEY-BRAUN. Mr. President, today I am pleased to join the Minority Leader, Senator DASCHLE, to introduce the Education Facilities Improvement Act. This bill will form a partnership among the national, State, and local governments to rebuild and modernize our Nation's crumbling schools.

According to the U.S. General Accounting Office, it will cost \$112 billion to bring existing school buildings up to code—to patch the leaky roofs, replace the broken windows, fix the plumbing, and make other needed repairs. That price tag, as enormous as it sounds, does not include the cost of building new schools to accommodate the record numbers of children who are crowding our schools, nor the cost of upgrading classrooms for modern computers.

Local school districts cannot afford to meet these challenges on their own. The local property tax, which made sense as a funding mechanism when wealth was accumulated in the form of land, no longer works as a means of funding major capital investments. In urban, rural, and suburban schools all across the country, the magnitude of the crumbling schools problem has dwarfed local financing capabilities.

In Chicago, Mayor Daley announced Monday that the city would issue 800 million dollars' worth of bonds to build new schools, renovate old ones, and modernize every school in the system. With an improved bond rating, Chicago has financed almost 1.5 billion dollars' worth of school improvements in the last 2 years. Chicago schools, however, need 3 billion dollars' worth of improvements.

The problem is not confined to big cities like Chicago. The GAO found that in urban areas, 38 percent of

schools are crumbling, while in rural areas the figure is 30 percent, and in the suburbs, it's 29 percent.

At the New Burnside Center in Tunnel Hill, IL, the track team was for a time forced to practice at the local prison. The prison had a track. The school did not. They no longer offer track at New Burnside, because some parents objected to their children being sent to the prison to practice. The lack of an adequate tax base means too many schools in rural areas can barely meet the basic costs of educating children, let alone the costs of major capital improvements.

In the suburbs also, our outdated method of paying for public schools has taken its toll. Principal Rita Melius, from the Abbott middle school in Waukegan, a suburb north of Chicago, was here in Washington this morning to discuss this issue. Children in her suburban school have to cope with the same kinds of leaky roofs and crumbling walls as their innercity peers. The school has even had several fires caused when computers overloaded the ancient electrical wiring.

The Education Facilities Improvement Act will provide \$1.9 billion over 5 years to help Waukegan, Chicago, New Burnside, and schools across the country that simply cannot meet their facilities needs on their own. It will make the Government a partner in public education, while preserving local control of curriculum and educational content. This bill recognizes that education is a public good, as well as an individual benefit, and that every American benefits when we provide educational opportunities in environments suitable for learning.

Winston Churchill said, "We shape our buildings; thereafter, they shape us." Nowhere is that more true than in our schools. You certainly can't use a computer if you can't plug it into the wall, and we cannot expect our children to learn in schools that are falling down around them.

I hope all of my colleagues will consider the conditions of schools in their States and join us in sponsoring this important legislation.

## ADDITIONAL COSPONSORS

S. 22

At the request of Mr. MOYNIHAN, the name of the Senator from Virginia [Mr. ROBB] was added as a cosponsor of S. 22, a bill to establish a bipartisan national commission to address the year 2000 computer problem.

S. 61

At the request of Mr. LOTT, the names of the Senator from Colorado [Mr. ALLARD] and the Senator from Iowa [Mr. HARKIN] were added as cosponsors of S. 61, a bill to amend title 46, United States Code, to extend eligibility for veterans' burial benefits, funeral benefits, and related benefits for veterans of certain service in the United States merchant marine during World War II.

S. 260

At the request of Mr. ABRAHAM, the name of the Senator from Kentucky [Mr. MCCONNELL] was added as a cosponsor of S. 260, a bill to amend the Controlled Substances Act with respect to penalties for crimes involving cocaine, and for other purposes.

S. 320

At the request of Ms. MOSELEY-BRAUN, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 320, a bill to amend the Internal Revenue Code of 1986 to provide comprehensive pension protection for women.

S. 322

At the request of Mr. GRAMS, the name of the Senator from Tennessee [Mr. FRIST] was added as a cosponsor of S. 322, a bill to amend the Agricultural Market Transition Act to repeal the Northeast Interstate Dairy Compact provision.

S. 442

At the request of Mr. WYDEN, the name of the Senator from North Carolina [Mr. FAIRCLOTH] was added as a cosponsor of S. 442, a bill to establish a national policy against State and local government interference with interstate commerce on the Internet or interactive computer services, and to exercise congressional jurisdiction over interstate commerce by establishing a moratorium on the imposition of exactions that would interfere with the free flow of commerce via the Internet, and for other purposes.

S. 493

At the request of Mr. KYL, the name of the Senator from Georgia [Mr. CLELAND] was added as a cosponsor of S. 493, a bill to amend section 1029 of title 18, United States Code, with respect to cellular telephone cloning paraphernalia.

S. 599

At the request of Mrs. BOXER, the name of the Senator from Minnesota [Mr. WELLSTONE] was added as a cosponsor of S. 599, a bill to protect children and other vulnerable subpopulations from exposure to certain environmental pollutants, and for other purposes.

S. 711

At the request of Mr. BREAUX, the names of the Senator from New Mexico [Mr. BINGAMAN] and the Senator from Connecticut [Mr. LIEBERMAN] were added as cosponsors of S. 711, a bill to amend the Internal Revenue Code of 1986 to simplify the method of payment of taxes on distilled spirits.

S. 755

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. 755, a bill to amend title 10, United States Code, to restore the provisions of chapter 76 of that title (relating to missing persons) as in effect before the amendments made by the National Defense Authorization Act for Fiscal Year 1997 and to make other improvements to that chapter.

S. 927

At the request of Ms. SNOWE, the name of the Senator from New Jersey [Mr. LAUTENBERG] was added as a cosponsor of S. 927, a bill to reauthorize the Sea Grant Program.

S. 950

At the request of Mr. MCCONNELL, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of S. 950, a bill to provide for equal protection of the law and to prohibit discrimination and preferential treatment on the basis of race, color, national origin, or sex in Federal actions, and for other purposes.

S. 952

At the request of Mr. MCCONNELL, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of S. 952, a bill to establish a Federal cause of action for discrimination and preferential treatment in Federal actions on the basis of race, color, national origin, or sex, and for other purposes.

S. 1008

At the request of Mr. DURBIN, the names of the Senator from Iowa [Mr. GRASSLEY] and the Senator from Iowa [Mr. HARKIN] were added as cosponsors of S. 1008, a bill to amend the Internal Revenue Code of 1986 to provide that the tax incentives for alcohol used as a fuel shall be extended as part of any extension of fuel tax rates.

S. 1084

At the request of Mr. INHOFE, the names of the Senator from West Virginia [Mr. BYRD] and the Senator from Nebraska [Mr. HAGEL] were added as cosponsors of S. 1084, a bill to establish a research and monitoring program for the national ambient air quality standards for ozone and particulate matter and to reinstate the original standards under the Clean Air Act, and for other purposes.

S. 1113

At the request of Mr. GRASSLEY, the names of the Senator from New York [Mr. MOYNIHAN], the Senator from Massachusetts [Mr. KERRY], the Senator from Ohio [Mr. GLENN], and the Senator from Illinois [Ms. MOSELEY-BRAUN] were added as cosponsors of S. 1113, a bill to extend certain temporary judgeships in the Federal judiciary.

S. 1123

At the request of Mr. HATCH, the name of the Senator from California [Mrs. FEINSTEIN] was added as a cosponsor of S. 1123, a bill to amend the Internal Revenue Code of 1986 relating to the unemployment tax for individuals employed in the entertainment industry.

## SENATE CONCURRENT RESOLUTION 50

At the request of Mr. HUTCHINSON, the names of the Senator from Illinois [Mr. DURBIN], the Senator from Colorado [Mr. ALLARD], and the Senator from Iowa [Mr. GRASSLEY] were added as cosponsors of Senate Concurrent Resolution 50, a concurrent resolution condemning in the strongest possible

terms the bombing in Jerusalem on September 4, 1997.

## SENATE RESOLUTION 119

At the request of Mr. FEINGOLD, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of Senate Resolution 119, a resolution to express the sense of the Senate that the Secretary of Agriculture should establish a temporary emergency minimum milk price that is equitable to all producers nationwide and that provides price relief to economically distressed milk producers.

## AMENDMENT NO. 1087

At the request of Mr. WELLSTONE, the name of the Senator from South Dakota [Mr. JOHNSON] was added as a cosponsor of amendment No. 1087 proposed to S. 1061, an original bill making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1998, and for other purposes.

At the request of Mr. HARKIN his name was added as a cosponsor of amendment No. 1087 proposed to S. 1061, *supra*.

## AMENDMENT NO. 1098

At the request of Mr. COVERDELL, the name of the Senator from Pennsylvania [Mr. SANTORUM] was added as a cosponsor of amendment No. 1098 proposed to S. 1061, an original bill making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1998, and for other purposes.

## AMENDMENT NO. 1101

At the request of Mr. DASCHLE, the name of the Senator from South Dakota [Mr. JOHNSON] was added as a cosponsor of amendment No. 1101 proposed to S. 1061, an original bill making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1998, and for other purposes.

## AMENDMENT NO. 1112

At the request of Mr. HARKIN, the name of the Senator from Minnesota [Mr. WELLSTONE] was added as a cosponsor of amendment No. 1112 proposed to S. 1061, an original bill making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1998, and for other purposes.

## AMENDMENT NO. 1116

At the request of Mr. REED, his name was added as a cosponsor of amendment No. 1116 proposed to S. 1061, an original bill making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1998, and for other purposes.

## AMENDMENT NO. 1118

At the request of Mrs. MURRAY, the name of the Senator from Louisiana [Ms. LANDRIEU] was added as a cosponsor of amendment No. 1118 proposed to

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

AMENDMENT NO. 1122

At the request of Mr. GRAMM, his name was added as a cosponsor of amendment No. 1122 proposed to S. 1061, an original bill making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1998, and for other purposes.

At the request of Mr. GORTON, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of amendment No. 1122 proposed to S. 1061, *supra*.

# SENATE RESOLUTION 121—RELATIVE TO THE PALESTINIAN AUTHORITY

Mr. SPECTER submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 121

Whereas United States law requires the Palestinian Authority to exert a maximum 100-percent effort to fight terrorism in order to continue to receive United States foreign assistance;

Whereas the Palestinian Authority has failed to make that 100-percent maximum effort as evidenced by Chairman Yassir Arafat's open embrace of Hamas leader Abdel Aziz al-Rantisi on August 20, 1997;

Whereas a Palestinian terrorist bombed a Tel Aviv restaurant on March 21, 1997, killing 3 Israelis and wounding 12 others;

Whereas 2 Hamas suicide bombers attacked a crowded outdoor market in Jerusalem on July 30, 1997, killing 13 Israelis and wounding over 150 others;

Whereas 3 Hamas suicide bombers detonated their bombs in a popular pedestrian mall in Jerusalem on September 4, 1997, killing 5 Israelis and wounding approximately 170 others;

Whereas Secretary of State Madeleine Albright conceded in testimony before the Appropriations Subcommittee on Foreign Operations on May 22, 1997 that Chairman Arafat had not given a red light to stop Palestinian terrorism;

Whereas in fact the Palestine Liberation Organization (PLO) and the Palestinian Authority are at war with Israel;

Whereas the PLO has built up a police force of more than 30,000 men and armed it with sophisticated weapons; and

Whereas continued United States assistance and assistance from allies of the United States will only strengthen the ability of the PLO to continue terrorism and ultimately wage an all-out war: Now, therefore, be it

*Resolved*, That the United States should discontinue all financial assistance to the Palestinian Authority, and the United States should urge allies of the United States to do the same, unless and until the Palestinian Authority demonstrates a 100-percent maximum effort to curtail terrorism.

Mr. SPECTER. Mr. President, in the 7 minutes intervening, I will utilize this time to submit a resolution which I had discussed extensively yesterday calling for the United States to cease

any financial aid to the Palestinian Authority and for the United States to use its best efforts to persuade all of our allies to do the same thing.

I believe that that course of action is necessary to change our policy in the Mideast, because there is no peace process. There is a great deal of talk about a peace process, but the reality, the brutal fact of life is that there is no peace process. But there is a war of terrorism, a one-sided war being waged by the Palestinians against Israel.

The brutal fact of life, Mr. President, is that terrorism has replaced open warfare as a way of gaining military advantage. The wars which have been fought against Israel, the open warfare, has been unsuccessful, so this practice of terrorism is being pursued. The financial aid which has come from the United States and our allies has been used to build up the Palestinian Authority in many ways, including a 30,000-person police force, armed with highly sophisticated weapons.

When Prime Minister Netanyahu made the accusation, after the March 21 bombing of the Tel Aviv cafe, that Chairman Arafat had given a green light, I sought a response from the Secretary of State. In her testimony a few weeks ago before the Foreign Operations Subcommittee, Secretary of State Albright said there had not been a green light, but also there had not been a red light.

Mr. President, United States law requires that the Palestinian Authority make the maximum effort to stop terrorism. The Palestinian Authority is not a guarantor, but they have an obligation to make a maximum effort to stop terrorism. And since the March 21 terrorist attack, we have seen the July 30 terrorist attack, we have seen the embrace by Chairman Arafat of the Hamas leader, the picture seen around the world, comparable to the shot heard around the world, where in no uncertain terms Chairman Arafat is saying that he condones what Hamas has done and even encourages Hamas to do more. Then, on September 4, we had the most recent terrorist attack.

These three terrorist attacks in the course of the past 6 months have killed 21 Israelis and wounded 330 other Israelis. So where is the peace process? There is none. The emperor has no clothes. It is time we recognized that fact.

We have had, in addition, a report from an Israeli cabinet officer, Deputy Education Minister Moshe Peled, that Chairman Arafat knew in advance of the 1993 World Trade Center bombing that it was going to occur. If that is in fact true, Chairman Arafat is an accessory before the fact, and that is a form of conspiracy and, under our statutes, subject to trial in a United States court.

When I saw that charge I asked the Department of Justice to investigate. And we do have information that Mr. Peled was questioned by the FBI for some 2 hours but we do not know the results of that inquiry.

I have discussed with the distinguished majority leader the issue about the necessity for bringing this matter to a head to provide some leadership on foreign policy where our Senate has the standing to do so.

You just heard a lengthy distinguished speech by Senator BIDEN, the ranking Democrat on the Foreign Relations Committee. The leadership has been taken by Senator HELMS and others, and we have constitutional authority to act.

Where the administration continues to supply funds to the Palestinian Authority, and those funds directly and indirectly go to build up the Palestinian Army, that is a practice which should be stopped.

The administration had further talked about going to final settlement discussions between Israel and the Palestinians. Of course, that is a matter for the Israelis and the Palestinians to decide. But, I believe that it is an unwise policy for the United States to push that approach because the principles of the Camp David accord and the Oslo accord were to build up confidence, to have relationships which would build up and lead to final status negotiations when there was a basis for the Israelis and the Palestinians living side by side. Regrettably, that is not possible.

We have repeated statements by Chairman Arafat and others of a belligerent nature spewing hatred. We have hatred being talked about in the schools. We have an atmosphere which hardly is conducive to final negotiation status. There had been talk after the Oslo accord of deferring the issue of a Palestinian State. The concern had been that there would be a Trojan horse, a secret Palestinian State inside of Israel.

Well, that has not happened. It has not been secret. It has been open. You have a 30,000-person police force, military operation with sophisticated weapons. You have the chief of police who has been charged by the Israeli authorities with being involved in terrorist attacks and information from the United States.

I spoke at some length about this yesterday, Mr. President. My comments are necessarily abbreviated today because there has only been a period of 7 minutes from the time I started until the 5 o'clock vote which is due to start soon.

Today, I talked to our distinguished chairman of the Foreign Relations Committee about hearings on this subject, as I had discussed with Senator LOTT. I believe that when Secretary of State Albright returns from the Mideast, it would be a good opportunity to hear from her about administration policy and to hear from the Attorney General and the FBI Director about what is happening with the investigation as to Chairman Arafat's possible complicity in the World Trade Center bombing.

So I file the resolution, Mr. President. We are in the process of getting cosponsors.

#### AMENDMENTS SUBMITTED

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

##### WELLSTONE AMENDMENT NO. 1126

Mr. WELLSTONE proposed an amendment to amendment No. 1078 proposed by Mr. DURBIN in the bill (S. 1061) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1998, and for other purposes; as follows:

At the end of the amendment, add the following: "Nothing in this Act may be construed to interfere with, or abrogate, any agreement previously entered into between any state and any private attorney or attorneys with respect to litigation involving tobacco."

##### DURBIN AMENDMENT NO. 1127

Mr. DURBIN proposed an amendment to amendment No. 1078 proposed by him to the bill, S. 1061, supra; as follows:

At the end of the amendment, insert the following:

"SEC. . SENSE OF THE SENATE.—It is the sense of the Senate that attorneys' fees paid in connection with an action maintained by a State against one or more tobacco companies to recover tobacco-related costs affected by federal tobacco settlement legislation should be publicly disclosed and should not displace spending in the settlement legislation intended for public health."

#### RESOLUTION ON NATIONAL HISTORICALLY BLACK COLLEGE AND UNIVERSITIES

##### THURMOND AMENDMENT NO. 1128

Mr. GORTON (for Mr. THURMOND) proposed an amendment to the resolution (S. Res. 111) designating the week beginning September 14, 1997, as "National Historically Black Colleges and Universities Week," and for other purposes; as follows:

On page 1, in the first clause, strike "116" and insert "104".

On page 2, line 3, strike "14" and insert "21".

Amend the title to read as follows: "A resolution designating the week beginning September 21, 1997, as 'National Historically Black Colleges and Universities Week', and for other purposes."

#### THE NATIONAL WILDLIFE REFUGE SYSTEM IMPROVEMENT ACT OF 1997

##### CHAFEE AMENDMENT NO. 1129

Mr. GORTON (for Mr. CHAFEE) proposed an amendment to the bill (H.R. 1420) to amend the National Wildlife

Refuge System Administration Act of 1966 to improve the management of the National Wildlife Refuge System, and for other purposes; as follows:

On page 4, line 11, insert "wildlife-dependent recreational use or any other" after "means a".

On page 11, line 19, strike "and".

On page 11, strike lines 22 and 23 and insert the following: "fish and wildlife agencies during the course of acquiring and managing refuges; and

"(N) monitor the status and trends of fish, wildlife, and plants in each refuge."

On page 15, line 8, before the semicolon, insert the following: ", except that, in the case of any use authorized for a period longer than 10 years (such as an electric utility right-of-way), the reevaluation required by this clause shall examine compliance with the terms and conditions of the authorization, not examine the authorization itself".

#### NOTICE OF HEARING

##### COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce that a full committee hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will take place Wednesday, September 17, 1997, at 9:30 a.m. in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to receive testimony on S. 1158, a bill to amend the Alaska Native Claims Settlement Act, regarding the Huna Totem Corp. public land exchange, and for other purposes, and S. 1159, a bill to amend the Alaska Native Claims Settlement Act, regarding the Kake Tribal Corp. public interest land exchange, and for other purposes.

Those who wish to testify or to submit written testimony should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510. Presentation of oral testimony is by committee invitation only. For further information, please contact Jo Meuse or Brian Malnak at (202) 224-6730.

#### AUTHORITY FOR COMMITTEES TO MEET

##### COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. CRAIG. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Wednesday, September 10, 1997, at 9:30 a.m. on the nominations of Heidi Shulman and Katherine Anderson to be members of the Board of Directors of the Corporation for Public Broadcasting, Robert Mallett to be Deputy Secretary and W. Scott Gould to be an Assistant Secretary of the Department of Commerce, and Sheila Foster Anthony to be a Federal Trade Commissioner.

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

##### COMMITTEE ON FINANCE

Mr. CRAIG. Mr. President, the Finance Committee requests unanimous consent to conduct a hearing on Wednesday, September 10, 1997, beginning at 10 a.m. in room 215 Dirksen.

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

##### COMMITTEE ON FOREIGN RELATIONS

Mr. CRAIG. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, September 10, 1997, at 2:30 p.m. to hold a hearing.

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

##### COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. CRAIG. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee Special Investigation to meet on Wednesday, September 10, at 10 a.m., for a hearing on campaign financing issues.

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

##### SELECT COMMITTEE ON INTELLIGENCE

Mr. CRAIG. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, September 10, 1997, at 2:30 p.m. to hold a closed briefing on intelligence matters.

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

#### ADDITIONAL STATEMENTS

##### SUPPORTING SECRETARY OF STATE ALBRIGHT'S MIDDLE EAST PEACE MISSION

• Mr. LIEBERMAN. Mr. President, I rise today in sadness at the great crisis which threatens to end the Oslo Peace Process in the Middle East. The crisis, as we know, has been caused by the most recent cowardly and criminal acts of those who are enemies of not only the peace process but of the Israeli and Palestinian people themselves.

My hope is that a solution to the crisis may be found through the ingenuity, faith, and the actions of those who have the courage to rise above hatred and suspicion. It is for that reason and in that spirit that I wish to express my strongest support for the mission of Secretary of State Albright to the Middle East this week.

The recent bombings in Jerusalem were detestable acts of terrorism which had only one purpose—killing the peace process. Both Israelis and Palestinians alike will be the victims if the criminals succeed.

Secretary Albright's mission is nothing less than an attempt to save the peace process. But the peace process can recover and move forward only in a secure environment, and the Secretary has properly identified security as the primary and essential focus of her trip. This, I must emphasize, must be transparently as important to the Palestinian Authority as it is to the Government of Israel. Those that have planned and carried out these acts of terrorism against Israel have at the same time weakened the Palestinian Authority.

Chairman Arafat and the Palestinian Authority must address this problem at its root and without equivocation. The coordination of security efforts is not and cannot be a bargaining chip to be turned on or off at will. There can be no tolerance for the perpetrators of violence—those who plan, finance, supply, or abet terrorism must be arrested, prosecuted, and imprisoned. No exceptions and no revolving doors.

Prime Minister Netanyahu has stated that there can be no peace without security. This is a commitment we share, and a commitment that must be evidenced by the Palestinian Authority beyond question through its own unilateral actions. At the same time, and as noted by Secretary Albright, we do not ask the impossible and, against suicide terrorists, cannot expect 100-percent success. There must, however, be nothing other than a 100-percent effort in this regard by the leadership of the Palestinian Authority.

With this security perspective as the foundation, there must also be a political environment that makes it possible to rebuild the trust that has been a victim of the violence and move ahead to achieve a peace for all. Prime Minister Netanyahu has expressed his commitment to "a peace that will surprise the world." We must encourage all parties to embrace such a commitment, and I fully support the Secretary in her efforts to that end.●

#### MAKING BOB HOPE AN HONORARY VETERAN

● Mr. HAGEL. Mr. President, I join my colleagues in praising a man who has contributed more to the morale and well being of American fighting men and women than anyone else in the 20th century. In every conflict where our forces have gone to uphold freedom or to deter aggression Bob Hope has traveled with them. As president of the USO, I worked closely with Bob Hope on many trips to visit our troops around the world. As a combat veteran of the war in Vietnam, I know personally how much he improved the lives of young Americans in Southeast Asia. The places where he entertained the troops were often dangerous areas where the enemy had the opportunity to attack. Bob Hope went there anyway, because he knew what he was doing was important to those ordinary soldiers. He may have been in danger, but our military personnel were in even greater danger. Invariably Bob Hope made the trip to these far off places during the holiday season when he could have been at home with his family, but he knew the feeling of isolation and loneliness that all soldiers feel when they are far away from their families around the holiday season.

Bob Hope has received numerous awards in his life, including the Medal of Freedom, and the Distinguished Service Medal, but I can think of no finer, no more appropriate award than that of veteran. Certainly if anyone in

America can be said to have served, and served with distinction, it is Bob Hope.●

#### PACIFIC GAS AND ELECTRIC RECEIVES LABOR SECRETARY'S OPPORTUNITY 2000 AWARD

● Mrs. BOXER. Mr. President, each year the Department of Labor presents the Secretary's Opportunity 2000 Award honoring a Federal contractor for the successful implementation of equal employment opportunities within its organization, and for supporting these goals in the broader community. Through its efforts, the recipient of this award must have enhanced equal employment opportunities for minorities, women, individuals with disabilities, special disabled veterans, or veterans of the Vietnam era. It also must have addressed such issues as the glass ceiling, skills gap, and multicultural workforce.

I am pleased to say, Mr. President, that for the second time in 8 years, the Opportunity 2000 Award is presented to the Pacific Gas and Electric Co.

PG&E takes an active role in ensuring that its employees represent California's diversity. Its various programs, including the executive development program and women in trades forum, focus attention on women and minorities. Its management works closely with numerous employee associations which represent its diversity, such as the Hispanic Employees Association, the Black Employees Association, and ACCESS, an association of employees with disabilities.

PG&E has also adopted community based programs to aid the development of the diverse communities it serves. These programs include corporate contribution programs and welfare-to-work demonstration projects which aid in providing job training and employment to welfare recipients.

I applaud PG&E's continued commitment to the goals of equal employment opportunity for people of all backgrounds. In the words of Labor Secretary Herman, " \* \* \* PG&E \* \* \* serves as a role model for other Federal contractors."

I join Secretary Herman in commending Pacific Gas and Electric for this achievement, and I congratulate its officers and all its employees for being selected once again to receive this important and prestigious award. ●

#### RECOGNITION OF THE FREEMAN WASTEWATER PLANT

● Mr. JOHNSON. Mr. President, I would like to take this opportunity to recognize the South Dakotans associated with the Freeman wastewater treatment plant. The Freeman facility earned a first-place excellence award in a six-State region from the Environmental Protection Agency.

Freeman earned an exceptional rating for its plant septage management, toxic waste control, collection system

maintenance, financial management, automation, and staff training. In addition, a television-based snaking system was used to pinpoint areas in need of repair. The plant staff and town council should be commended for their foresight in planning ahead and making repairs on the city's wastewater system rather than waiting for an emergency. The efforts of these individuals saves the residents of Freeman thousands of dollars in costly future repairs and insures the health and viability of the city's wastewater system.

While all the residents of Freeman should take pride in this accomplishment, I would like to mention a few individuals including Vince Kribell, chief operator of the Freeman plant, and Duane Walter. Administrative personnel include Chester Sorensen, Dean Sikkink, Steve Waltner, and Michael Schultz, who is also mayor of Freeman.

The Environmental Protection Agency started the Operations and Maintenance Award in 1986 to recognize publicly owned wastewater treatment facilities that demonstrate excellence in their overall operation. The program also heightens public awareness about the importance of efficient wastewater treatment.●

#### THE 100TH BIRTHDAY OF THE WEBSTER HOSE HOOK AND LADDER CO.

● Mr. DODD. Mr. President. I rise today to pay tribute to the Webster Hose Volunteer Fire Co., which is celebrating 100 years of loyal service to the city of Ansonia, CT.

Anyone familiar with the early days of the Webster Hose Co. can truly appreciate how much this unit has evolved during the past century. The Webster Co. started 100 years ago when 20 courageous individuals were authorized by the board of aldermen to undertake all fire-fighting duties for the city of Ansonia. This fledgling fire department was named the Webster Hose Co., in honor of Ansonia's mayor Erwin W. Webster, and in 1903 the name was changed to the Webster Hose Hook & Ladder Co.

The number of firefighters quickly grew to 50, and these volunteers overcame many obstacles in order to serve the people of Ansonia. Perhaps their biggest handicap was the rudimentary firefighting equipment that was available to them. Their primary firefighting device was a 550-pound hand-drawn cart, equipped with a large hose. Manually transporting this cart through Ansonia's hilly terrain was difficult to say the least, and many early members of the Webster Co. suffered broken arms and legs as they miscalculated the number of people necessary to slow the vehicle down, or the direction it would take on a hill. To say that these early members had to go above and beyond the call of duty in performing their jobs would be a tremendous understatement.

But thanks to the extraordinary efforts of these founding members and



other members of the Webster Hose Co., this unit has survived and evolved into a modern fire department that is highly trained to save the lives and property of the people of Ansonia.

In celebration of their centennial birthday, the Webster Hose Co. has been chosen to host the 114th Connecticut State Fireman's Convention. This convention will culminate in a parade of hundreds of firefighters through downtown Ansonia on Sunday, September 14, 1997. I am honored to have the opportunity to walk in this parade, and I hope that the day's activities will serve as a fitting tribute to not only Ansonia's firefighters, but to all the men and women of Connecticut who risk their own personal safety as they confront danger to safeguard the well-being of others.

The men and women of the Webster Hose Co. exemplify the highest standard of community service. They also serve as role models for their long-standing commitment to their community. Some of the current Webster members are the direct descendants of the fire service's founding fathers, and it is refreshing to see this spirit of public service passed on from one generation to the next. Without these dedicated individuals, the city of Ansonia would be at a tremendous loss.

I appreciate this opportunity to commend the Webster Hose Co. for a century of outstanding service, and I wish them well as they continue to serve their community in the years to come.●

#### IN MEMORY OF WILLIAM POWELL

● Mr. HUTCHINSON. Mr. President, I rise today full of sadness. Mr. William Powell of Bella Vista, AR, has recently passed away.

I came to know Mr. Powell as 1 of the 82 American airmen that were held prisoner of war at the Buchenwald concentration camp during World War II. During my tenure in Congress, I have introduced two resolutions that would have given appropriate and well-deserved recognition to this group of World War II prisoners.

These brave airmen were different from other allied prisoners, because they were held at Buchenwald—a Nazi concentration camp—and therefore not subject to the protections of the Geneva Convention.

Tragically, Mr. President, the United States has never formally recognized the service, sacrifice, and bravery of these American airmen while they were held as political prisoners. Even more tragically, the United States and this Congress will never have the opportunity to express our admiration to Mr. Powell.

When I introduced Senate Concurrent Resolution 32 in this Congress, on Thursday, June 12, I contacted Mr. Powell. He responded by saying, and I quote:

The recognition is long overdue. For decades, the Department of Defense and the

International Red Cross have stated that there were no military personnel in Buchenwald. Yet as someone who was imprisoned there for 4 months, I know of at least 55 other American soldiers who endured the hardships of this camp. Two men even lost their lives there. And nearly all suffered diseases later in life because of the treatment they received while in Buchenwald.

In the late 70s, early 80s, I joined with the other survivors of Buchenwald to push this government to recognize our service. We never wanted any money, we just wanted the United States Government to say, "Yes you were there, and we appreciate what you went through."

Mr. William Powell was a good man, a true patriot, and while this resolution that I spoke of earlier, Senate Concurrent Resolution 32, has yet to pass this body, I urge my colleagues to join with me in passing it, in honor of Mr. William Powell.

My thoughts and prayers are with his family.●

#### THE HONORABLE CANDICE MILLER—THE MARCH OF DIMES' 1997 ALEXANDER MACOMB CITIZEN OF THE YEAR

● Mr. ABRAHAM. Mr. President, on September 24, 1997, the March of Dimes will honor Michigan Secretary of State Candice Miller as its 1997 Alexander Macomb Citizen of the Year. Established in 1984, this award is presented annually to "deserving individuals who have demonstrated outstanding contributions and commitment to improving the quality of life in his/her community, the county, and the State of Michigan."

Since first elected as a Harrison Township Trustee over 15 years ago, Candice Miller has consistently won the praise and admiration of her colleagues, staff, and fellow Michiganders. As Secretary of State, she has been responsible for countless initiatives that have proven to be enormously successful and widely duplicated. But, Secretary Miller's positive contributions to Michigan have not been limited to her role in State government. In so many ways, she has acted as both a philanthropist and friend on behalf of numerous causes ranging from the environment to the Girl Scouts. These achievements have not gone unnoticed or unappreciated.

I am pleased to join the Southeast Michigan Chapter of the March of Dimes in recognizing Candice Miller for her selfless commitment to improving the lives of others. On this occasion, I commend the March of Dimes for selecting a most deserving recipient of this fine award.●

#### JOHN, ROSALIE, AND JOE VICARI—THE MARCH OF DIMES 1997 FAMILY OF THE YEAR

● Mr. ABRAHAM. Mr. President, on September 24, 1997, the March of Dimes will honor the Vicari family as the recipients of the 1997 Family of the Year. Established in 1993, this award is pre-

sented annually to a family whose outstanding commitment and support of the March of Dimes deserves recognition. And without question, these three members of the Vicari family are duly deserving of this honor.

Too infrequently are we introduced to a family so committed to helping people in need. On these rare occasions, we are given an inspiring example of the profound impact each of us can have on the lives of our neighbors. The Vicari family provides the State of Michigan with an excellent example of how philanthropic work can be an amazingly rewarding experience.

All three members of this special family have remained dedicated over the years to the generous support of the efforts of the March of Dimes. The Vicari family has committed itself to the cause of preventing birth defects, and with the extraordinary contributions of John, Rosalie, and Joe Vicari, our country has moved that much closer to the realization of this noble and important goal. On this special occasion, I offer my congratulations to each of these civic leaders and to the March of Dimes. I also offer my thanks, on behalf of the entire State of Michigan, for the countless number of children's lives they have touched.●

#### CHARLES G. DHARTE, JR.—THE MARCH OF DIMES' 1997 ALEXANDER MACOMB CITIZEN OF THE YEAR

● Mr. ABRAHAM. Mr. President, on September 24, 1997, the March of Dimes will honor Mr. Charles G. Dharte, Jr. as its 1997 Alexander Macomb Citizen of the Year. Established in 1984, this award is presented annually to "deserving individuals who have demonstrated outstanding contributions and commitment to improving the quality of life in his/her community, the county, and the State of Michigan."

Mining through the long list of community affairs Mr. Dharte has been actively involved in is an inspiring endeavor. I can think of no one more deserving of the March of Dimes' Citizen of the Year Award than Mr. Dharte. Through his work as president and director of the Boys and Girls Clubs of Southeastern Michigan, as director of St. Joseph Mercy Hospital-Macomb, and his many other civic duties, particularly in the Clinton township area, his generosity and kindness has been felt deeply by the many Michiganders whose lives he has touched.

Mr. Dharte's dedication to public service has been recognized by numerous local institutions. In previous years he has been named Business Person of the Year by the city of Mount Clemens and Benefactor of the Year by the Macomb Arts Council and Macomb Community College. This recent accolade by the March of Dimes testifies to Mr. Dharte's continued important good work in Michigan. I salute him for his public service, and applaud the March

of Dimes for choosing such a deserving figure on whom to bestow this honor.●

#### NATIONAL HISTORICALLY BLACK COLLEGES AND UNIVERSITIES WEEK

Mr. GORTON. I ask unanimous consent that the Judiciary Committee be discharged from further consideration of Senate Resolution 111, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, the clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 111) designating the week beginning September 14, 1997, as "National Historically Black Colleges and Universities Week," and for other purposes.

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

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

#### AMENDMENT NO. 1128

(Purpose: To change the week that is to be designated as "National Historically Black Colleges and Universities Week" and for other purposes)

Mr. GORTON. Senator THURMOND has an amendment at the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Washington [Mr. GORTON], for Mr. THURMOND, proposes an amendment numbered 1128.

On page 1, in the first clause, strike "116" and insert "104".

On page 2, line 3, strike "14" and insert "21".

Mr. GORTON. I ask unanimous consent the amendment be agreed to, the resolution as amended be agreed to, the preamble be agreed to, as amended, the amendment to the title be agreed to, the motion to reconsider be laid upon the table, and any statements relating to the resolution appear at this point in the RECORD.

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

The amendment (No. 1128) was agreed to.

The preamble, as amended, was agreed to.

The resolution (S. Res. 111), as amended, was agreed to, as follows:

[The resolution was not available for printing. It will appear in a future issue of the RECORD.]

The title was amended to read:

A resolution designating the week beginning September 21, 1997, as "National Historically Black Colleges and Universities Week", and for other purposes.

#### REAUTHORIZING THE REFUGEE ASSISTANCE ACT

Mr. GORTON. I ask unanimous consent the Senate now proceed to the consideration of S. 1161, introduced earlier today by Senator ABRAHAM.

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

The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1161) to amend the Immigration and Nationality Act to authorize appropriations for refugee and entrant assistance for fiscal years 1998 and 1999.

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. ABRAHAM. Mr. President, I rise today to introduce legislation to reauthorize the Refugee Assistance Act. The act authorizes assistance to refugees through grants to private nonprofit associations, as well as public associations, to be used to provide services such as job training, educational programs, and English language classes to newly arrived refugees. These programs play an important role in the American tradition of opening new doors to those from around the world who have been subjected to persecutions of all kinds.

I would note that under the act, the Department of Health and Human Services is free to experiment with innovative ways to help refugees become self-sufficient in America. For example, the program currently makes some use of private nonprofit groups in rendering assistance to refugees, and I would encourage the Department of Health and Human Services to expand those uses more broadly. Such experimentation has great potential to help the program accomplish its purpose to help refugees make a new life for themselves, rather than becoming dependent on the Government. My understanding is that the Department of Health and Human Services is also committed to experiments along these lines, and I look forward to working with the administration and the nonprofit community involved with refugees to make this program even more effective in the next few years.

Mr. KENNEDY. Mr. President, Senator ABRAHAM and I have introduced a 2-year extension of the Refugee Act. The Refugee Act is the core of U.S. refugee policy. It sets the criteria under which persons can be designated as refugees, and provides funds for refugee resettlement. Last year, the United States admitted more than 75,000 refugees under the Refugee Act's criteria.

In addition to determining whom is considered a refugee, the Refugee Act allows the Department of Health and Human Services, through the Office of Refugee Resettlement [ORR], to provide services to refugees resettled in the United States. For example, ORR provides job training and employment assistance to new refugees to help them become economically self-sufficient. ORR helps States provide English language classes, preventive health services, and cash assistance to new refugees to help them get on their feet in their new country. Refugees

often arrive in the United States terrified, jet-lagged, and with few possessions. Most fled persecution in their home countries, and left their clothes and possessions behind. These programs make a refugee's assimilation into the United States a little easier.

In addition to providing assistance directly to refugees, the Refugee Act provides funds to the Public Health Service to provide overseas medical screening for United States-bound refugees for the protection of public health against contagious diseases. ORR also provides targeted assistance to States and counties with large refugee populations, and runs matching grant programs for voluntary agencies that assist States in refugee resettlement. For example, The Boston Tech Center in Middlesex County, MA received \$250,000 in discretionary targeted assistance to teach refugees short-term skills training, basic English and math. The International Rescue Committee in Boston received funds under the Refugee Act to provide a refugee youth program for newly arrived Somali children.

Mr. President, the Refugee Act is the heart of our refugee law and policy. If it is not reauthorized, the United States will send a signal worldwide that refugees are no longer welcome here. We cannot let that happen. I am grateful to my colleagues for supporting this bill.

Mr. GORTON. I ask unanimous consent the bill be read the third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill appear at this point in the RECORD.

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

The bill (S. 1161) was read the third time, and passed, as follows:

S. 1116

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. AUTHORIZATION OF APPROPRIATIONS FOR REFUGEE AND ENTRANT ASSISTANCE

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 414(a) of the Immigration and Nationality Act (8 U.S.C. 1524(a)) is amended by striking "fiscal year 1995, fiscal year 1996, and fiscal year 1997" and inserting "each of fiscal years 1998 and 1999".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect October 1, 1997.

#### ORDER FOR STAR PRINT

Mr. GORTON. I ask unanimous consent that report 105-65 which accompanies S. 542 be star printed with the changes that are at the desk.

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

#### JOINT REFERRAL OF NOMINATION

Mr. GORTON. As in executive session, I ask unanimous consent the nomination of Espiridion A. Borrego, of Texas, to be Assistant Secretary of Labor for Veteran's Employment and

Training, sent to the Senate by the President on September 2, 1997, be referred jointly to the Committees on Labor and Human Resources and Veterans' Affairs.

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

#### ORDER FOR REPRINT OF S. 1149

Mr. GORTON. On behalf of Senator GRASSLEY, Mr. President, I ask unanimous consent that technical errors in S. 1149 which Senator GRASSLEY introduced On September 4, 1997, be corrected, and that the bill be reprinted as corrected. These changes are purely technical in nature. I have attached a copy of S. 1149 with the changes made for the convenience of my colleagues. I ask unanimous consent the corrected bill be reprinted in the RECORD following these remarks.

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

S. 1149

*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 "Investment in Education Act of 1997".

#### SEC. 2. TREATMENT OF CERTAIN LIENS.

(a) TREATMENT OF CERTAIN LIENS.—Section 724 of title 11, United States Code, is amended—

(1) in subsection (b), in the matter preceding paragraph (1), by inserting "(other than to the extent that there is properly perfected unavoidable tax lien arising in connection with an ad valorem tax on real or personal property of the estate)" after "under this title";

(2) in subsection (b)(2), after "507(a)(1)" and before the comma following thereafter insert "(except that such expenses, other than claims for wages, salaries or commissions which arise after the filing of a petition, shall be limited to expenses incurred under Chapter 7 of this title and shall not include expenses incurred under Chapter 11 of this title)"; and

(3) by adding at the end the following:

"(e) Before subordinating a tax lien on real or personal property of the estate which has arisen by virtue of state law, the trustee shall—

"(1) exhaust the unencumbered assets of the estate; and

"(2) in a manner consistent with section 506(c) of this title, recover from property securing an allowed secured claim the reasonable, necessary costs and expenses of preserving or disposing of that property.

"(f) Notwithstanding the exclusion of ad valorem tax liens set forth in this Section, claims for wages, salaries and commissions entitled to priority under Section 507(a)(3) or claims for contributions to an employee benefit plan entitled to priority under 507(a)(4) may be paid from property of the estate which secures a tax lien, or the proceeds of such property subject to the requirements of Subsection 724(e)."

(b) DETERMINATION OF TAX LIABILITY.—Section 505(a)(2) of title 11, United States Code, is amended—

(1) by striking "or" at the end of subparagraph (A);

(2) by striking the period at the end of subparagraph (B) and inserting "; or"; and

(3) by adding at the end the following:

"(C) the amount or legality of any amount arising in connection with an ad valorem tax real or personal property of the estate if the applicable period for contesting or redetermining that amount under any law (other than a bankruptcy law) has expired."

#### SEC. 3. ENFORCEMENT OF CHILD AND SPOUSAL SUPPORT.

Section 522(c)(1) of title 11, United States Code, is amended by inserting "provided that, notwithstanding any federal or state law relating to the enforcement of liens or judgments on exempted property, exempt property shall be liable for debts of a kind specified in Section 523(a)(5) of this title," at the end of the subsection.

#### REFERRAL OF S. 1124

Mr. GORTON. I ask unanimous consent S. 1124 be discharged from the Judiciary Committee and referred to the Labor Committee.

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

#### REFERRAL OF SENATE CONCURRENT RESOLUTION 49

Mr. GORTON. I ask unanimous consent Senate Concurrent Resolution 49 be discharged from the Governmental Affairs Committee and be referred to the Rules Committee.

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

#### NATIONAL WILDLIFE REFUGE SYSTEM ADMINISTRATION ACT OF 1966

Mr. GORTON. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 1420, which was received from the House.

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

The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 1420) to amend the National Wildlife Refuge System Administration Act of 1966, to improve the management of the National Wildlife Refuge System.

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

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 1129

(Purpose: To improve the bill)

Mr. GORTON. Mr. President, I send an amendment to the desk on behalf of Senator CHAFEE and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Washington [Mr. GORTON], for Mr. CHAFEE, for himself, Mr. GRAHAM, and Mr. KEMPTHORNE, proposes an amendment numbered 1129.

Mr. GORTON. 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 4, line 11, insert "wildlife-dependent recreational use or any other" after "means a".

On page 11, line 19, strike "and".

On page 11, strike lines 22 and 23 and insert the following:

fish and wildlife agencies during the course of acquiring and managing refugees; and

"(N) monitor the status and trends of fish, wildlife, and plants in each refuge."

On page 15, line 8, before the semicolon, insert the following: "except that, in the case of any use authorized for a period longer than 10 years (such as an electric utility right-of-way), the reevaluation required by this clause shall examine compliance with the terms and conditions of the authorization, not examine the authorization itself".

Mr. CHAFEE. Mr. President, I have introduced this amendment to H.R. 1420, the National Wildlife Refuge System Improvement Act of 1997 on behalf of myself, Senator KEMPTHORNE, and Senator GRAHAM. This bill recently passed the House by the remarkable vote of 407 to 1.

Last week, I, along with Senators KEMPTHORNE and GRAHAM, introduced S. 1059 as a companion bill, and on July 30, the Committee on Environment and Public Works held a hearing to solicit views on this bill from the Secretary of the Interior, among others. The hearing was very productive, and reaffirmed the widespread support that exists for this legislation. The amendment that I am offering includes narrow, but important, changes to the House version that clarify several provisions, and that have been agreed to by the administration, the House Resources Committee, and the stakeholders involved in the earlier negotiations.

This legislation is long overdue and very much needed. The National Wildlife Refuge System was started in 1903 by President Theodore Roosevelt, with the establishment of the first refuge on Pelican Island in Florida. It has since evolved into a system of Federal lands consisting of 509 refuges in 50 States, covering 92 million acres, for the conservation of fish, wildlife, and plants. Despite 60 years of growth, however the refuge system remained without a law governing its administration until 1966, when Congress passed the National Wildlife Refuge System Administration Act. Even now, almost a century later, there is no law that identifies a mission or articulates guidance for refuge management.

For several years, both sides of the aisle and both sides of the Capitol have attempted to enact legislation to rectify this situation. The President has also taken administrative steps for improving refuge management with an Executive order issued in March 1996. Earlier this year, after a month of negotiations among a broad range of stakeholders, the House passed H.R. 1420, which was then referred to the Senate.

After discussions here in the Senate, we have this amendment that makes narrow but important changes to H.R. 1420, and that clarifies the intent expressed by the House in the report of the Committee on Resources and in deliberation on the floor. The first two provisions of the amendment were

changes included in S. 1059. This amendment clarifies that compatible uses can be both wildlife-dependent and other uses. The allowance of compatible uses has become the cornerstone of the refuge system, balancing the needs of the fish, wildlife, and plants for which the refuge was established, with our own ability to use and enjoy the refuge for a wide range of activities. Two points should be emphasized, however. First, while this legislation establishes that wildlife-dependent recreational uses are to be given priority, any use may be authorized by the refuge manager provided that it is compatible with both the mission of the system and the purpose of the refuge. These are two separate principles contained in the bill. Second, that all uses are required to be compatible in order to be allowed does not mean that all compatible uses are required to be allowed. The longstanding policy of the Fish and Wildlife Service that a refuge is "closed until open" is not altered by this legislation, although wildlife-dependent uses may be approved on an interim basis pending completion of the conservation plan for any land added to the system after March 25, 1996.

The amendment requires that the Secretary provide for monitoring of the status and trends of fish, wildlife, and plants on refuges. While this provision seems somewhat obvious, monitoring is often one of the first casualties of budgetary constraints. In addition, given some of the past problems with secondary uses on refuges, monitoring will be very important in measuring the success of the recent administrative and legislative changes that we are now undertaking. Lastly, monitoring will ensure that our scientific knowledge regarding wildlife and natural resources continues to grow.

The amendment clarifies the legislative intent regarding the periodic reevaluation on longterm secondary uses, such as electric utility rights-of-way. The bill requires that nonwildlife dependent uses be reevaluated no less than every 10 years. Some rights-of-way are authorized for longer periods of time, and concern has been expressed that this reevaluation, together with the requirement that incompatible uses be eliminated or modified, may threaten the very existence of the rights-of-way. For uses that are authorized for periods of longer than 10 years, this amendment limits the review to compliance with the terms and conditions under which the authorization is made, and not to the authorization itself.

Numerous individuals in both the Senate and the House, as well as in the administration, deserve praise for their persevering efforts over the years in seeking to improve the refuge system, and for their involvement on this bill. On the Senate side, I would like to thank Senators KEMPTHORNE and GRAHAM for their support on this amendment. I would also like to thank Senators MURKOWSKI and ALLARD for their

understanding on issues relating to rights-of-way and water rights on which they have expressed concern.

With this amendment, I urge my colleagues to vote in support of H.R. 1420.

Mr. KEMPTHORNE. Mr. President, I am pleased today to recommend to the Senate passage of the National Wildlife Refuge System Improvement Act with a Kempthorne-Graham amendment. The passage of this bill represents a victory for many who are concerned with the hundreds of wildlife refuges across the United States and the multiple uses that they support.

The bill, which was negotiated between Chairman DON YOUNG of the Natural Resources Committee and Secretary of the Interior Bruce Babbitt, is another example of how positive change for the benefit of our environment can be achieved when we make a sincere effort to work together to reach consensus.

The original House bill, H.R. 1420, came to the Senate after an overwhelming vote in the House. The bill was referred, in the normal course, to my subcommittee in the Environment and Public Works Committee. Now, there are some who wanted me to just let the House bill go without further review in the Senate. But if I have learned anything from Senator BYRD over the years, I have learned that I would be ignoring the responsibility and indeed constitutional duty of the Senate if I simply signed off on such important legislation without considering it carefully.

The time that we spent to review the House bill was well worth it. We discovered an internal ambiguity in the bill which could have been taken advantage of by those who might want to eliminate many legitimate uses of wildlife refuges. My concern was that the bill's exclusive focus on so-called wildlife-dependent activities might be interpreted down the road as a signal that Congress intended only for these kinds of activities to qualify as potentially compatible activities on Federal wildlife refuges and that the many other uses of refuges that can now be authorized if they are compatible with the purposes of a refuge would be left out.

That would indeed be a significant problem. Under the law now, our national wildlife refuges support many uses, including wildlife-dependent uses such as hunting and fishing, but also important nonwildlife-dependent uses, like grazing, oil and gas production, electricity transmission, and even family picnics and weddings.

Under the House bill, any one of these activities arguably could have been eliminated on Federal refuges simply because they are not wildlife-dependent activities.

In my home State of Idaho, for example, ranchers who were once promised that they would retain the right to graze their cattle on the Gray's Lake Refuge might have lost that right because an individual refuge manager, al-

ready hostile to grazing, interpreted the House language to preclude grazing as a compatible use. This is an important issue for my State because grazing occurs in four of the six Idaho refuges.

On the Mississippi Sandhill Crane Refuge, grazing could have been curtailed even though the refuge manager there recognizes the value of grazing to improve the habitat for the crane.

This amendment will ensure that livestock grazing can continue to be considered to be a compatible use on a wildlife refuge.

But this amendment was not intended to address only grazing. Other legitimate and compatible uses on wildlife refuges could have been affected. Important activities associated with oil and gas development and the transmission of electricity to our homes and businesses could have been curtailed and even eliminated. From the 300 oil and gas wells at the Upper Ouachita Wildlife Refuge to the three wells in the Kirtland Warbler Management Area, all could have been shut down if this ambiguity had been exploited. With my amendment, all of these activities will be allowed to continue, provided that they are compatible with the purposes of the refuge.

I ask unanimous consent to have printed in the RECORD two lists of wildlife refuges that currently support grazing and oil and gas production. All of these activities, as well as other legitimate and compatible uses, could have been eliminated had we not addressed this ambiguity in this amendment. These lists include wildlife refuges in 35 States.

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

#### NATIONAL WILDLIFE REFUGES PERMITTING GRAZING

[As of July, 1995]

1	CA	.....	Bitter Creek NWR
1	CA	.....	Clear Lake NWR
1	CA	.....	Humboldt Bay NWR
1	CA	.....	Kern NWR
1	CA	.....	Merced NWR
1	CA	.....	Modoc NWR
1	CA	.....	Pixley NWR
1	CA	.....	Sacramento River NWR
1	CA, OR	.....	Lower Klamath NWR
1	CA, OR	.....	Lower Klamath NWR
1	HI	.....	Hakalau Forest NWR
1	HI	.....	Haleiwa NWR
1	ID	.....	Bear Lake NWR
1	ID	.....	Grays Lake NWR
1	ID	.....	Minidoka NWR
1	ID, OR	.....	Deer Flat NWR
1	No data match	.....	Arena Plains NWR
1	NV	.....	Fallon NWR
1	NV	.....	Pahranagat NWR
1	NV	.....	Ruby Lake NWR
1	NV	.....	Stillwater NWR
1	OR	.....	Klamath Forest NWR
1	OR	.....	Nestucca Bay NWR
1	OR	.....	Upper Klamath NWR
1	OR	.....	William L. Finley NWR
1	OR, WA	.....	Julia Butler Hansen Refuge for the Columbian White-tail Deer
1	WA	.....	Columbia NWR
1	WA	.....	Franz Lake NWR
1	WA	.....	Pierce NWR
1	WA	.....	Ridgefield NWR
1	WA	.....	Steigenwald Lake NWR
1	WA	.....	Willapa NWR
2	NM	.....	Las Vegas NWR
2	OK	.....	Salt Plains NWR
2	OK	.....	Wichita Mountains Wildlife Refuge
2	TX	.....	Anahuac NWR
2	TX	.....	Aransas NWR
2	TX	.....	Attwater Prairie Chicken NWR
2	TX	.....	Balcones Canyonlands NWR
2	TX	.....	Brazoria NWR

NATIONAL WILDLIFE REFUGES PERMITTING GRAZING—Continued  
[As of July, 1995]

2	TX	Buffalo Lake NWR
2	TX	Hagerman NWR
2	TX	McFaddin NWR
2	TX	Moody NWR
2	TX	Muleshoe NWR
2	TX	San Bernard NWR
2	TX	Texas Point NWR
2	TX	Walnut Creek NWR
3	IA, IL, MN, WI	Upper Mississippi River Wildlife and Fish Refuge
3	MN	Big Stone NWR
3	MN	Detroit Lakes WMD
3	MN	Hamden Slough NWR
3	MN	Litchfield WMD
3	MN	Morris WMD
3	MN	Windom WMD
3	MO	Mingo NWR
3	WI	Leopold WMD
4	AL	Choctaw NWR
4	AL	Wheeler NWR
4	AR	Holla Bend NWR
4	AR	Logan Cave NWR
4	FL	St. Johns NWR
4	LA	Sabine NWR
4	MS	Mississippi Sandhill Crane NWR
5	MD, VA	Chincoteague NWR
5	ME	Moosehorn NWR
5	NJ, NY	Wallkill River NWR
5	NY	Iroquois NWR
6	CO	Alamosa NWR
6	CO	Arapaho NWR
6	CO	Browns Park NWR
6	KS	Kinwin NWR
6	KS	Quivira NWR
6	MT	Benton Lake WMD
6	MT	Charles M. Russell NWR
6	MT	Lake Mason NWR
6	MT	Medicine Lake NWR
6	MT	Medicine Lake WMD
6	MT	NWMT F & W Complex WMD
6	MT	Red Rock Lakes NWR
6	MT	UI Bend NWR
6	MT	War Horse NWR
6	ND	Arrowwood NWR
6	ND	Arrowwood WMD
6	ND	Audubon WMD
6	ND	Crosby WMD
6	ND	Des Lacs NWR
6	ND	Devils Lake WMD
6	ND	Florence Lake NWR
6	ND	J. Clark Salyer NWR
6	ND	J. Clark Salyer WMD
6	ND	Kulm WMD
6	ND	Lake Alice NWR
6	ND	Lake Ilo NWR
6	ND	Lake Nettie NWR
6	ND	Lake Zahl NWR
6	ND	Long Lake NWR
6	ND	Long Lake WMD
6	ND	Lostwood NWR
6	ND	Lostwood WMD
6	ND	McLean NWR
6	ND	Shell Lake NWR
6	ND	Slade NWR
6	ND	Stewart Lake NWR
6	ND	Tewaupon NWR
6	ND	Tewaupon WMD
6	ND	Upper Souris NWR
6	ND	Valley City WMD
6	ND	White Lake NWR
6	NE	Rainwater Basin WMD
6	NE	Valentine NWR
6	NE, SD	Karl E. Mundt NWR
6	SD	Huron WMD
6	SD	Lacreek NWR
6	SD	Lake Andes WMD
6	SD	Madison WMD
6	SD	Pocasse NWR
6	SD	Sand Lake WMD
6	SD	Waubay NWR
6	SD	Waubay WMD
6	WY	Hutton Lake NWR
6	WY	Mortenson Lake NWR
7	AK	Alaska Maritime NWR
7	AK	Yukon Delta NWR

Total Records = 125

RMIS—OIL, GAS, AND MINERAL ACTIVITIES (1996)—  
Continued

Org. code	Station	State
32588	Litchfield WMD	MN
32590	Minnesota Valley NWR	MN
32550	Sherburne NWR	MN
32579	Upper Mississippi River Wildlife & Fish Refuge	WI
43612	Cameron Prairie NWR	LA
43535	Choctaw NWR	AL
43525	Catahoula NWR	LA
43545	D'Arbonne NWR	LA
43546	Upper Ouachita NWR	LA
43570	Felsenthal NWR	AR
43571	Overflow NWR	AR
43695	Lake Ophelia NWR	LA
43610	Lacassine NWR	LA
42650	Louisiana WMD	LA
43567	Handy Brake NWR	LA
43675	Mississippi WMD	MS
43635	Dahomey NWR	MS
43640	Sabine NWR	LA
43556	Breton NWR	LA
43555	Delta NWR	LA
43614	Atchafalaya NWR	LA
43588X	Big Branch Marsh NWR	LA
43595	Bayou Sauvage NWR	LA
43616	Bogue Chitto NWR	LA
42640	St. Catherine Creek NWR	MS
43690	Tensas River NWR	LA
42620	Tennessee NWR	TN
43670	White River NWR	AR
41625	Savannah NWR	GA
51660	Ohio River Islands NWR	WV
62554	Audubon WMD	ND
61510	Benton Lake NWR	MT
61511	Benton Lake WMD	MT
61585	Bowdoin WMD	MT
62560	Crosby WMD	ND
62570	Des Lacs NWR	ND
61583	Hewitt Lake NWR	MT
62620	J. Clark Salyer NWR	ND
62629	J. Clark Salyer WMD	ND
61584	Lake Thibadeau NWR	MT
61530	Medicine Lake NWR	MT
61532	Medicine Lake WMD	MT
61544	NW Montana WMD	MT
65570	Ouray NWR	UT
61542	Pablo NWR	MT
64620	Quivira NWR	KS
62680	Upper Souris NWR	ND
74500	Alaska Maritime NWR	AK
74510	Alaska Peninsula NWR	AK
74520	Izembek NWR	AK
74525	Kanai NWR	AK
74540	Yukon Delta NWR	AK
14560	Deer Flat NWR	ID

Mr. KEMPTHORNE. Mr. President, I want to make it clear that I do not believe it was the intention of the parties who negotiated this agreement to eliminate nonrecreational uses on wildlife refuges. But I do believe that we have eliminated a potential legal argument for any who might try to use the ambiguity to curtail nonwildlife-dependent uses on refuges.

As amended, I will support this bill. For the first time, it will establish hunting and fishing as priority uses of wildlife refuges and will ensure that other legitimate and compatible uses can continue in the future. Of particular interest and importance to me, to Idaho, and to other Western States, is the provision in the bill that provides, "Nothing in this act shall create a reserved water right, express or implied, in the United States for any purpose." I strongly support this provision now, as I have in the past.

I urge the adoption of the bill and the Kempthorne-Graham amendment.

Mr. GRAHAM. Mr. President, I'm pleased to have the opportunity to discuss the National Wildlife Refuge System Improvement Act of 1997. It is a long overdue organic act for our magnificent refuge system. In 1991 and again in 1993, as chairman of the Subcommittee on Fish and Wildlife, I introduced the National Wildlife Refuge System Management and Policy Act—legislation which was very similar to that which is before us today.

My aims then were straightforward. First, to clarify that the purpose of the National Wildlife Refuge System is to conserve our Nation's diversity of fish, wildlife, and plants and their habitats. Second, to improve the process used to determine which public uses shall be allowed on the refuges. Third, to require the development of comprehensive conservation plans for each of the refuges and ensure that the public has ample opportunity to participate in the planning process as it does in planning for our national parks and national forests. Fourth, to lay out clear affirmative duties for the Secretary of the Interior to protect the integrity and plan for the appropriate expansion of the Refuge System.

My bill had the strong support of conservation groups like the Wilderness Society, the National Audubon Society, Defenders of Wildlife, and the Sierra Club. Thanks to Senators CHAFEE, KEMPTHORNE, and BAUCUS, my bill also enjoyed the support of the International Association of Fish and Wildlife Agencies along with a variety of sportsmen's groups. The Environment and Public Works Committee reported that bill in the 103d Congress but unfortunately we were not able to bring the bill to the Senate floor because a number of procedural holds were placed on the bill.

In the last Congress, the House introduced and passed a radically different bill that would have harmed our Refuge System. President Clinton indicated that he would veto the House bill but fortunately, it was not acted upon by the Senate.

The bill before us today is not identical to the bill I introduced in prior years. It is not exactly how I would have drafted it, but I am very pleased that it addresses the four major areas that I outlined above: a mission statement for the system, a formal process to assess the compatibility of refuge activities, a planning requirement, and duties for the Interior Secretary.

Of course, even with passage of this bill, the Refuge System will only meet its potential to conserve the Nation's fish and wildlife if the Congress appropriates the funds necessary for its proper management. I am pleased that the House has approved a healthy increase for this purpose in its fiscal year 1998 Interior appropriations bill and will work to ensure that the Senate does as well. Senator KEMPTHORNE and I and 18 of our colleagues have written to the Appropriations Committee to urge such funding.

THEODORE ROOSEVELT'S ENDANGERED SPECIES ACT

Ninety-four years ago, President Theodore Roosevelt established the first national wildlife refuge at Pelican Island in my State of Florida. This bold move protected the last remaining nesting colony of brown pelicans on the

RMIS—OIL, GAS, AND MINERAL ACTIVITIES (1996)

Org. code	Station	State
12516	Hakalau Forest NWR	HI
11670	Hopper Mountain NWR	CA
14570	Ruby Lake NWR	NV
14621	Sheldon NWR	OR
11627	Sacramento River NWR	CA
11623	Sutter NWR	CA
11683	Seal Beach NWR	CA
21520	Anahuac NWR	TX
21560	Attwater Prairie Chicken NWR	TX
22550	Havasu NWR	AZ
21580	Hagerman NWR	TX
22570	Kofa NWR	AZ
21640	Sequoia NWR	OK
21650	Tishomingo NWR	OK
21593	Trinity River NWR	TX
21660	Mashita NWR	OK
21620	Optima NWR	OK
32640	Big Stone NWR	MO
31513	Kirtlands Warbler WMA	MI
32525	Leopold WMD	WI

Atlantic seaboard. But as critical as this action was for the pelicans, it had much broader importance for the Nation's wildlife because it began our only system of national lands dedicated to wildlife conservation.

Before leaving office, Roosevelt went on to establish more than 50 such sanctuaries. Herons, egrets, pelicans, and other shorebirds, along with all manner of waterfowl found sanctuary on Roosevelt's refuges. Large mammals including bison, elk, and antelope were also protected. In this sense, the refuge was Roosevelt's Endangered Species Act.

Refuges continue to be created to meet the most pressing wildlife conservation challenges of the day. Refuges have been established for endangered fish, birds, mammals, reptiles, frogs, bats, and butterflies. In my State we even have the new Lake Wales Ridge Refuge established for endangered plants. And while we have many refuges to protect endangered species, we know that many other species would be headed for the endangered species list were it not for the protections afforded by the National Wildlife Refuge System.

Today the Refuge System includes more than 500 refuges and 92 million acres which makes it larger than the National Parks System. Yet in the lower 48 States, the Refuge System amounts to less than 4 percent of the Federal public lands and less than 1 percent of the total land area of those States.

In Florida we have 25 refuges encompassing more than 1 million acres of land and water. These include refuges to protect our manatees, Florida panthers, sea turtles, Key deer, crocodiles, and those endangered plants.

#### PUBLIC SUPPORT AND USE OF THE REFUGE SYSTEM

Our Refuge System has been strongly supported by bird watchers, hunters, and anglers throughout its history—even though there was very little recreation permitted for much of the system's history. For example, hunting was a rarity on refuges until 1949, but hunters and sportsmen's organizations were strong supporters of the system even in those early years because they realized that without protected habitats, there could be no wildlife.

Today, the Refuge System provides ample opportunities for fish and wildlife related recreation including wildlife observation, nature photography, and hunting and fishing, as well as environmental education. But these public uses are clearly secondary to the long-standing primary purposes of the Refuge System to conserve fish and wildlife and habitats. S. 1059 continues this clear distinction between the purpose of the Refuge system to conserve fish and wildlife, and the priority uses of the system which are those related to learning about or enjoying fish and wildlife.

#### PROBLEMS IN THE SYSTEM

Unfortunately, public use has not always been carried out in a manner that

is consistent with the well-being of our refuges and their wildlife. A 1989 study by the General Accounting Office found that secondary activities considered by refuge managers to be harmful to wildlife resources were occurring on nearly 60 percent on our refuges. Power boating, mining, military air exercises, off-road vehicles, and air boating were cited as the most frequent harmful uses. Oil and gas drilling, timbering, grazing, farming, commercial fishing, and even wildlife related recreation such as hunting, trapping, and wildlife observation in some instances were also found to harm wildlife or habitat. A 1991 study by the U.S. Fish and Wildlife Service confirmed the GAO's findings. The Service found that harmful activities were present at 63 percent of the refuges.

At one time, for example, the Key West National Wildlife Refuge harbored the only known breeding colony of frigatebirds in the United States. The Great White Heron National Wildlife Refuge, also in the Florida Keys, hosted numerous colonies of wading birds. But increased activity within the refuges by jet skiers, power boaters, water skiers, campers, and others was the most likely reason that the frigatebirds abandoned the refuge rookery and the chief culprit behind the fact that other birds have showed signs of declining breeding success.

Refuge managers, despite their best efforts, have often been susceptible to outside pressure to allow these damaging activities because the laws governing the Refuge System are not completely clear. Furthermore, decisions about which activities were compatible with wildlife conservation purposes have often been made without adequate public input or written records. The problem had been compounded in past years by lack of periodic reevaluations of uses.

#### ACTION TO RESTORE INTEGRITY TO THE REFUGE SYSTEM

Fortunately, the Clinton administration has taken a number of steps to resolve many of the problems in the National Wildlife Refuge System. I like to believe that the interest and oversight that we provided in a bipartisan fashion in the 102d and 103d Congresses set the stage for these improvements.

A number of harmful economic, recreational, and even military activities have been eliminated or appropriately reduced. In Florida, for example, action has been taken by the Fish and Wildlife Service to reduce the number of people allowed to scuba dive alongside manatees in the Crystal River refuge that was established to protect the manatee. Likewise, the Service has taken action to reduce public use at the Egmont Key National Wildlife Refuge. And a back-country plan has been implemented in the Florida Keys to greatly reduce conflicts between people and wildlife.

President Clinton has also issued an Executive order on the management of the Refuge System that specifies that

the mission of the refuges is to preserve a national network of lands and waters to conserve our wildlife diversity. The Executive order also appropriately ensures that recreational pursuits that are related to fish and wildlife will take priority over other activities not so related.

Now, as in the past, I am gratified to be part of the process of updating the laws that govern our magnificent National Wildlife Refuge System. It is my sincerest hope that this new law will improve the Refuge System for the benefit of our Nation's fish and wildlife and for generations of Americans to come.

Mr. CHAFEE. I understand that the Senator from Alaska has raised some concerns regarding the requirement to periodically reevaluate existing secondary uses to ensure that they remain compatible within the meaning of the law. I would like to ensure that the Senator's concerns have been fully addressed.

Mr. MURKOWSKI. I would like to thank the Senator from Rhode Island, and obtain his understanding regarding how the periodic reevaluation will affect those secondary uses that are authorized for less than 10 years.

Mr. CHAFEE. As a preliminary matter, numerous rights-of-way have been approved in the past as compatible uses in various refuges, and this legislation does not alter the basis under which those activities may be approved in the future. With respect to the periodic reviews, the reevaluation of existing uses is required "when conditions under which the use is permitted change significantly or when there is significant new information regarding the effects of the use, but not less frequently than once every 10 years." For uses that are authorized for periods of less than 10 years, it is my understanding that the Fish and Wildlife Service will, under normal and usual circumstances, review the use at the time of the reauthorization of the activity. The only exception to this would be in situations in which significant new information is developed regarding the effects of the use, or conditions under which the use change significantly.

Mr. MURKOWSKI. I would like to obtain his understanding regarding how the periodic reevaluation will affect those secondary uses that are authorized for longer than 10 years.

Mr. CHAFEE. For uses that are authorized for periods of longer than 10 years, the amendment that we have introduced explicitly limits the review to compliance with the terms and conditions under which the authorization is made, and not to the authorization itself. During deliberation of H.R. 1420 by the House, Representatives YOUNG and SAXTON entered into a colloquy on this issue. Our amendment codifies the understanding reached in that colloquy.

Mr. MURKOWSKI. I understand that the Fish and Wildlife Service has been consulted on these two issues, and that they have concurred with your explanation.

Mr. CHAFEE. That is correct. With respect to long-term secondary uses, the amendment has met with the approval of the Department of the Interior, as stated by Secretary Babbitt at a hearing on S. 1059 before the Environment and Public Works Committee on July 30. With respect to short-term uses, the Service has also agreed with my understanding.

Mr. LOTT. Mr. President, for 3 long years, the House Resources Committee has worked with the Department of the Interior to craft a statute that redefines and redirects the mission of the wildlife refuge program. After holding a total of eight hearings and countless legislative meetings with the administration, the House Resources Committee introduced and reported H.R. 1420. Thanks to the dedicated support of Chairman YOUNG and Secretary Babbitt, this bill overwhelmingly passed the House by a vote of 407 to 1 on June 3, 1997.

Mr. President, I am proud of the Senate's unanimous approval of this historic legislation. It proves that successful environmental policy can be crafted in a bipartisan manner.

This legislation was endorsed by a coalition of diverse interests. It is rare to find an issue that captures the attention and collective effort of industry, sportsmen, and conservationists. These groups, ranging from the Wildlife Legislative Fund of America and the National Rifle Association to the Safari Club and the Audubon Society, have shown good faith in their efforts. I appreciate their perseverance and cooperation in finding a consensus for the public policy governing America's refuge system.

In order to ensure that the bill would be considered and passed with as few changes as possible, it was held at the desk for consideration. Some may claim that this was an unusual parliamentary procedure, but I contend that this is an unusual bill. I was protecting the balance reached within the House-passed legislation in order to ensure a swift resolution of the legislative process. Senators' concerns and the jurisdictions of the committee process were respected and preserved.

Mr. President, the result of these unusual proceedings is an outstanding product. Americans for generations to come will appreciate the wisdom and

equity of this clear multiuse mission for our refuge system.

As Mississippians go to the Noxubee National Wildlife Refuge, some will be there to hunt, some to enjoy the tremendous beauty of their surroundings, and others to appreciate the effort to preserve our natural heritage. All is possible because of H.R. 1420. Mississippians—and their many diverse interests—will be given the right to coexist within the refuge.

H.R. 1420 will refocus the mission of the refuge system. It recognizes that hunting and fishing are important and legitimate activities on these public lands. Common ground was found—and it is high ground indeed.

Again, I want to personally applaud Chairman YOUNG and Representatives DINGELL and MILLER for their dedication to this legislative initiative. With the assistance of Secretary Babbitt, they have forged a new path for a refuge system with a clear multiuse mission. I thank my Senate colleagues for their participation and endorsement of this legislative proposal.

Mr. GORTON. Mr. President, I ask unanimous consent that the amendment be agreed to, the bill read the third time, and passed, as amended, the motion to reconsider be laid upon the table, and 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 amendment (No. 1129) was agreed to.

The bill (H.R. 1420), as amended, was read the third time, and passed.

#### MEASURE READ THE FIRST TIME—S. 1160

Mr. GORTON. Mr. President, on behalf of the Democratic leader, I understand that there is a bill at the desk introduced by Senator DASCHLE, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill by title.

The legislative clerk read as follows:

A bill (S. 1160) to provide for educational facilities improvement.

Mr. GORTON. Mr. President, I now ask for a second reading of the bill and object to my own request.

The PRESIDING OFFICER. The bill will be read on the next legislative day.

#### ORDERS FOR THURSDAY, SEPTEMBER 11, 1997

Mr. GORTON. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 9 a.m. on Thursday, September 11. I further ask that on Thursday, immediately following the prayer, the routine requests through the morning hour be granted and the Senate immediately resume consideration of S. 1061, the Labor-HHS appropriations bill, as under the previous order.

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

#### PROGRAM

Mr. GORTON. Mr. President, in accordance with the consent agreement, tomorrow morning there will be 30 minutes of debate remaining on the Teamsters amendment, to be followed by 30 minutes of debate on the testing issue. Following that debate time, at approximately 10 a.m., there will be a series of four stacked rollcall votes, including final passage of the Labor-HHS appropriations bill. Following those votes, the Senate will begin debate on the FDA reform bill. In addition, additional votes are expected during Thursday's session following the ordered votes which begin at approximately 10 a.m. I thank my colleagues for their attention.

#### ADJOURNMENT UNTIL 9 A.M. TOMORROW

Mr. GORTON. If there is no further business to come before the Senate, I now ask that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 8:31 p.m., adjourned until Thursday, September 11, 1997, at 9 a.m.

#### NOMINATIONS

Executive nominations received by the Senate September 10, 1997:

##### DEPARTMENT OF DEFENSE

ROBERT M. WALKER, OF TENNESSEE, TO BE UNDER SECRETARY OF THE ARMY, VICE JOE ROBERT REEDER.